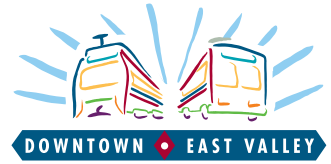


# Capitol Expressway Corridor



## Final Environmental Impact Report

### Volume II Comments Received on Draft EIS/EIR and Responses to Comments

April 2005



**Final  
Environmental Impact Report for the  
Capitol Expressway Corridor**

**Volume II of III:  
Recommended Light Rail Alternative and  
Responses to Comments**

**State Clearinghouse #2001092014**

*Prepared by:*

Santa Clara Valley Transportation Authority  
3331 North First Street  
San Jose, CA 95134

April 2005



Santa Clara Valley Transportation Authority. 2005. *Environmental impact report for the Capitol Expressway Corridor*. Volume II of III: Recommended Light Rail Alternative and Responses to Comments. State Clearinghouse #2001092014. Final. April. (J&S 01-277.) San Jose, CA.

# Contents

	Page
<b>VOLUME I EIS/EIR TEXT (BOUND SEPARATELY)</b>	
<b>VOLUME II RECOMMENDED LIGHT RAIL ALTERNATIVE AND RESPONSES TO COMMENTS</b>	
<b>Chapter 1 .0 Introduction.....</b>	<b>1-1</b>
<b>Chapter 2 .0 Description of Recommended Light Rail Alternative.....</b>	<b>2-1</b>
Urban Design.....	2-2
Urban Design Principles .....	2-2
Capitol Expressway as a Multi-Modal Boulevard.....	2-3
Stations as Neighborhood Gateways .....	2-3
Design Enhancements at Light Rail Stations.....	2-4
Alignment Description.....	2-4
MOS-Phase 1A.....	2-5
Phase 1B .....	2-6
Proposed Stations and Park-and-Ride Facilities .....	2-6
Alum Rock Station .....	2-7
Story Road Station.....	2-7
Ocala Avenue/Cunningham Avenue Station .....	2-7
Eastridge Transit Center .....	2-8
Nieman Boulevard Station .....	2-8
Park-and-Ride Facilities.....	2-8
Support Systems .....	2-8
Traction Power System and Substations .....	2-9
Overhead Contact System.....	2-10
Communications System .....	2-10
Signaling and Gates System .....	2-11
Vehicle Storage Facilities .....	2-11
Recommended Operating Plan .....	2-11
Construction Scenario .....	2-12
Project Funding.....	2-13
<b>Chapter 3 .0 Responses to Comments on Draft EIS/EIR .....</b>	<b>3-1</b>
Introduction.....	3-1
Letter F1, U.S. Department of the Army, May 28, 2004 .....	3-4
Letter F2, U.S. Environmental Protection Agency, June 25, 2004 .....	3-65

Letter S1, California Department of Fish and Game, May 26, 2004 .....	3-110
Letter S2, California Department of Transportation, Aeronautics Division, June 8, 2004.....	3-114
Letter S3, San Francisco Bay Regional Water Quality Control Board, June 9, 2004 .....	3-120
Letter S4, California Department of Transportation, June 14, 2004 .....	3-131
Letter S5, California Department of Toxic Substances Control, June 10, 2004.....	3-142
Letter L1, Santa Clara County Roads and Airports Department, May 20, 2004 .....	3-153
Letter L2, Metropolitan Transportation Commission, May 27, 2004 .....	3-168
Letter L3, Santa Clara County Airport Land Use Commission, June 1, 2004 .....	3-176
Letter L4, Peninsula Corridor Joint Powers Board, June 16, 2004 .....	3-178
Letter L5, East Valley/680 Communities Neighborhood Advisory Committee, June 16, 2004 .....	3-184
Letter L6, Santa Clara County Roads and Airports Department, June 21, 2004 .....	3-186
Letter L7, Santa Clara Valley Water District, June 21, 2004 .....	3-216
Letter L8, Santa Clara County Environmental Resources Agency, June 18, 2004 .....	3-225
Letter L9, City of San Jose Department of Planning, Building, and Code Enforcement, June 28, 2004 .....	3-230
Letter P1, George Rasko, May 21, 2004 .....	3-236
Letter P2, Yong Lu, May 26, 2004 .....	3-238
Letter P3, William Garbett, May 27, 2004 .....	3-240
Letter P4, Son Cheong Kuan, June 7, 2004 .....	3-242
Letter P5, Bob Shoberg, June 20, 2004 .....	3-244
Letter P6, James Zito, June 21, 2004 .....	3-246
Letter P7, Jeri Arstingstall, June 23, 2004 .....	3-255
Letter P8, Rey L. Call, June 23, 2004 .....	3-290
Letter P9, A. K., June 23, 2004.....	3-292
Letter P10, John Marks, June 23, 2004 .....	3-294
Letter P11, Minh Nguyen, June 24, 2004 .....	3-299
Letter P12, Al Leitch, June 26, 2004.....	3-302
Letter P13, Pierre Feghali, June 28, 2004 .....	3-305
Letter P14, David Fadness, June 28, 2004 .....	3-309
Letter P15, L. Bertao, June 28, 2004 .....	3-314
Letter P16, Mary Rodaite, June 24, 2004 .....	3-317
Letter P17, Steve Romero, Jr., June 24, 2004 .....	3-320
Letter P18, Grace Morioka, June 28, 2004 .....	3-322
Letter P19, Evelyn Santiago, June 28, 2004 .....	3-351
Letter P20, Arlene Lew, June 28, 2004 .....	3-353
Letter P21, Romy Avena, June 28, 2004 .....	3-355
Letter P22, Paul Nhieu, June 28, 2004 .....	3-358
Letter P23, Linda Taylor, June 28, 2004.....	3-360

Letter P24, Matthew and Han Nelson, June 28, 2004 .....	3-363
Letter P25, Khana Ly, June 28, 2004 .....	3-366
Letter P26, Mylan Phamngoc, June 28, 2004.....	3-368
Letter P27, Benjamin and Sylvia Do, June 28, 2004 .....	3-370
Speaker SP1, Ginger Cardona, May 27, 2004 .....	3-376
Speaker SP2, Betty Tse, May 27, 2004.....	3-379
Speaker SP3, David Aldag, May 27, 2004 .....	3-381
Speaker SP4, David Noel, May 27, 2004 .....	3-382
Speaker SP5, William Garbett, May 27, 2004 .....	3-386

**Attachment A Plan and Profiles for Preferred Alternative**

**Attachment B Final Staff Recommendation Report**

**VOLUME III TECHNICAL APPENDICES (BOUND SEPARATELY)**

# Tables and Figures

	<b>Page</b>
Table 2-1	Proposed Intersection Crossings of the LRT .....2-1
Table 2-2	Design Objectives for Recommended Light Rail Alternative ..... follows 2-2
Table 2-3	Estimated Travel Times between Stations, Recommended Light Rail Alternative.....2-12
Table 2-4	Estimated Project Costs for the Recommended Light Rail Alternative (in 2003 Dollars).....2-13
Table 2-5	Capitol Expressway Recommended Light Rail Alternative Capital Expenditure and Funding Plan (in Year of Expenditure Dollars)..... follows 2-13
Figure 2-1	Recommended Light Rail Alternative..... follows 2-2
Figure 2-2	Urban Design Cross Section..... follows 2-6

# Chapter 1.0 Introduction

This document is a final environmental impact report (EIR) for the Capitol Expressway Corridor in the City of San Jose (City), Santa Clara County (County), California. The final EIR has been prepared pursuant to the requirements of the California Environmental Quality Act of 1970 (CEQA); it is intended to help decision makers and the public understand the potential impacts of the No-Project Alternative, Baseline Alternative, and Light Rail Alternative, and propose ways to avoid those impacts. The agency responsible for this document is the Santa Clara Valley Transportation Authority (VTA).

Originally, VTA had intended to supplement local revenue sources with federal funding for portions of the Light Rail Alternative. As such, the draft environmental impact statement/environmental impact report (EIS/EIR) was prepared in order to comply with both state and federal environmental laws. However, subsequent to the public review of the Draft EIS/EIR, the opportunity for securing federal funds has diminished and continuing the federal environmental process would result in substantial delays and additional costs. Therefore, VTA decided to continue the state environmental process only, because no federal involvement in this project is anticipated. The purpose of Volume II of this final EIR is to present information on the recommended project; document agency and public comments received on the draft EIS/EIR; provide responses to those comments; and provide revisions and corrections to the draft EIS/EIR as a result of responses to comments.

Preliminary VTA staff recommendations were presented to the Downtown East Valley (DTEV) Policy Advisory Board (PAB) in March 2004 as an information item. VTA staff subsequently solicited input from the community regarding the recommendations. The final EIR identifies the “Preferred Alternative” that decision makers will ultimately be asked to approve, based on final VTA staff recommendations presented and approved by the PAB on August 5, 2004. Decisions on design options were required in order to define the Recommended Light Rail Alternative that is included in the final EIR. These decisions and final recommendations are presented in Chapter 2, *Description of Recommended Light Rail Alternative*.

The draft EIS/EIR was circulated from April 28, 2004, to June 28, 2004, for public review to disclose potential environmental impacts associated with the alternatives. A public hearing was held on May 27, 2004. A total of 316 written and oral comments were received on the draft EIS/EIR during the public review period. Written comments were received by postal mail, facsimile transmittal,

and electronic mail (email) and oral comments were received at the public hearing. Chapter 3, *Comments and Responses on the Draft EIS/EIR*, includes a list of all commenters, copies of the written comments and public hearing transcript, and responses to all comments received.

As a result of written and oral comments received during the public review period, the draft EIS/EIR has been revised to include revisions to text, tables, and figures, as necessary. In addition, VTA has made revisions to the draft EIS/EIR where corrections were needed because of updated information, including regulatory requirements, or revised data identified during the review period. Typographical errors identified during the public review period have been corrected in Volume I, *EIR Text*.

Prior to certifying the final EIR, the VTA Board of Directors (Board) will consider the comments and input received on the draft EIS/EIR, as well as the responses to comments. The responses and proposed mitigation measures, in accordance with CEQA, will be presented to the VTA Board of Directors, which will consider them when it votes on whether to certify the final EIR. If there are impacts that cannot be mitigated, and the Board determines that the project should be approved and the document certified, the Board will need to make a statement of overriding considerations that explains why the project was approved and the document certified although there were impacts that could not be mitigated as required under CEQA. The Board will consider this statement and make findings regarding the adequacy of the document when it votes on whether to approve the project and certify the document. Once the Board has certified the final EIR, it may approve the project and issue CEQA findings of fact and a statement of overriding considerations and file a notice of determination with the state.

The final EIR will be used by federal, state, regional, and local agencies to make a number of discretionary decisions regarding the Capitol Expressway Corridor project. Other agencies may use the final EIR as part of the process of issuing permits or other approvals necessary to construct the project. Federal agencies may include the Federal Highway Administration (FHWA) and U.S. Environmental Protection Agency (EPA). State agencies may include the California Department of Transportation (Caltrans) and California Public Utilities Commission (CPUC). In addition, several regional and local agencies may use the environmental document in reaching their permit and approval decisions.

## Chapter 2.0

# Description of Recommended Light Rail Alternative

On August 5, 2004, the Downtown East Valley Policy Advisory Board (PAB) approved staff recommendations regarding preferred design options and phasing for the Capitol Expressway Corridor Light Rail Alternative based on conceptual engineering work, environmental technical studies, and public and policy-level input.

The Recommended Light Rail Alternative would extend 3.1 miles south from the terminus of the Capitol Avenue Light Rail Transit (LRT) Line at the existing Alum Rock Station to the proposed Nieman Boulevard Station. The Recommended Light Rail Alternative would include four new light rail stations, located near Story Road, Ocala/Cunningham Avenue, the Eastridge Transit Center, and Nieman Boulevard. The alignment of the Recommended Light Rail Alternative is shown in Figure 2-1. Table 2-1 indicates how the Recommended Light Rail Alternative will pass through each intersection along Capitol Expressway.

**Table 2-1.** Proposed Intersection Crossings of the LRT

	LRT At-Grade	LRT Elevated	LRT Depressed
1. Capitol Avenue		X	
2. Story Road		X	
3. Ocala Avenue	X		
4. Cunningham Avenue	X		
5. Tully Road			X
6. Eastridge Loop			X

Source: Santa Clara Valley Transportation Authority, 2004.

The Recommended Light Rail Alternative could be constructed in two phases: an initial phase terminating in the vicinity of the Eastridge Transit Center, and a subsequent phase terminating in the vicinity of Nieman Boulevard (Figure 2-1). The initial phase, or Minimum Operating Segment (MOS), is referred to in this chapter as MOS-Phase 1A. Under MOS-Phase 1A, light rail would be constructed between the Alum Rock Station and the Eastridge Transit Center, a distance of approximately 2.3 miles. MOS-Phase 1A includes new light rail stations at Story Road, in the vicinity of Ocala and Cunningham Avenues, and at the Eastridge Transit Center; an expanded park-and-ride facility would be



constructed at the Eastridge Transit Center. Existing high-occupancy vehicle (HOV) lanes between Story Road and the Eastridge Transit Center would be removed under MOS-Phase 1A; no change to the existing HOV lanes south of the Eastridge Transit Center would occur under MOS-Phase 1A.

Light rail continuing from Eastridge Transit Center to Nieman Boulevard, a distance of approximately 0.8 mile, could be constructed in a subsequent phase, or included as one project with Phase 1A, and is referred to in this document as Phase 1B (Figure 2-1). Under Phase 1B, a new light rail station would be constructed north of Nieman Boulevard. Existing HOV lanes south of the Eastridge Transit Center to Nieman Boulevard would be removed under Phase 1B.

The environmental effects of the entire proposed alignment were analyzed in the draft environmental impact statement/environmental impact report (Draft EIS/EIR), which was released for public review on April 28, 2004.

The following sections describe the Recommended Light Rail Alternative urban design, alignment, stations, park-and-ride lots, and other facilities, which were selected by the Downtown East Valley PAB.

## Urban Design

During the conceptual engineering phase, there was a consistent effort to incorporate attractive, urban design elements into the design of the Light Rail Alternative. These principles reflect policy guidance from the Downtown East Valley PAB. This section highlights the key urban design elements of the Recommended Light Rail Alternative. The design objectives for the Recommended Light Rail Alternative are noted in Table 2-2.

### Urban Design Principles

- Transform the expressway from an auto-dominant corridor to a multi-modal boulevard.
- Introduce landscaping as a major element to enhance the visual appearance and spatial definition of the corridor.
- Establish pedestrian and bicycle linkages along and across the corridor to connect neighborhoods to activity centers.
- Design stations to facilitate safe and convenient pedestrian access, and to convey the personality and identity of adjacent neighborhoods.
- Introduce special treatments along the edges of the boulevard to reduce visual and noise impacts, and to create a more positive relationship with adjacent neighborhoods.

**Table 2-2.** Design Objectives for Recommended Light Rail Alternative

**System Design Objectives:**

Maintain efficient LRT service and travel speeds by providing increased transit capacity.

- Operate in exclusive or semi exclusive right-of-way and use signal priority.
- Utilize signal priority to promote light rail with clearance through intersections.
- Design several-grade separations (either elevated or depressed) where warranted and minimize disruption to vehicular circulation and turning movements.
- Connect with both existing and planned local and regional transit.
- Locate stations to maximize passenger access.
- Provide an alternative transportation option to the automobile.

**Access Objectives:** Provide significant and varied opportunities to access LRT and regional connectivity.

- Provide access by other modes of travel including automobile, buses, other light rail lines, commuter rail lines, shuttles, bicycles, and walking.
- Locate park-and-ride lots to provide convenient access at stations.
- Design park and ride lots to meet current and projected future demand.

**Community Design Objectives:**

Create a system that integrates transportation and land use.

- Develop a multi-modal landscaped parkway boulevard with transit, bicycle, pedestrian access and vehicular circulation.
- Balance LRT technical and operational characteristics with community interests and needs.
- Minimize right-of-way impacts to residential and commercial properties through careful station location and design.
- Utilize design principles per *Community Design & Transportation: A Manual of Best Practices for Integrating Transportation and Land Use*.
- Design stations as gateways to the neighborhoods, and retail, and commercial opportunities.
- Enhance the corridor visual environment.
- Create community-oriented design elements.

**Safety Objectives:** Implement a system that considers transit and traffic operations and pedestrian and bicycle use.

- Provide appropriate station railings and fencing.
- Utilize signalized crosswalks or grade-separated pedestrian overcrossings.
- Incorporate pedestrian access and waiting areas.

**Traffic Operations Objectives:**

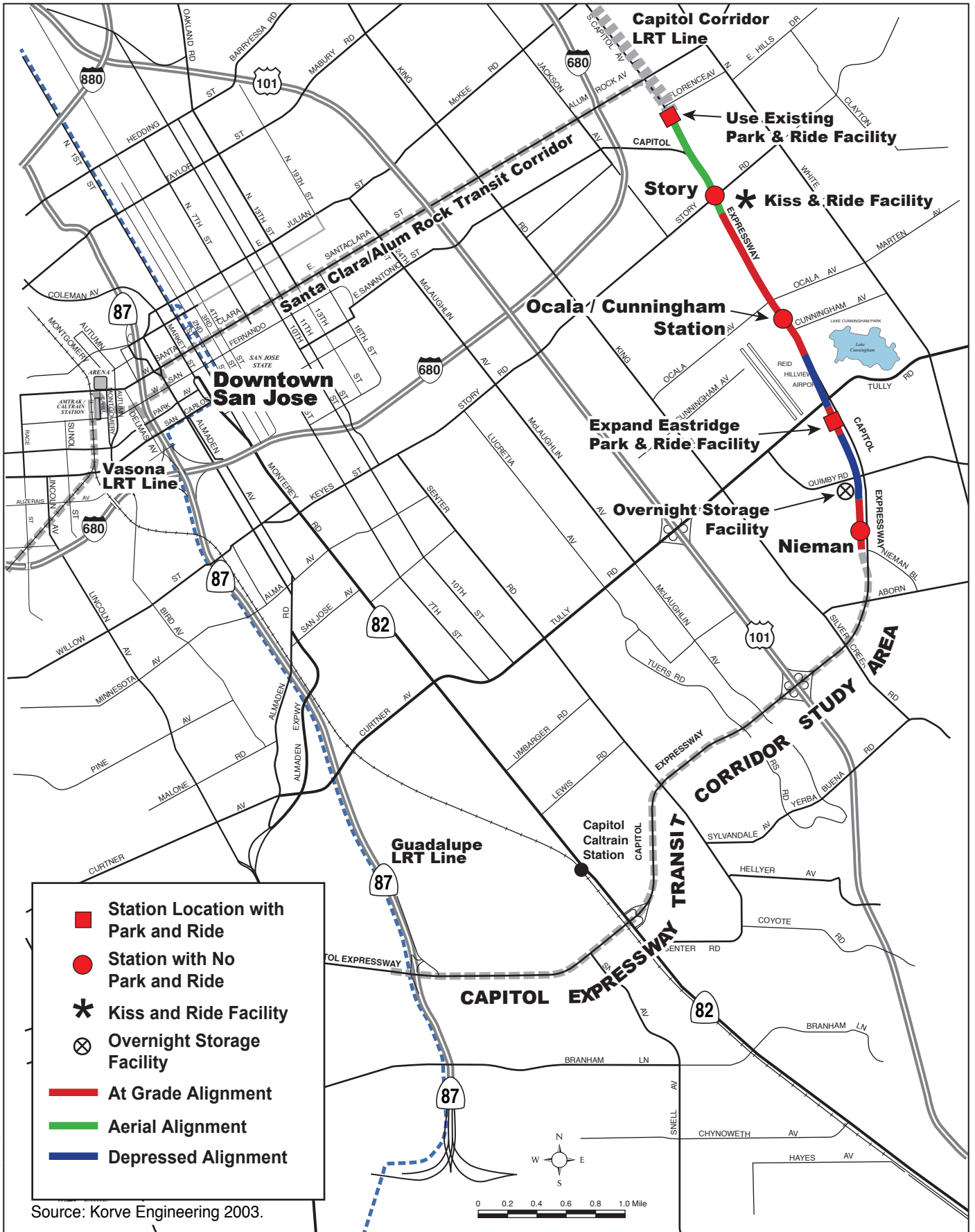
Minimize LRT impacts to traffic circulation and movements.

- Balance the operational needs of transit with that of traffic movements.
- Maintain three through lanes in each direction along the expressway corridor.
- Promote pedestrian safety by separating traffic movements through intersection channelization.

---

Source: Korve Engineering 2002a.

---



**Figure 2-1**  
**Recommended Light Rail Alternative**

- Promote opportunities for transit-oriented development that will enhance ridership and the quality of life of the surrounding community.

## Capitol Expressway as a Multi-Modal Boulevard

- The vision for the Capitol Expressway Corridor is a multi-modal boulevard, transforming the current “highway” environment into a street with cars, light rail, bicycles, and pedestrians.
- Light rail service will operate in its own semi-exclusive right-of-way and include four new stations near key residential, shopping, business, and recreational areas along Capitol Expressway.
- Light rail tracks will be at street level for the majority of the corridor, but tracks may be above or below the street level at a few locations (e.g., the Capitol Avenue/Capitol Expressway intersection; Story Road, and Tully Road).

The Recommended Light Rail Alternative will contribute to key neighborhood goals:

- **Improved Linkages:** Connections can be improved through a multi-purpose path and other opportunities along most of the corridor to implement a planned system of City of San Jose and Santa Clara County trails, connecting transit stations with adjacent neighborhoods, local and regional parks, and other amenities. Bicycles will also be accommodated on the expressway.
- **A Greener Street:** Adding landscaping will enhance the visual and spatial effect of the street and create a more hospitable environment, including planting trees along the boulevard and at some station platforms. Lighting will also be provided.

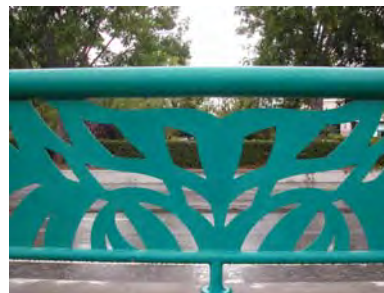
## Stations as Neighborhood Gateways



The design of stations and their relationship with the adjacent neighborhoods is critical to promote a viable transit environment. Convenience, safety, and ease of access for residents and employees arriving by foot, bike, bus, or car are primary design objectives. Additionally, stations can create identities and gateways to communities and opportunities for neighborhood-serving retail uses and a mix of commercial, residential, recreational, and community-oriented activities.

## Design Enhancements at Light Rail Stations

The Recommended Light Rail Alternative will also provide opportunities at the stations to incorporate art elements to enhance the visual appearance of the stations. Because the Light Rail Alternative is a project included in both Valley Transportation Plan (VTP) 2020 (Santa Clara Valley Transportation Authority 2000) and 2000 Measure A, it is eligible to be included in the Community Oriented Design Enhancements (CODE) Program. The goal of the program is to integrate high-quality design enhancements, designed by artists that reflect the identity of the communities and neighborhoods in which the stations are located.



To ensure the success of the program, citizens are involved early in selecting and designing CODE projects. Successful CODE elements build community pride and project support. During the conceptual engineering process for the Light Rail Alternative, many community members expressed interest in becoming involved in this effort. The budget for CODE improvements has been established at 2% of the construction costs for each project. Numerous examples of CODE Program elements have been incorporated into VTA’s light rail stations.



## Alignment Description

Detailed specifications of the Recommended Light Rail Alternative alignment are illustrated in the attachment included with this chapter. The alignment would operate in exclusive and semi-exclusive rights-of-way, and would include both grade-separated and at-grade intersection crossings. The alignment would operate primarily in the median of Capitol Expressway; however, one alignment section would deviate from the median to a side-running operation.

The Recommended Light Rail Alternative would be designed to reduce travel time, with signal priority at intersections and grade separation at congested intersections. Crossings at some major arterials would also be grade separated (either elevated or depressed) to further support higher-speed transit operations.

Construction of the light rail guideway and grade-separated structures under this alternative would alter the roadway geometry along some portions of Capitol Expressway. Perhaps the most dramatic change to the expressway would be the removal of existing HOV lanes between Capitol Avenue and Nieman Boulevard. Because the existing roadway width could accommodate light rail if the roadway

configuration is modified, the HOV lanes would be removed to provide the additional right-of-way. This would minimize the need to acquire substantial additional property for the Recommended Light Rail Alternative and would be consistent with past policy decisions. Except for restriping and a slight reduction in lane width, only minimal modifications to the remaining traffic lanes would be required. Left turns and through movements would not be affected, and all three existing general purpose through traffic lanes in both directions would remain in place.

Under the Recommended Light Rail Alternative, the streetscape of Capitol Expressway would be redesigned to create an urban multi-modal boulevard. The project cross section shown in Figure 2-2 was developed as a result of extensive input from the community and incorporates many features from VTA's Community Design and Transportation Program. Pedestrian-friendly improvements, such as removing free-flowing right turn lanes to make pedestrian movements across the roadway shorter and easier, would be implemented at intersections. In addition, the design would incorporate trees along the light rail median and along the curb edge of the roadway. A multi-use linear path along Capitol Expressway is also proposed. The path would be approximately 16 feet wide and would include a 10-foot-wide pedestrian and bicycle pathway, landscaping, and replacement of existing soundwalls where necessary. To accommodate bicyclists to the greatest extent possible, curb lanes on both sides of Capitol Expressway will be 17–18 feet wide for the entire length to allow use of the shoulders by bicycles. There will also be periodic emergency pull-out areas for vehicles along Capitol Expressway.

The following sections describe the recommended vertical and horizontal alignments for each segment of the Recommended Light Rail Alternative. The segments are described by construction phase.

## **MOS-Phase 1A**

### **Alum Rock Station to Story Road**

The light rail alignment would begin at the existing Alum Rock Station on the Capitol Avenue LRT Line. In this section of the corridor, an aerial guideway would be constructed for the full distance from south of Alum Rock Station to south of Story Road. The guideway would be located in the median of Capitol Avenue, transition to the median of Capitol Expressway and would be approximately 4,000 feet long. At its northern end, the aerial structure would cross the northbound lanes of Capitol Avenue and Capitol Expressway and transition to an alignment in the median of Capitol Expressway. The light rail alignment would continue on the aerial structure over Story Road and resume a ground-level profile south of Story Road.

A kiss-and-ride lot for short-term parking to pick up and drop off passengers and two bus bays would be located on the southeast corner of the Capitol Avenue/Capitol Expressway intersection.

## **Story Road to Eastridge Transit Center**

From south of Story Road, the alignment would be at grade through the Ocala Avenue and Cunningham Avenue intersections. Before the alignment reaches Tully Road, a tunnel would provide a grade-separated transition from the median-running configuration along Capitol Expressway to the side-running configuration of the new station at Eastridge Transit Center. The Tully Road tunnel would measure approximately 2,150 feet. In addition to removing light rail operations from the congested intersection of Tully Road, the grade separations in this area would serve to transition the light rail alignment between median- and side-running operations. The MOS-Phase 1A terminates at the Eastridge Transit Center.

## **Phase 1B**

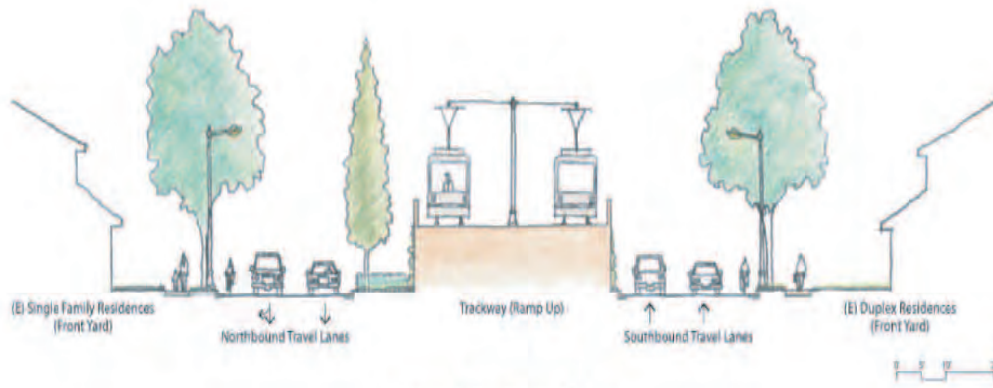
### **Eastridge Transit Center to Nieman Boulevard**

Phase 1B starts south of the Eastridge Transit Center. The alignment would enter a retained cut section that would place the tracks onto a cut-and-cover tunnel carrying the light rail under the Eastridge Loop Road and Quimby Road. At this point, it would return to grade through another retained cut section south of Quimby Road, continuing at grade to the proposed Nieman Boulevard Station. The alignment would then terminate with a tail track section. This is the end of Phase 1B of the Recommended Light Rail Alternative.

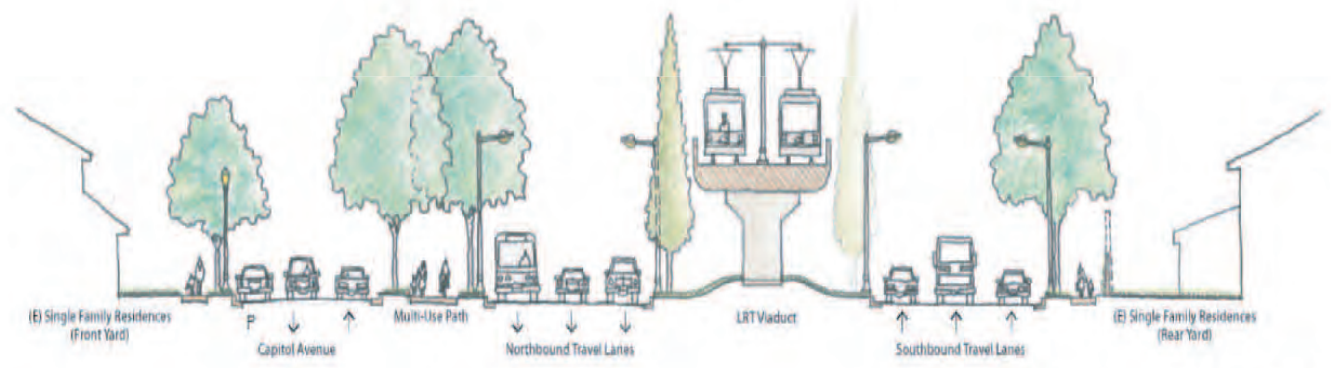
## **Proposed Stations and Park-and-Ride Facilities**

Four new light rail stations (Story Road, Ocala Avenue/Cunningham Avenue, the Eastridge Transit Center, and Nieman Boulevard) are included with the Recommended Light Rail Alternative between the northern terminus at the existing Alum Rock Station and the southern terminus at Nieman Boulevard. The stations would be located approximately 0.75 mile apart. The placement of the proposed stations was based primarily on VTA guidelines for station spacing, and the desire to place the stations at or near major intersections and near convenient transfer points. Two park-and-ride facilities (Alum Rock Station and Eastridge Transit Center) would also be located along the alignment. The following sections describe each station and park-and-ride facility along the alignment of the Light Rail Alternative. The proposed stations and park-and-ride options are shown in Figure 2-1.





Section A-A: Capitol Avenue  
North of Westboard Drive Looking South (15+00)



Section F-F: Typical Median Running w/ Aerial Viaduct  
South of Story Road Looking South (47+00/48+00)

For Dimensions, see  
Engineering Plans & Sections

PRELIMINARY STREETScape CONCEPTS

**Capitol Expressway Light Rail Project**

Prepared for Valley Transportation Authority by Korve Engineering and ROMA Design Group

01277.01 008 (09/04)



## Alum Rock Station

At its northern end, the Recommended Light Rail Alternative would connect to the existing light rail network at the Alum Rock Station on the Capitol Avenue LRT Line. The Capitol Avenue LRT Line would be through-routed with the Recommended Light Rail Alternative. No additional new improvements are anticipated at this station.

## Story Road Station

The Recommended Light Rail Alternative includes a two-level station in the median of Story Road with a mezzanine level and an elevated center platform. The station would be centered over the Story Road/Capitol Expressway intersection. Passengers would access the station via pedestrian overcrossings. From the mezzanine level, an elevator or stairs would provide access to the station platform.

The traffic volumes and turning movements and the bus and pedestrian/bicycle activity at the Story Road intersection are significant. To support efficient connections to the Story Road Station and as part of the bus integration plan, additional bus and transit support facilities are included. The enhanced transit features will include a new bus bay for two buses on the south side of eastbound Story Road on the far side of the intersection and a small short-term kiss-and-ride lot in the southeast corner of the intersection. The lot could accommodate up to 10 automobiles and is located directly adjacent to the stairs and elevator accessing the pedestrian overcrossing on the south side of Story Road. A single parcel would be required for the kiss-and-ride lot. A pedestrian overcrossing would be located close to the intersection. There would be convenient access to the pedestrian overcrossing because it would be close to existing at-grade crosswalks.

## Ocala Avenue/Cunningham Avenue Station

This station would be between Ocala and Cunningham Avenues, with a single center platform in the median and passenger access provided by pedestrian overcrossings, stairs, elevators, and ramps. A pedestrian connection will be provided to enhance the access between the station and the Ocala neighborhood, including pedestrian-scaled lighting, pedestrian path-finding symbols embedded in the pavement leading to the station entrances, and decorative fencing to direct pedestrians to safe crossing of Capitol Expressway.

## Eastridge Transit Center

The Eastridge Transit Center is currently one of the busiest facilities in the VTA system, with significant bus transfer activity and a large park-and-ride lot. Most bus routes serving the Downtown East Valley area terminate at or pass through the center, which accommodates approximately 6,000 daily boardings and alightings.

The at-grade station would include a center platform adjacent to the proposed Eastridge Transit Center. Pedestrian access would be provided with pedestrian crossings from the proposed multi-use path that would be adjacent to Capitol Expressway.

The station design for the Eastridge Transit Center would require a reconfiguration of the existing bus transfer facilities to provide an efficient interface with the light rail alignment. Improvements include a modified access loop and bus bays for buses, an expanded park-and-ride lot, and the multi-use path traversing the eastern edge of the site. Between the Eastridge Transit Center and Nieman Boulevard, additional landscaping, lighting, and decorative paving would also be added to enhance the design elements of the center.

## Nieman Boulevard Station

The at-grade station would be 1,000 feet north of Nieman Boulevard on the west side of the expressway. Passenger access would be provided via the proposed multi-use path along the west side of the alignment and pedestrian crossings of Capitol Expressway at Quimby Road and Nieman Boulevard.

## Park-and-Ride Facilities

Two existing park-and-ride lots are located along the alignment: Alum Rock Station and Eastridge Transit Center. The existing Alum Rock Station park-and-ride facility has sufficient capacity to accommodate the projected demand from the Recommended Light Rail Alternative. The existing park-and-ride facilities at the Eastridge Transit Center would be reconfigured and expanded to provide 400 total spaces, with an initial phase of up to 266 spaces.

## Support Systems

In addition to the primary alignment, stations, and park-and-ride facilities, the Recommended Light Rail Alternative would incorporate light rail support systems, including traction power and substations, overhead contact, communications, signaling, and gates. Opportunities for overnight vehicle

storage facilities with light maintenance capabilities are also under consideration. These support systems are described in the following sections.

## Traction Power System and Substations

A traction power system is a distribution system that converts high-voltage commercial electrical power received from substations to medium-voltage direct current (DC) and distributes it to the light rail vehicles via the overhead catenary or contact wire as they travel along the alignment. A traction power system consists of the power distribution mechanism and electrical substations.



For the Recommended Light Rail Alternative, the traction power system would provide the potential for three-car light rail trains operating at speeds up to 55 miles per hour on 10-minute headways. The alignment would require a total of two traction power substations (TPSSs), in addition to one existing TPSS south of the Alum Rock Station near the park-and-ride lot. The TPSSs would be located approximately 5,900–7,600 feet apart. The final locations and placements of the TPSSs along the alignment would be determined during the preliminary engineering phase of the Recommended Light Rail Alternative. Locations for the new TPSS that are under consideration include the following:

- the southwest corner of the Capitol Expressway/Ocala Avenue intersection, and
- north of Quimby Road, on the west side of Capitol Expressway;

Electrical power would be supplied to the TPSS by an underground feeder from the electrical utility distribution system. Alternate TPSSs would be equipped with two primary feeders from the utility company and an automatic transfer switch to supply reliable power to the TPSS.

The TPSS would be contained in a prefabricated substation housing that is factory wired to accommodate internal components and built on a concrete foundation. The foundation would be equipped with embedded conduit to accommodate incoming alternating current primary power cables, control and communication cables, and the DC feeder cables to the overhead contact system (OCS).

The estimated size of the TPSS would be approximately 650–750 square feet in area and 12–15 feet in height. Parcels used as TPSS sites need to be large enough to provide for side clearance from passing trains and automobiles and to allow a service vehicle to park, unless convenient parking is available on an adjacent roadway.

## Overhead Contact System

The OCS would be an auto-tensioned simple catenary consisting of a contact wire, a messenger wire, and counterweight terminations. This configuration represents the typical application for the VTA light rail system. The height of the contact wire would conform to the requirements of *VTA Light Rail Design Criteria Manual 2001 Edition* (Santa Clara Valley Transportation Authority 2001) and the California Public Utilities Commission's General Order 95 (California Public Utilities Commission 1941). All OCS poles, except counterweight poles, would be constructed as tubular, hollow, tapered, round poles made of rigid galvanized steel. Counterweight poles would be nontapered. The pole height would be adjusted to suit the contact wire height and would match the existing system as closely as possible. The OCS poles would be located between the tracks or on the outside of the tracks, depending on space restrictions. The final location of the OCS features would be determined during the preliminary engineering phase for the Recommended Light Rail Alternative.

## Communications System

The communications equipment and design would be fully compatible with the communications system that serves VTA's existing light rail operations. A wayside cable system, fiber optic cable, and two-way radio system would link light rail stations and TPSSs with the existing Operations Control Center (OCC) by the use of supervisory control and data acquisition and remote terminal units. The communications system would consist of the following main components:

- a public address system with two-way voice announcement linking the OCC and the light rail stations;
- a two-way radio system with two-way voice announcement linking the OCC and light rail vehicles;
- a supervisory control and data acquisition system with the capability to monitor and control the TPSS switchgear functions from the OCC via the remote terminal units and wayside cable system;
- a pulse code modulation carrier system to provide for the multiplexing of voice and data channels between the OCC and locations along the corridor; and
- a cable transmission system designed to incorporate both the backbone communications distribution (fiber optics) and metallic distribution. Wayside cabling would utilize a combined systems duct installed continuously along the corridor.

## Signaling and Gates System

The signal system for the Recommended Light Rail Alternative would be an extension of the existing light rail signal system and would be functionally compatible with the existing lines. The light rail signal system would include a wayside color light aspect with no cab signal and Automatic Block Signaling. (*Wayside color light* aspect refers to a signal at the side of the tracks indicating the next block is either clear or occupied.) The signal system would provide for a minimum train headway of 5 minutes, allowing a 5-minute safety factor over the proposed headway of 10 minutes. Generally, the alignment would not be gated. However, any side-running, at-grade alignment would likely require rail-crossing gates at the side-street crossings.

## Vehicle Storage Facilities

The Recommended Light Rail Alternative includes an overnight storage facility. Heavy maintenance activities for vehicles used on this line would continue to be performed at the existing Younger Street facility. However, a new vehicle storage facility may provide VTA with the opportunity to deliver more-efficient service while saving “dead-heading” costs. The location of the light rail vehicle storage facility are under consideration is illustrated in Figure 2-1.

The site located on the southwest corner of Capitol Expressway and Quimby Road could accommodate up to 17 vehicles and includes a 6,700-square-foot building with approximately 32 automobile parking spaces to accommodate operators and supervisory personnel. The storage yard would be approximately 81,000 square feet. Automobile access would be provided from Quimby Road.

The storage facility would include LRT track, OCS, poles and overhead wires. The building would provide office space for supervisory personnel, operator reporting functions, and a break room. There would be storage for minor equipment such as mirrors, seat cushions, and wipers. The functions performed at this facility would be light rail vehicle storage and light maintenance such as interior cleaning of vehicles (vacuuming, window washing) and replacement of minor equipment (mirrors, seat cushions, wipers). No exterior washing or heavy maintenance would occur at this facility.

## Recommended Operating Plan

The operating plan for the Recommended Light Rail Alternative is a two-car operation extension of the Capitol Avenue LRT Line that would continue initially to the Eastridge Transit Center and later extend to Nieman Boulevard.

Two operating scenarios are under consideration for the Recommended Light Rail Alternative. One scenario would provide light rail service from the existing

Alum Rock Station to the Eastridge Transit Center, resulting in a minimum operating segment of the alignment. Another would provide light rail service from the Alum Rock Station to the Nieman Boulevard Station.

The Recommended Light Rail Alternative would offer headways of 10 minutes between trains during weekday peak hours and 15-minute headways on weekends. The end-to-end travel time for the Light Rail Alternative would be approximately 7 minutes. For the segment of the alignment between the Alum Rock Station and Eastridge Transit Center, the estimated running time would be just over 5 minutes. Table 2-3 shows estimated travel times between stations along the light rail alignment.

**Table 2-3.** Estimated Travel Times between Stations, Recommended Light Rail Alternative

Proposed Station	Time between Stations (h:mm:ss)	Time from Alum Rock Station (h:mm:ss)
Alum Rock	0:00:00	0:00:00
Story Road	0:01:29	0:01:29
Ocala Avenue	0:01:42	0:03:11
Eastridge Transit Center	0:01:59	0:05:10
Nieman Boulevard	0:01:41	0:06:51

No additional vehicles would be necessary to serve Eastridge Transit Center and Nieman Boulevard Station under the recommended operating plan.

## Construction Scenario

The Recommended Light Rail Alternative could be constructed and operated in two phases, as funding permits, with construction occurring over a period of approximately 3 – 4 years. MOS-Phase 1A would include the segment from the end of the Capitol Avenue LRT Line (Alum Rock Station) to the Eastridge Transit Center. Phase 1B would be the segment between the Eastridge Transit Center and the Nieman Boulevard Station. Construction of MOS-Phase 1A and Phase 1B depends on funding and policy-level decisions by the VTA Board of Directors regarding funding priorities. For the purposes of the environmental analysis, both phases of construction were evaluated.

At the height of construction, a number of construction employees and equipment would occupy portions of the street, including the median and parking lanes, at active construction locations. In the most active areas, construction activities would periodically reduce the capacity of Capitol Expressway from three lanes to two lanes in each direction during the mid-day off-peak periods; VTA would make every effort to keep all three lanes in each direction open during peak periods of travel. As a result, construction activity along the corridor would have transportation impacts such as reduced traffic flow and decreased level of service (LOS) at intersections, reduced availability of HOV lanes and on-street parking,

and reduced ability to maintain transit schedules. Temporary construction easements would be used to facilitate traffic flow. VTA would coordinate the construction schedule to minimize adverse effects and would conduct public outreach throughout the process.

The proposed construction staging areas include sites at the Capitol Expressway/Ocala Avenue and the Capitol Expressway/Quimby Road intersections. At the Capitol Expressway/Ocala Avenue site, equipment would be staged in the ruderal field located at the southwest corner of the intersection. The land is currently owned by the Pacific Gas & Electric Company. The property located south of Quimby Road and west of Capitol Expressway is referred to as the “Arcadia” site. At this location, a temporary access road from Quimby Road to the staging area site would need to be constructed.

Major utilities that would potentially require relocation include five overhead electrical towers in the segment south of Ocala Avenue to the Eastridge Transit Center.

## Project Funding

The total estimated capital cost to construct the Recommended Light Rail Alternative from the Alum Rock Station to Nieman Boulevard with the design options included in the Downtown East Valley Policy Advisory Board’s preferred project is \$430 million (in 2003 dollars). The funding is primarily from VTA Local Sales Tax 2000 Measure A funds. Further detail regarding the \$430 million cost estimate is provided in Table 2-4.

**Table 2-4.** Estimated Project Costs for the Recommended Light Rail Alternative (in 2003 Dollars)

Project Costs	2003 Dollars (Millions)
Alum Rock to Eastridge	\$291
Eastridge to Nieman	118
Storage Facility at Quimby	21
<b>Total Project Cost</b>	<b>\$430</b>

Source: Santa Clara Valley Transportation Authority 2005.

The capital expenditure plan for design and construction is detailed in Table 2-5 according to the year of expenditure. As a result, costs and funding sources for each project segment and for the total project are higher than Table 2-4, which are given in 2003 dollars.

**Table 2-5.** Capitol Expressway Recommended Light Rail Alternative Capital Expenditure and Funding Plan (in Year of Expenditure Dollars)

Project Segment	Total Cost	Cost per Fiscal Year							
		2005	2006	2007	2008	2009	2010	2011	2012
<b>Alum Rock to Eastridge (MOS)</b>									
Local Sales Tax Measure A	\$365,215,774	\$6,036,132	\$5,566,294	\$1,412,222	\$ 7,165,368	\$50,341,720	\$141,339,998	\$126,735,754	\$26,618,286
<b>Total</b>	<b>365,215,774</b>								
<b>Eastridge to Nieman</b>									
Local Sales Tax Measure A	147,812,588	2,442,984	2,252,828	571,564	2,900,016	20,374,640	57,204,076	51,293,348	10,773,132
<b>Total</b>	<b>147,812,588</b>								
<b>LRV Storage Facility at Quimby</b>									
Local Sales Tax Measure A	26,433,638	436,884	402,878	102,214	518,616	3,643,640	10,229,926	9,172,898	1,926,582
<b>Total</b>	<b>26,433,638</b>								
<b>Total Project</b>	<b>\$539,462,000</b>	<b>\$8,916,000</b>	<b>\$8,222,000</b>	<b>\$2,086,000</b>	<b>\$10,584,000</b>	<b>\$74,360,000</b>	<b>\$208,774,000</b>	<b>\$187,202,000</b>	<b>\$39,318,000</b>

Notes: Costs are according to year of expenditure.

Escalation factor of 1.035 per year used to calculate Year of Expenditure (YOE) costs.

Total project cost in 2003 dollars is \$430 million.



# Chapter 3.0 Responses to Comments on Draft EIS/EIR

## Introduction

As shown in the table below, letters were received from federal, state, and local agencies; members of the public; and speakers at a public meeting (May 27, 2004). Copies of the letters received and a transcript of the public hearing, with all comments indicated, are provided in this chapter. Comment letters are labeled alpha-numerically according to the source of the comment (federal, state, local, public and speaker), the date it was sent, and the order of the comment within the letter. For example, Comment F1-1 is the first comment of the first comment letter by a federal agency. Speakers are listed in the order that they spoke at the hearing.

As stated in State CEQA Guidelines Sections 15088(a) and 15088(b) and the Council on Environmental Quality NEPA Regulations Sections 1502.9(b) and 1503.4(b), comments that raise environmental issues must be provided with responses. Reasoned, factual responses have been provided by VTA in this chapter to all comments received during the public review period, focusing specifically on the environmental issues raised. Generally, the responses to comments provide explanation or amplification of information contained in the draft EIS/EIR. Text changes made in response to comments are indicated in this chapter in italics (*italics*) for added text and strikethrough (~~strikethrough~~) for deleted text.

Letter/Speaker	Name	Date
<b>Federal Comments</b>		
Letter F1	U.S. Department of the Army	May 28, 2004
Letter F2	U.S. Environmental Protection Agency	June 25, 2004
<b>State Comments</b>		
Letter S1	California Department of Fish and Game	May 26, 2004
Letter S2	California Department of Transportation, Aeronautics Division	June 8, 2004
Letter S3	San Francisco Bay Regional Water Quality Control Board	June 9, 2004

Letter/Speaker	Name	Date
Letter S4	California Department of Transportation	June 14, 2004
Letter S5	California Department of Toxic Substances Control	June 10, 2004
<b>Local Comments</b>		
Letter L1	Santa Clara County Roads and Airports Department	May 20, 2004
Letter L2	Metropolitan Transportation Commission	May 27, 2004
Letter L3	Santa Clara County Airport Land Use Commission	June 1, 2004
Letter L4	Peninsula Corridor Joint Powers Board	June 16, 2004
Letter L5	East Valley/680 Communities Neighborhood Advisory Committee	June 16, 2004
Letter L6	Santa Clara County Roads and Airports Department	June 21, 2004
Letter L7	Santa Clara Valley Water District	June 21, 2004
Letter L8	Santa Clara County Environmental Resources Agency	June 18, 2004
Letter L9	City of San Jose Department of Planning, Building, and Code Enforcement	June 28, 2004
<b>General Public Comments</b>		
Letter P1	George Rasko	May 21, 2004
Letter P2	Yong Lu	May 26, 2004
Letter P3	William Garbett	May 27, 2004
Letter P4	Son Cheong Kuan	June 7, 2004
Letter P5	Bob Shoberg	June 20, 2004
Letter P6	James Zito	June 21, 2004
Letter P7	Jeri Arstingstall	June 23, 2004
Letter P8	Rey L. Call	June 23, 2004
Letter P9	A. K.	June 23, 2004
Letter P10	John Marks	June 23, 2004
Letter P11	Minh Nguyen	June 24, 2004
Letter P12	Al Leitch	June 26, 2004
Letter P13	Pierre Feghali	June 28, 2004
Letter P14	David Fadness	June 28, 2004
Letter P15	L. Bertao	June 28, 2004
Letter P16	Mary Rodaite	June 24, 2004
Letter P17	Steve Romero, Jr.	June 24, 2004
Letter P18	Grace Morioka	June 28, 2004
Letter P19	Evelyn Santiago	June 28, 2004

---

Letter/Speaker	Name	Date
Letter P20	Arlene Lew	June 28, 2004
Letter P21	Romy Avena	June 28, 2004
Letter P22	Paul Nhieu	June 28, 2004
Letter P23	Linda Taylor	June 28, 2004
Letter P24	Matthew and Han Nelson	June 28, 2004
Letter P25	Khana Ly	June 28, 2004
Letter P26	Mylan Phamngoc	June 28, 2004
Letter P27	Benjamin and Sylvia Do	June 28, 2004
<b>Public Hearing Comments</b>		
Speaker SP1	Ginger Cardona	May 27, 2004
Speaker SP2	Betty Tse	May 27, 2004
Speaker SP3	David Aldag	May 27, 2004
Speaker SP4	David Noel	May 27, 2004
Speaker SP5	William Garbett	May 27, 2004

---



DEPARTMENT OF THE ARMY  
SAN FRANCISCO DISTRICT, U.S. ARMY CORPS OF ENGINEERS VTA  
333 MARKET STREET  
SAN FRANCISCO, CALIFORNIA 94105-2197  
ENV. ANALYSIS

MAY 28 2004

2004 JUN 3 10 52

Regulatory Branch

SUBJECT: File Number: 28783S

Mr. Thomas Fitzwater  
Santa Clara Valley Transportation Authority (VTA)  
Environmental Planning Department  
3331 North First Street, Bldg. B  
San Jose, California 95134-1927

Dear Mr. Fitzwater:

This letter is in response to a request for comments on the Draft Environmental Impact Statement/Environmental Impact Report concerning your project to improve transit service in the Downtown East Valley Capitol Expressway Corridor that was received on April 29, 2004 by a notice from Santa Clara Valley Transportation Authority dated April 28, 2004. Your project is located near Canoas Creek, Coyote Creek, and Silver Creek in the City of San Jose, Santa Clara County, California. Should the VTA Board of Directors chose to invest in a light rail transit along the Capitol Expressway Corridor, the proposed stretch appears to cross these three creeks. It is preferred that any project impacting waters of the U.S. avoid or minimize impacts to the maximum extent possible. Because the construction of this system may involve the discharge of fill material into a water of the U.S., the Corps of Engineers will need to review those portions of your project.

F1-1

All proposed discharges of dredged or fill material into waters of the United States must be authorized by the Corps of Engineers pursuant to Section 404 of the Clean Water Act (CWA) (33 U.S.C. 1344). Waters of the United States generally include tidal waters, lakes, ponds, rivers, streams (including intermittent streams), and wetlands.

F1-2

Your proposed work appears to be within our jurisdiction and a permit may be required. Application for Corps authorization should be made to this office using the application form in the enclosed pamphlet. To avoid delays it is essential that you enter the File Number at the top of this letter into Item No. 1. The application must include plans showing the location, extent and character of the proposed activity, prepared in accordance with the requirements contained in this pamphlet. You should note, in planning your work, that upon receipt of a properly completed application and plans, it may be necessary to advertise the proposed work by issuing a Public Notice for a period of 30 days.

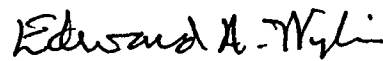
F1-3

If an individual permit is required, it will be necessary for you to demonstrate to the Corps that your proposed fill is necessary because there are no practicable alternatives, as outlined in the U.S. Environmental Protection Agency's Section 404(b)(1) Guidelines. A copy is enclosed to aid you in preparation of this alternative analysis.

F1-4

Should you have any questions regarding this matter, please call Jennifer Spann of our Regulatory Branch at 415-977-8717 or [jennifer.m.spann@spd02.usace.army.mil](mailto:jennifer.m.spann@spd02.usace.army.mil). Please address all correspondence to the Regulatory Branch and refer to the File Number at the head of this letter.

Sincerely,



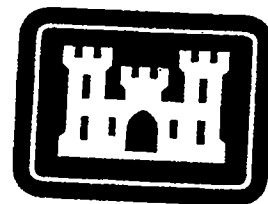
Edward A. Wylie  
Chief, South Section

Enclosures

United States Army Corps of Engineers

# Regulatory Program

Applicant Information



## **INTRODUCTION**

**This pamphlet is designed to assist you in applying for a Department of the Army permit from the Corps of Engineers. The pamphlet is not intended to be a complete description of all aspects of the permit program, but will provide general information of a non-technical nature and specific guidance on how to complete a permit application. Full explanation of the program may be found in Title 33 Code of Federal Regulation, Parts 320**

**through 330. These regulations are available for review at the Corps of Engineers District offices listed at the back of this pamphlet. Answers to technical questions and detailed information about special aspects of the program that pertain to your geographical area and your proposed activity may also be obtained from Corps of Engineers District offices.**

**John F. Wall  
Major General, USA  
Director of Civil Work**

# CONTENTS

	Page
<b>General Information</b> .....	2
Authority for the Regulatory Program .....	2
Explanation of Some Commonly Used Terms .....	3
Questions That Are Frequently Asked .....	4
<b>The Permit Application</b> .....	6
General .....	6
Typical Processing Procedure for a Standard Individual Permit .....	7
Evaluation Factors .....	8
Forms and Permits .....	9
<b>Drawings</b> .....	14
General Information .....	14
Vicinity Map .....	14
Plan View .....	14
Elevation and/or Cross Section View .....	15
Notes on Drawings .....	15
Sample Drawings .....	16
<b>Divisions and Districts for Regulatory Activities (Map)</b> .....	18



## Authority for the Regulatory Program

The U.S. Army Corps of Engineers has been regulating activities in the nation's waters since 1890. Until the 1960's the primary purpose of the regulatory program was to protect navigation. Since then, as a result of laws and court decisions, the program has been broadened so that it now considers the full public interest for both the protection and utilization of water resources.

The regulatory authorities and responsibilities of the Corps of Engineers are based on the following laws:

- Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)** prohibits the obstruction or alteration of navigable waters of the United States without a permit from the Corps of Engineers.
- Section 404 of the Clean Water Act (33 U.S.C. 1344).** Section 301 of this Act prohibits the discharge of dredged or fill material into waters of the United States without a permit from the Corps of Engineers.
- Section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (33 U.S.C. 1413)** authorizes the Corps of Engineers to issue permits for the transportation of dredged material for the purpose of dumping it into ocean waters.

Other laws may also affect the processing of applications for Corps of Engineers permits. Among these are the National Environmental Policy Act, the Coastal Zone Management Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Deepwater Port Act, the Federal Power Act, the Marine Mammal Protection Act, the Wild and Scenic Rivers Act, and the National Fishing Enhancement Act of 1984.

## 3 Explanation of Some Commonly Used Terms

Certain terms which are closely associated with the regulatory program are explained briefly in this section. If you need more detailed definitions, refer to the Code of Federal Regulations (33 CFR Parts 320 through 330) or contact a Corps district regulatory office.

**Activity(ies)** as used in this pamphlet includes structures (for example a pier, wharf, bulkhead, or jetty) and work (which includes dredging, disposal of dredged material, filling, excavation or other modification of a navigable water of the United States).

**Navigable Waters of the United States** are those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past or may be susceptible to use to transport interstate or foreign commerce. These are waters that are navigable in the traditional sense where permits are required for certain activities pursuant to Section 10 of the Rivers and Harbors Act. This term should not be confused with the term *waters of the United States* below.

**Waters of the United States** is a broader term than navigable waters of the United States defined above. Included are adjacent wetlands and tributaries to navigable waters of the United States and other waters where the degradation or destruction of which could affect interstate or foreign commerce. These are the waters where permits are required for the discharge of dredged or fill material pursuant to Section 404 of the Clean Water Act.

**Pre-application Consultation** is one or more meetings between members of the district engineer's staff and an applicant and his agent or his consultant. A pre-application consultation is usually related to applications

for major activities and may involve discussion of alternatives, environmental documents, National Environmental Policy Act procedures, and development of the scope of the data required when an environmental impact statement is required.

**Public Hearings** may be held to acquire information and give the public the opportunity to present views and opinions. The Corps may hold a hearing or participate in joint public hearings with other Federal or state agencies. The district engineer may specify in the public notice that a hearing will be held. In addition, any person may request in writing during the comment period that a hearing be held. Specific reasons must be given as to the need for a hearing. The district engineer may attempt to resolve the issue informally or he may set the date for a public hearing. Hearings are held at times and places that are convenient for the interested public. Very few applications involve a public hearing.

**The Public Interest Review** is the term which refers to the evaluation of a proposed activity to determine probable impacts. Expected benefits are balanced against reasonably foreseeable detriments. All relevant factors are weighed. Corps policy is to provide applicants with a timely and carefully weighed decision which reflects the public interest.

**Public Notice** is the primary method of advising interested public agencies and private parties of the proposed activity and of soliciting comments and information necessary to evaluate the probable impact on the public interest. Upon request, anyone's name will be added to the distribution list to receive public notices.

**Waterbody** is a river, creek, stream, lake, pool, bay, wetland, marsh, swamp, tidal flat, ocean, or other water area.

## Questions That Are Frequently Asked

Various questions are often asked about the regulatory program. It is hoped that these answers will help you to understand the program better.

- Q.** When should I apply for a Corps permit?
- A.** Since two to three months is normally required to process a routine application involving a public notice, you should apply as early as possible to be sure you have all required approvals before your planned commencement date. For a large or complex activity that may take longer, it is often helpful to have a "pre-application consultation" or informal meeting with the Corps during the early planning phase of your project. You may receive helpful information at this point which could prevent delays later. When in doubt as to whether a permit may be required or what you need to do, don't hesitate to call a district regulatory office.
- Q.** I have obtained permits from local and state governments. Why do I have to get a permit from the Corps of Engineers?
- A.** It is possible you may not have to obtain an individual permit, depending on the type or location of work. The Corps has many general permits which authorize minor activities without the need for individual processing. Check with your Corps district regulatory office for information on general permits. When a general permit does not apply, you may still be required to obtain an individual permit.
- Q.** What will happen if I do work without getting a permit from the Corps?
- A.** Performing unauthorized work in waters of the United States or failure to comply with terms of a valid permit can have

serious consequences. You would be in violation of Federal law and could face stiff penalties, including fines and /or requirements to restore the area.

Enforcement is an important part of the Corps regulatory program. Corps surveillance and monitoring activities are often aided by various agencies, groups, and individuals, who report suspected violations. When in doubt as to whether a planned activity needs a permit, contact the nearest district regulatory office. It could save a lot of unnecessary trouble later.

- Q.** How can I obtain further information about permit requirements?
- A.** Information about the regulatory program is available from any Corps district regulatory office. Addresses and telephone numbers of offices are listed at the back of this pamphlet. Information may also be obtained from the water resource agency in your state.
- Q.** Why should I waste my time and yours by applying for a permit when you probably won't let me do the work anyway?
- A.** Nationwide, only three percent of all requests for permits are denied. Those few applicants who have been denied permits usually have refused to change the design, timing, or location of the proposed activity. When a permit is denied, an applicant may redesign the project and submit a new application. To avoid unnecessary delays pre-application conferences, particularly for applications for major activities, are recommended. The Corps will endeavor to give you helpful information, including factors which will be considered during the public interest review, and alternatives to consider that may prove to be useful in designing a project.

**Q. What is a wetland and what is its value?**

**A. Wetlands are areas that are periodically or permanently inundated by surface or ground water and support vegetation adapted for life in saturated soil. Wetlands include swamps, marshes, bogs and similar areas. A significant natural resource, wetlands serve important functions relating to fish and wildlife; food chain production; habitat; nesting; spawning; rearing and resting sites for aquatic and land species; protection of other areas from wave action and erosion; storage areas for storm and flood waters; natural recharge areas where ground and surface water are interconnected; and natural water filtration and purification functions.**

**Although individual alterations of wetlands may constitute a minor change, the cumulative effect of numerous changes often results in major damage to wetland resources. The review of applications for alteration of wetlands will include consideration of whether the proposed activity is dependent upon being located in an aquatic environment.**

**Q. How can I design my project to eliminate the need for a Corps permit?**

**A. If your activity is located in an area of tidal waters, the best way to avoid the need for a permit is to select a site that is above the high tide line and avoids wetlands or other waterbodies. In the vicinity of fresh water, stay above ordinary high water and avoid wetlands adjacent to the stream or lake. Also, it is possible that your activity is exempt and does not need a Corps permit or that it has been authorized by a nationwide or regional general permit. So, before you build, dredge or fill, contact the Corps district regulatory office in your area for specific information about location, exemptions, and regional and nationwide general permits.**

## General

The application form used to apply for a permit is Engineer Form 4345, *Application for a Department of the Army Permit*. You can obtain the application from one of the Corps of Engineers district regulatory offices listed in the back of this pamphlet. Some offices may use a slightly modified form for joint processing with a state agency; however, the required information is basically the same. It is important that you provide complete information in the requested format. If incomplete information is provided, processing of your application will be delayed. This information will be used to determine the appropriate form of authorization, and to evaluate your proposal. Some categories of activities have been previously authorized by nationwide or regional permits, and no further Corps approvals are required. Others may qualify for abbreviated permit processing, with authorizations in the form of letters of permission, in which a permit decision can usually be reached in less than 30 days. For other activities, a Public Notice may be required to notify Federal, state, and local agencies, adjacent property owners, and the general public of the proposal to allow an opportunity for review and comment or to request a public hearing. Most applications involving Public Notices are completed within four months and many are completed within 60 days.

The district engineer will begin to process your application immediately upon receipt of all required information. You will be sent an acknowledgement of its receipt and the application number assigned to your file. You should refer to this number when inquiring about your application. Your proposal will be reviewed, balancing the need and expected benefits against the probable impacts of the work, taking into consideration all comments received and other relevant factors. This process is called the *public interest review*. The Corps goal is to reach a decision regarding permit issuance or denial within 60 days of receipt of a complete application. However, some complex activities, issues, or requirements of law may prevent the district engineer from meeting this goal.

For any specific information on the evaluation process, filling out the application forms, or the status of your application, you should contact the regulatory branch of the Corps of Engineers district office which has jurisdiction over the area where you plan to do the work.

7

**Typical Processing Procedure for a Standard Individual Permit**

1. Preapplication consultation (optional)
2. Applicant submits ENG Form 4345 to district regulatory office\*
3. Application received and assigned identification number
4. Public notice issued (within 15 days of receiving all information)
5. 15 to 30 day comment period depending upon nature of activity
6. Proposal is reviewed\*\* by Corps and:
  - Public
  - Special interest groups
  - Local agencies
  - State agencies
  - Federal agencies
7. Corps considers all comments
8. Other federal agencies consulted, if appropriate
9. District engineer may ask applicant to provide additional information
10. Public hearing held, if needed
11. District engineer makes decision
12. Permit issued
  - or
  - Permit denied and applicant advised of reason

---

\*A local variation, often a joint federal-state application form may be submitted.

\*\*Review period may be extended if applicant fails to submit information or due to requirements of certain laws.

## Evaluation Factors

The decision whether to grant or deny a permit is based on a public interest review of the probable impact of the proposed activity and its intended use. Benefits and detriments are balanced by considering effects on items such as:

- conservation
- economics
- aesthetics
- general environmental concerns
- wetlands
- cultural values
- fish and wildlife values
- flood hazards
- floodplain values
- food and fiber production
- navigation
- shore erosion and accretion
- recreation
- water supply and conservation
- water quality
- energy needs
- safety
- needs and welfare of the people
- considerations of private ownership

The following general criteria will be considered in the evaluation of every application:

- the relative extent of the public and private need for the proposed activity;
- the practicability of using reasonable alternative locations and methods to accomplish the objective of the proposed activity; and
- the extent and permanence of the beneficial and/or detrimental effects which the proposed activity is likely to have on the public and private uses to which the area is suited.

### Section 404(b) (1) of the Clean Water Act

If your project involves the discharge of dredged or fill material, it will be necessary for the Corps to evaluate your proposed activity under the Section 404(b)(1) guidelines prepared by the Environmental Protection Agency. The guidelines restrict discharges into aquatic areas where less environmentally damaging, practicable alternatives exist.

## Forms and Permits

The following forms apply to the permit process:

### Application

The form that you will need to initiate the review process is ENG Form 4345 or a joint Federal-state application that may be available in your state. The appropriate form may be obtained from the district regulatory office which has jurisdiction in the area where your proposed project is located.

### Individual Permits

An individual permit may be issued as either ENG Form 1721, the standard permit, or as a Letter of Permission.

- A standard permit is one processed through the typical review procedures, (see page 7) which include public notice, opportunity for a public hearing, and receipt of comments. It is issued following a case-by-case evaluation of a specific activity.
- If work is minor or routine with minimum impacts and objections are unlikely, then it may qualify for a Letter of Permission (LOP). An LOP can be issued much more quickly than a standard permit since an individual public notice is not required. The District Engineer will notify you if your proposed activity qualifies for an LOP.

### General Permits

In many cases the formal processing of a permit application is not required because of general permits already issued to the public at large by the Corps of Engineers. These are issued on a regional and nationwide basis.

Separate applications may not be required for activities authorized by a general permit; nevertheless, reporting may be required. For specific information on general permits, contact a district regulatory office.

### ENG Form 4336

The third form, ENG Form 4336, is used to assist with surveillance for unauthorized activities. The form, which contains a description of authorized work, should be posted at the site of an authorized activity. If the Corps decides it is appropriate for you to post this form, it will be furnished to you when you receive your permit.

**Fees.** Fees are required for most permits. \$10.00 will be charged for a permit for a non-commercial activity; \$100.00 will be charged for a permit for a commercial or industrial activity. The district engineer will make the final decision as to the amount of the fee. Do not send a fee when you submit an application. When the Corps issues a permit, you will be notified and asked to submit the required fee payable to the Treasurer of the United States. No fees are charged for transferring a permit from one property owner to another, for Letters of Permission, or for any activities authorized by a general permit or for permits to governmental agencies.



## General Information

Three types of drawings—Vicinity, Plan, and Elevation—are required to accurately depict activities (See sample drawings on pages 16 and 17).

Submit one original, or good quality copy, of all drawings on 8½ × 11 inch white paper (tracing cloth or film may be used). Submit the fewest number of sheets necessary to adequately show the proposed activity. Drawings should be prepared in accordance with the general format of the samples, using block style lettering. Each page should have a title block. See check list below. Drawings do not have to be prepared by an engineer, but professional assistance may become necessary if the project is large or complex.

Leave a 1-inch margin at the top edge of each sheet for purposes of reproduction and binding.

In the title block of each sheet of drawings identify the proposed activity and include the name of the body of water; river mile (if applicable); name of county and state; name of applicant; number of the sheet and total number of sheets in set; and date the drawing was prepared.

Since drawings must be reproduced, use heavy dark lines. Color shading cannot be used; however, dot shading, hatching, or similar graphic symbols may be used to clarify line drawings.

### Vicinity Map

The vicinity map you provide will be printed in any public notice that is issued and used by the Corps of Engineers and other reviewing agencies to locate the site of the proposed activity. You may use an existing road map or U.S. Geological Survey topographic map (scale 1:24,000) as the vicinity map. Please include sufficient details

to simplify locating the site from both the waterbody and from land. Identify the source of the map or chart from which the vicinity map was taken and, if not already shown, add the following:

- location of activity site (draw an arrow showing the exact location of the site on the map).
- latitude, longitude, river mile, if known, and/or other information that coincides with Block 6 on the application form.
- name of waterbody and the name of the larger creek, river, bay, etc., that the waterbody is immediately tributary to.
- names, descriptions and location of landmarks.
- name of all applicable political (county, parish, borough, town, city, etc.) jurisdictions.
- name of and distance to nearest town, community, or other identifying locations.
- names or numbers of all roads in the vicinity of the site.
- north arrow.
- scale.

### Plan View

The plan view shows the proposed activity as if you were looking straight down on it from above. Your plan view should clearly show the following:

- Name of waterbody (river, creek, lake, wetland, etc.) and river mile (if known) at location of activity.
- Existing shorelines.
- Mean high and mean low water lines and maximum (spring) high tide line in tidal areas.
- Ordinary high water line and ordinary low water line if the proposed activity is located on a non-tidal waterbody.

- Average water depths around the activity.
- Dimensions of the activity and distance it extends from the high water line into the water.
- Distances to nearby Federal projects, if applicable.
- Distance between proposed activity and navigation channel, where applicable.
- Location of structures, if any, in navigable waters immediately adjacent to the proposed activity.
- Location of any wetlands (marshes, swamps, tidal flats, etc.)
- North arrow.
- Scale.
- If dredged material is involved, you must describe the type of material, number of cubic yards, method of handling, and the location of fill and spoil disposal area. The drawing should show proposed retention levees, weirs, and/or other means for retaining hydraulically placed materials.
- Mark the drawing to indicate previously completed portions of the activity.
- Water depth at waterward face of proposed activity or, if dredging is proposed, dredging and estimated disposal grades.
- Dimensions from mean high water line (in tidal waters) for proposed fill or float, or high tide line for pile supported platform. Describe any structures to be built on the platform.
- Cross section of excavation or fill, including approximate side slopes.
- Graphic or numerical scale.
- Principal dimensions of the activity.

#### Notes on Drawings\*

- Names of adjacent property owners who may be affected. Complete names and addresses should be shown in Block 5 on ENG Form 4345.
- Legal property description: Number, name of subdivision, block and lot number. Section, Township and Range (if applicable) from plot, deed or tax assessment.
- Photographs of the site of the proposed activity are not required; however, pictures are helpful and may be submitted as part of any application.

### Elevation and/or Cross Section View

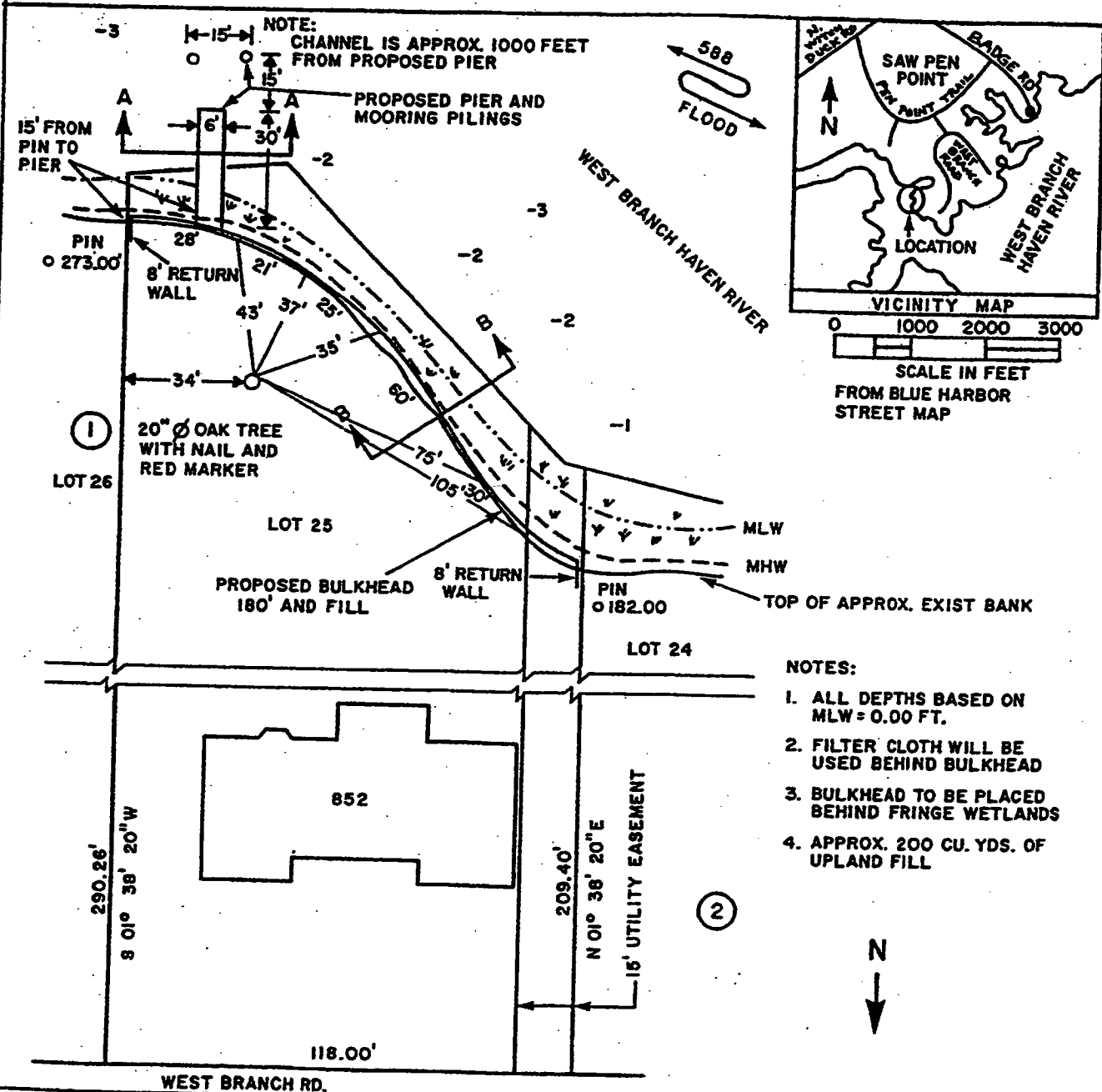
The elevation and/or cross section view is a scale drawing that shows the side, front, or rear of the proposed activity. If a section view is shown, it represents the proposed structure as it would appear if cut internally for display. Your elevation should clearly show the following:

- Water elevations as shown in the plan view.

\*Drawings should be as clear and simple as possible (i.e., not too "busy").

# SAMPLE DRAWINGS FOR A PERMIT APPLICATION

NOTE: THE DRAWINGS SUBMITTED NEED NOT BE PREPARED BY A PROFESSIONAL DRAFTSMAN AS IN THESE SAMPLES.



- NOTES:
1. ALL DEPTHS BASED ON MLW = 0.00 FT.
  2. FILTER CLOTH WILL BE USED BEHIND BULKHEAD
  3. BULKHEAD TO BE PLACED BEHIND FRINGE WETLANDS
  4. APPROX. 200 CU. YDS. OF UPLAND FILL

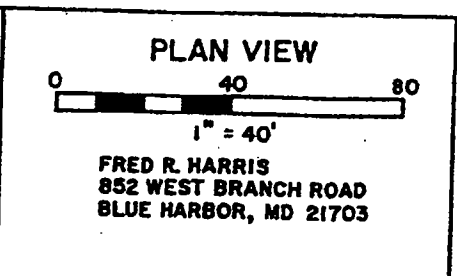


**PURPOSE:** PREVENT EROSION AND PROVIDE BOATING ACCESS

**DATUM:** MLW

**ADJACENT PROPERTY OWNERS:**

1. MARY L. CLARK
2. HARRY N. HAMPTON
- 3.



**PROPOSED BULKHEAD PIER AND FILL**

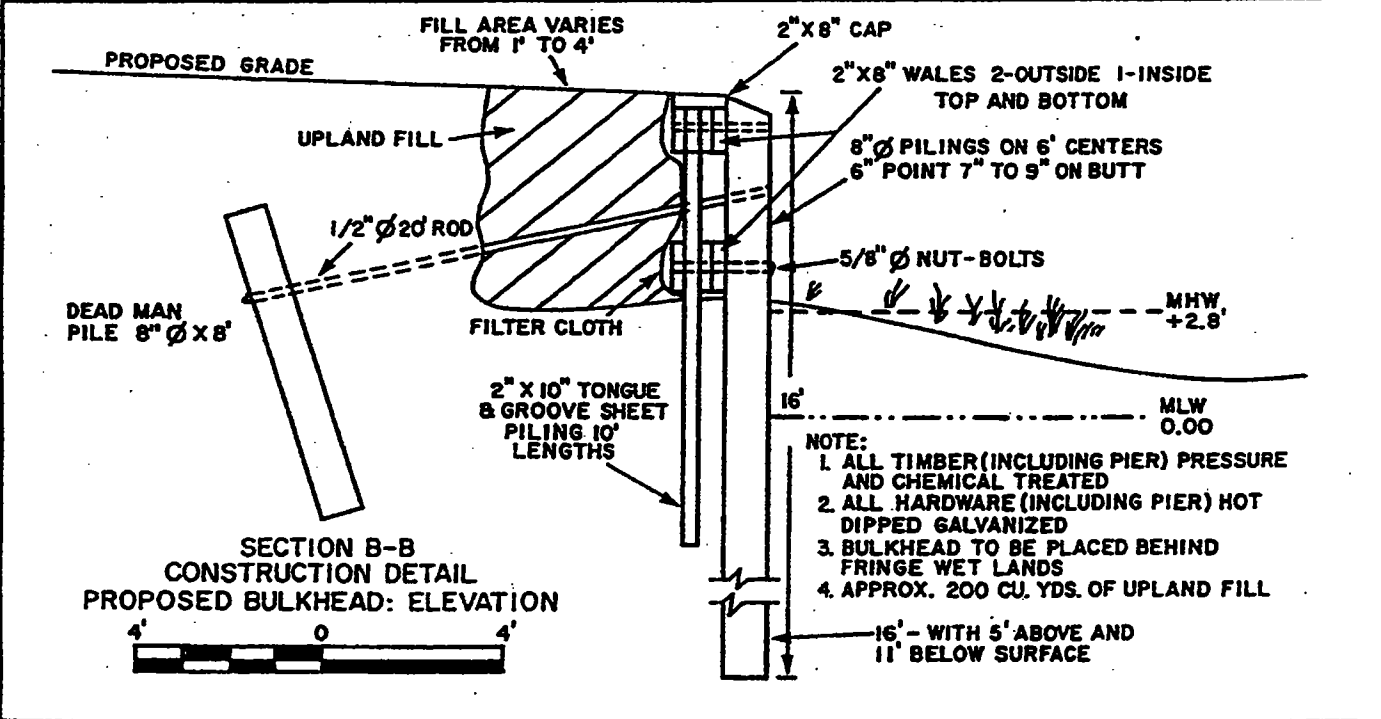
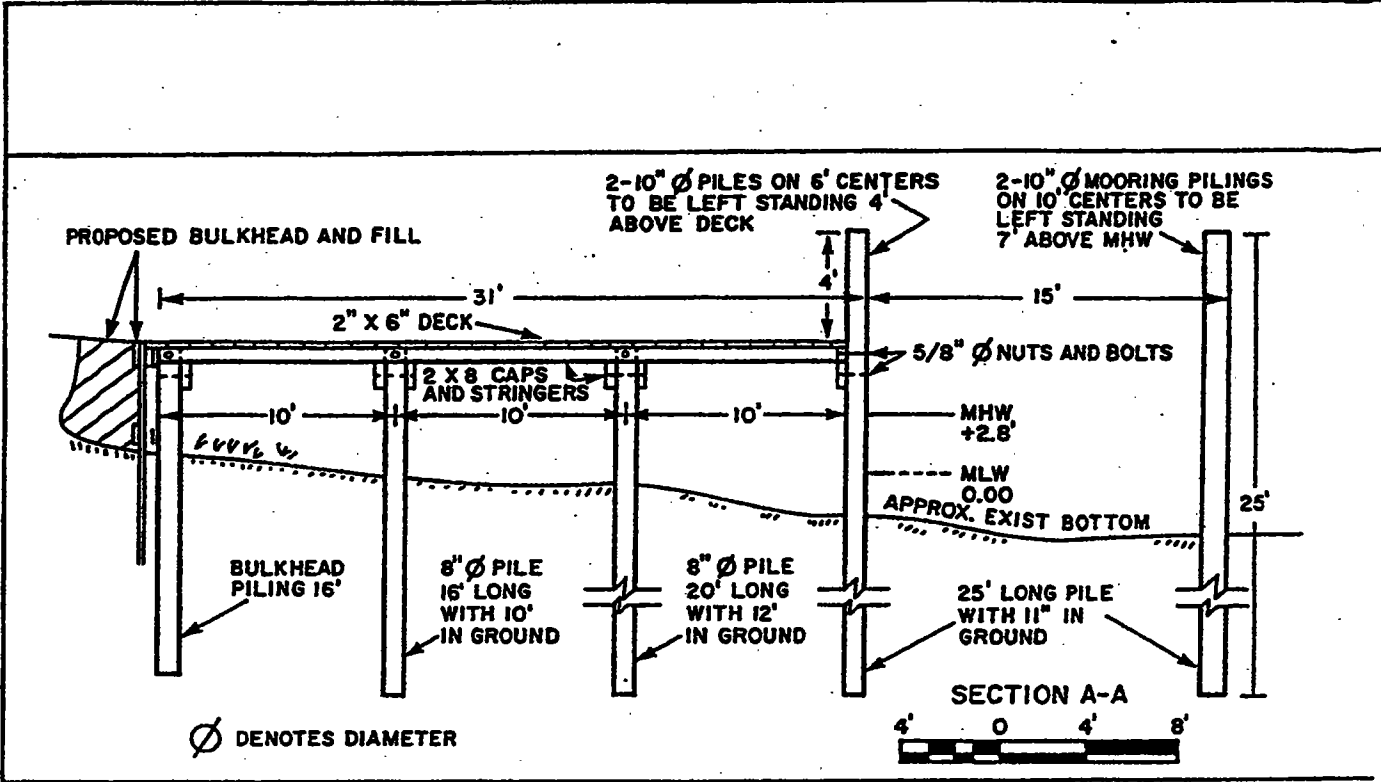
**IN:** WEST BRANCH HAVEN RIVER

**AT:** BLUE HARBOR

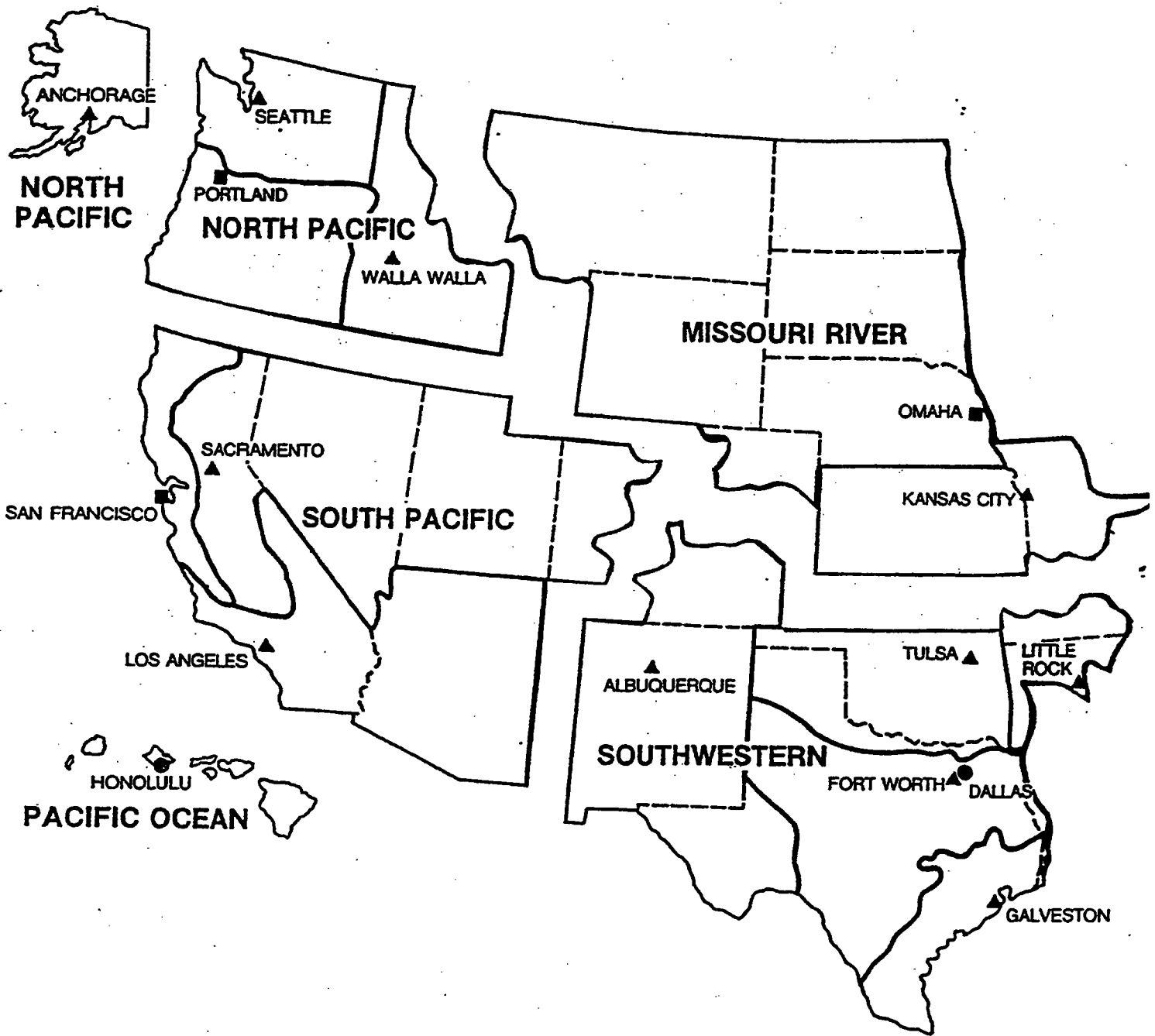
**COUNTY OF:** KING EDWARD STATE: MD

**APPLICATION BY:** FRED R. HARRIS

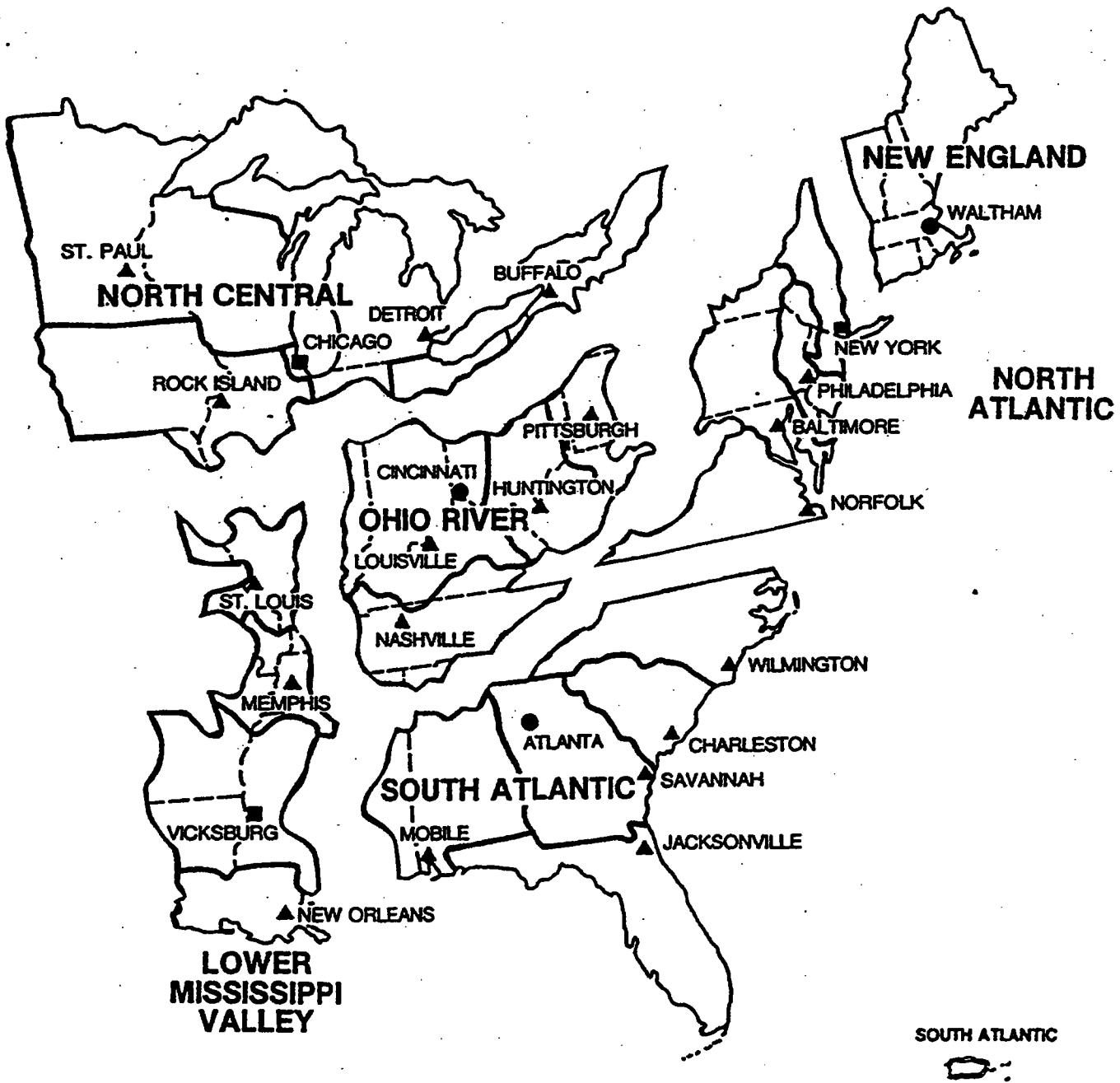
**SHEET 1 OF 2 DATE 10-16-82**



<p><b>PURPOSE:</b> PREVENT EROSION AND PROVIDE BOATING ACCESS</p> <p><b>DATUM:</b> MLW</p> <p><b>ADJACENT PROPERTY OWNERS:</b></p> <ol style="list-style-type: none"> <li>1. MARY L. CLARK</li> <li>2. HARRY N. HAMPTON</li> <li>3.</li> </ol>	<p><b>SECTION VIEWS</b></p> <p>FRED R. HARRIS 852 WEST BRANCH ROAD BLUE HARBOR, MD 21703</p>	<p><b>PROPOSED BULKHEAD PIER AND FILL</b></p> <p>IN: WEST BRANCH HAVEN RIVER AT: BLUE HARBOR COUNTY OF: KING EDWARD STATE: MD APPLICATION BY: FRED R. HARRIS</p> <p>SHEET 2 OF 2 DATE 10-16-82</p>
--	--	--



- DIVISION AND DISTRICT HEADQUARTERS
- DIVISION HEADQUARTERS
- ▲ DISTRICT HEADQUARTERS
- STATE BOUNDARIES
- DISTRICT BOUNDARIES



*Note: In Iowa the eastern bank of the Missouri River is regulated by the Omaha office.*



US Army Corps  
of Engineers  
San Francisco District

## REGULATORY BRANCH

### REVIEW OF PERMIT APPLICATION FORMS

This is a review checklist for Corps of Engineers use only. It is not a part of the permit application. A blank copy is included with your permit application to illustrate the way your permit application is reviewed for completeness as well as to assist you in insuring your permit application is complete. Do not submit this checklist with your initial permit application.

The purpose of this checklist is to IDENTIFY AND EXPLAIN ALL ITEMS NEEDED TO INITIATE THE PERMIT APPLICATION PROCESS. The San Francisco District receives a large number of permit applications to review for completeness. The initial screening is intended to be a brief process, so it is important to have all required information clear and accessible for quick evaluation to determine completeness. Once a permit application is received it is assigned to a PROJECT MANAGER, who is the applicant's primary point of contact during the permit application process. The San Francisco District aims to minimize delays during the evaluation of permit applications.

~~If your permit application lacks essential information, or if it appears deficient or not clearly understandable, the permit application may be returned to you with the missing or insufficient items identified and explained briefly. This should provide you with a clear indication of additional information required to insure your permit application is complete and allow you to revise your permit application and resubmit it to the Corps of Engineers.~~

If you have a question concerning completion of a returned permit application, please call the project manager assigned to your permit application.

APPLICANT: \_\_\_\_\_

DATE: \_\_\_\_\_

TEMPORARY FILE NO.: \_\_\_\_\_

**I. PERMIT APPLICATION INFORMATION**

Required by Permit Application Pamphlet (ER 1145-2-1) or by 33 CFR 320.

	OK	NA	NEED	COMMENTS
1. <u>Applicant's signature</u>				
2. <u>Agent's signature</u>				
3. <u>Names and addresses of adjoining property owners</u>				
<b>BASIC PROJECT INFORMATION</b>				
Concise statement for each of the following:				
4. <u>Purpose and need of project</u>				
5. <u>Description of total project</u>  All elements of the full and complete project. If the proposal is reasonably related to another project in any way, applicant must state the relationship. If the project is one phase of a staged project or a link in a larger project, applicant must explain the overall proposal.				
6. <u>Fill (in Corps jurisdiction):</u>				
(a) Volume and area				
(b) Type and source of material				
(c) Method of placement				
7. <u>Dredge/Excavation:</u>				
(a) Volume and area				
(b) Type and source of material				
(c) Method of dredging/excavation				
(d) Location of disposal site Information for the Corps to determine upland or aquatic status of disposal site.				
8. <u>Other work</u> e.g., cofferdams, access roads, pilings, work areas, and all other structures included in project				



**IL DRAWINGS FOR CORPS' PUBLIC NOTICE**

	OK	N/A	NEED	COMMENTS
<b>1. Plan View Drawings</b>				
(a) Drawings legible, complete, clear and of appropriate scale				
(b) Delineated project boundary.				
(c) Delineated project area to be filled, dredged or excavated.				
(d) Elevation of fill, or depth of dredging / excavation at appropriate scale - datum stated.				
(e) Water lines - Indicate elevation of water-line. Boundaries should overlay the project.				
• MLLW (mean lower low water) - all tidal areas				
• MHW (mean high water) - all tidal areas				
• HTL (high tide line) - all tidal areas.				
• OHW (ordinary high water) - for non-tidal streams and ponds				
• Wetland boundary (if any) - "proposed" or "Corps delineated" indicated.				
(f) <u>Locations and dimensions</u> of any proposed structures				
(g) <u>Locations and dimensions</u> of any:				
• Borrow areas (areas where fill is excavated).				
• Coffier dams; dewatering ponds				
• Dredging areas				
• Disposal areas				
• Stockpiling areas				
• Work/Staging/Equipment areas (or other areas of temporary disturbance.)				

II. DRAWINGS FOR PUBLIC NOTICE (cont'd.)

	OK	N/A	NEED	COMMENTS
<b>2. Profile/Cross-Section drawings</b>				
(a) Drawings legible, complete, clear, and at appropriate scale.				
(b) Selected sections indicated on plan view drawings, e.g., A-A', B-B', C-C'). "Typical" or representative sections ok for larger projects, but <u>reference point or orientation</u> needed.				
(c) <u>Water lines</u> (see Plan Drawing. Indicate <u>elevation</u> of waterlines.)				
• MLLW (tidal waters)				
• MHW (tidal waters)				
• HTL (tidal waters)				
• OHWL (non-tidal waters)				
• Wetland boundary				
(d) <u>Dredging projects only</u> - proposed and existing bottom depths.				
(e) <u>All projects</u> - sufficient <u>linear dimensions</u> to calculate the volume and area quantities, based on both cross-section and plan views.				
<b>3. Location of project on USGS quad sheet or regional map.</b>				
<b>4. Drawing Format:</b>				
(a) 1" margin at top of sheet				
(b) North arrow				
(c) Scale				
(d) Datum - on both plan and section views				
(e) Title block - on all maps and drawings (Corps Format)				

### III. JURISDICTIONAL AND COMPLIANCE INFORMATION

These are detailed Corps file documents, and are often at a size and scale showing greater technical detail than the Public Notice drawings. In some cases - especially small or simple projects - the Public Notice drawings may suffice for both purposes. Comp or large projects should generally provide all relevant information indicated below.

	OK	N/A	NEED	COMMENTS
<b>1. <u>Maps and Drawings for Corps Jurisdictional Delineation</u></b> <b>(a) Site location map (road map location).</b>				
<b>(b) USGS quad sheet showing project site.</b>				
<b>(c) Three maps of project site at 1" = 100' scale, showing separately:</b> <ul style="list-style-type: none"> <li>• Existing (pre-project) conditions.</li> <li>• Jurisdictional Delineation - distinguishing Section 10 and Section 404. [see (2) below]</li> <li>• Proposed (post-project) conditions.</li> </ul>				
<b>(d) Plan details of all fills and structures - large-scale, engineering drawings.</b>				
<b>(e) Cross-sections of all fills and structures - large-scale, engineering drawings.</b>				
<b>2. <u>Jurisdictional Information</u> -</b> <b>Map showing existing condition.</b> <b>(a) FOR TIDAL AREAS -</b> <ul style="list-style-type: none"> <li>• Mean high water elevation and boundary. (ONLY NGVD or MLLW AS DATUM !)</li> <li>• High tide line elevation and boundary. (ONLY NGVD or MLLW AS DATUM !)</li> </ul>				
<b>(b) FOR NON-TIDAL AREAS :</b> <ul style="list-style-type: none"> <li>• <u>Streams and Rivers:</u>  Width of stream at OHW - Show OHW boundary shown in plan. For extensive projects, length of stream at approximately equal OHW widths shown.</li> <li>• <u>Ponds:</u> OHW Delineated.</li> </ul>				
<b>(c) FOR TIDAL AND NON-TIDAL WETLANDS :</b> Proposed wetland boundary based on current Corps Manual for Wetland Delineation.				

**IV. DREDGING PROJECTS**

	OK N/A NEED			COMMENTS
1. Site Plan (scale of 1" = 100') delineating project area; For very large projects a scale of 1" = 200" is acceptable				
2. Recent hydrographic survey referenced to MLLW with area to be dredged clearly delineated (signed by surveyor)				
3. Cross sections showing depths of dredging (including overdepth allowance)				
4. Equipment to be used				
5.				
6. For one-time project applications provide estimated quantity to be dredged				
7. For multi-year maintenance applications provide: (a) Estimate of yearly quantities to be dredged.				
(b) History of:				
• Dredge quantities				
• Depths of past dredging				

**V. FACILITATING DOCUMENTS**

Some or all of these documents are needed to complete the Corps permit process, but are not absolutely needed to begin. If the information is available, or the status of pending documents is known, it is very advantageous for the applicant to submit the documents to the Corps as early as possible.

1. Mitigation and monitoring plan - to avoid, minimize or compensate for adverse impacts to wetlands or other aquatic resources.

2. Alternatives Analysis - 404(b)(1) for fills in Section 404 jurisdiction.

3. Regional Water Quality Control Board - certification or waiver (all applicants).

4. California Coastal Commission or BCDC - permit file number or consistency determination.

5. California Department of Fish and Game - stream alteration agreement.

6. EIR Document (State CEQA) - or Negative Declaration or land use planning documents.

7. EIS Document (Federal NEPA)

8. Hazardous Materials Assessments - any relevant state or federal documents.

9. Surveys of Rare, Sensitive or Endangered Species on or near the project site (state or federal lists).

10. Cultural Resources/Historic Properties Assessment

11. Results of sampling and testing as per PN 93-2 1991 Green Book as appropriate (dredging projects only)

**Instructions for Preparing a  
Department of the Army Permit Application**

**Blocks 1 through 4.** To be completed by Corps of Engineers.

**Block 5. Applicant's Name.** Enter the name of the responsible party or parties. If the responsible party is an agency, company, corporation or other organization, indicate the responsible officer and title. If more than one party is associated with the application, please attach a sheet with the necessary information marked Block 5.

**Block 6. Address of Applicant.** Please provide the full address of the party or parties responsible for the application. If more space is needed, attach an extra sheet of paper marked Block 6.

**Block 7. Applicant Telephone Number(s).** Please provide the number where you can usually be reached during normal business hours.

**Blocks 8 through 11.** To be completed if you choose to have an agent.

**Block 8. Authorized Agent's Name and Title.** Indicate name of individual or agency, designated by you, to represent you in this process. An agent can be an attorney, builder, contractor, engineer or any other person or organization. Note: An agent is not required.

**Blocks 9 and 10. Agent's Address and Telephone Number.** Please provide the complete mailing address of the agent, along with the telephone number where he/she can be reached during normal business hours.

**Block 11. Statement of Authorization.** To be completed by applicant if an agent is to be employed.

**Block 12. Proposed Project Name or Title.** Please provide name identifying the proposed project (i.e., Landmark Plaza, Burned Hills Subdivision or Edsall Commercial Center).

**Block 13. Name of Waterbody.** Please provide the name of any stream, lake, marsh or other waterway to be directly impacted by the activity. If it is a minor (no name) stream, identify the waterbody the minor stream enters.

**Block 14. Proposed Project Street Address.** If the proposed project is located at a site having a street address (not a box number), please enter here.

**Block 15. Location of Proposed Project.** Enter the county and state where the proposed project is located. If more space is required, please attach a sheet with the necessary information marked Block 15.

**Block 16. Other Location Descriptions.** If available, provide the Section, Township and Range of the site and/or the latitude and longitude. You may also provide description of the proposed project location, such as lot numbers, tract numbers or you may choose to locate the proposed project site from a known point (such as the right descending bank of Smith Creek, one mile down from the Highway 14 bridge). If a large river or stream, include the river mile of the proposed project site if known.

**Block 17. Directions to the Site.** Provide directions to the site from a known location or landmark. Include highway and street numbers as well as names. Also provide distances from known locations and any other information that would assist in locating the site.

**Block 18. Nature of Activity.** Describe the overall activity or project. Give appropriate dimensions of structures such as wingwalls, dikes (identify the materials to be used in construction, as well as the methods by which the work is to be done), or excavations (length, width, and height). Indicate whether discharge of dredged or fill material is involved. Also, identify any structure to be constructed on a fill, piles or float supported platforms.

The written descriptions and illustrations are an important part of the application. Please describe, in detail, what you wish to do. If more space is needed, attach an extra sheet of paper marked Block 18.

**Block 19. Proposed Project Purpose.** Describe the purpose and need for the proposed project. What will it be used for and why? Also include a brief description of any related activities to be developed as the result of the proposed project. Give the approximate dates you plan to both begin and complete all work.

**Block 20. Reason(s) for Discharge.** If the activity involves the discharge of dredged and/or fill material into a wetland or other waterbody, including the temporary placement of material, explain the specific purpose of the placement of the material (such as erosion control).

**Block 21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards.** Describe the material to be discharged and amount of each material to be discharged within Corps jurisdiction. Please be sure this description will agree with your illustrations. Discharge material includes: rock, sand, clay, concrete, etc.

**Block 22. Surface Areas of Wetlands or Other Waters Filled.** Describe the area to be filled at each location. Specifically identify the surface areas, or part thereof, to be filled. Also include the means by which the discharge is to be done (backhoe, dragline, etc.). If dredged material is to be discharged on an upland site, identify the site and the steps to be taken (if necessary) to prevent runoff from the dredged material back into a waterbody. If more space is needed, attach an extra sheet of paper marked Block 22.

**Block 23. Is Any Portion of the Work Already Complete?** Provide any background on any part of the proposed project already completed. Describe the area already developed, structures completed, any dredged or fill material already discharged, the type of material, volume in cubic yards, acres filled, if a wetland or other waterbody (in acres or square feet). If the work was done under an existing Corps permit, identify the authorization if possible.

**Block 24. Names and Addresses of Adjoining Property Owners, Lessees, etc., Whose Property Adjoins the Project Site.** List complete names and full mailing addresses of the adjacent property owners (public and private) lessees, etc., whose property adjoins the waterbody or aquatic site where the work is being proposed so that they may be notified of the proposed activity (usually by public notice). If more space is needed, attach an extra sheet of paper marked Block 24.

Information regarding adjacent landowners is usually available through the office of the tax assessor in the county of counties where the project is to be developed.

**Block 25. Information about Approvals or Denials by Other Agencies.** You may need the approval of other Federal, state or local agencies for your project. Identify any applications you have submitted and the status, if any (approved or denied) of each application. You need not have obtained all other permits before applying for a Corps permit.

**Block 26. Signature of Applicant or Agent.** The application must be signed by the owner or other authorized party (agent). This signature shall be an affirmation that the party applying for the permit possesses the requisite property rights to undertake the activity applied for (including compliance with special conditions, mitigation, etc.).

#### DRAWINGS AND ILLUSTRATIONS

##### **General Information.**

Three types of illustrations are needed to properly depict the work to be undertaken. These illustrations or drawings are identified as a Vicinity Map, a Plan View or a Typical Cross-Section Map. Identify each illustration with a figure or attachment number.

Please submit one original, or good quality copy, of all drawings on 8 1/2x11 inch plain white paper (tracing paper or film may be substituted). Use the fewest number of sheets necessary for your drawings or illustrations.

Each illustration should identify the project, the applicant, and the type of illustration (vicinity map, plan view or cross-section). While illustrations need not be professional (many small, private project illustrations are prepared by hand), they should be clear, accurate and contain all necessary information.

**APPLICATION FOR DEPARTMENT OF THE ARMY PERMIT  
(33 CFR 325)**

OMB APPROVAL NO. 0710-0003  
Expires June 30, 2000

The Public burden for this collection of information is estimated to average 10 hours per response, although the majority of applications should require 5 hours or less. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Defense, Washington Headquarters Service Directorate of Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302; and to the Office of Management and Budget, Paperwork Reduction Project (0710-0003), Washington, DC 20503. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number. Please **DO NOT RETURN** your form to either of those addresses. Completed applications must be submitted to the District Engineer having jurisdiction over the location of the proposed activity.

**PRIVACY ACT STATEMENT**

Authorities: Rivers and Harbors Act, Section 10, 33 USC 403; Clean Water Act, Section 404, 33 USC 1344; Marine Protection, Research and Sanctuaries Act, 33 USC 1413, Section 103. Principal Purpose: Information provided on this form will be used in evaluating the application for a permit. Routine Uses: This information may be shared with the Department of Justice and other federal, state, and local government agencies. Submission of requested information is voluntary, however, if information is not provided the permit application cannot be evaluated nor can a permit be issued. One set of original drawings or good reproducible copies which show the location and character of the proposed activity must be attached to this application (see sample drawings and instructions) and be submitted to the District Engineer having jurisdiction over the location of the proposed activity. An application that is not completed in full will be returned.

**(ITEMS 1 THRU 4 TO BE FILLED BY THE CORPS)**

1. APPLICATION NO.	2. FIELD OFFICE CODE	3. DATE RECEIVED	4. DATE APPLICATION COMPLETED
--------------------	----------------------	------------------	-------------------------------

**(ITEMS BELOW TO BE FILLED BY APPLICANT)**

5. APPLICANT'S NAME	8. AUTHORIZED AGENT'S NAME AND TITLE <i>(an agent is not required)</i>
6. APPLICANT'S ADDRESS	9. AGENT'S ADDRESS
7. APPLICANT'S PHONE NOS. W/AREA CODE a. Residence b. Business	10. AGENT'S PHONE NOS. W/AREA CODE a. Residence b. Business

**STATEMENT OF AUTHORIZATION**

I hereby authorize, \_\_\_\_\_ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application.

APPLICANT'S SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

**NAME, LOCATION AND DESCRIPTION OF PROJECT OR ACTIVITY**

12. PROJECT NAME OR TITLE <i>(see instructions)</i>	
13. NAME OF WATERBODY, IF KNOWN <i>(if applicable)</i>	14. PROJECT STREET ADDRESS <i>(if applicable)</i>
15. LOCATION OF PROJECT  _____ COUNTY _____ STATE	
16. OTHER LOCATION DESCRIPTIONS, IF KNOWN, <i>(see instructions)</i>	
17. DIRECTIONS TO THE SITE	

18. Nature of Activity (Description of project, include all features)

19. Project Purpose (Describe the reason or purpose of the project, see instructions)

USE BLOCKS 20-22 IF DREDGED AND/OR FILL MATERIAL IS TO BE DISCHARGED

20. Reason(s) for Discharge

21. Type(s) of Material Being Discharged and the Amount of Each Type in Cubic Yards

22. Surface Area in Acres of Wetlands or Other Waters Filled (see instructions)

23. Is Any Portion of the Work Already Complete? Yes  No  IF YES, DESCRIBE THE COMPLETED WORK

24. Addresses of Adjoining Property Owners, Lessees, Etc., Whose Property Adjoins the Waterbody (if more than can be entered here, please attach a supplemental list).

25. List of Other Certifications or Approvals/Denials Received from other Federal, State or Local Agencies for Work Described in This Application.

AGENCY	TYPE APPROVAL*	IDENTIFICATION NUMBER	DATE APPLIED	DATE APPROVED	DATE DENIED
--------	----------------	-----------------------	--------------	---------------	-------------

\*Would include but is not restricted to zoning, building and flood plain permits

26. Application is hereby made for a permit or permits to authorize the work described in this application. I certify that the information in this application is complete and accurate. I further certify that I possess the authority to undertake the work described herein or am acting as the duly authorized agent of the applicant.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF AGENT

DATE

The application must be signed by the person who desires to undertake the proposed activity (applicant) or it may be signed by a duly authorized agent if the statement in block 11 has been filled out and signed.

18 U.S.C. Section 1001 provides that: Whoever, in any manner within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up any trick, scheme, or disguises a material fact or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing same to contain any false, fictitious or fraudulent statements or entry, shall be fined not more than \$10,000 or imprisoned not more than five years or both.





US Army Corps  
of Engineers

Regulatory Branch  
333 Market Street  
San Francisco, Ca. 94105-2197

# A SPECIAL NOTE TO APPLICANTS

## Advanced discussions, other agencies, alternatives analysis

### Discuss your project

Potential applicants for Corps authorization for work of any major impact are advised to discuss their plans and permit procedures with a member of the Regulatory Branch prior to submittal of an application. The Branch is located at 333 Market Street, San Francisco, on the eighth floor. The telephone number is (415) 977-8462. For work in Humboldt or Del Norte Counties, you can also call our Eureka Resident Office at (707) 443-0855.

### Other permits required

An applicant requiring a Corps permit and either a California Coastal Commission or San Francisco Bay Conservation and Development Commission approval must have an **accepted** application file number from one of those State agencies before an application to the Corps will be accepted. This will expedite the permitting process and allow for concurrent processing, using the same information, by different agencies. The applicant need **not** obtain the State permit itself but must have an accepted application before filing one with the Corps. The applicants should also contact the appropriate Regional Water Quality Control Board for a water quality certification or a waiver thereof.

### Discussion with other agencies

Applicants for permits for work which may have major environmental impacts (such as placement of fill or dredged material on wetlands or other valuable aquatic areas) are advised that such work will be thoroughly evaluated from the standpoint of its environmental effects. In mak-

ing such evaluations the Corps gives full consideration to comments provided by other interested Federal and State agencies that have concerns in the area of such impacts. Applicants who are proposing this type of work are therefore strongly urged to discuss their projects with the staff of such agencies before finalizing their plans. Such discussions will provide opportunities for the agencies to make known their concerns and to suggest features which might be included in the project to reduce or alleviate environmental impacts. The specific agencies which should be contacted are listed on the back of this page. To aid the applicant, the Corps hosts **monthly Interagency meetings** to discuss and provide constructive comments to proposed projects before formal application is made. We encourage you to take advantage of these informal meetings since we believe that they will save time.

### Alternatives Analysis

If your proposal involves the discharge of dredge or fill material into the "Waters of the United States" you must provide an alternatives analysis to demonstrate there are no practicable alternatives to the discharge. If the discharge is in a "special aquatic site" (i.e., Wetlands, mudflats, vegetated shallows, and riffle and pool complexes), and your project is not a water-dependent project it is presumed practicable alternatives exist. For further details on alternatives analysis, please contact us.

## State agencies

---

### California Regional Water Quality Control Board (RWQCB)

For certification and waste discharge requirements affecting water quality

North Coast Region  
5550 Skyline Blvd., Suite A  
Santa Rosa, Ca. 95403  
707-576-2220

San Francisco Bay Region  
1515 Clay Street, Suite 1400  
Oakland, Ca. 94612  
510-622-2300

Central Coast Region  
895 Aerovista Place, Suite 101  
San Luis Obispo, CA 93401  
808-549-3147

### California Department of Fish and Game

For Streambed Alteration Agreements

Region 3  
P.O. Box 47  
Yountville, Ca. 96001  
707-944-5500

Region 1  
P.O. Box 1480  
Redding, Ca. 96001  
916-225-2300

Marine Resources Laboratory  
411 Burgess Drive  
Menlo Park, Ca. 94025  
415-326-0324  
(for coastal work)

### California State Lands Commission

100 Howe Avenue, Suite 100-South  
Sacramento, Ca. 95814  
(permits or leases on any state land)

San Francisco Bay Conservation  
and Development Commission  
(BCDC)  
30 Van Ness Avenue  
San Francisco, Ca. 94102  
415-557-3686  
(permits in the San Francisco Bay area)

Humboldt Bay Harbor, Recreation &  
Conservation District (HBHRCD)  
P.O. Box 134  
Eureka, Ca. 95501  
707-443-0801  
(permits for work in the Humboldt Bay area)

### California Coastal Commission (CCC)

Permits for work in the coastal zone

North Coast Area  
45 Fremont Street, Suite 2000  
San Francisco, Ca. 94105  
415-904-5200

Central Coast Area  
701 Ocean Street, Room 300  
Santa Cruz, Ca. 95060  
408-426-7390

## Federal Agencies

---

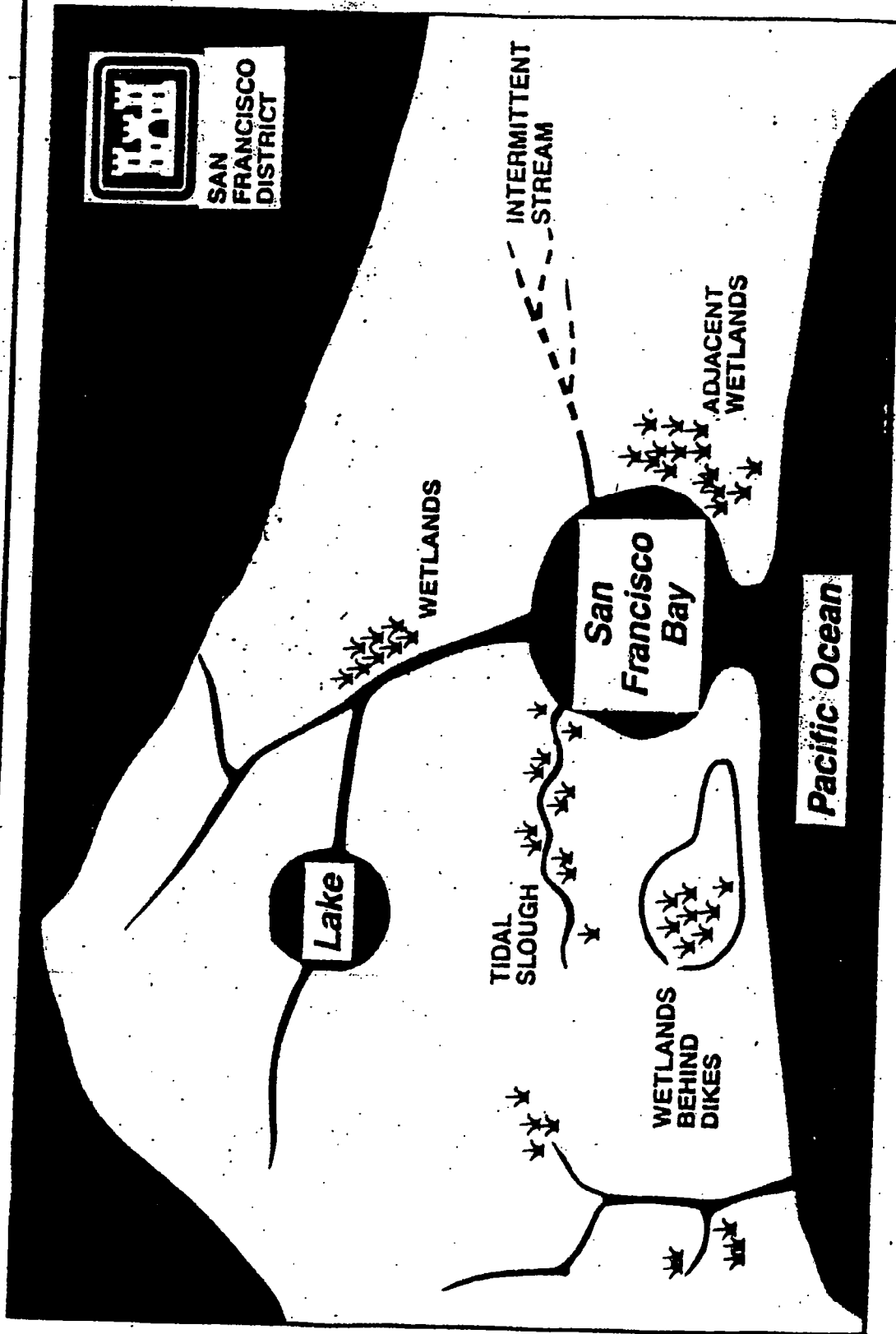
U.S. Environmental Protection Agency,  
Region IX  
75 Hawthorne Street  
San Francisco, Ca. 94105  
415-977-3464

U.S. Fish and Wildlife Service  
Sacramento Field Office (ES)  
3310 El Camino Ave.  
Sacramento, Ca. 95821  
916-979-2710

National Marine Fisheries Service  
Environmental Assessment Branch  
777 Sonoma Avenue, Room 325  
Santa Rosa, Ca. 95404  
707-575-6050

U.S. Coast Guard, 11th District  
Coast Guard Island, Building 50-6  
Alameda, Ca. 94501-5100  
Office of aids to navigation (OAN)  
415-437-2982  
Marine Environmental Protection (DPL)  
415-437-3514

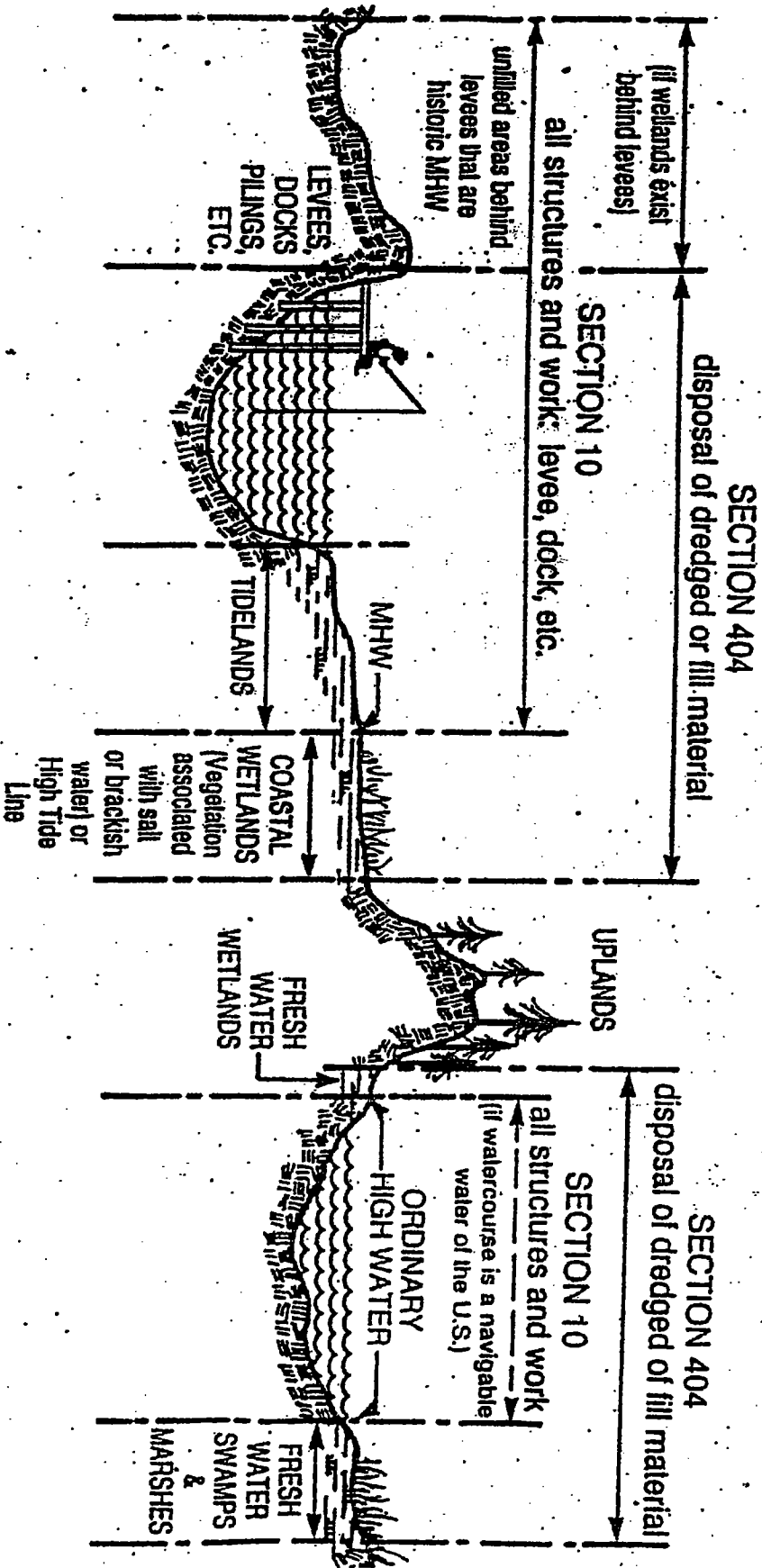
# Waters of the United States (Section 404 Clean Water Act)



# Scope of Corps Regulatory Jurisdiction

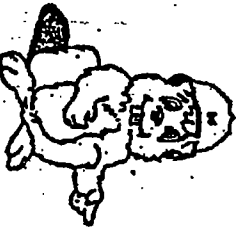
## TIDAL WATERS

## FRESH WATERS



U.S. Army Corps  
of Engineers  
San Francisco District

**NOTE:**  
IN ADDITION TO SECTIONS 10 AND 404 JURISDICTIONS,  
THE CORPS REGULATES THE TRANSPORTATION OF  
DREDGED MATERIAL FOR THE PURPOSE OF DISPOSING  
INTO OCEAN WATERS (SECTION 109).



Regulatory Functions Branch  
U.S. Army Corps of Engineers  
333 Market Street, OR-R  
San Francisco, CA 94105-2197

\* WE WANT

TO HELP YOU

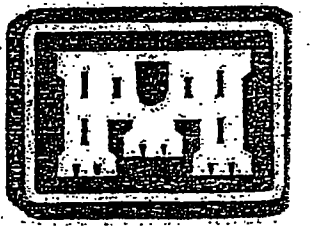
DO IT RIGHT...

Taking the right steps in planning your project can save you time and dollars. If you plan to work along the shoreline, in wetlands in areas behind dunes or in the water please contact the Army Corps of Engineers. Why?

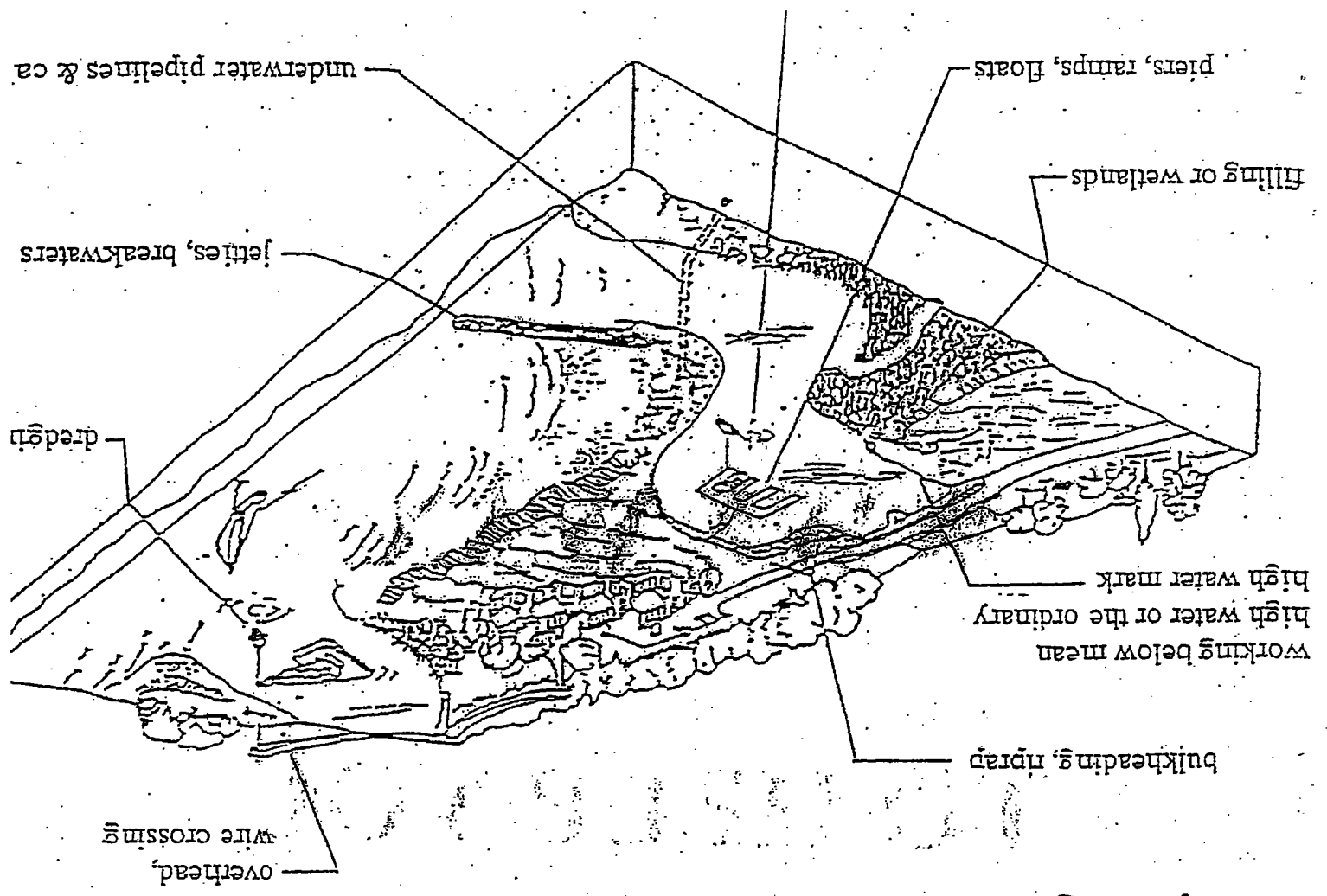
Our staff is here to provide you information, guidance and assistance if a Corps permit is required for your proposed work. Feel free to call us or drop us

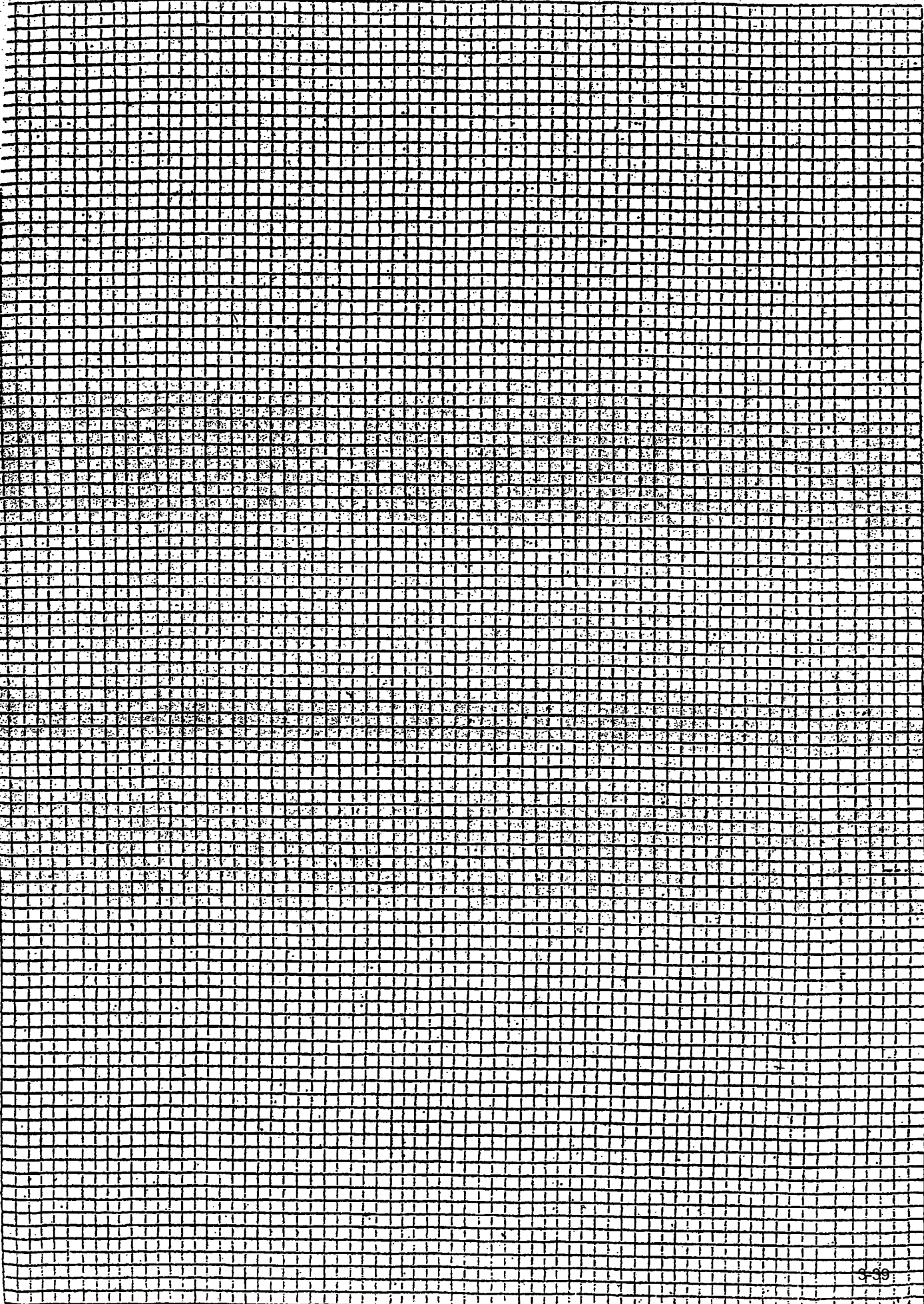
line:

DEPARTMENT OF THE ARMY  
U.S. ARMY ENGINEER DISTRICT, SAN FRANCISCO  
CORPS OF ENGINEERS  
533 MARKET STREET, CESPEN CO. B.  
SAN FRANCISCO, CALIFORNIA 94105-2197



Below are example activities requiring a Corps permit. If in doubt, contact us before you begin work.





# Federal Register

---

Wednesday  
December 24, 1980

---

Part IV

## Environmental Protection Agency

---

Guidelines for Specification of Disposal  
Sites for Dredged or Fill Material



**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 230**

[WH-FRL 1047-7]

**Guidelines for Specification of Disposal Sites for Dredged or Fill Material****AGENCY:** Environmental Protection Agency.**ACTION:** Rule.

**SUMMARY:** The 404(b)(1) Guidelines are the substantive criteria used in evaluating discharges of dredged or fill material under section 404 of the Clean Water Act. These Guidelines revise and clarify the September 8, 1975 Interim final Guidelines regarding discharge of dredged or fill material into waters of the United States in order to:

(1) Reflect the 1977 Amendments of Section 404 of the Clean Water Act (CWA);

(2) Correct inadequacies in the interim final Guidelines by filling gaps in explanations of unacceptable adverse impacts on aquatic ecosystems and by requiring documentation of compliance with the Guidelines; and

(3) Produce a final rulemaking document.

**EFFECTIVE DATE:** These Guidelines will apply to all 404 permit decisions made after March 23, 1981. In the case of civil works projects of the United States Army Corps of Engineers involving the discharge of dredged or fill material for which there is no permit application or permit as such, these Guidelines will apply to all projects on which construction or dredging contracts are issued, or on which dredging is initiated for Corps operations not performed under contract, after October 1, 1981. In the case of Federal construction projects meeting the criteria in section 404(r), these Guidelines will apply to all projects for which a final environmental impact statement is filed with EPA after April 1, 1981.

**FOR FURTHER INFORMATION CONTACT:** Joseph Krivak, Director, Criteria and Standards Division (WH-585), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, telephone (202) 755-0100.

**SUPPLEMENTARY INFORMATION:****Background**

The section 404 program for the evaluation of permits for the discharge of dredged or fill material was originally enacted as part of the Federal Water Pollution Control Amendments of 1972. The section authorized the Secretary of

the Army acting through the Chief of Engineers to issue permits specifying disposal sites in accordance with the section 404(b)(1) Guidelines. Section 404(b)(2) allowed the Secretary to issue permits otherwise prohibited by the Guidelines, based on consideration of the economics of anchorage and navigation. Section 404(c) authorized the Administrator of the Environmental Protection Agency to prohibit or withdraw the specification of a site, upon a determination that use of the site would have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas.

Under section 404(b)(1), the Guidelines are to be based on criteria comparable to those in section 403(c) of the Act, for the territorial seas, contiguous zone, and oceans. Unlike 403(c), 404 applies to all waters of the United States. Characteristics of waters of the United States vary greatly, both from region to region and within a region. There is a wide range of size, flow, substrate, water quality, and use. In addition, the materials to be discharged, the methods of discharge, and the activities associated with the discharge also vary widely. These and other variations make it unrealistic at this time to arrive at numerical criteria or standards for toxic or hazardous substances to be applied on a nationwide basis. The susceptibility of the aquatic ecosystem to degradation by purely physical placement of dredged or fill material further complicates the problem of arriving at nationwide standards. As a result, the Guidelines concentrate on specifying the tools to be used in evaluating and testing the impact of dredged or fill material discharges on waters of the United States rather than on simply listing numerical pass-fail points.

The first section 404(b)(1) Guidelines were promulgated by the Administrator in interim final form on September 8, 1975, after consultation with the Corps of Engineers. Since promulgation of the interim final Guidelines, the Act has been substantially amended. The Clean Water Act of 1977 established a procedure for transferring certain permitting authorities to the states, exempted certain discharges from any section 404 permit requirements, and gave the Corps enforcement authority. These amendments also increased the importance of the section 404(b)(1) Guidelines, since some of the exemptions are based on alternative ways of applying the Guidelines. These changes, plus the experience of EPA and

the Corps in working with the interim final Guidelines, have prompted a revision of the Guidelines. The proposed revision attempted to reorganize the Guidelines, to make it clearer what had to be considered in evaluating a discharge and what weight should be given to such considerations. The proposed revision also tightened up the requirements for the permitting authority's documentation of the application of the Guidelines.

After extensive consultation with the Corps, the proposed revisions were put out for public comment (44 FR 54222, September 18, 1979). EPA has reviewed, and, after additional consultation with the Corps, revised the proposal in light of these comments. This preamble addresses the significant comments received, explains the changes made in the regulation, and attempts to clear up some misunderstandings which were revealed by the comments. Response to Significant Comments

**Regulation Versus Guideline**

A number of commenters objected to the proposed Guidelines on the grounds that they were too "regulatory." These commenters argued that the term "guidelines" which appears in section 404(b)(1) requires a document with less binding effect than a regulation. EPA disagrees. The Clean Water Act does not use the word "guideline" to distinguish advisory information from regulatory requirements. Section 404(b)(2) clearly demonstrates that Congress contemplated that discharges could be "prohibited" by the Guidelines. Section 403 (which is a model for the 404(b)(1) Guidelines) also provides for "guidelines" which are clearly regulatory in nature. Consequently, we have not changed the regulation to make it simply advisory. Of course, as the regulation itself makes clear, a certain amount of flexibility is still intended. For example, while the ultimate conditions of compliance are "regulatory", the Guidelines allow some room for judgment in determining what must be done to arrive at a conclusion that those conditions have or have not been met. See, for example, § 230.6 and § 230.60, and introductory sentence in § 230.10.

**Statutory Scheme and How the Guidelines Fit Into It**

A number of commenters with objections appeared confused about EPA's role in the section 404 program. Some wondered why EPA was issuing Guidelines since EPA could stop an unacceptable discharge under section 404(c). Others were uncertain how the

Guidelines related to other section 404 regulations.

The Clean Water Act prohibits the discharge of dredged or fill material except in compliance with section 404. Section 404 sets up a procedure for issuing permits specifying discharge sites. Certain discharges (e.g. emergency repairs, certain farm and forest roads, and other discharges identified in sections 404(f) and (r)) are exempted from the permit requirements. The permitting authority (either the Corps of Engineers or an approved State program) approves discharges at particular sites through application of the section 404(b)(1) Guidelines, which are the substantive criteria for dredged and fill material discharges under the Clean Water Act. The Corps also conducts a Public Interest Review, which ensures that the discharge will comply with the applicable requirements of other statutes and be in the public interest. The Corps or the State, as the case may be, must provide an opportunity for a public hearing before making its decision whether to approve or deny. If the Corps concludes that the discharge does not comply with the Guidelines, it may still issue the permit under 404(b)(2) if it concludes that the economics of navigation and anchorage warrant. Section 404(b)(2) gives the Secretary a limited authority to issue permits prohibited by the Guidelines: it does not, as some commenters suggested, require the Guidelines to consider the economics of navigation and anchorage. Conversely, because of 404(b)(2), the fact that a discharge of dredged material does not comply with the Guidelines does not mean that it can never be permitted. The Act recognizes the concerns of ports in section 404(b)(2), not 404(b)(1). Many readers apparently misunderstood this point.

EPA's role under section 404 is several-fold. First, EPA has the responsibility for developing the 404(b)(1) Guidelines in conjunction with the Corps. Second, EPA reviews permit applications and gives its comments (if any) to the permitting authority. The Corps may issue a permit even if EPA comments adversely, after consultation takes place. In the case of state programs, the State director may not issue a permit over EPA's unresolved objection. Third, EPA has the responsibility for approving and overseeing State 404 programs. In addition, EPA has enforcement responsibilities under section 309. Finally, under either the Federal or State program, the Administrator may also prohibit the specification of a discharge

site, or restrict its use, by following the procedures set out in section 404(c), if he determines that discharge would have an unacceptable adverse effect on fish and shellfish areas (including spawning and breeding areas), municipal water supplies, wildlife or recreation areas. He may do so in advance of a planned discharge or while a permit application is being evaluated or even, in unusual circumstances, after issuance of a permit. (See preamble to 40 CFR Part 231, 44 FR 55078, October 8, 1979.) If the Administrator uses 404(c), he may block the issuance of a permit by the Corps or a State 404 program. Where the Administrator has exercised his section 404(c) authority to prohibit, withhold, or restrict the specification of a site for disposal, his action may not be overridden under section 404(b)(2). The fact that EPA has 404(c) authority does not lessen EPA's responsibility for developing the 404(b)(1) Guidelines for use by the permitting authority. Indeed, if the Guidelines are properly applied, EPA will rarely have to use its 404(c) veto.

The Clean Water Act provides for several uses of the Guidelines in addition to the individual permit application review process described above. For example, the Corps or an approved state may issue General permits for a category of similar activities where it determines, on the basis of the 404(b)(1) Guidelines, that the activities will cause only minimal adverse environmental effects both individually and cumulatively (Section 404(e) and (g)(1)). In addition, some of the exemptions from the permit requirements involve application of the Guidelines. Section 404(r) exempts discharges associated with Federal construction projects where, among other things, there is an Environmental Impact Statement which considers the 404(b)(1) Guidelines. Section 404(f)(1)(F) exempts discharges covered by best management practices (BMP's) approved under section 208(b)(4)(B) and (c), the approval of which is based in part on consistency with the 404(b)(1) Guidelines.

Several commenters asked for a statement on the applicability of the Guidelines to enforcement procedures. Under sections 309, 404(h)(1)(G), and 404(s), EPA, approved States, and the Corps all play a role in enforcing the section 404 permit requirements. Enforcement actions are appropriate when someone is discharging dredged or fill material without a required permit, or violates the terms and conditions of a permit. The Guidelines as such are generally irrelevant to a determination

of either kind of violation, although they may represent the basis for particular permit conditions which are violated. Under the Corps' procedural regulations, the Corps may accept an application for an after-the-fact permit, in lieu of immediately commencing an enforcement action. Such after-the-fact permits may be issued only if they comply with the 404(b)(1) Guidelines as well as other requirements set out in the Corps' regulations. Criteria and procedures for exercising the various enforcement options are outside the scope of the section 404(b)(1) Guidelines.

Some commenters suggested that we either include specific permit processing procedures or that we cross-reference regulations containing them. Such procedures are described in 33 CFR Part 320-327 (Corps' procedures) and in 40 CFR Part 122-124 (minimum State procedures). When specific State 404 programs are approved, their regulations should also be consulted.

**How Future Changes in the Testing Provision Relate to Promulgation of This Final Rule**

The September 18, 1979, proposal contained testing provisions which were essentially the same as those in the Interim Final regulations. The Preamble to that proposal explained that it was our intention to propose changes in the testing provisions, but that a proposal was not yet ready. Consequently, while we have been revising the rest of the Guidelines, we have also been working on a proposal for reorganizing and updating the testing provisions. Now that we have finalized the rest of the Guidelines, two options are available to us. First, we could delay issuing any final revisions to our 1979 proposal until we could propose a revised testing package, consider comments on it, and finalize the testing provisions. We could then put together the Guidelines and the revised testing section in one final regulation. The 1975 interim final Guidelines would apply in their entirety until then. Second, we could publish the final Guidelines (with the 1975 testing provisions) and simultaneously propose changes to the testing provision. It is our present belief that proposed changes to the testing provision would not affect the rest of the Guidelines, but the public would be allowed to comment on any inconsistencies it saw between the rest of the Guidelines and the testing proposal. Then, when the comments to the testing proposal had been considered, we would issue a new final regulation incorporating both the previously promulgated final Guidelines and the final revised testing provision.

We have selected the second option because this approach ensures that needed improvements to the Guidelines are made effective at the earliest possible date. It gives the public ample opportunity to comment on the revised testing section, and it maintains the 1975 testing requirements in effect during the interim which would be the case in any event.

#### Guideline Organization

Many readers objected to the length and complexity of the Guidelines. We have substantially reorganized the regulation to eliminate duplicative material and to provide a more logical sequence. These changes should make it easier for applicants to understand the criteria and for State and Corps permit evaluators and the Administrator to apply the criteria. Throughout the document, we have also made numerous minor language changes to improve the clarity of the regulations, often at the suggestion of commenters.

Following general introductory material and the actual compliance requirements, the regulations are now organized to more closely follow the steps the permitting authority will take in arriving at his ultimate decision on compliance with the Guidelines.

By reorganizing the Guidelines in this fashion, we were also able to identify and eliminate duplicative material. For example, the proposed Guidelines listed ways to minimize impacts in many separate sections. Since there was substantial overlap in the specific methods suggested in those sections, we consolidated them into new Subpart H. Other individual sections have been made more concise. In addition, we have decreased the number of comments, moving them to the Preamble or making them part of the Regulation, as appropriate.

#### General Permits

When issued after proper consideration of the Guidelines, General permits are a useful tool in protecting the environment with a minimum of red tape and delay. We expect that their use will expand in the future.

Some commenters were confused about how General permits work. A General permit will be issued only after the permitting authority has applied the Guidelines to the class of discharges to be covered by the permit. Therefore, there is no need to repeat the process at the time a particular discharge covered by the permit takes place. Of course, under both the Corps' regulations and EPA's regulations for State programs, the permitting authority may suspend General permits or require individual

permits where environmental concerns make it appropriate. For example, cumulative impacts may turn out to be more serious than predicted. This regulation is not intended to establish the procedure for issuance of General permits. That is the responsibility of the permitting authority in accordance with the requirements of section 404.

#### Burden of Proof

A number of commenters objected to the presumption in the regulations in general, and in proposed § 230.1(c) in particular, that dredged or fill material should not be discharged unless it is demonstrated that the planned discharge meets the Guidelines. These commenters thought that it was unfair and inconsistent with section 404(c) of the Act.

We disagree with these objections, and have retained the presumption against discharge and the existing burden of proof. However, the section has been rewritten for clarity.

The Clean Water Act itself declares a national goal to be the elimination of the discharge of pollutants into the navigable waters (section 101(a)(1)). This goal is implemented by section 301, which states that such discharges are unlawful except in compliance with, *inter alia*, section 404. Section 404 in turn authorizes the permitting authority to allow discharges of dredged or fill material if they comply with the 404(b)(1) Guidelines. The statutory scheme makes it clear that discharges shall not take place until they have been found acceptable. Of course, this finding may be made through the General permit process and the statutory exemptions as well as through individual permits.

The commenters who argued that section 404(c) shifts the usual burden to the EPA Administrator misunderstood the relationship between section 404(c) and the permitting process. The Administrator's authority to prohibit or restrict a site under section 404(c) operates independently of the Secretary of the Army's permitting authority in 404(a). The Administrator may use 404(c) whether or not a permit application is pending. Conversely, the Secretary may deny a permit on the basis of the Guidelines, whether or not EPA initiates a 404(c) proceeding. If the Administrator uses his 404(c) "veto," then he does have the burden to justify his action, but that burden does not come into play until he begins a 404(c) proceeding (See 40 CFR Part 231).

#### Toxic Pollutants

Many commenters objected strenuously to the presumptions in the

Guidelines that toxic pollutants on the section 307(a)(1) list are present in the aquatic environment unless demonstrated not to be, and that such pollutants are biologically available unless demonstrated otherwise. These commenters argued that rebutting these presumptions could involve individual testing for dozens of substances every time a discharge is proposed, imposing an onerous task.

The proposed regulation attempted to avoid unnecessary testing by providing that when the § 230.22(b) "reason to believe" process indicated that toxics were not present in the discharge material, no testing was required. On the other hand, contaminants other than toxics required testing if that same "reason to believe" process indicated they might be present in the discharge material. This is in fact a distinction without a difference. In practical application, toxic and non-toxic contaminants are treated the same; if either may be there, tests are performed to get the information for the determinations; if it is believed they are not present, no testing is done. Because the additional presumption for toxics did not actually serve a purpose, and because it was a possible source of confusion, we have eliminated it, and now treat "toxics" and other contaminants alike, under the "reason to believe test" (§ 230.60). We have provided in § 230.3 a definition of "contaminants" which encompasses the 307(a)(1) toxics.

#### Water Dependency

One of the provisions in the proposed Guidelines which received the most objections was the so-called "water dependency test" in the proposed § 230.10(e). This provision imposed an additional requirement on fills in wetlands associated with non-water dependent activities, namely a showing that the activity was "necessary." Many environmentalists objected to what they saw as a substantial weakening of the 1975 version of the water dependency test. Industry and development-oriented groups, on the other hand, objected to the "necessary" requirement because it was too subjective, and to the provision as a whole to the extent that it seemed designed to block discharges in wetlands automatically.

We have reviewed the water dependency test, its original purpose, and its relationship to the rest of the Guidelines in light of these comments. The original purpose, which many commenters commended, was to recognize the special values of wetlands and to avoid their unnecessary destruction, particularly when

practicable alternatives were available in non-aquatic areas to achieve the basic purposes of the proposal. We still support this goal, but we have changed the water-dependency test to better achieve it.

First, we agree with the comments from both sides that the "necessary" test imposed by the 1979 proposal is not likely to be workable in practice, and may spawn more disputes than it settles. However, if the "necessary" test is simply deleted, section 230.10(e) does not provide any special recognition of or protection for wetlands, and thus defeats its purpose. Furthermore, even if the "necessary" test were retained, the provision applies only to discharges of fill material, not discharges of dredged material, a distinction which lessens the effectiveness of the provision. Thus, we have decided, in accordance with the comments, that the proposal is unsatisfactory.

We have therefore decided to focus on, round out, and strengthen the approach of the so-called "water dependency" provision of the 1975 regulation. We have rejected the suggestion that we simply go back to the 1975 language, in part because it would not mesh easily with the revised general provisions of the Guidelines. Instead, our revised "water dependency" provision creates a presumption that there are practicable alternatives to "non-water dependent" discharges proposed for special aquatic sites. "Non-water dependent" discharges are those associated with activities which do not require access or proximity to or siting within the special aquatic site to fulfill their basic purpose. An example is a fill to create a restaurant site, since restaurants do not need to be in wetlands to fulfill their basic purpose of feeding people. In the case of such activities, it is reasonable to assume there will generally be a practicable site available upland or in a less vulnerable part of the aquatic ecosystem. The mere fact that an alternative may cost somewhat more does not necessarily mean it is not practicable (see § 230.10(a)(2) and discussion below). Because the applicant may rebut the presumption through a clear showing in a given case, no unreasonable hardship should be worked. At the same time, this presumption should have the effect of forcing a hard look at the feasibility of using environmentally preferable sites. This presumption responds to the overwhelming number of commenters who urged us to retain a water dependency test to discourage avoidable discharges in wetlands.

In addition, the 1975 provision effectively created a special, irrefutable presumption that alternatives to wetlands were always less damaging to the aquatic ecosystem.

Because our experience and the comments indicate that this is not always the case, and because there could be substantial impacts on other elements of the environment and only minor impacts on wetlands, we have chosen instead to impose an explicit, but rebuttable, presumption that alternatives to discharges in special aquatic sites are less damaging to the aquatic ecosystem and are environmentally preferable. Of course, the general requirement that impacts on the aquatic ecosystem not be unacceptable also applies. The legislative history of the Clean Water Act, Executive Order 11990, and a large body of scientific information support this presumption.

Apart from the fact that it may be rebutted, this second presumption reincorporates the key elements of the 1975 provision. Moreover, it strengthens it because the recognition of the special environmental role of wetlands now applies to all discharges in special aquatic sites, whether of dredged or fill material, and whether or not water dependent. At the same time, this presumption, like the first one described above, retains sufficient flexibility to reflect the circumstances of unusual cases.

Consistent with the general burden of proof under these Guidelines, where an applicant proposes to discharge in a special aquatic site it is his responsibility to persuade the permitting authority that both of these presumptions have clearly been rebutted in order to pass the alternatives portion of these Guidelines.

Therefore, we believe that the new § 230.10(a)(3), which replaces proposed 230.10(e), will give special protection to wetlands and other special aquatic sites regardless of material discharged, allay industry's concerns about the "necessary" test, recognize the possibility of impacts on air and upland systems, and acknowledge the variability among aquatic sites and discharge activities.

#### Alternatives

Some commenters objected at length to the scope of alternatives which the Guidelines require to be considered, and to the requirement that a permit be denied unless the least harmful such alternative were selected. Others wrote to urge us to retain these requirements. In our judgment, a number of the objections were based on a

misunderstanding of what the proposed alternatives analysis required. Therefore, we have decided to clarify the regulation, but have not changed its basic thrust.

Section 403(c) clearly requires that alternatives be considered, and provides the basic legal basis for our requirement. While the statutory provision leaves the Agency some discretion to decide how alternatives are to be considered, we believe that the policies and goals of the Act, as well as the other authorities cited in the Preamble to the proposed Guidelines, would be best served by the approach we have taken.

First, we emphasize that the only alternatives which must be considered are *practicable* alternatives. What is practicable depends on cost, technical, and logistic factors. We have changed the word "economic" to "cost". Our intent is to consider those alternatives which are reasonable in terms of the overall scope/cost of the proposed project. The term economic might be construed to include consideration of the applicant's financial standing, or investment, or market share, a cumbersome inquiry which is not necessarily material to the objectives of the Guidelines. We consider it implicit that, to be practicable, an alternative must be capable of achieving the basic purpose of the proposed activity. Nonetheless, we have made this explicit to allay widespread concern. Both "internal" and "external" alternatives, as described in the September 18, 1979 Preamble, must satisfy the practicable test. In order for an "external" alternative to be practicable, it must be reasonably available or obtainable. However, the mere fact of ownership or lack thereof, does not necessarily determine reasonable availability. Some readers were apparently confused by the Preamble to the Proposed Regulation, which referred to the fact the National Environmental Policy Act (NEPA) may require consideration of courses of action beyond the authority of the agency involved. We did not mean to suggest that the Guidelines were necessarily imposing such a requirement on private individuals but, rather, to suggest that what we were requiring was well within the alternatives analyses required by NEPA.

Second, once these practicable alternatives have been identified in this fashion, the permitting authority should consider whether any of them, including land disposal options, are less environmentally harmful than the proposed discharge project. Of course, where there is no significant or easily identifiable difference in impact, the

alternative need not be considered to have "less adverse" impact.

Several commenters questioned the legal basis for requiring the permitting authority to select the least damaging alternative. (The use of the term "select" may have been misleading. Strictly speaking, the permitting authority does not select anything; he denies the permit if the guidelines requirements have not been complied with.) As mentioned above, the statute leaves to EPA's discretion the exact implementation of the alternative requirement in section 403 of the Act. In large part, the approach taken by these regulations is very similar to that taken by the recent section 403(c) regulations (45 FR 65942, October 3, 1980). There is one difference: the Guidelines always prohibit discharges where there is a practicable, less damaging alternative, while the section 403(c) regulations only apply this prohibition in some cases. This difference reflects the wide range of water systems subject to 404 and the extreme sensitivity of many of them to physical destruction. These waters form a priceless mosaic. Thus, if destruction of an area of waters of the United States may reasonably be avoided, it should be avoided. Of course, where a category of 404 discharges is so minimal in its effects that it has been placed under a general permit, there is no need to perform a case-by-case alternatives analysis. This feature corresponds, in a sense, to the category of discharges under section 403 for which no alternatives analysis is required.

Third, some commenters were concerned that the alternative consideration was unduly focused on water quality, and that a better alternative from a water quality standpoint might be less desirable from, say, an air quality point of view. This concern overlooks the explicit provision that the existence of an alternative which is less damaging to the aquatic ecosystem does not disqualify a discharge if that alternative has other significant adverse environmental consequences. This last provision gives the permitting authority an opportunity to take into account evidence of damage to other ecosystems in deciding whether there is a "better" alternative.

Fourth, a number of commenters were concerned that the Guidelines ensure coordination with planning processes under the Coastal Zone Management Act, § 206 of the CWA, and other programs. We agree that where an adequate alternatives analysis has already been developed, it would be wasteful not to incorporate it into the 404 process. New § 230.10(a)(5) makes it

clear that where alternatives have been reviewed under another process, the permitting authority shall consider such analysis. However, if the prior analysis is not as complete as the alternatives analysis required under the Guidelines, he must supplement it as needed to determine whether the proposed discharge complies with the Guidelines. Section 230.10(a)(4) recognizes that the range of alternatives considered in NEPA documents will be sufficient for section 404 purposes, where the Corps is the permitting authority. (However, a greater level of detail may be needed in particular cases to be adequate for the 404(b)(1) Guidelines analysis.) This distinction between the Corps and State permitting authorities is based on the fact that it is the Corps' policy, in carrying out its own NEPA responsibilities, to supplement (or require a supplement to) a lead agency's environmental assessment or impact statement where such document does not contain sufficient information. State permitting agencies, on the other hand, are not subject to NEPA in this manner.

We have moved proposed § 230.10(a)(1) (iii), concerning "other particular volumes and concentrations of pollutants at other specific rates", from the list of alternatives in § 230.10 to Subpart H, Minimizing Adverse Effects, because it more properly belongs there.

#### Definitions (§ 230.3)

A number of the terms defined in § 230.3 are also defined in the Corps' regulations at 33 CFR 323.2, applicable to the Corps' regulatory program. The Corps has recently proposed some revisions to those regulations and expects to receive comments on the definitions. To ensure coordination of these two sets of regulations, we have decided to reserve the definitions of "discharge of dredged material," "discharge of fill material," "dredged material," and "fill material" which otherwise would have appeared at § 230.3 (f), (g), (j), and (l).

Although the term "waters of the United States" also appears in the Corps' regulations, we have retained a definition here, in view of the importance of this key jurisdictional term and the numerous comments received. The definition and the comments are explained below.

Until new definitions are published, directly or by reference to the Corps' revised regulations, users of these Guidelines should refer to the definitions in 33 CFR 323.2 (except in the case of state 404 programs, to which the definitions in 40 CFR § 122.3 apply.)

Waters of the United States: A number of commenters objected to the

definition of "waters of the United States" because it was allegedly outside the scope of the Clean Water Act or of the Constitution or because it was not identical to the Corps' definition. We have retained the proposed definition with a few minor changes for clarity for several reasons. First, a number of courts have held that this basic definition of waters of the United States reasonably implements section 502(7) of the Clean Water Act, and that it is constitutional (e.g., *United States v. Byrd*, 609 F.2d 1204, 7th Cir. 1979; *Leslie Salt Company v. Froehke*, 578 F.2d 742, 9th Cir. 1978). Second, we agree that it is preferable to have a uniform definition for waters of the United States, and for all regulations and programs under the CWA. We have decided to use the wording in the recent Consolidated Permit Regulations, 45 Fed. Reg. 33290, May 19, 1980, as the standard.\*

Some commenters suggested that the reference in the definition to waters from which fish are taken to be sold in interstate commerce be expanded to include areas where such fish spawn. While we have not made this change because we wish to maintain consistency with the wording of the Consolidated Permit regulations, we do not intend to suggest that a spawning area may not have significance for commerce. The portion of the definition at issue lists major examples, not *all* the ways which commerce may be involved.

Some reviewers questioned the statement in proposed § 230.72(c) (now § 230.11(h)) that activities on fast land created by a discharge of dredged or fill material are considered to be in waters of the United States for purposes of these Guidelines. The proposed language was misleading and we have changed it to more accurately reflect our intent. When a portion of the Waters of the United States has been legally converted to fast land by a discharge of dredged or fill material, it does not remain waters of the United States subject to section 301(a). The discharge may be legal because it was authorized by a permit or because it was made before there was a permit requirement. In the case of an illegal discharge, the fast land may remain subject to the jurisdiction of the Act until the government determines not to seek restoration. However, in authorizing a

\* The Consolidated Permit Regulations exclude certain waste treatment systems from waters of the United States. The exact terms of this exclusion are undergoing technical revisions and are expected to change shortly. For this reason, these Guidelines as published do not contain the exclusion as originally worded in the Consolidated Permit Regulations. When published, the corrected exclusion will apply to the Guidelines as well as the Consolidated Permit Regulations.

discharge which will create fast lands, the permitting authority should consider, in addition to the direct effects of the fill itself, the effects on the aquatic environment of any reasonably foreseeable activities to be conducted on that fast land.

Section 230.54 (proposed 230.41) deals with impacts on parks, national and historical monuments, national sea shores, wilderness areas, research sites, and similar preserves. Some readers were concerned that we intended the Guidelines to apply to activities in such preserves whether or not the activities took place in waters of the United States. We intended, and we think the context makes it clear, that the Guidelines apply only to the specification of discharge sites in the waters of the United States, as defined in § 230.3. We have included this section because the fact that a water of the United States may be located in one of these preserves is significant in evaluating the impacts of a discharge into that water.

**Wetlands:** Many wetlands are waters of the United States under the Clean Water Act. Wetlands are also the subject of Federal Executive Order No. 11990, and various Federal and State laws and regulations. A number of these other programs and laws have developed slightly different wetlands definitions, in part to accommodate or emphasize specialized needs. Some of these definitions include, not only wetlands as these Guidelines define them, but also mud flats and vegetated and unvegetated shallows. Under the Guidelines some of these other areas are grouped with wetlands as "Special Aquatic Sites" (Subpart E) and as such their values are given special recognition. (See discussion of Water Dependency above.) We agree with the comment that the National Inventory of Wetlands prepared by the U.S. Fish and Wildlife Service, while not necessarily exactly coinciding with the scope of waters of the United States under the Clean Water Act or wetlands under these regulations, may help avoid construction in wetlands, and be a useful long-term planning tool.

Various commenters objected to the definition of wetlands in the Guidelines as too broad or too vague. This proposed definition has been upheld by the courts as reasonable and consistent with the Clean Water Act, and is being retained in the final regulation. However, we do agree that vegetative guides and other background material may be helpful in applying the definition in the field. EPA and the Corps are pledged to work on joint research to aid

in jurisdictional determinations. As we develop such materials, we will make them available to the public.

Other commenters suggested that we expand the list of examples in the second sentence of the wetland definition. While their suggested additions could legally be added, we have not done so. The list is one of examples only, and does not serve as a limitation on the basic definition. We are reluctant to start expanding the list, since there are many kinds of wetlands which could be included, and the list could become very unwieldy.

In addition, we wish to avoid the confusion which could result from listing as examples, not only areas which generally fit the wetland definitions, but also areas which may or not meet the definition depending on the particular circumstances of a given site. In sum, if an area meets the definition, it is a wetland for purposes of the Clean Water Act, whether or not it falls into one of the listed examples. Of course, more often than not, it will be one of the listed examples.

A few commenters cited alleged inconsistencies between the definition of wetlands in § 230.3 and § 230.42. While we see no inconsistency, we have shortened the latter section as part of our effort to eliminate unnecessary comments.

**Unvegetated Shallows:** One of the special aquatic areas listed in the proposal was "unvegetated shallows" (§ 230.44). Since special aquatic areas are subject to the presumptions in § 230.10(a)(3), it is important that they be clearly defined so that the permitting authority may readily know when to apply the presumptions. We were unable to develop, at this time, a definition for unvegetated shallows which was both easy to apply and not too inclusive or exclusive. Therefore, we have decided the wiser course is to delete unvegetated shallows from the special aquatic area classification. Of course, as waters of the United States, they are still subject to the rest of the Guidelines.

**"Fill Material":** We are temporarily reserving § 230.3(1). Both the proposed Guidelines and the proposed Consolidated Permit Regulations defined fill material as material discharged for the primary purpose of replacing an aquatic area with dryland or of changing the bottom elevation of a water body, reserving to the NPDES program discharges with the same effect which are primarily for the purpose of disposing of waste. Both proposals solicited comments on this distinction, referred to as the primary purpose test. On May 19, 1980, acting under a court-

imposed deadline, EPA issued final Consolidated Permit Regulations while the 404(b)(1) Guidelines rulemaking was still pending. These Consolidated Permit Regulations contained a new definition of fill material which eliminated the primary purpose test and included as fill material all pollutants which have the effect of fill, that is, which replace part of the waters of the United States with dryland or which change the bottom elevation of a water body for any purpose. This new definition is similar to the one used before 1977.

During the section 404(b)(1) rulemaking, the Corps has raised certain questions about the implementation of such a definition. Because of the importance of making the Final Guidelines available without further delay, and because of our desire to cooperate with the Corps in resolving their concerns about fill material, we have decided to temporarily reserve § 230.3(1) pending further discussion. This action does not affect the effectiveness of the Consolidated Permit Regulations. Consequently, there is a discrepancy between those regulations and the Corps' regulations, which still contain the old definition.

Therefore, to avoid any uncertainty from this situation, EPA wishes to make clear its enforcement policy for unpermitted discharges of solid waste. EPA has authority under section 300 of the CWA to issue administrative orders against violations of section 301. Unpermitted discharges of solid waste into waters of the United States violate section 301.

Under the present circumstances, EPA plans to issue solid waste administrative orders with two basic elements. First, the orders will require the violator to apply to the Corps of Engineers for a section 404 permit within a specified period of time. (The Corps has agreed to accept these applications and to hold them until it resolves its position on the definition of fill material.)

Second, the order will constrain further discharges by the violator. In extreme cases, an order may require that discharges cease immediately. However, because we recognize that there will be a lapse of time before decisions are made on this kind of permit application, these orders may expressly allow unpermitted discharges to continue subject to specific conditions set forth by EPA in the order. These conditions will be designed to avoid further environmental damage.

Of course, these orders will not influence the ultimate issuance or non-issuance of a permit or determine the conditions that may be specified in such a permit. Nor will such orders limit the



Administrator's authority under section 306(b) or the right of a citizen to bring suit against a violator under section 505 of the CWA.

**Permitting Authority:** We have used the new term "permitting authority," instead of "District Engineer," throughout these regulations, in recognition of the fact that under the 1977 amendments approved States may also issue permits.

#### Coastal Zone Management Plans

Several commenters were concerned about the relationship between section 404 and approved Coastal Zone Management (CZM) plans. Some expressed concern that the Guidelines might authorize a discharge prohibited by a CZM plan; others objected to the fact that the Guidelines might prohibit a discharge which was consistent with a CZM plan.

Under section 307(b) of the CZM Act, no Federal permits may be issued until the applicant furnishes a certification that the discharge is consistent with an approved CZM plan, if there is one, and the State concurs in the certification or waives review. Section 325.2(b)(2) of the Corps' regulation, which applies to all Federal 404 permits, implements this requirement for section 404. Because the Corps' regulations adequately address the CZM consistency requirement, we have not duplicated § 325.2(b)(2) in the Guidelines. Where a State issues State 404 permits, it may of course require consistency with its CZM plan under State law.

The second concern, that the 404 Guidelines might be stricter than a CZM plan, points out a possible problem with CZM plans, not with the Guidelines. Under 307(f) of CZMA, all CZM plans must provide for compliance with applicable requirements of the Clean Water Act. The Guidelines are one such requirement. Of course, to the extent that a CZM plan is general and area-wide, it may be impossible to include in its development the same project-specific consideration of impacts and alternatives required under the Guidelines. Nonetheless, it cannot authorize or mandate a discharge of dredged or fill material which fails to comply with the requirements of these Guidelines. Often CZM plans contain a requirement that all activities conducted under it meet the permit requirements of the Clean Water Act. In such a case, there could of course be no conflict between the CZM plan and the requirements of the Guidelines.

We agree with commenters who urge that delay and duplication of effort be avoided by consolidating alternatives studies required under different statutes,

including the Coastal Zone Management Act. However, since some planning processes do not deal with specific projects, their consideration of alternatives may not be sufficient for the Guidelines. Where another alternative analysis is less complete than that contemplated under section 404, it may not be used to weaken the requirements of the Guidelines.

#### Advanced Identification of Dredged or Fill Material Disposal Sites

A large number of commenters objected to the way proposed § 230.70, new Subpart L, had been changed from the 1975 regulations. A few objected to the section itself. Most of the comments also revealed a misunderstanding about the significance of identifying an area. First, the fact that an area has been identified as unsuitable for a potential discharge site does not mean that someone cannot apply for and obtain a permit to discharge there as long as the Guidelines and other applicable requirements are satisfied. Conversely, the fact that an area has been identified as a potential site does not mean that a permit is unnecessary or that one will automatically be forthcoming. The intent of this section was to aid applicants by giving advance notice that they would have a relatively easy or difficult time qualifying for a permit to use particular areas. Such advance notice should facilitate applicant planning and shorten permit processing time.

Most of the objectors focused on EPA's "abandonment" of its "authority" to identify sites. While that "authority" is perhaps less "authoritative" than the commenters suggested (see above), we agree that there is no reason to decrease EPA's role in the process. Therefore, we have changed new § 230.80(a) to read:

"Consistent with these Guidelines, EPA and the permitting authority on their own initiative or at the request of any other party, and after consultation with any affected State that is not the permitting authority, may identify sites which will be considered as:"

We have also deleted proposed § 230.70(a)(3), because it did not seem to accomplish much. Consideration of the point at which cumulative and secondary impacts become unacceptable and warrant emergency action will generally be more appropriate in a permit-by-permit context. Once that point has been so determined, of course, the area can be identified as "unsuitable" under the new § 230.80(a)(2).

\* EPA may foreclose the use of a site by exercising its authority under section 404(c). The advance identification referred to in this section is not a section 404(c) prohibition.

#### Executive Order 12044

A number of commenters took the position that Executive Order 12044 requires EPA to prepare a "regulatory analysis" in connection with these regulations. EPA disagrees. These regulations are not, strictly speaking, new regulations. They do not impose new standards or requirements, but rather substantially clarify and reorganize the existing interim final regulations.

Under EPA's criteria implementing Executive Order 12044, EPA will prepare a Regulatory Analysis for any regulation which imposes *additional* annual costs totalling \$100 million or which will result in a total *additional* cost of production of any major product or service which exceeds 5% of its selling price. While many commenters, particularly members of the American Association of Port Authorities (AAPA), requested a regulatory analysis and claimed that the regulations were too burdensome, none of them explained how that burden was an *additional* one attributable to this revision. A close comparison of the new regulation and the explicit and implicit requirements in the interim final Guidelines reveals that there has been very little real change in the criteria by which discharges are to be judged or in the tests that must be conducted; therefore, we stand by our original determination that a regulatory analysis is not required.

Perhaps the most significant area in which the regulations are more explicit and arguably stricter is in the consideration of alternatives. However, even the 1975 regulations required the permitting authority to consider "the availability of alternate sites and methods of disposal that are less damaging to the environment," and to avoid activities which would have significant adverse effects. We do not think that the revised Guidelines' more explicit direction to avoid adverse effects that could be prevented through selection of a clearly less damaging site or method is a change imposing a substantial new burden on the regulated public.

Because the revised regulations are more explicit than the interim final regulations in some respects, it is possible that permit reviewers will do a more thorough job evaluating proposed discharges. This may result in somewhat more carefully drawn permit conditions. However, even if, for purposes of argument, the possible cost of complying with these conditions is considered an *additional* cost, there is no reason to believe that it alone will be anywhere near \$100 million annually.

We also believe that it is appropriate to recognize the regulatory benefits from these more carefully drafted final regulations. Because they are much clearer about what should be considered and documented, we expect there will be fewer delays in reviewing permits, and that initial decisions to issue permits are less likely to be appealed to higher authority. These benefits are expected to offset any potential cost increase.

Some commenters suggested that documentation requirements would generate an additional cost of operations. The Corps' procedural regulations at 33 CFR 325.8 and 325.11 already require extensive documentation for individual permits being denied or being referred to higher authority for resolution of a conflict between agencies.

#### Economic Factors

A number of commenters asked EPA to include consideration of economic factors in the Guidelines. We believe that the regulation already recognizes economic factors to the extent contemplated by the statute. First, the Guidelines explicitly include the concept of "practicability" in connection with both alternatives and steps to minimize impacts. If an alleged alternative is unreasonably expensive to the applicant, the alternative is not "practicable." In addition, the Guidelines also consider economics indirectly in that they are structured to avoid the expense of unnecessary testing through the "reason-to-believe-test." Second, the statute expressly provides that the economics of anchorage and navigation may be considered, but only after application of the section 404(b)(1) Guidelines. (See section 404(b)(2).)

#### Borrow Sites

A number of highway departments objected because they felt the Guidelines would require them to identify specific borrow sites at the time of application, which would disrupt their normal contracting process and increase cost. These objections were based on a misunderstanding of the Guidelines' requirements. Under those Guidelines, the actual borrow sites need not be identified, if the application and the permit specify that the discharge material must come from clean upland sites which are removed from sources of contamination and otherwise satisfy the reason-to-believe test. A condition that the material come from such a site would enable the permitting authority to make his determinations and find compliance with the conditions of

§ 230.10, without requiring highway departments to specify in advance the specific borrow sites to be used.

#### Consultation With Fish and Wildlife Agencies

One commenter wanted us to put in a statement that the Fish and Wildlife Coordination Act requires consultation with fish and wildlife agencies. We have not added new language because (1) the Fish and Wildlife Act only applies to Federal permitting agencies and not to State permitting agencies, and (2) the Corps' regulations already provide for such consultation by the only Federal 404 permitting agency. However, we agree with the commenter that Federal and State fish and wildlife agencies may often provide valuable assistance in evaluating the impacts of discharges of dredged or fill material.

#### The Importance of Appropriate Documentation

Specific documentation is important to ensure an understanding of the basis for each decision to allow, condition, or prohibit a discharge through application of the Guidelines. Documentation of information is required for: (1) facts and data gathered in the evaluation and testing of the extraction site, the material to be discharged, and the disposal site; (2) factual determinations regarding changes that can be expected at the disposal site if the discharge is made as proposed; and (3) findings regarding compliance with § 230.10 conditions. This documentation provides a record of actions taken that can be evaluated for adequacy and accuracy and ensures consideration of all important impacts in the evaluation of a proposed discharge of dredged or fill material.

The specific information documented under (1) and (2) above in any given case depends on the level of investigation necessary to provide for a reasonable understanding of the impact on the aquatic ecosystem. We anticipate that a number of individual and most General permit applications will be for routine, minor activities with little potential for significant adverse environmental impacts. In such cases, the permitting authority will not have to require extensive testing or analysis to make his findings of compliance. The level of documentation should reflect the significance and complexity of the proposed discharge activity.

#### Factual Determinations

Proposed section 230.20, "Factual Determinations" (now § 230.11) has been significantly reorganized in response to comments. First, we have

changed (e) to reflect our elimination of the artificial distinction between the section 307(a)(1) toxics and other contaminants. Second, we have eliminated proposed (f) (Biological Availability), since the necessary information will be provided by (d) and new (e). Proposed (f) was intended to reflect the presumption that toxics were present and biologically available. We have modified proposed (g), now (f), to focus on the size of the disposal site and the size and shape of the mixing zone. The specific requirement to document the site has been deleted; where such information is relevant, it will automatically be considered in making the other determinations. We have also deleted proposed (h) (Special Determinations) since it did not provide any useful information which would not already be considered in making the other factual determinations.

Finally, in response to many comments, we have moved the provisions on cumulative and secondary impact to the Factual Determination section to give them further emphasis. We agree that such impacts are an important consideration in evaluating the acceptability of a discharge site.

#### Water Quality Standards

One commenter was concerned that the reference § 230.10(b) to water quality standards and criteria "approved or promulgated under section 303" might encourage permit authorities to ignore other water quality requirements. Under section 303, all State water quality standards are to be submitted to EPA for approval. If the submitted standards are incomplete or insufficiently stringent, EPA may promulgate standards to replace or supplant the State standards. Disapproved standards remain in effect until replaced. Therefore, to refer to "EPA approved or promulgated standards" is to ignore those State standards which have been neither approved nor replaced. We have therefore changed the wording of this requirement as follows: "any applicable State water quality standard." We have also dropped the reference to "criteria", to be consistent with the Agency's general position that water quality criteria are not regulatory.

#### Other Requirements for Discharge

Section 230.10(c) provides that discharges are not permitted if they will have "significantly" adverse effects on various aquatic resources. In this context, "significant" and "significantly" mean more than "trivial", that is, significant in a conceptual rather than a statistical sense. Not all effects which



are statistically significant in the laboratory are significantly adverse in the field.

Section 320.10(d) uses the term "minimize" to indicate that all reasonable reduction in impacts be obtained. As indicated by the "appropriate and practicable" provision, steps which would be unreasonably costly or would be infeasible or which would accomplish only inconsequential reductions in impact need not be taken.

#### Habitat Development and Restoration of Water Bodies

Habitat development and restoration involve changes in open water and wetlands that minimize adverse effects of proposed changes or that neutralize or reverse the effects of past changes on the ecosystem. Development may produce a new or modified ecological state by displacement of some or all of the existing environmental characteristics. Restoration has the potential to return degraded environments to their former ecological state.

Habitat development and restoration can contribute to the maintenance and enhancement of a viable aquatic ecosystem at the discharge site. From an environmental point of view, a project involving the discharge of dredged and fill material should be designed and managed to emulate a natural ecosystem. Research, demonstration projects, and full scale implementation have been done in many categories of development and restoration. The U.S. Fish and Wildlife Service has programs to develop and restore habitat. The U.S. Army Engineer Waterways Experiment Station has published guidelines for using dredged material to develop wetland habitat, for establishing marsh vegetation, and for building islands that attract colonies of nesting birds. The EPA has a Clean Lakes program which supplies funds to States and localities to enhance or restore degraded lakes. This may involve dredging nutrient-laden sediments from a lake and ensuring that nutrient inflows to the lake are controlled. Restoration and habitat development techniques can be used to minimize adverse impacts and compensate for destroyed habitat. Restoration and habitat development may also provide secondary benefits such as improved opportunities for outdoor recreation and positive use for dredged materials.

The development and restoration of viable habitats in water bodies requires planning and construction practices that integrate the new or improved habitat into the existing environment. Planning requires a model or standard, the

achievement of which is attempted by manipulating design and implementation of the activity. This model or standard should be based on characteristics of a natural ecosystem in the vicinity of a proposed activity. Such use of a natural ecosystem ensures that the developed or restored area, once established, will be nourished and maintained physically, chemically and biologically by natural processes. Some examples of natural ecosystems include, but are not limited to, the following: salt marsh, cattail marsh, turtle grass bed, small island, etc.

Habitat development and restoration, by definition, should have environmental enhancement and maintenance as their initial purpose. Human uses may benefit but they are not the primary purpose. Where such projects are not founded on the objectives of maintaining ecosystem function and integrity, some values may be favored at the expense of others. The ecosystem affected must be considered in order to achieve the desired result of development and restoration. In the final analysis, selection of the ecosystem to be emulated is of critical importance and a loss of value can occur if the wrong model or an incomplete model is selected. Of equal importance is the planning and management of habitat development and restoration on a case-by-case basis.

Specific measures to minimize impacts on the aquatic ecosystem by enhancement and restoration projects include but are not limited to:

(1) Selecting the nearest similar natural ecosystem as the model in the implementation of the activity;

Obviously degraded or significantly less productive habitats may be considered prime candidates for habitat restoration. One viable habitat, however, should not be sacrificed in an attempt to create another, i.e., a productive vegetated shallow water area should not be destroyed in an attempt to create a wetland in its place.

(2) Using development and restoration techniques that have been demonstrated to be effective in circumstances similar to those under consideration wherever possible.

(3) Where development and restoration techniques proposed for use have not yet advanced to the pilot demonstration or implementation stage, initiate their use on a small scale to allow corrective action if unanticipated adverse impacts occur.

(4) Where Federal funds are spent to clean up waters of the U.S. through dredging, scientifically defensible levels of pollutant concentration in the return discharge should be agreed upon with the funding authority in addition to any

applicable water quality standards in order to maintain the desired improved water quality.

(5) When a significant ecological change in the aquatic environment is proposed by the discharge of dredged or fill material, the permitting authority should consider the ecosystem that will be lost as well as the environmental benefits of the new system.

Dated: December 12, 1980.

Douglas M. Costle,

Administrator, Environmental Protection Agency.

Part 230 is revised to read as follows:

#### PART 230—SECTION 404(b)(1) GUIDELINES FOR SPECIFICATION OR DISPOSAL SITES FOR DREDGED OR FILL MATERIAL

##### Subpart A—General

- Sec.
- 230.1 Purpose and policy.
  - 230.2 Applicability.
  - 230.3 Definitions.
  - 230.4 Organization.
  - 230.5 General procedures to be followed.
  - 230.6 Adaptability.
  - 230.7 General permits.

##### Subpart B—Compliance With the Guidelines

- 230.10 Restrictions on discharge.
- 230.11 Factual determinations.
- 230.12 Findings of compliance or non-compliance with the restrictions on discharge.

##### Subpart C—Potential Impacts on Physical and Chemical Characteristics of the Aquatic Ecosystem

- 230.20 Substrate.
- 230.21 Suspended particulates/turbidity.
- 230.22 Water.
- 230.23 Current patterns and water circulation.
- 230.24 Normal water fluctuations.
- 230.25 Salinity gradients.

##### Subpart D—Potential Impacts on Biological Characteristics of the Aquatic Ecosystem

- 230.30 Threatened and endangered species.
- 230.31 Fish, crustaceans, mollusks, and other aquatic organisms in the food web.
- 230.32 Other wildlife.

##### Subpart E—Potential Impacts on Special Aquatic Sites

- 230.40 Sanctuaries and refuges.
- 230.41 Wetlands.
- 230.42 Mud flats.
- 230.43 Vegetated shallows.
- 230.44 Coral reefs.
- 230.45 Riffle and pool complexes.

##### Subpart F—Potential Effects on Human Use Characteristics

- 230.50 Municipal and private water supplies.
- 230.51 Recreational and commercial fisheries.
- 230.52 Water-related recreation.
- 230.53 Aesthetics.

**Sec.**

**230.54** Parks, national and historic monuments, national seashores, wilderness areas, research sites and similar preserves.

**Subpart G—Evaluation and Testing**

**230.60** General evaluation of dredged or fill material.

**230.61** Chemical, biological, and physical evaluation and testing.

**Subpart H—Actions to Minimize Adverse Effects**

**230.70** Actions concerning the location of the discharge.

**230.71** Actions concerning the material to be discharged.

**230.72** Actions controlling the material after discharge.

**230.73** Actions affecting the method of dispersion.

**230.74** Actions related to technology.

**230.75** Actions affecting plant and animal populations.

**230.76** Actions affecting human use.

**230.77** Other actions.

**Subpart I—Planning To Shorten Permit Processing Time**

**230.80** Advanced identification of disposal areas.

**Authority:** This regulation is issued under authority of Sections 404(b) and 501(a) of the Clean Water Act of 1977, 33 U.S.C. § 1344(b) and § 1361(a).

**Subpart A—General**

**§ 23.1 Purpose and policy.**

(a) The purpose of these Guidelines is to restore and maintain the chemical, physical, and biological integrity of the waters of the United States through the control of discharges of dredged or fill material.

(b) Congress has expressed a number of policies in the Clean Water Act. These Guidelines are intended to be consistent with and to implement those policies.

(c) Fundamental to these Guidelines is the precept that dredged or fill material should not be discharged into the aquatic ecosystem, unless it can be demonstrated that such a discharge will not have an unacceptable adverse impact either individually or in combination with known and/or probable impacts of other activities affecting the ecosystems of concern.

(d) From a national perspective, the degradation or destruction of special aquatic sites, such as filling operations in wetlands, is considered to be among the most severe environmental impacts covered by these Guidelines. The guiding principle should be that degradation or destruction of special sites may represent an irreversible loss of valuable aquatic resources.

**§ 230.2 Applicability.**

(a) These Guidelines have been developed by the Administrator of the Environmental Protection Agency in conjunction with the Secretary of the Army acting through the Chief of Engineers under section 404(b)(1) of the Clean Water Act (33 U.S.C. 1344). The Guidelines are applicable to the specification of disposal sites for discharges of dredged or fill material into waters of the United States. Sites may be specified through:

(1) The regulatory program of the U.S. Army Corps of Engineers under sections 404(a) and (e) of the Act (see 33 CFR 320, 323 and 325);

(2) The civil works program of the U.S. Army Corps of Engineers (see 33 CFR 209.145 and section 150 of Pub. L. 94-587, Water Resources Development Act of 1978);

(3) Permit programs of States approved by the Administrator of the Environmental Protection Agency in accordance with sections 404(g) and (h) of the Act (see 40 CFR 122, 123 and 124);

(4) Statewide dredged or fill material regulatory programs with best management practices approved under section 208(b)(4)(B) and (C) of the Act (see 40 CFR 35.1560);

(5) Federal construction projects which meet criteria specified in section 404(r) of the Act.

(b) These Guidelines will be applied in the review of proposed discharges of dredged or fill material into navigable waters which lie inside the baseline from which the territorial sea is measured, and the discharge of fill material into the territorial sea, pursuant to the procedures referred to in paragraphs (a)(1) and (a)(2) above. The discharge of dredged material into the territorial sea is governed by the Marine Protection, Research, and Sanctuaries Act of 1972, Pub. L. 92-532, and regulations and criteria issued pursuant thereto (40 CFR Part 220-228).

(c) Guidance on interpreting and implementing these Guidelines may be prepared jointly by EPA and the Corps at the national or regional level from time to time. No modifications to the basic application, meaning, or intent of these Guidelines will be made without rulemaking by the Administrator under the Administrative Procedure Act (5 U.S.C. 551 *et seq.*).

**§ 230.3 Definitions.**

For purposes of this Part, the following terms shall have the meanings indicated:

(a) The term "Act" means the Clean Water Act (also known as the Federal Water Pollution Control Act or FWPCA)

Pub. L. 92-500, as amended by Pub. L. 95-217, 33 U.S.C. 1251, *et seq.*

(b) The term "adjacent" means bordering, contiguous, or neighboring. Wetlands separated from other waters of the United States by man-made dike or barriers, natural river berms, beach dunes, and the like are "adjacent wetlands."

(c) The terms "aquatic environment" and "aquatic ecosystem" mean waters of the United States, including wetlands that serve as habitat for interrelated and interacting communities and population of plants and animals.

(d) The term "carrier of contaminant" means dredged or fill material that contains contaminants.

(e) The term "contaminant" means a chemical or biological substance in a form that can be incorporated into, onto or be ingested by and that harms aquatic organisms, consumers of aquatic organisms, or users of the aquatic environment, and includes but is not limited to the substances on the 307(a)(1) list of toxic pollutants promulgated on January 31, 1978 (43 FR 4109).

(f) [Reserved]

(g) [Reserved]

(h) The term "discharge point" means the point within the disposal site at which the dredged or fill material is released.

(i) The term "disposal site" means that portion of the "waters of the United States" where specific disposal activities are permitted and consist of a bottom surface area and any overlying volume of water. In the case of wetlands on which surface water is not present, the disposal site consists of the wetland surface area.

(j) [Reserved]

(k) The term "extraction site" means the place from which the dredged or fill material proposed for discharge is to be removed.

(l) [Reserved]

(m) The term "mixing zone" means a limited volume of water serving as a zone of initial dilution in the immediate vicinity of a discharge point where receiving water quality may not meet quality standards or other requirements otherwise applicable to the receiving water. The mixing zone should be considered as a place where wastes and water mix and not as a place where effluents are treated.

(n) The term "permitting authority" means the District Engineer of the U.S. Army Corps of Engineers or such other individual as may be designated by the Secretary of the Army to issue or deny permits under section 404 of the Act or the State Director of a permit program

approved by EPA under § 404(g) and § 404(h) or his delegated representative.

(o) The term "pollutant" means dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials not covered by the Atomic Energy Act, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. The legislative history of the Act reflects that "radioactive materials" as included within the definition of "pollutant" in section 802 of the Act means only radioactive materials which are not encompassed in the definition of source, byproduct, or special nuclear materials as defined by the Atomic Energy Act of 1954, as amended, and regulated under the Atomic Energy Act. Examples of radioactive materials not covered by the Atomic Energy Act and, therefore, included within the term "pollutant", are radium and accelerator produced isotopes. See *Train v. Colorado Public Interest Research Group, Inc.*, 428 U.S. 1 (1976).

(p) The term "pollution" means the man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of an aquatic ecosystem.

(q) The term "practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes.

(q-1) "Special aquatic sites" means those sites identified in Subpart E. They are geographic areas, large or small, possessing special ecological characteristics of productivity, habitat, wildlife protection, or other important and easily disrupted ecological values. These areas are generally recognized as significantly influencing or positively contributing to the general overall environmental health or vitality of the entire ecosystem of a region. (See 230.10(a)(3))

(r) The term "territorial sea" means the belt of the sea measured from the baseline as determined in accordance with the Convention on the Territorial Sea and the Contiguous Zone and extending seaward a distance of three miles.

(s) The term "waters of the United States" means:

(1) All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;

(2) All interstate waters including interstate wetlands;

(3) All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:

(i) Which are or could be used by interstate or foreign travelers for recreational or other purposes; or

(ii) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

(iii) Which are used or could be used for industrial purposes by industries in interstate commerce;

(4) All impoundments of waters otherwise defined as waters of the United States under this definition.

(5) Tributaries of waters identified in paragraphs (1)-(4) of this section;

(6) The territorial sea;

(7) Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (e) (1)-(6) of this section; waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of CWA (other than cooling ponds as defined in 40 CFR § 423.11(m) which also meet the criteria of this definition) are not waters of the United States.

(t) The term "wetlands" means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas.

#### § 230.4 Organization.

The Guidelines are divided into eight subparts. Subpart A presents those provisions of general applicability, such as purpose and definitions. Subpart B establishes the four conditions which must be satisfied in order to make a finding that a proposed discharge of dredged or fill material complies with the Guidelines. Section 230.11 of Subpart B, sets forth factual determinations which are to be considered in determining whether or not a proposed discharge satisfies the Subpart B conditions of compliance. Subpart C describes the physical and chemical components of a site and provides guidance as to how proposed discharges of dredged or fill material may affect these components. Subparts D-F detail the special characteristics of particular aquatic ecosystems in terms of their values, and the possible loss of these

values due to discharges of dredged or fill material. Subpart G prescribes a number of physical, chemical, and biological evaluations and testing procedures to be used in reaching the required factual determinations. Subpart H details the means to prevent or minimize adverse effects. Subpart I concerns advanced identification of disposal areas.

#### § 230.5 General procedures to be followed.

In evaluating whether a particular discharge site may be specified, the permitting authority should use these Guidelines in the following sequence:

(a) In order to obtain an overview of the principal regulatory provisions of the Guidelines, review the restrictions on discharge in § 230.10(a)-(d), the measures to minimize adverse impact of Subpart H, and the required factual determinations of § 230.11.

(b) Determine if a General permit (§ 230.7) is applicable; if so, the applicant needs merely to comply with its terms, and no further action by the permitting authority is necessary. Special conditions for evaluation of proposed General permits are contained in § 230.7. If the discharge is not covered by a General permit:

(c) Examine practicable alternatives to the proposed discharge, that is, not discharging into the waters of the U.S. or discharging into an alternative aquatic site with potentially less damaging consequences (§ 230.10(a)).

(d) Delineate the candidate disposal site consistent with the criteria and evaluations of § 230.11(f).

(e) Evaluate the various physical and chemical components which characterize the non-living environment of the candidate site, the substrate and the water including its dynamic characteristics (Subpart C).

(f) Identify and evaluate any special or critical characteristics of the candidate disposal site, and surrounding areas which might be affected by use of such site, related to their living communities or human uses (Subparts D, E, and F).

(g) Review Factual Determinations in § 230.11 to determine whether the information in the project file is sufficient to provide the documentation required by § 230.11 or to perform the pre-testing evaluation described in § 230.60, or other information is necessary.

(h) Evaluate the material to be discharged to determine the possibility of chemical contamination or physical incompatibility of the material to be discharged (§ 230.60).

(i) If there is a reasonable probability of chemical contamination, conduct the appropriate tests according to the section on Evaluation and Testing (§ 230.61).

(j) Identify appropriate and practicable changes to the project plan to minimize the environmental impact of the discharge, based upon the specialized methods of minimization of impacts in Subpart H.

(k) Make and document Factual Determinations in § 230.11.

(l) Make and document Findings of Compliance (§ 230.12) by comparing Factual Determinations with the requirements for discharge of § 230.10.

This outline of the steps to follow in using the Guidelines is simplified for purposes of illustration. The actual process followed may be iterative, with the results of one step leading to a reexamination of previous steps. The permitting authority must address all of the relevant provisions of the Guidelines in reaching a Finding of Compliance in an individual case.

#### § 230.5 Adaptability.

(a) The manner in which these Guidelines are used depends on the physical, biological, and chemical nature of the proposed extraction site, the material to be discharged, and the candidate disposal site, including any other important components of the ecosystem being evaluated. Documentation to demonstrate knowledge about the extraction site, materials to be extracted, and the candidate disposal site is an essential component of guideline application. These Guidelines allow evaluation and documentation for a variety of activities, ranging from those with large, complex impacts on the aquatic environment to those for which the impact is likely to be innocuous. It is unlikely that the Guidelines will apply in their entirety to any one activity, no matter how complex. It is anticipated that substantial numbers of permit applications will be for minor, routine activities that have little, if any, potential for significant degradation of the aquatic environment. It generally is not intended or expected that extensive testing, evaluation or analysis will be needed to make findings of compliance in such routine cases. Where the conditions for General permits are met, and where numerous applications for similar activities are likely, the use of General permits will eliminate repetitive evaluation and documentation for individual discharges.

(b) The Guidelines user, including the agency or agencies responsible for

implementing the Guidelines, must recognize the different levels of effort that should be associated with varying degrees of impact and require or prepare commensurate documentation. The level of documentation should reflect the significance and complexity of the discharge activity.

(c) An essential part of the evaluation process involves making determinations as to the relevance of any portion(s) of the Guidelines and conducting further evaluation only as needed. However, where portions of the Guidelines review procedure are "short form" evaluations, there still must be sufficient information (including consideration of both individual and cumulative impacts) to support the decision of whether to specify the site for disposal of dredged or fill material and to support the decision to curtail or abbreviate the evaluation process. The presumption against the discharge in § 230.1 applies to this decision-making.

(d) In the case of activities covered by General permits or 208(b)(4)(B) and (C) Best Management Practices, the analysis and documentation required by the Guidelines will be performed at the time of General permit issuance or 208(b)(4)(B) and (C) Best Management Practices promulgation and will not be repeated when activities are conducted under a General permit or 208(b)(4)(B) and (C) Best Management Practices control. These Guidelines do not require reporting or formal written communication at the time individual activities are initiated under a General permit or 208(b)(4)(B) and (C) Best Management Practices. However, a particular General permit may require appropriate reporting.

#### § 230.7 General permits.

(a) *Conditions for the issuance of General permits.* A General permit for a category of activities involving the discharge of dredged or fill material complies with the Guidelines if it meets the applicable restrictions on the discharge in § 230.10 and if the permitting authority determines that:

(1) The activities in such category are similar in nature and similar in their impact upon water quality and the aquatic environment;

(2) The activities in such category will have only minimal adverse effects when performed separately; and

(3) The activities in such category will have only minimal cumulative adverse effects on water quality and the aquatic environment.

(b) *Evaluation process.* To reach the determinations required in paragraph (a) of this section, the permitting authority

shall set forth in writing an evaluation of the potential individual and cumulative impacts of the category of activities to be regulated under the General permit. While some of the information necessary for this evaluation can be obtained from potential permittees and others through the proposal of General permits for public review, the evaluation must be completed before any General permit is issued, and the results must be published with the final permit.

(1) This evaluation shall be based upon consideration of the prohibitions listed in § 230.10(b) and the factors listed in § 230.10(c), and shall include documented information supporting each factual determination in § 230.11 of the Guidelines (consideration of alternatives in § 230.10(a) are not directly applicable to General permits):

(2) The evaluation shall include a precise description of the activities to be permitted under the General permit, explaining why they are sufficiently similar in nature and in environmental impact to warrant regulation under a single General permit based on Subparts C-F of the Guidelines. Allowable differences between activities which will be regulated under the same General permit shall be specified. Activities otherwise similar in nature may differ in environmental impact due to their location in or near ecologically sensitive areas, areas with unique chemical or physical characteristics, areas containing concentrations of toxic substances, or areas regulated for specific human uses or by specific land or water management plans (e.g., areas regulated under an approved Coastal Zone Management Plan). If there are specific geographic areas within the purview of a proposed General permit (called a draft General permit under a State 404 program), which are more appropriately regulated by individual permit due to the considerations cited in this paragraph, they shall be clearly delineated in the evaluation and excluded from the permit. In addition, the permitting authority may require an individual permit for any proposed activity under a General permit where the nature or location of the activity makes an individual permit more appropriate.

(3) To predict cumulative effects, the evaluation shall include the number of individual discharge activities likely to be regulated under a General permit until its expiration, including repetitions of individual discharge activities at a single location.

## Subpart B—Compliance With the Guidelines

### § 230.10 Restrictions on discharge.

**Note.**—Because other laws may apply to particular discharges and because the Corps of Engineers or State 404 agency may have additional procedural and substantive requirements, a discharge complying with the requirements of these Guidelines will not automatically receive a permit.

Although all requirements in § 230.10 must be met, the compliance evaluation procedures will vary to reflect the seriousness of the potential for adverse impacts on the aquatic ecosystems posed by specific dredged or fill material discharge activities.

(a) Except as provided under § 404(b)(2), no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences.

(1) For the purpose of this requirement, practicable alternatives include, but are not limited to:

(i) Activities which do not involve a discharge of dredged or fill material into the waters of the United States or ocean waters;

(ii) Discharges of dredged or fill material at other locations in waters of the United States or ocean waters;

(2) An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity may be considered.

(3) Where the activity associated with a discharge which is proposed for a special aquatic site (as defined in Subpart E) does not require access or proximity to or siting within the special aquatic site in question to fulfill its basic purpose (i.e., is not "water dependent"), practicable alternatives that do not involve special aquatic sites are presumed to be available, unless clearly demonstrated otherwise. In addition, where a discharge is proposed for a special aquatic site, all practicable alternatives to the proposed discharge which do not involve a discharge into a special aquatic site are presumed to have less adverse impact on the aquatic ecosystem, unless clearly demonstrated otherwise.

(4) For actions subject to NEPA, where the Corps of Engineers is the permitting agency, the analysis of alternatives required for NEPA environmental documents, including supplemental Corps NEPA documents, will in most cases provide the information for the evaluation of alternatives under these Guidelines. On occasion, these NEPA documents may address a broader range of alternatives than required to be considered under this paragraph or may not have considered the alternatives in sufficient detail to respond to the requirements of these Guidelines. In the latter case, it may be necessary to supplement these NEPA documents with this additional information.

(5) To the extent that practicable alternatives have been identified and evaluated under a Coastal Zone Management program, a § 208 program, or other planning process, such evaluation shall be considered by the permitting authority as part of the consideration of alternatives under the Guidelines. Where such evaluation is less complete than that contemplated under this subsection, it must be supplemented accordingly.

(b) No discharge of dredged or fill material shall be permitted if it:

(1) Causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable State water quality standard;

(2) Violates any applicable toxic effluent standard or prohibition under section 307 of the Act;

(3) Jeopardizes the continued existence of species listed as endangered or threatened under the Endangered Species Act of 1973, as amended, or results in likelihood of the destruction or adverse modification of a habitat which is determined by the Secretary of Interior or Commerce, as appropriate, to be a critical habitat under the Endangered Species Act of 1973, as amended. If an exemption has been granted by the Endangered Species Committee, the terms of such exemption shall apply in lieu of this subparagraph;

(4) Violates any requirement imposed by the Secretary of Commerce to protect any marine sanctuary designated under Title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

(c) Except as provided under § 404(b)(2), no discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States. Findings of significant degradation related to the proposed discharge shall be based upon appropriate factual determinations, evaluations, and tests required by

Subparts B and G, after consideration of Subparts C-F, with special emphasis on the persistence and permanence of the effects outlined in those subparts. Under these Guidelines, effects contributing to significant degradation considered individually or collectively, include:

(1) Significantly adverse effects of the discharge of pollutants on human health or welfare, including but not limited to effects on municipal water supplies, plankton, fish, shellfish, wildlife, and special aquatic sites.

(2) Significantly adverse effects of the discharge of pollutants on life stages of aquatic life and other wildlife dependent on aquatic ecosystems, including the transfer, concentration, and spread of pollutants or their byproducts outside of the disposal site through biological, physical, and chemical processes;

(3) Significantly adverse effects of the discharge of pollutants on aquatic ecosystem diversity, productivity, and stability. Such effects may include, but are not limited to, loss of fish and wildlife habitat or loss of the capacity of a wetland to assimilate nutrients, purify water, or reduce wave energy; or

(4) Significantly adverse effects of discharge of pollutants on recreational, aesthetic, and economic values.

(d) Except as provided under § 404(b)(2), no discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem. Subpart H identifies such possible steps.

### § 230.11 Factual determinations.

The permitting authority shall determine in writing the potential short-term or long-term effects of a proposed discharge of dredged or fill material on the physical, chemical, and biological components of the aquatic environment in light of Subparts C-F. Such factual determinations shall be used in § 230.12 in making findings of compliance or non-compliance with the restrictions on discharge in § 230.10. The evaluation and testing procedures described in § 230.60 and § 230.61 of Subpart G shall be used as necessary to make, and shall be described in, such determination. The determinations of effects of each proposed discharge shall include the following:

(a) *Physical substrate determinations.* Determine the nature and degree of effect that the proposed discharge will have, individually and cumulatively, on the characteristics of the substrate at the proposed disposal site. Consideration shall be given to the similarity in particle size, shape, and degree of compaction of the material

proposed for discharge and the material constituting the substrate at the disposal site, and any potential changes in substrate elevation and bottom contours, including changes outside of the disposal site which may occur as a result of erosion, slumping, or other movement of the discharged material. The duration and physical extent of substrate changes shall also be considered. The possible loss of environmental values (§ 230.20) and actions to minimize impact (Subpart H) shall also be considered in making these determinations. Potential changes in substrate elevation and bottom contours shall be predicted on the basis of the proposed method, volume, location, and rate of discharge, as well as of the individual and combined effects of current patterns, water circulation, wind and wave action, and other physical factors that may affect the movement of the discharged material.

(b) *Water circulation, fluctuation, and salinity determinations.* Determine the nature and degree of effect that the proposed discharge will have individually and cumulatively on water, current patterns, circulation including downstream flows, and normal water fluctuation. Consideration shall be given to water chemistry, salinity, clarity, color, odor, taste, dissolved gas levels, temperature, nutrients, and eutrophication plus other appropriate characteristics. Consideration shall also be given to the potential diversion or obstruction of flow, alterations of bottom contours, or other significant changes in the hydrologic regime. Additional consideration of the possible loss of environmental values (§ 230.23-25) and actions to minimize impacts (Subpart H), shall be used in making these determinations. Potential significant effects on the current patterns, water circulation, normal water fluctuation and salinity shall be evaluated on the basis of the proposed method, volume, location, and rate of discharge.

(c) *Suspended particulate/turbidity determinations.* Determine the nature and degree of effect that the proposed discharge will have, individually and cumulatively, in terms of potential changes in the kinds and concentrations of suspended particulate/turbidity in the vicinity of the disposal site. Consideration shall be given to the grain size of the material proposed for discharge, the shape and size of the plume of suspended particulates, the duration of the discharge and resulting plume and whether or not the potential changes will cause violations of applicable water quality standards.

Consideration should also be given to the possible loss of environmental values (§ 230.21) and to actions for minimizing impacts (Subpart H). Consideration shall include the proposed method, volume, location, and rate of discharge, as well as the individual and combined effects of current patterns, water circulation and fluctuations, wind and wave action, and other physical factors on the movement of suspended particulates.

(d) *Contaminant determinations.* Determine the degree to which the material proposed for discharge will introduce, relocate, or increase contaminants. This determination shall consider the material to be discharged, the aquatic environment at the proposed disposal site, and the availability of contaminants.

(e) *Aquatic ecosystem and organism determinations.* Determine the nature and degree of effect that the proposed discharge will have, both individually and cumulatively, on the structure and function of the aquatic ecosystem and organisms. Consideration shall be given to the effect at the proposed disposal site of potential changes in substrate characteristics and elevation, water or substrate chemistry, nutrients, currents, circulation, fluctuation, and salinity, on the recolonization and existence of indigenous aquatic organisms or communities. Possible loss of environmental values (§ 230.31), and actions to minimize impacts (Subpart H) shall be examined. Tests as described in § 230.61 (Evaluation and Testing), may be required to provide information on the effect of the discharge material on communities or populations of organisms expected to be exposed to it.

(f) *Proposed disposal site determinations.* (1) Each disposal site shall be specified through the application of these Guidelines. The mixing zone shall be confined to the smallest practicable zone within each specified disposal site that is consistent with the type of dispersion determined to be appropriate by the application of these Guidelines. In a few special cases under unique environmental conditions, where there is adequate justification to show that widespread dispersion by natural means will result in no significantly adverse environmental effects, the discharged material may be intended to be spread naturally in a very thin layer over a large area of the substrate rather than be contained within the disposal site.

(2) The permitting authority and the Regional Administrator shall consider the following factors in determining the acceptability of a proposed mixing zone:

(i) Depth of water at the disposal site;

(ii) Current velocity, direction, and variability at the disposal site;

(iii) Degree of turbulence;

(iv) Stratification attributable to causes such as obstructions, salinity or density profiles at the disposal site;

(v) Discharge vessel speed and direction, if appropriate;

(vi) Rate of discharge;

(vii) Ambient concentration of constituents of interest;

(viii) Dredged material characteristics, particularly concentrations of constituents, amount of material, type of material (sand, silt, clay, etc.) and settling velocities;

(ix) Number of discharge actions per unit of time;

(x) Other factors of the disposal site that affect the rates and patterns of mixing.

(g) *Determination of cumulative effects on the aquatic ecosystem.* (1) Cumulative impacts are the changes in an aquatic ecosystem that are attributable to the collective effect of a number of individual discharges of dredged or fill material. Although the impact of a particular discharge may constitute a minor change in itself, the cumulative effect of numerous such piecemeal changes can result in a major impairment of the water resources and interfere with the productivity and water quality of existing aquatic ecosystems.

(2) Cumulative effects attributable to the discharge of dredged or fill material in waters of the United States should be predicted to the extent reasonable and practical. The permitting authority shall collect information and solicit information from other sources about the cumulative impacts on the aquatic ecosystem. This information shall be documented and considered during the decision-making process concerning the evaluation of individual permit applications, the issuance of a General permit, and monitoring and enforcement of existing permits.

(h) *Determination of secondary effects on the aquatic ecosystem.* (1) Secondary effects are effects on an aquatic ecosystem that are associated with a discharge of dredged or fill materials, but do not result from the actual placement of the dredged or fill material. Information about secondary effects on aquatic ecosystems shall be considered prior to the time final section 404 action is taken by permitting authorities.

(2) Some examples of secondary effects on an aquatic ecosystem are fluctuating water levels in an impoundment and downstream associated with the operation of a dam, septic tank leaching and surface runoff



from residential or commercial developments on fill, and leachate and runoff from a sanitary landfill located in waters of the U.S. Activities to be conducted on fast land created by the discharge of dredged or fill material in waters of the United States may have secondary impacts within those waters which should be considered in evaluating the impact of creating those fast lands.

**§ 230.12 Findings of compliance or non-compliance with the restrictions on discharge.**

(a) On the basis of these Guidelines (Subparts C through G) the proposed disposal sites for the discharge of dredged or fill material must be:

- (1) Specified as complying with the requirements of these Guidelines; or
- (2) Specified as complying with the requirements of these Guidelines with the inclusion of appropriate and practicable discharge conditions (see Subpart H) to minimize pollution or adverse effects to the affected aquatic ecosystems; or
- (3) Specified as failing to comply with the requirements of these Guidelines where:
  - (i) There is a practicable alternative to the proposed discharge that would have less adverse effect on the aquatic ecosystem, so long as such alternative does not have other significant adverse environmental consequences; or
  - (ii) The proposed discharge will result in significant degradation of the aquatic ecosystem under § 230.10(b) or (c); or
  - (iii) The proposed discharge does not include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem; or
  - (iv) There does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines.

(b) Findings under this section shall be set forth in writing by the permitting authority for each proposed discharge and made available to the permit applicant. These findings shall include the factual determinations required by § 230.11, and a brief explanation of any adaptation of these Guidelines to the activity under consideration. In the case of a General permit, such findings shall be prepared at the time of issuance of that permit rather than for each subsequent discharge under the authority of that permit.

**Subpart C—Potential Impacts on Physical and Chemical Characteristics of the Aquatic Ecosystem**

Note.—The effects described in this subpart should be considered in making the

factual determinations and the findings of compliance or non-compliance in Subpart B.

**§ 230.20 Substrate.**

(a) The substrate of the aquatic ecosystem underlies open waters of the United States and constitutes the surface of wetlands. It consists of organic and inorganic solid materials and includes water and other liquids or gases that fill the spaces between solid particles.

(b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can result in varying degrees of change in the complex physical, chemical, and biological characteristics of the substrate. Discharges which alter substrate elevation or contours can result in changes in water circulation, depth, current pattern, water fluctuation and water temperature. Discharges may adversely affect bottom-dwelling organisms at the site by smothering immobile forms or forcing mobile forms to migrate. Benthic forms present prior to a discharge are unlikely to recolonize on the discharged material if it is very dissimilar from that of the discharge site. Erosion, slumping, or lateral displacement of surrounding bottom of such deposits can adversely affect areas of the substrate outside the perimeters of the disposal site by changing or destroying habitat. The bulk and composition of the discharged material and the location, method, and timing of discharges may all influence the degree of impact on the substrate.

**§ 230.21 Suspended particulates/turbidity.**

(a) Suspended particulates in the aquatic ecosystem consist of fine-grained mineral particles, usually smaller than silt, and organic particles. Suspended particulates may enter water bodies as a result of land runoff, flooding, vegetative and planktonic breakdown, resuspension of bottom sediments, and man's activities including dredging and filling.

Particulates may remain suspended in the water column for variable periods of time as a result of such factors as agitation of the water mass, particulate specific gravity, particle shape, and physical and chemical properties of particle surfaces.

(b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can result in greatly elevated levels of suspended particulates in the water column for varying lengths of time. These new levels may reduce light penetration and lower the rate of photosynthesis and the primary productivity of an aquatic area if they

last long enough. Sight-dependent species may suffer reduced feeding ability leading to limited growth and lowered resistance to disease if high levels of suspended particulates persist. The biological and the chemical content of the suspended material may react with the dissolved oxygen in the water, which can result in oxygen depletion. Toxic metals and organics, pathogens, and viruses absorbed or adsorbed to fine-grained particulates in the material may become biologically available to organisms either in the water column or on the substrate. Significant increases in suspended particulate levels create turbid plumes which are highly visible and aesthetically displeasing. The extent and persistence of these adverse impacts caused by discharges depend upon the relative increase in suspended particulates above the amount occurring naturally, the duration of the higher levels, the current patterns, water level, and fluctuations present when such discharges occur, the volume, rate, and duration of the discharge, particulate deposition, and the seasonal timing of the discharge.

**§ 230.22 Water.**

(a) Water is the part of the aquatic ecosystem in which organic and inorganic constituents are dissolved and suspended. It constitutes part of the liquid phase and is contained by the substrate. Water forms part of a dynamic aquatic life-supporting system. Water clarity, nutrients and chemical content, physical and biological content, dissolved gas levels, pH, and temperature contribute to its life-sustaining capabilities.

(b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can change the chemistry and the physical characteristics of the receiving water at a disposal site through the introduction of chemical constituents in suspended or dissolved form. Changes in the clarity, color, odor, and taste of water and the addition of contaminants can reduce or eliminate the suitability of water bodies for populations of aquatic organisms, and for human consumption, recreation, and aesthetics. The introduction of nutrients or organic material to the water column as a result of the discharge can lead to a high biochemical oxygen demand (BOD), which in turn can lead to reduced dissolved oxygen, thereby potentially affecting the survival of many aquatic organisms. Increases in nutrients can favor one group of organisms such as algae to the detriment of other more desirable types such as submerged aquatic vegetation, potentially causing adverse health

effects, objectionable tastes and odors, and other problems.

**§ 230.23 Current patterns and water circulation.**

(a) Current patterns and water circulation are the physical movements of water in the aquatic ecosystem. Currents and circulation respond to natural forces as modified by basin shape and cover, physical and chemical characteristics of water strata and masses, and energy dissipating factors.

(b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can modify current patterns and water circulation by obstructing flow, changing the direction or velocity of water flow, changing the direction or velocity of water flow and circulation, or otherwise changing the dimensions of a water body. As a result, adverse changes can occur in: location, structure, and dynamics of aquatic communities; shoreline and substrate erosion and deposition rates; the deposition of suspended particulates; the rate and extent of mixing of dissolved and suspended components of the water body; and water stratification.

**§ 230.24 Normal water fluctuations.**

(a) Normal water fluctuations in a natural aquatic system consist of daily, seasonal, and annual tidal and flood fluctuations in water level. Biological and physical components of such a system are either attuned to or characterized by these periodic water fluctuations.

(b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can alter the normal water-level fluctuation pattern of an area, resulting in prolonged periods of inundation, exaggerated extremes of high and low water, or a static, nonfluctuating water level. Such water level modifications may change salinity patterns, alter erosion or sedimentation rates, aggravate water temperature extremes, and upset the nutrient and dissolved oxygen balance of the aquatic ecosystem. In addition, these modifications can alter or destroy communities and populations of aquatic animals and vegetation, induce populations of nuisance organisms, modify habitat, reduce food supplies, restrict movement of aquatic fauna, destroy spawning areas, and change adjacent, upstream, and downstream areas.

**§ 230.25 Salinity gradients.**

(a) Salinity gradients form where salt water from the ocean meets and mixes with fresh water from land.

(b) Possible loss of environmental characteristics and values: Obstructions which divert or restrict flow of either fresh or salt water may change existing salinity gradients. For example, partial blocking of the entrance to an estuary or river mouth that significantly restricts the movement of the salt water into and out of that area can effectively lower the volume of salt water available for mixing within that estuary. The downstream migration of the salinity gradient can occur, displacing the maximum sedimentation zone and requiring salinity-dependent aquatic biota to adjust to the new conditions, move to new locations if possible, or perish. In the freshwater zone, discharge operations in the upstream regions can have equally adverse impacts. A significant reduction in the volume of fresh water moving into an estuary below that which is considered normal can affect the location and type of mixing thereby changing the characteristic salinity patterns. The resulting changed circulation pattern can cause the upstream migration of the salinity gradient displacing the maximum sedimentation zone. This migration may affect those organisms that are adapted to freshwater environments. It may also affect municipal water supplies.

Note.—Possible actions to minimize adverse impacts regarding site characteristics can be found in Subpart H.

**Subpart D—Potential Impacts on Biological Characteristics of the Aquatic Ecosystem**

Note.—The impacts described in this subpart should be considered in making the factual determinations and the findings of compliance or non-compliance in Subpart B.

**§ 230.30 Threatened and endangered species.**

(a) An endangered species is a plant or animal in danger of extinction throughout all or a significant portion of its range. A threatened species is one in danger of becoming an endangered species in the foreseeable future throughout all or a significant portion of its range. Listings of threatened and endangered species as well as critical habitats are maintained by some individual States and by the U.S. Fish and Wildlife Service of the Department of the Interior (codified annually at 50 CFR § 17.11). The Department of Commerce has authority over some threatened and endangered marine mammals, fish and reptiles.

(b) Possible loss of values: The major potential impacts on threatened or endangered species from the discharge of dredged or fill material include:

(1) Covering or otherwise directly killing species;

(2) The impairment or destruction of habitat to which these species are limited. Elements of the aquatic habitat which are particularly crucial to the continued survival of some threatened or endangered species include adequate good quality water, spawning and maturation areas, nesting areas, protective cover, adequate and reliable food supply, and resting areas for migratory species. Each of these elements can be adversely affected by changes in either the normal water conditions for clarity, chemical content, nutrient balance, dissolved oxygen, pH, temperature, salinity, current patterns, circulation and fluctuation, or the physical removal of habitat; and

(3) Facilitating incompatible activities  
(c) Where consultation with the Secretary of the Interior occurs under Section 7 of the Endangered Species Act, the conclusions of the Secretary concerning the impact(s) of the discharge on threatened and endangered species and their habitat shall be considered final.

**§ 230.31 Fish, crustaceans, mollusks and other aquatic organisms in the food web.**

(a) Aquatic organisms in the food web include, but are not limited to, finfish, crustaceans, mollusks, insects, annelids, planktonic organisms, and the plants and animals on which they feed and depend upon for their needs. All forms and life stages of an organism, throughout its geographic range, are included in this category.

(b) Possible loss of values: The discharge of dredged or fill material can variously affect populations of fish, crustaceans, mollusks and other food web organisms through the release of contaminants which adversely affect adults, juveniles, larvae, or eggs, or result in the establishment or proliferation of an undesirable competitive species of plant or animal at the expense of the desired resident species. Suspended particulates settling on attached or buried eggs can smother the eggs by limiting or sealing off their exposure to oxygenated water. Discharge of dredged and fill material may result in the debilitation or death of sedentary organisms by smothering, exposure to chemical contaminants in dissolved or suspended form, exposure to high levels of suspended particulates, reduction in food supply, or alteration of the substrate upon which they are dependent. Mollusks are particularly



sensitive to the discharge of material during periods of reproduction and growth and development due primarily to their limited mobility. They can be rendered unfit for human consumption by tainting, by production and accumulation of toxins, or by ingestion and retention of pathogenic organisms, viruses, heavy metals or persistent synthetic organic chemicals. The discharge of dredged or fill material can redirect, delay, or stop the reproductive and feeding movements of some species of fish and crustacea, thus preventing their aggregation in accustomed places such as spawning or nursery grounds and potentially leading to reduced populations. Reduction of detrital feeding species or other representatives of lower trophic levels can impair the flow of energy from primary consumers to higher trophic levels. The reduction or potential elimination of food chain organism populations decreases the overall productivity and nutrient export capability of the ecosystem.

#### § 230.32 Other wildlife.

(a) Wildlife associated with aquatic ecosystems are resident and transient mammals, birds, reptiles, and amphibians.

(b) Possible loss of values: The discharge of dredged or fill material can result in the loss or change of breeding and nesting areas, escape cover, travel corridors, and preferred food sources for resident and transient wildlife species associated with the aquatic ecosystem. These adverse impacts upon wildlife habitat may result from changes in water levels, water flow and circulation, salinity, chemical content, and substrate characteristics and elevation. Increased water turbidity can adversely affect wildlife species which rely upon sight to feed, and disrupt the respiration and feeding of certain aquatic wildlife and food chain organisms. The availability of contaminants from the discharge of dredged or fill material may lead to the bioaccumulation of such contaminants in wildlife. Changes in such physical and chemical factors of the environment may favor the introduction of undesirable plant and animal species at the expense of resident species and communities. In some aquatic environments lowering plant and animal species diversity may disrupt the normal functions of the ecosystem and lead to reductions in overall biological productivity.

*Note.*—Possible actions to minimize adverse impacts regarding characteristics of biological components of the aquatic ecosystem can be found in Subpart H.

#### Subpart E—Potential Impacts on Special Aquatic Sites

*Note.*—The impacts described in this subpart should be considered in making the factual determinations and the findings of compliance or non-compliance in Subpart B. The definition of special aquatic sites is found in § 230.3(q-1).

#### § 230.40 Sanctuaries and refuges.

(a) Sanctuaries and refuges consist of areas designated under State and Federal laws or local ordinances to be managed principally for the preservation and use of fish and wildlife resources.

(b) Possible loss of values: Sanctuaries and refuges may be affected by discharges of dredged or fill material which will:

- (1) Disrupt the breeding, spawning, migratory movements or other critical life requirements of resident or transient fish and wildlife resources;
- (2) Create unplanned, easy and incompatible human access to remote aquatic areas;
- (3) Create the need for frequent maintenance activity;
- (4) Result in the establishment of undesirable-competitive species of plants and animals;
- (5) Change the balance of water and land areas needed to provide cover, food, and other fish and wildlife habitat requirements in a way that modifies sanctuary or refuge management practices;
- (6) Result in any of the other adverse impacts discussed in Subparts C and D as they relate to a particular sanctuary or refuge.

#### § 230.41 Wetlands.

(a)(1) Wetlands consist of areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(2) Where wetlands are adjacent to open water, they generally constitute the transition to upland. The margin between wetland and open water can best be established by specialists familiar with the local environment, particularly where emergent vegetation merges with submerged vegetation over a broad area in such places as the lateral margins of open water, headwaters, rainwater catch basins, and groundwater seeps. The landward margin of wetlands also can best be identified by specialists familiar with the local environment when vegetation from the two regions merges over a broad area.

(3) Wetland vegetation consists of plants that require saturated soils to survive (obligate wetland plants) as well as plants, including certain trees, that gain a competitive advantage over others because they can tolerate prolonged wet soil conditions and their competitors cannot. In addition to plant populations and communities, wetlands are delimited by hydrological and physical characteristics of the environment. These characteristics should be considered when information about them is needed to supplement information available about vegetation, or where wetland vegetation has been removed or is dormant.

(b) Possible loss of values: The discharge of dredged or fill material in wetlands is likely to damage or destroy habitat and adversely affect the biological productivity of wetlands ecosystems by smothering, by dewatering, by permanently flooding, or by altering substrate elevation or periodicity of water movement. The addition of dredged or fill material may destroy wetland vegetation or result in advancement of succession to dry land species. It may reduce or eliminate nutrient exchange by a reduction of the system's productivity, or by altering current patterns and velocities. Disruption or elimination of the wetland system can degrade water quality by obstructing circulation patterns that flush large expanses of wetland systems, by interfering with the filtration function of wetlands, or by changing the aquifer recharge capability of a wetland. Discharges can also change the wetland habitat value for fish and wildlife as discussed in Subpart D. When disruptions in flow and circulation patterns occur, apparently minor loss of wetland acreage may result in major losses through secondary impacts. Discharging fill material in wetlands as part of municipal, industrial or recreational development may modify the capacity of wetlands to retain and store floodwaters and to serve as a buffer zone shielding upland areas from wave actions, storm damage and erosion.

#### § 230.42 Mud flats

(a) Mud flats are broad flat areas along the sea coast and in coastal rivers to the head of tidal influence and in inland lakes, ponds, and riverine systems. When mud flats are inundated, wind and wave action may resuspend bottom sediments. Coastal mud flats are exposed at extremely low tides and inundated at high tides with the water table at or near the surface of the substrate. The substrate of mud flats contains organic material and particles

smaller in size than sand. They are either unvegetated or vegetated only by algal mats.

(b) Possible loss of values: The discharge of dredged or fill material can cause changes in water circulation patterns which may permanently flood or dewater the mud flat or disrupt periodic inundation, resulting in an increase in the rate of erosion or accretion. Such changes can deplete or eliminate mud flat biota, foraging areas, and nursery areas. Changes in inundation patterns can affect the chemical and biological exchange and decomposition process occurring on the mud flat and change the deposition of suspended material affecting the productivity of the area. Changes may reduce the mud flat's capacity to dissipate storm surge runoff.

§ 230.43 Vegetated shallows.

(a) Vegetated shallows are permanently inundated areas that under normal circumstances support communities of rooted aquatic vegetation, such as turtle grass and eelgrass in estuarine or marine systems as well as a number of freshwater species in rivers and lakes.

(b) Possible loss of values: The discharge of dredged or fill material can smother vegetation and benthic organisms. It may also create unsuitable conditions for their continued vigor by: (1) changing water circulation patterns; (2) releasing nutrients that increase undesirable algal populations; (3) releasing chemicals that adversely affect plants and animals; (4) increasing turbidity levels, thereby reducing light penetration and hence photosynthesis; and (5) changing the capacity of a vegetated shallow to stabilize bottom materials and decrease channel shoaling. The discharge of dredged or fill material may reduce the value of vegetated shallows as nesting, spawning, nursery, cover, and forage areas, as well as their value in protecting shorelines from erosion and wave actions. It may also encourage the growth of nuisance vegetation.

§ 230.44 Coral reefs.

(a) Coral reefs consist of the skeletal deposit, usually of calcareous or siliceous materials, produced by the vital activities of anthozoan polyps or other invertebrate organisms present in growing portions of the reef.

(b) Possible loss of values: The discharge of dredged or fill material can adversely affect colonies of reef building organisms by burying them, by releasing contaminants such as hydrocarbons into the water column, by reducing light penetration through the water, and by

increasing the level of suspended particulates. Coral organisms are extremely sensitive to even slight reductions in light penetration or increases in suspended particulates. These adverse effects will cause a loss of productive colonies which in turn provide habitat for many species of highly specialized aquatic organisms.

§ 230.45 Riffle and pool complexes.

(a) Steep gradient sections of streams are sometimes characterized by riffle and pool complexes. Such stream sections are recognizable by their hydraulic characteristics. The rapid movement of water over a coarse substrate in riffles results in a rough flow, a turbulent surface, and high dissolved oxygen levels in the water. Pools are deeper areas associated with riffles. Pools are characterized by a slower stream velocity, a steaming flow, a smooth surface, and a finer substrate. Riffle and pool complexes are particularly valuable habitat for fish and wildlife.

(b) Possible loss of values: Discharge of dredged or fill material can eliminate riffle and pool areas by displacement, hydrologic modification, or sedimentation. Activities which affect riffle and pool areas and especially riffle/pool ratios, may reduce the aeration and filtration capabilities at the discharge site and downstream, may reduce stream habitat diversity, and may retard repopulation of the disposal site and downstream waters through sedimentation and the creation of unsuitable habitat. The discharge of dredged or fill material which alters stream hydrology may cause scouring or sedimentation of riffles and pools. Sedimentation induced through hydrological modification or as a direct result of the deposition of unconsolidated dredged or fill material may clog riffle and pool areas, destroy habitats, and create anaerobic conditions. Eliminating pools and meanders by the discharge of dredged or fill material can reduce water holding capacity of streams and cause rapid runoff from a watershed. Rapid runoff can deliver large quantities of flood water in a short time to downstream areas resulting in the destruction of natural habitat, high property loss, and the need for further hydraulic modification.

Note.—Possible actions to minimize adverse impacts on site or material characteristics can be found in Subpart H.

Subpart F—Potential Effects on Human Use Characteristics

Note.—The effects described in this subpart should be considered in making the factual determinations and the findings of compliance or non-compliance in Subpart B.

§ 230.50 Municipal and private water supplies.

(a) Municipal and private water supplies consist of surface water or ground water which is directed to the intake of a municipal or private water supply system.

(b) Possible loss of values: Discharges can affect the quality of water supplier with respect to color, taste, odor, chemical content and suspended particulate concentration, in such a way as to reduce the fitness of the water for consumption. Water can be rendered unpalatable or unhealthy by the addition of suspended particulates, viruses and pathogenic organisms, and dissolved materials. The expense of removing such substances before the water is delivered for consumption can be high. Discharges may also affect the quantity of water available for municipal and private water supplies. In addition, certain commonly used water treatment chemicals have the potential for combining with some suspended or dissolved substances from dredged or fill material to form other products that can have a toxic effect on consumers.

§ 230.51 Recreational and commercial fisheries.

(a) Recreational and commercial fisheries consist of harvestable fish, crustaceans, shellfish, and other aquatic organisms used by man.

(b) Possible loss of values: The discharge of dredged or fill materials can affect the suitability of recreational and commercial fishing grounds as habitat for populations of consumable aquatic organisms. Discharges can result in the chemical contamination of recreational or commercial fisheries. They may also interfere with the reproductive success of recreational and commercially important aquatic species through disruption of migration and spawning areas. The introduction of pollutants at critical times in their life cycle may directly reduce populations of commercially important aquatic organisms or indirectly reduce them by reducing organisms upon which they depend for food. Any of these impacts can be of short duration or prolonged, depending upon the physical and chemical impacts of the discharge and the biological availability of contaminants to aquatic organisms.

**§ 230.52 Water-related recreation.**

(a) Water-related recreation encompasses activities undertaken for amusement and relaxation. Activities encompass two broad categories of use: consumptive, e.g., harvesting resources by hunting and fishing; and non-consumptive, e.g., canoeing and sight-seeing.

(b) Possible loss of values: One of the more important direct impacts of dredged or fill disposal is to impair or destroy the resources which support recreation activities. The disposal of dredged or fill material may adversely modify or destroy water use for recreation by changing turbidity, suspended particulates, temperature, dissolved oxygen, dissolved materials, toxic materials, pathogenic organisms, quality of habitat, and the aesthetic qualities of sight, taste, odor, and color.

**§ 230.53 Aesthetics.**

(a) Aesthetics associated with the aquatic ecosystem consist of the perception of beauty by one or a combination of the senses of sight, hearing, touch, and smell. Aesthetics of aquatic ecosystems apply to the quality of life enjoyed by the general public and property owners.

(b) Possible loss of values: The discharge of dredged or fill material can mar the beauty of natural aquatic ecosystems by degrading water quality, creating distracting disposal sites, inducing inappropriate development, encouraging unplanned and incompatible human access, and by destroying vital elements that contribute to the compositional harmony or unity, visual distinctiveness, or diversity of an area. The discharge of dredged or fill material can adversely affect the particular features, traits, or characteristics of an aquatic area which make it valuable to property owners. Activities which degrade water quality, disrupt natural substrate and vegetational characteristics, deny access to or visibility of the resource, or result in changes in odor, air quality, or noise levels may reduce the value of an aquatic area to private property owners.

**§ 230.54 Parks, national and historical monuments, national seashores, wilderness areas, research sites, and similar preserves.**

(a) These preserves consist of areas designated under Federal and State laws or local ordinances to be managed for their aesthetic, educational, historical, recreational, or scientific value.

(b) Possible loss of values: The discharge of dredged or fill material into such areas may modify the aesthetic,

educational, historical, recreational and/or scientific qualities thereby reducing or eliminating the uses for which such sites are set aside and managed.

Note.—Possible actions to minimize adverse impacts regarding site or material characteristics can be found in Subpart H.

**Subpart G—Evaluation and Testing****§ 230.60 General evaluation of dredged or fill material.**

The purpose of these evaluation procedures and the chemical and biological testing sequence outlined in § 230.61 is to provide information to reach the determinations required by § 230.11. Where the results of prior evaluations, chemical and biological tests, scientific research, and experience can provide information helpful in making a determination, these should be used. Such prior results may make new testing unnecessary. The information used shall be documented. Where the same information applies to more than one determination, it may be documented once and referenced in later determinations.

(a) If the evaluation under paragraph (b) indicates the dredged or fill material is not a carrier of contaminants, then the required determinations pertaining to the presence and effects of contaminants can be made without testing. Dredged or fill material is most likely to be free from chemical, biological, or other pollutants where it is composed primarily of sand, gravel, or other naturally occurring inert material. Dredged material so composed is generally found in areas of high current or wave energy such as streams with large bed loads or coastal areas with shifting bars and channels. However, when such material is discolored or contains other indications that contaminants may be present, further inquiry should be made.

(b) The extraction site shall be examined in order to assess whether it is sufficiently removed from sources of pollution to provide reasonable assurance that the proposed discharge material is not a carrier of contaminants. Factors to be considered include but are not limited to:

(1) Potential routes of contaminants or contaminated sediments to the extraction site, based on hydrographic or other maps, aerial photography, or other materials that show watercourses, surface relief, proximity to tidal movement, private and public roads, location of buildings, municipal and industrial areas, and agricultural or forest lands.

(2) Pertinent results from tests previously carried out on the material at the extraction site, or carried out on similar material for other permitted projects in the vicinity. Materials shall be considered similar if the sources of contamination, the physical configuration of the sites and the sediment composition of the materials are comparable, in light of water circulation and stratification, sediment accumulation and general sediment characteristics. Tests from other sites may be relied on only if no changes have occurred at the extraction sites to render the results irrelevant.

(3) Any potential for significant introduction of persistent pesticides from land runoff or percolation;

(4) Any records of spills or disposal of petroleum products or substances designated as hazardous under section 311 of the Clean Water Act (See 40 CFR 116);

(5) Information in Federal, State and local records indicating significant introduction of pollutants from industries, municipalities, or other sources, including types and amounts of waste materials discharged along the potential routes of contaminants to the extraction site; and

(6) Any possibility of the presence of substantial natural deposits of minerals or other substances which could be released to the aquatic environment in harmful quantities by man-induced discharge activities.

(c) To reach the determinations in § 230.11 involving potential effects of the discharge on the characteristics of the disposal site, the narrative guidance in Subparts C-F shall be used along with the general evaluation procedure in § 230.60 and, if necessary, the chemical and biological testing sequence in § 230.61. Where the discharge site is adjacent to the extraction site and subject to the same sources of contaminants, and materials at the two sites are substantially similar, the fact that the material to be discharged may be a carrier of contaminants is not likely to result in degradation of the disposal site. In such circumstances, when dissolved material and suspended particulates can be controlled to prevent carrying pollutants to less contaminated areas, testing will not be required.

(d) Even if the § 230.60(b) evaluation (previous tests, the presence of polluting industries and information about their discharge or runoff into waters of the U.S., bioinventories, etc.) leads to the conclusion that there is a high probability that the material proposed for discharge is a carrier of contaminants, testing may not be necessary if constraints are available to

reduce contamination to acceptable levels within the disposal site and to prevent contaminants from being transported beyond the boundaries of the disposal site, if such constraints are acceptable to the permitting authority and the Regional Administrator, and if the potential discharger is willing and able to implement such constraints. However, even if tests are not performed, the permitting authority must still determine the probable impact of the operation on the receiving aquatic ecosystem. Any decision not to test must be explained in the determinations made under § 230.11.

**§ 230.61 Chemical, biological, and physical evaluation and testing.**

*Note.*—The Agency is today proposing revised testing guidelines. The evaluation and testing procedures in this section are based on the 1976 § 404(b)(1) Interim Final Guidelines and shall remain in effect until the revised testing guidelines are published as final regulations.

(a) No single test or approach can be applied in all cases to evaluate the effects of proposed discharges of dredged or fill materials. This section provides some guidance in determining which test and/or evaluation procedures are appropriate in a given case. Interim guidance to applicants concerning the applicability of specific approaches or procedures will be furnished by the permitting authority.

(b) *Chemical-biological interactive effects.* The principal concerns of discharge of dredged or fill material that contain contaminants are the potential effects on the water column and on communities of aquatic organisms.

(1) *Evaluation of chemical-biological interactive effects.* Dredged or fill material may be excluded from the evaluation procedures specified in paragraphs (b)(2) and (3) of this section if it is determined, on the basis of the evaluation in § 230.60, that the likelihood of contamination by contaminants is acceptably low, unless the permitting authority, after evaluating and considering any comments received from the Regional Administrator, determines that these procedures are necessary. The Regional Administrator may require, on a case-by-case basis, testing approaches and procedures by stating what additional information is needed through further analyses and how the results of the analyses will be of value in evaluating potential environmental effects.

If the General Evaluation indicates the presence of a sufficiently large number of chemicals to render impractical the identification of all contaminants by chemical testing, information may be

obtained from bioassays in lieu of chemical tests.

(2) *Water column effects.* (i) Sediments normally contain constituents that exist in various chemical forms and in various concentrations in several locations within the sediment. An elutriate test may be used to predict the effect on water quality due to release of contaminants from the sediment to the water column. However, in the case of fill material originating on land which may be a carrier of contaminants, a water leachate test is appropriate.

(ii) Major constituents to be analyzed in the elutriate are those deemed critical by the permitting authority, after evaluating and considering any comments received from the Regional Administrator, and considering results of the evaluation in § 230.60. Elutriate concentrations should be compared to concentrations of the same constituents in water from the disposal site. Results should be evaluated in light of the volume and rate of the intended discharge, the type of discharge, the hydrodynamic regime at the disposal site, and other information relevant to the impact on water quality. The permitting authority should consider the mixing zone in evaluating water column effects. The permitting authority may specify bioassays when such procedures will be of value.

(3) *Effects on benthos.* The permitting authority may use an appropriate benthic bioassay (including bioaccumulation tests) when such procedures will be of value in assessing ecological effects and in establishing discharge conditions.

(c) *Procedure for comparison of sites.*

(1) When an inventory of the total concentration of contaminants would be of value in comparing sediment at the dredging site with sediment at the disposal site, the permitting authority may require a sediment chemical analysis. Markedly different concentrations of contaminants between the excavation and disposal sites may aid in making an environmental assessment of the proposed disposal operation. Such differences should be interpreted in terms of the potential for harm as supported by any pertinent scientific literature.

(2) When an analysis of biological community structure will be of value to assess the potential for adverse environmental impact at the proposed disposal site, a comparison of the biological characteristics between the excavation and disposal sites may be required by the permitting authority. Biological indicator species may be useful in evaluating the existing degree of stress at both sites. Sensitive species

representing community components colonizing various substrate types within the sites should be identified as possible bioassay organisms if tests for toxicity are required. Community structure studies should be performed only when they will be of value in determining discharge conditions. This is particularly applicable to large quantities of dredged material known to contain adverse quantities of toxic materials. Community studies should include benthic organisms such as microbiota and harvestable shellfish and finfish. Abundance, diversity, and distribution should be documented and correlated with substrate type and other appropriate physical and chemical environmental characteristics.

(d) *Physical tests and evaluation.* The effect of a discharge of dredged or fill material on physical substrate characteristics at the disposal site, as well as on the water circulation, fluctuation, salinity, and suspended particulates content there, is important in making factual determinations in § 230.11. Where information on such effects is not otherwise available to make these factual determinations, the permitting authority shall require appropriate physical tests and evaluations as are justified and deemed necessary. Such tests may include sieve tests, settleability tests, compaction tests, mixing zone and suspended particulate plume determinations, and site assessments of water flow, circulation, and salinity characteristics.

**Subpart H—Actions To Minimize Adverse Effects**

*Note.*—There are many actions which can be undertaken in response to § 203.10(d) to minimize the adverse effects of discharges of dredged or fill material. Some of these, grouped by type of activity, are listed in this subpart.

**§ 230.70 Actions concerning the location of the discharge.**

The effects of the discharge can be minimized by the choice of the disposal site. Some of the ways to accomplish this are by:

- (a) Locating and confining the discharge to minimize smothering of organisms;
- (b) Designing the discharge to avoid a disruption of periodic water inundation patterns;
- (c) Selecting a disposal site that has been used previously for dredged material discharge;
- (d) Selecting a disposal site at which the substrate is composed of material similar to that being discharged, such as discharging sand on sand or mud on mud;

(e) Selecting the disposal site, the discharge point, and the method of discharge to minimize the extent of any plume;

(f) Designing the discharge of dredged or fill material to minimize or prevent the creation of standing bodies of water in areas of normally fluctuating water levels, and minimize or prevent the drainage of areas subject to such fluctuations.

**§ 230.71 Actions concerning the material to be discharged.**

The effects of a discharge can be minimized by treatment of, or limitations on the material itself, such as:

(a) Disposal of dredged material in such a manner that physiochemical conditions are maintained and the potency and availability of pollutants are reduced.

(b) Limiting the solid, liquid, and gaseous components of material to be discharged at a particular site;

(c) Adding treatment substances to the discharge material;

(d) Utilizing chemical flocculants to enhance the deposition of suspended particulates in diked disposal areas.

**§ 230.72 Actions controlling the material after discharge.**

The effects of the dredged or fill material after discharge may be controlled by:

(a) Selecting discharge methods and disposal sites where the potential for erosion, slumping or leaching of materials into the surrounding aquatic ecosystem will be reduced. These sites or methods include, but are not limited to:

(1) Using containment levees, sediment basins, and cover crops to reduce erosion;

(2) Using lined containment areas to reduce leaching where leaching of chemical constituents from the discharged material is expected to be a problem;

(b) Capping in-place contaminated material with clean material or selectively discharging the most contaminated material first to be capped with the remaining material;

(c) Maintaining and containing discharged material properly to prevent point and nonpoint sources of pollution;

(d) Timing the discharge to minimize impact, for instance during periods of unusual high water flows, wind, wave, and tidal actions.

**§ 230.73 Actions affecting the method of dispersion.**

The effects of a discharge can be minimized by the manner in which it is dispersed, such as:

(a) Where environmentally desirable, distributing the dredged material widely in a thin layer at the disposal site to maintain natural substrate contours and elevation;

(b) Orienting a dredged or fill material mound to minimize undesirable obstruction to the water current or circulation pattern, and utilizing natural bottom contours to minimize the size of the mound;

(c) Using silt cretates or other appropriate methods to confine suspended particulate/turbidity to a small area where settling or removal can occur;

(d) Making use of currents and circulation patterns to mix, disperse and dilute the discharge;

(e) Minimizing water column turbidity by using a submerged diffuser system. A similar effect can be accomplished by submerging pipeline discharges or otherwise releasing materials near the bottom;

(f) Selecting sites or managing discharges to confine and minimize the release of suspended particulates to give decreased turbidity levels and to maintain light penetration for organisms;

(g) Setting limitations on the amount of material to be discharged per unit of time or volume of receiving water.

**§ 230.74 Actions related to technology.**

Discharge technology should be adapted to the needs of each site. In determining whether the discharge operation sufficiently minimizes adverse environmental impacts, the applicant should consider:

(a) Using appropriate equipment or machinery, including protective devices, and the use of such equipment or machinery in activities related to the discharge of dredged or fill material;

(b) Employing appropriate maintenance and operation on equipment or machinery, including adequate training, staffing, and working procedures;

(c) Using machinery and techniques that are especially designed to reduce damage to wetlands. This may include machines equipped with devices that scatter rather than mound excavated materials, machines with specially designed wheels or tracks, and the use of mats under heavy machines to reduce wetland surface compaction and rutting;

(d) Designing access roads and channel spanning structures using culverts, open channels, and diversions that will pass both low and high water flows, accommodate fluctuating water levels, and maintain circulation and faunal movement;

(e) Employing appropriate machinery and methods of transport of the material for discharge.

**§ 230.75 Actions affecting plant and animal populations.**

Minimization of adverse effects on populations of plants and animals can be achieved by:

(a) Avoiding changes in water current and circulation patterns which would interfere with the movement of animals;

(b) Selecting sites or managing discharges to prevent or avoid creating habitat conducive to the development of undesirable predators or species which have a competitive edge ecologically over indigenous plants or animals;

(c) Avoiding sites having unique habitat or other value, including habitat of threatened or endangered species;

(d) Using planning and construction practices to institute habitat development and restoration to produce a new or modified environmental state of higher ecological value by displacement of some or all of the existing environmental characteristics. Habitat development and restoration techniques can be used to minimize adverse impacts and to compensate for destroyed habitat. Use techniques that have been demonstrated to be effective in circumstances similar to those under consideration wherever possible. Where proposed development and restoration techniques have not yet advanced to the pilot demonstration stage, initiate their use on a small scale to allow corrective action if unanticipated adverse impacts occur.

(e) Timing discharge to avoid spawning or migration seasons and other biologically critical time periods;

(f) Avoiding the destruction of remnant natural sites within areas already affected by development.

**§ 230.76 Actions affecting human use.**

Minimization of adverse effects on human use potential may be achieved by:

(a) Selecting discharge sites and following discharge procedures to prevent or minimize any potential damage to the aesthetically pleasing features of the aquatic site (e.g. viewscapes), particularly with respect to water quality;

(b) Selecting disposal sites which are not valuable as natural aquatic areas;

(c) Timing the discharge to avoid the seasons or periods when human recreational activity associated with the aquatic site is most important;

(d) Following discharge procedures which avoid or minimize the disturbance of aesthetic features of an aquatic site or ecosystem.

# would you like to know

If any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the LSA (List of CFR Sections Affected), the "Federal Register Index," or both.

**LSA (List of CFR Sections Affected)**  
**\$10.00**  
per year

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

**Federal Register Index** **\$8.00**  
per year

Indexes covering the contents of the daily Federal Register are issued monthly in cumulative form. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR indexes and the LSA (List of CFR Sections Affected) will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:  
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed \$\_\_\_\_\_ for \_\_\_\_\_ subscription(s) to the publications checked below:

..... LSA (LIST OF CFR SECTIONS AFFECTED) (\$10.00 a year domestic; \$12.50 foreign)

..... FEDERAL REGISTER INDEX (\$8.00 a year domestic; \$10.00 foreign)

Name \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Make check payable to the Superintendent of Documents

(e) Selecting sites that will not be detrimental or increase incompatible human activity, or require the need for frequent dredge or fill maintenance activity in remote fish and wildlife areas:

(f) Locating the disposal site outside of the vicinity of a public water supply intake.

**§ 230.77 Other actions.**

(a) In the case of fills, controlling runoff and other discharges from activities to be conducted on the fill;

(b) In the case of dams, designing water releases to accommodate the needs of fish and wildlife.

(c) In dredging projects funded by Federal agencies other than the Corps of Engineers, maintain desired water quality of the return discharge through agreement with the Federal funding authority on scientifically defensible pollutant concentration levels in addition to any applicable water quality standards.

(d) When a significant ecological change in the aquatic environment is proposed by the discharge of dredged or fill material, the permitting authority should consider the ecosystem that will be lost as well as the environmental benefits of the new system.

**Subpart I—Planning To Shorten Permit Processing Time**

**§ 230.80 Advanced identification of disposal areas.**

(a) Consistent with these Guidelines, EPA and the permitting authority, on their own initiative or at the request of any other party and after consultation with any affected State that is not the permitting authority, may identify sites which will be considered as:

(1) Possible future disposal sites, including existing disposal sites and non-sensitive areas; or

(2) Areas generally unsuitable for disposal site specification:

(b) The identification of any area as a possible future disposal site should not be deemed to constitute a permit for the discharge of dredged or fill material within such area or a specification of a disposal site. The identification of areas that generally will not be available for disposal site specification should not be deemed as prohibiting applications for permits to discharge dredged or fill material in such areas. Either type of identification constitutes information to facilitate individual or General permit application and processing.

(c) An appropriate public notice of the proposed identification of such areas shall be issued:

(d) To provide the basis for advanced identification of disposal areas, and areas unsuitable for disposal, EPA and the permitting authority shall consider the likelihood that use of the area in question for dredged or fill material disposal will comply with these Guidelines. To facilitate this analysis, EPA and the permitting authority should review available water resources management data including data available from the public, other Federal and State agencies, and information from approved Coastal Zone Management programs and River Basin Plans.

(e) The permitting authority should maintain a public record of the identified areas and a written statement of the basis for identification.

(FR Doc. 80-40071 Filed 12-23-80; 8:48 am)  
BILLING CODE 8340-01-0

# **Letter F1, U.S. Department of the Army, May 28, 2004**

## **Response to Comment F1-1**

During preliminary and final engineering, VTA would develop designs to avoid or minimize impacts on waters of the United States, where possible. If construction of the project involves the discharge of fill material into waters of the United States, VTA would coordinate with the U.S. Army Corps of Engineers (Corps) and other regulatory agencies on these activities. However, at its meeting on August 5, 2004, the Downtown East Valley (DTEV) PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and State Route (SR) 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. The deferred segment includes both Coyote and Canoas Creeks. Therefore, the recommended project is only near Silver and Thompson Creeks.

## **Response to Comment F1-2**

VTA acknowledges the Corps jurisdiction over all proposed discharges of dredged or fill material into waters of the United States.

## **Response to Comment F1-3**

VTA acknowledges that the Light Rail Alternative may require work within the Corps' jurisdiction and that a permit may be required.

## **Response to Comment F1-4**

VTA acknowledges that if an individual permit is required, VTA engineers would need to demonstrate that there are no practicable alternatives to the discharge of fill material into waters of the United States.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX  
75 Hawthorne Street  
San Francisco, CA 94105-3901

VTA  
ENV. ANALYSIS

2004 JUL -2 P 2:03

F2

June 25, 2004

Mr. Jerome Wiggins  
Office of Planning and Program Development  
United States Department of Transportation  
Federal Transit Administration, Region IX  
201 Mission Street  
Suite 2210  
San Francisco, CA 94105

Subject: Draft Environmental Impact Statement/Draft Environmental Impact Report for the  
Capitol Expressway Corridor, Santa Clara County, California [CEQ# 040218]

Dear Mr. Wiggins:

The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act (CAA).

Based on the procedures EPA uses to evaluate the potential effects of proposed actions and the adequacy of the information in the Draft Environmental Impact Statement/Draft Environmental Impact Report (Draft EIS), the project will be listed in the *Federal Register* in the category EC-2 (Environmental Concerns, Insufficient Information). This rating means that the review identified environmental impacts that should be avoided in order to fully protect the environment, and the Draft EIS does not contain sufficient information to thoroughly assess environmental impacts that should be avoided to fully protect the environment (see enclosed "Summary of Rating Definitions"). Our concerns are based on (1) the absence of a justification for the elimination of alternatives, (2) transportation and air quality impacts, (3) the absence of an analysis of the impacts of proposed light rail facilities and alignment options, and (4) the cumulative impacts to energy resources.

We appreciate the opportunity to review this draft. When the Final EIS is completed, please send two copies to me at the address above (Mail Code: CMD-2). If you have any questions or comments, please feel free to contact me or Connell Dunning, the primary staff person working on this project. Connell Dunning can be reached at 415-947-4161 or [dunning.connell@epa.gov](mailto:dunning.connell@epa.gov).

Sincerely,



*lh* Lisa Hanf, Manager  
Federal Activities Office

**Attachments:**

**Summary of EPA Rating Definitions**  
**EPA's Detailed Comments**

**cc:**

**Mr. Thomas Fitzwater, Santa Clara Valley Transportation Authority**

**Alternatives Considered but Rejected**

The Draft Environmental Impact Statement (Draft EIS) indicates that a Major Investment Study (MIS) was initiated in 1999 to study transportation needs in the project area and that the Santa Clara Valley Transportation Authority (VTA) Board of Directors approved a Preferred Investment Strategy in 2000 for Light Rail Transit to serve the Capitol Expressway Corridor.

The Draft EIS states that nine alternatives, the no-project alternative, and a Transportation System Management alternative were advanced for further study in 1999 because they “were supported by the community, provided a high level of connectivity to the VTA route network, and had not exhibited any fatal flaws in a preliminary environmental evaluation (p. 3-30).” The Draft EIS provides justification for eliminating variations of light rail alternatives, but provides no justification for the elimination of the full range of other previously studied alternatives. Previously considered alternatives included express bus service to serve employment centers in north San Jose, Santa Clara, Sunnyvale, and Mountain View and to operate along Capitol Expressway Bus Rapid Transit to Evergreen Valley College. The EIS should “rigorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated (40 CFR Part 1502.14).”

Recommendations:

The Final EIS should provide a justification for eliminating the range of alternatives analyzed through the 1999 MIS as well as other alternatives referenced in “Section 3.5.1 Prior Studies” (p. 3-30). Include the justification for eliminating continued use of High Occupancy Vehicle (HOV) lanes and/or additional express bus service. Include a summary of any previous analysis of traffic impacts resulting from the eliminated alternatives, especially in light of the fact that construction of the proposed light rail will increase congestion levels and reduce levels of service throughout the corridor.

F2-1

F2-2

**Transportation Impacts**

The 2001 Regional Transportation Plan, which includes a light rail alternative and was determined by Metropolitan Transportation Commission to be a conforming plan, identifies a management objective of completing the gaps in the existing HOV lane system to facilitate express bus service. The proposed project will remove existing HOV lanes in order to construct light rail in the median of Capitol Expressway. As a result, the Levels of Service (LOS) of six interchanges will be significantly lowered. No mitigation is available to reduce the impacts to less than significant for two of those intersections.

Recommendations:

Disclose the impacts to both the regional and local transportation network from removing a segment of the regional HOV network. Disclose the long-term impacts to existing and future express bus service, and provide an estimate of travel time increase for express bus users and HOV lane users. Disclose how the proposed elimination of the HOV segment will affect the conformity finding of the Regional Transportation Plan.

F2-3

F2-4

F2-5

**Air Quality Impacts**

Santa Clara County is designated as nonattainment for the federal 8-hour standard for ozone and is a maintenance area for the federal standards for carbon monoxide. It is a nonattainment area for state standards for ozone and particulate matter under ten microns (PM<sub>10</sub>). The National Ambient Air Quality Standard (NAAQS) for ozone was revised on July 18, 1997 (62 FR 38856) by promulgating an ozone standard of 0.08 parts per million (ppm) as measured over an 8-hour period. EPA's final rule designating non-attainment areas under the 8-hour NAAQS was published in the *Federal Register* on April 30, 2004. On that date, EPA announced the designation of the project area as nonattainment for the new national 8-hour ozone standard, effective June 15, 2004. EPA intends to revoke the 1-hour ozone standard on June 15, 2005. In accordance with Clean Air Act Section 176(c)(6), the conformity requirements for projects located within the newly designated ozone non-attainment areas do not apply until one year from the effective date of the area's designation.

Recommendations:

Correct Section 4-3 to disclose that the project area is designated as nonattainment for the federal 8-hour ozone standard. Discuss the applicability of this standard to the proposed project. Update Section 4-3 and Table 4.3-2 to include any monitoring data available for the new federal 8-hour ozone standard.

F2-6

F2-7

The Draft EIS identifies thresholds for significance with regard to Bay Area Air Quality Management District and states that the proposed project would result in a significant impact on air quality if it would result in "reduction of roadway LOS of intersections operating at LOS E or F" or "reduction of intersection LOS to E or F (p. 4.3-10)." The Transportation Impacts Section identifies reduction of service levels meeting this criteria in six intersections, two of which have no feasible mitigation provided (Table 4.2-16 through Table 4.2-19); however, the Air Quality Section identifies that no adverse impacts to Air Quality would result.

Recommendation:

Revise the Air Quality section to reflect that this project will result in significant air quality impacts, according to the thresholds of significance presented on page 4.3-10, and identify and discuss mitigation as appropriate.

F2-8

Table 4.3-6 indicates the projections for vehicle miles traveled (VMT) for each alternative. The analysis of potential net increases in emissions of reactive organic gases, oxides of nitrogen, and PM<sub>10</sub> is directly related to the VMT projections presented. The DEIS is unclear in its presentation of the likelihood that a percentage of current bus riders and HOV lane users will not chose to utilize the proposed light rail system and may chose other modes, including single occupant vehicles. (The assumption that all current HOV users will switch their mode choice to light rail results in a more generous estimate of the reduction in existing VMT).

**Recommendation:**

Clarify the assumptions regarding the determination of (1) the number of HOV lane users who will switch modes of travel to the proposed light rail, and (2) the number HOV lane users who will choose alternate routes within the area once HOV lanes are removed. Clarify whether the projections for VMT and mobile source emissions presented in Table 4.3-4, Table 4.3-5, and Table 4.3-6 reflect an estimate of HOV lane users that will not utilize the proposed light rail. Update the estimates of emissions of reactive gases, oxides of nitrogen and PM<sub>10</sub> if necessary.

F2-9  
F2-10  
F2-11

**Light Rail Facilities and Options**

The Draft EIS states that there are three potential sites, ranging from 17,000 square feet to 86,000 square feet in size, being analyzed for a vehicle storage facility (p. 3-26). The three sites would each house 17 vehicles and would include buildings of (1)1,000 square feet, (2) 6,700 square feet, or (3) 5,200 square feet. The Draft EIS does not disclose the environmental impacts resulting from construction and operation of a vehicle storage facility at each location, and provides no information to aide in determining which location would have the fewest environmental impacts.

**Recommendations:**

Disclose the direct, indirect, and cumulative impacts anticipated from the construction and operation of a vehicle storage facility built at each of the three locations provided. Address the impacts associated with each facility option and the need for different sized facilities requiremnts for different locations.

F2-12

The Draft EIS indicates that the Light Rail Alternative will include the expansion of one parking lot and the construction of another long-term parking lot at Ocala Avenue. The Draft EIS states that all the parking demand can be met at the Eastridge park-and-ride lot, yet several other park-and-ride options are being analyzed. Chapter 4 of the Draft EIS does analyze impacts anticipated from the construction and operation of the new parking facilities.

**Recommendations:**

Disclose the direct, indirect, and cumulative impacts anticipated from the construction

F2-13

and operation of the proposed parking lots. Discuss who the park-and-ride facilities would serve and consider whether there is a disproportionate impact to the surrounding community from the park-and-ride lots. Identify methods to reduce non-point source pollution from the parking facilities, such as specific landscape design and techniques that will reduce stormwater runoff and provide on-site treatment.

F2-14

F2-15

The Draft EIS states that the Light Rail Alternative has station options of at-grade, aerial, and depressed open-air platforms and either aerial, at-grade, or tunnel alignment options. The impact analysis section does not clearly identify the impacts to each environmental resource from at-grade, aerial, or depressed open-air platforms or from aerial, at-grade, or tunneling options. For example, in the impacts to Water Quality section the only information disclosed regarding potential impacts of the above-listed options is a statement that “these options could adversely affect hydrology and water quality (p 4.12-19).” Adverse impacts anticipated from each option should be disclosed and appropriate mitigation measures proposed.

**Recommendations:**

Disclose the direct, indirect, and cumulative impacts related to aerial structures and tunneling facilities. Identify mitigation measures that are correlated with estimated impacts from each station and alignment option.

F2-16

**Energy Resources**

The Light Rail Alternative is expected to increase annual electricity use by VTA and decrease use of diesel fuel and gasoline. Successful implementation of the proposed project depends on the availability of sufficient sources of energy. Information presented in the Draft EIS identifies that future supply is expected to be adequate to meet growth in demand due to the Light Rail Alternative “if the current trend toward increased transmission capacity continues.” The energy analysis did not take into consideration the cumulative impact of other planned projects that will also increase demand on the existing energy supply.

**Recommendations:**

Analyze whether existing and planned facilities will provide adequate power supply for the proposed project and the region. Include a cumulative impact analysis of the proposed project and other reasonably foreseeable projects that will also increase the demand on the regional energy supply. Some reasonably foreseeable projects include: (1) the extension of Bay Area Rapid Transit to Warm Springs and/or to San Jose and Santa Clara, (2) the electrification of Caltrain, (3) the development of a future High Speed Train System, and (4) other light rail extensions planned in the region.

F2-17

F2-18

cc:

Mr. Thomas Fitzwater  
Environmental Planning Manager  
Santa Clara Valley transportation Authority  
3331 North First Street  
San Jose, CA 95134-1906

# SUMMARY OF EPA RATING DEFINITIONS

This rating system was developed as a means to summarize EPA's level of concern with a proposed action. The ratings are a combination of alphabetical categories for evaluation of the environmental impacts of the proposal and numerical categories for evaluation of the adequacy of the EIS.

## ENVIRONMENTAL IMPACT OF THE ACTION

### *"LO" (Lack of Objections)*

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

### *"EC" (Environmental Concerns)*

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

### *"EO" (Environmental Objections)*

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

### *"EU" (Environmentally Unsatisfactory)*

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

## ADEQUACY OF THE IMPACT STATEMENT

### *Category 1" (Adequate)*

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

### *"Category 2" (Insufficient Information)*

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analysed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

### *"Category 3" (Inadequate)*

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analysed in the draft EIS, which should be analysed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\*From EPA Manual 1640, "Policy and Procedures for the Review of Federal Actions Impacting the Environment."



# Letter F2, U.S. Environmental Protection Agency, June 25, 2004

## Response to Comment F2-1

Volume I, Chapter 3, Alternatives Considered, Section 3.5.1, Prior Studies, has been revised to provide a complete discussion of the alternatives analysis process that began with the Downtown East Valley.

*In 1998, VTA initiated a Major Investment Study (MIS) according to Federal guidance. The purpose of the Downtown East Valley MIS was to identify transportation needs in the study area and develop a strategy for investing in VTA's transit system to address those needs. The ultimate goal of the MIS was approval by the VTA Board of Directors of a Preferred Investment Strategy that outlined a transit improvement plan that is both achievable and has widespread support within the community. The MIS study area encompassed 30 square miles in the southeastern portion of San Jose and evaluated 16 build alternatives, as described below.*

**Table 3.5-1. Preliminary List of Candidate Conceptual Alternatives**

<i>Alternative</i>	<i>Mode and Location</i>
1**	<i>Light Rail Transit (LRT) on Santa Clara/Alum Rock from Downtown to Capitol (Avenue) LRT.</i>
2**	<i>LRT on Capitol Expressway from terminus of Capitol (Avenue) LRT to Eastridge Mall.</i>
3**	<i>LRT on Capitol Expressway from Eastridge Mall to Guadalupe LRT (Capitol Station).</i>
4**	<i>LRT on 10<sup>th</sup>/11th Streets and Senter Road from Downtown to Tully Road. [Modified by the PAB on December 16, 1999, as follows: LRT on 2<sup>nd</sup>/3<sup>rd</sup>, 5<sup>th</sup>, and 7<sup>th</sup> or 10<sup>th</sup> Streets from Downtown to County Fairgrounds.]</i>
5	<i>LRT on 10<sup>th</sup>/11th Streets, Senter and Tully Roads from Downtown to Eastridge Mall.</i>
6	<i>LRT on 10<sup>th</sup>/11th Streets and Keyes/Story Road from Downtown to terminus of Capitol (Avenue) LRT.</i>
7	<i>LRT on Alum Rock and White/San Felipe Road from Capitol (Avenue) LRT to Evergreen Valley College.</i>
8**	<i>Busway/HOV lanes on Highway 101 for Express Bus Service from the Alum Rock, Capitol Eastside and Evergreen study area neighborhoods to "Golden Triangle" employment centers.</i>
9	<i>Busway/HOV lanes on Capitol Expressway for Express Bus Service from Eastridge Mall to Guadalupe LRT (Capitol Station).</i>

<i>Alternative</i>	<i>Mode and Location</i>
10**	<i>Busway/HOV lanes on Capitol Expressway from terminus of Capitol (Avenue) LRT to Eastridge Mall and Bus Rapid Transit (BRT) features on Quimby and White Roads from Eastridge Mall to Evergreen Valley College.</i>
11**	<i>BRT on Santa Clara/Alum Rock, King, Tully and White/San Felipe Roads from Downtown to Evergreen Valley College. [Modified by the PAB on December 16, 1999, as follows: BRT on Santa Clara/Alum Rock from Downtown to White Road, and along King, Tully and White/San Felipe Roads to Evergreen Valley College.]</i>
12	<i>BRT on Santa Clara/Alum Rock and White/San Felipe Road from Downtown to Evergreen Valley College.</i>
13**	<i>BRT on 10<sup>th</sup>/11th Streets, Senter Road and Tully Road from Downtown to Eastridge Mall.</i>
14	<i>BRT on 10<sup>th</sup>/11th Streets and Keyes/Story Road from Downtown to terminus of Capitol (Avenue) LRT.</i>
15**	<i>BRT on Monterey Highway from Downtown to Guadalupe LRT (Santa Teresa Station).</i>
16**	<i>Transportation System Management (TSM) improvements throughout study area including more frequent bus services and improved intersection signalization.</i>
17**	<i>No project.</i>

*\*\* The alternative was carried forward for further analysis.*

*Source: Downtown/East Valley Major Investment Study, Project Summary Report, December 2000.*

*Alternatives 5, 6, 7, 9, 12 and 14 were not recommended for further detailed analysis and eliminated for the following reasons:*

**Table 3.5-2. Alternatives Eliminated from Further Detailed Analysis**

<i>Alternative</i>	<i>Mode and Location</i>
5	<p><i>LRT on 10<sup>th</sup>/11th Streets, Senter and Tully Roads from Downtown to Eastridge Mall.</i></p> <p><i>This alternative is very similar to Alternative 4, but extends light rail to Eastridge Mall along Tully Road rather than terminating at the County Fairgrounds property. Alternative 5 provides a relatively good degree of connectivity to the existing and planned rapid transit network. Even though existing ridership in the corridor is relatively low among study area corridors, future development and redevelopment could generate moderate ridership. However, there appears to be limited support for this option, and public opposition has been voiced regarding construction of an elevated guideway along Tully Road. Because of the high existing traffic volumes and constrained right-of-way on Tully Road, the elevated guideway on Tully is viewed as a</i></p>

<i>Alternative</i>	<i>Mode and Location</i>
	<i>necessary element of this alternative. The elevated guideway would also result in a very high capital cost for this alternative. Therefore, carrying Alternative 5 forward did not appear warranted.</i>
6	<p><i>LRT on 10<sup>th</sup>/11th Streets and Keyes/Story Road from Downtown to terminus of Capitol (Avenue) LRT</i></p> <p><i>Alternative 6 is similar to Alternative 5 except that the alignment uses Story Road rather than Tully Road as the east/west connection. While this alternative generally meets the goals of the project, concerns have been expressed that Story Road is necessary for automobile traffic without sufficient right-of-way to accommodate LRT. In addition, little community support has been expressed for this alternative. Therefore, carrying Alternative 6 forward did not appear warranted.</i></p>
7	<p><i>LRT on Alum Rock and White/San Felipe Road from Capitol (Avenue) LRT to Evergreen Valley College</i></p> <p><i>Alternative 7 extends light rail along Alum Rock to White Road, and continues south along White/San Felipe Roads to Evergreen Valley College. It would provide little additional benefit over Alternative 1 in terms of connectivity to the existing and planned light rail network given the additional cost of extending LRT east to White/San Felipe Road. Existing transit ridership along White/San Felipe falls in the low- to mid-range. Future development along the corridor is expected, but not at the densities that would generate sufficient ridership for a light rail investment. In addition, there was little community support for this corridor as a light rail corridor. Therefore, carrying Alternative 7 forward did not appear warranted.</i></p>
9	<p><i>Busway/HOV lanes on Capitol Expressway for Express Bus Service from Eastridge Mall to Guadalupe LRT (Capitol Station)</i></p> <p><i>Alternative 9 would construct HOV lanes on Capitol Expressway from Silver Creek Road to State Route 87. This option provides a high degree of connectivity to the existing and planned rapid transit network. While providing express bus service in this corridor has received support, there was community concern regarding the addition of HOV lanes to Capitol Expressway between US 101 and SR 87. As a result, it was recommended that Alternative 9 be dropped from further consideration, but that express bus service traversing Capitol Expressway be added to Alternative 16 (Transportation System Management).</i></p>
12	<p><i>BRT on Santa Clara/Alum Rock and White/San Felipe Road from Downtown to Evergreen Valley College</i></p> <p><i>Alternative 12 provides a high degree of connectivity to the existing and planned rapid transit network along the Santa Clara Street/Alum Rock Avenue segment. Existing transit ridership along White/San Felipe falls in the low- to mid-range. Future development along the corridor is expected, but not at the densities that would generate sufficient ridership for major bus rapid transit investments. The Santa Clara Street/Alum Rock Avenue portion of this option has received significant support</i></p>

<i>Alternative</i>	<i>Mode and Location</i>
	<i>during public outreach while the White/San Felipe road portion of the alignment has received limited support. The project team did not recommend carrying Alternative 12 forward due to insufficient ridership and community support; however, it was recommended that Alternative 11 be modified to include an extension of BRT investments along Alum Rock Avenue to White Road.</i>
14	<i>BRT on 10<sup>th</sup>/11th Streets and Keyes/Story Road from Downtown to terminus of Capitol (Avenue) LRT</i>  <i>Alternative 14 generally meets the identified goals of the project although it has received very little support during public outreach. Both Alternatives 11 and 13 were considered better choices for serving the study area with bus rapid transit (BRT) improvements since Alternative 11 would serve an existing major transit corridor and Alternative 13 would serve major trip generators, such as Downtown San Jose, the new City Hall, San Jose State University, Kelly Park, the San Jose Municipal Ballpark, and Eastridge Shopping Center; therefore, carrying Alternative 14 forward did not appear warranted.</i>

*Source: Downtown/East Valley Major Investment Study, Project Summary Report, December 2000.*

*Options 1, 2, 3, 4, 8, 10, 11, 13, 15, 16, and 17 were carried forward for further study as they demonstrated the following:*

- *Medium to high level of connectivity to VTA's rapid transit network*
- *Medium to high level of existing transit ridership or existing or future land uses that are of the density, type and mixture to support a major transit investment*
- *Served high commute corridor*
- *Involved no irreconcilable environmental issues*
- *General support in the community and among public officials*

*These options best met both the goals and screening criteria established for the corridor. Alternatives 16 (TSM) and 17 (No Project) were included as required under federal and state planning and/or environmental guidelines and to serve as a basis of comparison against the "build alternatives."*

### **Alternatives Considered in the Capitol Expressway Corridor**

*The Downtown East Valley MIS encompasses 30 square miles in southeastern San Jose and included the Santa Clara/Alum Rock, Capitol Expressway, and Monterey Highway Corridors. As result, only the following alternatives were considered in the Capitol Expressway Corridor:*

- *Alternative 2(a): LRT on Capitol Expressway from the terminus of the Capitol Line to Eastridge Mall (primarily at-grade)*

- *Alternative 2(b): LRT on Capitol Expressway from the terminus of the Capitol Line to Eastridge Mall (primarily on elevated structure)*
- *Alternative 3: LRT on Capitol Expressway from Eastridge Mall to the Guadalupe*
- *Alternative 8: Express Bus service using HOV lanes from the Alum Rock, Capitol-Eastside and Evergreen study area neighborhoods to “Golden Triangle” employment centers*
- *Alternative 10: Express Bus service using HOV lanes on Capitol Expressway from the terminus of the Capitol LRT Line to Eastridge Mall and BRT features on Quimby and White Roads from Eastridge Mall to Evergreen Valley College*

*The remaining options (Alternatives 1, 4, 11, and 13) are either being evaluated for either the Santa Clara/Alum Rock Corridor environmental document or the Monterey Highway Corridor Study.*

### **Key Findings**

*The table below indicates the results of the evaluation for six key performance measures.*

**Table 3.5-3. Key Performance Measures for Alternatives Considered in MIS**

<i>Alternative</i>	<i>Total Riders</i>	<i>New Riders</i>	<i>Total Households HH</i>	<i>Low-Income HH Served</i>	<i>HH with 0-1 Autos</i>	<i>Capital Cost (millions)</i>
<i>2a</i>	<i>3,200</i>	<i>2,300</i>	<i>11,400</i>	<i>950</i>	<i>250</i>	<i>\$215</i>
<i>2b</i>	<i>3,200</i>	<i>2,300</i>	<i>11,400</i>	<i>950</i>	<i>250</i>	<i>\$302</i>
<i>3</i>	<i>6,200</i>	<i>1,500</i>	<i>13,000</i>	<i>1,100</i>	<i>300</i>	<i>\$270</i>
<i>8</i>	<i>1,800</i>	<i>1,700</i>	<i>43,450</i>	<i>3,600</i>	<i>1,900</i>	<i>\$103</i>
<i>10</i>	<i>2,100</i>	<i>250</i>	<i>6,500</i>	<i>1,100</i>	<i>200</i>	<i>\$68</i>

*Notes: HH = households*

*Source: Downtown/East Valley Major Investment Study, Project Summary Report, December 2000.*

### **Observations**

- *All of the alternatives (2a, 2b, 3, 8, & 10) would serve the rapidly growing Evergreen area and would enhance VTA’s Eastridge Transit Center.*
- *Alternatives 2a, 2b, and 10 would provide fast, direct service between the Eastridge Transit Center and the Capitol Line, thereby enhancing the overall productivity and effectiveness of the Capitol Line*

- *Ridership projections for the LRT alternatives were modest both in terms of total riders in the corridor and new riders, although the numbers were comparable to the Capitol Line.*
- *Alternative 2a, the at-grade LRT extension to Eastridge, was more cost-effective than the above-grade alternative (2b), or further extension to the Guadalupe under Alternative 3.*
- *Alternative 2a, the at-grade LRT extension to Eastridge, would require removal of existing HOV lanes on Capitol Expressway; Alternative 2b, the above-grade LRT extension to Eastridge, would allow the HOV lanes to remain.*
- *The relatively high cost of the LRT alternatives was primarily due to improvements required at heavily congested intersections, such as the potential grade separations at Capitol Expressway/Capitol Avenue and Capitol Expressway/Story Road, as described in the refined definition of alternatives. These features also presented design and engineering challenges.*
- *Construction of the LRT alternatives (2a, 2b and 3) may cause significant traffic impacts during construction.*
- *Express Bus alternatives 8 and 10 make use of existing HOV lanes and result in fast service.*
- *Express Bus alternative 8 to Golden Triangle employment centers has the highest operating cost and lowest passenger productivity of alternatives currently under consideration in the MIS.*

*In regards to the HOV lanes, it should be noted that as part of the City of San Jose's Evergreen Specific Plan infrastructure improvements constructed in the mid-1900s, Capitol Expressway was widened to provide two new mixed flow lanes and two new HOV lanes between U.S. 101 and I-680. These improvements were approved to provide an interim eight-lane facility, and were designed to provide for the future elimination of the two inside lanes to accommodate a potential future light rail line in the Expressway median.*

*Conceptual Engineering was done on retaining the HOV lanes with the Light Rail Alternative. It was found that this option would result in more severe traffic and construction impacts, greater right-of-way requirements that would result in the loss of additional residences and businesses, and increased impacts on recreational uses and biological resources. Because of the increased environmental, social, and economic costs of retaining the HOV lanes, this option was rejected.*

### **Public Comment**

*The extension of LRT service from the Capitol Line to Eastridge Mall received the most community support as compared to all other alternatives considered during the MIS process. Although removing HOV lanes on Capitol Expressway (Alternative 2a) was raised as an issue, very few individuals viewed this as a critical concern.*

## **Preferred Investment Strategy**

*On June 21, 2000, the PAB adopted final recommendations for the Downtown East Valley Preferred Investment Strategy to be forwarded to the VTA Board of Directors for approval.*

*Three public "open house" events were held in mid-July 2000 to provide the community with additional opportunity to comment on the proposed Preferred Investment Strategy prior to VTA Board approval. In addition, a final "project update" on the MIS process was prepared and distributed to the entire Downtown East Valley mailing database. The update provided information regarding the upcoming decision by the VTA Board, the next steps in the overall project development process, and the continuing opportunities for public involvement during subsequent project phases.*

*In a unanimous decision on August 3, 2000, the VTA Board of Directors adopted the recommendations of the PAB for the Downtown East Valley Preferred Investment Strategy that included Alternative 2a: LRT on Capitol Expressway from the terminus of the Capitol Line to Eastridge Mall (primarily at-grade), and Alternative 3: LRT on Capitol Expressway from Eastridge Mall to the Guadalupe.*

*The VTA Board also directed staff to prepare a resolution stating that Downtown East Valley be VTA's next priority after completion of the currently planned and funded 1996 Measure A + B Transportation Improvement projects. On September 7, 2000, the VTA Board adopted a resolution to that effect.*

*The selected alternative for the Downtown East Valley Capitol Expressway Corridor plan as presented in this EIS/EIR is the cumulative result of collaboration with the local communities and public agencies, a MIS and Conceptual Engineering analysis, and key decisions by the Downtown East Valley Policy Advisory Board and VTA Board of Directors.*

## **Response to Comment F2-2**

On page 3-30 of Volume I, Chapter 3, *Alternatives Considered*, Section 3.5.1, *Prior Studies*, the fourth paragraph has been revised to read as follows.

*The second pair of alternatives involved express bus service in the corridor. Under one configuration, express buses would have radiated from the corridor to employment centers in north San Jose, Santa Clara, Sunnyvale, and Mountain View. In the other alternative, express buses would have operated along Capitol Expressway from the Eastridge Transit Center to the end of the Capitol Avenue LRT Line, with the added features of BRT along Quimby Road and White Road from the Eastridge Transit Center to Evergreen Valley College. Although the express bus alternatives would provide improved service to residents at a lower cost, service would be provided only during commute hours, as compared to the light rail alternatives, which could provide 24-hour service. During the public outreach program, the community strongly supported light rail alternatives for this reason.*

## **Response to Comment F2-3**

The Light Rail Alternative would remove a segment of the high-occupancy vehicle (HOV) lane along Capitol Expressway to provide sufficient right-of-way for light rail infrastructure. When VTA temporarily lost funding for the Light Rail Alternative in 1996, the HOV lanes on Capitol Expressway were constructed as interim improvements until such time as funding for light rail was restored.

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. Therefore, the HOV lanes between Nieman Boulevard and U.S. Highway 101 (U.S. 101) would not be removed, and there would be no impacts to the regional HOV network at the U.S. 101 interchange.

The HOV lanes on Capitol Expressway currently end at Capitol Avenue, before the Interstate 680 (I-680) interchange. There are no HOV lanes on this section of I-680. As a result, the removal of HOV lanes in the vicinity of the I-680 interchange would not adversely affect the regional HOV network.

## **Response to Comment F2-4**

Two express bus routes currently use Capitol Expressway between the Eastridge Transit Center and Capitol Avenue. Under the Recommended Light Rail Alternative, both of these routes would be modified to originate at the Alum Rock Station. No future express bus routes are planned along Capitol Expressway at this time. As a result, no long-term impacts to existing and future express bus service would occur with the removal of the HOV lanes on Capitol Expressway under the Light Rail Alternative.

The EIS/EIR provided travel time estimates for automobile travel along the corridor in 2010 and 2025 with and without the project. This information is contained in Table 4.2-14.

The increase in travel time for HOV lane and express bus users was calculated for a 3.8-mile segment between Capitol Avenue and Nieman Boulevard. With the removal of the HOV lanes with the Light Rail Alternative, travel time would increase by approximately 6.3 minutes in 2010 and 6.7 minutes in 2025 because HOV lane and express bus users would be using general purpose lanes. This represents an 105% increase in travel time compared to the No-Project Alternative.



## Response to Comment F2-5

As indicated in the EIS/EIR, the Light Rail Alternative between Capitol Avenue and the Eastridge Transit Center is included in the 2001 Regional Transportation Plan (RTP), which was adopted on December 19, 2001, by the Metropolitan Transportation Commission (MTC). In March 2002, MTC determined that the RTP was in conformance with federal air quality regulations. Because the RTP is in conformance with federal air quality regulations, the segment of the Light Rail Alternative included within the RTP, including the elimination of HOV segments, would be in conformity, and the project would be a conforming transportation project.

It should be noted that Phase 1B of the Recommended Light Rail Alternative between the Eastridge Transit Center and Nieman Boulevard, which is less than one mile in length, is not currently in the adopted 2001 RTP. Phase 1B will be submitted to MTC for an air quality conformity determination at a later date.

## Response to Comment F2-6

Pages 4.3-3 and 4.3-4 of Volume I, Chapter 4, *Environmental Analysis*, Section 4.3, *Air Quality* have been revised as follows to clarify the area's attainment status and disclose the area's 8-hour ozone attainment status.

The Capitol Expressway Corridor is located within the San Francisco Bay Area Air Basin (SFBAAB), which functions as the study area for this air quality analysis. The SFBAAB includes all of San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, Marin, and Napa Counties, and parts of Sonoma and Solano Counties. *The State of California has designated the area as ~~It is a nonattainment area for ozone and for state standards for~~ particulate matter less than or equal to 10 microns in diameter (PM<sub>10</sub>), and an attainment area for carbon monoxide (CO). The U.S. EPA has designated the area as being a subpart 2/marginal nonattainment area for 1-hour ozone, not-classified/moderate area under 23 USC Sec. 104 (b)(2) for 8-hour ozone, unclassified area for PM<sub>10</sub>, and unclassified/attainment area for CO state and federal ozone standards. It is an attainment area for federal PM<sub>10</sub> standards and for state and federal nitrogen dioxide (NO<sub>2</sub>) and sulfur dioxide (SO<sub>2</sub>) standards. It is also an attainment area for state carbon monoxide (CO) standards and a maintenance area for federal CO standards.*

The new 8-hour ozone standard is applicable to the proposed project, in that the region must meet the standard. This standard must be met regionally, and is not applicable to the project on a project-scale basis (i.e., project emissions do not need to be compared to the standard). While VTA acknowledges this comment, no change is necessary to the Final EIR.

## Response to Comment F2-7

As shown below, Table 4.3-2 has been revised to include monitoring data for the new federal 8-hour ozone standard.

**Table 4.3-1. Federal and State Ambient Air Quality Standards**

Pollutant Standards	1999	2000	2001
<b>Ozone</b>			
Maximum 1-hour concentration (ppm)	0.109	0.073	0.105
Days Standard Exceeded			
NAAQS (1-hour) > 0.12 ppm	0	0	0
CAAQS (1-hour) > 0.09 ppm	3	0	2
Maximum 8-hour concentration (ppm)	0.084	0.061	0.074
Days Standard Exceeded			
NAAQS (1-hour) > 0.08 ppm	0	0	0
<b>Carbon Monoxide</b>			
Maximum 8-hour concentration (ppm)	6.3	7.0	5.1
Maximum 1-hour concentration (ppm)	9.0	8.9	7.6
Days standard exceeded			
NAAQS (8-hour) $\geq$ 9.0 ppm	0	0	0
NAAQS (1-hour) $\geq$ 35 ppm	0	0	0
CAAQS (8-hour) $\geq$ 9.0 ppm	0	0	0
CAAQS (1-hour) $\geq$ 20 ppm	0	0	0
<b>Particulate Matter (PM10)</b>			
Maximum 24-hour concentration ( $\mu\text{g}/\text{m}^3$ )	114.4	76.1	76.7
Second-highest 24-hour concentration ( $\mu\text{g}/\text{m}^3$ )	63.7	67.8	70.8
Average arithmetic mean concentration ( $\mu\text{g}/\text{m}^3$ )	28	26	28
Average geometric mean concentration ( $\mu\text{g}/\text{m}^3$ )	25	23	25
Days standard exceeded			
NAAQS (24-hour) > 150 $\mu\text{g}/\text{m}^3$ *	0	0	0
CAAQS (24-hour) > 50 $\mu\text{g}/\text{m}^3$ *	5	7	4
<b>Particulate Matter—Fine (PM2.5)</b>			
Maximum 24-hour concentration ( $\mu\text{g}/\text{m}^3$ )	70.0	64.2	63.3
Second-highest 24-hour concentration ( $\mu\text{g}/\text{m}^3$ )	69.3	63.4	62.5
Average concentration ( $\mu\text{g}/\text{m}^3$ )	12.3	13.6	12.4
Days standard exceeded			
NAAQS (24-hour) > 65 $\mu\text{g}/\text{m}^3$	2	0	0
NAAQS (annual) > 15 $\mu\text{g}/\text{m}^3$	No	No	No
CAAQS (annual) > 12 $\mu\text{g}/\text{m}^3$	Yes	Yes	Yes

\* Recorded every 6 days.

Sources: California Air Resources Board 2002; U.S. Environmental Protection Agency 2003.

## Response to Comment F2-8

The Bay Area Air Quality Management District (BAAQMD) threshold of significance for carbon monoxide (CO) was incorrectly identified within the EIS/EIR. Within the EIS/EIR, the BAAQMD's CO screening criteria, listed below, were identified rather than their significance threshold (violation of CAAQS):

- vehicle emissions of CO would exceed 550 ppd;
- project traffic would impact intersections or roadway links operating at Level of Service (LOS) D, E, or F or would cause LOS to decline to D, E, or F; or
- project traffic would increase traffic volumes on nearby roadways by 10% or more.

The correct BAAQMD threshold of significance for CO has been added to the Final EIR.

As indicated in the EIS/EIR, localized CO modeling was conducted for the three most-affected intersections (intersections operating at LOS F, with the most delay, and highest volume-to-capacity [V/C] ratio). As Table 4.3-3, Carbon Monoxide Modeling Results, in the EIS/EIR indicated, no violation of the 1- or 8-hour state CO standard would occur under any project alternative. While VTA notes this comment, no change has been made to the Final EIR.

## Response to Comment F2-9

The ridership projections for the Light Rail Alternative were calculated using the Congestion Management Agency's (CMA's) TRANPLAN travel demand model. The inputs into that model are the highway and street network, transit network, and population and employment forecasts. A modal split algorithm assigns travel to a specific mode, and a distribution algorithm assigns the travel to specific paths along specific modes. These algorithms are repeated several times to optimize travel time. It is beyond the model's capabilities to track current travel in the HOV lanes and future travel patterns when the HOV lanes are removed and replaced by light rail transit. Because such a level of detail is not necessary to evaluate the environmental impacts of the Light Rail Alternative, this comment has been noted and no change has been made to the Final EIR.

## Response to Comment F2-10

One component of the travel demand forecasting model is a mode choice function that calculates any shift in travel modes based upon various scenarios. In the scenario where the Light Rail Alternative is in place without the HOV lane, the model found that some commuters would shift from the HOV lanes to

light rail transit, and some would also shift back to the general purpose lanes, as they would become single occupant vehicles. Therefore, the estimates of vehicle miles traveled (VMT) that are presented in Table 4.3-6 reflect an estimate of HOV lane users that will not utilize the Light Rail Alternative if implemented.

## **Response to Comment F2-11**

The projections for mobile source emissions that are included in Tables 4.3-4 and 4.3-5 address the mode shift discussed above. No update of the estimates of emissions of reactive gases, oxides of nitrogen and PM<sub>10</sub> is necessary.

## **Response to Comment F2-12**

The EIS/EIR evaluated three sites that were under consideration for a light rail vehicle storage facility. The selection of the three sites was based partially on the availability of an adequate parcel to accommodate 17 light rail vehicles. Because VTA can operate the Light Rail Alternative without these overnight storage facilities, and because the provision of these storage facilities needs to be developed in the broader context of the operation of the entire light rail network, the locations discussed in the EIS/EIR were conceptual.

Because the storage facilities would be located on existing parcels, the exact size varies according to the size of the parcel. Each of the parcels is similar in size, ranging from about 63,000 square feet to about 87,000 square feet. Each of the parcels can house 17 light rail vehicles, which is the maximum number of vehicles necessary to serve the line at the beginning of the day. A building and parking area would be needed at each facility. Again, concept buildings were noted that ranged in size from about 2,000 square feet to about 5,000 square feet. The exact size of the building would depend on the functions necessary at a particular location. A facility at SR 87 could be used to support both light rail operations in the Capitol Expressway Corridor and Guadalupe LRT Line, as well as bus service. A facility at the other two sites would realistically only support light rail.

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. At the same meeting, the DTEV PAB selected the vehicle storage facility option at the site located south of Quimby Road. The selection of the storage facility south of Quimby Road was based on (1) potential conflicts with an existing high pressure Pacific Gas & Electric Company (PG&E) gas line at Ocala Avenue, and (2) the decision to defer the Phase 2 extending to SR 87 that eliminated the Capitol Expressway/SR 87 Option from further consideration.

The storage facility south of Quimby Road would consist of light rail tracks and an overhead catenary system to allow for overnight storage of light rail vehicles

to minimize deadhead costs and deliver more efficient service. The facility would also contain a building for light rail operators to report for their shifts with restrooms, locker facilities and a break room, and an employee parking lot for up to 32 vehicles. No heavy maintenance would occur at the facility.

The direct, indirect, and cumulative impacts anticipated from the construction and operation of the proposed vehicle storage facilities have been discussed in the Draft EIS/EIR. To support this statement, the direct and cumulative impacts have been compiled below for each of the resource areas. Indirect impacts are found in Volume I, Chapter 5, *Other CEQA and NEPA Considerations*, Section 5.6, *Growth-Inducing Impacts*. For construction impacts, please refer to Volume I, Chapter 4, *Environmental Analysis*, Section 4.19, *Construction Impacts*.

Some of the impacts noted below are specific to the vehicle storage facilities. However, because the construction and operation of the vehicle storage facilities are included with the Light Rail Alternative, many of the impacts resulting from the construction and operation of the Light Rail Alternative also result from the construction and operation of vehicle storage facilities.

### **Southwest Corner of Capitol Expressway and Quimby Road Option**

This site could accommodate approximately 15 vehicles and includes a 6,700-square-foot building with 32 parking spaces. The storage yard would be approximately 81,000 square feet. Automobile access would be provided from Quimby Road.

#### **Transportation**

The depressed alignment would not require the crossing of the Eastridge Loop and Quimby Road at grade, and would therefore not affect traffic operations. Access to the vehicle storage facility would require a side-running alignment from the Eastridge Transit Center.

#### **Air Quality**

The impacts of the vehicle storage facility at this site would be similar to those of the Light Rail Alternative as a whole. No adverse effects on air quality were identified.

#### **Biological Resources**

The site at the Capitol Expressway/Quimby Road intersection is potential Western burrowing owl habitat. Mitigation for impacts to potential burrowing owl habitat under the Light Rail Alternative has been identified in the EIS/EIR.

#### **Cultural Resources**

One known site, CA-SCL-327, is included within the Area of Potential Effect (APE) for the Recommended Light Rail Alternative. The site lies beneath the Public Storage Facility buildings located at Capitol Expressway and Quimby Road. The large, rectangular buildings cover at least 75% of the entire area, while the remaining area is covered in asphalt and serves as parking and driving

surfaces. Mitigation to minimize the effects upon potential archaeological resources has been identified in the EIS/EIR.

### **Geology**

The alignment of the Light Rail Alternative would be located in an area that may be susceptible to lateral spreading, subsidence, and collapse. Soils and underlying geologic materials that are susceptible to lateral spreading, subsidence, and collapse could increase the risk of structural loss, injury, or death. The foundation of the structures associated with a vehicle maintenance storage facility is anticipated to be supported on spread footings, thick concrete mat, or pile foundation system (Parikh Consultants 2002). Additionally, mitigation for the adverse effects of lateral spreading, subsidence, and collapse has been identified in the EIS/EIR.

### **Hazardous Materials**

The Light Rail Alternative alignment would be below the grade of the roadway at Capitol Expressway and Quimby Road. Construction of the storage facility would involve subsurface drilling, which could lead to a finding of contaminated soil or groundwater. Mitigation measures to minimize this adverse effect have been identified in the EIS/EIR. Subsurface drilling in or near sites identified as an environmental concern could also result in the accidental release of hazardous substances into the environment. An ARCO gas station located in the vicinity of the proposed vehicle storage facility is listed in the Leaking Underground Storage Tank (LUST) database for the release of petroleum hydrocarbons; the case was closed in 1995. During the site visit, two monitoring wells were observed on the western side of the site. However, the site does not pose a further environmental concern, and there would be no adverse effects from subsurface drilling.

### **Hydrology and Water Quality**

Construction of a vehicle storage facility could increase the amount of impervious surfaces. There could be impacts from violation of water quality standards or waste discharge requirements, creation or contribution of additional runoff, and alterations in existing drainage patterns. However, because the corridor is largely urbanized, the additional contribution to runoff would be considered minimal. The amount of new impervious surfaces associated with the vehicle storage facility is not expected to exceed the capacity of the existing or planned drainage systems. The facility could generate new sources of contamination, including sediment, pesticides, oil and grease, metals, bacteria, and trash. Mitigation to minimize these effects has been identified in the EIS/EIR.

### **Land Use**

A public storage facility is located on the southwest corner of the Capitol Expressway/Quimby Road intersection. A mixed light industrial and commercial center, which includes a Vietnamese Cultural Center and School of Technology, lies south of the public storage facility. The general plan land use designation of the area is "Industrial Park" and the zoning designation is "Agricultural/Planned Development." A change in zoning to accommodate a storage facility may be required.

This proposed site is located just beyond the Outer Airport Safety Zone established by Reid-Hillview Airport, but falls within the total Airport Influence Area (Santa Clara County Roads and Airports Department 2004a). As such, the proposed facility site would need to be evaluated for compatibility with the Airport Comprehensive Land Use Plan. However, the Draft Reid-Hillview Airport Master Plan (Santa Clara County Roads and Airports Department 2004b) states that the project will not present a significant impact to the airport property.

### **Noise**

In the segment of the alignment between Quimby Road and Aborn Road (West), there are 20 residences projected to have groundborne vibration impacts and 25 residences projected to have groundborne noise impacts with the inclusion of shredded tires as a design feature. The impacts would result from the proximity of the tracks to the residences (60 feet) and the speed of the LRT vehicles (53 miles per hour [mph]). Mitigation to minimize these effects has been identified in the EIS/EIR. Crossovers are often located within or near vehicle storage facilities. Because the impacts of LRT wheels over rail gaps at track crossover locations increase LRT noise by about 6 A-weighted decibels (dBA), and LRT vibration by about 10 vibration velocity decibels (VdB), crossovers are a major source of noise and vibration impacts when they are located in sensitive areas. Mitigation to minimize these effects has been identified in the EIS/EIR.

### **Safety and Security**

To access the vehicle storage facility, a side-running alignment from the Eastridge Transit Center would be provided. As previously noted, entering and exiting the maintenance facility by light rail vehicles would occur very early in the morning and very late in the evening, before and after regular operating hours. Access to the facility by LRVs would require that traffic movements be disrupted to transition across existing roadways. However, because this would occur at periods of extremely low traffic volumes, the impact to traffic safety would be negligible.

### **Socioeconomics**

The Southwest Corner of Capitol Expressway and Quimby Road Option would require the partial acquisition of a commercial parcel that would involve the full take of a mini-storage facility that occupies a portion of the parcel. Mitigation to minimize the effects of the anticipated acquisition has been identified in the EIS/EIR.

### **Utilities**

The Quimby Road site is currently paved, with existing drainage facilities in place.

### **Visual**

In this portion of the alignment, typical residential and commercial uses dominate the foreground and extend into the middleground. The background includes distant views of the valley hills. This viewshed possesses high value for vividness, but does not possess high value for intactness or unity because the existing development encroaches into the viewshed. These values would remain unchanged from the existing condition with implementation of the Light Rail Alternative.

## **Southwest Corner of Capitol Expressway and Ocala Avenue Option**

This option includes storage for approximately 16 vehicles and includes two buildings totaling 3,300 square feet with parking spaces for 17 automobiles. The storage yard would be approximately 63,000 square feet. Automobile access would be provided from John Montgomery Drive.

The size of the Ocala facility was incorrect in the EIS/EIR. The text on page 3-26 has been revised to read as follows:

**Southwest Corner of Capitol Expressway and Ocala Avenue Option:** This option includes storage for up to 17 vehicles, and includes two buildings totaling ~~1,000~~ 3,300 square feet, with parking spaces for 17 automobiles. The storage yard would be approximately ~~17,000~~ 63,000 square feet. Automobile access would be provided from John Montgomery Drive.

### **Transportation**

Traffic operations at the Capitol Expressway/Ocala Avenue intersection would be adversely affected under the Light Rail Alternative, and there would be no feasible mitigation for these effects. Access to the facility by LRVs would require that traffic movements be disrupted to transition across existing roadways (Capitol Expressway and Ocala Avenue). The light rail vehicles would enter and exit the maintenance facility early in the morning and very late in the evening, before and after regular operating hours. Because this would occur at extremely low traffic periods, the impact to traffic would be negligible.

### **Air Quality**

The impacts of the vehicle storage facility at this site would be similar to those of the Light Rail Alternative as a whole. No adverse effects on air quality were identified.

### **Biological Resources**

Construction of the proposed vehicle storage facility on the southwest corner of Ocala Avenue and Capitol Expressway would permanently remove approximately 0.87 acre of ruderal habitat adjacent to the Reid-Hillview Airport. Although ruderal habitat is not a sensitive natural community and is common both regionally and locally, the permanent loss of habitat that could potentially be occupied by the special-status Western burrowing owl would be considered a substantial adverse effect. Mitigation for impacts to potential burrowing owl habitat under the Light Rail Alternative has been identified in the EIS/EIR.

### **Cultural Resources**

There are no adverse effects to cultural resources at this potential storage facility site. The site is not located within the area of the three identified archaeological sites.

### **Geology**

The alignment of the Light Rail Alternative would be located in an area that may be susceptible to lateral spreading, subsidence, and collapse. Soils and underlying geologic materials that are susceptible to lateral spreading,



subsidence, and collapse could increase the risk of structural loss, injury, or death. The foundation of the structures associated with a vehicle maintenance storage facility is anticipated to be supported on spread footings, thick concrete mat, or pile foundation system (Parikh Consultants 2002). Additionally, mitigation for the adverse effects of lateral spreading, subsidence, and collapse has been identified in the EIS/EIR.

### **Hazardous Materials**

The Light Rail Alternative alignment would be at the grade of the roadway at Capitol Expressway and Ocala Avenue. Construction of the storage facility would involve subsurface drilling, which could lead to a finding of contaminated soil or groundwater. Mitigation measures to minimize this adverse effect have been identified in the EIS/EIR. Subsurface drilling in or near sites identified as an environmental concern could also result in the accidental release of hazardous substances into the environment. There are three sites located in the vicinity of the proposed vehicle storage facility along John Montgomery Drive that are listed in the LUST database for the discovery of groundwater impacts, soil impacts, and the release of diesel to soil and groundwater. However, these sites do not pose further environmental concerns and there would be no adverse effects from subsurface drilling.

### **Hydrology and Water Quality**

Construction of a vehicle storage facility could increase the amount of impervious surfaces. There could be impacts from violation of water quality standards or waste discharge requirements, creation or contribution of additional runoff, and alterations in existing drainage patterns. However, because the corridor is largely urbanized, the additional contribution to runoff would be considered minimal. The amount of new impervious surfaces associated with the vehicle storage facility is not expected to exceed the capacity of the existing or planned drainage systems. The facility could generate new sources of contamination, including sediment, pesticides, oil and grease, metals, bacteria, and trash. Mitigation to minimize these effects has been identified in the EIS/EIR.

### **Land Use**

Reid-Hillview Airport is located west of the site. The general plan land use and zoning designation of the site is "industrial park." Most of the surrounding land uses are zoned residential, with the site directly to the east across Capitol Expressway zoned as "Agricultural/Planned Development." A zoning change for the site to accommodate a storage facility would not likely be required. The facility may not be considered a land use that is compatible with the surrounding residential community.

Although the proposed site is directly adjacent to the airport, it falls beyond any Airport Safety Zones established by Reid-Hillview Airport; however, it falls within the total Airport Influence Area (Santa Clara County Roads and Airports Department 2004a). As such, the proposed facility site would need to be evaluated for compatibility with the Airport Comprehensive Land Use Plan; however, the Draft Reid-Hillview Airport Master Plan (Santa Clara County Roads and Airports Department 2004b) states that the project will not present a significant impact to the airport property.

Because of concerns regarding its high-pressure gas lines, PG&E has indicated opposition to the placement of a vehicle storage facility at this site.

### **Noise and Vibration**

Crossovers are often located within or near vehicle storage facilities. Because the impacts of LRT wheels over rail gaps at track crossover locations increase LRT noise by about 6 dBA and LRT vibration by about 10 VdB, crossovers are a major source of noise and vibration impacts when they are located in sensitive areas. Most of the land uses surrounding the proposed site are zoned residential. Mitigation to minimize these effects has been identified in the EIS/EIR.

### **Safety and Security**

To access the vehicle storage facility, a side-running alignment would be provided. As previously noted, light rail vehicles would enter and exit the maintenance facility only very early in the morning and very late in the evening, before and after regular operating hours. Access to the facility by LRVs would require that traffic movements be disrupted to transition across existing roadways. However, because this would occur at periods of extremely low traffic volumes, the impact to traffic safety would be negligible.

### **Socioeconomics**

The Southwest Corner of Capitol Expressway and Ocala Avenue Option would require the full acquisition of two parcels near the southwest corner of Ocala Avenue and Capitol Expressway. The parcels, owned by PG&E and Reid-Hillview Airport, are approximately 18,600 and 54,050 square feet. These acquisitions would be adjacent to the property acquired for the realignment of Capitol Expressway to the south of the proposed Ocala Avenue Station. Mitigation to minimize the effects of the acquisitions has been identified in the EIS/EIR.

### **Utilities**

The proposed site is currently unpaved. This site would require new utility connections. Electrical power would also be required for the vehicle storage facility, as well as gas, water, telecommunications, and sanitary sewage. However, none of these uses is anticipated to require substantial new generation or distribution facilities. The northern PG&E property is occupied by an overhead power transmission line, utility towers, and high-pressure gas pipelines that would need to be relocated as part of the alternative. The utility towers are located between John Montgomery Drive and Capitol Expressway.

### **Visual**

In this portion of the alignment, the landscape is heavily urbanized; Reid-Hillview Airport is the major component. Several electrical transmission towers are visible within the foreground along Capitol Expressway on the western side; on the eastern side, residential uses behind soundwalls are dominant. This viewshed possesses low value for vividness, intactness, and unity because the landscape components do not exhibit a unique visual quality or character.

## **North Park-and-Ride Lot at Capitol Expressway and SR 87 Option**

This site could accommodate up to 17 vehicles and includes a 5,200-square-foot building with 25 parking spaces. The storage yard would be approximately 86,000 square feet. Access would be provided from Narvaez Avenue.

### **Transportation**

Light rail vehicles would enter and exist the maintenance facility early in the morning and late in the evening, before and after regular operating hours. Access to the facility by LRVs would require that traffic movements be disrupted to transition across existing roadways (Capitol Expressway and Narvaez Avenue). However, because this would occur at extremely low traffic periods, the impact to traffic would be negligible.

### **Air Quality**

The impacts of the vehicle storage facility at this site would be similar to those of the Light Rail Alternative as a whole. No adverse effects on air quality were identified.

### **Biological Resources**

There are no adverse effects to biological resources at this potential storage facility site.

### **Cultural Resources**

The site is located within the area of one of the three identified archaeological sites. There would be adverse effects to cultural resources at this potential storage facility site. Mitigation measures to minimize this adverse effect have been identified in the EIS/EIR.

### **Geology**

The alignment of the Light Rail Alternative would be located in an area that may be susceptible to lateral spreading, subsidence, and collapse. Soils and underlying geologic materials that are susceptible to lateral spreading, subsidence, and collapse could increase the risk of structural loss, injury, or death. The foundation of the structures associated with a vehicle maintenance storage facility is anticipated to be supported on spread footings, thick concrete mat, or pile foundation system (Parikh Consultants 2002). Additionally, mitigation for the adverse effects of lateral spreading, subsidence, and collapse has been identified in the EIS/EIR.

### **Hazardous Materials**

Construction of the storage facility could involve subsurface drilling, which could lead to a finding of contaminated soil or groundwater. Mitigation measures to minimize this adverse effect have been identified in the EIS/EIR. Subsurface drilling in or near sites identified as an environmental concern could also result in the accidental release of hazardous substances into the environment.

### **Hydrology and Water Quality**

Construction of a vehicle storage facility could increase the amount of impervious surfaces; however, the site at the SR 87/Capitol Expressway interchange is already a paved park-and-ride lot. There could be impacts from violation of water quality standards or waste discharge requirements, creation or contribution of additional runoff, and alterations in existing drainage patterns. However, because the corridor is largely urbanized, the additional contribution to runoff would be considered minimal. The amount of new impervious surfaces associated with the vehicle storage facility is not expected to exceed the capacity of the existing or planned drainage systems. The facility could generate new sources of contamination, including sediment, pesticides, oil and grease, metals, bacteria and trash. Mitigation to minimize these effects has been identified in the EIS/EIR.

### **Land Use**

This site is currently an underutilized park-and-ride lot for the Guadalupe LRT Line. The general plan land use and zoning designation of the site is "Agricultural." Most of the surrounding land uses are also zoned "Agricultural." A zoning change for the site to accommodate a storage facility is likely to be required.

### **Noise and Vibration**

From Vistapark Drive to Narvaez Avenue (on the west side of the street), there are no noise-sensitive land uses near the proposed facility. The Light Rail Alternative would run at grade in the median between Coyote Creek and SR 87. There are four residences in two duplexes at this location projected to have groundborne vibration impacts. The vibration impacts are due to the proximity of the crossover at Civil Station 423. The crossover should be moved south of Narvaez Avenue to mitigate the impacts. There would be no vibration impacts at institutional receptors for any of the proposed options.

### **Safety and Security**

As previously noted, light rail vehicles would enter and exit the maintenance facility by light rail vehicles only very early in the morning and very late in the evening, before and after regular operating hours. Access to the facility by LRVs would require that traffic movements be disrupted to transition across existing roadways. However, because this would occur during periods of extremely low traffic volumes, the impact to traffic safety would be negligible.

### **Socioeconomics**

The north park-and-ride lot at the SR 87/Capitol Expressway interchange is located on land owned by VTA for the existing Capitol Station (State Route 87). Therefore, no right-of-way acquisition would be required, and there would be no displacements of residents or businesses.

### **Utilities**

The north park-and-ride lot at the Capitol Station (State Route 87) is currently paved, with existing drainage facilities in place.

## Visual

In this portion of the alignment, the visual features are dominated by typical residential and commercial uses within the foreground and middleground. This viewshed possesses low value for vividness, intactness, and unity because the landscape components are common throughout the study area.

## Response to Comment F2-13

Three new or expanded park-and-ride facilities are associated with the Light Rail Alternative:

- a new lot with approximately 90 spaces at Ocala Avenue,
- expansion of the existing Eastridge Transit Center, and
- a new lot with approximately 310 spaces at Monterey Highway either at an existing drive-in theater or within the highway loops at the Capitol Expressway/Monterey Highway interchange.

For the initial segment to the Eastridge Transit Center, two park-and-ride scenarios were considered. At its meeting on August 5, 2004, the DTEV PAB selected the expansion of the park-and-ride lot at the Eastridge Transit Center because of conflicts with an existing high-pressure PG&E gas line at the proposed Ocala Avenue park-and-ride lot and the higher cost of operating two park-and-ride facilities within close proximity to each other. In addition, project-level decisions on the park-and-ride lots on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 have been deferred until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, the Final EIR will not be modified to include more discussion of the proposed Ocala Avenue park-and-ride lot and the park-and-ride lot options between Nieman Boulevard and SR 87.

The direct, indirect, and cumulative impacts anticipated from construction and operation of the proposed Eastridge Transit Center park-and-ride lot have been discussed in the Draft EIS/EIR. To support this statement, the direct and cumulative impacts have been compiled below for each of the resource areas. Indirect impacts are found in Volume I, Chapter 5, *Other CEQA and NEPA Considerations*, Section 5.6, *Growth-Inducing Impacts*. For construction impacts, please refer to Volume I, Chapter 4, *Environmental Analysis*, Section 4.19, *Construction Impacts*.

The impacts noted below are specific to the proposed Eastridge Transit Center park-and-ride facility. However, because construction and operation of the park-and-ride lots are included with the Light Rail Alternative, many of the impacts resulting from the construction and operation of the Light Rail Alternative would also result from the construction and operation of park-and-ride lots.

## **Transportation**

Park-and-ride facilities at the Eastridge Transit Center can accommodate the lower end of the range of project demand, but at some point in the future demand may exceed supply, resulting in an adverse effect. Mitigation to minimize these effects has been identified in the EIS/EIR. Access to the Eastridge Transit Center park-and-ride lot would continue to occur from existing access points from Capitol Expressway and Tully Road to the Eastridge Loop roadway.

## **Air Quality**

There are no adverse effects to air quality that would result from the construction and operation of the Eastridge Transit Center park-and-ride facility.

## **Biological Resources**

Biologists have identified these areas in the vicinity of the proposed Eastridge Transit Center park-and-ride lot as containing potential habitat for the special-status Western burrowing owl (a state species of special concern and federal species of concern). Based on the biological surveys conducted in November 2002, ruderal habitat within the Capitol Expressway Corridor was identified as potential habitat for Western burrowing owl. Although ruderal habitat is not a sensitive natural community and is common both locally and regionally, the permanent loss of ruderal habitat that could potentially be occupied by Western burrowing owl would be considered a substantial adverse effect. Although the habitat is not currently occupied by burrowing owls, the species is known to occur near the corridor and could colonize currently unoccupied habitat before construction begins. Mitigation to minimize these effects has been identified in the EIS/EIR.

## **Cultural Resources**

There are several known archaeological resources in the area of potential effects. Also, the Capitol Expressway Corridor has high sensitivity for the presence of additional archaeological sites. Ground-disturbing activities associated with construction of the Recommended Light Rail Alternative, such as grading and excavation at proposed park-and-ride lots, have the potential to adversely affect known and unknown archaeological resources in the corridor. Mitigation to minimize these effects has been identified in the EIS/EIR.

## **Geology**

The alignment of the Recommended Light Rail Alternative and Eastridge Transit Center park-and-ride lot would be located in an area that may be susceptible to lateral spreading, subsidence, and collapse. Soils and underlying geologic

materials that are susceptible to lateral spreading, subsidence, and collapse could increase the risk of structural loss, injury, or death. Mitigation to minimize these effects has been identified in the EIS/EIR.

## **Hazardous Materials**

The Light Rail Alternative alignment would vary from at, above, and below the existing grade of the roadway along Capitol Expressway. Construction of the park-and-ride lots would involve subsurface drilling, which could lead to a finding of contaminated soil or groundwater. Subsurface drilling in or near sites identified as an environmental concern could also result in the accidental release of hazardous substances into the environment. Mitigation measures to minimize this adverse effect have been identified in the EIS/EIR. Specifically, the EIS/EIR recommends that soil samples be taken at proposed park-and-ride lot facilities (only where grading is planned) to determine the presence or absence of banned pesticides. If soil samples indicate the presence of any contaminant in hazardous quantities, VTA shall contact the Regional Water Quality Control Board (RWQCB) and California Department of Toxic Substances Control (DTSC) to determine the level of any necessary remediation efforts. These soils shall be remediated in compliance with applicable laws.

## **Hydrology and Water Quality**

Construction of park-and-ride facilities has the potential to increase the amount of impervious surfaces. There could be impacts from violation of water quality standards or waste discharge requirements, creation or contribution of additional runoff, and alterations in existing drainage patterns. However, because the corridor is largely urbanized, the additional contribution to runoff would be considered minimal. The amount of new impervious surfaces associated with the expansion of the Eastridge Transit Center is not expected to exceed the capacity of the existing or planned drainage systems. The facility could generate new sources of contamination, including sediment, pesticides, oil and grease, metals, bacteria, and trash. Mitigation to minimize these effects has been identified in the EIS/EIR.

## **Land Use**

Commercial and public land uses are located on the west side of Capitol Expressway in the vicinity of the Eastridge Transit Center. Eastridge Mall is located between Tully and Quimby Roads. The existing uses at this site would not require a change in zoning to accommodate the proposed park-and-ride lot.

## **Noise**

The primary sources of noise at stations with park-and-ride lots are buses entering and exiting the station, bus idling, and associated traffic. The Eastridge

Transit Center is the only facility being expanded with additional parking. The Eastridge Transit Center is adjacent to Eastridge Mall and not near any noise-sensitive land uses. Therefore, the Recommended Light Rail Alternative stations with park-and-ride facilities would not result in substantial vehicle-related noise impacts.

## **Safety and Security**

The new rail stations along the Recommended Light Rail Alternative alignment would create activity centers with increased pedestrian activity, automobile and bus drop-offs and loadings, and park-and-ride traffic at five locations. Similar to other public facilities, transit facilities such as trains, buses, stations, or park-and-ride lots may be potential targets for crime. The most common type of crime at such facilities is vandalism, including the defacement of property with graffiti. Automobile vandalism and theft from vehicles left in park-and-ride lots also occurs occasionally. More-serious crimes, such as robbery and assault, are rarely committed at such facilities. Mitigation to minimize these effects has been identified in the EIS/EIR.

## **Socioeconomics**

The Eastridge Transit Center would be reconfigured to make the site more efficient and promote easy transfer between light rail and bus. The modifications to Eastridge Loop Road and the locations of the bus bays would accommodate the light rail station. The facility would also have improved lighting, landscaping, and pedestrian and bicycle features. The preliminary site layout indicates that the footprint for the light rail station would be the same for an at-grade or aerial station, and no displacement of businesses would occur. The initial total park-and-ride capacity of the proposed Eastridge Transit Center and Ocala Avenue park-and-ride lots is 266 parking spaces. An expansion of the park-and-ride facility at the Eastridge Transit Center would necessitate a future agreement between VTA and the Eastridge Mall administration. Mitigation to minimize the effects of the anticipated acquisitions has been identified in the EIS/EIR.

## **Utilities**

At the Eastridge Transit Center, the surfaces to be used for the expanded park-and-ride lot are already covered by impervious surfaces; there would be little or no effect on the storm drain system at this location. There are no further utility issues for the expansion of the park-and-ride facilities at the Eastridge Transit Center.



## Visual Quality

Consistent with the rest of the VTA LRT system, implementation of the Recommended Light Rail Alternative would result in almost 24-hour operations. The proposed operations would require lighting to be provided at the proposed park-and-ride lot 24 hours per day. Such lighting is commonly used at the existing stations and lots. This lighting would slightly increase light and glare affecting residences in the Capitol Expressway Corridor. This would be considered an adverse effect. Mitigation to minimize these effects has been identified in the EIS/EIR.

## Response to Comment F2-14

At its meeting on August 5, 2004, the DTEV PAB selected the option to expand VTA's existing park-and-ride lot at the Eastridge Transit Center with an initial phase of up to 266 spaces. Ridership studies show that park-and-ride lot users come from areas that do not have access to the transit system from buses.

Park-and-ride facilities will be available for use by Capitol Expressway light rail passengers. Three of the future light rail stations along the Capitol Expressway LRT Line already have park-and-ride facilities constructed next to them: the Alum Rock Station, Eastridge Transit Center, and Capitol Station (State Route 87). As part of the Recommended Light Rail Alternative, the facility at the Eastridge Transit Center would be redesigned and expanded to satisfy future demand when the light rail station is constructed. Volume I, Chapter 4, *Environmental Analysis*, Section 4.2, *Transportation*, Table 4.2-13, *Proposed Park-and-Ride Sites and Estimated Demand and Capacity for the Light Rail Alternative (to SR 87)* presents information about the five park-and-ride lots.

A range of park-and-ride demand is noted in Table 4.2-13, which is based on projected demand from 2010 to 2025. The modeling process used to estimate park-and-ride demand tends to overestimate the number of people arriving at a light rail station and parking their car for the day. Historically, VTA has found that more individuals arrive by walking, being dropped off, or transferring from a bus than estimated by the model, resulting in an overestimation of the park-and-ride demand. The park-and-ride demand projection included both parking spaces that will be occupied by a vehicle during the majority of the day, as well as for kiss-and-ride drop-offs. Approximately 5% of the park-and-ride spaces will be designed and signed for kiss-and-ride.

To clarify the discussion regarding usage of the proposed park-and-ride lots, on page 4.2-11 of Volume I, Chapter 4, *Environmental Analysis*, Section 4.2, *Transportation*, the first paragraph has been revised to read as follows.

### **Projected Park-and-Ride Demand**

*Park-and-ride facilities will be available for use by Capitol Expressway light rail passengers. Historically, VTA has found that more light rail passengers arrive at the stations by walking, being dropped off or transferring from buses than estimated by the travel demand model. This results in an overestimation of the park-and-ride demand. The park-and-ride demand projection included both*

*parking spaces that will be occupied by a vehicle during the majority of the day, and also for kiss-and-ride drop offs. Approximately 5% of the park-and-ride spaces will be designed for kiss-and-ride drop offs. Table 4.2-13 provides the projected demand and capacity for each park-and-ride lot. Both the Alum Rock and SR 87 (Capitol) sites are existing park-and-ride lots that have sufficient existing capacity to accommodate the Light Rail Alternative. The Ocala Avenue and Eastridge Transit Center sites are located close together and essentially serve the same area. Therefore, they have been grouped together. Initially, 266 spaces are proposed to be provided at the Eastridge Transit Center on property currently owned by VTA and on property to be acquired from the Eastridge Shopping Center. The Monterey Highway site has three park-and-ride lot optional locations to accommodate the demand.*

The impact discussions in TRN-3 and TRN-4 state that the Light Rail Alternative would not impede any access currently offered from Capitol Expressway and that on-street parking, which is not currently permitted on Capitol Expressway, would continue to be available on the side streets in the area. No adverse direct, indirect, or cumulative effects from the park-and-ride lots to the surrounding community were identified in the Draft EIS/EIR.

## **Response to Comment F2-15**

The EIS/EIR identifies mitigation for non-point-source pollution from the parking facilities. As specified on page 4.12-17 of Volume I, Chapter 4, Section 4.12, Mitigation Measure HYD-12, VTA shall ensure that new stormwater inlets at parking lots include trash grates and maintainable silt traps, and that outlet structures provide for proper energy dissipation in accordance with standard specifications for storm drainage. VTA shall also ensure that regular maintenance of parking facilities includes a program to clean curbside pavement areas of litter, fuel, and oils spills. In addition, storm drain inlet traps shall be inspected at least annually and cleaned as required.

## **Response to Comment F2-16**

At its meeting on August 5, 2004, the DTEV PAB selected the following vertical alignment options between the Alum Rock Station and Nieman Boulevard:

- Aerial alignment from Alum Rock Avenue over the northbound lanes of Capitol Avenue and continuing in an aerial alignment into the median of Capitol Expressway over Story Road (includes an aerial station at Story Road) with access via pedestrian overcrossings.
- Pedestrian overcrossings to the at-grade Ocala/Cunningham Avenue Station.
- Depressed (cut-and-cover) section under Tully Road returning to an at-grade station within the Eastridge Transit Center.
- Side-running depressed alignment from Eastridge Transit Center to south of Quimby Road.

Project-level decisions on the vertical alignment options from Nieman Boulevard to SR 87 have been deferred until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, it is not necessary to modify the Final EIR to include more discussion of the vertical alignment options between the Alum Rock Station and Nieman Boulevard that were not selected by the DTEV PAB and the vertical alignment options between Nieman Boulevard and SR 87.

The Light Rail Alternative alignment and proposed design options that consist of aerial structures and tunneling facilities for each segment of the initial phase of the light rail corridor are as listed below.

### **Alum Rock Station to Story Road Station**

- Capitol Avenue/Capitol Expressway and Story Road Aerial Alignment
- Capitol Avenue/Capitol Expressway Tunnel/Story Road Aerial Option
- Capitol Avenue/Capitol Expressway/Story Road Tunnel Option

### **Story Road Station**

- Story Road Aerial Station with a Pedestrian Overcrossing
- Story Road Aerial Station with Median Access Option
- Story Road Station with a Depressed, Open-Air Station Option

### **Story Road Station to Eastridge Transit Center**

- North of Eastridge Transit Center Tunnel with At-Grade Station Alignment
- North of Eastridge Transit Center Aerial Crossing with Aerial Station Option

### **Eastridge Transit Center to Nieman Boulevard Station**

- South of Eastridge Transit Center Tunnel Alignment
- South of Eastridge Transit Center Aerial Crossing Option
- South of Eastridge Transit Center Side-Running/Tunnel at Nieman Boulevard Option
- South of Eastridge Transit Center Side-Running/Cut and Cover Option
- South of Eastridge Transit Center Side-Running Depressed At-Grade/Aerial Option

The direct, indirect, and cumulative impacts anticipated from the construction and operation of aerial structures and tunneling facilities have been discussed in the Draft EIS/EIR. To support this statement, the direct and cumulative impacts have been compiled below for each of the resource areas. Indirect impacts are found in Volume I, Chapter 5, Section 5.6. For construction impacts, please refer to Volume I, Chapter 4, Section 4.19.

The impacts noted below are specific to the aerial structures and tunneling facilities. However, because the construction and operation of the aerial structures and tunneling facilities are included with the Light Rail Alternative, many of the impacts resulting from the construction and operation of the Light Rail Alternative also result from the construction and operation of aerial structures and tunneling facilities.

## **Transportation**

There are no adverse effects to transportation resulting specifically from the operation of the aerial structures and tunneling facilities.

## **Air Quality**

There are no adverse effects to air quality resulting specifically from the operation of the aerial structures and tunneling facilities.

## **Biological Resources**

There are no adverse effects to biological resources resulting specifically from the operation of the aerial structures and tunneling facilities.

## **Cultural Resources**

There are several known archaeological resources in the area of potential effects. Also, the Capitol Expressway Corridor has high sensitivity for the presence of additional archaeological sites. Ground-disturbing activities associated with construction of the Light Rail Alternative and proposed design options, such as grading and excavation at proposed below-grade sections, have the potential to adversely affect known and unknown archaeological resources in the corridor. Specifically, the South of Eastridge Transit Center Tunnel Alignment could affect CA-SCI-327. Mitigation measures to minimize these effects have been identified in the EIS/EIR.

## **Geology**

The alignment of the Light Rail Alternative including aerial structures and tunneling facilities would be located in an area that may have expansive soils and may be susceptible to strong seismic ground shaking, seismic-related ground failure (including liquefaction), lateral spreading, subsidence, and collapse. Expansive soils and underlying geologic materials that are susceptible to seismic-related ground failure (including liquefaction), lateral spreading, subsidence, and collapse could increase the risk of structural loss, injury, or death. Mitigation measures to minimize these effects have been identified in the EIS/EIR.

## **Hazardous Materials**

There are no adverse effects to hazardous materials resulting specifically from the operation of the aerial structures and tunneling facilities.

## **Hydrology and Water Quality**

Aerial structures and tunneling facilities have the potential to increase the amount of impervious surface in the Capitol Expressway Corridor area. However, because the corridor is largely urbanized, the additional contribution to runoff would be considered minimal. The increase in impervious surface could, however, generate new sources of contamination, including sediment, pesticides, oil and grease, metals, bacteria, and trash. In addition to increasing impervious surfaces, aerial structures and tunneling facilities may be constructed in Federal Emergency Management Agency-identified flood hazard areas; therefore, these structures could impede or redirect flood flows, and expose these and other buildings, as well as people using these structures, to flood-related hazards. Moreover, the construction of aerial structures and tunneling facilities could temporarily alter drainage patterns. Mitigation measures to minimize these effects have been identified in the EIS/EIR.

## **Land Use**

There are no adverse effects to hazardous materials resulting specifically from the operation of the aerial structures and tunneling facilities.

## **Noise and Vibration**

Severe noise impacts are projected at four Category 2 (residential) land uses on the west side of the alignment in the Eastridge Transit Center to Aborn Road segment between Quimby and Aborn Roads under the South of Eastridge Transit Center Side-Running/At-Grade/Aerial Option. The noise impacts result from the proximity of the LRT tracks (40 feet) and the presence of the elevated structure. Because of the elevated structure, the existing ground-level noise barriers at this

location would be ineffective at shielding the noise from LRT operations. Mitigation measures to minimize these effects have been identified in the EIS/EIR.

Severe vibration impacts will occur with the Light Rail Alternative and the proposed options at the following Category 2 (residential) land uses. Although shredded tires to mitigate vibration impacts are included as a component of the Light Rail Alternative design, these impacts would still result.

**Capitol Avenue/Capitol Expressway and Story Road Aerial Alignment, West Side**

There is one residence at this location projected to have vibration impact with the inclusion of shredded tires as a design feature. The vibration impact results from the proximity of the tracks (40 feet) to the residences.

**South of Eastridge Transit Center Tunnel Alignment (Quimby Road to Aborn Road), East Side**

There are 33 residences at this location projected to have vibration impact with the inclusion of shredded tires as a design feature. The vibration impacts result from the proximity of the tracks (65 feet) to the residences and the speed of the LRT vehicles (50 mph).

**South of Eastridge Transit Center Aerial Crossing Option (Only with Eastridge Aerial Station Option), East Side**

There are eight residences at this location projected to have groundborne vibration impact with the inclusion of shredded tires as a design feature. The vibration impacts result from the proximity of the tracks to the residences (90 feet) and the speed of the LRT vehicles (55 mph).

**South of Eastridge Transit Center Side-Running/Tunnel at Nieman Boulevard Option, East Side**

There are four residences at this location projected to have groundborne vibration impact and none projected to have groundborne noise impact with the inclusion of shredded tires as a design feature. The impacts result from the proximity of the tracks to the residences (75 feet) and the speed of the light rail vehicles (50 mph).

**South of Eastridge Transit Center Side-Running/Tunnel at Nieman Boulevard Option, West Side**

There are 20 residences at this location projected to have groundborne vibration impact and 25 projected to have groundborne noise impact with the inclusion of shredded tires as a design feature. The impacts result from the proximity of the tracks to the residences (60 feet) and the speed of the LRT vehicles (53 mph).

**South of Eastridge Transit Center Side-Running At Grade/Aerial Option, West Side**

There are 22 residences at this location projected to have groundborne vibration impact and 24 projected to have groundborne noise impact with the inclusion of shredded tires as a design feature. The impacts result from the speed of the light rail vehicles (53 mph).

### **South of Eastridge Transit Center Side-Running/At-Grade/Aerial Option, East Side**

There are four residences at this location projected to have groundborne vibration impact and 36 projected to have groundborne noise impact with the inclusion of shredded tires as a design feature. The vibration impacts result from the speed of the LRT vehicles (50 mph).

There are no vibration impacts at institutional receptors for any of the proposed options. Mitigation measures to minimize groundborne vibration impacts have been identified in the EIS/EIR.

### **Safety and Security**

There are no adverse effects to safety and security resulting specifically from the operation of the aerial structures and tunneling facilities.

### **Socioeconomics**

A discussion of acquisitions related to the alignments and proposed design options of the initial phase is provided below. Mitigation measures to minimize the effects of the anticipated acquisitions have been identified in the EIS/EIR.

#### **Capitol Avenue/Capitol Expressway and Story Road Aerial Alignment**

Under the Light Rail Alternative, four residential properties near the Alum Rock Station (one at Lombard Avenue and three just south of Highwood Drive) would be acquired in full. Parts of the rear yards of three residential properties near Lombard Avenue and one residential property near Mervyns Way would also need to be acquired. This alternative would require the full acquisition of two commercial properties and partial acquisition of five commercial properties located near Story Road. A portion of four commercial properties along the frontage road between Mervyns Way and Story Road would also be acquired. Two of the commercial properties are currently being used by a church. In addition, the portion of two commercial properties between Alum Rock Avenue and Capitol Expressway would be acquired. Implementation of the Light Rail Alternative would require a total of 21 acquisitions (six full and 15 partial).

#### **Capitol Avenue/Capitol Expressway Tunnel/Story Road Aerial Option**

The Capitol Avenue/Capitol Expressway Tunnel/Story Road Aerial Option would be similar to the Light Rail Alternative, except that it would not require the full acquisition of two residential properties near the Alum Rock Station because the portion of the alignment near the properties would be in a tunnel underground instead of elevated. This option would require a total of 19 acquisitions (four full and 15 partial).

### **Capitol Avenue/Capitol Expressway/Story Road Tunnel Option**

The Capitol Avenue/Capitol Expressway/Story Road Tunnel Option would require fewer residential and commercial acquisitions than the Light Rail Alternative and the tunnel/aerial option. This option would require one full residential acquisition, three partial residential acquisitions, and two partial commercial acquisitions near Lombard Avenue. However, this option would require more acquisitions near Story Road, including one full commercial acquisition and four partial commercial acquisitions near Story Road. Two full residential acquisitions and three partial acquisitions would also be required between Sussex Drive and Tudor Court. One of the partial residential acquisitions would involve an undetermined number of units at an apartment building. This option would require a total of 16 acquisitions (four full and 12 partial).

### **North of Eastridge Transit Center Tunnel with At-Grade Station Alignment (Including Ocala Avenue Double Southbound Left Turn Station)**

In this segment, implementation of the Light Rail Alternative would require a total of 23 acquisitions (three full and 20 partial). Three full residential acquisitions and 15 partial residential acquisitions along both sides of Capitol Expressway between Woodmoor Drive and Ocala Avenue would be needed. Portions of five commercial properties would need to be acquired between Ocala Avenue and Tully Road, including portions of the PG&E right-of-way (15,000 square feet) near Ocala Avenue and Reid-Hillview Airport (33,525 square feet). The electrical towers and gas pipelines within the PG&E right-of-way would need to be relocated to other locations within the remaining PG&E right-of-way or to nearby new right-of-way, if feasible.

### **North of Eastridge Transit Center Tunnel with At-Grade Station Option (Including Between Ocala and Cunningham Station Option)**

The North of Eastridge Transit Center Tunnel with At-Grade Station Option (including Between Ocala and Cunningham Station Option) would be similar to the Light Rail Alternative. However, the station would be moved to the south, resulting in nine fewer residential acquisitions and two partial residential acquisitions instead of full acquisitions between Woodmoor Drive and Ocala Avenue. South of Ocala Avenue, there would be six additional partial residential acquisitions, which would be necessary to accommodate the widening of the tracks to go around the station in the median of the expressway. This option would require a total of 20 acquisitions (one full and 19 partial).

### **North of Eastridge Transit Center Tunnel with At-Grade Station Option (Including Cunningham Avenue Station Option)**

The North of Eastridge Transit Center Tunnel with At-Grade Station Option (including Cunningham Avenue Station Option) would be similar to the Light Rail Alternative. However, the station would be moved south to Cunningham Avenue, resulting in nine fewer partial residential acquisitions and one partial instead of full acquisition near the Capitol Expressway/Ocala Avenue intersection. South of Ocala Avenue, there would be 17 additional partial residential acquisitions, two additional full residential acquisitions, and an two additional partial commercial acquisitions, which would be necessary to realign Capitol Expressway to accommodate the station at Cunningham Avenue and to



accommodate sidewalks and landscaping adjacent to the expressway. This option would require a total of 35 acquisitions (four full and 31 partial).

**North of Eastridge Transit Center Aerial Crossing with Aerial Station Option**

The North of Eastridge Transit Center Aerial Crossing with Aerial Station Option would require a total of 27 acquisitions (three full and 24 partial). Four additional partial commercial acquisitions would be necessary with this option.

**South of Eastridge Transit Center Tunnel Alignment (Including Nieman Median Station)**

In this segment, implementation of the Light Rail Alternative would require a total of 23 acquisitions (three full and 20 partial). Three full residential acquisitions and 15 partial residential acquisitions along both sides of Capitol Expressway between Woodmoor Drive and Ocala Avenue would be needed. Portions of five commercial properties would need to be acquired between Ocala Avenue and Tully Road, including portions of the PG&E right-of-way (15,000 square feet) near Ocala Avenue and Reid-Hillview Airport (33,525 square feet). The electrical towers and gas pipelines within the PG&E right-of-way would need to be relocated to other locations within the remaining PG&E right-of-way or to new right-of-way nearby, if feasible.

**South of Eastridge Transit Center Aerial Crossing Option (Including Nieman Median Station)**

The South of Eastridge Transit Center Aerial Crossing Option (including Nieman Median Station) would require the partial acquisition of one more commercial parcel than the Light Rail Alternative. However, some acquisitions may be slightly larger or smaller than the Light Rail Alternative.

**South of Eastridge Transit Center Side-Running At-Grade/Tunnel at Nieman Boulevard Option (Including Nieman West Side Station)**

The South of Eastridge Transit Center Side-Running At-Grade/Tunnel at Nieman Boulevard Option (including Nieman West Side Station) would be similar to the Light Rail Alternative. However, it would require nine fewer partial residential acquisitions and one more commercial acquisition (the PG&E easement) due to the relocation of the Nieman Median Station to the west side of Capitol Expressway, and the exclusion of new sidewalks and landscaping northeast of Nieman Boulevard. This option would require the acquisition of an additional 93,385 square feet from two commercial parcels to accommodate the station.

**South of Eastridge Transit Center Side-Running/Cut and Cover Tunnel Option (Including Nieman West Side Station)**

Acquisitions for the South of Eastridge Transit Center Side-Running/Cut and Cover Tunnel Option (including Nieman West Side Station) would be identical to the South of Eastridge Transit Center Side-Running At-Grade/Tunnel at Nieman Boulevard Option.

**South of Eastridge Transit Center Side-Running Depressed At-Grade/Aerial Option (Including Nieman West Side Station)**

Acquisitions for the South of Eastridge Transit Center Side-Running Depressed At-Grade/Aerial Option (including Nieman West Side Station) would be similar

to the South of Eastridge Transit Center Side-Running/Trench and Tunnel Option (including Nieman West Side Station). However, this option would require one fewer partial commercial acquisition.

## **Utilities**

Facilities associated with this alternative include the guideway and stations, park-and-ride lots, and vehicle maintenance facilities. Most of the guideway would be located in the existing Capitol Expressway right-of-way, often in the median. Some of the guideway could be located on an aerial structure or underground, depending on the alignment option selected; stations would be located at grade or on aerial structures.

Locating the guideway and stations in the median of Capitol Expressway would require relocation of the storm drains and manholes located under the median or curb lanes, which would ensure that, following construction, the drains and manholes could be reached without interfering with light rail system operations. Storm drains and manholes would likely be relocated to adjacent lanes of the expressway. Tunnels and aerial guideways would increase the amount of impermeable surface slightly, but it is unlikely that these marginal increases would have any substantial effect on storm drain facilities. Additionally, tunnels and aerial guideways would include appropriate drainage facilities that would be directed to the existing storm drain system. Mitigation measures to minimize the impacts to utilities have been identified in the EIS/EIR.

## **Visual Quality**

Changes to the existing visual character of the Capitol Expressway Corridor would occur as a result of implementation of the Light Rail Alternative and the proposed design options. Tunnels would not be visible to the observer. However, most of these changes would include the construction of new station features such as shelters and platforms, as well as the placement of new trackway and aerial structures, which would adversely affect visual quality. Mitigation measures to minimize the effects of the anticipated changes have been identified in the EIS/EIR.

## **Response to Comment F2-17**

The following text has been added to page 4.8-6 in Volume I, Chapter 4, Section 4.8.

### **Transmission Capacity**

Transmission capacity refers to the maximum amount of electricity that can be carried from a generating source to a utility provider. This capacity is a key component in the electricity delivery system. Since the start of the electricity crisis, some parts of the state electrical grid have occasionally not had adequate capacity to transmit electricity to certain areas at a rate sufficient to satisfy the

quantities of electricity demanded. Such parts are known as a “transmission bottleneck.” One bottleneck occurs at a major transmission line between northern and southern California through the Central Valley, called Path 15. According to the Western Area Power Administration (2002), PG&E plans to increase the rating of Path 15 from 3,900 MW to 5,400 MW by 2004. *Three more examples of transmission improvements, all of which pertain specifically to the Bay Area, are the 230-kilovolt (kV) Northeast San Jose Project, Tri-Valley 230-kV Underground Transmission Line, and the Jefferson Martin 230-kV Transmission Project, which serves San Francisco, Daly City, and northern San Mateo County. The first was completed in July 2003, and increased the electricity importation capability in the San Jose area by 800 MW, or 35% of the pre-improvement 2,300-MW transmission capability (San Jose Mercury News 2003). The second upgrade, a 230-kV upgrade, was completed in December 2003, and services the cities of Dublin, Livermore, Pleasanton, and San Ramon, in addition to unincorporated areas of Alameda and Contra Costa Counties that are adjacent to these cities. 230-kV transmission lines can increase capacity by between 400 and 800 MW, depending on the types of materials used (ABB 2001). The third upgrade, also a 230-kV upgrade, is still in the planning process (Aspen Environmental 2003). The two completed upgrades translate to about 1,400 MW<sup>1</sup> in system upgrades for the Bay Area. The third, if approved, would result in 600 MW more. In all, the state has added the equivalent of 13,000 MW of transmission equipment with the implementation of 124 transmission projects since January 2001, statewide (CPUC 2004).* ~~and improvements to other transmission paths are planned.~~

In addition, the following text has been revised on page 4.8-9 in Volume I, Chapter 4, Section 4.8:

#### **Peak-Period Demand for Electricity Generation and Transmission**

The peak-period electricity demand by the Light Rail Alternative was determined using the energy consumption factor for light rail vehicles obtained from the *Transportation Energy Book: Edition 22* (Oak Ridge National Laboratory 2002) and the proposed headway and round-trip durations described in Chapter 3, *Alternatives Considered*. Demand was calculated in megawatts and compared to current estimates of *future peak-demand for electricity and supply and electricity generating capacity and transmission capabilities* within the Cal-ISO-controlled grid. *This is a cumulative analysis because it combines the electricity demand estimates for the proposed project with statewide demand when making the determination as to whether electricity generating and transmitting infrastructure would be adequate to supply electricity to the proposed project in addition to each of other existing and future electricity consumers.*

## **Response to Comment F2-18**

In response to this comment, the following impact discussions have been revised on pages 4.8-12 and 4.8-13 in Volume I, Chapter 4, Section 4.8.

---

<sup>1</sup> Assumes that the 230-kilovolt upgrades for the Tri-Valley project would result in 600 MW of transmission capability.

## **Environmental Consequences and Mitigation Measures of the Light Rail Alternative**

This analysis considers the effects of the Light Rail Alternative as outlined in Chapter 3, *Alternatives Considered*. Additionally, the potential cumulative effects of this alternative are considered in Chapter 5, *Other CEQA and NEPA Considerations*, of this document.

### **E-7: Place a Substantial Demand on Regional Energy Supply**

Analysis of VMT projections for 2010 and 2025 indicates that the Light Rail Alternative would result in lower overall energy consumption as compared to both of the No-Project Alternative (Table 4.8-1). The total energy consumed by implementation of the Light Rail Alternative would be approximately 68,042 billion and 74,084 billion BTU in 2010 and 2025, respectively. These BTU figures correspond to approximately 11.7 million and 12.7 million barrels of oil, respectively. The No-Project Alternative would consume approximately 12.1 million and 13.1 million barrels of oil in 2010 and 2025, respectively. Therefore, the Light Rail Alternative represents annual energy savings equivalent to about 380,000 barrels of oil in 2010 and 2025, or about 3% of No-Project Alternative energy consumption. Therefore, compared to the No-Project Alternative, a beneficial effect would result from implementation of the Light Rail Alternative. *In considering the Light Rail Alternative relative to other reasonably foreseeable transportation projects in the region with similar electrical demands, it should be noted that the Baseline Alternative includes both the BART Warm Springs Extension and additional Caltrain service. These programmed projects have already been considered in the analysis.*

**Mitigation:** No mitigation is required.

### **E-8: Significantly Increase Peak and Base Period Electricity Demand**

Electrical power demanded by the Light Rail Alternative would increase the load on the Cal-ISO-controlled system by 1.87 MW during the peak period of demand in 2010 and 2025, equivalent to the amount required to power about 1,870 average homes. Electricity supply and demand projections are not available for 2025 because such large time horizons are uncertain—it is not possible to predict capacity additions more than 2–3 years into the future because they depend on fluctuating market conditions. However, it is useful to compare the Light Rail Alternative rate of peak-period electricity usage to currently available projections of future electricity reserves. *As indicated in the “Environmental Setting” section of this chapter, 2008, which is the most distant year for which statewide Cal-ISO projections of demand and supply are available, is forecasted to have a peak demand of about 48,500 MW (California Independent System Operator 2002a) and a supply capacity of about 53,000 MW (California Energy Commission 2003A), representing an electricity surplus of 4,500,210 MW.* The additional load placed on the Cal-ISO grid by the Light Rail Alternative would represent approximately 0.04% of the 2008 *statewide* electricity surplus. Assuming current trends continue, the additional load on the system would not be considered adverse.

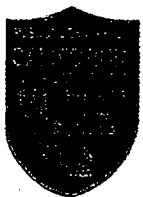
**Mitigation:** No mitigation is required.

### **E-9: Increase Demand on Electricity Transmission Infrastructure**

Although the potential for future electricity transmission bottlenecks exists, deficiencies in the transmission capacity of the current grid system are being addressed by projects such as the Path 15 upgrade (see Section 4.8.2), *which has been the electricity transmission bottleneck of biggest concern to the Cal-ISO. Projects specific to the Bay Area could net up to 2,000 MW more transmission capability, if the Jefferson-Martin transmission upgrade, addressed in the "Environmental Setting" section of this chapter, is permitted and built. Even if it is not, the Northeastern San Jose upgrade project added 35% to the electricity importation capability of the San Jose area, taking it from a 2,300-MW capacity to a 2,900-MW importation capability. The estimated 1.87-MW demand by the Light Rail Alternative would represent 0.06% of the overall importation capacity in the San Jose area.* If the trend toward increased transmission capacity continues, there would be sufficient capacity in the future to accommodate the Light Rail Alternative *in addition to existing and anticipated future demand, including other reasonably foreseeable transportation projects.* Therefore, there would be no adverse effect on transmission infrastructure.

**Mitigation:** No mitigation required.

The comment also includes the statement that the development of a future High Speed Train System is a reasonably foreseeable project. It should be noted that a program-level EIS/EIR on that project was only recently circulated to the public. In addition, the project is currently unfunded and requires an investment of more than \$33 billion. In May 2004, the state legislature voted to place a \$9.95 billion bond measure on the November 2006 statewide ballot to fund the first phase of the project. Therefore, it will be 2 years before it is known whether there is any funding for the project, and that is only if a statewide bond measure passes for almost \$10 billion. Therefore, it is highly speculative to say that the High Speed Train System is a reasonably foreseeable project.



DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

POST OFFICE BOX 47  
YOUNTVILLE, CALIFORNIA 94599  
(707) 944-5500



S1

May 26, 2004

Mr. Tom Fitzwater  
Santa Clara Valley Transportation Authority  
3331 North First Street, Building B  
San Jose, CA 95134

Dear Mr. Fitzwater:

Draft Environmental Impact Report and  
Environmental Impact Statement (EIR/EIS)  
Capitol Expressway Corridor  
Santa Clara County  
SCH # 2001092014

Department of Fish and Game (DFG) personnel have reviewed the above referenced document. The EIR/EIS evaluates the potential impacts of extending light rail service from an existing station at Alum Rock to the Eastridge Transit Center in San Jose.

We are in general concurrence with the analysis, identification of impacts, and proposed mitigations; however, we recommend that the following two mitigations be revised to more fully mitigate impacts:

Mitigation Measure Bio-7. This measure describes actions proposed to minimize impacts to burrowing owls. The proposed mitigations include preconstruction surveys to establish presence or absence, establishment of an appropriate buffer around any occupied burrows or, if a buffer is not possible, passive eviction of owls. Insofar as they go, these measures should be adequate. Because exclusion involves the assumed loss of an occupied nest site, DFG recommends that the impact be more fully mitigated through protection of offsite habitat. The mitigation ratio should be 6.5 acres per owl pair or single owl. The mitigation area should be in an area known to support burrowing owls and as close to the impact location as is possible. The mitigation area should be protected in perpetuity by an appropriate instrument such as outright ownership, conservation easement or mitigation bank, and supported by a suitable, non-wasting endowment.

S1-1



Mr. Tom Fitzwater  
May 26, 2004  
Page 2

Mitigation Measure Bio-16. While in general agreement with this process, we request that DFG be added as a consulting agency to develop specific procedures if bats are found.

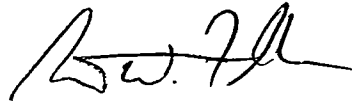
S1-2

Please be advised this project may result in changes to fish and wildlife resources as described in the California Code of Regulations, Title 14, Section 753.5(d)(1)(A)-(G)<sup>1</sup>. Therefore, a de minimis determination is not appropriate, and an environmental filing fee as required under Fish and Game Code Section 711.4(d) should be paid to the Santa Clara Clerk on or before filing of the Notice of Determination for this project.

S1-3

Questions regarding this letter and further coordination on these issues should be directed to Dave Johnston, Environmental Scientist, at (831) 475-9065; or Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

Sincerely,



Robert W. Floerke  
Regional Manager  
Central Coast Region

cc: Office of Planning and Research  
State Clearinghouse  
Post Office Box 3044  
Sacramento, CA 95812-3044

<sup>1</sup> <http://ccr.oal.ca.gov/>. Find California Code of Regulations, Title 14 Natural Resources, Division 1, Section 753

# Letter S1, California Department of Fish and Game, May 26, 2004

## Response to Comment S1-1

New text has been added to Mitigation Measure BIO-7 in Section 4.4, *Biological Resources*, under “4.4.3 Environmental Consequences and Mitigation Measures.”

### **Mitigation Measure BIO-7: Conduct Preconstruction Surveys for Nesting and Wintering Western Burrowing Owls and Implement Measures to Avoid or Minimize Adverse Effects if Owls Are Present**

Preconstruction surveys for Western burrowing owls shall be conducted by a qualified ornithologist before any development within the habitat identified in Figure 4.4-1. These surveys, which shall include any potentially suitable habitat within 250 feet of construction areas, shall be conducted no more than 30 days before the start of site grading, regardless of the time of year in which grading occurs. If breeding owls are located on or immediately adjacent to the site, a construction-free buffer zone (typically 250 feet) around the active burrow must be established as determined by the ornithologist in consultation with CDFG. No activities, including grading or other construction work or relocation of owls, would proceed that may disturb breeding owls. If owls are resident within 250 feet of the Project Area during the nonbreeding season a qualified ornithologist, in consultation with CDFG, shall passively relocate (evict) the owls to avoid the loss of any individuals if the owls are close enough that they or their burrows could potentially be harmed by associated activities.

*VTA will ensure that the loss of Western burrowing owl habitat in the project area is replaced with habitat of equal or greater value. Habitat replacement will be based on CDFG’s recommended habitat allocation of 6.5 acres for each pair impacted. Location of the compensation habitat will be identified in conjunction with CDFG through a mitigation agreement. Compensation habitat may be located on or off site, depending on approval from CDFG. If necessary, VTA will construct two artificial burrows for each occupied burrow lost or rendered unsuitable as a result of construction activities. VTA will ensure that the mitigation habitat (including artificial burrows) is maintained for owls in perpetuity by an appropriate instrument such as a conservation easement or a mitigation bank.*

## Response to Comment S1-2

New text, which is highlighted and in italics, has been added to Mitigation Measure BIO-16 in Section 4.4, *Biological Resources*, under “4.4.3 Environmental Consequences and Mitigation Measures.”

### **Mitigation Measure BIO-16: Conduct Preconstruction Survey of Coyote Creek Overpass**

A qualified biologist will conduct a preconstruction survey to determine occupancy by roosting special-status bats. If it is determined that bats are roosting beneath the bridge or in adjacent riparian habitat, then appropriate modifications to construction time and method will be implemented. *The modifications will be developed through consultation with CDFG.*



Modifications may include timing construction activities to avoid breeding periods, establishment of buffers, or biological monitoring. In some cases bats may be actively encouraged to avoid roosting in the area affected prior to the onset of construction activities.

It should be noted that at its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions on the Phase 2 of the Light Rail Alternative between Nieman Boulevard and SR 87, which includes Coyote Creek. As a result, no impacts to roosting special-status bats at the Coyote Creek overpass are anticipated.

### **Response to Comment S1-3**

VTA appreciates the comment provided by CDFG. VTA will submit the applicable filing fee to the county clerk on or before filing the notice of determination.

**DEPARTMENT OF TRANSPORTATION**

DIVISION OF AERONAUTICS – M.S.#40

1120 N STREET

P. O. BOX 942873

SACRAMENTO, CA 94273-0001

PHONE (916) 654-4959

FAX (916) 653-9531

TTY (916) 651-6827



*Flex your power!  
Be energy efficient!*

S2

VTA  
ENV. ANALYSIS

2004 JUN 10 P 3:41

June 8, 2004

Mr. Thomas Fitzwater  
Santa Clara Valley Transportation Authority  
3331 N. First Street, Building B  
San Jose, CA 95134

Dear Mr. Fitzwater:

Re: Santa Clara Valley Transportation Authority (VTA) Draft Environmental Impact Report (DEIR) for the Capitol Expressway Corridor; SCH# 2001092014

The California Department of Transportation (Department), Division of Aeronautics, reviewed the above-referenced document with respect to airport-related noise and safety impacts and regional aviation land use planning issues pursuant to the California Environmental Quality Act (CEQA). The Division of Aeronautics has technical expertise in the areas of airport operations safety and airport land use compatibility. The Division has permit authority for public use airports, and we are a funding agency for airport projects. The following comments are offered for your consideration.

1. The Santa Clara Valley Transportation Authority (VTA) is considering three alternatives for "improving direct transit service in the Capitol Expressway Corridor" within the City of San Jose and Santa Clara County. They are the No-Project Alternative, Baseline Alternative and Light Rail Alternative. S2-1
2. Reid-Hillview Airport is located adjacent to a portion of the Capitol Expressway Corridor near Cunningham Avenue. The DEIR states on page 4.13-14, that although the Light Rail Alternative would "encroach on existing airport land, VTA and airport authorities would implement an agreement of use of the LRT (Light Rail Transit) line in this portion of the corridor that would ensure that there would not be not be any conflicts with the airport's" policies or programs and the Light Rail Alternative would be in compliance with Federal Aviation Administration (FAA) regulations. S2-2
3. To ensure that the Light Rail Alternative is in compliance with Federal Aviation Regulation Part 77, "Objects Affecting Navigable Airspace," the FAA may require submission of a Notice of Proposed Construction or Alteration (Form 7460-1). For further technical information, please refer to the FAA web site at <http://www1.faa.gov/ats/ata/ATA400/oeaaa.html>. The FAA Advisory Circular 150/5370-2E entitled "Operational Safety on Airports During Construction" should also be incorporated into the project design to identify any temporary construction-related impacts (e.g. construction cranes, etc.). This advisory circular is available at <http://www.faa.gov/ARP/publications/-acs/5370-2e.pdf>. S2-3

4. Under "Regulatory Setting" (pg. 4.13-6), the DEIR lists the "Santa Clara County Airports Master Plan" as a relevant plan "reviewed to identify potential adverse effects" of the proposed alternatives for Capitol Expressway Corridor. The list should also include the "Land Use Plan for Areas Surrounding Santa Clara County Airport" which is the adopted airport land use compatibility plan developed by the Santa Clara County Airport Land Use Commission (ALUC). The proposal should also be submitted to the ALUC for a consistency determination. S2-4
  
5. In accordance with CEQA, Public Resources Code 21096, the Department's Airport Land Use Planning Handbook (Handbook) must also be utilized as a resource in the preparation of environmental documents for projects within airport land use compatibility plan boundaries or if such a plan has not been adopted, within two nautical miles of an airport. The Handbook is published on-line at <http://www.dot.ca.gov/hq/planning/aeronaut/htmlfile/landuse.php>. S2-5
  
6. Aviation plays a significant role in California's transportation system. This role includes the movement of people and goods within and beyond our state's network of over 250 airports. Aviation contributes nearly 9% of both total state employment (1.7 million jobs) and total state output (\$110.7 billion) annually. These benefits were identified in a recent study, "Aviation in California: Benefits to Our Economy and Way of Life," prepared for the Division of Aeronautics which is available at <http://www.dot.ca.gov/hq/planning/aeronaut/>. Among other things, aviation improves mobility, generates tax revenue, saves lives through emergency response, medical and fire fighting services, annually transports air cargo valued at over \$170 billion and generates over \$14 billion in tourist dollars, which in turn improves our economy and quality-of-life. S2-6
  
7. We believe the protection of airports from incompatible land use encroachment is vital to California's economic future. Reid Hillview Airport is an economic asset that should be protected through effective airport land use compatibility planning and awareness. Although the need for compatible and safe land uses near airports in California is both a local and a state issue, airport staff, airport land use commissions and airport land use compatibility plans are key to protecting an airport and the people residing and working in the vicinity of an airport. Consideration given to the issue of compatible land uses in the vicinity of an airport should help to relieve future conflicts between airports and their neighbors. S2-7

These comments reflect the areas of concern to the Department's Division of Aeronautics with respect to airport-related noise and safety impacts and regional airport land use planning issues. We advise you to contact our district office concerning surface transportation issues.

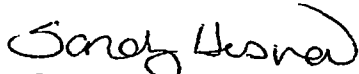
Mr. Thomas Fitzwater

June 8, 2004

Page 3

Thank you for the opportunity to review and comment on this proposal. If you have any questions, please call me at (916) 654-5314.

Sincerely,



SANDY HESNARD

Aviation Environmental Planner

c: State Clearinghouse  
Santa Clara County ALUC  
Santa Clara County Airports/Reid-Hillview

# Letter S2, California Department of Transportation, Aeronautics Division, June 8, 2004

## Response to Comment S2-1

VTA acknowledges that three alternatives are under consideration for “improving direct transit service in the Capitol Expressway Corridor”.

## Response to Comment S2-2

In the vicinity of Reid-Hillview Airport, the alignment of the Light Rail Alternative would be in the median of Capitol Expressway. It is anticipated that the construction of a sidewalk would use a sliver of land owned by Reid-Hillview Airport that is currently vacant and separated from airport uses by a frontage road. VTA will coordinate with the Santa Clara County Roads and Airports Department on the acquisition of this property to ensure that there will not be any conflicts with airport policies or programs.

## Response to Comment S2-3

The following plan has been added to the list of land use plans and policies applicable to the Capitol Expressway Corridor in Land Use, Section 4.13.2, Existing Conditions:

- *Land Use Plan for Areas Surrounding Santa Clara County Airport*

Regarding the consistency determination, VTA is coordinating with the County of Santa Clara’s Airport Land Use Commission (ALUC) on this project’s effect on Reid-Hillview Airport. It is our understanding that the ALUC will only make determinations on consistency if it is referred a project that requires a permit from Santa Clara County (per email dated 7/29/04 from Dana Peak, Program Manager, County of Santa Clara). If a permit is required for this project, the ALUC will make a determination of consistency at that time.

## Response to Comment S2-4

Land Use, Section 4.13.3, Environmental Consequences and Mitigation Measures of the Light Rail Alternative, LU-11: Conflicts with Any Applicable Land Use Plan, Policy, or Regulation of an Agency with Jurisdiction discusses the Santa Clara County Airports Master Plan. It concludes that while the Light Rail Alternative would encroach on airport land and require relocation of electrical transmission towers, VTA would coordinate with airport authorities to avoid any conflicts with the airport’s policies or programs. In particular, the

relocated transmission towers would be no closer or taller than existing towers to the airport. As a result, no substantial adverse effects were identified.

Regarding park-and-ride facilities, on August 5, 2004, the Downtown East Valley (DTEV) Policy Advisory Board (PAB) recommended the expansion of Eastridge Transit Center to 400 spaces, with an initial phase of up to 266 spaces. Therefore, the Ocala park-and-ride facility that would have required Reid Hillview Airport property is not recommended. Based on a review of the recommended Light Rail Alternative (see Chapter 2 of Volume II), there does not appear to be any conflicts with the Santa Clara County Airports Master Plan.

The DTEV PAB also selected the station option between Ocala and Cunningham Avenues because of less roadway reconstruction, lower construction costs, and fewer residential relocations. This station option would provide pedestrian access with pedestrian overcrossings of Capitol Expressway in the vicinity of Reid-Hillview Airport. Since the pedestrian overcrossings would be no closer or taller than existing electrical transmission towers, no substantial adverse impacts were identified.

In addition, VTA has added the following text to the list of land use plans and policies applicable to the Capitol Expressway Corridor in Land Use, Section 4.13.2, Existing Conditions:

- *Airport Land Use Planning Handbook*

As required by state law, VTA utilized the Airport Land Use Planning Handbook as a technical resource with respect to noise and safety compatibility issues in the preparation of the environmental document.

## **Response to Comment S2-5**

The comment is consistent with information provided in the Draft EIS/EIR and does not raise any issue related to the adequacy of the report. It therefore does not require further response.

## **Response to Comment S2-6**

VTA acknowledges the significant role aviation plays in California's transportation system and its contribution to state employment and the economy. None of the project alternatives are anticipated to adversely affect the airport's facilities and operations.

## **Response to Comment S2-7**

In Land Use, Section 4.13.3, Environmental Consequences and Mitigation Measures, the Draft EIS/EIR evaluates conflicts with applicable land use plans,

policies, or regulations. Because the Light Rail Alternative would encroach on airport property and require the relocation of transmission towers in the vicinity of the airport, VTA would coordinate closely with airport authorities to ensure that there would not be any conflicts with the airport's existing policies or programs and is in compliance with Federal Aviation Administration regulations.



Terry Tamminen  
Secretary for  
Environmental  
Protection

# California Regional Water Quality Control Board

## San Francisco Bay Region



Arnold Schwarzenegger  
Governor

VTA  
ENV. ANALYSIS

Internet Address: <http://www.swrcb.ca.gov>  
515 Clay Street, Suite 1400, Oakland, California 94612  
Phone (510) 622-2300 FAX (510) 622-2460

2004 JUN 10 P 3:41

S3

Date: **JUN 09 2004**  
File No. 2188.005 (BKW)

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

**Re: Draft Environmental Impact Statement/ Draft Environmental Impact Report  
and Draft 4(f) Evaluation, Capitol Expressway Corridor  
SCH Number 2001092014**

Dear Mr. Fitzwater:

Thank you for giving Regional Water Quality Control Board (Water Board) staff the opportunity to review the *Draft Environmental Impact Statement/ Draft Environmental Impact Report and Draft 4(f) Evaluation, Capitol Expressway Corridor* (DEIR). The DEIR evaluates the potential environmental impacts that might reasonably be anticipated to result from providing light rail service along the Capitol Expressway Corridor in San Jose. Water Board staff have the following comments on the DEIR.

**Comment 1**

**Section 4.4.2, Existing Conditions, Regulatory Setting, page 4.4-9 and 4.4-10.** The organization of this subsection is confusing. Although eight federal and state acts and/or government codes are listed, only the implications of one of the laws, Section 404 of the Clean Water Act (CWA) is described in any detail, under the heading, "Potential Waters of the United States (Unverified)". As written, this subsection of the DEIR gives the impression that waters of the United States are the most significant jurisdictional nexus for regulatory oversight of biological resources.

The first paragraph under the subheading, "Potential Waters of the United States (Unverified)", should be revised to read as follows:

Silver, Thompson, Coyote, and Canoas Creeks occur within the Capitol Expressway Corridor. These creeks contain jurisdictional waters of the United States under Clean Water Act (CWA) Section 404 and are subject to CDFG jurisdiction under California Fish and Game Code Sections 1601-1603.

As is noted in the second paragraph of the section, the Army Corps of Engineers (ACOE), under Section 404 of the CWA, has jurisdiction over the area below the ordinary high water mark (OHW) of streams. Since all of these creeks have an OHW, they all contain jurisdictional waters of the U.S. There is also no question as to the jurisdiction of the California Department of Fish and Game (CDFG) over these creeks.

S3-1



In addition, this subsection should be expanded to cover waters of the State. The Porter-Cologne Water Quality Act gives the Water Board jurisdiction beyond areas under the jurisdiction of the Army Corps of Engineers (ACOE). Waters of the State include areas of the creek banks that are above OHW, as well as isolated wetlands that are not under the jurisdiction of the ACOE. Activities in waters of the State that are outside of ACOE jurisdiction may require Waste Discharge Requirements (WDRs) from the Water Board.

S3-1  
cont.

The State Water Resources Control Board has recently adopted General Waste Discharge Requirements (GWDRs) for activities that occur in waters of the State that lie outside of ACOE jurisdictional waters. Coverage under these GWDRs can be obtained by filing a Notice of Intent (NOI) with the appropriate Regional Water Quality Control Board.

**Comment 2**

***Section 4.4.3, Environmental Consequences and Mitigation Measures, BIO-8, Temporary Disturbance of Riparian Forest During Construction, page 4.4-15.***

Mitigation Measure BIO-8b should be revised to include Water Board jurisdiction over activities on the creek banks.

S3-2

**Comment 3**

***Section 4.4.3, Environmental Consequences and Mitigation Measures, BIO-9, Placement of Fill within Open Waters of the United States and Aquatic and Bare Soil (Ruderal) Habitats under the Jurisdiction of the California Department of Fish and Game, page 4.4-16.*** Mitigation Measure BIO-9 should be revised to include Water Board jurisdiction over activities on creek banks. Although the last sentence of this mitigation measure correctly notes that the Water Board should receive copies of monitoring reports, the mitigation measure should be revised to note that either a CWA Section 401

Certification or WDRs will be required from the Water Board. VTA will be required to develop permit conditions and mitigation measures in consultation with the Water Board, as well as ACOE and CDFG. The mitigation measure is also incorrect in stating that monitoring would occur for up to five years. Five years of monitoring is the minimum acceptable period for mitigation monitoring. Monitoring can only be terminated with the permission of the resource agencies, upon attainment of the success criteria for the mitigation measures.

S3-3

**Comment 4**

***Section 4.12.2, Existing Conditions, State Plans and Policies, San Francisco Bay Regional Water Quality Control Plan, , page 4.12-10.*** The list of Beneficial Uses in the Coyote Creek watershed is incomplete. One of the existing beneficial uses is “preservation of rare and endangered species”.

S3-4

**Comment 5**

**Section 4.12.2, Existing Conditions, State Plans and Policies, National Pollution Discharge Elimination System Storm Water Discharge Permits and Local Programs, Santa Clara Valley Urban Runoff Pollution Prevention Program, page 4.12-11.** The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) implements the National Pollutant Discharge Elimination System (NPDES) permit for stormwater discharges in the portion of Santa Clara County that discharge to San Francisco Bay. The discussion of NPDES permits at the top of page 4.12-11 should include the NPDES permit that is held by SCVURPPP and the discussion of SCVURPPP should also acknowledge that SCVURPPP is implementing an NPDES permit.

In SCVURPPP's NPDES permit, NPDES Permit No. CAS0299718 (Regional Board Order No. 01-024) for the discharge of urban runoff, provision C.3 has recently been revised to provide enhanced performance standards for the management of stormwater at new development and significant redevelopment. Effective October 15, 2003, projects that result in the addition or replacement of more than 43,560 square feet of impervious surface are required to design and implement stormwater treatment best management practices (BMPs) to reduce stormwater pollution to the maximum extent practicable (MEP). Subsection d of Provision C.3 presents the numeric sizing criteria for pollutant removal treatment systems that are to be used in the design of stormwater treatment BMPs. These sizing criteria will be applicable to components of the Capitol Expressway Corridor that create or replace than 43,560 square feet of impervious surface, such as new parking lots or light rail stations.

S3-5

Treatment BMPs are to be constructed that incorporate, at a minimum, the following hydraulic sizing design criteria to treat stormwater runoff. As appropriate for each criterion, local rainfall data are to be used or appropriately analyzed for the design of the BMPs.

**Volume Hydraulic Design Basis:** Treatment BMPs whose primary mode of action depends on volume capacity, such as detention/retention units or infiltration structures, shall be designed to treat stormwater runoff equal to:

1. the maximized stormwater quality capture volume for the area, based on historical rainfall records, determined using the formula and volume capture coefficients set forth in *Urban Runoff Quality Management, WEF Manual of Practice No. 23/ ASCE Manual of Practice No. 87, (1998)*, pages 175-178 (e.g., approximately the 85<sup>th</sup> percentile 24-hour storm runoff event); or

2. the volume of annual runoff required to achieve 80 percent or more capture, determined in accordance with the methodology set forth in Appendix D of the *California Stormwater Best Management Practices Handbook*, (1993), using local rainfall data.

**Flow Hydraulic Design Basis:** Treatment BMPs whose primary mode of action depends on flow capacity, such as swales, sand filters, or wetlands, shall be sized to treat:

1. 10% of the 50-year peak flow rate; or
2. the flow of runoff produced by a rain event equal to at least two times the 85th percentile hourly rainfall intensity for the applicable area, based on historical records of hourly rainfall depths; or
3. the flow of runoff resulting from a rain event equal to at least 0.2 inches per hour intensity.

Parking lots, light rail stations, and other facilities with more than an acre of impervious surfaces will be required to meet these treatment standards. Water Board staff strongly encourage the use of landscape-based stormwater treatment measures, such as biofilters and vegetated swales, to manage runoff from the project sites. Since landscape-based stormwater treatment measures require that some of the site surface area be set aside for their construction, the proper sizing and placement of these features should be evaluated early in the design process to facilitate incorporation of the features into the site landscaping. Regional Board staff discourage the use of inlet filter devices for stormwater management. Filtration systems require a maintenance program that is adequate to maintain the functional integrity of the systems and to ensure that improperly maintained filtration devices do not themselves become sources of stormwater contaminants or fail to function. Regional Board staff have observed problems with the use of inlet filter inserts, since these devices require high levels of maintenance and are easily clogged by leaves or other commonly occurring debris, rendering them ineffective. Research conducted by the California Department of Transportation has demonstrated that inlet filters can be clogged by a single storm event. The study found that these devices required maintenance before and after storm events as small as 0.1 inch of rain. In addition, trash, debris, and sediment in the catchment had a significant impact on the frequency of maintenance<sup>1</sup>. Therefore, adequate maintenance of inlet filters to provide MEP water quality treatment would be prohibitively expensive and impractically time consuming.

<sup>1</sup> Othmer, Friedman, Borroum and Currier, November 2001, *Performance Evaluation of Structural BMPs: Drain Inlet Inserts (Fossil Filter™ and StreamGuard™) and Oil/Water Separator*, Sacramento, Caltrans.

Regional Board staff recommend that the VTA refer to *Start at the Source*, a design guidance manual for storm water quality protection, for a fuller discussion of the selection of stormwater management practices. This manual provides innovative procedures for designing structures, parking lots, drainage systems, and landscaping to mitigate the impacts of stormwater runoff on receiving waters. This manual may be obtained from the Santa Clara Valley Urban Runoff Pollution Prevention Program's website ([www.scvurppp.org](http://www.scvurppp.org)) or by e-mailing a request to the e-mail address in the last paragraph of this letter.

S3-5  
cont.

Additional innovative techniques for incorporating structural stormwater BMPs into urban design, such as infiltration planter boxes, can be found in Portland, Oregon's 2002 *Stormwater Management Manual*, which can be obtained at [www.cleanrivers-pdx.org/tech\\_resources/2002\\_swmm.htm](http://www.cleanrivers-pdx.org/tech_resources/2002_swmm.htm).

**Comment 6**

**Section 4.12., Environmental Consequences and Mitigation Measures, HYD-12, Creation or Contribution of Additional Runoff, Including Increasing Additional Sources of Polluted Runoff. page 4.12-17.** As noted in Comment 5, the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) is overseeing the implementation of Santa Clara County's NPDES permit for stormwater discharges from new development and significant redevelopment. Under the terms of the NPDES permit, projects that create or replace one or more acres of impervious surfaces are required to meet the treatment standards presented in Comment 5, above. Please revise Mitigation Measure HYD-12 to included designing facilities that include appropriately sized post-construction stormwater management BMPs.

S3-6

**Comment 7**

**Section 4.17.3, Environmental Consequences and Mitigation Measures of the Light Rail Alternative, HYD-14, Creation or Contribution of Additional Runoff, Including Increasing Additional Sources of Polluted Runoff. page 4.12-17.** As noted in Comment 6, the use of trash grates and silt traps at new stormwater inlets in parking lots will not meet the post-construction treatment requirements required by SCVURPPP's NPDES permit for stormwater discharges from new development and significant redevelopment. Please revise Mitigation Measure HYD-14 to included designing facilities that include appropriately sized post-construction stormwater management BMPs.

S3-7

Thank you for the opportunity to comment on the DEIR. If you have any questions, please contact me at (510) 622-5680 or by e-mail at [bkw@rb2.swrcb.ca.gov](mailto:bkw@rb2.swrcb.ca.gov).

Sincerely,



Brian Wines  
Water Resources Control Engineer  
Alameda-Santa Clara Watershed Section

cc State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044  
Santa Clara Valley Water Control District, Attn: Sue Tippets, Community Projects  
Review Unit, 5750 Almaden Expressway, San Jose, CA 95118-3686  
CDFG, Central Coast Region, Attn: Robert Floerke, Regional Manager, P.O. Box  
47, Yountville CA 94599



Arnold  
Schwarzenegger  
Governor

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



Jan Boel  
Acting Director

June 16, 2004

Tom Fitzwater  
Santa Clara Valley Transportation Authority  
3331 North First Street  
Building B  
San Jose, CA 95134

Subject: Capitol Expressway Corridor  
SCH#: 2001092014

Dear Tom Fitzwater:

The enclosed comment (s) on your Draft EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on June 11, 2004. 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 (2001092014) when contacting this office.

Sincerely,

Terry Roberts  
Senior Planner, State Clearinghouse

Enclosures  
cc: Resources Agency

# Letter S3, San Francisco Bay Regional Water Quality Control Board, June 9, 2004

## Response to Comment S3-1

Page 4.4-10 in Volume I, Chapter 4, Section 4.4 has been revised to read as follows:

### **Waters of the United States (Unverified)**

Silver, Thompson, Coyote, and Canoas Creeks occur within the Capitol Expressway Corridor. These creeks contain ~~potential~~ jurisdictional waters of the United States under Clean Water Act (CWA) Section 404 and may be subject to CDFG jurisdiction under California Fish and Game Code Sections 1601–1603.

### **Waters of the State of California**

*“Waters of the state” are defined in the Porter-Cologne Water Quality Control Act as any surface water or groundwater, including saline waters, within the boundaries of the state. Within the Capitol Expressway Corridor, waters of the State include areas of the creek banks that are above the OHWM, as well as isolated wetlands that are not under the jurisdiction of the Corps. Activities in waters of the State that are outside of Corps jurisdiction may require Waste Discharge Requirements (waste discharge requirements) from the San Francisco Bay Regional Water Quality Control Board (RWQCB). In addition, the State Water Resources Control Board (SWRCB) has recently adopted General Waste Discharge Requirements (Gwaste discharge requirements) for activities that occur in waters of the State that lie outside of Corps jurisdictional waters.*

It should be noted that at its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87. As a result, the Recommended Light Rail Alternative would have no effect on Coyote and Canoas Creeks.

## Response to Comment S3-2

Mitigation Measure BIO-8b on page 4.4-15 in Volume I, Chapter 4, Section 4.4 has been revised as follows:

### **Mitigation Measure BIO-8b: Compensate for Disturbed Riparian Forest**

VTA shall mitigate effects on the riparian habitat *and creek banks* located within CDFG *and RWQCB* jurisdiction at a ratio of at least 2:1 (replacement:loss) commensurate with a detailed riparian restoration plan to be prepared. This plan shall provide for the on-site replacement of lost acreage as well as values and functions of riparian habitat *and non-jurisdictional wetlands*, including SRA cover vegetation, and locations of restoration opportunities, with a technical approach to create high-quality riparian and SRA cover habitat. Success criteria typically would include 80% survival of planted trees, shrubs, and groundcover, assured by up to 5 years of post-installation monitoring. Monitoring reports

shall be submitted annually, with CDFG and RWQCB confirmation of the fulfillment of the success criteria.

Before construction, VTA shall obtain a Streambed Alteration Agreement from CDFG, and a WDR from RWQCB and a GWDR from SWRCB. VTA shall comply with all conditions of the agreement permits. In addition to conditions contained in the Streambed Alteration Agreement, VTA shall coordinate with CDFG, RWQCB, and SWRCB to develop, implement and monitor other compensatory measures as may be necessary.

## Response to Comment S3-3

Impact BIO-9 and Mitigation Measure BIO-9 on page 4.4-16 in Volume I, Chapter 4, Section 4.4 have been revised as follows:

### **BIO-9: Placement of Fill within Open Waters of the United States and Aquatic and Bare Soil (Ruderal) Habitats under the Jurisdiction of the California Department of Fish and Game**

The proposed retrofit of the Capitol Expressway bridge at Coyote Creek would require construction of new pile columns and pier wall support structures beneath the existing bridge and would place up to 0.0015 acre of fill in the open waters (or bed and bank) of Coyote Creek. Construction activities would occur at or below the OHWM (unverified) of Coyote Creek, within an approximately 143-linear-foot segment of creek bed beneath the existing bridge (Figure 4.4-2). The bed and bank beneath the existing bridge are both potential waters of the United States, *waters of the State*, and CDFG aquatic and bare soil (ruderal) habitats. Vegetation is absent from both the creek channel and bank in the section of Coyote Creek where construction activity would occur. This would be considered a substantial adverse effect. However, implementation of the following mitigation measure would minimize this effect.

### **Mitigation Measure BIO-9: Restore or Create Jurisdictional Waters of the United States**

VTA shall mitigate effects to the Corps' jurisdictional areas through replacement of lost functions and values of jurisdictional habitat on site and in kind at a ratio of at least 2:1 (replacement:loss). *VTA shall also mitigate effects to creek banks or waters of the State that are under RWQCB jurisdiction.*

Before construction, VTA shall obtain a permits from the Corps and RWQCB, and shall comply with the conditions of these permits. In addition to the conditions contained in the Corps permits, VTA shall coordinate with the Corps and RWQCB to develop, implement and monitor other compensatory measures. Specific performance criteria shall include verifiable restoration and/or creation of waters of the United States and *waters of the State*, including wetlands, as appropriate. Restoration and/or creation results shall be monitored for site success for ~~up to~~ *a minimum of 5 years and will be terminated with the permission of the resource agencies.* Monitoring reports shall be provided annually to the Corps, RWQCB, and CDFG.



## Response to Comment S3-4

The fourth full paragraph on page 4.12-10 Volume I, Chapter 4, Section 4.12 has been revised to read as follows:

Beneficial uses of the surface water in the Capitol Expressway Corridor area include municipal and domestic supply; agricultural supply; industrial service supply; groundwater recharge; contact and non-contact recreation; *preservation of rare and endangered species*; warm freshwater habitat; cold freshwater habitat; wildlife habitat; migration of aquatic organisms; and spawning, reproduction, and or early development. Beneficial uses of groundwater include municipal and domestic supply, agricultural supply, and industrial service supply.

## Response to Comment S3-5

The following text replaces the last paragraph on page 4.12-11 in Volume I, Chapter 4, Section 4.12:

*The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) is an association of Santa Clara County, the SCVWD, and the 13 cities and towns that discharge stormwater into San Francisco Bay. The SCVURPPP implements an NPDES permit (No. CAS0299718, Regional Board Order No. 01-24) for stormwater discharges in the portion of Santa Clara County that discharges to the bay. The SCVURPPP addresses several elements that follow the NPDES permit. These include existing control measures, municipal facility operations and maintenance, stormwater treatment, elimination of illicit connection and illegal dumping activities, planning and regulation of new development, regulatory controls for improper waste disposal, and public information and participation.*

## Response to Comment S3-6

Mitigation Measure HYD-12 on page 4.12-17 in Volume I, Chapter 4, Section 4.12 has been revised as follows:

### **Mitigation Measure HYD-12: Implement Measures to Maintain Operational Water Quality**

~~VTA shall ensure that new stormwater inlets at parking lots include trash grates and maintain silt traps perform inspections and cleanings such that permit treatment requirements will be met and shall ensure that outlet structures~~ provide for proper energy dissipation in accordance with standard specifications for storm drainage. VTA shall ensure that regular maintenance of parking facilities includes a program to clean curbside pavement areas of litter, fuel, and oils spills. Storm drain inlet traps shall be inspected at least annually and cleaned as required.

*Pursuant to Provision C.3 of the SCVURPPP NPDES permit, BMPs for projects that result in the displacement of more than 43,560 square feet (1 acre) of impervious surface must implement treatment BMPs to the maximum extent*

*practicable (MEP). Those BMPs whose primary mode of action to treat stormwater depends on volume capacity, such as detention/retention units or infiltration structures, shall be designed to treat stormwater runoff equal to either the maximized stormwater quality capture volume for the area, based on historical rainfall records (URQM 1998), or the volume of annual runoff required to achieve 80% or more capture (CASQA 1993).*

*Treatment BMPs such as swales, sand filters, wetlands, and others whose primary mode of action depends on flow capacity shall be sized to treat 1) 10% of the 50-year peak flow; 2) the flow of runoff produced by a rain event equal to at least two times the 85th-percentile hourly rainfall intensity for the applicable area, based on historical records of hourly rainfall depths; or 3) the flow of runoff resulting from a rain event equal to at least 0.2-inch-per-hour intensity.*

## **Response to Comment S3-7**

There appears to be a typo in this comment. Impact HYD-14 pertains to flood hazards, not polluted runoff, and is on page 4.12-18, not 4.12-17 of Volume I, Chapter 4, Section 4.12. This comment was addressed in Response to Comment S3-6 above in revisions to Mitigation Measure HYD-12.

STATE OF CALIFORNIA—BUSINESS TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER GOVERNOR

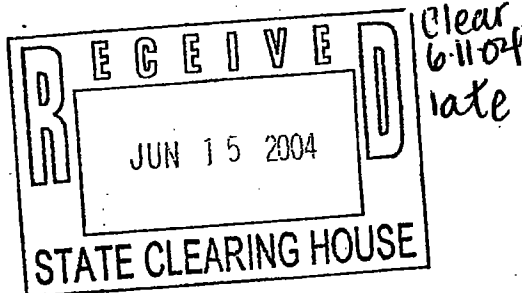
**DEPARTMENT OF TRANSPORTATION**

P. O. BOX 23660  
OAKLAND, CA 94623-0660  
(510) 286-5505  
(800) 735-2929 TTY



*Flex your power!  
Be energy efficient!*

S4



June 14, 2004

SCL-General  
SCL000136  
SCH 2001092014

Mr. Tom Fitzwater  
Santa Clara Valley Transportation Authority  
3331 N. First Street  
San José, CA 95134-1906

Dear Mr. Fitzwater:

**Capitol Expressway Corridor - Draft Environmental Impact Statement / Environmental Impact Report (DEIS & DEIR) & Draft 4(f) Evaluation**

Thank you for including the California Department of Transportation (Department) in the environmental review process for the proposed Capitol Expressway Corridor. We have reviewed the DEIS/R and have the following comments to offer:

**Transit Operating Systems - Ramp Metering**

- Does this project include the proposed 2030 VTA project to convert US 101/Capitol Expressway interchange to a partial cloverleaf? S4-1
- During the morning peak hours the Capitol Expressway/Narves intersection is heavily congested. The queue from the NB 87 meter, at times, backs into the Capitol Expressway/Narves intersection. Please analyze the potential impact that the Light Rail Transit Project may have on metering and this intersection. S4-2
- All existing and operational TOS elements and ramp metering equipment must be kept operational through all construction phases. Any TOS elements that may be affected by this project must be relocated, modified, or fully replaced as necessary. S4-3

**Highway Operations**

Table 1-1: It is difficult to determine if there are crossings near state freeway facilities. We are concerned with the potential transportation impact of increased queues at intersections near freeways when light rail is passing. Please provide this information. S4-4

Mr. Tom Fitzwater  
 Santa Clara Valley Transit Authority  
 June 14, 2004  
 Page 2

### Environmental Setting: Geology

San José is not located on the western margin of the Coast Ranges.

S4-5

### Soils

This section gives no soils information except copying of the generalized descriptions from the soil survey. The soils associations and engineering properties are listed in the soil survey. It is not clear whether this information was considered in determining erosion and shrink-swell potential. For example, the erosion hazard is not solely a function of slope; the grain size and cohesion of the soils must be considered too.

S4-6

### Seismicity: Surface Rupture

- Page 4.10-3 reads, "For the purpose of fault zonation under the Alquist-Priolo Act, the California Division of Mines, and Geology defines active faults as those that show evidence of displacement within the last 200 years." Under the Act, an active fault is defined as one that has ruptured in the last 11,000 years.
- Page 4.10-4 states, "Fault rupture during the Great San Francisco Earthquake of 1886..." This earthquake did not occur in 1886, and was only known as the "Great San Francisco Earthquake" until 1906.

S4-7

S4-8

### Seismic Ground Shaking

The earthquake references cited in this report use moment magnitude and not Richter magnitude, as stated in the EIR.

S4-9

### Estimates of Earthquake Shaking

- Most of the references cited in earthquake magnitude estimates are outdated. Earthquake probabilities and maximum credible earthquake (MCE) estimates are constantly being updated. The fault studies cited from the 1970's, or even from the early 1990's, are no longer accurate. More recent studies should be cited.
- Page 4.10-5 (and several other instances) read, "The estimated probability of an MCE of Richter (sic) magnitude 6.7..." Both deterministic MCE values and threshold magnitudes for probabilities of exceedance are given. If the desire is to use only the probabilities given in the Working Group report, they can be given as "The probability of a magnitude 6.7 or greater earthquake." By definition, the MCE does not have a time-dependent probability. Please explain methods used to determine shaking hazard. Also, state whether it will be based on a deterministic value or a probabilistic one. There is an updated 2003 Working Group on California Earthquake Probabilities report, although it appears to have been issued after this EIR was written.

S4-10

S4-11

Mr. Tom Fitzwater  
Santa Clara Valley Transit Authority  
June 14, 2004  
Page 3

### **Appendix F**

Page 9 states, "Based on the seismic hazard map prepared by Maulchin (1996) and the attenuation relationship by Sadigh, et al. (1997), the controlling fault for the site is the Hayward fault..."

- It is unclear how the determination of the controlling fault was made. Were values from Maulchin used in Sadigh's attenuation relationship, or were values from Maulchin compared to values calculated using Sadigh? Maulchin's MCE estimates already incorporate attenuation, so putting those progressive ground accelerations (PGA's) into another attenuation relationship would result in an incorrect value. Attenuation relations require a great deal of judgment on the part of the user. If Sadigh (1997) was used to calculate a ground motion, the parameters used in the equation should be listed, along with a source for each.
- The PGA for each fault should be given in the table on page 9.
- Please provide an explanation of the methods used to determine the controlling fault, and enough supporting data to understand what the decision was based on.

S4-12

### **Forecasting**

While there were discussions of how the forecasts were made, including vehicle miles traveled (VMT's), there were no line diagrams showing links to intersections for existing or future years. Please provide this information.

S4-13

### **Cooperative Agreement**

The Santa Clara Valley Transportation Authority (VTA) should be aware that a "Cooperative Agreement," between the State of California, Department of Transportation and the Santa Clara Valley Transportation Authority shall be entered into for improvements to state highways. The agreement shall be executed prior to any development activity occurring, such as the Project Study Report (PSR) and Plans, Specifications and Estimates (PS&E) documents.

S4-14

### **Utility Relocation**

Construction by the Santa Clara Valley Transportation Authority (VTA) of improvements which lie within state highway rights of way or affect state facilities, shall not be commenced until the VTA's original contract plans involving such work and plans for utility relocations have been reviewed and approved by signature of State's District Director of Transportation, or the District Director's delegated agent. Encroachment permits issued to the VTA, authorizing such work, shall have been issued by the State prior to the commencement of any such work.

S4-15

Additional comments, if any, from our Environmental Engineering Branch will be forwarded as they are received.

Mr. Tom Fitzwater  
Santa Clara Valley Transit Authority  
June 14, 2004  
Page 4

**Encroachment within State Right-of-Way**

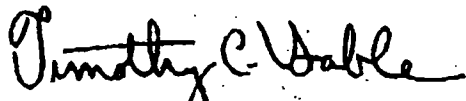
Please be advised that any work or traffic control within the State right-of-way (ROW) will require an encroachment permit from the Department. To apply for an encroachment permit, submit a completed encroachment permit application, environmental documentation, and five (5) sets of plans (in metric units) which clearly indicate State ROW to the following address:

S4-16

Mr. Sean Nozzari, District Office Chief  
Office of Permits  
California Department of Transportation, District 04  
P. O. Box 23660  
Oakland, Ca 94623-0660

Should you require further information or have any questions regarding this letter, please call José L. Olveda of my staff at (510) 288-5535.

Sincerely,



TIMOTHY C. SABLE  
District Branch Chief  
IGR/CEQA

c: Scott Morgan (State Clearinghouse)

# **Letter S4, California Department of Transportation, June 14, 2004**

## **Response to Comment S4-1**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, the Recommended Light Rail Alternative (see Volume II, Chapter 2) would not include any modifications to the U.S. 101/Capitol Expressway interchange.

However, the design options that were evaluated in the Draft EIS/EIR did not include the conversion of the U.S. 101/Capitol Expressway interchange to a partial cloverleaf. The options that crossed U.S. 101 at grade or on an aerial structure would not preclude the future modification of this interchange to a partial cloverleaf.

## **Response to Comment S4-2**

The Recommended Light Rail Alternative between the Alum Rock Station and Nieman Boulevard is more than 5.5 miles to the east and would not affect the ramp metering for the northbound on-ramp to SR 87 and the Capitol Expressway/Narvaez Avenue intersection.

However, the Draft EIS/EIR evaluated the effects of the Light Rail Alternative to SR 87 and the Capitol Expressway/Narvaez Avenue intersection. In 2010, without the project, the average vehicle delay for the three movements accessing the on-ramp (eastbound left turn, northbound through, and westbound right turn) would have an average vehicle delay of 35 seconds during the AM peak hour. With the Light Rail Alternative, the average vehicle delay during the AM peak hour for these three movements would increase by 0.5 second. This increase was not considered substantial, and the increase was only for the eastbound left-turn movement.

## **Response to Comment S4-3**

All existing and operational Traffic Operating System (TOS) elements and ramp metering equipment would be kept operational through all construction phases. Any TOS elements affected by the project would be replaced or relocated as necessary, and coordinated through the local Caltrans office to avoid or minimize any disruption in operation.

## Response to Comment S4-4

Transportation, Section 4.2.2, Existing Roadway Network, includes a discussion of state facilities.

The Recommended Light Rail Alternative would be constructed near one Caltrans freeway interchange. At the northern end of the project, light rail vehicles would enter Capitol Expressway at Capitol Avenue. This intersection is approximately 1,450 feet from the nearest I-680/Capitol Expressway ramps. Light rail at this location would be elevated above the intersection and have a limited effect on traffic. The traffic movements that could extend back to the freeway are the southbound through movement on Capitol Expressway and the southbound left-turn movement from Capitol Expressway to Capitol Avenue. The critical period for these movements would be the PM peak hour. The TRAFFIX calculation sheets show that the southbound through and left-turn queues would not increase with the Recommended Light Rail Alternative. Therefore, there would be no queuing effect from the Recommended Light Rail Alternative onto I-680.

The Recommended Light Rail Alternative would not affect the U.S. 101 and SR 87 interchanges with Capitol Expressway.

## Response to Comment S4-5

Geology, Soils, and Seismicity, Section 4.10.2, Existing Conditions, Environmental Setting, Geology has been revised to read as follows.

*San Jose is located in the Santa Clara Valley, a northwest-trending valley separated by intervening ranges within the ~~along the western margin of the~~ seismically active Coast Range Geomorphic Province. Regional geology is characterized primarily by folded and faulted sedimentary and volcanic rocks, ranging in age from Mesozoic to Pliocene, that form the hills of the San Francisco Peninsula to the west and the Diablo Range and Berkeley Hills to the northeast. More recent alluvial and intertidal deposits are found in the immediate vicinity of the project area.*

## Response to Comment S4-6

The study area boundary is quite large. Soil associations are the standard way to describe the soils for such a large area. Additional information from the soil survey has been included. The soil survey does not discuss soil characteristics such as shrink-swell potential in great detail. As such, information about shrink-swell potential is inferred from the mineralogy of the clay and clay content of the soil. Section 4.10.2, Existing Conditions, Environmental Setting, Geology has been revised to read as follows.



## Soils

The U.S. Department of Agriculture (USDA) Soil Conservation Service (1958) has mapped the soils underlying the Capitol Expressway Corridor into three separate associations, which are listed below and shown in Figure 4.10-1. *There are approximately 22 individual soil map units that make up these three separate associations. The three separate associations include:*

- soils of the recent alluvial fans and floodplains, consisting of deep, medium-textured soils;
- soils of the older alluvial fans, consisting of nearly level, deep, medium-textured soils; and
- soils of the terraces, consisting of gently sloping medium- and fine-textured soils.

*Soils of the recent alluvial fans and floodplains are typically deep, medium-textured soils, and have developed on deep, permeable, unconsolidated alluvium that originated mainly in areas of sandstone and shale rocks. They are well-drained.*

*Soils of the older alluvial fans are typically deep, medium-textured soils, and are on well-drained, unconsolidated older alluvium that originated mainly in areas of sandstone and shale rocks.*

*Soils of the terraces typically consist of gently sloping medium- and fine-textured soils, have dense claypan subsoils, contain some gravel, and have a parent material of old alluvial deposits that originated from sedimentary or meta-sedimentary rocks.*

These soils have been altered by increased urbanization since the publication of the soil survey report.

## Expansive Soils

Expansive soils are a common source of moderate damage to houses and light structures in the Bay Area, and clay-rich natural topsoil with a high shrink-swell potential is common in the project vicinity. These clay-rich soils contain montmorillonite and other minerals that swell under wet conditions and shrink under dry conditions. Structural damage, such as cracked foundations, could result from differential movement and from several alternating periods of shrinking and swelling. Usually, damage caused by expansive soils can be minimized or eliminated by using site-specific engineering techniques.

According to Parikh Consultants (2002) (Appendix F), soils in the Capitol Expressway Corridor contain appreciable amounts of clay; therefore, they likely would be subject to shrink-swell episodes. *Furthermore, the Soil Survey of the Santa Clara Area (USDA Soil Conservation Service 1958) indicates that most soils in the proposed project area are composed of clay loam or finer sediments. As such, information about shrink-swell potential is inferred from the mineralogy of the clay (smectite-type) and the clay content. Shrink-swell potential thus ranges from medium to high.* However, these types of soils generally can be excavated and the excavation backfilled with material that does

not contain clay content if any structures would be constructed over expansive soil areas in the corridor.

### **Erosion Hazards**

*The Soil Survey of the Santa Clara Area (USDA Soil Conservation Service 1958) indicates that most soils in the proposed project area have a negligible to moderate erosion hazard. The erosion hazard and landslide potential of the undisturbed soils in the Capitol Expressway Corridor rights-of-way is low because of high cohesion of soils and the nearly level slopes on which the soils are located. Soils in the street portion of the corridor right-of-way likely consist of coarse-textured fill material that poses an even lower erosion hazard.*

## **Response to Comment S4-7**

The following revisions are hereby made following the last paragraph on page 4.10-3 of the Final EIR.

The Bay Area contains numerous faults and fault zones. The Alquist-Priolo Earthquake Fault Zoning Act (*PRC Sec. 2621 et seq.*), originally enacted in 1972 as the Alquist-Priolo Special Studies Zones Act which was signed into law by the California State Legislature in 1972, requires the state geologist to delineate all active fault traces in the state and to delineate appropriately wide Earthquake Fault Zones around these fault traces. The purpose of this and other requirements of the Alquist-Priolo Act is to prevent the location of most types of structures intended for human occupancy across construction of habitable structures on the traces of active faults and thereby mitigate the hazard of surface fault rupture (Hart and Bryant 1997).

*Under the Alquist-Priolo Act, faults are zoned and construction along or across them is strictly regulated if they are sufficiently active and well defined. A fault is considered sufficiently active if one or more of its segments or strands shows evidence of surface displacement during Holocene time (defined for purposes of the Act as approximately the last 11,000 years). A fault is considered well defined if its trace can be clearly identified by a trained geologist at the ground surface or in the shallow subsurface using standard professional techniques, criteria, and judgment (Hart and Bryant 1997).*

~~“For the purpose of fault zonation under the Alquist-Priolo Act, the California Division of Mines and Geology defines active faults as those that show evidence of surface displacement within the last 200 years. Faults that show evidence of displacement within the last 1.6 million years are considered “potentially active.” Faults that show no evidence of displacement during the last 1.6 million years are not necessarily considered inactive, but they are given no special classification under the Alquist-Priolo Act.~~

## **Response to Comment S4-8**

Section 4.10.2, Existing Conditions, Environmental Setting, Surface Rupture has been revised to read as follows.

Fault rupture during the Great 1906 San Francisco Earthquake of 1886 resulted in surface displacement along the Hayward fault of up to 3 feet (Steinbrugge et al. 1987) and caused significant damage to the Southern Pacific Railroad tracks in the vicinity (Lawson 1908).

## Response to Comment S4-9

A description of moment magnitude has been included in Section 4.10.2, Existing Conditions, Environmental Setting, Seismic Ground Shaking as follows.

The measurement of the energy released at the point of origin, or epicenter, of an earthquake is referred to as the magnitude, which is generally expressed in the Richter Magnitude Scale or as moment magnitude. *The scale used in the Richter Magnitude Scale is logarithmic so that each successively higher Richter magnitude reflects an increase in the energy of an earthquake of about 31.5 times. Moment magnitude is the estimation of an earthquake magnitude by using seismic moment, which is a measure of an earthquake size utilizing rock rigidity, amount of slip, and area of rupture.*

## Response to Comment S4-10

The section on “Estimates of Earthquake Shaking” has been extensively revised and updated to incorporate the following new references:

- Peterson, M. D., W. A. Bryant, C. H. Cramer, T. Cao, and M. Reichle. 1996. *Probabilistic Seismic Hazard Assessment for the State of California*. (U.S. Geological Survey Open-File Report 96-706.) Washington, DC.
- Richter, C. F. 1958. *Elementary Seismology*. New York: W. H. Freeman.
- Schwartz, D. P., and K. J. Coppersmith. 1984. Fault Behavior and Characteristic Earthquakes: Examples from the Wasatch and San Andreas Faults. *Journal of Geophysical Research* 89:5873–5890.
- Working Group on California Earthquake Probabilities. 2003. *Earthquake Probabilities in the San Francisco Bay Region: 2002–2031*. (U.S. Geological Survey Open-File Report 03-214.) Washington, DC.

## Response to Comment S4-11

Section 4.10, *Geology, Soils and Seismicity*, now incorporates a discussion of probabilities of magnitude 6.7 or greater earthquakes and moment magnitudes for eight of the major active and potentially active faults in the vicinity of the Capitol Expressway Corridor. The discussion is based upon two U.S. Geological Survey reports (Peterson et al. 1996; Working Group on California Earthquake Probabilities 2003).

## Response to Comment S4-12

Page 9 of Appendix F was revised to read as follows.

These maximum credible earthquake magnitudes represent the largest earthquakes that could occur on the given fault based on the current understanding of the regional tectonic structure.

Fault	Estimated Closest Distance to Fault from Project Area	Maximum Credible Earthquake
San Andreas/North (strike-slip)	24.6 km	8.0
Hayward (strike-slip)	4.2 km	7.5
Monte Vista/East (Unknown/not published)	10.7 km	6.5
Calaveras-Pacines-San Benito (strike-slip)	8.4 km	7.5

Based on the seismic hazard map prepared by Mualchin (1996) and the attenuation relationship by Sadigh et Al. (1997) the controlling fault is the Hayward Fault ( $M_w = 7.5$ ), and a peak bedrock acceleration of 0.6 g is anticipated at the site.

*The Seismic Hazard Map by Mualchin (1996) was used in order to estimate the closest distance of the proposed project site from the faults. In addition, the Maximum Credible Earthquake (MCE) values were based on the same reference. The attenuation relationship by Sadigh, et. al. (1997) was used in order to estimate the Peak Bedrock Acceleration (PBA) for each fault. This relation uses as input the distance and the earthquake magnitude, which were both based on the Hazard Map by Mualchin (1996), as described. There was no multiple usage of attenuation relationships. The data are summarized in the following table.*

Fault	Estimated Closest Distance to Fault from Project Area	Maximum Credible Earthquake (MCE)	Peak Bedrock Acceleration (PBA)	Peak Ground Acceleration (PGA)
San Andreas/North (strike/slip)	24.6 km	8.0	0.30g	0.36g
Hayward (strike/slip)	4.2 km	7.5	0.60g	0.60g
Monte Vista/East (Unknown/not published)	10.7 km	6.5	0.30g	0.36g
Calaveras-Pacines-San Benito (strike/slip)	8.4 km	7.5	0.50g	0.50g

*The Peak Ground Acceleration (PGA) was based on Caltrans SDC (Version 1.2, December 2001) and the assumption that the soil meets the criteria for Soil Profile D (based on the as-built soil information). This is tabulated in the table above.*

*The most critical PGA dictated the controlling fault. In this case, the controlling fault is the Hayward Fault, where  $PGA = 0.6g$  (where  $g$  = acceleration due to gravity).*

## **Response to Comment S4-13**

A copy of the Technical Appendix to the Capitol Expressway Light Rail Corridor Transportation Study, with the line diagrams showing links to intersections, was mailed as requested.

## **Response to Comment S4-14**

VTA acknowledges that if the approved project involves improvements to state highways, a “Cooperative Agreement” between Caltrans and VTA is required prior to any development activities related to these improvements. However, the Recommended Light Rail Alternative (see Volume II, Chapter 2) does not involve any improvements to state highways.

## **Response to Comment S4-15**

VTA acknowledges that if the approved project will require construction activities within the State of California right-of-way or will affect state facilities, Caltrans will need to review the contract plans and issue encroachment permits prior to the commencement of work. Also refer to Response to Comment S4-14.

## **Response to Comment S4-16**

VTA acknowledges that any work or traffic control within the State of California right-of-way requires an encroachment permit from Caltrans. Also refer to Response to Comment S4-14.



# Department of Toxic Substances Control

Edwin F. Lowry, Director  
700 Heinz Avenue, Suite 200  
Berkeley, California 94710-2721



Arnold Schwarzenegger  
Governor



Terry Tamminen  
Agency Secretary  
Cal/EPA

June 10, 2004

VTA Environmental Planning Department  
3331 North First Street, Bldg. B  
San Jose, California 95134-1927  
Attn: Thomas Fitzwater

2004 JUN 17 9 34 AM  
VTA  
ENV. ANALYSIS

Dear Mr. Fitzwater

Thank you for the opportunity to comment on the Draft Environmental Impact/Statement/Draft Environmental Impact Report and Draft Section 4(f) Evaluation. As you may be aware, the California Department of Toxic Substances Control (DTSC) oversees the cleanup of sites where hazardous substances have been released pursuant to the California Health and Safety Code, Division 20, Chapter 6.8. As a potential Resource Agency, DTSC is submitting comments to ensure that the environmental documentation prepared for this project to address the California Environmental Quality Act (CEQA) adequately addresses any required remediation activities which may be required to address any hazardous substances release.

Section 4.11 of the Report has identified potential hazardous facilities close to the project. Past uses of the general area of the proposed light rail route, however, should also be provided. If past uses indicate that hazardous substance may have been handled, an assessment should be made as to the potential presence of hazardous substances. The Report should also indicate the different construction activities that will be conducted that may result in the potential release of hazardous substances such as: demolition of existing hazardous waste facility, and disturbance or excavation of soil. Please also identify, if already known, which part of the corridor will any of these construction activities will occur. This latter information should identify the hazardous waste facilities and areas that will be impacted by the proposed project and which could potentially expose the nearby residents and construction workers to hazardous substances. The existence of any potential health risks from the construction activities in the impacted facilities/areas should be evaluated and addressed which may include sampling investigation or remediation.

S5-1

S5-2

S5-3

S5-4

DTSC can assist your agency in overseeing characterization and cleanup activities through our Voluntary Cleanup Program. A fact sheet describing this program is enclosed. We are aware that projects such as this one are typically on a compressed schedule, and in an effort to use the available review time efficiently, we request that

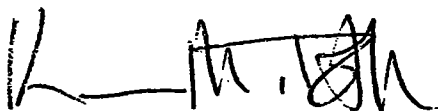
*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our website at [www.dtsc.ca.gov](http://www.dtsc.ca.gov).*

Thomas Fitzwater  
Page 2  
June 10, 2004

DTSC be included in any meetings where issues relevant to our statutory authority are discussed.

Please contact Virginia Lasky at (510) 540-3829 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'K. Toth', with a stylized flourish at the end.

Karen Toth, P. E.  
Unit Chief  
Northern California - Coastal Cleanup  
Operations Branch

Enclosure

cc: Governor's Office of Planning and Research  
State Clearinghouse  
P. O. Box 3044  
Sacramento, California 95812-3044

Guenther Moskat  
CEQA Tracking Center  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, California 95812-0806



**California Environmental Protection Agency  
Department of Toxic Substances Control**



2001 JUN 17 09 34Z  
VTA  
ENV. ANALYSIS

## **The Voluntary Cleanup Program**

The California Environmental Protection Agency's Department of Toxic Substances Control (DTSC) has introduced a streamlined program to protect human health, cleanup the environment and get property back to productive use. Corporations, real estate developers, local and state agencies entering into Voluntary Cleanup Program agreements will be able to restore properties quickly and efficiently, rather than having their projects compete for DTSC's limited resources with other low-priority hazardous waste sites. This fact sheet describes how the Voluntary Cleanup Program works.

Prior to initiation of the Voluntary Cleanup Program, project proponents had few options for DTSC involvement in cleaning up low-risk sites. DTSC's statutory mandate is to identify, prioritize, manage and cleanup sites where a release of hazardous substances has occurred. For years, the mandate meant that, if the site presented grave threat to public health or the environment, then it was listed on the State Superfund list and the parties responsible conducted the cleanup under an enforcement order, or DTSC used state funds to do so. Because of staff resource limitations, DTSC was unable to provide oversight at sites which posed lesser risk or had lower priority.

DTSC long ago recognized that no one's interests are served by leaving sites contaminated and unusable. The Voluntary Cleanup Program allows motivated parties who are able to fund the cleanup -- and DTSC's oversight -- to move ahead at their own speed to investigate and remediate their sites. DTSC has found that working cooperatively with willing and able project proponents is a more efficient and cost-effective approach to site investigation and cleanup. There are four steps to this process:

- / Eligibility and Application
- / Negotiating the Agreement
- / Site Activities
- / Certification and Property Restoration

The rest of this fact sheet describes those steps and gives DTSC contacts.

October 2002



# The Voluntary Cleanup Program

## ***Step 1: Eligibility and Application***

Most sites are eligible. The main exclusions are if the site is listed as a Federal or State Superfund site, is a military facility, or if it falls outside of DTSC's jurisdiction, as in the case where a site contains only leaking underground fuel tanks. Another possible limitation is if another agency currently has oversight, e.g., a county (for underground storage tanks). The current oversight agency must consent to transfer the cleanup responsibilities to DTSC before the proponent can enter into a Voluntary Cleanup Program agreement. Additionally, DTSC can enter into an agreement to work on a specified element of a cleanup (risk assessment or public participation, for example), if the primary oversight agency gives its consent. The standard application is attached to this fact sheet.

If neither of these exclusions apply, the proponent submits an application to DTSC, providing details about site conditions, proposed land use and potential community concerns. No fee is required to apply for the Voluntary Cleanup Program.

## ***Step 2: Negotiating the Agreement***

Once DTSC accepts the application, the proponent meets with experienced DTSC professionals to negotiate the agreement. The agreement can range from services for an initial site assessment, to oversight and certification of a full site cleanup, based on the proponent's financial and scheduling objectives.

The Voluntary Cleanup Program agreement specifies the estimated DTSC costs, scheduling for the project, and DTSC services to be provided. Because every project must meet the same legal and technical cleanup requirements as do State Superfund sites, and because DTSC staff provide oversight, the proponent is assured that the project will be completed in an environmentally sound manner.

In the agreement, DTSC retains its authority to take enforcement action if, during the investigation or cleanup, it determines that the site presents a serious health threat, and proper and timely action is not otherwise being taken. The agreement also allows the project proponent to terminate the Voluntary Cleanup Program agreement with 30 days written notice if they are not satisfied that it is meeting their needs.

## ***Step 3: Site Activities***

Prior to beginning any work, the proponent must have: signed the Voluntary Cleanup Program agreement; made the advance payment; and committed to paying all project costs, including those associated with DTSC's oversight. The project manager will track the project to make sure that DTSC is on schedule and within budget. DTSC will bill its costs quarterly so that large, unexpected balances will not occur.

Once the proponent and DTSC have entered into a Voluntary Cleanup Program agreement, initial site assessment, site investigation or cleanup activities may begin. The proponent will find that DTSC's staff includes experts in every vital area. The assigned project manager is either a highly-qualified Hazardous Substances Scientist or Hazardous Substances Engineer. That project manager has the support of well-trained DTSC toxicologists, geologists, industrial hygienists and specialists in public involvement.

The project manager may call on any of these specialists to join the team, providing guidance, review, comment and, as necessary, approval of individual documents and other work products. That team will also coordinate with other agencies, as appropriate, and will offer assistance in complying with other laws, such as the Resource Conservation and Recovery Act.

## Step 4: Certification and Property Restoration

When remediation is complete, DTSC will issue either a site certification of completion or a "No Further Action" letter, depending on the project circumstances. This means "The Site" is now property that is ready for productive economic use.

To learn more about the Voluntary Cleanup Program, contact the DTSC representative in the Regional office nearest you:

<b>Southern California</b> Tom P. Diaz 1011 North Granddew Avenue Glendale, California 91201 (818) 581-2862	<b>Central California</b> Tom Mice 3800 Cal Centre Drive Sacramento, CA 95826-2270 (916) 255-3710
<b>North Coast California</b> Lynn Nakasubira Jane Natta 700 Heinz Avenue, Suite 200 Berkeley, California 94710-2737 (510) 540-3839 (510) 540-3838	<b>Central California - Fresno Satellite</b> Tom Kovac 1515 Tollhouse Road Clovis, California 93612 (209) 297-3939

*Revised 10/18/02*

## VOLUNTARY CLEANUP PROGRAM APPLICATION

The purpose of this application is to obtain information necessary to determine the eligibility of the site for acceptance into the Voluntary Cleanup Program. Please use additional pages, as necessary, to complete your responses.

### SECTION 1 PROPONENT INFORMATION

Proponent Name			
_____			
Principal Contact Name			Phone ( ) _____
_____			
Address			
_____			
Proponent's relationship to site			
_____			
_____			
Brief statement of why the proponent is interested in DTSC services related to site			
_____			
_____			
_____			

### SECTION 2 SITE INFORMATION

Is this site listed on Calsites? <input type="checkbox"/> Yes <input type="checkbox"/> No			
If Yes, provide specific name and number as listed			
_____			
Name of Site			
_____			
Address			
City		County	ZIP
_____			
(Please attach a copy of an appropriate map page)			

**SECTION 2 SITE INFORMATION (continued)**

<p><b>Current Owner</b></p> <p>Name _____</p> <p>Address _____</p> <p>Phone (    ) _____</p>
<p><b>Background: Previous Business Operations</b></p> <p>Name _____</p> <p>Type _____</p> <p>Years of Operation _____</p> <p>If known, list all previous businesses operating on this property</p> <p>_____</p> <p>_____</p> <p>_____</p>
<p>What hazardous substances/wastes have been associated with the site?</p> <p>_____</p> <p>_____</p>
<p>What environmental media is/was/may be contaminated?</p> <p><input type="checkbox"/> Soil                      <input type="checkbox"/> Air                      <input type="checkbox"/> Groundwater                      <input type="checkbox"/> Surface water</p>
<p>Has sampling or other investigation been conducted?                      <input type="checkbox"/> Yes                      <input type="checkbox"/> No</p> <p>Specify _____</p> <p>_____</p> <p>_____</p>
<p>If Yes, what hazardous substances have been detected and what were their maximum concentrations?</p> <p>_____</p> <p>_____</p> <p>_____</p>

**SECTION 2 SITE INFORMATION (continued)**

Are any Federal, State or Local regulatory agencies currently involved with the site?  Yes  No  
 If Yes, state the involvement, and give contact names and telephone numbers

Agency	Involvement	Contact Name	Phone

What is the future proposed use of the site? \_\_\_\_\_  
 \_\_\_\_\_

What oversight service is being requested of the Department?

- PEA       RI/FS       Removal Action       Remedial Action       RAP       Certification  
 Other (describe the proposed project) \_\_\_\_\_

Is there currently a potential of exposure of the community or workers to hazardous substances at the site?

- Yes       No      If Yes, explain \_\_\_\_\_  
 \_\_\_\_\_

**SECTION 3 COMMUNITY PROFILE INFORMATION**

Describe the site property (include approximate size) \_\_\_\_\_  
 \_\_\_\_\_

Describe the surrounding land use (including proximity to residential housing, schools, churches, etc) \_\_\_\_\_  
 \_\_\_\_\_

Describe the visibility of activities on the site to neighbors \_\_\_\_\_  
 \_\_\_\_\_

**SECTION 3 COMMUNITY PROFILE INFORMATION (continued)**

What are the demographics of the community (e.g., socioeconomic level, ethnic composition, specific language considerations, etc.)? _____ _____
<b>Local Interest</b> Has there been any media coverage? _____ _____
<b>Past Public Involvement</b> Has there been any past public interest in the site as reflected by community meetings, ad hoc committees, workshops, fact sheets, newsletters, etc.? _____ _____
<b>Key Issues and Concerns</b> Have any specific concerns/issues been raised by the community regarding past operations or present activities at the site? _____ Are there any concerns/issues anticipated regarding site activities? _____ _____ Are there any general environmental concerns/issues in the community relative to neighboring sites? _____ _____
<b>Key Contacts</b> Please attach a list of key contacts for this site, including: city manager; city planning department; county environmental health department, local elected officials; and any other community members interested in the site. (Please include addresses and phone numbers.) _____ _____

**SECTION 4 CERTIFICATION**

The signatories below are authorized representatives of the Project Proponent and certify that the preceding information is true to the best of their knowledge.

Proponent Representative	Date	Title
--------------------------	------	-------

# Letter S5, California Department of Toxic Substances Control, June 10, 2004

## Response to Comment S5-1

Volume I, Chapter 4, Section 4.11, under "Field Survey and Results," provides the results of two reconnaissance-level field surveys to confirm the locations and conditions of sites that were identified as potential environmental concerns. It indicates that the soils along the corridor are likely contaminated with lead from automobiles burning leaded gasoline. Mitigation Measure HAZ-9a addresses site investigations and collection of surface soil samples for analysis. In addition, because of past agricultural use, surface soils would be analyzed for pesticides and herbicides. Also, Volume III, Appendix G identifies past uses of the route as agricultural land, converting into residential and commercial land use from the 1960s to present.

## Response to Comment S5-2

Construction impacts of the Light Rail Alternative are identified in Volume I, Chapter 4, Section 4.19. Construction activities that would be conducted that may result in the potential release of hazardous substances are:

- soil excavation,
- dewatering of the excavation,
- building demolition,
- removal of underground storage tanks (USTs) from service stations, and
- removal of gasoline dispensers and associated piping.

Soil excavation is expected to take place in several areas of the site. As indicated in Volume I, Chapter 4, Section 4.11 of the report, surface soils along the corridor may be impacted with pesticides, herbicides, and aurally deposited lead. Surface soil along the areas proposed for excavation would be tested for these substances. In addition, for areas involving deeper excavation activities, and for soils near identified hazardous substance impacted areas, the soil would be tested for petroleum hydrocarbons, as necessary.

Dewatering of an excavation would be performed for footings or if the excavation extends below the water table. Groundwater in the area adjacent to the proposed footing/excavation would be sampled and analyzed for total petroleum hydrocarbon (TPH) as gasoline, benzene, ethyl benzene, toluene, xylenes, and methyl tertiary butyl ether. Mitigation plans would be developed to eliminate exposure of construction workers to contaminated groundwater. Also, to ensure that the groundwater generated during excavation dewatering activities is handled properly, groundwater treatment plans would be developed to treat the water prior to discharge to a storm drain or sanitary sewer.

Demolition of approximately five residences and four commercial structures would occur with the Recommended Light Rail Alternative (see Volume II, Chapter 2). As indicated in Volume I, Chapter 4, Section 4.11, buildings destined for demolition would undergo surveys for asbestos-containing materials (ACM) and lead based paint (LBP). Any identified ACM would be removed by a licensed ACM contractor before building demolition. Health and safety measures would be implemented to ensure that the construction workers are not impacted by LBP identified within the buildings. Dust control measures would be implemented to ensure that LBP does not impact the construction workers and nearby residents.

Removal of USTs is expected within service stations along the alignment. USTs are removed by a licensed hazardous waste contractor in accordance with local and state guidelines. This work would be conducted under the supervision of the Santa Clara County Valley Water District (SCVWD). Similarly, removal of piping and dispenser islands would be performed under the same regulations by a licensed hazardous waste contractor. Before the start of the work, proper health and safety measures would be implemented through a health and safety report, to ensure any potential impacts to construction workers and nearby residents are mitigated.

### **Response to Comment S5-3**

Refer to Response to Comment S5-2.

### **Response to Comment S5-4**

VTA will invite the DTSC to meetings relevant to its statutory authority.



# County of Santa Clara

L1

Roads and Airports Department  
Land Development and Permits

101 Skyport Drive  
San Jose, California 95110-1302  
(408) 573-2460 FAX (408) 441-0275



May 20, 2004

Mr. Thomas Fitzwater  
Environmental Planning Manager  
Santa Clara Valley Transportation Authority  
3331 North First Street  
San Jose, CA 95134-1906

Subject: Capitol Expressway Corridor Draft Environmental Impact Statement/Draft Environmental Impact Report and Draft Section 4 (f) Evaluation Volumes I & II and Technical Appendix

Dear Mr. Fitzwater:

At our request, David J. Powers & Associates, Inc. has conducted an independent and technical review on the subject items. Their review comments are attached. The comments of Roads and Airports' staff are being finalized and will be submitted to you shortly.

Please call me if you have any questions. I may be reached at (408)573-2487.

Sincerely,

A handwritten signature in black ink, appearing to read "William R. Lee".

William R. Lee  
Senior Civil Engineer  
Land Development and Permits

Attachment

cc: MJM DEC MJG RN



# DAVID J. POWERS & ASSOCIATES, INC.

May 20, 2004

Bill Lee  
Santa Clara County Roads & Airports Department  
101 Skyport Drive  
San Jose, California 95110

**Subject: Independent Review of Capitol Expressway Corridor Draft EIS/EIR**

Dear Bill:

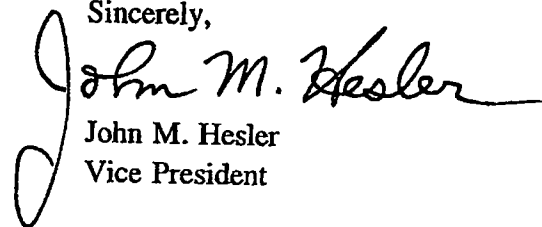
At your request, we have undertaken a technical review of the subject report for the purpose of assisting the Roads & Airports Department in its role as a Responsible Agency under CEQA. Our review of the document was limited to the impacts the proposed project would have on Capitol Expressway. Hexagon Transportation Consultants assisted us in this review with regard to technical issues related to traffic.

Our general conclusion is that the Draft EIS/EIR was prepared in a manner that is consistent with standard CEQA/NEPA practices for projects of this nature. Our comments are therefore focused on areas where additional explanation/clarification would be useful and where we believe some additional analysis of traffic mitigation measures is warranted.

Our comments are attached for your consideration. To facilitate the submittal of comments to VTA by the Roads & Airports Department, we have formatted the comments in a manner that will hopefully assist VTA in providing you with additional information in the Final EIS/EIR.

Please feel free to call if you have any questions.

Sincerely,

  
John M. Hesler  
Vice President

attachment

**INDEPENDENT TECHNICAL REVIEW COMMENTS  
PREPARED FOR THE  
SANTA CLARA COUNTY ROADS & AIRPORTS DEPARTMENT  
ON THE  
CAPITOL EXPRESSWAY CORRIDOR DRAFT EIS/EIR**

1. Appendix A of the Draft EIS/EIR depicts the proposed alignment for the LRT alternative. We note that the depicted alignment is different from that which is recommended for construction by VTA staff in a report dated 2/25/04. Specifically, Appendix A depicts LRT in the median of Capitol Expressway in the vicinity of Quimby Road, whereas the staff recommendation has the LRT side-running. In the Final EIS/EIR, please revise Appendix A so that it depicts the preferred alignment. L1-1
2. In Appendix A, it is difficult to determine where the LRT will be at-grade, elevated, or depressed. For the Final EIS/EIR, please revise Appendix A to include a profile of the LRT alignment as it will relate to existing conditions. L1-2
3. Please include a table in Section 3.4 of the Final EIS/EIR that will facilitate the reader's understanding of how the LRT will pass through each of the intersections along Capitol Expressway. We offer the following as a suggested template:

	LRT At-Grade	LRT Elevated	LRT Depressed
1. Capitol Avenue		X	
2. Story Road		X	
3. Ocala Avenue	X		
4. Cunningham Avenue	X		
5. Tully Road			X
6. Eastridge Loop			X
7. Quimby Road			X
8. Nieman Boulevard		X	
9. Aborn Road		X	
10. Silver Creek Road		X	
11. McLaughlin Avenue		X	
12. Senter Road	X		
13. Seven Trees Boulevard	X		
14. Snell Avenue	X		
15. Vistapark Drive	X		
16. Copperfield Drive	X		
17. Narvaez Avenue	X		

4. There is no discussion in Section 4.2.4 (see pages 4.2-14 and 4.2-21) that tells the reader how or why the Baseline Alternative will result in significant impacts at certain intersections. If the Baseline Alternative consists solely of improved bus service and no physical changes to Capitol Expressway, why would there be a significant degradation in LOS at certain intersections? Please include a discussion in the Final EIS/EIR that addresses these questions. L1-3

L1-4

5. There is no discussion in Section 4.2.4 (see pages 4.2-15 and 4.2-23) that tells the reader how or why the LRT Alternative will result in significant impacts at certain intersections. Will the impacts occur due to removal of lanes, changes in signal timing, changes in volumes, or some other reason? It is critical for the reader to understand how and why impacts will occur so that there can be an adequate discussion of potential mitigation measures. Please include a discussion in the Final EIS/EIR that addresses these questions. L1-5
  
6. Table 4.2-14: Comparing automobile travel time along Capitol Expressway between the No Project and LRT Alternatives, the data indicate that the LRT Alternative will increase automobile travel times in all cases except one: auto travel times will *decrease* in the northbound direction in the PM in 2010. Why would the LRT cause a decrease auto travel times in this scenario, but cause an increase auto travel times in all other scenarios? L1-6
  
7. The text at the top of page 4.2-12 states that the travel demand model is not sensitive enough to capture the improved traffic operations that would result from the LRT Alternative. However, the data in Table 4.2-14 clearly show that the opposite will occur (i.e., the LRT will worsen traffic operations along Capitol Expressway). In view of the data in Table 4.2-14, we conclude that the text on page 4.2-12 is in error and should be modified or deleted. L1-7
  
8. The data in Table 4.2-12 show that LRT boardings at the Story, Ocala, and Eastridge Stations will *decrease* when the MOS is extended to SR87. Please explain why boardings would decrease when the system is expanded. L1-8
  
9. Section 4.2.4 does not include a discussion or quantification of the impacts of the LRT Alternative at any intersections other than along Capitol Expressway itself. This is in contrast to other VTA environmental documents (e.g., BART, Vasona Corridor, Tasman Corridor) where an analysis of impacts at intersections in the vicinity of stations was undertaken. Please explain the reason(s) as to why such an analysis was not undertaken for this project. L1-9
  
10. The LRT plans in Appendix A show the elimination of the right-turn lanes at all the intersections along Capitol Expressway. Instead of right-turn lanes, the designs show 17' to 18' curb lanes, which are not wide enough for right-turn vehicles to get by. However, the intersection LOS calculation sheets, which are included in the Transportation Study Technical Appendix, retain the right-turn lanes in all scenarios.  
  
The impacts of the LRT Alternative would be shown to be much greater if the right-turn lanes were omitted, as they apparently should have been (assuming the plans contained in Appendix A are correct). Either the project should be redesigned to retain the right-turn lanes, or the LOS calculations should be redone. If the designers conclude that right-turn lanes cannot be retained, then the Final EIS/EIR should include a clear explanation as to why not, and the LOS calculations should show the right-turn lanes removed. It should be noted that a curb lane width of 20', which is only two feet wider than is being shown, would be sufficient to allow right-turn cars to get by. L1-10
  
11. Page 4.2-15: Mitigation for the impact of the Baseline Alternative at Capitol/Senter consists of improvements that are already programmed. Programmed improvements (i.e., those that will be in place irrespective of this project) should be included in the L1-11

background/No Project conditions and cannot "count" as mitigation. Please revise the analysis to correct this error.

L1-11  
cont.

12. At the intersections of Capitol/Story, Capitol/Ocala, and Capitol/Quimby, the text concludes that "there is no feasible mitigation". We believe that the analysis of mitigation measures is insufficient for the purpose of reaching such a conclusion. The fact that a mitigation measure may require the acquisition of property does not necessarily make it "infeasible".

L1-12

We believe that the proper conclusion at these locations would be "mitigation that is feasible but is not proposed as part of the project". Alternatively, VTA could undertake further analysis to demonstrate the basis for a conclusion of "infeasibility".

13. Capitol Avenue/Capitol Expressway Intersection

It appears that the LRT Alternative would not affect this intersection since the preferred elevated alignment enters Capitol Expressway about 400 feet to the east. Nevertheless, the LOS calculations show the northbound HOV lane to be removed. The fourth northbound through lane, currently the HOV lane, should be retained. It could be used as a queue jumper lane or as a mixed flow lane. In either case, the project impact at this location would be rendered insignificant.

L1-13

The 2025 PM LOS for the No Project Alternative, shown in Table 4.2-19, is incorrect. It includes a southbound HOV lane, which does not exist. If this lane is removed, then the No Project LOS would be essentially identical to the Baseline LOS, and there is not an impact under Baseline conditions.

15. Capitol Expressway/Story Road Intersection

The Draft EIS/EIR reflects insufficient effort to develop potential mitigation measures at this location. The 2025 PM LOS, as reported in the Draft EIS/EIR, would be LOS F with 231 seconds (4 minutes) of average delay. If the right-turn lanes were removed from the LOS calculation, as they should be if the design in Appendix A is correct, the LOS would get much worse. The Draft EIS/EIR should include a description of how this intersection really would operate. For example, how many signal cycles would it take for a vehicle to get through southbound in the PM? How long would be the vehicle queue? Would the queue block traffic at the Capitol/Capitol intersection?

The Draft EIS/EIR rejects the option of retaining four lanes in each direction on Capitol because this would require property acquisition, and too many properties would be required. However, to mitigate impacts at Capitol/Story, it would be necessary only to retain the lanes at that point, either as queue jumper or mixed flow lanes. The Final EIS/EIR should discuss the feasibility of retaining lanes just at that location.

L1-15

The Final EIS/EIR also should include an expanded discussion on the feasibility of a grade separation at Capitol/Story, including the inclusion of some preliminary design options. This intersection already is LOS F under existing conditions. If the County wishes to improve this intersection to an acceptable level, either now or in the future, improvements beyond retaining the four lanes in each direction will be necessary. The Final EIS/EIR should document how a grade separation could be designed in conjunction with the LRT project, even if it would not be built at this time.

The Final EIS/EIR should include an option that does not have a station at Capitol/Story. This would allow additional room to retain roadway capacity at this critical location. According to the Draft EIS/EIR, the Story Station would serve only 338 boardings per day in 2025, which is the lowest performance of the potential stations in Evergreen. Removing two traffic lanes from the Expressway reduces capacity by close to 2,000 vehicles per hour. If even one of the travel lanes could be retained by eliminating the Story Station, the overall transportation system would better serve the Evergreen area.

L1-15  
cont.

16. Capitol Expressway/Ocala Avenue Intersection

The Draft EIS/EIR includes only a minimal attempt to explore mitigation options at this intersection. The intersection is shown to have only one left-turn lane northbound but two left-turn lanes southbound. What additional right-of-way or other modifications would be required to build a second northbound left-turn lane, and would this mitigate the impact?

L1-16

The staff-recommended alignment option actually moves the station away from Ocala Avenue. Would this allow sufficient roadway width to retain the fourth through lane in either or both directions, or to add a second northbound left-turn lane?

17. Capitol Expressway/Quimby Road Intersection

The handling of this intersection within the Draft EIS/EIR is inconsistent and confusing. The 2010 results for the MOS compared to the No Project (Table 4.2-17) show the HOV lanes to be removed, and the LOS gets worse. However, the 2025 results (Table 4.2-19) show the HOV lanes to be retained with the MOS. Since the preferred MOS is underground and then side-running from Eastridge to Nieman, it is not at all clear whether any modifications would be necessary at Capitol/Quimby.

If the HOV lanes are to be removed at Capitol/Quimby, then this needs to be evaluated as a part of the MOS project. Neither the 2010 nor the 2025 LOS Table shows a significant impact at Capitol/Quimby. The 2010 table shows a LOS degradation from 62.2 to 65.5 seconds average delay, but this is not labeled a significant impact. The impact criterion is based on average critical delay, not average delay, so the reader (even the reader of the Technical Appendix) is left wondering whether this is or is not a significant impact.

L1-17

If the HOV lanes are to be removed with the MOS project, this certainly would be an impact in the 2025 scenario (the Technical Appendix shows a degradation in average delay from 112 to 120 seconds). Therefore, mitigation needs to be discussed. Since the LRT will be side-running, perhaps there is room to retain the existing number of lanes on Capitol. If not, then perhaps there should be some widening of Quimby since it does not have separate right-turn lanes. Right-turn lanes on Quimby would substantially improve the overall intersection LOS.

18. In the Final EIS/EIR, please correct errors in street names that occur at various locations: Nieman Boulevard (not Street) and Copperfield Drive (not Road).

L1-18

19. It would be helpful to the reader if page numbers could be included on those pages that contain tables and figures.

L1-19

# Letter L1, Santa Clara County Roads and Airports Department, May 20, 2004

## Response to Comment L1-1

The recommended alignment for the Light Rail Alternative is contained in Volume II, Chapter 2 and was approved by the DTEV PAB on August 5, 2004. Engineering plans and profiles of the recommended alignment are provided as an attachment to Volume II, Chapter 2. The recommended alignment includes a side-running depressed alignment from the Eastridge Transit Center to south of Quimby Road and an at-grade alignment to the Nieman Boulevard Station.

## Response to Comment L1-2

Page 3-12 of Volume I, Chapter 3, *Alternatives Considered*, Section 3.4, *Light Rail Alternative*, has been revised to read as follows:

The profile of the Recommended Light Rail Alternative is provided in Volume II, Chapter 2. Detailed plan and profile drawings are also included in the Technical Appendix for the Downtown East Valley Light Rail Transit Corridor Conceptual Engineering Project Definition Report, Capitol Expressway Light Rail Corridor. *The alignment would operate in exclusive and semi-exclusive right-of-ways and would include both grade-separated and at-grade intersection crossings. The alignment would operate primarily in the median of Capitol Expressway; however, some short alignment sections and options would deviate from the median to a side-running operation.*

## Response to Comment L1-3

Per the commenter's request, the following text and table are hereby added to page 2-1, second paragraph, in Volume II, Chapter 2:

Table 2-1 indicates how the recommended project will pass through each intersection along Capitol Expressway.

**Table 2-1.** Proposed Intersection Crossings of the LRT

Intersection	LRT At-Grade	LRT Elevated	LRT Depressed
1. Capitol Avenue		X	
2. Story Road		X	
3. Ocala Avenue	X		
4. Cunningham Avenue	X		
5. Tully Road			X
6. Eastridge Loop			X

## **Response to Comment L1-4**

The traffic volume projections were prepared using the CMA's TRANPLAN travel demand model. The Baseline Alternative for the project was defined as an increase in bus transit service through the Capitol Expressway Corridor. The increased transit service was coded into the CMA's travel demand model, and traffic volume forecasts were prepared. The No-Project Alternative, without the additional bus transit service, was also coded into the CMA's travel demand model and traffic volume forecasts were prepared.

Whenever there are changes in available transportation options, travel demand models forecast traffic volumes for the various modes. Travel demand models also go through an iterative process and assign traffic to the fastest route.

At some locations, the travel projections for the Baseline Alternative indicated a slight increase in traffic. When roadways are operating near their saturation, a slight increase in traffic volumes can exceed the threshold at which a significant impact occurs. The increase in traffic for the Baseline Alternative is most likely associated with capacity being made available along Capitol Expressway by the transit improvements, which would attract additional automobile trips that use alternative routes.

## **Response to Comment L1-5**

Significant traffic impacts at specific intersections would be caused mostly by the removal of the HOV lane from Capitol Expressway to provide space for the Light Rail Alternative. The HOV lane is assumed to carry 10% of the traffic in either direction of Capitol Expressway during peak hours. By removing the HOV lanes, these vehicles must be accommodated in the remaining GPLs.

The change in traffic volumes between project and no-project conditions is generally confined to access to park-and-ride lots where the project causes an increase in traffic accessing the lots. These increases are localized at the intersection in the immediate vicinity of the lots.

Finally, the Light Rail Alternative is assumed to change the signal timing along Capitol Expressway. Light rail trains would have signal priority at intersections. Signal priority would cause the green light for through movements along Capitol Expressway to be extended or advanced. Signal priority slightly benefits the through movements along Capitol Expressway and slightly penalizes the traffic movements that are in conflict with the through movements. Because most traffic on Capitol Expressway is through traffic and traffic operations are based on a weighted average of delay, the signal priority from the Light Rail Alternative would tend to improve overall traffic operations.



## Response to Comment L1-6

For Capitol Expressway, existing travel time surveys were used to calculate future travel times for the project alternatives. These travel times were adjusted based on the change in intersection delay projected for the northbound and southbound through movements from the TRAFFIX calculation sheets.

The Draft EIS/EIR reported that the travel time for northbound Capitol Expressway during the PM peak hour is projected to decrease from 23.1 minutes without the Light Rail Alternative to 22.7 minutes with the project Light Rail Alternative in 2010, a change of less than 2%. Because travel times need to be estimated for future conditions, a change of less than 2% cannot be viewed as meaningful. Nevertheless, the very slight change is a result of improvements (decreases) in average vehicle delay to the northbound through traffic. As noted in Response to Comment L1-5, light rail would have signal priority along the corridor. Light rail trains would extend or advance the green-light time, within certain limits, and improve travel time for the through movements along the corridor. The travel times noted on Volume I, Chapter 4, Section 4.2, Table 4.2-14 are for the through movements.

Because the loss of the HOV lanes would increase delay, not all directions would have improved travel time under the Light Rail Alternative, particularly in the peak direction. The effect of signal priority in these cases is more than offset by the increase in delay associated with the loss of the HOV lanes.

## Response to Comment L1-7

The Light Rail Alternative would attract some existing trips that are currently made by automobile, which would free capacity on the expressway for use by other automobile trips. Therefore, the statement that the model is not sensitive enough to account for the diversion of trips to light rail is correct. It is also correct that light rail would remove traffic that currently uses the expressway.

Because the model is not sensitive enough to remove every trip diverted to light rail, a manual process was used instead. This information is reported in the Capitol Expressway Light Rail Corridor Transportation Study (Volume III, Appendix B Addendum) for all of the light rail build alternatives. The intersection operations data was not used to determine project impacts and is provided for information purposes only. Instead a more-conservative approach was used to determine project impacts. For example, the analysis reports a delay of 77 seconds at Story Road in 2010 for Phase 1. The delay improves to 58.2 seconds if the light rail ridership diverted from Capitol Expressway is removed for the traffic projections. Therefore, the reported delay of 77 seconds is considered conservative, and the adjusted delay down to 58.2 seconds is provided for informational purposes.

## Response to Comment L1-8

Table 4.2-12 shows light rail boardings by direction for the MOS from the Alum Rock Station to the Eastridge Transit Center and for Phase 2 when light rail is extended to SR 87. The Light Rail Alternative is part of larger light rail and bus transit network. As the network expands, total ridership increases, but boardings shift from one station location to another.

The most acute example of this shift is experienced at the end-of-line station. The end-of-line station has a capture area for passengers beyond the immediate station area. For example, with light rail only to Eastridge, passengers in the immediate vicinity of the Eastridge Transit Center would board at that location. In addition, passengers from the area around the intersection of Capitol Expressway/Aborn Road intersection must travel to the Eastridge Transit Center to board light rail with the MOS. However, when the project is extended past the Eastridge Transit Center, only the passengers in the immediate vicinity would continue to board at that location. Passengers from the area surrounding Capitol Expressway/Aborn Road would now board at the Nieman Boulevard Station.

The same effect would occur at the proposed Story Road and Ocala Avenue Stations. As the system expands, the capture area for these stations would diminish in size; therefore, the boardings at the station platforms would decrease.

## Response to Comment L1-9

Previous light rail corridor projects have analyzed intersections that were not on the corridor itself. These include the Vasona and Capitol Avenue Corridors. A total of 59 intersections were analyzed for the Vasona Corridor, about 26 of which were located at a distance from the light rail corridor. The Draft EIS/EIR found that there was no LOS change at any of these 26 intersections when the project condition was compared to the no-project condition.

The Capitol Avenue Corridor included 42 intersections in the environmental analysis, seven of which were located at a distance from the light rail corridor. Again, none of the intersections would have experienced a change in LOS with the project compared to no-project conditions.

Because previous light rail projects did not find effects outside the immediate corridor, this analysis concentrated on Capitol Expressway. Also, no parallel corridors exist that would experience traffic shifts from Capitol Expressway. Capitol Expressway provides access to I-680, U.S. 101, and SR 87. With light rail, it will continue to provide access to the surrounding freeways. Additionally, as noted on Volume I, Chapter 4, Section 4.2, Table 4.2-14, the changes in travel time between the no-project and project conditions are relatively small. Diverted traffic to other corridors with more closely spaced signalized intersections would experience a longer travel time than remaining on the expressway. Because travel paths are optimized based on travel time, a shift of traffic is not expected to occur as a result of the Light Rail Alternative.

## Response to Comment L1-10

Capitol Expressway currently has channelized right-turn islands at most intersections. These channelized islands are treated as right-turn lanes in the traffic operations analysis of the no-project condition. Most of the right-turn lanes are relatively ineffective because they occur at the intersection and are quickly blocked by a queue of through vehicles.

The proposed cross section for the corridor with the Light Rail Alternative was reviewed with the City and County in meetings held between July and October 2002. The City provided a level of input equal to the County because discussions are underway for the County to relinquish ownership of Capitol Expressway to the City.

The basic cross section for Capitol Expressway was to have 17-foot-wide outside travel lanes. This width would allow for shared use of the outside lane by an automobile and bicycle. The cross section was specifically modified by increasing the outside travel lane from 17 feet to 18 feet for a distance of 200 feet in advance of a signalized intersection. The additional foot was agreed on by the City and County to provide a *de facto* right-turn lane.

While an 18-foot-wide outside lane does not provide a full exclusive right-turn lane, neither does the existing channelized island. However, many right turns are currently executed using the available width. Therefore, the decision was made to treat both the existing pavement width and the proposed 18-foot-wide outside lane in advance of the intersection as a right-turn lane for the purpose of the traffic operations analysis.

## Response to Comment L1-11

The text in the Draft EIS/EIR has been revised. The programmed improvements identified by the City at the Capitol Expressway/Senter Road intersection were included in the future no-project and project conditions in the traffic analysis. The impact identified in the Draft EIS/EIR for the Baseline Alternative is in addition to those programmed improvements. Mitigation for the Baseline Alternative would require the addition of a third southbound left-turn lane from Senter Road onto eastbound Capitol Expressway that was also recommended in the recently completed County Expressway Planning Study. With that mitigation, the impacts of the Baseline Alternative would be less than significant.

In response to this comment, Mitigation Measure TRN-1b on page 4.2-15 in Volume I, Chapter 4, Section 4.2 has been revised as follows:

**Mitigation Measure TRN-1b: Addition of Left-Turn and Through Lanes on Capitol Expressway/Senter Road at Senter Road/Capitol Expressway**

Potential mitigation under the Baseline Alternative includes adding a second northbound and southbound *third* left-turn lane and a second southbound through

~~lane on Capitol Expressway southbound Senter Road. The southbound through lane would be separate of an exclusive right-turn lane.~~

## Response to Comment L1-12

The Draft EIS/EIR identifies mitigation for traffic impacts at Story Road. The existing HOV lanes through the Capitol Expressway/Story Road intersection would be removed to provide sufficient right-of-way for the construction of the Light Rail Alternative. A potential mitigation measure is to maintain the HOV lanes, which would require additional right-of-way from all quadrants of the intersection. Existing businesses are located on each corner of this intersection. Residential properties are located along each side of Capitol Expressway away from the immediate intersection area. Several commercial and residential properties would need to be acquired and relocated to maintain the HOV lanes. Because of right-of-way requirements, property relocations, and the construction cost, maintaining the HOV lanes was determined infeasible.

A second mitigation measure at Story Road identified in the Draft EIS/EIR was to grade separate the traffic movement through the intersection. The existing intersection currently operates at LOS F and has been built out to its maximum size as an at-grade intersection.

The County has developed a concept drawing showing an urban interchange at this intersection. The interchange concept developed by the County required right-of-way takes from commercial and residential properties on all corners of the intersection. Although a cost estimate was not prepared, an urban interchange at this location would cost more than \$20 million, which does not include right-of-way. Because of the right-of-way requirements, property relocations, and construction cost, this mitigation was determined infeasible as a VTA project.

The Draft EIS/EIR found a similar condition at the Capitol Expressway/Ocala Avenue intersection. The Light Rail Alternative would remove the existing HOV lanes to provide sufficient right-of-way for the project. The mitigation identified in the Draft EIS/EIR was to maintain the HOV lanes. Residential development is located on three of the four intersection corners; the fourth is a PG&E utility corridor. Maintaining the HOV lane would require significant residential property takes and relocations. Therefore, the mitigation was determined infeasible.

The Draft EIS/EIR identified a significant impact at Capitol Expressway/Quimby Road intersection. The mitigation to maintain the HOV lanes removed by the project was determined infeasible because it would require significant commercial and recreational property takes and relocations. Maintaining the HOV lanes would require the acquisition of commercial property on the west side of the expressway and encroachment on Thompson Creek on the east side of the expressway. Because of these negative effects, the mitigation was determined infeasible.

## **Response to Comment L1-13**

The existing HOV lane merges with the adjacent through lane immediately north of the Capitol Expressway/Capitol Avenue intersection prior to the I-680/Capitol Expressway interchange. Because the HOV lane cannot be maintained at Story Road and for most of the area between Story Road and Capitol Avenue without acquiring additional right-of-way, it is not feasible to maintain the HOV lane at Capitol Avenue as queue-jump or mixed-flow lanes.

The second part of the comment notes that the reported impact for the Baseline Alternative at the Capitol Expressway/Capitol Avenue intersection is actually not an impact. This comment is correct, and Volume I, Chapter 4, Section 4.2, Table 4.2-19 has been revised for the No-Project Alternative. The revised delay should be 137.2 seconds instead of 104.2, and the revised V/C should be 1.151 instead of 1.087. With these changes, there would be no impact when the Baseline Alternative is compared to the No-Project Alternative.

## **Response to Comment L1-14**

The number sequence in this letter skips Comment L1-14. There is no comment.

## **Response to Comment L1-15**

The southbound left-turn and through lanes at Story Road would be required to wait through two or three signal phases to traverse the intersection. At LOS F, at which the intersection is currently operating, the heaviest traffic movements are required to wait through more than one green phase. The left-turn queue would be approximately 600 feet long, and the through queue would be about 1,100 feet long. The project queue lengths would not extend to the Capitol Expressway/Capitol Avenue intersection.

The comment suggests that the feasibility of queue-jump lanes at Story Road should be discussed. As noted in the Response to Comment L1-12, the addition of a fourth through lane in each direction at Story Road would have substantial right-of-way, property relocation, and cost impacts. As a result, this option is determined infeasible.

The Draft EIS/EIR identifies grade separation of the traffic movements at Story Road as a potential mitigation measure. However, because of cost, right-of-way requirements, and business and residential relocations, this mitigation was determined infeasible. The Santa Clara County Roads and Airports Department developed a concept design for an urban interchange at the Capitol Expressway/Story Road intersection. This concept depresses Capitol Expressway under Story Road, keeping Story Road at grade. Access remains along the Story Road frontage, but is removed from the Capitol Expressway frontage. Ramps from Capitol Expressway would be constructed to the outside of the roadway to allow turns onto and from Story Road. These ramps would

meet at a common intersection point in the middle of the intersection and would be controlled by a single traffic signal. The urban interchange currently being constructed at SR 87/Taylor Street illustrates the type of interchange that could be constructed at Capitol Expressway/Story Road.

Accommodating light rail with an urban interchange would require depressing the tracks in the median of the expressway beneath Story Road. The distance between the tracks would be increased at the intersection to provide for a center platform. The platform would most likely be placed to the north or south of Story Road. This would allow stairs and elevators to be constructed from a sidewalk along Story Road to one end of the platform.

The Story Road Station is an important node in the transit system and has considerable community support. It also serves low-income and minority populations, as shown in Volume I, Chapter 4, Section 4.9, Table 4.9-1. Removing the Story Road Station is not an option currently under consideration.

## **Response to Comment L1-16**

The Draft EIS/EIR identifies maintaining the HOV lanes as the most appropriate mitigation for the Capitol Expressway/Ocala Avenue intersection. However, because of cost, substantial right-of-way requirements, and business and residential relocations, this mitigation was determined infeasible. Adding a second left-turn lane in the northbound direction would require additional right-of-way and would not mitigate the impact. Placing a station immediately at the intersection or having the platform located between Ocala and Cunningham Avenues would not allow the fourth northbound and southbound through lanes to remain on Capitol Expressway without acquiring additional right-of-way. As a result, all of these mitigation measures were determined infeasible.

## **Response to Comment L1-17**

If the Light Rail Alternative terminates at the Eastridge Transit Center as an initial phase, the HOV lanes through the Capitol Expressway/Quimby Road intersection would remain. If the project is extended to Nieman Boulevard, even in a side-running alignment, the HOV lanes would be removed to provide room for the side-running trackway, landscaping, and pedestrian/bicycle facilities. There would be no significant impacts at Quimby Road if the project ends at Eastridge, but there would be significant impacts at Quimby Road in 2025 if the project extends beyond Eastridge Transit Center to Nieman Boulevard or SR 87. Mitigation for traffic impacts was determined infeasible because it would require the acquisition of commercial property on the west side of the expressway and encroachment on Thompson Creek on the east side of the expressway.

## Response to Comment L1-18

Volume I, Section 4.2 of the Final EIR is hereby revised to be consistent with the correction suggested by the comment:

Section 4.2.2, Existing Conditions, Existing Roadway Network: Local streets that run north-south include Seven Trees Boulevard, Copperfield Road Drive, and Narvaez Avenue.

Table 4.2-5. Nieman Avenue Boulevard  
Copperfield Road Drive

Table 4.2-6. Nieman Avenue Boulevard

Table 4.2-12. Nieman Avenue Boulevard

Table 4.2-16. Nieman Avenue Boulevard

Table 4.2-17. Nieman Avenue Boulevard

Table 4.2-18. Nieman Avenue Boulevard

Table 4.2-19. Nieman Avenue Boulevard

## Response to Comment L1-19

VTA notes this comment, but is unable to accommodate the request because reformatting the document to include page numbers on tables and figures would increase the time and expense for document production; the tables and figures are separate files and would need to be renumbered every time there is a pagination change. Adding page numbers to the tables and figures would not change the conclusions of the EIR.

**Hurley, Kim**

---

**From:** Marc Roddin [MRoddin@mtc.ca.gov]  
**Sent:** Thursday, May 27, 2004 3:55 PM  
**To:** Capitol\_Expressway.DEIS-DEIRcomments@vta.org  
**Cc:** jlmclmore@aol.com; james.beall@bos.co.santa-clara.ca.us  
**Subject:** MTC Comments on Downtown East Valley Capitol Expressway Corridor DEIS/DEIR

May 27, 2004

Tom Fitzwater

Santa Clara Valley Transportation Authority

3331 North First Street

San José, California 95134-1906

Dear Tom:

The MTC staff has reviewed your draft environmental impact report (DEIR) and statement (DEIS) for extending light rail a total of 8.2 miles from the soon to be existing Alum Rock station initially to Eastridge Transit Center and then in a subsequent second phase, continuing beyond Eastridge to meet the existing Guadalupe light rail line at SR87. Nine new stations would be constructed.

We have reviewed the Transportation and the Land Use sections of your environmental analysis, plus the Financial Considerations chapter. Thank you for the opportunity to allow MTC to comment on the draft environmental document for the proposed project.

#### Transportation

Table 4.2-9 of the DEIS assumes an expansion of the VTA bus fleet to 600 vehicles by 2010 followed by additional bus fleet size expansion to 650 buses by 2025. However, earlier this year, VTA's Board of Directors approved as part of the agency's FY 2004-2013 Short Range Transit Plan, a bus fleet size reduction to 429 vehicles beginning in fiscal year 2007 and

L2-1



continuing forward at the same fleet size from that point until at least fiscal year 2013. The 429-bus fleet assumes a 20% spare ratio in order to meet a weekday peak demand of 357 pullouts. Please specify which of VTA's future potential bus fleet sizes (429 or 650 buses) is correct and then revise the DEIS travel forecast calculations accordingly if necessary. The FEIS should assure the reader that the travel forecast and the transit system operating and maintenance cost calculations were both based on the same bus fleet size, if indeed that is the case.

L2-1  
cont.

Table 4.2-9 of the DEIS also assumes an expansion of CALTRAIN service from 76 trains each weekday to 120 trains each weekday by 2025. However, VTA's FY 2004-2013 *Short Range Transit Plan's* operating budget scenario escalates CALTRAIN operating costs at 3.5% annually beyond a one-time increase to \$17.6 million beginning in FY 2006. Please specify which CALTRAIN scenario is correct and then revise the DEIS travel forecast calculations accordingly if necessary. The FEIS should assure the reader that the travel forecast and the calculations for VTA's continued contributions to the JPB's train operations were both based on the same number of trains per day, if indeed that is the case.

L2-2

Table 2.8 on page 2-23 of Appendix B shows bus transit service operated more frequently and for more hours per day than it is now. On the next page, Table 2.11 on page 2-24 of Appendix B shows more frequent light rail service for more hours per day than is presently operated. Please clarify if the projected transit ridership presented in DEIS section 4.2.3 (*Future Conditions*) is based on the level of service that VTA provided in previous years when the economy was in better shape than it is now, and if so, then please show in the FEIS how the numbers should be adjusted to reflect present conditions.

L2-3

For the traffic analysis presented in the Existing Roadway Network discussion beginning on page 4.2-6 of the DEIS, please include (in addition to the arterial and expressway information that is already presented) mainline traffic flow for locations on Interstate Route 680 and US-101 in the FEIS, since these freeways parallel the extended light rail line.

L2-4

Table 4.2-14 of the DEIS shows expressway travel times and speeds. Please augment this table in the FEIS to include freeway traffic volumes for I-680 and US-101, which parallel the extended light rail line and are therefore likely to be impacted by it.

L2-5

### Land Use

Figure 4.13-1 depicts existing land uses in the corridor. For residential land uses, the map would be more useful if it quantified the densities with captions such as "medium density" and

L2-6

"higher density" right on the map. Please annotate this map in the FEIS to quantify density in this way rather than showing it in broad general categories as is done in the draft. In the FEIS, please also include similar maps for the year 2025, so the reader can gain an appreciation for the types of land use changes contemplated to accompany the project, and to assist in visualizing the types of land uses that will provide necessary ridership for light rail.

L2-6  
cont.

MTC's "Transportation and Land Use Platform" adopted in December 2003, states that new public transit projects will be evaluated in part based on local supportive land use policies that can be proven to increase ridership and maximize the cost-effectiveness of the project. Specifically, it states the following goals:

- ***"Promote development of land uses adjacent to major transit extensions, to support ridership markets that will make these investments economically feasible.***
- ***"Condition the award of regional discretionary funds under MTC's control for Resolution 3434 expansion projects, on the demonstration by local government that plans are in place supporting some level of increased housing/employment/mixed use density around transit stations/transfer centers."***

Please expand upon the land use section in the FEIS with quantification of employment and residential development densities around stations under three categories, namely (1) existing, (2) permitted under existing local zoning and related land use policies, and (3) assumed in the travel forecasts. For densities assumed in category (3), identify specific actions that the city needs to take and a time line for those zoning and related land use policy actions. In addition, either this section or perhaps the Environmental Justice section of chapter 4 should demonstrate the extent to which the project provides access to affordable housing and jobs.

L2-7

### Financial Considerations

Although the level of detail is appropriate for a DEIS, additional financial data will be necessary to evaluate this project for inclusion in the Regional Transportation Plan. MTC staff will work with appropriate VTA staff to obtain this information.

Please delete the bullet entitled Bay Area Bridge Tolls and its accompanying paragraph on the bottom of page 7-9 in section 7.3.4 (Potential New Funding Sources) since Regional Measure 2 does not provide funding for this project.

L2-8

Sincerely,

Marc Roddin

Santa Clara County Liaison

Copies to:

Commissioner Beall

Commissioner McLemore

J:\PROJECT\Resolution 3434\EIR or EIS Review\Downtown East Valley Capitol Expressway Corridor  
DEIS.doc

Marc Roddin  
San Mateo and  
Santa Clara County Liaison  
Metropolitan Transportation Commission  
Telephone (510) 464-7827

# **Letter L2, Metropolitan Transportation Commission, May 27, 2004**

## **Response to Comment L2-1**

Travel demand forecasts were prepared for the Capitol LRT project in 2001 and were based on VTP 2020. The forecasts years were for 2010 and 2025. In 2001, VTA estimated that the future bus fleet size in 2010 would be 600 buses and the future bus fleet size in 2025 would be 650 buses. These bus fleets were considered appropriate when the Notice of Intent/Notice of Preparation (NOI/NOP) for the EIS/EIR was issued on September 21, 2001. The date for the NOI/NOP establishes the existing and future conditions on which the determination of environmental impacts is based. The travel forecasts and transit system operating and maintenance costs for the Capitol Expressway Corridor Project were calculated based on the best available information at the time and the adopted long-range plan.

VTA's current bus fleet is 523 vehicles, including 433 buses in the "active fleet" and 90 in the "ready reserve" fleet. In 2004, the VTA Short Range Transit Plan (SRTP) was adopted and included an "active fleet" of 429 by 2013. The SRTP does not limit bus fleet expansion beyond that time. VTP 2020, which extends seven years beyond the SRTP, provided for expansion of the bus fleet to at least 642 by 2020.

In January 2005, the VTA Board adopted Valley Transportation Plan 2030 (VTP 2030) as the new long-range plan for VTA replacing VTA 2020. The two plans differ in the assumption of bus fleet size for the study period. While VTP 2020 assumed an active bus fleet of 642 vehicles by 2020, this assumption was modified in VTP 2030 to assume an active fleet of 525 vehicles by 2030. While there is a reduction in bus service with VTP 2030, bus service was modified to eliminate low ridership routes that fall short of VTA's adopted standards, maximize high ridership routes and reorient bus service to integrate it with the light rail system. Since the Capitol Expressway Corridor is a high transit ridership area, future bus service would not be substantially affected in southeastern San Jose. Therefore, the ridership forecasts remain valid. With the smaller bus fleet, operating and maintenance costs would be marginally lower than projected. Again, this would not affect the overall conclusions of the Final EIR.

## **Response to Comment L2-2**

The NOI/NOP for the EIS/EIR was issued on September 21, 2001. This date establishes the existing and future conditions on which the determination of environmental impacts is based. As a result, travel forecasts and transit system operating and maintenance costs for the Capitol Expressway Corridor are based on an expansion of Caltrain service from 76 to 120 trains each weekday by 2025.

No adjustments are necessary to the Final EIR for changes in Caltrain service scenarios.

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87. As a result, the Recommended Light Rail Alternative would not intersect with Caltrain, and the revised project costs and ridership projections in Volume II, Chapter 2 would not be affected by Caltrain service scenarios.

## Response to Comment L2-3

The NOI/NOP for the EIS/EIR was issued on September 21, 2001. This date establishes the existing and future conditions on which the determination of environmental impacts is based. As a result, projected transit ridership is based on the level of service as of September 2001, which was more frequent and for more hours than at present. Projections over a 20-year period would be expected to show fluctuations based on economic conditions. Therefore, no adjustments are necessary.

## Response to Comment L2-4

The following text has been added to page 4.2-6 in Volume I, Chapter 4, Section 4.2:

### Existing Roadway Network

The study area is located within an extensive roadway system in the Downtown/East Valley area of San Jose. This area includes freeways, state highways, expressways, and numerous arterial streets.

Three major facilities serve the study area: U.S. 101, I-680, and SR 87. All three generally travel in a north-south direction. U.S. 101 is an eight-lane facility with an interchange at Capitol Expressway at the approximate midpoint of the corridor. I-680 is an eight-lane facility that parallels the corridor beginning at a point just northwest of the Capitol Avenue/Capitol Expressway intersection. SR 87 is a six-lane highway that intersects Capitol Expressway at the southernmost end of the corridor. Other state highways serving the study area include SR 130 (Alum Rock Avenue) and SR 82 (Monterey Highway). SR 130 is a four-lane arterial that travels east-west through the northern part of the study area. It connects to I-680 with a full freeway interchange. SR 82 is a six-lane divided arterial that travels in a north-south direction and crosses Capitol Expressway west of U.S. 101; an interchange provides access between Capitol Expressway and SR 82.

*On I-680, the next interchange north of the Capitol Expressway interchange is the Alum Rock Avenue interchange. The distance from the undercrossing of Capitol Expressway to the overcrossing of Alum Rock Avenue is approximately 1,560 feet. The ramps between the two interchanges are braided. To the south of Capitol Expressway on I-680, the next interchange is a partial interchange*

*with Jackson Avenue. This interchange provides ramps to and from the south. The distance from the undercrossing of Capitol Expressway to the undercrossing of Jackson Avenue is approximately 1,200 feet. I-680 currently carries approximately 232,000 vehicles per day at Capitol Expressway (Korve Engineering 2004b).*

*On U.S. 101, the next interchange to the north of Capitol Expressway is at Tully Road. The distance from the overcrossing of Capitol Expressway to the overcrossing of Tully Road is approximately 7,200 feet. To the south of Capitol Expressway on U.S. 101, the next interchange is at Yerba Buena Road. The distance from the overcrossing of Capitol Expressway to the undercrossing of Yerba Buena Road is 3,600 feet. The ramps between Yerba Buena Road and Capitol Expressway are connected by collector/distributor roadways because of the close spacing of these interchanges. U.S. 101 currently carries approximately 196,000 vehicles per day near Capitol Expressway (Korve Engineering 2004b).*

## **Response to Comment L2-5**

Volume I, Chapter 4, Section 4.2, Table 4.2-14 shows the estimated travel times and speeds for automobile and light rail for existing and future conditions with and without the Light Rail Alternative. This table compares the projected travel times for the No-Project and Light Rail Alternatives, as discussed in Section 4.2.3. Traffic volumes on I-680 and U.S. 101 would show minimal change with the Light Rail Alternative; therefore, travel times and speeds are not shown.

Traffic volumes for I-680 and U.S. 101 can be found in Volume III, Appendix B, Chapter 2, Section 2.1.1.1.

## **Response to Comment L2-6**

The representation of land use in broad general categories is appropriate in this case. As stated in Volume I, Chapter 2, Section 2.3.2, the San Jose 2020 General Plan designates the Capitol Avenue/Expressway Corridor as an area where intensification of land use should occur. However, it acknowledges that “intensification within this corridor is expected to occur more slowly than in other corridors designated for intensification.” Therefore, the EIS/EIR did not assume substantial changes in land use intensity that would increase ridership. The area is already urbanized, and increasing ridership will primarily be a function of providing frequent service, easy access to stations, and efficient intermodal light rail and bus connections.

## **Response to Comment L2-7**

Refer to Response to Comment L2-6 regarding residential densities. The same response also applies to employment.

Regarding access to affordable housing and jobs, Volume I, Chapter 2, Section 2.3.2 indicates that the improvement of transit service in the Capitol Expressway Corridor would provide access to employment centers served by the Guadalupe and Tasman LRT Lines. In addition, the “Environmental Setting” section in Volume I, Chapter 4, Section 4.16 provides information on population, housing, and employment characteristics of the study area. The affordability of housing units and jobs along the Capitol Expressway Corridor is not an environmental issue; therefore, it is not discussed in the EIS/EIR.

## **Response to Comment L2-8**

The bullet point on “Bay Area Bridge Tolls” and the subsequent discussion is included in the EIS/EIR because it is a potential funding source for all services in VTA’s operating budget, including services that cross bridges such as the Dumbarton Express Bus Service. VTA could conceivably receive a small increment of transit operating funds to support transbay services and capital improvement funds for regional initiative projects.



June 1, 2004

Mr. Tom Fitzwater, Environmental Planning Manager  
Valley Transportation Authority  
Environmental Planning Department  
331 North First Street, Building B  
San Jose, CA 95134-1927

Mr. Jerome Wiggins  
United States Department of Transportation  
Federal Transit Administration  
201 Mission Street, Suite 2210  
San Francisco, CA 94105

2004 JUN - 3 A 8:31  
VTA  
ENV. ANALYSIS

**RE: Capitol Expressway Light Rail Corridor Draft EIS/EIR**

Dear Mr. Fitzwater and Mr. Wiggins:

The ALUC reviewed the Capitol Expressway Light Rail Corridor Draft EIS/EIR at its May 26, 2004 meeting and made the following comments:

The project alternative that proposes the construction of an elevated transit station at Eastridge Mall has the potential for conflict with the FAA's Part 77 height restrictions for the Reid-Hillview Airport. The ALUC recommends that for this alternative the DEIS/DEIR identify the maximum allowed elevation for the site of the proposed transit station and that the structure be designed below this maximum height.

L3-1

The ALUC appreciates the opportunity to comment upon this project. If you have any questions, please do not hesitate to contact me at (408) 299-5798.

Sincerely,

Dana Peak  
ALUC Staff Coordinator



## **Letter L3, Santa Clara County Airport Land Use Commission, June 1, 2004**

### **Response to Comment L3-1**

One of the design options for the Light Rail Alternative that was under consideration in the Draft EIS/EIR was an aerial crossing of Tully Road with an aerial station at the Eastridge Transit Center. The final staff recommendation for this segment, which was approved by the DTEV PAB on August 5, 2004, is for a depressed (cut-and-cover) section under Tully Road returning to an at-grade station within the Eastridge Transit Center. The depressed alignment/at-grade station was selected because it would facilitate a much better interface between bus and light rail transfers than an aerial station. An at-grade station with ancillary facilities would not conflict with the Federal Aviation Administration's (FAA's) Part 77 height restrictions.



JOHN L. MCLEMORE, CHAIR  
MICHAEL D. NEVIN, VICE CHAIR  
MICHAEL T. BURNS  
JOSE CISNEROS  
DON GAGE  
JIM HARTNETT  
ARTHUR L. LLOYD  
SOPHIE MAXWELL  
KEN YEAGER

MICHAEL J. SCANLON  
EXECUTIVE DIRECTOR

June 16, 2004

Mr. Tom Fitzwater  
Santa Clara Valley Transportation Authority  
Environmental Planning Department  
3331 North First Street  
San José, California 95134-1906

Dear Mr. Fitzwater:

We thank Santa Clara Valley Transportation Authority (VTA) for sending us a copy of the Draft Environmental Impact Statement/Environmental Impact Report and Draft 4(f) Evaluation (DEIS/DEIR) for the proposed Capitol Expressway Corridor.

We have the following comments on the DEIS/DEIR dated April 2004.

- 1. Table 4.13-1 on page 4.13-5 - Please add that Caltrain will electrify and will need the minimum 15' track centers and space for catenary poles. Provide room for Caltrain future double track and the proposed future High-Speed rail. Caltrain double track for station will require 18' centers between mainlines and outboard platform of minimum 15' wide per Caltrain standards. Station will have a future grade separated pedestrian crossing. Relocation of existing Caltrain station may require signal work. L4-1
- 2. Page 3-21 and 3-22, Chapter 3.0. Alternatives Considered, Monterey Highway Station; Figure A-26– The existing Capitol Caltrain station that is proposed to be relocated shall be designed to allow future electrification, Caltrain double tracks, station outboard platforms and a grade separated pedestrian crossing. The station platform shall be 700' long per Caltrain Standards. L4-2
- 3. Page 4.13-4 and 5 and Table 4.13-1 – Please include the proposed Caltrain Electrification Program as a planned future project. Additionally, please include the potential double-tracking project of the UPRR tracks along the railroad at Capitol Expressway and the California High Speed Rail Project proposed for this area as proposed future projects. L4-3
- 4. Page 8-3 – Please include the Peninsula Corridor Joint Powers Board as a Local and Regional Agency L4-4

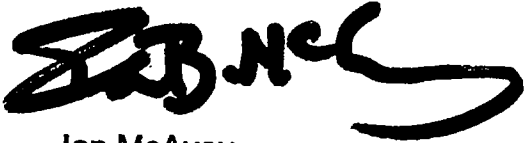
I am enclosing a folded copy of the proposed Caltrain Capitol Station Layout For Relocation.

Again, thank you for VTA's inclusion of the Peninsula Corridor Joint Powers Board (JPB) on this proposed project. We look forward to working with you as you complete this

Mr. Fitzwater  
June 16, 2004  
Page 2 of 2

environmental review and during design and construction. If you need additional information, please don't hesitate to contact me at (650) 508-6346.

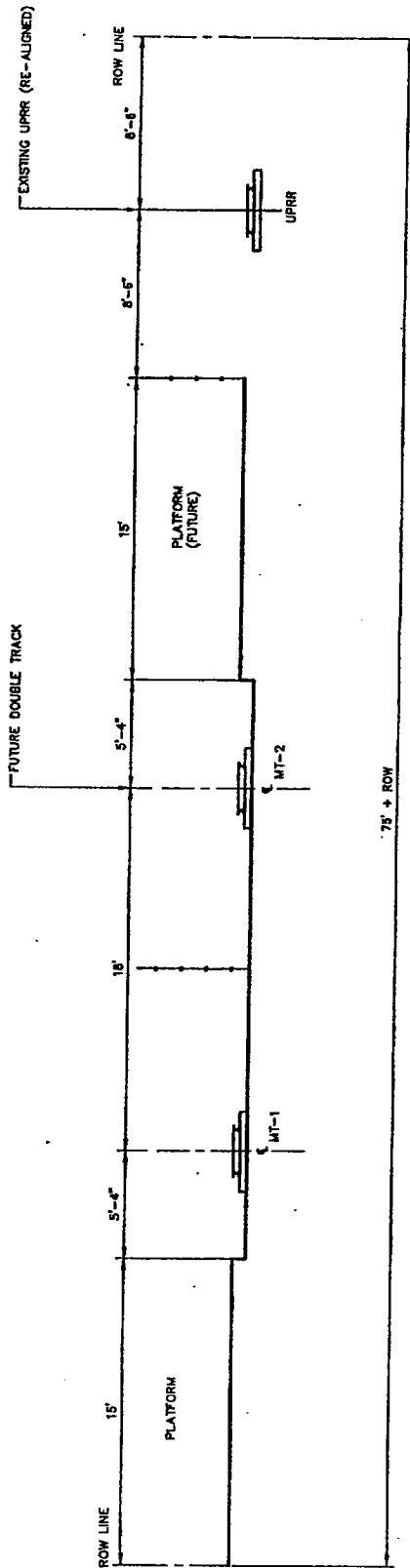
Sincerely

A handwritten signature in black ink, appearing to read 'IAN MCAVOY', with a long horizontal flourish extending to the right.

Ian McAvoy  
Chief Development Officer  
Peninsula Corridor Joint Powers Board

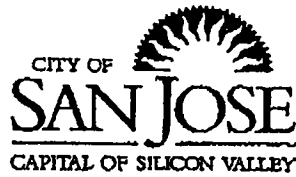
enclosures: one copy of Caltrain Capitol Station Layout for Relocation

cc: Darrell Maxey, Michael Chan, Anthony Quicho, Stephen Chao, Raul Millena, Brian Fitzpatrick, Erik Ólafsson, Document-Control, file



CALTRAIN CAPITOL STATION LAYOUT FOR RELOCATION  
 (LOOKING SOUTH)  
 NO SCALE

PROJECT: CALTRAIN DRAWN BY: A. CUKICHO CHECKED BY: M. HURTADO DATE: 11/20/04		PENINSULA CORRIDOR JOINT POWERS BOARD CALTRAIN CAPITOL STATION LAYOUT FOR RELOCATION TYPICAL SECTION SHEET 1 OF 1		CDP NUMBER: PROJECT NUMBER: TRACKING: TRACKING:	CDP DATE: PROJECT DATE: CONTRACT NO: SHEET NO:
APPROVED: _____ DATE: _____	APPROVED: _____ DATE: _____				
REVISIONS: NO. DATE BY/APP BY/APP DESCRIPTION	REVISIONS: NO. DATE BY/APP BY/APP DESCRIPTION				



*Parks, Recreation and Neighborhood Services*  
ARBUCKLE SERVICE CENTER - STRONG NEIGHBORHOODS INITIATIVE

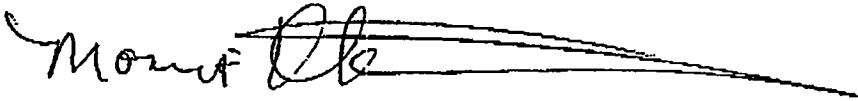
June 21, 2004

Dear Gentlemen:

Please find the enclosed letter with information regarding the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR).

The comments in the letter hopefully will be considered for the decision on the Final EIS/EIR. If you need additional information or comments please contact my office at 277-5639.

Sincerely,



Monica Kitchiner  
Community Coordinator  
East Valley/680 Communities

# Letter L4, Peninsula Corridor Joint Powers Board, June 16, 2004

## Response to Comment L4-1

Volume I, Chapter 4, Section 4.13 refers to the land use analysis for the Capitol Expressway Corridor and alternatives; Table 4.13-1 includes land use development projects only. This is not the most appropriate place to insert the information regarding the Caltrain electrification project. The following item regarding the Caltrain electrification project has been added to the bulleted list that begins on page 3-2 in Volume I, Chapter 3, Section 3.1.3:

- ***Caltrain Electrification Project:*** *The Caltrain Electrification Project would provide for the conversion from diesel-hauled to electric-hauled trains and would require the installation of some 180 to 200 single-track miles of overhead contact system (OCS) for the distribution of electrical power to the electric rolling stock. Some limited diesel operations for certain passenger routes as well as for freight service would continue. Electric rolling stock would consist of locomotives or electric multiple unit cars. The OCS would be powered from 25 kilovolt (kV), 60 Hertz (Hz), single-phase, alternating current (AC) supply system consisting of traction power supply substations, switching stations, and paralleling stations. A Final Environmental Assessment (EA)/EIR has been prepared and is currently under review by the Federal Transit Administration.*

It should be noted that at its meeting on August 5, 2004, the DTEV PAB deferred all project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87, until land use decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, no changes are proposed to the Capitol Caltrain Station at this time.

## Response to Comment L4-2

The first full paragraph on page 3-22 in Volume I, Chapter 3 has been revised to read as follows:

The relocation plan would place the Caltrain station beneath Capitol Expressway on the west side of Monterey Highway to create a vertical link between the light rail and commuter rail stations. The relocated Capitol Caltrain Station would include the following elements: steel/glass shelter, bicycle lockers at the park-and-ride lot, and a station platform. The station platform would be approximately 600/700 feet long by 15 feet wide. *The station will accommodate electrified double-track Caltrain service, as well as right-of-way for future high-speed rail service.* It would be located at-grade on the west side of Monterey Highway; the platform length will extend both north and south of the Monterey Highway overpass, *and will accommodate a future grade-separated pedestrian crossing.* The Monterey Highway Station light rail station would be at-grade with a center platform on the existing Monterey Highway overpass accessed via

stairs or elevators and a pedestrian tunnel. The plan also provides for an expanded park-and-ride lot and potential bus transit center.

## Response to Comment L4-3

Refer to Response to Comment L4-1. This is not be the most appropriate place to insert the information regarding the Union Pacific Railroad double-tracking and California High Speed Rail projects. The following items have been added to the bulleted list that begins on page 3-2 in Volume I, Chapter 3, Section 3.1.3:

- *Double Track Segments Between San Jose and Gilroy: On November 7, 2000, voters in Santa Clara County approved a 30-year 0.5-cent sales tax to provide double track segments in the Caltrain corridor from the San Jose Tamien Station through Morgan Hill to Gilroy.*
- *California High Speed Rail Project: The High Speed Rail Authority has prepared a program-level Environmental Impact Report (EIR)/Environmental Impact Statement (EIS) for a 700-mile high-speed train system serving Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County, and San Diego. High-speed trains would be capable of maximum speed of at least 200 miles per hour, with an expected trip time from San Francisco to Los Angeles in just less than 2 hours, 30 minutes. The High Speed Rail Authority and Federal Railroad Administration (FRA) are preparing a Final Program EIS/EIR that may identify preferred alignment and station options and includes responses to comments. One alignment under consideration would parallel the Caltrain tracks in the vicinity of Capitol Expressway.*

## Response to Comment L4-4

The Peninsula Corridor Joint Powers Board has been added to the list of local and regional agencies on page 8-3 of Volume I, Chapter 8, Section 8.2.3.



## East Valley / 680 Communities Strong Neighborhood Initiative – Neighborhood Advisory Committee

NAC Board

June 21, 2004

Chair  
Roberto Cruz II

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

Co-Chair  
Aaron Resendez

Gil Bracamontes  
Olga Ruiz  
Kathleen Dolci  
Bob Dolci  
Bud Beacham  
Ted Johnson  
Alofa Talivaa  
Ezequiel Nevarez  
Scorro Nevarez  
Naomi Lopez  
Betty Howard  
Jesus Cardinas  
Minerva Cardinas  
Javier Davila  
Virginia Davila  
Rebecca Sweeney  
Frank Chavez  
Rick Salinas  
Kim Salinas  
Lionel Elizarraraz  
Horacio Lucero

Dear Mr. Fitzwater:

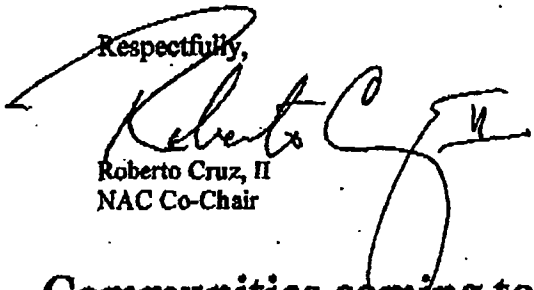
Thank you for accepting this letter expressing our concern regarding the possibility of not receiving sound walls with the Capitol Expressway, VTA Light Rail Project. It is the position of The East Valley/680 Neighborhood Advisory Council (NAC) to insist that sound walls are included in the design and construction of this project.


The City of San Jose established the Strong Neighborhoods Initiative to empower underserved neighborhoods by developing community leaders to take a more proactive role in the improvement of their neighborhoods. Since its inception, we have made great strides to improve the quality of life for residents and clean-up our neighborhoods. The East Valley/680 Communities planning area is located east of Highway 101 and Interstate 680 and is comprised of ten neighborhoods, namely: Arbuttle, Capitol/Goss, Dobern, Nancy, NHU, Ryan, Sierra, Cassell, Dorsa, and Lyndale. The NAC identified goals that would bring about positive change. The goals were prioritized and ten topics were selected to focus resources towards in the community. **Priority #6 is Sound Wall Barriers.** Many residents live near a freeway or heavily traveled arterial. Noise from these roadways is a problem.

At the March 18<sup>th</sup> NAC meeting, Julie Render and Steven Fisher presented *Preliminary Staff Recommendations* for the Capitol Expressway Light Rail Corridor. There was a question about construction of a sound wall barrier for our area. We were told that analysis was conducted and the results indicated that a wall was not warranted. We are not sure what criteria are used to conduct the study but we are currently forced to live with the existing high level of noise. For VTA to say that a sound wall is not needed is telling our community that we are not valued like other communities that have received sound wall barriers with their light rail projects. We'd like this project to be completed properly from the beginning to end and not as an after thought as it has happened in the past.

Again, we would like to thank you for taking the time to review this letter and reconsider/re-examine the construction of a sound wall.

Respectfully,

  
Roberto Cruz, II  
NAC Co-Chair

  
Aaron Resendez  
NAC Co-Chair

**Communities coming together to work together.**

1050 McCreery Ave Apt #1 San Jose, CA 95116 408/ 251-4687



# **Letter L5, East Valley/680 Communities Neighborhood Advisory Committee, June 16, 2004**

## **Response to Comment L5-1**

The noise and vibration impact assessment was conducted using FTA noise and vibration criteria for impacts. The assessment procedures met with both NEPA and CEQA guidelines for assessing noise and vibration impacts from transit operations.

The FTA noise criteria are based on the existing noise levels for determining impacts and take into account changes in noise level due to the introduction of the project alternatives. Based on measurements of existing noise levels and the modeling of future noise levels with the Light Rail Alternative, there were no noise impacts identified with the Recommended Light Rail Alternative that was approved by the DTEV PAB on August 5, 2004. As a result, no soundwalls are required for mitigation according to FTA noise criteria.

The EIS/EIR did identify potentially significant vibration impacts at specific locations. VTA would use vibration-dampening track construction materials at the affected locations to mitigate the vibration impact.

**Hurley, Kim**

**From:** Raluca Nitescu [Raluca.Nitescu@rda.sccgov.org]  
**Sent:** Monday, June 21, 2004 6:59 AM  
**To:** 'Thomas Fitzwater'  
**Cc:** Dan Collen; Carl Honaker; Bill Lee  
**Subject:** Capitol Expressway Light Corridor DEIR-Addendum to Roads and Aipo rrts Letter dated April 26 ,2004

Please see attached our comments for the subject file:

Ms. Thomas Fitzwater  
 Environmental Planning Manager  
 Santa Clara Valley Transportation Authority  
 3331 North First Street, Building B  
 San Jose, CA 95134-1906

**Subject:** Downtown East Valley - Capitol Expressway Light Rail Corridor  
 Preliminary Staff Recommendations Report regarding Options considered in the Draft  
 Environmental Impact Statement Report - addendum to our Letter dated April 26, 2004

Dear Ms. Fitzwater,

Roads and Airports Department has already commented on the subject project in its letter dated April 26, 2004(see attachment).Item 10 of this letter refers to two documents; the Board of Supervisors' memo dated April 17, 1995 and Ron Gonzales' memo of April 12, 1995 which indicates that the sound wall construction along Capitol Expressway should be completed as a portion of the Capitol Corridor LRT project (see attachment).

The Draft Environmental Impact Report (DEIR) submitted by Valley Transportation Authority (VTA) in March 2004 for our review does not include a response to our letter with comments dated May 15, 2000 which states:" Prior commitments have been made that LRT will be responsible for improvements of sound walls along Capitol Expressway."(see attachment).

L6-1

The final EIR should include our letter dated April 26, 2004 and its attachments as an exhibit and clearly respond to the comments included in both our letters of May 15, 2000 and April 26 2004.

In addition, the LRT environmental document has language describing project background that refers to the Evergreen Specific Plan EIR. The actual language in the ESP EIR is:"...the proposed widening of Capitol Expressway (to mitigate ESP development impacts) would not preclude the future installation of the Capitol Corridor LRT facility.... The transition to the SCCTA ultimate design would necessitate the removal of the two inside mixed flow lanes in order to expand the median to the width required by the light rail. In order to provide sufficient transportation capacity, it may be feasible to replace a lane of traffic with light rail transit." To remove the lanes from Capitol and be consistent with the ESP EIR, the Capitol LRT document needs to demonstrate the replacement of traffic lanes with LRT provides equivalent capacity. Unmitigated traffic degradation is not consistent with the language of the ESP EIR (Evergreen Specific Plan Environmental Impact Report, Volume I, Section II B, Page 26).

L6-2

Also attached are the comments from our Airport Operations for your response and inclusion into the

L6-3

6/21/2004

3-186

EIR.

If you have any questions, please call me at 573-2464.

Sincerely

Raluca Nitescu  
Project Engineer

Attachments: Letter dated April 26, 2004  
Letter dated May 15, 2000  
Memo dated April 12, 1995  
Memo dated April 17, 1995  
Comments - Airport Operations

Cc: Michael Murdter, Director  
Carl Honaker-Airport Operations  
DEC, WRL, File

# County of Santa Clara

Roads and Airports Department  
Land Development and Permits

101 Skyport Drive  
San Jose, California 95110-1302  
(408) 573-2460 FAX (408) 441-0275



April 26, 2004

Ms. Julie Render  
Principal Transportation Planner  
Valley Transportation Authority  
3331 North First Street, Building B  
San Jose, CA 95134-1906

**Subject: Downtown East Valley – Capitol Expressway Light Rail Corridor  
Preliminary Staff Recommendations Report regarding Options considered in the  
Environmental Impact Statement/ Report**

Dear Ms. Render,

Your Letter of Transmittal along with the attachments for the subject project received by our office on March 12, 2004 has been reviewed. Our comments are as follows:

1. There is a general understanding that the City of San Jose will assume maintenance responsibility as construction phases go forward. This understanding should be formalized in writing. | L6-4

2. There has been a general understanding of the project that the Light Rail Corridor construction will require the removal of the High Occupancy Vehicle (HOV) lane east of Highway 101 and removal of acceleration/deceleration lane areas west of Highway 101.

At three (3) key areas (locations) the impacts go beyond the above issue as follows:

A. The southbound HOV lane ends just south of Aborn. In the existing configuration Capitol Expressway has an unrestricted fourth (4<sup>th</sup>) lane that connects continuously from Aborn to the northbound 101 ramp. This is a significant movement and eliminating this auxiliary lane is not recommended as doing so would certainly cause significant impacts. | L6-5

B. Southbound 101 to westbound Capitol Expressway is accommodated by a fourth (4<sup>th</sup>) lane that extends westerly through McLaughlin. This is a significant movement, and eliminating the auxiliary lane will cause significant impact, and therefore elimination is not recommended. | L6-6

C. Southbound 87 to eastbound Capitol Expressway is planned as part of Communication Hill development to mitigate the traffic in this area based on an Environmental Impact Report, in three parts: | L6-7

- A triple left from the southbound 87 off ramp to Capitol Expressway

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss  
County Executive: Peter Kutas, Jr.



- Eastbound thru lane along Capitol Expressway from triple left off ramp to Bluefield through Narvaez
- Double left turns at Vista Park

L6-7  
cont.

These are significant movements. Elimination of these lanes is not recommended and would conflict with approved environmental mitigation measures.

3. Sheet 1, Figure 1 – Preliminary Recommendations

- In the area of Capitol Expressway/Freeway 680 to accommodate existing and projected traffic, four (4) lanes in each direction between Freeway 680 and Story Road are needed to to provide acceptable level of service.

L6-8

- The southbound Capitol Expressway left turns at Story Road also need to be extended.

L6-9

- The intersection at Senter Road and Capitol Expressway is a heavily used intersection with significant school traffic (cars and pedestrians) and needs to be considered for grade separation. This will improve the safety as well as traffic flow.

L6-10

4. Sheet 15, Table 3

Please indicate the traffic impacts at the Light Rail Project intersections with Capitol Expressway.

L6-11

5. Figure 8 and Option B2,(also Drawing P&P06-B2)

A station located close to the intersection would allow the pedestrians to use signalized intersection crossing.

As proposed the location of the station between Ocala and Cunningham has unacceptable operational issues because of the midblock location. We would expect pedestrians to run across the expressway to access the station, with or without a grade separated crossing, because it would provide the most direct route.

L6-12

6. Figure 17

Design Option of the alignment between Nieman Station and Optional Silver Creek Option is preferred as shown in Figure 17.

L6-13

7. Figure 20

The intersection of Capitol Expressway and Snell should be grade separated.

L6-14

8. Option A1- Drawing A1-P&P02

- Four (4) southbound and northbound lanes are recommended on Capitol Expressway. Also the length of left turn lanes should be extended in all options.

L6-15

- Drawing A1- P&P03

Provide three (3) left turn lanes from southbound Capitol Expressway to eastbound Story Road.

L6-16

9. Option B2- Drawing P&P06-B2

Do the red lines at 89+00 (approximately) indicate a proposed pedestrian crossing?  
Our recommendation is to move the station close to Ocala Avenue so the pedestrians can use the pedestrian crosswalk to get to the Light Rail Station.

L6-17

10. Based on the Board of Supervisors Memorandum dated April 17, 1995 the soundwall construction along Capitol Expressway should be completed as a portion of the Capitol Corridor LRT project (see attachment).

L6-18

Thank you for the opportunity to review this project.  
If you have any questions, please call me at (408)573-2464.

Sincerely,  
  
Raluca Nitescu  
Project Engineer

Attachment: Memorandum dated April 17, 2004

Cc: DEC, RJJ, TH, MA, WRL, File

San

**County of Santa Clara**  
Roads and Airports Department



101 Skyport Drive  
San Jose, California 95110-1302

May 15, 2000

Ms. Julie Render  
Principal Transportation Planner  
Santa Clara Valley Transportation Authority  
3331 North First Street  
San Jose, CA 95134-1906

**Subject: Downtown/East Valley Major Investment Study**

Dear Ms. Render:

We appreciate the time you and your staff have taken advising us of this subject study. We are in receipt of your letters of March 30, 2000 and April 10, 2000, transmitting various related documents. Our comments follow:

As you are aware, Capitol Expressway is an important transportation facility that is operated and maintained by the County. The County has long planned for HOV lanes on Capitol, and participated in the design and construction of the currently existing HOV lanes east of US101 as part of the Evergreen Development traffic mitigation.

Given our in place HOV facilities, we have reviewed your documents with interest to see how these existing investments play a part in the planned transportation improvements. Conceptual Alternatives 8, 9, 10, and 16 have elements that include use of the existing HOV lanes. None of the options appears to include full build out of the planned Capitol HOV lanes (Alternative 16 is so vaguely described it is difficult to tell what might be included), none include direct HOV connector ramps at Capitol, and none discuss HOV connection to northbound I-680. Despite this, it is noted that in "Working Paper: Evaluation of Conceptual Alternatives (December 1999)" Alternate 8 has as many positive scorings as the LRT options, and is recommended for further study. Alternative 10 is also recommended for further study, but not Alternative 9, which appears from the scoring to be the better alternative. We look forward to review of whatever further analysis is done.

Board of Supervisors: Donald F. Osge, Bianca Alvarado, Pete McHugh, James T. Beall Jr., S. Joseph Similian  
County Executive: Richard Wiltenberg



L6-19

Based on our meetings, communication, and the documents reviewed to date we are concerned there may be a desire to conclude positively for the LRT option regardless of quantifiable study results. The preliminary ridership numbers don't seem to justify the removal of existing transportation capacity at a time when transportation demand is growing. Our preferred alternative is the alternative which best uses the reasonable rights-of-way limits of Capitol to provide the most effective transportation corridor (effective = expressway person capacity / expressway person delay) with the most efficient use of transportation funds (efficient = expressway person capacity / improvement costs).

As discussed at our recent meetings, we share your concern with traffic service levels at Capitol and Story Road and look forward on working with VTA, the City of San Jose, and the local community on identification of possible improvements.

If VTA proceeds with further development of the LRT option, we feel it is important that the expressway be studied intersection by intersection for appropriate safety auxillary lane/ turning pocket storage provisions. Impacts of removal of a lane on Capitol to add LRT will be worsened if provisions for turning movements are not carefully considered and backups block through lanes.

The LRT cross section developed in "Refined Definition of Conceptual Alternatives SUMMARY WORKING PAPER" (Figure 11) does not address the prior comment. We look forward to working with your designers as more specific plans are developed. At present we have the following concerns with the proposed section and aerial concept sketch:

- ◆ Median trees will not be permitted in the narrow median strips without additional safety provisions. At our meeting we discussed aligning the rail off center to allow a wider one-sided median landscape area.
- ◆ Shoulder areas on Capitol should be delineated.
- ◆ We have committed to improving pedestrian provisions along Capitol, and over the last few years have spent a considerable amount of time and money installing both asphalt and portland cement concrete walks. The LRT work should improve on the sidewalk along Capitol.
- ◆ Trees will not be permitted immediately behind the curb as shown in the sketch. Safety setback will be required.
- ◆ Maintenance of landscaping will need to be resolved. County cannot supply resources for any new expressway landscaping.

L6-20

L6-21

L6-22

L6-23

L6-24

L6-25

L6-26



- ◆ Prior commitments have been made that LRT will be responsible for improvement of sound walls along Capitol Expressway

L6-27

We appreciate this opportunity to review VTA's plans for Capitol Expressway.

Sincerely,

*Rollo Parsons*

*for*

Michael J. Murdter  
Director

Cc: Rollo Parsons, Jim Randall, Dan Collen, Masoud Akbarzadeh



75

**RON GONZALES**  
SUPERVISOR, DISTRICT THREE

**MEMORANDUM**

Approved ~~Accepted~~ ~~Adopted~~ ~~Denied~~ ~~Presented~~

April 12, 1995

BY THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA

Phyllis A. Perez, Clerk of the Board

By *Phyllis A. Perez*  
Deputy Clerk

Date: APR 12 6 35

TO: Board of Supervisors

FROM: Ron Gonzales  
Supervisor, District 3 *Ron*

SUBJECT: NOISEWALL CONSTRUCTION, CAPITOL CORRIDOR LRT  
EXPANSION PROJECT

**BACKGROUND**

In 1991, The San José City Council approved the Evergreen Specific Plan project and the Evergreen Development Policy. The approval of this project includes the construction of County roadway improvements on Capitol Expressway. These roadway improvements are an integral part of the approved plan to be completed by the Evergreen Specific Plan property owners association at no cost to the County.

The proposed transportation improvements are bordered by Interstate 280/680 to the North, the intersection of Capitol Expressway and U.S. 101 to the South, White Road to the East and U.S. 101 to the West (see attached map).

The Capitol Expressway widening extends from U.S. 101 to I-680. Improvements to U.S. 101 occur between Capitol Expressway and Tully Road including the addition of an auxiliary lane to U.S. 101 and improvements to the Capitol Expressway on-ramp. The following intersections along Capitol Expressway will also receive improvements: Capitol Expressway at Story Road, Capitol Expressway at Quimby Road, Capitol Expressway at Aborn Road, Capitol Expressway at Silver Creek Road.



As part of its Capitol Corridor light rail transit (LRT) expansion project, the Transportation Agency has budgeted noisewall improvements along the same portion of Capitol Expressway that the Evergreen Specific Plan property owners association is proposing to widen.

L6-28

The Evergreen Specific Plan property owners association will invest over \$9 million to improve Capitol Expressway.

### **RECOMMENDATION**

I recommend the Board of Supervisors instruct County Roads staff that noisewall construction along Capitol Expressway will be completed as a portion of the Capitol Corridor LRT project rather than be the responsibility of the Evergreen Specific Plan property owners. This will allow residents the opportunity to comment on its design and construction. Also, the Board can most effectively respond to community concerns if the construction is managed by the Transportation Agency.

Construction of projects like noisewalls especially near residential property, often has dramatic neighborhood impacts. While residents appreciate the protection that the noisewall provides, they also realize the potential for problems such as litter and graffiti. To alleviate neighborhood concerns, proper management of this project is essential. If the noisewall's construction remains the responsibility of the Transportation Agency and the Capitol Corridor LRT project, we can most effectively monitor its design and quality. If we allow the property owners to manage this task, our control of this project decreases significantly.

L6-29

Further, the Transportation Agency is better prepared to change and adjust its plans according to public needs. The Capitol Corridor LRT expansion project allows significant opportunity for the public to respond to the design and construction of the entire project through community outreach efforts. The Evergreen Specific Plan property owners association does not have sufficient resources to respond to community needs.

In addition, Board offices can respond directly to community concerns through the Transportation Agency since two Board members serve on the Transportation Agency's Board of Directors.

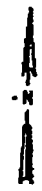
This project is within the boundaries of Supervisorial Districts 2 and 3. Supervisor Alvarado has indicated a preference for the Transportation Agency to manage the noisewall construction.



**LEGEND**

- Capitol Expressway Widening
- U.S. 101 Auxiliary Lanes
- x-x-x- Aborn Road Widening
- x-x-x- Quimby Road Widening
- Intersection Improvements

1" = 2300'



VICINITY MAP

FIGURE 2 3-96

County of Santa Clara

Office of the Board of Supervisors

County Government Center, East Wing  
70 West Hedding Street, 10th Floor  
San Jose, California 95110  
(408) 299-2323  
FAX 298-8460 TDD 993-8272

THIS RELATES TO:  
AGENDA ITEM NO. 75  
MEETING: MGT & April 18, 1995  
LAND DEVELOPMENT PERMITS

MAY 15 '95



Blanca Alvarado  
Supervisor, Second District

MEMORANDUM

April 17, 1995

Approved Accepted Adopted Denied Presented

BY THE BOARD OF SUPERVISORS  
OF THE COUNTY OF SANTA CLARA  
Phyllis A. Perez, Clerk of the Board

By [Signature]  
Deputy Clerk

Date: APR 18 1995

TO: Board of Supervisors  
FROM: Blanca Alvarado BA  
Supervisor, Second District

SUBJECT: AGENDA ITEM #75, COUNTY ROAD POLICY RELATING TO  
SOUNDWALLS

RECOMMENDATION

I respectfully recommend that the Board of Supervisors approve Supervisor Gonzales' recommendation to direct County Roads staff to allow soundwall construction along Capitol Expressway to be completed as a portion of the Capitol Corridor LRT project.

BACKGROUND AND REASON FOR RECOMMENDATION

On April 12, 1995, Supervisor Gonzales issued a memorandum recommending that the soundwall along Capitol Expressway be constructed as part of the Capitol Corridor LRT project rather than by the Evergreen Specific Plan property owners for the following reasons: (1) the County can better monitor the design and quality of the project if the Transportation Agency and the Capitol Corridor LRT project construct the soundwall, (2) the Transportation Agency is better equipped to adjust its plans as a result of public need, and (3) the Transportation Agency has the resources to seek out and respond to community input.

I concur with Supervisor Gonzales that the County and the residents near the proposed project would be better served if the Transportation Agency constructed the soundwall. This will enable the Board to better monitor the community outreach effort and the overall progress of the project.

BA/emg

05/15/95  
RCH  
cc: RVE

L6-30



1. The DEIR states on page 3-15 that an aerial transit over Tully is an option being studied versus the proposed tunnel under Tully. Although it appears this option would not penetrate any FAR Part 77 airport surfaces, the DEIR does not contain sufficient information to make a determination if the elevated tracks and cantenaries would violate any height restrictions or safety zones.

L6-31

2. The DEIR states on page 3-23, on Table 3.4-2, page 3-26, Table 4.2-13, Page 4.2-16, 4.13-14, Table 4.16-3, Table 4.16-4, page 4.16-11, page 4.16-12, page 4.16-13, 4.17-6 and page 4.19-2 that some portion of Reid-Hillview Airport property would be needed for the Light Rail alternative for a Park and Ride Lot, LRT Vehicle Storage, Traction Power Substations, Construction and Utility Right of Way. Since the County utilizes FAA grants for property acquisition, construction, and maintenance of facilities at Reid-Hillview, the airport falls under the grant assurances of the FAA. These grant assurances require the notification of the FAA for any requests for the use of airport property, and any property transactions (whether fee simple at fair market value or by easement) would require the FAA's concurrence. Although the airport property described in the DEIR does not appear to negatively impact the ability to operate the airport, it is essential that VTA provide as much advance notification as possible regarding the options selected so the County may inform the FAA of the possibility of any property transactions, and include this activity in our Master Plan Update for Reid-Hillview. Although the VTA shows three different options for stations at Ocala, between Ocala and Cunningham and at Cunningham, it appears that a station between Ocala and Cunningham uses less of the airport's property than the other two options. The users of the airport have indicated a strong desire to see a station near the airport and anxiously await the decision as to which option VTA will choose.

L6-32

3. The DEIR states on page 3-26 that VTA is considering using a portion of airport (and PG&E) property for storage of up to 17 LRT vehicles including a 1,000 sqft of building space with vehicle access from John Montgomery Drive. The use of the visual frontage for the airport along Capitol Expressway for this purpose may be considered detrimental to future plans for the airport. The Airport Master Plan draft currently shows the realignment of John Montgomery Drive to provide better access to on-airport businesses, and shows landscaping along much of the frontage along Capitol Expressway to provide a better view of the airport by the community. Storage of LRT vehicles in this area could block views of the airport and its commercial businesses from the public and potential customers using the airport.

L6-33

4. We are glad to see that the DEIR addresses the potential need for mitigation regarding the western burrowing owl population at Reid-Hillview. We know there are currently a number of nesting pairs on the airport, and the population appears to be growing slowly. The airport master plan update and eventual environmental review will also be addressing this issue, and we anticipate the need to create qualified habitat for this species as part of the process. We would be happy to work with VTA in the event the LRT project requires mitigation for the movement of any burrowing owls.

L6-34

5. The DEIR states on page 4.13-14 and in section 4.17 that several existing PG&E transmission towers will need to be moved to accomodate the LRT alignment along the median of Capitol Expressway. Consideration should be given to moving these towers to the east side of Capitol Expressway instead of moving them closer to the airport. Although the DEIR doesn't provide sufficient data to determine what impact moving these towers have on the airports FAR Part 77 surfaces, movement of tall electricity transmission towers closer to aircraft and helicopter operations at the airport is not considered to be the safest alternative for the airport or the surrounding community.

L6-35

6. The County concurs with comments stated in the letter you received from the State of California, Department of Transportation, Division of Aeronautics dated June 8, 2004. Use of the State's Airport Land Use Planning Handbook, the Reid-Hillview Airport Land Use Plan, and

L6-36

reliance on the County's Airport Land Use Commission for land use planning guidance around Reid-Hillview is highly recommended.

L6-36  
cont.

7. Thank you for the opportunity to comment and work with the VTA staff on this project. We look forward to the results of the VTA's LRT DEIS/DEIR and plan to utilize these findings in the Reid-Hillview Master Plan Update and environmental review.

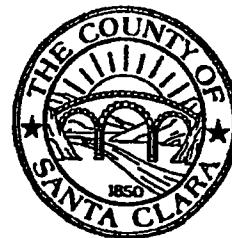
Thanks!  
Carl

Carl Honaker  
Director  
County Airports  
(408) 929-1060

# County of Santa Clara

Roads and Airports Department  
Land Development and Permits

101 Skyport Drive  
San Jose, California 951 10-1302  
(408) 573-2460 FAX (408) 441-0275



June 30, 2004

Mr. Thomas Fitzwater  
Environmental Planning Manager  
Santa Clara Valley Transportation Authority  
3331 North First Street, Building B  
San Jose, CA 95134-1906

**Subject: Downtown East Valley – Capitol Expressway Light Rail Corridor  
Draft Environmental Impact Statement/Draft Environmental Impact Report**

Dear Mr. Fitzwater,

Please find attached additional comments (the previous comments were dated April 26, 2004 and June 17, 2004) regarding the subject project:

- |    |                     |   |       |
|----|---------------------|---|-------|
| 37 | 1. Figure A-2:      | The outer lane should be minimum 16 feet(TYP)   | L6-37 |
| 38 | 2. Figure A-6:      | Extend the left turn lane (see attachment)  | L6-38 |
| 39 | 3. Figure A-9       | Show the existing acceleration/deceleration lanes for Mercedes dealer and Albertsons store  | L6-39 |
|    |                     | Extend the left turn lanes (see attachment)   |       |
| 70 | 4. Figure A-18:     | The outer lanes should be minimum 16 feet (TYP)   | L6-40 |
| 41 | 5. Figure A-31:     | At Narvaez intersection a separate right turn lane should be installed due to the heavy traffic toward Highway 87   | L6-41 |
| 42 | 6. Page 3-15, 3-17: | The Level of Service(LOS) shown in Tables 3-5, 3-6, and 3-8 do not match the The Congestion Management Agency(CMA) approved LOS<br>Also these data table do not match the analysis shown in the Technical Appendix. | L6-42 |

If you have any questions, please call me at 408-573-2464.

Sincerely,

  
Raluca Nitescu  
Project Engineer

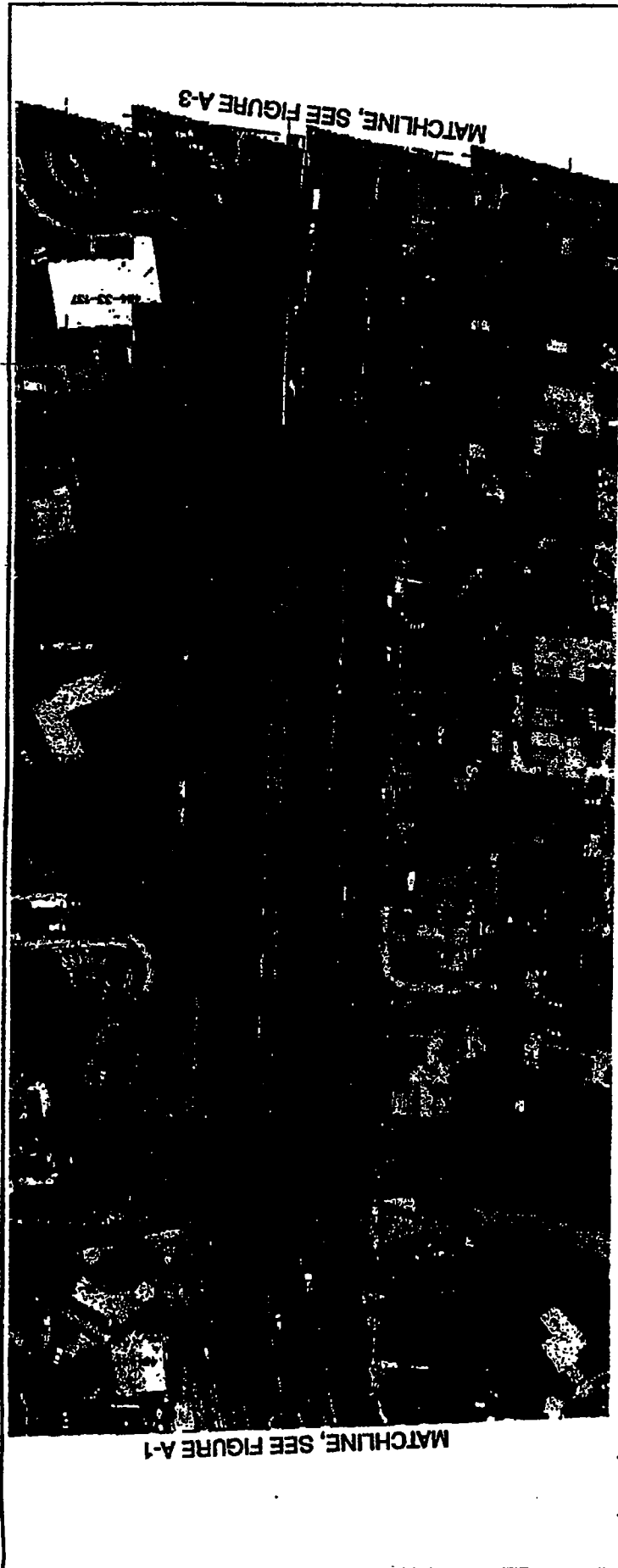
Attachments: FigureA-2, A-6, A-9, A-18, A-31

Cc: DEC, RJJ, TH, MA, WRL, File

Board of Supervisors: Donald F. Gage, Blanca Alvarado, Pete McHugh, James T. Beall Jr., Liz Kniss  
County Executive: Peter Kutas, Jr.







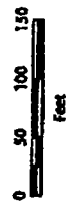
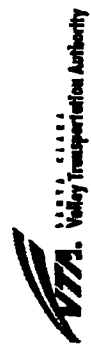
MATCHLINE, SEE FIGURE A-1

MATCHLINE, SEE FIGURE A-3

should be min.  
160 (GYP)

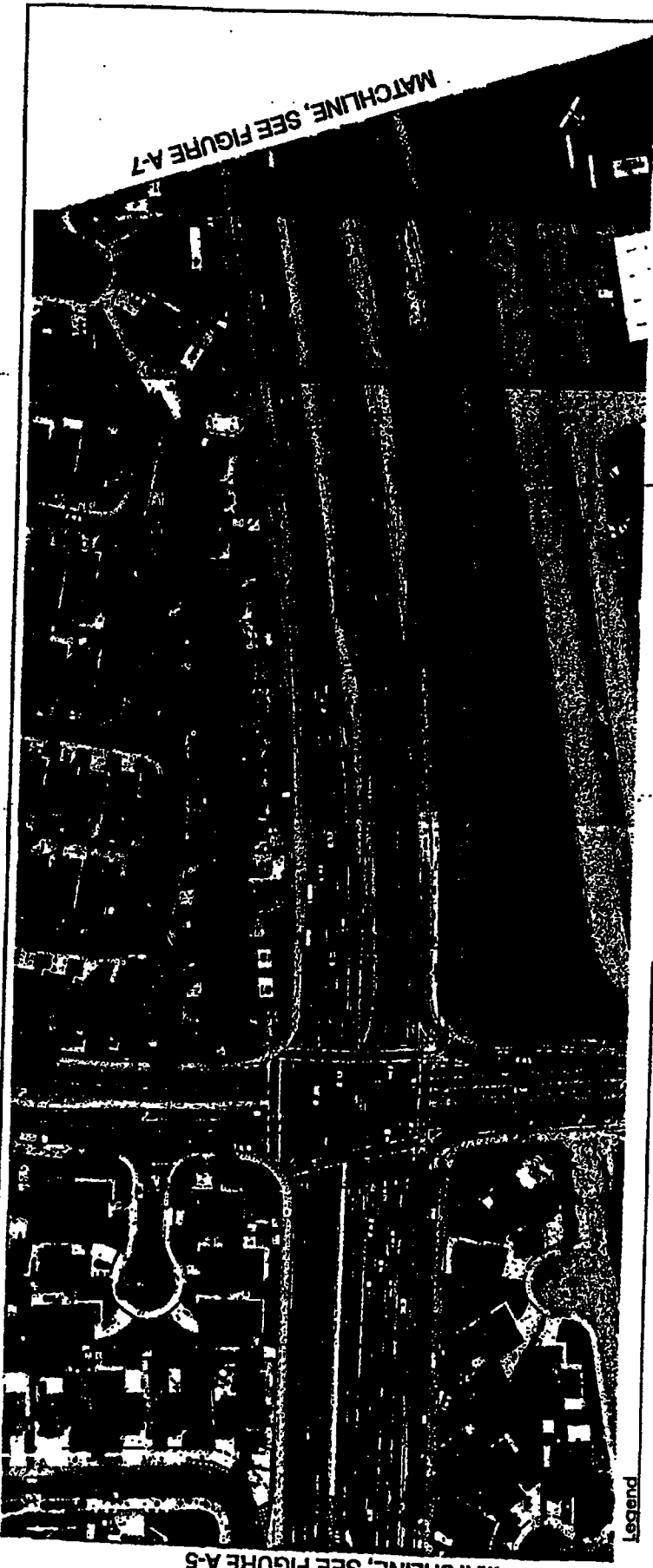
Legend

- Directional Arrows
- Aerial Structure
- Track Stationing
- Tunnel Structure
- Pedestrian Overcrossing
- Stairs and Elevators
- APN Numbers
- Landscape with Trees
- Landscape without Trees or Hardscape
- Sklework
- Sklework and Landscaping



Source: Korve Engineering 2002.

Figure A-2  
Light Rail Alternative Alignment



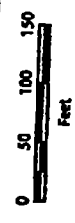
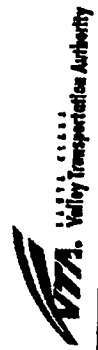
MATCHLINE, SEE FIGURE A-7

MATCHLINE, SEE FIGURE A-5

extend  
left  
from  
low.

Legend

- Directional Arrows
- Aerial Structure
- Track Surfacing
- Tunnel Structure
- Pedestrian Overcrossing
- Stairs and Elevators
- APN Numbers
- Landscaping with Trees
- Landscaping without Trees or Hardscape
- Sidewalk
- Sidewalk and Landscaping



Feet  
Source: Korte Engineering 2002.

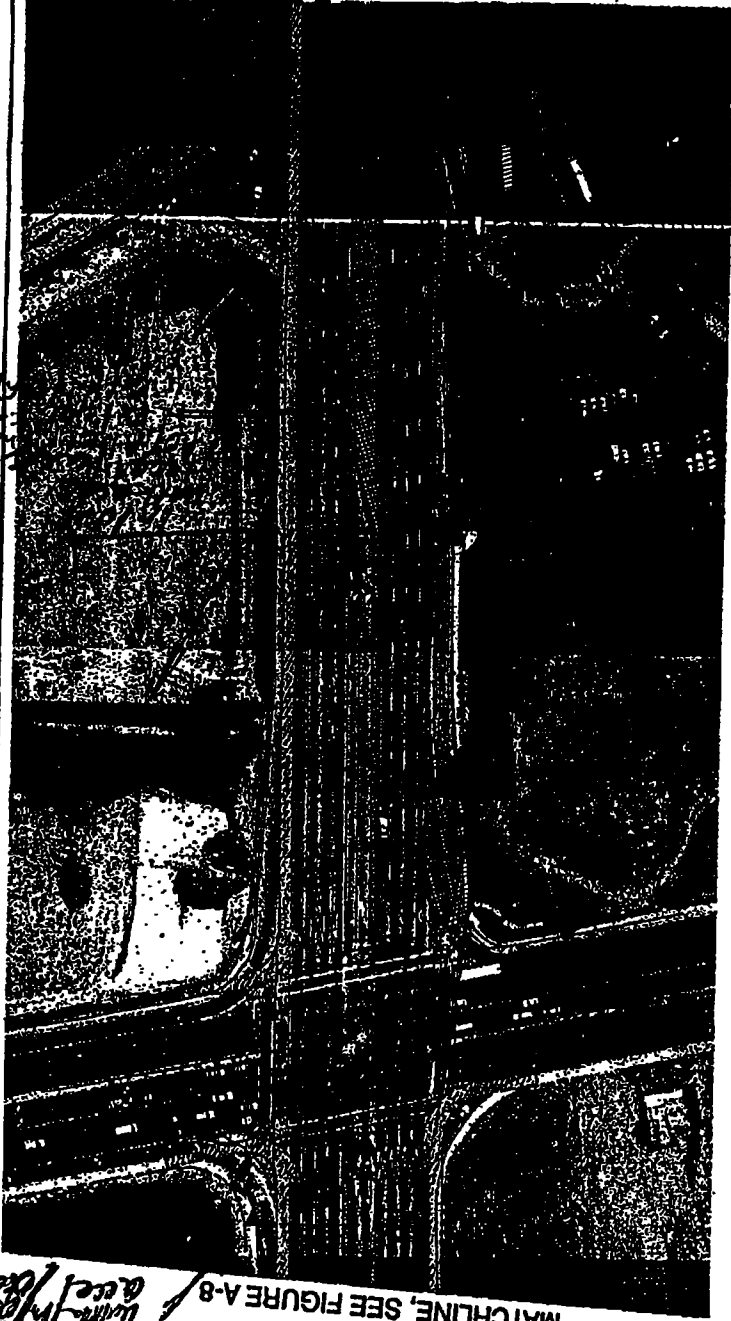
Figure A-6  
Light Rail Alternative Alignment

APNs  
Guides

general  
design  
with  
access

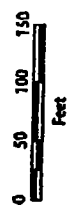
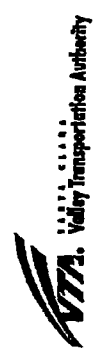
MATCHLINE, SEE FIGURE A-10

MATCHLINE, SEE FIGURE A-8



Legend

- Directional Arrows
- Aerial Structure
- Track Stationing
- Tunnel Structure
- Pedestrian Overcrossing
- Stairs and Elevators
- APN Numbers
- Landscaping with Trees
- Landscaping without Trees or Hardscape
- Sidewalk
- Sidewalk and Landscaping

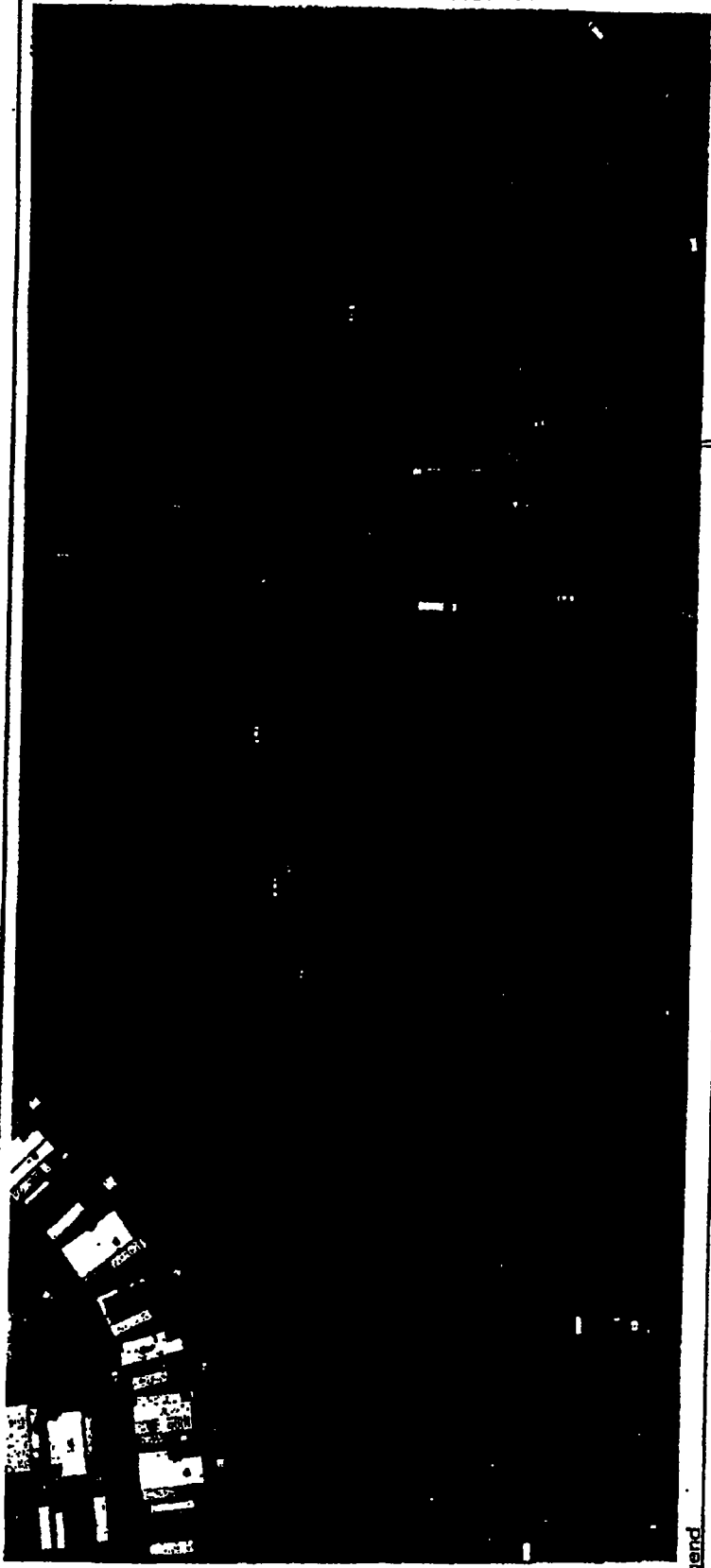


Source: Korte Engineering 2002.

Figure A-9  
Light Rail Alternative Alignment

012721 007 (01/03)

MATCHLINE, SEE FIGURE A-19

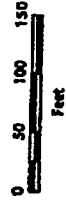


MATCHLINE, SEE FIGURE A-17

Legend

- Directional Arrows
- Aerial Structure
- Tract Stationing
- Tunnel Structure
- Pedestrian Overcrossing
- Stair and Elevators
- APN Numbers
- Landscaping with Trees
- Landscaping without Trees or Hardscape
- Sidewalk
- Sidewalk and Landscaping

*(Handwritten)*  
16777777  
(H-10)



Source: Korte Engineering 2002.

Figure A-18  
Light Rail Alternative Alignment

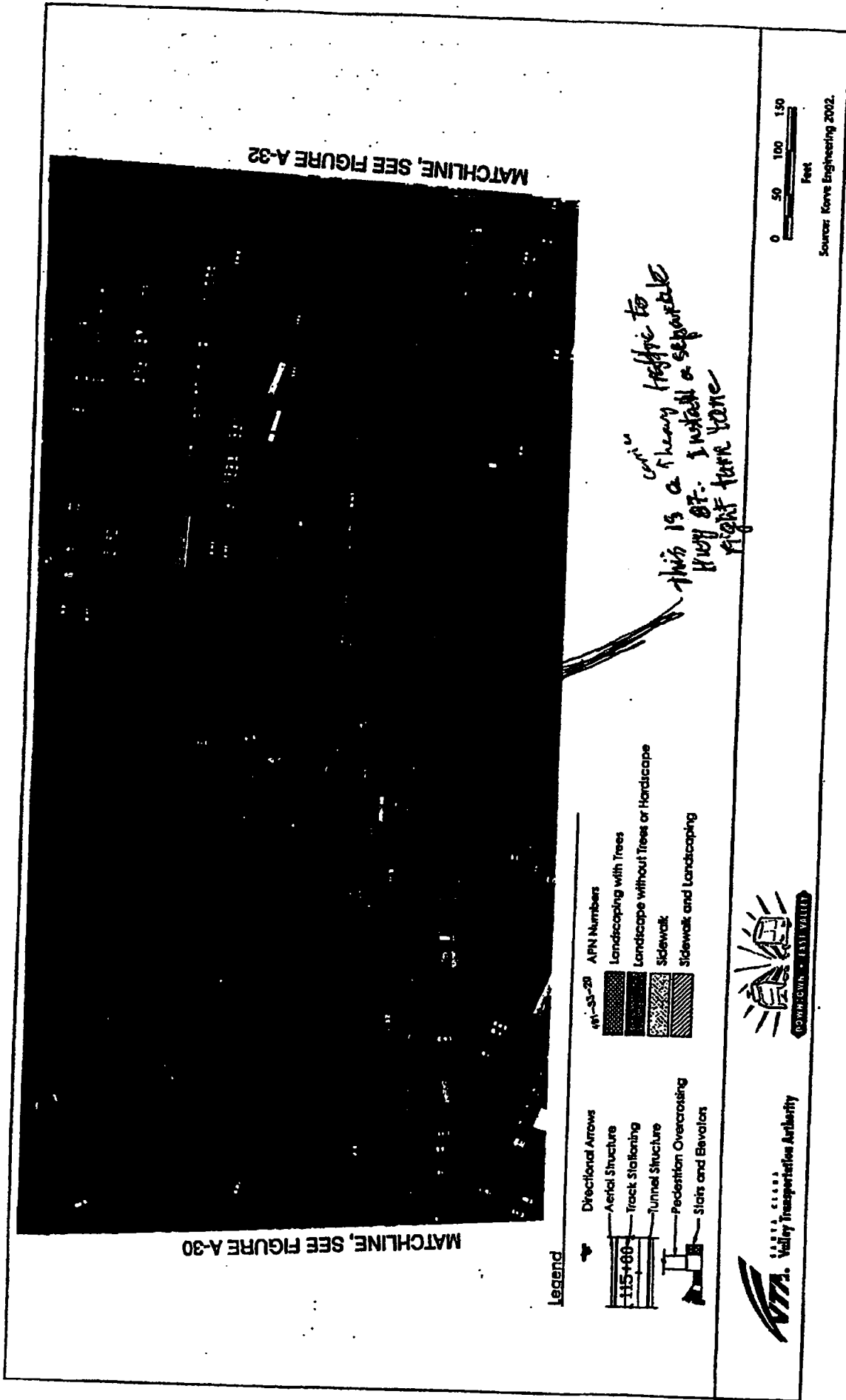


Figure A-31  
Light Rail Alternative Alignment

# Letter L6, Santa Clara County Roads and Airports Department, June 21, 2004

## Response to Comment L6-1

Refer to response to L6-27. Also refer to Responses to Comments L6-19 to L6-27 for specific issues addressed in the May 15, 2000, letter.

## Response to Comment L6-2

The letters from the County dated May 15, 2000, and April 26, 2004, are included in the Final EIR with responses provided in Responses to Comments L6-4 to L6-27.

The Capitol Expressway Light Rail Corridor Transportation Study that was prepared as a supporting document to the EIS/EIR includes a table (Table 3-2) that compared the total person throughput for various project alternatives for the northbound direction in the AM peak hour in the vicinity of Story Road. Several scenarios were evaluated, including removing the HOV lane, and keeping the HOV lanes and removing general-purpose lanes (GPLs) instead. The following is a summary of the information contained in the table:

- Existing (three GPLs and one HOV lane): 4,080 persons per hour
- Three GPLs and light rail to the Eastridge Transit Center: 3,965 persons per hour
- Three GPLs and light rail to SR 87: 4,325 persons per hour
- Two GPLs, one HOV, and light rail to the Eastridge Transit Center: 3,650 persons per hour
- Two GPLs, one HOV, and light rail to SR 87: 4,010 persons per hour

The model indicates that the Recommended Light Rail Alternative would result in a decrease of person throughput to 3,965 persons because of the removal of two HOV lanes. However, the overall potential throughput of the expressway would increase because two-car light rail trains operating on 10-minute headways can carry 780 seated passengers per hour and more than 2,000 passengers if standees are included.

## Response to Comment L6-3

Refer to Responses to Comments L6-31 to L6-36 regarding the Santa Clara County Roads and Airports Department comment.

## **Response to Comment L6-4**

A letter on April 21, 2004, from Hans F. Larsen, deputy director of the City of San Jose Department of Transportation, to Michael J. Murdter, director of the Santa Clara County Roads and Airports Department, contained the following statement:

This is to confirm the City's interest in the relinquishment of Capitol Expressway from Route 680 to Route 101. This is consistent with past discussions held with Policy Advisory Boards for the Countywide Expressway Study and the Downtown East Valley Light Rail project.

The relinquishment of Capitol Expressway will resolve maintenance responsibilities between the City and County. In addition, VTA will enter into an Operating and Maintenance Agreement (MOA) with the future owner of Capitol Expressway that will define maintenance responsibility for all features provided by the project.

## **Response to Comment L6-5**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 (including the area west of U.S. 101) until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved (see Volume II, Chapter 2). Therefore, the auxiliary lane would not be impacted by the Recommended Light Rail Alternative.

## **Response to Comment L6-6 and L6-7**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 (including the area west of U.S. 101) until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved (see Volume II, Chapter 2). Therefore, the auxiliary lane would not be impacted by the Recommended Light Rail Alternative.

## **Response to Comment L6-8**

From Story Road to I-680, there are two signalized intersections with Capitol Expressway: Story Road and Capitol Avenue. The capacity of the expressway in this segment is governed by the capacity of the signalized intersections. The existing LOS at these two intersections is contained in Volume I, Chapter 4, Section 4.2, Table 4.2-6. According to the table, the Story Road intersection operates at LOS E in the AM peak hour and LOS F in the PM peak hour, and the

Capitol Avenue intersection operates at LOS D in the AM peak hour and LOS F in the PM peak hour. Tables 4.2-16 to 4.2-19 show traffic operations for future years both with and without the project. According to the tables, the Story Road intersection would operate at LOS F during both peak hours, and the Capitol Avenue intersection would operate at LOS D in the AM peak hour and LOS F in the PM peak hour in 2010 and 2025 without the project. Therefore, the expressway is congested under current conditions with four lanes in each direction and will continue to be congested in the future. The Light Rail Alternative provides an alternative mode of travel to existing and future congestion. While LOS would not improve, an alternative mode of travel would be available to those who choose to use transit.

## **Response to Comment L6-9**

The Capitol Expressway Light Rail Corridor Transportation Study in Volume III, Appendix B, was prepared as a supporting document to the EIS/EIR; Table 2-6 shows existing queuing levels. The table indicates that the existing southbound left-turn storage of 425 feet at Story Road is exceeded in the PM peak hour and that a total of 500 feet of dual left-turn storage is necessary. Table 3-13 shows that 550 feet of left-turn storage is necessary in 2010 and 575 feet in 2025 under project conditions. Increasing the left-turn storage would require additional right-of-way, which would affect adjacent businesses. Therefore, increasing left-turn storage is not considered reasonable and feasible mitigation for this impact, and VTA has identified a significant and unavoidable traffic impact at this location.

## **Response to Comment L6-10**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. Therefore, the potential for grade separation of the Capitol Expressway/Senter Road intersection would not be impacted by the Recommended Light Rail Alternative.

## **Response to Comment L6-11**

On page 15 of the Evaluation of Design Options (Korve Engineering 2004d), Table 3 contains information on two aerial station options at Story Road both with and without pedestrian overcrossings. (This document is not included in the EIS/EIR and was prepared for the DTEV PAB in February 2004.) As indicated in Volume I, Chapter 4, Section 4.2, Tables 4.2-16 to 4.2-19, the traffic impacts at Story Road with the Light Rail Alternative would be significant and unavoidable, with increases in delay ranging from 17 to 62 seconds. This impact



is similar for both the aerial station option with and without pedestrian overcrossings. At its meeting on August 5, 2004, the DTEV PAB selected the aerial station option with pedestrian overcrossings because it provides the best access to the station for transit passengers, as well as improved convenience and safety for all pedestrians crossing Capitol Expressway at Story Road.

## **Response to Comment L6-12**

The mid-block section of the Light Rail Alternative between Ocala and Cunningham Avenues would be fenced. The fencing combined with a grade-separated crossing to the station and signage would make it unlikely that pedestrians would cross the expressway at the mid-block location. However, the California Public Utilities Commission (CPUC) will conduct a safety review of the project, and VTA will install any additional safety measures required by the CPUC.

## **Response to Comment L6-13**

VTA acknowledges the County's preference for the design option that includes an aerial alignment over Aborn Road, Silver Creek Road, and U.S. 101.

## **Response to Comment L6-14**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. Therefore, the potential for a grade separation at Snell Avenue is not impacted by the Recommended Light Rail Alternative.

## **Response to Comment L6-15**

Refer to Responses to Comments L6-2 and L6-8.

## **Response to Comment L6-16**

The existing left-turn traffic volume from southbound Capitol Expressway to eastbound Story Road is more than 900 vehicles per hour in the PM peak hour. The commenter's recommendation to provide three southbound left-turn lanes instead of the existing two would improve traffic operations. However, additional right-of-way would be needed at the Capitol Expressway/Story Road intersection to accommodate the third left-turn lane, which would impact

business and residential access. Because adding a third left-turn lane would result in adverse traffic and construction-related traffic impacts for which no mitigation is feasible, these would be considered substantially adverse effects for which there is no feasible mitigation

## **Response to Comment L6-17**

The red lines to which the comment refers are a pedestrian overcrossing of Capitol Expressway, which is necessary if a station is located between Ocala and Cunningham Avenues. An option was also evaluated that would place the station at Ocala Avenue and use the existing crosswalks for access to the platform, as the comment suggests. However, at its meeting on August 5, 2004, the DTEV PAB selected the Ocala/Cunningham Avenue Station as the preferred option because it would result in fewer residential relocations, less roadway reconstruction, good station spacing, and lower cost.

## **Response to Comment L6-18**

Volume I, Chapter 4, Section 4.14 evaluated the changes in the noise environment in accordance with the criteria established by FTA. Mitigation for noise impacts was identified for the South of Eastridge Transit Center Side-Running/At-Grade/Aerial Option. However, this option was not selected and is not part of the Recommended Light Rail Alternative (see Volume II, Chapter 2). Therefore, the Recommended Light Rail Alternative does not require noise mitigation, and soundwalls are not included as part of the project.

## **Response to Comment L6-19**

The comment refers to Alternative 9 that was evaluated in the Major Investment Study (MIS) approved by the VTA Board of Directors in August 2000. Following review of more than 17 alternatives in the MIS, the VTA Board of Directors found that Alternative 3, which would extend light rail on Capitol Expressway from the Eastridge Shopping Center to the Guadalupe LRT Line, better met the project goals than Alternative 9, which used HOV lanes for Express Bus Service between the same points.

## **Response to Comment L6-20**

The alternatives in the MIS were evaluated based on six broad criteria involving 12 performance measures. The criteria included mobility improvements, equity issues, capital and operating expenditures, cost effectiveness, transit oriented land use, and environmental concerns. Preliminary recommendations regarding a Preferred Investment Strategy were developed and presented in a series of public meetings and outreach events. The recommendations were approved by the

DTEV PAB and VTA Board of Directors, which includes two members of the Santa Clara County Board of Supervisors.

Since the approval of the Preferred Investment Strategy, the County has approved the Comprehensive County Expressway Planning Study, which takes a broader view of Capitol Expressway and contains a vision of Capitol Expressway as a “Corridor in transition to high-capacity arterial with light rail transit in median.” Comments regarding the County’s preferred alternative for Capitol Expressway are not consistent with the Comprehensive County Expressway Planning Study.

## **Response to Comment L6-21**

Volume I, Chapter 4, Section 4.2 evaluated the traffic impacts of the project alternatives. Where significant impacts were identified, VTA considered mitigation measures to reduce those impacts. While these improvements were included in the alternatives if they are feasible and reasonable, significant traffic impacts were identified that were unavoidable.

VTA has begun preliminary engineering on the Light Rail Alternative from Capitol Avenue to Nieman Boulevard. Preliminary engineering will add considerable detail to the design, including more-detailed studies of turn pocket lengths and auxiliary lanes. VTA will continue to coordinate project design with the Santa Clara County Roads and Airports Department throughout the preliminary engineering phase to incorporate auxiliary lane/turning pocket storage where possible.

## **Response to Comment L6-22**

The conceptual engineering design has noted areas where landscaping could be added to improve the aesthetics along the corridor. Exact placement of trees has not been determined. This level of detail will be developed during preliminary engineering, which began in September 2004. VTA will continue to coordinate project design with the Santa Clara County Roads and Airports Department throughout the preliminary engineering phase.

## **Response to Comment L6-23**

During conceptual engineering, VTA and the Santa Clara County Roads and Airports Department agreed on an outside lane width of 17 feet between intersections and 18 feet in advance of intersections. Twelve feet would serve as a travel lane, and the remaining width would serve as a shoulder and right-turn lane. Whether the shoulder is striped would be determined in preliminary engineering, which began in September 2004. VTA would continue to coordinate project design with the Santa Clara County Roads and Airports Department throughout the preliminary engineering phase.

## **Response to Comment L6-24**

The Recommended Light Rail Alternative would provide a continuous sidewalk on both sides of Capitol Expressway.

## **Response to Comment L6-25**

The sketch in the MIS was conceptual. The placement of trees will be better defined during preliminary engineering, which began in September 2004. VTA will continue to coordinate project design with the Santa Clara County Roads and Airports Department throughout the preliminary engineering phase.

## **Response to Comment L6-26**

The relinquishment of Capitol Expressway will resolve maintenance responsibilities between the City and County. In addition, VTA will enter into an Operating and Maintenance Agreement with the future owner of Capitol Expressway that will define maintenance responsibility for all features provided by the project.

## **Response to Comment L6-27**

Refer to Response to Comment L6-18.

## **Response to Comment L6-28**

VTA is unaware of any budgeted soundwall improvements along the same portion of Capitol Expressway that the Evergreen Specific Plan property owners association is proposing to widen.

## **Response to Comment L6-29**

Refer to Responses to Comments L6-18 and L6-28.

## **Response to Comment L6-30**

Refer to Responses to Comments L6-18 and L6-28.

## **Response to Comment L6-31**

One of the design options for the Light Rail Alternative under consideration in the Draft EIS/EIR was an aerial crossing of Tully Road with an aerial station at the Eastridge Transit Center. The final staff recommendation for this segment, which was approved by the DTEV PAB on August 5, 2004, is for a depressed (cut-and-cover) section under Tully Road returning to an at-grade station within the Eastridge Transit Center. The depressed alignment/at-grade station was selected because it would facilitate a much better interface between bus and light rail transfers than an aerial station. An at-grade station with ancillary facilities would not conflict with the FAA's Part 77 height restrictions.

## **Response to Comment L6-32**

VTA acknowledges the request of the Santa Clara County Roads and Airports Department to provide as much advance notification as possible regarding the potential for property acquisition. In addition, on August 5, 2004, the DTEV PAB selected the Ocala/Cunningham Avenue Station as the preferred station location.

## **Response to Comment L6-33**

At its meeting on August 5, 2004, the DTEV PAB selected the storage facility location south of Quimby Road because of utility conflicts and concerns of the Santa Clara County Roads and Airports Department regarding the Ocala Avenue site.

## **Response to Comment L6-34**

While VTA anticipates that minimal right-of-way will be required from Reid-Hillview Airport, the willingness of the Santa Clara County Roads and Airports Department to coordinate with VTA if burrowing owls are found in the project area is appreciated.

## **Response to Comment L6-35**

During conceptual engineering design process, VTA's consultant met with Santa Clara County Roads and Airports Department staff to discuss the relocation of the electric transmission towers. Between Ocala Avenue and Tully Road, there are five transmission towers—three on the west side and two in the median of the expressway. The towers that would be relocated to the west side would not be placed any closer to the runway than existing towers. During preliminary engineering for the project, the relocation of the transmission towers will be developed in more detail. VTA will coordinate with the Santa Clara County Roads and Airports Department on the relocation of the towers.

## **Response to Comment L6-36**

Volume I, Chapter 4, Section 4.13 evaluates conflicts with any applicable land use plan, policy, or regulation, including the Santa Clara County Airports Master Plan. While the Recommended Light Rail Alternative requires minimal right-of-way, it would relocate existing electrical transmission towers and construct a pedestrian overcrossing between Ocala and Cunningham Avenues adjacent to Reid-Hillview Airport. Because there are existing electrical transmission towers at similar distances from Reid-Hillview Airport, no significant land use conflicts with Reid-Hillview Airport were identified.

As required by state law, VTA utilized the Airport Land Use Planning Handbook as a technical resource with respect to noise and safety compatibility issues in the preparation of the EIS/EIR.

## **Response to Comment L6-37**

During conceptual engineering, VTA and the Santa Clara County Roads and Airports Department agreed to an outside lane width of 17 feet between intersections and 18 feet in advance of intersections. Therefore, the requirement of 16-foot-wide outside lanes noted in the comment will be exceeded.

## **Response to Comment L6-38**

The traffic analysis indicates that the southbound left-turn queue is five vehicles for the existing volumes. In 2010 with the project, the left-turn queue is projected to be six vehicles. In 2025, the southbound left-turn queue is expected to remain at six vehicles. The southbound left-turn pocket is approximately 300 feet long. Six vehicles only require 150 feet of storage. Because an impact has not been identified, extending the left-turn pocket is not required for the Light Rail Alternative.

## **Response to Comment L6-39**

The aerial mapping for the conceptual engineering was prepared before these two acceleration and deceleration lanes were constructed. Currently, VTA is preparing new topographic mapping for the Preliminary Engineering phase of the project. The lanes will be depicted in that mapping. VTA will continue to coordinate with the Santa Clara County Roads and Airports Department throughout the preliminary engineering phase.

The southbound left-turn lanes currently provide 750 feet of left-turn storage in two 375-foot lanes. The existing traffic volumes require all of this storage distance to store the left-turn queues outside the through lanes. The necessary left-turn storage is expected to increase in 2010 by 225 feet without the project and 250 feet with the project. In 2025, the demand for left-turn storage is

expected to increase by 425 feet with or without the project compared to existing conditions.

The Recommended Light Rail Alternative would be grade-separated at Tully Road in a side-running alignment. Because the Light Rail Alternative would not substantially affect the demand for left-turn storage at Tully Road, it is not required that this alternative provide additional left-turn storage.

## **Response to Comment L6-40**

Refer to Response to Comment L6-37.

## **Response to Comment L6-41**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, the project will not affect the Capitol Expressway/Narvaez Avenue intersection.

## **Response to Comment L6-42**

Preparation of the traffic analysis for the EIS/EIR for the Capitol Expressway Corridor began in 2001. At that time, the CMA used the 1985 Highway Capacity Manual (HCM) as the methodology for evaluating intersection traffic operations. In 2003, the CMA revised its methodology and now requires use of the 2000 HCM procedures. Because the project analysis was well underway in 2003, the 1985 HCM methodology was maintained for this analysis.

Several scenarios have been evaluated in the traffic analysis (Volume III, Appendix B). Some scenarios removed the HOV lanes to provide space for the Light Rail Alternative, and others maintained the HOV lanes and removed GPLs. The results reported in Tables 3-5 to 3-9 assume that the HOV lanes are removed to provide space for the Light Rail Alternative. The information contained in these tables matches the appropriate calculation sheets in the Technical Appendix to the Capitol Expressway Light Rail Corridor Transportation Study.



5750 ALMADEN EXPWY  
SAN JOSE, CA 95118-3686  
TELEPHONE (408) 265-2600  
FACSIMILE (408) 266-0271  
www.valleywater.org  
AN EQUAL OPPORTUNITY EMPLOYER

June 21, 2004

File: 28140  
Various

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

Subject: Draft Environmental Impact Report for the Capitol Expressway Corridor

Dear Mr. Fitzwater:

The Santa Clara Valley Water District (District) has reviewed the subject document, received on April 30, 2004.

District comments remain the same as in our comment letters dated April 25, 2001, and October 4, 2001, enclosed.

Please note that the proposed flood protection improvements for Lower Silver Creek, Reach 4, located between Interstate 680 and the confluence with North Babb Creek, are scheduled for year 2014 as opposed to 2003.

L7-1

On page 4.12-4 of the Draft Environmental Impact Report (DEIR), the text states that flood hazard protection measures have been implemented by the District. However, areas still exist that have yet to be protected from a 100-year flood event. Please revise the last sentence in the first paragraph on page 4.12-4 of the DEIR accordingly.

L7-2

Any new construction for the subject project should be designed to prevent impacts from the 100-year flood, since funding issues could delay or eliminate any of the District's future flood improvement projects.

L7-3

Please reference File No. 28140 on further correspondence regarding the project.

Should you have any questions, please give me a call at (408) 265-2607, extension 2494, or email me at [THipol@valleywater.org](mailto:THipol@valleywater.org).

Sincerely,

*for Samuel Yung*

Theodore Hipol  
Assistant Engineer  
Community Projects Review Unit

Enclosures: Correspondence Letters Dated April 25, 2001, and October 2, 2001

cc: V. Stephens, S. Tippetts, S. Yung, T. Hipol, C. Haggerty, D. Chesterman, E. Evans,  
S. Wrightson, J. Aldean, D. Duran, T. O'Loughlin, File (2)

th:jl  
0621a-pl.doc



*File*

File: 28140  
Various

Re: Request for Facilities  
Information for the Capitol  
Light Rail Project

April 25, 2001

Mr. Michael Lightstone  
Utility Coordinator  
Valley Transportation Authority  
3331 North First Street  
San Jose, CA 95134-1906

Dear Mr. Lightstone:

Subject: Request for Facilities Information for the Capitol Light Rail Project

The Santa Clara Valley Water District (District) has reviewed your request for information regarding the location of District facilities affected by the proposed project, received February 14, 2000. We apologize for the delay in our response.

The proposed project crosses the following three District facilities: Lower Silver Creek, Coyote Creek, and Canoas Creek. Enclosed are as-builts and construction plans to assist in any improvement plans. As-builts for Thompson Creek and additional construction plans for Lower Silver Creek have also been enclosed to show any improvements adjacent and longitudinal to the creeks. All information taken from the plans should be verified in the field.

Currently, proposed improvements for Lower Silver Creek <sup>request</sup> are scheduled for year <sup>2001</sup> 2003.

The proposed light rail alignment will cross Canoas Creek, which is contained in a 12- by 9-foot double reinforced concrete box culvert under Capital Expressway. Canoas Creek currently experiences flooding during events as frequent as 7-year floods. It will be important for the Valley Transportation Authority (VTA) to work closely with the District during the design of any project improvements which may affect flooding in the Canoas Creek watershed or impact our ability to construct flood control improvements in the future.

L7-4

Improvements that may affect the existing flooding include lengthening, widening, or replacement of the existing box culvert; changes to the existing drainage patterns; and increasing the existing storm drain capacity. Existing drainage patterns should not be altered as part of this project. Any increases in runoff or alteration of the existing storm drain capacity must be mitigated. Proposed improvements to the box culvert should be submitted to the District early in the design so that we can work together with the VTA to make sure that the improvements do not impact flooding, delay the light rail project, or hinder our ability to construct flood control improvements in the future.

L7-5

In accordance with District Ordinance 83-2, plans for any construction over or adjacent to the District's facilities should be sent to us for review and issuance of a permit.

L7-6

**ENCLOSURE**

Michael Lightstone

2

April 25, 2001

Please reference File No. 28140 on further correspondence regarding the project. If you have any questions or comments, please call me at (408) 265-2607, extension 2494.

Sincerely,

ORIGINAL SIGNED BY

*S. Tippets for*

Theodore Hipol  
Assistant Engineer  
Community Projects Review Unit

Enclosure: As-Builts and Construction Plans

cc: S. Tippets, L. Jaimes, T. Hipol, V. Stephens, C. Haggerty, D. Chesterman, J. Aldean,  
L. Melton, M. Klemencic (File 2)

TH:lbg:0424c

**ENCLOSURE**

File

File: 28140  
Various

Re: Notice of Preparation for an  
Environmental Impact Report  
for the Capitol Expressway  
Light Rail Transit Project

October 4, 2001

Mr. Thomas Fitzwater  
Environmental Planning Manager  
Santa Clara Valley Transportation Authority  
3331 North First Street  
San Jose, CA 95134-1906

Dear Mr. Fitzwater:

Subject: Notice of Preparation for an Environmental Impact Report for the Capitol  
Expressway Light Rail Transit Project

The Santa Clara Valley Water District (District) has reviewed the subject document, received by the District on September 4, 2001. The proposed project may affect any or all of the following District facilities:

- Lower Silver Creek
- Coyote Creek
- Thompson Creek
- Norwood Creek
- Canoas Creek
- X Guadalupe River

Our comments in our letter dated April 25, 2001, are still applicable. A copy of that letter is enclosed.

The District has the following additional comments:

1. As part of the design for bank stabilization, consideration must be given to the potential effects of the project on other parts of the creek, such as the bank opposite the proposed work and the banks immediately upstream and downstream. As streambanks are changed, even by slope protection, water flows can change, resulting in changes to the stream channel. | L7-7
2. Water flows in the creek must be maintained during construction. Any flow diversion for proposed work in the channel must be coordinated with District groundwater recharge activities. | L7-8
3. Construction activities can easily impact water quality. Specific measures should be proposed to address these impacts at the various locations of this project. In addition, post-construction measures should be considered. There should be measures to direct runoff from parking lots | L7-9

**ENCLOSURE**

October 4, 2001

and roofs to appropriate landscaping to allow pollutants to be reduced in the water that eventually is discharged to the adjacent District facilities.

L7-10

- 4. Any proposed work within a creek is also subject to review by the U.S. Army Corps of Engineers, the California Department of Fish and Game, and the California Regional Water Quality Control Board, San Francisco Bay Region.

L7-11

In accordance with District Ordinance 83-2, any plans for construction over or adjacent to the District's facilities should be sent to us for review and issuance of a permit.

L7-12

Please reference File No. 28140 on further correspondence regarding the project. If you have any questions or comments, please call me at (408) 265-2607, extension 2494.

Sincerely,

*ORIGINAL SIGNED BY*

Theodore Hipol  
Assistant Engineer  
Community Projects Review Unit

Enclosure: April 25, 2001, Letter

cc: S. Tippets, L. Jaimes, T. Hipol, V. Stephens, C. Haggerty, D. Chesterman, J. Aldean,  
L. Melton, M. Klemencic, File (2)

TH:FD:1004a

**ENCLOSURE**

# Letter L7, Santa Clara Valley Water District, June 21, 2004

## Response to Comment L7-1

While this is not a comment that addresses an environmental issue, the comment is noted and included in the record for review and consideration by the VTA Board of Directors and FTA. In addition, the revised date will be provided to the Preliminary Engineering staff.

## Response to Comment L7-2

The last paragraph on page 4.12-3 in Volume I, Chapter 4, Section 4.12 has been revised as follows:

Santa Clara Valley is historically subject to frequent flooding events. Flooding was recorded as early as 1889, and major recent flood events occurred in 1982, 1995, and 1997. The Light Rail Alternative Alignment would cross the Federal Emergency Management Agency (FEMA) 100-year flood hazard zone of Silver Creek from approximately Tully Road north to the end of the alignment (Figure 4.12-1) (Federal Emergency Management Agency 1996). Additionally, flooding has occurred along portions of Coyote Creek in 1911, 1917, 1931, 1958, 1969, 1982, 1983, and 1998 (Santa Clara Basin Watershed Management Initiative 2000). However, because of flood hazard protection measures implemented by SCVWD, recent major flood events have not resulted in severe damage to people or structures within this area (Santa Clara Valley Water District 2003). *Nevertheless, areas within the SCVWD that require protection from a 100-year flood event still exist.*

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved (see Volume II, Chapter 2). The deferred segment includes both Coyote and Canoas Creeks. Therefore, the Recommended Light Rail Alternative would only be concerned with flooding from Silver Creek.

## Response to Comment L7-3

As noted in Volume I, Chapter 4, Section 4.12, Mitigation Measure HYD-14, the VTA Construction Division will incorporate design measures to prevent impacts from a 100-year flood, especially between Capitol Avenue and Tully Road.

## **Response to Comment L7-4**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 (including the area west of U.S. 101) until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. Therefore, the Canoas Creek watershed would not be impacted by the Recommended Light Rail Alternative.

## **Response to Comment L7-5**

Refer to response to Comment L7-4.

## **Response to Comment L7-6**

VTA will submit a permit application for any construction over or adjacent to the SCVWD's facilities.

## **Response to Comment L7-7**

As stated previously, on August 5, 2004, the DTEV PAB deferred project-level decisions on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87. Therefore, Coyote Creek would not be impacted by the Recommended Light Rail Alternative.

## **Response to Comment L7-8**

If it would be necessary to divert flows in Silver Creek to work in the channel, VTA will install a stream diversion that is approved by the Corps, NOAA Fisheries (formerly National Marine Fisheries Service), CDFG, and RWQCB. VTA will coordinate any stream diversion with the SCVWD's groundwater recharge activities.

## **Response to Comment L7-9**

The analysis included the review of construction-related water quality effects in Volume I, Chapter 4, Sections 4.12 and 4.19. With the No-Project and Baseline Alternatives, no significant construction-related water quality effects were identified. With the Light Rail Alternative, construction-related water quality effects were identified with regard to the potential to violate water quality standards or waste discharge requirements (see Volume I, Chapter 4, Section 4.12, Impact HYD-11), and possible creation or contribution of additional runoff,

including increasing additional sources of polluted runoff (Impact HYD-12). Both construction effects would be mitigated through implementation of Mitigation Measures HYD-11 and HYD (Construction)-1 (Volume I, Chapter 4, Section 4.19).

Mitigation Measure HYD (Construction)-1 would involve the preparation, approval, and implementation of an erosion and sedimentation control plan for all planned grading and soil-disturbing activities. Furthermore, it would require the preparation, approval, and implementation of a spill prevention, containment, and clean-up plan for fuels, lubricants, oils, and other hazardous materials.

Mitigation Measure HYD-11 would require compliance with State Water Resources Control Board authority over construction stormwater pollution sources through the filing of a General Construction Stormwater Permit and implementation of the permit's required provisions such as the preparation of a storm water pollution prevention plan, which is very similar to provisions specified in Mitigation Measure HYD (Construction)-1.

At the time of preparation of these various construction-related stormwater pollution and spill prevention plans, specific measures will be designed into the construction plans. These measures would include best management practices such as silt basins, silt fencing, geotextile filter fabrics, temporary flow check structures, and spill containment features such as drip pans.

## **Response to Comment L7-10**

Under the No-Project and Baseline Alternatives, no significant operation-related water quality effects were identified. Under the Light Rail Alternative, operation-related water quality effects were identified with regard to the potential to create or contribute additional runoff, including increasing additional sources of polluted runoff (see Volume I, Chapter 4, Section 4.12, Impact HYD-12). This operations effect would be mitigated through implementation of Mitigation Measure HYD-12.

Mitigation Measure HYD-12 would require certain operational pollution control measures such as trash gates and maintainable silt traps on stormwater inlets, energy dissipation of stormwater outlets, and regular maintenance and clean-up of parking facilities. In addition, storm drain inlet traps would be inspected and maintained at least annually.

Because individual components of the Light Rail Alternative have not specifically been designed, the feasibility of the measures suggested in the comment cannot be determined at this time. However, directing stormwater runoff from impervious surfaces through appropriate landscaping is a possible best management practice for stormwater pollution prevention and should be considered. Mitigation Measure HYD-12 will be supplemented to include consideration and design, where feasible, of stormwater-filtering landscapes. Mitigation Measure HYD-12 is revised to read as follows:

### **Mitigation Measure HYD-12: Implement Measures to Maintain Operational Water Quality**

VTA shall ensure that new stormwater inlets at parking lots include trash grates and maintain silt traps perform inspections and cleanings such that permit treatment requirements will be met, and shall ensure that outlet structures provide for proper energy dissipation in accordance with standard specifications for storm drainage. VTA shall ensure that regular maintenance of parking facilities includes a program to clean curbside pavement areas of litter, fuel, and oils spills. Storm drain inlet traps shall be inspected at least annually and cleaned as required. *In addition, VTA shall consider and design, where physical site constraints allow, stormwater filtering landscapes to where stormwater collected over impervious surfaces are passed over landscape features such as vegetated swales prior to discharge from the site into stormwater collection and conveyance facilities.*

Pursuant to Provision C.3 of the SCVURPPP NPDES permit, BMPs for projects that result in the displacement of more than 43,560 square feet (1 acre) of impervious surface must implement treatment BMPs to the maximum extent practicable practicable (MEP). Those BMPs whose primary mode of action to treat stormwater depends on volume capacity, such as detention/retention units or infiltration structures, shall be designed to treat stormwater runoff equal to either the maximized stormwater quality capture volume for the area, based on historical rainfall records (URQM, 1998); or equal to the volume of annual runoff required to achieve 80 percent or more capture (CASQA, 1993).

Treatment BMPs such as swales, sand filters, wetlands, and others whose primary mode of action depends on flow capacity shall be sized to treat 1) 10% of the 50-year peak flow; or 2) the flow of runoff produced by a rain event equal to at least 2 times the 85<sup>th</sup> percentile hourly rainfall intensity for the applicable area, based on historical records of hourly rainfall depths; or 3) the flow of runoff resulting from a rain event equal to at least 0.2 inches per hour intensity.

### **Response to Comment L7-11**

If the proposed work would be within the jurisdiction of the Corps, CDFG, or RWQCB, VTA will apply for the appropriate permits from the regulatory agencies.

### **Response to Comment L7-12**

VTA will submit a permit application for any construction over or adjacent to the SCVWD's facilities.



# County of Santa Clara

L8

Environmental Resources Agency  
Parks and Recreation Department

298 Garden Hill Drive  
Los Gatos, California 95032-7669  
(408) 355-2200 FAX 355-2290

[www.parkhere.org](http://www.parkhere.org)



June 18, 2004

Mr. Thomas Fitzwater, Environmental Planner Manager  
Valley Transportation Agency  
3331 North First Street  
San Jose, CA 95134-1906

## RE: Draft Environmental Impact Statement/Environmental Impact Report

Dear Mr. Fitzwater:

Thank you for the opportunity to comment on the Draft EIS/EIR for the Capitol Expressway Light Rail Transit Project in San Jose, CA. The County of Santa Clara Parks and Recreation Department comments are focused on the following:

- **Section 2.2.2 Land Uses:** This section does not mention Coyote Creek Parkway or the Coyote Creek Trail that passes under Capitol Expressway. According to Santa Clara County Parks and Recreation visitor use records, every year approximately 68,500 people from various locations around the Bay Area use the Coyote Creek Trail, and approximately 195,000 people use the nearby Coyote Hellyer County Park. The Coyote Creek Parkway and City and County Parklands should be mentioned as a significant landmark/ land use in this section of the Draft EIS/EIR. L8-1
  
- **Section 4.13.2 (page 4.13-6 Regulatory Setting):** This section does not mention the 1995 Countywide Trails Master Plan Update that was approved by the County Board of Supervisors and incorporated into the County General Plan. This document serves as a land use plan for implementing regional, sub-regional, and connector trail routes within Santa Clara County. The Countywide Trails Master Plan lists three trails (with two alignments) that are in the vicinity of the Capitol Expressway Light Rail Project. L8-2
  
- **General Trail Comments**
  - **Regional Trail Route R5-C (Bay Area Ridge Trail: El Sombroso/Penitencia) and Sub-regional Trail Route S5 (Coyote Creek/Llagas Creek Trail)**  
These trails share the same alignment in the project area, so comments are the same for both trail routes. According to various maps featured in the Draft EIS/ EIR, the Capitol Expressway Light Rail alignment crosses Trail Routes R5-C and S5 (commonly known as the Coyote Creek Trail) between McLaughlin Ave and Senter Rd. The segment of trail in the light rail project vicinity is intended for hiking, off-road bicycle, and equestrian use, and is under the jurisdiction of the City of San Jose. Any light rail development in the vicinity of this trail should take into account existing and future uses and be coordinated with the City of San Jose. Wherever possible, spur trails or pathways should be constructed to connect trail users with the light rail project and light rail users with the trail. L8-3



Board of Supervisors: Donald F. Gage, Blanca Alvarado, Peter McHugh, James T. Beall Jr., Liz Kniss  
County Executive: Pete Kutas

- **Trail Route C22- Silver Creek Loop Trail**

The City of San Jose is currently developing a Master Plan for the Thompson Creek Trail in the Thompson Creek corridor, from Lake Cunningham Park to the intersection of San Felipe Road and Heartland Way. Part of this planned trail alignment is in the Capitol Expressway Light Rail project vicinity. According to the Countywide Trails Master Plan, this trail segment is intended for hiking, on-road, and off-road bicycle use. Any development in the vicinity of this trail should take into account existing and future uses and be coordinated with the City of San Jose. Wherever possible, spur trails or pathways should be constructed to connect trail users with the light rail project and light rail users with the trail.

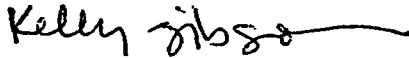
L8-4

- **Section 9.2.6 Local Agencies and Officials (page 9-6):** The contact information for the County Parks and Recreation Department is incorrect. The Director's name is Lisa Killough.

L8-5

Overall, we commend the VTA in its efforts to provide an improved transportation network that will create livable communities for the future. If you have any questions regarding the above noted comments, please contact me at (408) 355-2230 or via EMAIL at [kelly.gibson@prk.sccgov.org](mailto:kelly.gibson@prk.sccgov.org)

Respectfully,



Kelly Gibson  
*Park Planner*

cc: Mark Frederick, Manager, Planning & Development



# Letter L8, Santa Clara County Environmental Resources Agency, June 18, 2004

## Response to Comment L8-1

On Page 2-4 in Volume I, Chapter 2, Section 2.2.2, the following text has been added:

### 2.2.2 Land Uses

Existing land uses along the Capitol Expressway include residential uses (low-, medium-, and high-density), retail/commercial uses, neighborhood commercial centers, and a regional shopping mall (Eastridge Mall). Commercial uses are generally found at major intersections. The Quimby/White/San Felipe area of the corridor, between Eastridge Mall and Evergreen Valley College, is characterized by relatively low-density, single-family residential development. Residential uses along Capitol Expressway occur in various densities and are usually separated from the roadway by a soundwall or frontage road. Industrial, commercial, and public uses, as well as vacant lots, are also located along Capitol Expressway. Reid-Hillview Airport, a general aviation airport, is also located along the expressway north of Eastridge Mall. A regional recreation center is located at Lake Cunningham Park east of Reid-Hillview Airport. *City and County parklands are also located along Capitol Expressway. One of these parklands includes the Coyote Creek Parkway, a 15-mile multi-use trail that meanders along Coyote Creek. The Coyote Creek Parkway passes under Capitol Expressway between Senter Road and McLaughlin Avenue.*

## Response to Comment L8-2

On page 4.13-6 of Volume I, Chapter 4, Section 4.13, the following text has been added to the first bulleted list:

- *Santa Clara County Countywide Trails Master Plan Update (Santa Clara County Trails Plan Advisory Committee 1995)*

In Impact LU-3 (pages 4.13-8 and 4.13-9) in Volume I, Chapter 4, Section 4.13, the following text has been added.

*The Santa Clara County Countywide Trails Master Plan Update (November 1995) serves as a land use plan for implementing regional, sub-regional, and connector trail routes within Santa Clara County. Three trails are located in the vicinity of the Capitol Expressway Corridor: Coyote Creek Trail and the Silver Creek Loop Trail (two proposed alignments). Implementation of the No-Project Alternative would not conflict with the provisions of the Master Plan.*

In Impact LU-7 (pages 4.13-11 and 4.13-12) in Volume I, Chapter 4, Section 4.13, the following text has been added:

*The Santa Clara County Countywide Trails Master Plan Update (November 1995) serves as a land use plan for implementing regional, sub-regional, and connector trail routes within Santa Clara County. Three trails are located in the vicinity of the Capitol Expressway Corridor: Coyote Creek Trail and the Silver Creek Loop Trail (two proposed alignments). While these trails are located along or across the corridor, they would not be adversely affected by the bus service improvements under the Baseline Alternative.*

In Impact LU-11 (pages 4.13-13 and 4.13-14) in Volume I, Chapter 4, Section 4.13, the following text has been added:

*The Santa Clara County Countywide Trails Master Plan Update (November 1995) serves as a land use plan for implementing regional, sub-regional, and connector trail routes within Santa Clara County. Three trails are located in the vicinity of the Capitol Expressway Corridor: Coyote Creek Trail and the Silver Creek Loop Trail (two proposed alignments). Although the Light Rail Alternative does not appear to encroach on these existing or planned trail routes, VTA would work with the County to minimize any conflicts with the 1995 Trails Master Plan Update.*

In Volume III, Appendix H, the following text has been added:

*The Santa Clara County Countywide Trails Master Plan Update (November 1995) serves as a land use plan for implementing regional, sub-regional, and connector trail routes within Santa Clara County. Three trails are located in the vicinity of the Capitol Expressway Corridor: Coyote Creek Trail and the Silver Creek Loop Trail (two proposed alignments). The master plan includes countywide trail policies, trail priorities, design guidelines, and trail management procedures.*

It should be noted that at its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. The deferred segment includes the Coyote Creek Trail. Therefore, the Recommended Light Rail Alternative is only near the Silver Creek Loop Trail.

It should also be noted that although VTA is not subject to local ordinances and policies, they are listed within the EIS/EIR because VTA accommodates them to the extent practicable.

## **Response to Comment L8-3**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, there are no Light Rail Alternative improvements proposed near Regional Trail Route R5-C and Sub-regional Trail Route S5 at this time.

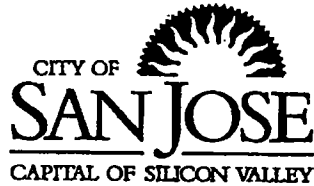
## **Response to Comment L8-4**

In the vicinity of the Coyote Creek Trail, VTA has worked and will continue to work closely with the City to identify and implement pedestrian “connections” to existing and proposed trails in the Capitol Expressway Corridor with its light rail stations where feasible as part of the Light Rail Alternative Urban Design Principles.

## **Response to Comment L8-5**

In Volume I, Chapter 9, page 9-6, the contact information for the Santa Clara County Parks and Recreation Department is revised as follows:

County of Santa Clara  
Parks and Recreation Department  
298 Garden Hill Drive  
Los Gatos, CA 95032  
Attention: ~~Mr. Paul Romero~~ *Ms. Lisa Killough*  
Director of Parks and Recreation



*Department of Planning, Building and Code Enforcement*

STEPHEN M. HAASE, AICP, DIRECTOR

June 28, 2004

Mr. Tom Fitzwater  
 VTA Environmental Planning Department  
 3331 North First Street, Building B  
 San José, CA 95134-1906

**SUBJECT: Comments on Draft Environmental Impact Statement/Report and Section 4(F) Evaluation for VTA's Capitol Expressway Corridor (File No. OA04-04-012)**

Dear Mr. Fitzwater:

The City of San José (CSJ) appreciates the opportunity to review and provide comments on the Draft Environmental Impact Statement/Report (EIS/R) and Section 4(F) Evaluation for the Capitol Expressway Corridor project. The CSJ considers this to be an important project for Bay Area residents and workers, which is expected to improve traffic conditions in the area. As you know, the CSJ is committed to supporting transit-oriented development and joint development opportunities around station sites to further improve traffic conditions.

The CSJ offers the following comments on the Draft EIS/R:

**Land Use**

The draft EIS/R does not discuss the project's consistency with applicable City land use policies and plans. The EIS/R should be revised to indicate how the proposed project is consistent with and conforms to the San José 2020 General Plan, as well as with other policy documents, including (but not limited to): the Historic, Archaeological and Cultural Resource General Plan Policies, the San José Riparian Corridor Policy, the San José Municipal Code, etc.

L9-1

**Transportation**

Since the Notice of Preparation/Notice of Intent was posted and the technical studies associated with the development of the draft EIS/R were begun, the City of San José has initiated several planning studies and other activities that lie within the scope of the Capitol Expressway Light Rail Corridor that should be considered in the preliminary engineering phase of the project. These have been previously discussed with VTA staff and include:

***Relinquishment of the Expressway Right-of-Way***

The City of San José and the County of Santa Clara have begun discussions concerning the County's relinquishment of Capitol Expressway to the City of San José. The focus of these discussions has been along the expressway between I-680 and US 101. At this time it is our understanding that the VTA considered the City's design standards through the conceptual engineering design effort.

L9-2

***Construction Impact Mitigation Plan***

The City of San José has adopted a Construction Impact Mitigation Plan (CIMP) ordinance. Please reference San José Municipal Code Chapters 13.36 and 15.50 for requirements pertaining to the construction of public improvements within the City right-of-way.

L9-3

Currently, City and VTA staff are in the process of developing a master agreement that discusses the roles and responsibilities of our respective agencies. The intent of the CIMP is to supplement the construction mitigation activities outlined in the environmental document and the CIMP is subject to the City's approval prior to the issuance of the encroachment permit for the project.

***Evergreen Smart Growth Strategy / 101 Central Corridor Improvements***

The recently initiated Evergreen Smart Growth Strategy (ESGS) includes the portion of the corridor between Story Road and US 101. The desired outcome of the ESGE is to develop a plan for the buildout of the Evergreen area. A key component, or "*guiding principle*" of the ESGS is the planning for multi-modal and transit oriented development near future transit stations.

L9-4

The revised Capital Corridor Expressway EIS/R should address the following issues:

- The Project should maintain the existing turning pockets at all signalized intersections. For example, if an intersection has 2 left-turn lanes and a right-turn lane, the Project should preserve the current conditions.
- The lane configurations reflected in the LOS calculation need to be consistent with the conceptual drawings.

In a related discussion, the ESGS is also considering the recommendations for local roadway and freeway improvements generated through the recently completed US 101 Central Corridor Study. It is envisioned that recommendations of the ESGS, as they relate to both the development strategies for the area and local street and highway improvements, will be further evaluated through the preliminary engineering phase of the Capitol Expressway LRT Project.

L9-5

**Noise**

The noise analysis should be prepared and evaluated in the EIS/R document based upon the City's noise policy as identified in the San José 2020 General Plan. The City's Noise Element of

L9-6

the General Plan sets forth specific goals and policies for land use planning. These goals seek to minimize noise impacts on people through reduction and suppression techniques and appropriate land use policies. The City's noise guidelines are expressed in "day/night noise level" or  $L_{dn}$ . The  $L_{dn}$  represents the average noise level during a 24-hour period, with a penalty of 10 dBA added to sound occurring between the hours of 10 PM and 7 AM. The specific City policies that pertain to this project include the following:

- The City's acceptable noise level objectives are 55 dBA  $L_{dn}$  as the long-range exterior noise level, 60 dBA  $L_{dn}$  as the short-range exterior noise level and 45dBA  $L_{dn}$  as the interior noise quality level. However, the General Plan states that it may not be feasible to meet these levels within the time frame of the General Plan.
- When located adjacent to existing or planned noise sensitive residential and public/quasi-public land uses, non-residential land use should mitigate noise to meet the 55 dBA  $L_{dn}$  guideline at the property line.
- The City discourages the use of outdoor appliances, air conditioners and other consumer products that generate noise levels in excess of the City's exterior noise standards.
- Construction operations are required to use available noise suppression devices and techniques where possible.

L9-6  
cont.

Analysis of potential noise impacts should address impacts for the project on all existing, approved, and pending development projects in the vicinity of VTA's Capital Corridor Expressway project. Further, if more detailed information later becomes available that would change the assumptions of the EIS/R then as stated in the document, the noise projections will need to be further refined, and additional environmental review may be necessary.

The CSJ recognizes and appreciates the VTA's continuing efforts to coordinate this project with the City and other local agencies and we look forward to continued strong local agency coordination and community outreach efforts.

L9-7

Thank you again for the opportunity to review and comment on the Draft EIS/R for this important project. If you have specific questions concerning any of the transportation comments, please contact Mr. Ray Salvano, City of San José Department of Transportation at (408) 277-4217. If you have specific questions concerning specific lane configurations and turning pockets addressed in this letter, please contact Ms. Winnie Pagan, City of San José Transportation and Development Services Division at (408) 277-5161. If you have questions or need additional information on any of the remaining comments, please contact Ms. Jodie Clark of the Department of Planning, Building and Code Enforcement at (408) 277-4576.

Sincerely,

Jodie Clark  
Senior Planner



# Letter L9, City of San Jose Department of Planning, Building, and Code Enforcement, June 28, 2004

## Response to Comment L9-1

Volume I, Chapter 4, Section 4.13 discusses the project's consistency with the following documents:

- San Jose 2020 General Plan and Land Use/Transportation Map (City of San Jose 1994),
- City of San Jose Zoning Ordinance and Map (City of San Jose 2001, 2003b),
- Communications Hill Specific Plan (City of San Jose 1992),
- East Valley/680 and West Evergreen Community Improvement Plans,
- Valley Transportation Plan 2020 (Santa Clara Valley Transportation Authority 2000c), and
- Santa Clara County Airports Master Plan (Santa Clara County Airports Department 1982).

Relevant plans and policies of these documents are described in Volume III, Appendix H.

In addition to these documents, two Habitat Conservation Plans (HCPs) that could affect future development in San Jose were also reviewed to identify potential adverse effects of the proposed alternatives. One is a recently initiated countywide multi-species HCP/Natural Community Conservation Plan (NCCP) being prepared by the County, City, VTA, and SCVWD. The other is the Coyote Valley Specific Plan HCP, which was in the initial planning stages in August 2002.

The San Jose Riparian Corridor Policy Study (RCPS) is not mentioned in Volume I, Chapter 4, Section 4.13. However, provisions from the RCPS have been incorporated into the San Jose 2020 General Plan natural resource policies according to the "Regulatory Setting" section in Volume III, Appendix E-6. Because the project is consistent with the general plan, the project is consistent with the RCPS. Mitigation Measures BIO-7, BIO-8a, and BIO-8b in Volume I, Chapter 4, Section 4.4 are consistent with riparian corridor policy to preserve San Jose's riparian habitats.

While VTA believes that it has adequately addressed the project's consistency with applicable City land use policies and plans, the comment mentions one set of policies that was not reviewed in the preparation of the Draft EIS/EIR: the Historic, Archaeological, and Cultural Resource General Plan Policies. The Cultural Resource General Plan Policies are not mentioned in Volume I, Chapter 4, Section 4.13; however, Mitigation Measure CR-5b in Volume I, Chapter 4, Section 4.6 is consistent with the Historic, Archaeological, and Cultural Resource

General Plan Policies to investigate the proposed site during the planning process to determine whether valuable archaeological remains may be affected by the project and to develop appropriate mitigation measures be incorporated into the project design.

## **Response to Comment L9-2**

Between July and October 2002, VTA met jointly with both the City and Santa Clara County Roads and Airports Department to discuss the design standards for Capitol Expressway that would be used during conceptual engineering. The design standards focused primarily on lane widths. The design standards employed in the conceptual engineering plans are consistent with those agreed on at the joint meetings.

## **Response to Comment L9-3**

VTA acknowledges the adoption of the City's Construction Impact Mitigation Plan Ordinance. VTA will comply with terms of the master agreement between the City and VTA that is being developed to address construction issues.

## **Response to Comment L9-4**

The project design maintains all existing left-turn lanes. It modifies right-turn lanes to provide room for the project and to maximize pedestrian safety. The modification of right-turn lanes would improve traffic operations. Currently, there are several short right-turn lanes that allow high-speed turns at intersections but are not accessible until immediately before the intersections. The conceptual engineering design for the project has removed these high-speed turning lanes and replaced them with 18-foot-wide outside lanes in advance of the intersections. In a joint meeting between VTA, the Santa Clara County Roads and Airports Department, and the City, it was determined that an 18-foot-wide outside lane would serve as a *de facto* through and right-turn lane. A good example of an existing application of this concept is the southbound lane on North First Street that allows right-turn movements onto westbound Montague Expressway.

By removing the short channelized right-turn lane at the intersection, right-turning vehicles would be slowed, which will also improve pedestrian safety.

The lane configurations assumed in the LOS calculations are consistent with the above conditions.

## **Response to Comment L9-5**

During Preliminary Engineering, VTA will continue working with the City to coordinate improvements constructed as part of the Light Rail Alternative with improvements approved and constructed by the City as part of the Evergreen Smart Growth Strategy.

## **Response to Comment L9-6**

As the lead agency for CEQA, VTA considered City noise objectives and FTA impact criteria in developing CEQA significance thresholds for this project. To apply consistent noise criteria for VTA's light rail projects throughout the county, VTA has chosen to use the impact criteria developed by FTA. VTA believes that the FTA criteria are the most appropriate criteria to use because they have been developed specifically to address the unique characteristics of noise generated by light rail projects and are applied nationwide. The FTA criteria are similar to the City's noise objectives in that they use the day-night level ( $L_{dn}$ ) noise metric. As identified in the EIS/EIR, no significant impacts under CEQA were identified. Volume I, Chapter 4, Section 4.14, Tables 4.14-5 and 4.14-6 indicate that existing noise levels along the project alignment currently exceed the City's noise objectives of 55 dBA- $L_{dn}$  for long-range noise levels and 60 dBA- $L_{dn}$  for short-range noise levels. However, the tables also indicate that the predicted increases in noise associated with the Light Rail Alternative would be small (3 dB or less) at all locations except Eastridge Little League Fields (not a noise-sensitive use), where the predicted noise increase will be 4 dB. It is widely accepted that the average healthy ear can barely perceive 3-dB noise level changes and that a 5-dB change is readily perceptible. Consequently, it is not anticipated that project-related increases in noise would result in significant noise impacts even if City noise objectives were applied.

## **Response to Comment L9-7**

VTA acknowledges the City's recognition and appreciation of VTA's efforts and will continue to coordinate the project with the City and other local agencies.

Hurley, Kim

---

**From:** Jurgis [jurgis\_sj@yahoo.com]  
**Sent:** Friday, May 21, 2004 4:28 PM  
**To:** Capitol\_Expressway.DEIS-DEIRcomments@vta.org  
**Subject:** East San Jose Light Rail

Dear VTA,

I wish to speak out against the entire concept of the proposed Capitol Expressway Light Rail Corridor. Light rail has shown itself to be a combination of multiple negatives combined together - the inflexibility of routing of fixed rail (compared to buses), the blocking of valuable right-of-way (every street crossing becomes a nightmare), abject inefficiency of utilization (it takes TWO tracks to handle four vehicles an hour...), the stuck-in-traffic-ness of cars and busses, and very high up-front capital cost. If the goal is to provide good transportation to East San Jose, take the money from this project and GET BART TO EAST SAN JOSE!!!. Connecting BART to the soon-to-operate east light rail extension makes light rail ten times more valuable than a stand-alone, un-connected system. The Capitol Corridor Light Rail system should be a lower priority than getting BART into Santa Clara County. Note that I specifically don't mention getting BART to downtown San Jose - that is an extrordinarily expensive tunnelling proposition which is unjustified compared to getting BART to the Great Mall and Berryessa areas.

P1-1

Sincerely,

George Rasko

---

Do you Yahoo!?

Yahoo! Domains – Claim yours for only \$14.70/year

<http://smallbusiness.promotions.yahoo.com/offer>

## **Letter P1, George Rasko, May 21, 2004**

### **Response to Comment P1-1**

VTA notes the commenter's opposition to the Light Rail Alternative and support for connecting the San Francisco Bay Area Rapid Transit District (BART) to east San Jose.

**Hurley, Kim**

---

**From:** Yong Lu [ylu@cisco.com]  
**Sent:** Wednesday, May 26, 2004 6:53 PM  
**To:** Capitol\_Expressway.DEIS-DEIRcomments@vta.org  
**Subject:** Silver Creek Station is a MUST not optional

Silver Creek Station is a MUST not optional. Reasons are:

1. On Silver Creek and Capitol Expressway, there are many low income families who will use the Light Rail the most;
2. On Silver Creek and Capitol Expressway, there are many apartments, townhouse, mobile homes, where residents will use the Light Rail the most;
3. On Silver Creek and Capitol Expressway, there are several big shopping centers, where people can use Light Rail; Actually, there is a new shopping center proposed along Silver Creek Road near the intersection of Silver Creek and Capitol Expressway, where there is a new shopping center and medical center or senior apartment will be build;

If there is only one station which is must to have, it should be silver creek station, among all stations proposed, I cannot see any other station in Capitol Expressway Light Rail Project will be used more compare to Silver Creek Station. (except the two start/end stations)

Thanks,  
Yong

P2-1

## **Letter P2, Yong Lu, May 26, 2004**

### **Response to Comment P2-1**

VTA notes the commenter's support for a station at Silver Creek Road. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, there is no light rail alignment or station proposed at Silver Creek Road at this time. However, as noted in Volume I, Chapter 4, Section 4.2, Table 4.2.12, the comment is accurate in saying that the Silver Creek Road Station would be one of the stations included in the Light Rail Alternative with high ridership volumes.



Environmental Planning

3331 North First Street, Building B  
San Jose, CA 95134-1927

Phone (408) 321-5789 • TDD (408) 321-2330  
Fax (408) 321-5787 • www.dtev-vta.org

**DOWNTOWN EAST VALLEY CAPITOL EXPRESSWAY CORRIDOR PROJECT  
DRAFT EIS/EIR COMMENT CARD**

(Please print clearly)

Name: THE PUBLIC Date: 5-27-A

Address: P.O. Box 36132  
San Jose, CA 95158-6132  
City State Zip

Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_  
(Optional) Area Code Main Number (Optional) Area Code Main Number

Email: \_\_\_\_\_  
(Optional)

Organization or Affiliation: THE PUBLIC (William V. Garbett, Agent)

Please check one of the following choices:

I would like to speak  
OR

I would like to have the following comment/question read aloud by the moderator:

Capitol Expressway was put in by voters of Santa Clara County as an alternative to freeways. Any condemnation by any other party must refund the current market value of the property directly to Santa Clara County voters that funded the land.

OR

I would like to make the following written comment:  
(this will not be read out loud)

Breaking the back of the current transportation infrastructure by voiding previous votes of Santa Clara County voters to establish light rail and eliminate auto access is untenable and duplicity of government. One local agency should not be able to eliminate improvements by a charter county.

Comments can also be emailed to: [Capitol\\_Expressway.DEIS-DEIRcomments@vta.org](mailto:Capitol_Expressway.DEIS-DEIRcomments@vta.org)  
Comments must be received by 5:00 p.m. on Monday, June 28, 2004.



## **Letter P3, William Garbett, May 27, 2004**

### **Response to Comment P3-1**

The County and VTA are both public entities providing transportation services. The County, the current owner of Capitol Expressway, would need to issue an encroachment permit to VTA before construction of improvements in Capitol Expressway can begin. Before the encroachment permit is issued, any financial responsibilities would be discussed, if necessary.

**Hurley, Kim**

---

**From:** Son Cheong Kuan [skuan@juno.com]  
**Sent:** Monday, June 07, 2004 12:55 PM  
**To:** capitol\_expressway.DEIS-DEIRcomments@vta.org  
**Subject:** Downtown East Valley LRT project

Hello,

I'd like to know the feasibility of making the connection between the proposed East Valley (Capitol Expressway) LRT and the existing Guadalup LRT, e.g. constructing the ramp or others to connect two LRTs.

| P4-1

Thank you,

Regards,  
Son Cheong Kuan  
San Jose, CA

---

The best thing to hit the Internet in years - Juno SpeedBand!  
Surf the Web up to FIVE TIMES FASTER!  
Only \$14.95/ month - visit [www.juno.com](http://www.juno.com) to sign up today!

## **Letter P4, Son Cheong Kuan, June 7, 2004**

### **Response to Comment P4-1**

During conceptual engineering, VTA considered a direct connection between the Capitol Expressway Corridor and Guadalupe LRT Line. Both revenue and non-revenue connections were considered. After a preliminary evaluation, the direct revenue service connection was eliminated from consideration because of the substantial costs and potential cultural resource impacts associated with widening the SR 87 corridor and modifying the retaining walls on which SR 87 is constructed. The non-revenue connection was also eliminated from further consideration in lieu of an overnight storage facility at this or another location to reduce operation and maintenance costs.

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. Therefore, there is no light rail development proposed to connect the Guadalupe LRT Line and the Capitol Expressway Corridor at this time.

**Hurley, Kim**

---

**From:** BobShoberg@aol.com  
**Sent:** Sunday, June 20, 2004 8:49 AM  
**To:** capitol\_expressway.DEIS-DEIRcomments@vta.org  
**Cc:** don.gage@bos.co.santa-clara.ca.us; pat.dando@sanjoseca.gov; ron.gonzales@sanjoseca.gov  
**Subject:** Opposed to the proposed Capitol Expressway Light Rail

I am opposed to the proposal to put light rail down the median of Capital Expressway. As a frequent driver down Capitol Expressway. I cannot see how this can be created without causing major problems in other areas. In additoin I do not see the need based on rideship.

P5-1

The cost would be signifciant, result in more traffic congestion, worsened public safety, more noise, and all for a very smallnumber of potential light rail transit riders.

**Bob Shoberg**  
**489 Churchill Pard Dr.**  
**San Jose, Ca. 95141**  
**408-225-3477**

## Letter P5, Bob Shoberg, June 20, 2004

### Response to Comment P5-1

VTA notes the commenter's opposition to the Light Rail Alternative. In the *Final Staff Recommendation Report Regarding Project Options Considered in the EIS/EIR*, dated July 2004 (Volume III, Appendix L), it was estimated that the Recommended Light Rail Alternative to the Eastridge Shopping Center and Nieman Boulevard would generate an average daily ridership of 3,640. The cost of building the Light Rail Alternative to Nieman Boulevard is approximately \$430 million (2003 dollars). While the EIS/EIR identified significant and unavoidable traffic impacts at the intersections of Capitol Expressway with Story Road, Ocala Avenue, and Quimby Road, VTA was able to reduce any safety or noise impacts through mitigation (see Volume I, Chapter 4, Sections 4.14 and 4.15 for explanations of these conclusions).

James F. Zito  
3615 Cour du Vin  
San Jose, CA 95148-4302  
Tel. 408-577-2261

P6

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

June 21, 2004

Re: Comments to DEIR for Capitol Expressway Corridor

Dear Mr. Fitzwater:

Please include this letter as an official part of the public comments to the Draft Environmental Impact Report / Statement & Draft section 4(f) Evaluation for the Capitol Expressway Corridor project.

As a matter of record let me state that I am currently a Planning Commissioner for the City of San Jose, but that I am providing these comments only as a interested citizen living in the area to be affected by this project.

There are three areas I would like to discuss:

1. Critical information not disclosed
2. Alternatives not discussed
3. Conclusions made

**1. Critical Information not Disclosed:**

There are several significant points of disclosure that were not included in the study:

A) CEQA considers it a significant threshold when a project causes a substantial diversion of traffic onto a residential street (Table 5.5.1). The LR Alternative will result in removing the 2 HOV lanes or 25% of the available capacity along the Capitol Expressway corridor. The removal of these lanes would effectively reduce Capitol Expressway from an expressway to an arterial and decrease LOS at all major intersections along the corridor. Therefore the traffic impact on other existing North/South arterials will be impacted and must be disclosed. Specifically, the intersections along White/San Felipe, Clayton/Ruby, Murillo and Yerba Buena Roads, which include the intersections of:

- White and Alum Rock
- White and Story
- White and Ocala
- White and Cunningham
- White and Tully
- White and Quimby
- White and Aborn
- San Felipe and Delta
- San Felipe and Yerba Buena
- Yerba Buena and Silver Creek
- Yerba Buena and Hwy 101N/S
- Clayton and Story
- Clayton and Marten
- Ruby and Tully
- Ruby and Quimby
- Ruby and Aborn
- Murillo and Aborn
- Murillo and Quimby
- Murillo and Tully

P6-1

B) Current ridership levels along similar corridors served by existing lightrail routes such as the Tasman Avenue and First Street lines to use as comparisons for the proposed project have not been disclosed.

P6-2

- C) Current projections for ridership along Capitol Expressway corridor given the current funding and budgets for operations of this line have not been disclosed. | P6-3
- D) Projected conversion of riders displaced by the HOV lane removal, to LR ridership has not been estimated. | P6-4
- E) Projected impact on air quality caused by additional traffic delays and increased number of single rider automobiles due to the removal of the HOV lanes has not been estimated. | P6-5
- F) The impact of the removal of the existing HOV lanes and subsequent disincentive to rideshare on the State, County and City's goals to increase automobile ridesharing has not been disclosed. | P6-6

**2. Alternatives not Discussed:**

There are two significant alternatives not adequately discussed in the study:

- A) In section 3.5.1 *Alternatives Considered but Rejected – Prior Studies*; it is stated that a second pair of alternatives involving express bus service in the corridor were evaluated. However it does not discuss why these alternatives were not evaluated further. These alternatives can clearly meet the need of the intended ridership more quickly, more efficiently with much reduced environmental impact. Additionally, the financial impact as described in Section 7, would be significantly reduced. | P6-7
- B) In section 3.5.2 the study rejects the LR alternative with 6 mixed + 2 HOV lanes. Reasons given primarily pointed to the requirement of an additional 11 ft RoW on both sides of Capitol Expressway. However this is not consistent with the RoW as it exists along First Street and Tasman Ave light rail. Actual measurements of the RoW requirements along these corridors concludes that a LR RoW requires as little as 24 - 26 feet to accommodate running bi-directional track. This is evident along Tasman between Reamwood and Fair Oaks, and again along First Street between Karina and Jackson. As an example, considering a standard 11 feet per automobile lane, Tasman Ave @ Tasman Ct has a Row of approximately 76 feet including light rail and 2 lanes in each direction. When you include an additional 44 feet for an additional two lanes in each direction, the RoW requirement goes to 120 feet. Most of the Capitol Expressway Corridor has an existing 126 to 138 foot RoW. | P6-8

**3. Conclusions Made:**

There are two conclusions and one supposition made, but not substantiated by the study:

A) The DEIS/DEIR concludes chapter 5 by stating:

*“While the Baseline Alternative would impose the least environmental impacts on natural resources, it is noted that beneficial effects (i.e., reduction in roadway traffic volumes, increased transit ridership, reductions in air pollution emissions, vehicle miles traveled, and regional energy consumption) are greatest under the Light Rail Alternative. Therefore, the Light Rail Alternative would be considered environmentally superior to the Baseline Alternative.”*

However given the following facts, this conclusion cannot be supported:

1. Construction of the proposed Light Rail project will result in a 25% reduction in traffic capacity along Capitol Expressway, which will not be offset by Light Rail ridership. | P6-9
2. Significant Air Quality impacts to Mobile Source Emissions (MSE) due to longer wait times at intersections and the reduced carpools due to the removed incentives (HOV lanes) to rideshare. | P6-10
3. The LOS at major intersections along the way will result in Significant and Unavoidable environmental impacts. | P6-11
4. The impacts along the adjacent arterials and their associated intersections were not studied. | P6-12
5. The alternative of BRT described in section 3.5.1 as an option was not studied. | P6-13
6. The possibility of employing engineering standards as was done along the First Street light rail between Karina and Jackson, and Tasman light rail between Reamwood and Fair Oaks to create a more narrow RoW requirements were not discussed as an alternative to preserve the existing HOV lanes and reduce the impact on overall RoW requirements. | P6-14

B) The DEIS/DEIR concludes in section 4.3 by stating Air Quality under the LR Alternative will result in a beneficial impact (AQ-5 & AQ-6). However, it is not logical to project that Air Quality will benefit when removing the 2 HOV lanes or 25% of the available capacity along the Capitol Expressway corridor. The removal of these lanes would effectively reduce Capitol Expressway from an expressway to an arterial and decrease LOS at all major intersections along the corridor. While it can be debated that Annual Vehicle Miles Traveled (VMT) may be reduced, it does not take into consideration the increase of trip times, which would result in higher discharges of Mobile Source Emissions (MSE). Additionally, given the incentive for ridesharing will be eliminated it can also be estimated that the VMT will not be reduced at all, and in fact increased.

P6-15

C) With the proposed project terminating at Eastridge Mall, there is no continuity with any other existing segment besides Tasman/Capitol. Therefore due to lack of funding for any project to link from Eastridge through to the Guadalupe LRT line, the projected ridership of 9,790 and 11,075 riders by 2010 and 2025 respectively cannot realistically be met. The impacts this puts on Air Quality and Traffic will create an effective "environmental ROI" with no payback until well after the 2025 study can project.

P6-16

According to section 1.1.2 *Purpose and Need – Purpose:*

*"The basic purpose of the proposed alternatives is to improve public transit service in the Capitol Expressway Corridor. More specifically, the purpose of the proposed alternatives is to:*

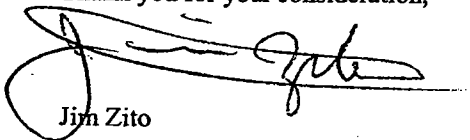
- *improve public transit service in the Capitol Expressway Corridor by providing increased capacity and faster, convenient access to downtown San Jose and major employment and activity centers;*
- *make transit an attractive alternative to the automobile for travel along the expressway;*
- *enhance regional connectivity through expanded, interconnected transit services along some of the primary travel corridors in Santa Clara County, including U.S. 101 (Guadalupe Corridor) and I-680 (Tasman East, Capitol Avenue, and Capitol Expressway Corridors);*
- *improve regional air quality by reducing the growth in automobile emissions;*
- *improve mobility options to employment, education, medical and retail centers for all corridor residents and in particular, low-income, transit dependent, youth, elderly, disabled, and ethnic minority populations; and*
- *support local economic and land development goals."*

While it can be argued that the third and sixth point can be made, it is clear that points 1, 2, 4, 5 can not. Capacity will be decreased, trip times longer, and access to highways and arterials will become more difficult. This coupled with the significant and unavoidable environmental impacts this project delivers when removing the HOV lanes, does not achieve the goals of providing an environmentally sound attractive alternative to the automobile for travel to the major employment and activity centers.

P6-17

Please consider other alternatives that will provide this much needed alternative without reducing existing levels of service and air quality.

Thank you for your consideration,



Jim Zito



## **Letter P6, James Zito, June 21, 2004**

### **Response to Comment P6-1**

Previous light rail corridor projects have analyzed intersections that were not located on the corridor itself, including the Vasona and Capitol Avenue Corridors. A total of 59 intersections were analyzed for the Vasona Corridor, about 26 of which were located at a distance from the LRT corridor. The EIS/EIR for that project found that there would be no LOS changes at any of the 26 intersections when the project condition was compared to the no-project condition. The Capitol Avenue Corridor included 42 intersections in the environmental analysis, seven of which were located away from the LRT corridor. Again, the EIR found that none of the intersections located away from the light rail corridor would experience a change in LOS with the project. Because previous projects did not find effects outside the immediate corridor, this analysis concentrated on Capitol Expressway intersections.

Capitol Expressway provides access to I-680, U.S. 101, and SR 87. Under the Light Rail Alternative, the expressway would continue to provide access to the surrounding freeways. As noted in Volume I, Chapter 4, Section 4.2, Table 4.2-14, the changes in travel time under No-Project Alternative conditions compared to conditions under the Light Rail Alternative are relatively small. Because traffic switching to other corridors with more closely spaced signalized intersections would experience longer travel times than remaining on the expressway, a substantial shift of traffic is not anticipated to occur as a result of the Light Rail Alternative.

Therefore, the intersections listed in this comment were not studied because they are not located directly on Capitol Expressway, and the findings of past environmental studies and the relatively minor increase in travel time under the Light Rail Alternative have led VTA to conclude that there would not be a substantial diversion of traffic onto residential streets or other north-south arterials.

### **Response to Comment P6-2**

The average weekday ridership was 3,753 for the Tasman LRT Line (Mountain View to Baypointe) and 17,141 for the Guadalupe LRT Line in July 2004. Revenue service along the Tasman East/Capitol Avenue Corridor began on June 24, 2004. Ridership data for this corridor is included with the Guadalupe LRT Line since the routing of the Guadalupe LRT Line was modified to provide direct service (no transfers) between Santa Teresa and Alum Rock.

## **Response to Comment P6-3**

At the beginning of the analysis of the Light Rail Alternative, VTA's light rail system was operating at minimum frequencies of 10 minutes during the day, with reduced headways in the evening and at night. After the analysis was begun, VTA reduced the level of transit service it provides on its existing system in response to budgetary constraints. Because the current budgetary constraints may be alleviated by the time the Light Rail Alternative would be constructed and begin revenue service in 2008, the operating assumptions were not changed. As a result, ridership projections are based on 10-minute frequencies.

It should be noted that in July 2004, after the Tasman East/Capitol Avenue LRT Line opened on June 24, 2004, total systemwide light rail ridership increased by more than 4,300 boardings per day compared to July 2003.

## **Response to Comment P6-4**

The ridership projections for the Light Rail Alternative were calculated using the CMA's TRANPLAN travel demand model. The inputs into that model are the highway and street network, transit network, and population and employment forecasts. A modal split algorithm that assigns travel to a specific mode and a distribution algorithm that assigned the travel to specific paths along specific modes are included in the model. These algorithms are repeated several times to achieve an optimization of travel time. It is beyond the model's capabilities to track current travel in the HOV lanes, and specifically what happens to that travel in future conditions when the HOV lanes are removed and replaced by light rail transit.

However, projections of riders who will use light rail transit are provided in Volume III, Appendix B (Addendum).

## **Response to Comment P6-5**

The Light Rail Alternative would include the elimination of HOV segments within the project area. The effects to traffic (additional traffic delays and an increased number of single-rider automobiles) from removal of the HOV segments were assessed in the project traffic study, which was in turn used to determine traffic-related air quality impacts. Therefore, the effects of the removal of HOV segments and the subsequent impacts to air quality are addressed under the analysis of the Light Rail Alternative in the Draft EIS/EIR.

## **Response to Comment P6-6**

While the removal of the HOV lanes would reduce the incentive to carpool, which is promoted at the local, regional, state, and national level, VTA did evaluate maintaining the HOV lanes and removing a GPL. As discussed in

Volume I, Chapter 3, Section 3.5.2, the traffic and construction-related impacts of removing a GPL were more severe than removing an HOV lane. As a result, it was recommended that the HOV lanes be removed to accommodate the addition of the Light Rail Alternative.

The removal of the HOV lanes is also consistent with the City's Evergreen Specific Plan and Evergreen Development Policy, which approved and constructed the HOV lanes in the mid-1990s as a temporary transportation improvement until funding became available to build light rail.

## **Response to Comment P6-7**

Volume I, Chapter 3, Alternatives Considered, Section 3.5.1, Prior Studies, has been revised to provide a complete discussion of the alternatives analysis process that began with the Downtown East Valley. With regards to the express bus alternatives, the discussion clarifies that the use of the HOV lane for express bus service was an issue of concern to the community, particularly as it would have required additional HOV lanes on Capitol Expressway from Silver Creek Road to State Route (SR) 87. While providing express bus service in this corridor received support, there was community concern regarding the addition of HOV lanes to Capitol Expressway between US 101 and SR 87. As a result, it was recommended that the concept of express bus service using HOV lanes from Eastridge Mall to SR87 be dropped from further consideration, but that express bus service traversing Capitol Expressway be added to Alternative 16 (Transportation System Management).

During the public comment period, it was found that although the express bus alternatives would provide improved service to residents at a lower cost, service would be provide only during commute hours, as compared to the light rail alternatives, which could provide 24-hour service. During the public outreach program, the community strongly supported light rail alternatives for this reason.

## **Response to Comment P6-8**

The roadway cross section agreed on by the City, Santa Clara County Roads and Airports Department, and VTA included 17-foot-wide outside lanes and 22 feet for the remaining two through lanes in each direction. Therefore, the total width for the six through lanes would be 78 feet. High-speed light rail with center catenary poles and fencing, as required by the CPUC, is an additional 28 feet. With light rail in the median, the left-turn lanes cannot be directly opposite; they must be offset. The agreed-on dimension for left-turn lanes was 11 feet wide for a single lane, and 11 feet wide for the inside and 10 feet for the outside of dual left-turn lanes. The light rail platforms can be accommodated within the "shadow" of the left-turn lanes. Some additional width for the platforms is necessary with single left-turn lanes. Therefore, the total width at intersection where the constraints in right-of-way occur is 148 feet (17 feet + 22 feet + 21 feet + 28 feet + 21 feet + 22 feet + 17 feet). As a result, it is not possible to retain the HOV lanes with the Light Rail Alternative.

## **Response to Comment P6-9**

The Capitol Expressway Light Rail Corridor Transportation Study (Volume III, Appendix B) prepared as a supporting document to the EIS/EIR compares the total person throughput for various options. That information is contained in Table 3-2 of the transportation study. The example in Table 3-2 is for northbound travel during the AM peak hour in the vicinity of Story Road; similar comparisons could be made for other parts of the corridor. As reported in Table 3-2, the total existing northbound person throughput in the AM peak hour is currently 4,080 persons. With the construction of light rail, the throughput would decrease to 3,965 persons, which includes 510 persons on light rail, as forecasted in the patronage report (Volume III, Appendix C).

When operated on 10-minute headways, two-car light rail trains have a capacity of 780 seated passengers per hour and more than 2,000 passengers if standees are included. While the analysis shows a slight decrease in person throughput, adding light rail to the corridor would greatly increase the potential capacity of the corridor.

## **Response to Comment P6-10**

Volume I, Chapter 4, Section 4.3 addressed air pollutant emission impacts from the alternatives. Emissions are quantified in Table 4.3-4. Emissions of reactive organic gases, oxides of nitrogen, and particulate matter less than or equal to 10 microns in diameter (PM10) are all less under the Light Rail Alternative than the No Project Alternative. An analysis of CO hotspots at the three worst-case scenario intersections was conducted, and the results are summarized in Table 4.3-3. Table 4.3-3 indicates that the Light Rail Alternative would have slightly higher CO emissions than baseline conditions. However, because no violations of the 1- or 8-hour CO standards were observed for either alternative, both alternatives would be less than significant with regard to CO emissions. In addition, CO modeling indicated no violations of the 1- or 8-hour state standards. Also refer to Response to Comment P6-5.

## **Response to Comment P6-11**

Removing the existing HOV lanes and constructing the Light Rail Alternative would result in significant traffic impacts at six intersections in 2010 and eight intersections in 2025, as identified in Volume I, Chapter 4, Section 4.2.

## **Response to Comment P6-12**

Refer to Response to Comment P6-1 regarding the reasons that the EIS/EIR did not study adjacent arterials and their associated intersections.

## **Response to Comment P6-13**

Refer to Response to Comment P6-7.

## **Response to Comment P6-14**

The Capitol Expressway Corridor is different from the North First Street and Tasman Corridors. On Capitol Expressway, both the Light Rail Alternative and automobiles would travel at higher speeds. Therefore, the design standards for the corridors are different. For example, Capitol Expressway would require wider platforms and protective railing and fencing for the Light Rail Alternative. Nevertheless, VTA is currently proceeding into the Preliminary Engineering phase of the project and will consider alternative design standards.

## **Response to Comment P6-15**

By removing single-occupant vehicles from the roadway, the Light Rail Alternative will provide an overall benefit in terms of air quality. Also refer to Response to Comment P6-10.

## **Response to Comment P6-16**

The air quality and transportation analysis is forecast for 2010 and 2025, as required for planning purposes. These forecasts are based on the assumption that the Light Rail Alternative would terminate at the Eastridge Transit Center by 2010 and at SR 87 by 2025. While funding for the segment from the Eastridge Transit Center to SR 87 was not identified, it was considered reasonable to assume completion by 2025 for the purposes of the environmental analysis. In addition, at its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved.

## **Response to Comment P6-17**

This comment argues that four of the six project goals would not be met by the Light Rail Alternative. As stated in Volume I, Chapter 1, Section 1.1.2, "The basic purpose of the proposed alternatives is to improve public transit service in the Capitol Expressway Corridor." The purpose and need statement for public transit improvements was developed in the MIS phase. The MIS evaluated 15 alternatives for the Downtown East Valley area, including express bus service according to the criteria listed in Section 1.1.2. After extensive technical review and public outreach, the VTA Board of Directors selected a Downtown East Valley Preferred Investment Strategy on August 3, 2000, which included

alternatives to extend light rail on Capitol Expressway to the Guadalupe LRT Line.

The statement that “capacity will be decreased, trip times longer, and access to highways and arterials will become more difficult” is incorrect. As discussed in Response to Comment P6-9, person throughput will have a slight decrease with the addition of light rail, but capacity will increase because light rail vehicles can carry 780 seated passengers per hour and more than 2,000 passengers if standees are included when two-car light rail trains are operated on 10-minute headways. Automobile trip times under the Light Rail Alternative will be less than existing trip times with the exception of the southbound direction in the PM (see Volume I, Chapter 4, Section 4.2, Table 4.2-14). However, automobile travel times on Capitol Expressway will generally be longer with the Light Rail Alternative than without it. Access to highways and arterials would not be affected with the Recommended Light Rail Alternative because there would be no modifications to the ramps at I-680, U.S. 101, and SR 87.

The Recommended Light Rail Alternative achieves Purpose 1 (Volume I, Chapter 2, Section 2.3.2) by improving public transit with a light rail alternative transit mode, Purpose 2 by providing a comparable travel time at less cost, Purpose 4 by providing an overall reduction in emissions compared to the No Project Alternative (Volume I, Chapter 4, Section 4.3), and Purpose 5 by providing a light rail mobility option that connects to the existing light rail system and bus transit centers and lines and is not currently available.

As disclosed in the Volume I, Chapter 4, Section 4.2, there will be significant traffic impacts at several intersections as a result of this project. The VTA Board of Directors will consider the environmental impacts of all the alternatives when making a final decision.



# VEP Community Association

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

June 22, 2004

VTA Environmental Planning Department  
3331 North First Street #B  
Sane Jose, CA 95134-1927

Attn: Tom Fitzwater, Environmental Planning Manager.

Subject: Capitol Expressway Corridor Draft Environmental Document.

Ladies & Gentlemen:

VEP Community Association has many serious concerns about the proposed light rail alternative for the Capitol Expressway corridor, especially Phase 2, from Routes 101 to 87. Our community is bordered on the North by Capitol Expressway, from Narvaez to Snell. We already experience gridlock in this area, and the light rail alternative will dramatically worsen these conditions, plus add safety and LOS problems by removing acceleration/deceleration lanes.

P7-1

We challenge the underlying assumption that implementing light rail in a transit corridor increases its total capacity. While this may be true in theory, it is clearly not true in practice, especially in Santa Clara County. Common sense tells us that to make light rail successful, it needs to rapidly move people from home to work. This line will not be rapid, and it will not connect homes with jobs.

P7-2

We'd prefer a more positive approach, making existing transit more desirable (like increasing bus service frequency, providing express service, etc.) rather than VTA's current attempts to make traffic congestion so intolerable that people are forced to use transit. Unfortunately, due to operating inefficiencies, a series of other bad LRT route decisions, and their reliance on sales taxes instead of farebox revenue, VTA cannot afford the service they already have in place.

P7-3

VTA is on the verge of bankruptcy; transit is being cut back, fares are being increased, and new sales taxes are being considered in a desperate attempt to stay afloat. Opening the operation of Vasona LRT is apparently being delayed one year to avoid worsening their fiscal crisis. It is patently absurd to add another low-ridership LRT corridor.

P7-4

We believe that the underlying motivation to build this light rail corridor is to enable high-density housing development. Traffic studies in the EIR/EIS must take this into account. We find it cruelly ironic that your EIS shows that this corridor could better serve existing and new housing by NOT building light rail. Not only can buses do the job at a small fraction of the cost, buses allow flexibility to adjust routes to meet the needs of transit users. We fear that funds used for LRT will come at the cost of transit operations on existing lines. We urge VTA to stop spending money on this project, and use all available funds instead to properly run the transit system it already has.

P7-5

Based on the low turnout at the May 27, 2004 public hearing for this EIR/EIS, it is clear that the public has not been notified in a meaningful fashion of the major negative impacts this project will have on their lives. We spoke with neighbors who will lose land to VTA if LRT is built, and they tell us they were not notified of that fact. They claim they hadn't even received the public hearing flyers. Clearly, if everyone who might be at risk of losing land had been notified of that fact, the public hearing would have had much higher attendance.

P7-6

Given VTA's dire financial situation, we find it outrageous that ~\$700-million might be spent on a project which will, as stated in the EIS/EIR, make transportation worse instead of better. If you must plan now for (distant) future transit, why not study running light rail to Coyote Valley, using dedicated rights of way, enabling *rapid* transit from homes to (future) jobs?

P7-7

The following pages contain 38 questions, and our attached 4/17/03 letter contains 23 questions focusing on issues near our neighborhood. We respectfully request that VTA provide us complete and honest answers for each and



## **VEP Community Association**

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

every question in writing by August 31, 2004, and we request an opportunity to meet with you after receiving your answers, but well in advance of final submission of the EIS/EIR.

Sincerely yours,

Jeri Arstingstall, President  
(408) 281-3393

cc: Jerome Wiggins, USDOT  
VTA Board Members, c/o Supervisor Don Gage, Chairman  
Joe Pirzynski, Town of Los Gatos, Vice Chairperson  
Blanca Alvarado, County of Santa Clara  
Pete McHugh, County of Santa Clara  
Cindy Chavez, City of San Jose  
David Cortese, City of San Jose  
Pat Dando, City of San Jose  
Ron Gonzales, City of San Jose  
Forrest Williams, City of San Jose  
Ken Yeager, City of San Jose, Alternate  
David Casas, City of Los Altos  
Breene Kerr, Town of Los Altos Hills, Alternate  
John McLemore, City of Santa Clara  
Fredrik M. Fowler, City of Sunnyvale  
Dolly Sandoval, City of Cupertino, Alternate,  
Patricia Dixon, City of Milpitas  
Dennis Kennedy, Alternate, City of Morgan Hill  
Jim Beall, Metropolitan Transportation Commission, Ex-Officio  
City of San Jose, City Clerk  
City of San Jose, DOT, James Helmer

Encl: Letter from VEP to VTA Board of Directors, "Capitol Expressway Light Rail Project E.I.R.", dated 4/17/2003





# VEP Community Association

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

## VEP Community Association Comments and Questions for the Capitol Expressway Corridor Draft EIR/EIS:

### General comments:

We request that full disclosure and a realistic appraisal of the following environmental impacts and their mitigation be included in this EIS. Until it responsibly addresses these serious issues, we believe your EIS is incomplete.

**1. NO ENVIRONMENTAL IMPACTS WERE IDENTIFIED FOR POINTS WEST OF ROUTE 101.** As long-time residents bordering Capitol Expressway—and having LRT in our immediate community—we know there will be many negative impacts and insist that they be evaluated as part of this EIS. **Our preference would be that if LRT is extended on Capitol Expressway, its west terminus be at Route 101.**

P7-8

**2. After review of EIS data, the inescapable conclusion is that building light rail in the Capitol Expressway Corridor will make transportation conditions there much WORSE.** We would clearly be better off doing *nothing* than building light rail.

In Section 4.0 of Volume II, the following statement is made: "The decrease in traffic level of service at some intersections should be viewed as an opportunity to divert more people from their automobiles to transit." This strategy was used locally in the phased development of the Guadalupe Corridor, whose pathetically inadequate freeway was delayed two years in order to allow LRT to lure people from their cars. It did NOT work.

The political motivation for a light rail project, we suspect, is to encourage/allow high-density "smart" growth development to occur along the corridor. Potential impacts of such development are not included in this EIS, so transportation levels of service would likely become much worse than forecasted. This would be completely unacceptable. **(Question 1)** For an honest assessment of what would likely happen along the Capitol Corridor, we ask that you apply San Jose's maximum transit-corridor densities to every available parcel, then re-run your traffic LOS numbers.

The token assessment of growth inducement (in Section 5.6 of Volume I) ignores the fact that San Jose now changes its General Plan four times each year; as soon as LRT was approved in the Guadalupe Corridor, our GP was *radically* changed to increase densities along its length. An analysis like yours, done for the Guadalupe before it was built, would have arrived at the same faulty conclusion: no growth inducement.

P7-9

As neighbors of the Guadalupe Corridor, we now live with the impacts of high-density growth. That growth was "mitigated" based not upon reasonable ridership expectations, but on LRT's *theoretical* capacity. Original ridership forecasts were not realized and probably never will be. The same is true in virtually every US city where LRT has been built. Unfortunately for us, the building goes on. We do not want a repeat of this mistake in the Capitol Corridor.

Despite widely publicized (and officially accepted) "expert" predictions of transit ridership from high-density housing projects within ¼ mile of light rail stations, we have never seen a published survey of actual transit use from such projects locally. Judging by the number of overnight cars in parking lots at Ohlone-Chynoweth and the traffic housing there generates in our neighborhoods, we suspect transit use at that complex is no greater than the average 5% or 6% of peak period commuter trips—and never will be. Yet, a minimum of 15% was predicted and site planning allowances were made accordingly.

Now that those residences are fully occupied, we volunteer to do a door-to-door transit use survey for VTA. The resulting data should be included in this EIS. **(Question 2)** Is VTA willing to include actual measure transit use data from the Ohlone-Chynoweth housing developments in this EIS/EIR? We believe the data will show actual transit use in this "smart" growth development is much lower than rose-colored predictions normally used to justify transit development as well as parking space requirements. The difference for us is having livable neighborhoods vs communities overrun by traffic and parked cars. An especially cruel twist is hearing subsequently that such development is justifiable "...in order to support the chosen transit alternative in the (fill in the blank) corridor."

P.O. Box 18111 San Jose, CA 95158  
E-Mail: [vepca@vepca.org](mailto:vepca@vepca.org) Website: [www.vepca.org](http://www.vepca.org)  
Page 3 of 10



## VEP Community Association

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

3. VEP has pushed for years to have landscaping done on Capitol Expressway; to no avail. There is no money to maintain landscaping, we're told. We were also told that Guadalupe Light Rail would enhance the value of our properties; especially if we live in the vicinity of a station. Nonsense. Landscaping is very poorly maintained along the Guadalupe light rail corridor. Overgrown by tall weeds, trash-strewn urban blight predominates. The EIS promise for a landscaped boulevard sounds fabulous, but we know there is no money to support the beautiful picture VTA portrays; and there never has been. VTA is going broke. They're cutting service and still desperate for money from any source.

Nearly every public landscaping project done recently in our area has been by volunteers. We not only install the plantings, we are required to sign a three-year maintenance contract. For one such project, 170 trees planted eight years ago, the city refuses to accept responsibility—apparently because they can't afford to—even though our contractual responsibility was fulfilled. We still maintain those trees. County Roads is cool to any landscaping proposals, even when the private sector offers to pay for and maintain it. Because VTA can't afford to, we've started pruning and cleaning-up bike paths along Rt. 87 as well.

P7-10

**(Question 3)** Where will the money be found to maintain landscaping on Capitol Expressway? If VTA has an answer to this question, we ask that they prove its viability to us by installing and maintaining the landscaping first and for at least five years—before approving LRT. Truth be known, the abysmal ridership forecasted for Capitol LRT will mean the continuing need for heavy subsidies, money that will, we fear, have to be taken from promised amenities and maintenance budgets.

4. The contribution to traffic relief attributable to Capitol Expressway LRT is based upon 10-minute headways. VTA cannot afford 10-minute LRT headways and ridership definitely will not merit them. **(Question 4)** We ask, therefore, that traffic impacts be reassessed based upon realistic (say, 30-minute or current typical) LRT service headways.

The executive summary comments on a reduction in the length of travel time. We find this hard to believe based on our experience with the Guadalupe and Tasman corridors, on which it takes three times as long to travel from South San Jose to Sunnyvale using light rail instead of freeways during commute traffic.

5. **(Question 5)** We would like to know what the traffic impacts of Capitol Expressway LRT will be on adjacent arterials and neighborhood streets. According to this EIS, LOS E and F intersections will be caused by LRT. If given an alternative, people avoid congested intersections. The way they do so is by seeking alternative routes—in this case, by using already busy city streets and short-cuts through our residential neighborhoods.

P7-11

A responsible EIS would assess these impacts so the public will know what to expect, what's being proposed to mitigate those impacts, and whether proposed mitigation measures are acceptable. To be complete, such analysis must be done in this EIS.

6. The HOV lanes on Capitol are the best-used in Santa Clara County. EIS data shows that LRT ridership will NOT equal HOV use. Many current HOVL users will not be able to use LRT because it is unlikely to meet their origin/destination needs, so they'll be forced to use mixed-flow lanes, losing the incentive for carpooling. A very good, cost-effective mode of ridesharing will be lost—one that will *never* impose the demand for subsidies that LRT does. The EIS admits that, as currently configured, Capitol Expressway (with HOVLs) meets the needs it was designed for (Evergreen Development, etc.). Fewer LOS E and F intersections will exist (in 2010 and 2025) if Capitol Expressway is left as-is than if LRT is built.

P7-12

**(Question 6)** Why is VTA proposing to spend hundreds of millions of dollars to replace the best-used HOV lanes in Santa Clara County with LRT, when EIS data shows that LRT ridership will not compensate for the lost HOV lanes?



## VEP Community Association

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

7. We feel the available right-of-way is too narrow to do safely what is being promised. We are especially concerned about making lanes narrower, the loss of acceleration/deceleration lanes, the loss of room for planned/city-mandated double left-turn lanes, the taking of private property, and the additional distances pedestrians (especially children and seniors) will have to walk to cross Capitol.

P7-13

8. We remember earlier concepts for Capitol LRT that made a lot more sense. One was to cross Rt. 101, then go up McLaughlin or Senter Road to connect with LRT in San Jose's downtown central business district (CBD). This approach has merit because it more adequately addresses the mobility needs of transit dependents and it connects origins (residential areas) to destinations (like Kelley Park, the County Fairgrounds, planned housing, numerous existing and planned job centers immediately south of the CBD, and downtown itself). (Question 7) Why were those more logical, potentially higher ridership alternatives left out of the analysis?

P7-14

9. In addition to traffic impacts, we are very concerned that EIS ridership estimates for Phase 2 (9,790 in 2010 and 11,075 in 2025) do not justify the cost of this LRT segment.

P7-15

### Specific Concerns:

Please notice that, aside from Vols. I & II of the EIS, many of these concerns derive from review of Kolve's November 2002 "Technical Appendix: Project Definition Report" which depicts conceptual engineering of LRT in the Capitol Expressway right-of-way. We insist that full disclosure and a realistic appraisal of the following environmental impacts and their mitigation be included in this EIS.

Until it responsibly addresses these serious issues, we believe your EIS is incomplete.

### Capitol Expressway at Route 87

It is not clear in this EIS how the following conditions will be met that were imposed on *KB Homes* by the City of San Jose as mitigation for development on Communications Hill (File No. PD 01-06-068, Pages 9 & 10). (Question 8) Were these city-mandated conditions considered? (Question 9) Is there sufficient right-of-way to include these required mitigations and a double-track LRT facility? (Question 10) Will the Route 87 overpass need to be modified? (Question 11) Are there any other potential impacts involved in fulfilling these obligations and building the proposed LRT?

s. *Transportation Improvements*. The developer shall construct improvements on State Route 87 southbound ramp and Capitol Expressway prior to the issuance of the 1<sup>st</sup> building permit for units approved with the Master Planned Development permit, unless otherwise approved by the Director of Public Works and Director of Planning. Said improvements shall be bonded prior to the issuance of the 145<sup>th</sup> building permit unless otherwise stated.

P7-16

- 1.) Convert the eastbound exclusive right turn lane west of SR 87 on Capitol Expressway to a shared through/right lane.
- 2.) Modify the eastbound curb lane on Capitol Expressway under SR 87 to continue shared through/right turn lane to Narvaez Avenue.
- 3.) Modify the south leg of the intersection of Capitol Expressway and Narvaez Avenue to carry a fourth (curb lane) through movement through the intersection.
- 4.) Pork chop and signal modifications or improvements related to the above condition shall be provided by the developer.
- 5.) The developer shall secure any and all required approvals or permits from Caltrans and Santa Clara County.



## VEP Community Association

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

6.) If the County is unwilling to grant an encroachment permit, the developer shall be required to construct a third (3<sup>rd</sup>) left turn lane on the southbound Highway 87 at Capitol as an alternative mitigation measure.

7.) Construct a traffic signal at the intersection of Hillsdale Avenue and Vista Park Drive prior to the issuance of a Public Works Clearance for the 1<sup>st</sup> unit.

u. *Future Transportation Improvements.* As a part of subsequent PD permit(s), the projects requirements for constructing or contributing toward the following improvement, as identified in the EIR, shall be provided and phased as required by the Director of Public Works:

2.) Capitol/Narvaez. Extend each of the existing eastbound left turn lanes by an additional 45 feet prior to the issuance of a building permit for the 451<sup>st</sup> unit.

P7-16  
cont.

### Capitol Expressway at Narvaez Avenue & NB Route 87 Onramp

The level of service shown [Ref: Vol. I, page 4.4-8, Table 4.2.6] for this intersection is incorrect. As such, the identification of mitigation measures found necessary in this EIS is seriously flawed.

Anyone who has ever used the NB freeway approach will know, intuitively and without a doubt that morning traffic conditions are much closer to LOS F than LOS B or C. Morning commute period traffic routinely backs up dangerously onto and across Capitol Expressway, blocking traffic in all directions. The freeway approach is hopelessly backed-up. Frustrated motorists resort to a variety of tactics (illegal passing, u-turns, turn-about, etc.) to battle their way around and through the heavy congestion. It's intolerable.

During the course of challenging a high-density residential project at Vistapark Drive in December 2001, VEP called to the City of San Jose's attention the fact that severe weekday morning peak congestion occurred there. Engineers found that LOS F conditions exist; it took their study team 15-minutes to get from westbound Capitol Expressway through the NB Route 87 freeway ramp meter. (60-seconds of delay = LOS F.)

P7-17

As a result, a December 6, 2001 memorandum to the CSJ Planning Commission (ref: PDC 01-01-028) states (page 3) that "...the flow of traffic is ultimately restricted by the metering lights, which are set to a limit of 900 cars per hour, resulting in a bottleneck...an intersection that should be operating at LOS B based on its volume-to-capacity ratio does in fact function more like LOS E or F..."

Because existing conditions are incorrectly shown as LOS C, no mitigation is required at Capitol/Narvaez/NB Route 87. Worse, the EIS now shows optional construction of a LRV storage facility at the intersection's northwest corner; an area that should instead be given priority for use in possible reconfiguration of the freeway approach. Under no circumstances should any construction be considered, or any options be forfeited there until a solution to traffic congestion has been found.

**(Question 12)** We ask that traffic studies in the EIS be corrected for Capitol Expressway at Narvaez Avenue, and the NB Route 87 onramp, and that adequate mitigation be identified and included in the project baseline.

### Capitol Expressway, Narvaez to Vistapark Drive

1. Homeowners on the south side of this reach will have the size of their property reduced as land is taken to accommodate LRT. Some of these parcels are already sub-standard in size, as developers built now-defunct cabanas in an agreement with the city to allow smaller lot sizes.

P7-18

We found that backyard swimming pools may be lost as well, as required set-backs will be violated when the sound wall is moved. Have these people been notified, and if so, have their concerns been addressed? Will possible mitigations for their concerns be offered in the final EIS?



# VEP Community Association

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

How will the owners of the land you propose to take for the power station (on what used to be the SP Lick RR Spur) be compensated? **(Question 13)** Have those people been notified of your intentions? **(Question 14)** When will they be allowed to weigh-in on this proposal?

VEP volunteers contacted many of these neighbors; none recall having been notified that these takings might occur. None recall being notified that a public hearing was held to give input to the EIS. We protest in their behalf, fearing that after this EIS has been approved, they will be told that the decision has been made and their opportunity to protest has passed.

P7-18  
cont.

**(Question 15)** If a decision is made to build LRT, can the land instead be taken from the commercial and high-density residential properties along the north side of Capitol?

2. **(Question 16)** Will driveways in/out of the commercial uses on the north side of Capitol (Home Depot, etc.) dump directly into travel lanes when the lanes are moved away from the median? **(Question 17)** If so, what are the safety and LOS impacts of doing this? **(Question 18)** What mitigations will be recommended? We not find any mention of these probable impacts in your EIS.

P7-19

3. No pedestrian walkways or landscaping exist now on the south side of Capitol Expressway. **(Question 19)** Will even more land be taken from our neighbors' back yards to provide pedestrian walkways and landscaping?

P7-20

4. As volunteers, tired of the Capitol Expressway moonscape, VEP has spent nearly three years begging city/county government and the developer of Bella Villagio apartments (Capitol @ Vistapark Drive) to install irrigated landscaping in the Capitol median (Copperfield to the former Baroni ROW). That work is nearing completion. Importantly, the developer/owner has agreed to a perpetual maintenance contract. Light rail would rip that landscaping out. We do NOT want that to happen and do not have confidence that the public sector will duplicate and/or maintain the appearance of what we have fought for and so recently won.

P7-21

Again, we want to know how landscape maintenance will be paid for and have its viability demonstrated to us before LRT is approved. **(Question 3, restated)** We ask that this impact be specifically addressed in your EIS.

## Capitol Expressway at Bluefield/Copperfield Drive

This intersection typifies a general concern we have for the prospect of removing acceleration-deceleration lanes that allow traffic to safely turn on/off Capitol. Cars entering and exiting the expressway will do so in/out of the path of relatively high-speed traffic.

P7-22

As travel lanes are narrowed and moved closer to our neighbors' back fences, and if these accel/decel lanes are removed (as it appears they will have to be), our safety will be at risk and the traffic level of service will likely decline. We don't see any mention of these probable impacts in your EIS. **(Question 20)** We ask that the EIS specifically address these probable impacts.

## Capitol Expressway at Vistapark Drive

1. This intersection will be even more seriously impacted if the acceleration-deceleration lanes for traffic to safely turn on/off Capitol are removed. At the southwest corner of this intersection, there is a strip-commercial shopping center that now has a driveway onto Capitol. Accel/decel lanes at the southwest corner allow traffic to enter or exit this center safely—as well as to make right turns onto Vistapark Drive. **(Question 21)** To make room for LRT, will those accel/decel lanes be removed and, if so, what mitigation is suggested to provide safe turning movements, and how will this affect traffic level of service and safety?

P7-23

Similar impacts will occur on the other corners of this intersection if accel/decel/turn lanes are removed. **(Question 22)** We want to know what the effects will be on traffic level of service and safety.



## VEP Community Association

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

2. The City of San Jose is requiring a double left-turn lane for eastbound Capitol to northbound Vistapark Drive. Pinn Brothers [Bella Villagio apartments, CSJ File #PDC01-02-028] and developers on Communications Hill [KB Homes, et al; Ref: CSJ File No. PD 01-06-068] are being required to contribute toward that improvement.

Implementing this double turn lane already requires moving the travel lanes closer to our neighbors' back fence (a sound wall). **(Question 23)** Where will the additional width be found to add a two-track LRT facility and a station? **(Question 24)** Will additional taking of land be required? **(Question 25)** Has the double left-turn lane requirement and its potential impacts on safety and LOS been taken into consideration in your EIS? (We don't see a double turn lane on your plan drawings.)

P7-24

Senior citizens from housing on the northwest corner might typically wish to cross Capitol to reach the shopping center at the southwest corner. **(Question 26)** Will signal timing have to be altered to accommodate pedestrians across a significantly widened Capitol Expressway? **(Question 27)** If so, what will the impacts be to traffic level of service, and what mitigation will be recommended?

3. It is not clear how enough area will be made available for a LRT station anywhere near the Capitol/Vistapark intersection. The ROW is essentially built-out with a minimum 15-foot setback; mitigation for future development already dictates taking land and/or moving travel lanes. We are guessing that these requirements were either unknown or ignored by LRT planners.

P7-25

**(Question 28)** We ask that the EIS include a detailed ROW assessment at the location of the Vistapark LRT station, including the exact configuration of the station, all travel and accel/decel lanes, bicycle lanes, sidewalks, landscaping, and setbacks. Please include specific identification of any land that must be taken, and what mitigating measures will be possible to overcome the consequences of space limitations.

### Capitol Expressway at Rosenbaum Avenue

Again, we are concerned that accel/decel lane removal and narrowing of lanes will create a dangerous situation for cars entering/exiting Capitol at this intersection. Beautiful landscaping has been provided and is being maintained by the owners of adjacent apartments; we do not want to see those amenities removed—and have no confidence that the public sector will duplicate and/or maintain the appearance of what already exists. **(Question 29)** We ask that the EIS specifically address LOS and safety impacts of acc/dec lane removal and narrowing of lanes in this location.

P7-26

### Capitol Expressway, Vistapark Drive to Snell Avenue

1. Nearing completion, the new 355-unit Bella Villagio residential complex has ingress/egress onto Capitol Expressway. (Outdated drawings in the EIS show a golf driving range there.) The builder installed a deceleration right-turn lane for inbound motorists. They also provided a barrier-separated lane for exiting westbound traffic, allowing safe merges and discouraging traffic from cutting across Capitol to make left or Uturns at Vistapark Drive. That lane extends to the northeast corner at Vistapark Drive, allowing weaving and deceleration for right turns.

P7-27

**(Question 30)** Will these merging/turn lanes be removed in order to accommodate LRT and, if so, how will motorist safety be protected? **(Question 31)** What will the traffic LOS impacts be for westbound traffic on Capitol Expressway?

2. As stated above, VEP convinced the developer of Bella Villagio apartments (Capitol @ Vistapark Drive) to install irrigated landscaping in the median along this reach—and sign a perpetual maintenance contract. That work is nearing completion. Light rail will undo that landscaping. We do NOT want that to happen and do not have confidence that the public sector will duplicate and/or maintain the appearance of what we have fought for and so recently won.

P7-28

**(Question 3, restated)** Again, we want to know how landscape maintenance will be paid for and have its viability demonstrated to us before LRT is approved. We ask that this impact be specifically addressed in your EIS.

P.O. Box 18111 San Jose, CA 95158  
E-Mail: [vepca@vepca.org](mailto:vepca@vepca.org) Website: [www.vepca.org](http://www.vepca.org)

Page 8 of 10



## **VEP Community Association**

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

### **Capitol Expressway at Snell Avenue**

There are commercial enterprises at each corner of this busy intersection. All have driveways onto Capitol Expressway. There are also accel/decel lanes for safely entering/exiting traffic. **(Question 32)** What will the effects be on safety and LOS of removing and/or narrowing accel/decel lanes at this intersection, and what mitigation is recommended? We find no mention of these impacts in the draft EIS.

P7-29

### **Capitol Expressway at Monterey Road**

A major concern at this grade separation is that it's a half interchange, requiring SB Rt. 82 to Capitol and EB Capitol to SB Rt. 82 traffic to make left turns across traffic. The Monterey Main Line RR tracks have been a major issue in solving this problem. Building an intermodal transit station should not be allowed to prevent long-term solutions; it should be done with Capitol Expressway/ Rt. 82 connectivity improvements in mind. Doing so will allow future years' improvement in throughput and traffic LOS.

P7-30

If the Capitol over crossing is widened, plans should be considered with an eye for direct connectors in a station/parking design that will not interfere with them.

### **Capitol Expressway at Seven Trees Boulevard**

All of the foregoing concerns regarding accel/decel lane removal and lane narrowing also apply at this intersection. Due to its proximity to heavily-used Solari Park and the Seven Trees Library complex, there is fairly high pedestrian activity here as well. **(Question 33)** How will pedestrian and motorist safety be protected?

P7-31

We see no mention of or mitigation for these concerns in your EIS.

### **Capitol Expressway at Senter Road**

This is a very busy and very dangerous intersection, having a long record and high incidence of traffic accidents. Because of its immediate proximity to Andrew Hill High School, it is also a busy pedestrian crossing. We're especially concerned because Andrew Hill is the high school for half of VEP's membership area.

There are commercial enterprises at three corners of this busy intersection. All have driveways onto Capitol Expressway. There are also accel/decel lanes for safely entering/exiting traffic. **(Question 34)** What will the effects be on safety and LOS of removing and/or narrowing those lanes at this intersection?

P7-32

**(Question 35)** Will signal timing have to be altered to accommodate students and other pedestrians crossing the widened Capitol Corridor? **(Question 36)** If so, what will the impacts be to traffic level of service, and what mitigation be recommended?

We see no mention of any of these issues in your EIS.

### **Capitol Expressway at Tuers Road**

All of the foregoing concerns regarding accel/decel lane removal and lane narrowing also apply at this intersection. **(Question 37)** How will pedestrian and motorist safety be protected, and what mitigation will be recommended?

P7-33

We see no mention of or mitigation of these issues in your EIS.



## **VEP Community Association**

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

### **Capitol Expressway at McLaughlin Avenue**

This busy intersection is too close to Rt. 101. Any impact on level of service here could back traffic onto Rt. 101-- long-time residents along Capitol Expressway still remember the scary days when that happened regularly. If LRT is built, we urge that it cross 101 and McLaughlin on a grade-separated (elevated) structure. NO OTHER ALTERNATIVES SHOULD BE ALLOWED.

We are also concerned about the loss of accel/decel lanes for safely entering/exiting traffic. (Question 38) What will the effects be on safety and LOS of removing and/or narrowing those lanes at this intersection, and what mitigation will be recommended?

We see no mention of or mitigation of these issues in your EIS.

### **Capitol Expressway at Route 101**

If LRT is built, we urge that it cross Rt. 101 and McLaughlin on a grade-separated (elevated) structure. NO OTHER ALTERNATIVES SHOULD BE ALLOWED.

*[End]*

P7-34

P7-35





## **VEP Community Association**

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

April 17, 2003

VTA Board of Directors  
3331 N. First Street  
San Jose, CA 95134-1927

Subject: Capitol Expressway Light Rail Project E.I.R.

Chairwoman Jane Kennedy and VTA Board Members:

On our invitation, a VTA representative presented plans for light rail transit (LRT) in the median of Capitol Expressway at VEP's February 25th meeting. Although this was our first formal indication that such plans were underway, we were told that the alternatives have already been selected and an environmental impact report (EIR) is being prepared. In other words, it's too late for VEP and its members to comment on transit routing and technologies employed. All we can do now is react to environmental impacts of the choices already selected for our expressway.

We were understandably dismayed. The northern boundary of our membership area is Capitol Expressway. Needless to say, most of our members use it regularly and are vitally interested in any proposal that will affect its utility. VEP has been actively involved in transportation planning since our inception in 1969; we can't understand why notice of this project had not been sent to us in time for our involvement in discussion of the alternatives.

VEP understands that a draft EIR is currently being reviewed internally at VTA, before sending it to FTA. So, we offer the following comments and questions now, respectfully asking that to the extent possible they be incorporated into, and addressed in, the first draft of EIR. We also look forward to commenting on the draft EIR when it becomes available for review this summer, 2003.

Given the tremendous capital investment and permanent nature of rail transit improvements, it is essential that routes be selected for maximum overall transportation efficiency, based upon demonstrable ridership potential. We are concerned that the proposed LRT between Highways 87 and 101 would present significant, potentially unmitigatable environmental impacts, while providing very low utility to our regional transit infrastructure. Current bus ridership along this corridor is low, presumably because this corridor does not connect jobs to housing. We feel that any money proposed for this corridor would be much better spent connecting our transit system to Coyote Valley (a future job center).

VEP Community Association understands, however, that the scope of the EIR is to evaluate the potential impacts of the Capitol light rail alignment that has already been selected. With the EIR in mind, we ask the following questions, and request that they be incorporated, with thoughtful and honest answers, in the project EIR.

In our area of Capitol Expressway (between Highway 87 and Highway 101), the proposed LRT would run "at-grade," sharing the expressway right-of-way and passing through already busy intersections.

At its north end, the Capitol Expressway LRT Project will remove two lanes from the expressway (between Silver Creek and Capitol Avenue). Those lanes are currently the most heavily used commuter (HOV) lanes in our county. It is imperative that the potential adverse impacts of removing expressway lanes and having at-grade LRT crossings be covered realistically in the EIR. Preliminary studies have shown severe degradation of traffic levels of service at numerous signalized intersections, resulting in congestion that violates adopted city and county standards. We ask:

P7-36



# VEP Community Association

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

1. What will the traffic level of service be at each intersection on Capitol Expressway where LRT crosses at-grade
  - A. When the LRT project is completed; and
  - B. In the 2025 planning horizon year?
2. Will removing commuter lanes have a negative impact on traffic level of service on Capitol Expressway after LRT construction and in the 2025 planning horizon year?
3. Has Santa Clara County approved the removal of these uniquely successful commuter lanes from Capitol Expressway, a facility that belongs to and is funded by the county?
4. Will removing commuter lanes and/or building LRT cause traffic levels of service on Capitol Expressway to fall below current city and/or county adopted minimums (LOS D) after project completion and/or in the 2025 planning horizon year? If so, what mitigation is proposed, when will the mitigation be done, and who will pay for it?

P7-37

P7-38

P7-39

P7-40

In response to questions by VEP members regarding the availability of space for a double-track LRT facility and attendant stations in our portion of Capitol Expressway, we were told that, although three travel lanes will remain in each direction, they will be narrowed. Acceleration, deceleration, and right turn lanes will need to be eliminated also. (Please be aware that travel lanes immediately west of Vistapark Drive are already scheduled to be shifted away from the median, to make room for a double left turn lane for eastbound Capitol to northbound Vistapark.) Despite the apparent lack of space, we were told that pedestrian walks and bicycle lanes would still somehow be accommodated, and that sound walls and landscaping will also be included.

Our members challenged the possibility that this could be accomplished without serious threat to motorist safety, citing the fact that there are many businesses having driveway access directly onto the expressway, and many intersections where accel/decel lanes now exist to allow safe entry/exit by motorists. Our members also pointed to the fact that, in some areas, pedestrian facilities don't exist now and right-of-way is already very limited. We ask:

5. Is there *really* enough corridor width to accommodate LRT, six travel lanes, left turn pockets, pedestrian walks, bicycle paths, landscaping, and sound walls? If not, what features will be traded-off and where? (Please make sure that the EIR takes into account all current and approved future developments along this corridor. For example, large-scale housing developments on Communications Hill and at the northeast corner of Capitol Expressway and Vistapark, and their associated Capitol Expressway traffic mitigation projects.)
6. How narrow will the lanes need to be made to accommodate LRT, six travel lanes, left turn pockets, pedestrian walks, bicycle paths, landscaping, and sound walls?
7. What will be the effect of narrowed travel lanes on Capitol Expressway? Will narrowed lanes jeopardize traffic capacity and/or motorist safety?
8. Will narrowed lanes still comply with local/state/federal government safety standards? If not, will we be at a disadvantage when seeking roadway capital improvement and/or maintenance funds?
9. How will motorist safety be affected by removal of acceleration/deceleration lanes at intersections and commercial entrances/exits? Will driveways serving commercial properties be closed?

P7-41

P7-42

P7-43

P7-44

P7-45



## VEP Community Association

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

10. Will pedestrian walks be added where they do not now exist?

P7-46

11. Will VTA pay for construction and maintenance of these new facilities? We are told that Santa Clara County Roads has no money for landscaping or landscape maintenance, no money to install pedestrian walkways, and no money to install or upgrade sound walls. Given VTA's dire financial situation, what assurances will we have that these improvements will be made?

P7-47

Those who live adjacent to Capitol Expressway (particularly on the south side of Capitol Expressway between Copperfield and Vistapark) expressed concern that bringing travel lanes even closer to the edge of the expressway will increase noise in their back yards. Sound walls there are in many cases more than thirty years old, no longer in compliance with city and county acoustical standards. We ask:

12. How will bringing the roadway travel lanes closer to the extreme edge of the corridor affect sound levels in neighboring yards and businesses?

P7-48

13. Will VTA's LRT project pay to have any and all mitigation performed immediately if sound levels there are found to be in excess of levels allowed (typical 55 DNL) in our city/county general plans?

P7-49

14. Are sound wall installations and upgrades included in funding plans for LRT?

P7-50

Capitol Expressway landscaping is pathetic; because it takes corridor width, LRT will mean even less room for future improvement. VEP has been successful recently in negotiating with private developers for Capitol Expressway median landscaping from Barone to Copperfield. That landscaping would have to be removed if LRT is built. In addition to losing what will be mature landscaping in many areas, the tall weeds and trash strewn conditions at existing Capitol and Branham LRT stations cause us to be skeptical about the aesthetics of the proposed project. We ask:

15. Will landscaping, particularly between Highway 87 and Highway 101, really be possible if LRT is built? If not, where will it have to be foregone, and why are we being asked to accept a project that may preclude any future hope for aesthetic improvements we ourselves have offered to install and maintain?

P7-51

16. Will VTA maintain landscaped areas and rights-of-way and clean its LRT stations? If so, where will the money come from? If not, how will the negative impacts of unsightly trash and weeds be mitigated?

P7-52

The right of way at Vistapark is already too narrow for a double left turn pocket needed to mitigate the eastbound Capitol to northbound Vistapark traffic requirements associated with developments currently under construction. Yet, somehow, VTA says they plan to build a station there! We ask:

17. How will a LRT station be shoe-horned in at Vistapark Drive? What amenities would we have to forego? Will the result be safe for pedestrians, bicyclists, and motorists? How much closer will travel lanes be located adjacent to resident's backyards?

P7-53

18. How will turning movements be accommodated at Vistapark Drive?

P7-54



## VEP Community Association

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

When asked at our meeting who would ride a LRT line between Highways 101 and Route 87, and what purpose it would serve, the VTA representative could only say that it would close a transit loop, tying LRT back to itself at the Gaudalupe Line (Route 87). He could not cite current ridership levels experienced on existing bus routes along Capitol Expressway, but admitted that transit use is not very extensive.

Traffic on Capitol Expressway between Snell and Route 87 is often at or near gridlock already. We have *thousands* of apartments and condominiums here already, many based on the theoretical use of Guadalupe LRT. We continue to see worsening automobile traffic as high-density projects proliferate nearby. We fear that new light rail in this corridor will justify even more high-density housing in the eyes of planners. However, we don't believe residents will use this new light rail facility any more than they use buses now, especially considering that this reach of the corridor will not connect with major job centers.

One of our members suggested that the light rail system should instead extend into Coyote Valley (a future job center) and complete the loop with a connection at the Santa Teresa corridor instead of Capitol/87. VTA's representative indicated that much earlier proposals had future LRT running farther south, tying into the Route 85 corridor whose median is being reserved for possible transit all the way to Cupertino. We feel that this would not only connect homes with jobs, but would also be more attractive to riders since portions of the route might be able to travel at higher speeds. We ask:

19. Is there any tangible evidence of significant transit demand in the Capitol Expressway corridor between Route 87 and Highway 101 to justify investment in LRT? Or is Capitol Expressway LRT seen as a tool to promote more high density development in our area, an attempt to *generate* transit ridership?

P7-55

20. What is the measured ratio of regular LRT use to regular automobile use for recently built transit corridor projects? Is there any follow-up substantiation for claims that those who live near LRT will use it?

P7-56

21. What is the projected ridership on this LRT line? Is its cost justifiable? Is its ongoing cost sustainable? To what extent will this project aggravate VTA's fiscal problems in the near or long term?

P7-57

22. Would an alternate alignment make better sense for "closing the transit loop," both from the standpoint of more favorable ridership (better farebox recovery) and shaping desired development patterns?

P7-58

In general, VEP members expressed alarm at the fact that such planning is still going forward despite VTA's serious revenue problems and its own prediction of bankruptcy as early as 2005. Fares are being raised, ridership is off precipitously, bus routes are being dropped, bus and LRT service is being curtailed, and our transit agency is going broke, yet you are aggressively planning to add very expensive and marginally productive new LRT lines. We expect better fiscal responsibility than that.

Asked to guess when construction of the Capitol Expressway LRT Project might begin in our area, VTA's representative conjectured that it might be ten-to-twenty years from now. We ask:

23. If Capitol Expressway LRT won't be built until ten-to-twenty years from now, why are we spending taxpayer dollars today on an EIR that will need to be redone before any project is built?

P7-59

We feel strongly that committing funds to the west reach of the Capitol Expressway corridor would not only significantly impact vehicle traffic that is already at near-gridlock, but would also take funds away from much more useful routes that could and should be studied and built instead. As taxpayers and resi-

P7-60



## **VEP Community Association**

Representing More Than 2000 Families in the Blossom Valley Area of South San Jose Since 1969

dents whose lives will be significantly impacted if this project is built, we simply don't see a compelling reason to close the light rail loop at Capitol Expressway and Route 87.

P7-60  
cont.

Please give serious consideration and answers to these important questions in your E.I.R. and in what may remain of VTA's planning process. We will be grateful for notice of any future meetings on the Capitol Expressway project. Our mobility, safety, and the quality of our neighborhoods are at stake.

Thank you,

*Signed Copy on File*

David Noel, President  
(408) 266-7183

cc: Don Gage, VTA Vice Chair/Santa Clara County Supervisor, District 1; Blanca Alvarado, Chair, Capitol Expressway Light Rail Project PAB; Pat Dando, VTA Board Member/San Jose City Councilwoman.

## **Letter P7, Jeri Arstingstall, June 23, 2004**

### **Response to Comment P7-1**

The EIS/EIR addresses the impacts of the project alternatives along Capitol Expressway between Capitol Avenue and SR 87. However, at its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. The Recommended Light Rail Alternative is described in Volume II, Chapter 2.

### **Response to Comment P7-2**

As reported in Volume I, Chapter 3, Table 3-2, the total person throughput on Capitol Expressway is projected to decrease slightly based on traffic and transit model projections with the Light Rail Alternative. For example, existing northbound person throughput in the AM peak hour is currently 4,080 persons, which includes all persons traveling northbound, both via automobile and transit. With the construction of light rail, the throughput would decrease to 3,965 persons, including 510 persons on light rail as forecasted in the Patronage Report (Volume III, Appendix C). The overall potential throughput of the expressway, however, would increase because light rail can carry 780 seated passengers per hour and more than 2,000 passengers if standees are included when two-car light rail trains are operated on 10-minute headways.

Between U.S. 101 and SR 87, the Light Rail Alternative, as described, would not require the removal of a traffic lane to construct light rail. Therefore, the automobile capacity of the corridor in this area would generally not be impacted by the Recommended Light Rail Alternative.

The Light Rail Alternative would provide efficient transit service that is competitive with the automobile. To allow light rail trains to operate at speeds up to 55 miles per hour between stations and signalized intersections, the right-of-way would be fenced and the alignment grade-separated at specific intersections. As shown in Volume I, Chapter 4, Section 4.2, Table 4.2-14, the travel time for Light Rail Alternative would generally be less than existing automobile travel times.

### **Response to Comment P7-3**

VTA acknowledges the commenter's preference for making existing transit more desirable rather than making "traffic congestion so intolerable that people are forced to use transit." It should be noted that mitigation for significant traffic impacts has been proposed wherever it is feasible, and the Light Rail Alternative

would be grade-separated at several locations to minimize conflicts with automobile travel.

VTA also acknowledges that there has been a reduction in the frequency and hours of light rail and bus service because of dramatic decreases in sales tax revenues in Santa Clara County. Volume I, Chapter 7 accurately portrays the need to identify new potential sources of local revenue dedicated to VTA. Volume II, Chapter 2 accurately represents the funding situation for the Recommended Light Rail Alternative.

## **Response to Comment P7-4**

Volume I, Chapter 7 accurately represents the funding picture for the Light Rail Alternative. It should be noted that the Vasona Corridor is scheduled to begin revenue service in summer 2005. The delay in the original schedule was a result of a major change in the project profile at Hamilton Avenue in response to concerns of the CPUC. A grade separation is now being constructed at Hamilton Avenue, whereas original plans had an at-grade crossing.

## **Response to Comment P7-5**

The traffic analysis contained in the EIS/EIR is based on regionally approved forecasts for 2010 and 2025. The future land use forecasts are generated by the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC), based on land use data that is continuously collected from all jurisdictions through ABAG's Local Policy Survey, and periodically through county assessor's files and other sources. FTA requires that regionally approved land use forecasts be used in the traffic analyses for major capital investment projects.

In the San Jose 2020 General Plan, the City indicates that the Capitol Expressway Corridor is expected to intensify more slowly because increased residential development is anticipated to create traffic congestion that will "not be completely mitigated by the light rail facility." This policy is contrary to the comment that "the underlying motivation to build this light rail corridor is to enable high-density housing development."

In 1999, VTA initiated an MIS for the Evergreen-Downtown Corridor. The MIS examined 17 alternatives for the corridor, including improvements to bus service. After an extensive public outreach process, the VTA Board of Directors determined that the benefits of the Light Rail Alternative were far greater than those of any of the other alternatives and selected it as the Locally Preferred Alternative.

The recent economic decline presents challenges to the financing of this project. VTA staff continues to work with the VTA Board of Directors, the State of California, and FTA to resolve the details of the funding plan for the project. Volume I, Chapter 7 accurately portrays the need to identify new potential

sources of local revenue dedicated to VTA. Volume II, Chapter 2 accurately represents the funding situation for the Recommended Light Rail Alternative.

## Response to Comment P7-6

VTA made every effort to notify residents, property owners, businesses, and public agencies of the availability of the EIS/EIR and the date and time of the public hearing. VTA's outreach efforts are summarized below:

- Newspaper advertisements in English, Spanish, and Vietnamese regarding the NOA of the Draft EIS/EIR were placed in the *San Jose Mercury News*, *Thoi Boa*, *El Observador*, and *Evergreen Times*.
- Copies of the NOA were mailed to project stakeholders, and local, state and federal agencies.
- A mass mailing was conducted to more than 7,000 community members within 500 feet of the Capitol Expressway Corridor.
- A news release was issued for the NOA.
- Media communications:
  - Public service announcements were made on KLIV (1590 AM) and KRTY (95.3 FM).
  - News release printed in English and Spanish in *La Oferta*.
  - Television and other media were contacted.
- The VTA web site (<http://www.vta.org>) was updated with a link to the Draft EIS/EIR public hearing information.
- The Draft EIS/EIR was uploaded on the VTA web site.
- A news release was issued for the public hearing.
- Copies of the public hearing notice were posted at VTA bus shelters along the corridor and at the Eastridge Transit Center.
- "Meet and greets" were conducted with VTA transit customers along the Capitol Expressway Corridor.
- Copies of the public hearing notice were distributed to frequently visited community facilities along the Capitol Expressway Corridor.
- Newspaper advertisements in English, Spanish, Vietnamese and Chinese of the public hearing were placed in the *Thoi Boa*, *El Observador*, and *Eastridge Times*.

While VTA attempted to notify all who would be affected by the proposed project, VTA acknowledges that some may not have received the flier because of complications in retrieving addresses from the database of assessor's parcel numbers (APNs).



VTA does not typically provide special notification to property owners from whom right-of-way may be required to construct the project. However, on the request of VTA's DTEV PAB, a letter dated June 16, 2004, was sent to residential property owners who may be affected by a full acquisition of their property.

## **Response to Comment P7-7**

On November 7, 2000, voters in Santa Clara County approved a 30-year 0.5-cent sales tax for transit purposes. The sales tax measure specified the allocation of funds to various projects, including Downtown East Valley. The Downtown East Valley Preferred Investment Strategy includes three separate corridors: Santa Clara/Alum Rock, Capitol Expressway, and Bus Rapid Transit (BRT) on Monterey Highway. The Measure A funds for Downtown East Valley may be used for all three corridors, but not for Coyote Valley. A study of transit needs in Coyote Valley will be the subject of a separate planning study of other potential transit corridors in the county projected to be completed in 2005.

## **Response to Comment P7-8**

As noted in Response to Comment P7-1, at the meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative segment from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. Therefore, there is no light rail development proposed between Nieman Boulevard and SR 87 at this time.

The EIS/EIR evaluated the environmental impacts for the Light Rail Alternative to SR 87. It identified potentially significant impacts west of U.S. 101 for the following resource areas: traffic, biological resources, geology, hazardous materials, hydrology and water quality, vibration, safety and security, socioeconomics (relocation of residences and businesses), utilities, visual quality, and construction. Mitigation is proposed to reduce these impacts to less-than-significant levels; however, project-level decisions between Nieman Boulevard and SR 87 are being deferred.

## **Response to Comment P7-9**

The EIS/EIR acknowledges that there are significant and unavoidable transportation impacts with the Light Rail Alternative. At many intersections, delay and V/C ratio would increase compared to the No-Project Alternative.

Volume III, Appendix B, Section 4.0 states that "The decrease in traffic level of service at some intersections should be viewed as an opportunity to divert more

people from their automobiles to transit.” However, the EIS/EIR proposes mitigation for significant traffic impacts whenever feasible.

The traffic analysis contained in the EIS/EIR was based on regionally approved forecasts for 2010 and 2025. The future land use forecasts are generated by ABAG and MTC, based on land use data that is continuously collected from all jurisdictions through ABAG’s Local Policy Survey, and periodically through county assessor’s files and other sources. FTA requires that regionally approved land use forecasts be used in the traffic analysis.

In addition, the San Jose 2020 General Plan indicates that the Capitol Expressway Corridor is expected to intensify more slowly because increased residential development is anticipated to create traffic congestion that will “not be completely mitigated by the light rail facility.” It states that “intensification along this corridor will occur as sufficient transportation system capacity can be identified consistent with City Transportation Level of Service policies.” As a result, it is not expected that the City will radically change its general plan to increase densities along Capitol Expressway without the appropriate infrastructure improvements.

In 2002, VTA conducted a survey of residents in light rail transit station areas that resulted in the following findings:

- A total of 45% of respondents who moved to their present address after the start of light rail were influenced “a lot” (19%) or “somewhat” (26%) by the presence of light rail.
- Of all respondents, 6.4% said they used light rail “1 to 3 days per week,” 6.3% said they used light rail “4 or more days per week,” 67% “typically walk” to the light rail station, and 14% reported that they “drive.”
- Of respondents who are employed full- or part-time (69% of all respondents), 15% indicated that they take transit (light rail or bus) to work at least three times per week.
- A total of 50% of respondents reported driving alone to work “5 days a week.” Respondents indicated that they used alternative transportation at least 1 day a week, as follows: “light rail (19%), “carpool or vanpool” (5%), “take a bus to work” (4%), “walk or bike to work” (9%).

## **Response to Comment P7-10**

Landscaping has been a major component of each of VTA’s light rail projects. On the Capitol Avenue LRT Line, VTA installed approximately 1,000 trees as well as vines and shrubs in the light rail median, at stations, at the Penitencia Creek park-and-ride lot, and along Capitol Avenue. As shown in Volume III, Appendix A, landscaping would be included along most sections of the Capitol Expressway Corridor. The landscaping would be funded by Measure A, a 30-year 0.5-cent sales tax that was approved by voters on November 7, 2000.

VTA will enter into an Operating and Maintenance Cost Agreement with the future owner of Capitol Expressway that defines maintenance responsibility for all facilities, including landscaping, installed by the project. It should be noted that Caltrans, not VTA, maintains the SR 87 bike path.

Typically, landscaping is installed after the completion of civil construction to minimize damage to plantings and irrigation systems, and increase the rate of survival. As a result, VTA would not be able to install and maintain landscaping at least 5 years before approving the Light Rail Alternative.

## **Response to Comment P7-11**

When VTA began the environmental review of the Capitol Expressway Corridor in September 2001, VTA's light rail system was operating at minimum frequencies of 10 minutes during the day, with reduced headways in the evening and at night. VTA subsequently reduced the level of transit service on its existing system in response to budgetary constraints. Because the current budgetary constraints may be alleviated by the time the Light Rail Alternative begins revenue service, the operating assumptions were not changed in the EIS/EIR. As a result, ridership projections are based on 10-minute frequencies.

The Light Rail Alternative has been designed to operate at speeds of up to 55 miles per hour between stations and signalized intersections. Grade separations at congested intersections are proposed to minimize delays to light rail and vehicular traffic. As a result, travel times for the Light Rail Alternative are competitive with the automobile in the Capitol Expressway Corridor, as shown in Volume I, Chapter 4, Section 4.2, Table 4.2-14. Generally, in 2025, light rail travel is projected to be faster than the automobile, and automobile travel with the Light Rail Alternative is projected to be slower than automobile travel with the No Project Alternative.

Previous light rail corridor projects have analyzed intersections that are located a distance from the corridor itself, including the Vasona and Capitol Avenue Corridors. A total of 59 intersections were analyzed for the Vasona Corridor, about 26 of which were located at a distance from the LRT corridor. The EIS/EIR for that project found that there were no LOS changes at any of the 26 intersections when the project condition was compared to the no-project condition. The Capitol Avenue Corridor included 42 intersections in the environmental analysis, seven of which were located at a distance from the LRT corridor. Again, none of the intersections located away from the light rail corridor experienced a change in LOS with the project. Because previous projects did not find effects outside the immediate corridor, this analysis concentrated on Capitol Expressway intersections.

Additionally, as noted in Volume I, Chapter 4, Section 4.2, Table 4.2-14, the changes in travel time between the No-Project Alternative and the Light Rail Alternative condition are relatively small. Traffic switching to other corridors with more closely spaced signalized intersections would experience longer travel times than on the expressway. Because travel paths are optimized based on

travel time, a shift of traffic is not anticipated to occur as a result of the Light Rail Alternative.

## **Response to Comment P7-12**

The Capitol Expressway Light Rail Corridor Transportation Study in Volume III, Appendix B, prepared as a supporting document to the EIS/EIR, contains a comparison of total person throughput for various project alternatives in Table 3-2. The example in Table 3-2 is for northbound travel during the AM peak hour in the vicinity of Story Road. Similar comparisons could be made for other parts of the corridor. As reported in Table 3-2, the total existing northbound person throughput in the AM peak hour is currently 4,080 persons. With the construction of light rail, the throughput would decrease to 3,965 persons, including 510 persons on light rail as forecasted in the Patronage Report (Volume III, Appendix C). Consequently, the Light Rail Alternative would result in lower person throughput than the No-Project Alternative because of the removal of two HOV lanes.

The comment that fewer intersections would operate at LOS E and F under the No-Project Alternative than under the Light Rail Alternative is incorrect. Of the 15 intersections evaluated in the EIS/EIR, 10 will operate at LOS E or F during one or both peak hours for the 2025 No-Project Alternative condition. Therefore, without construction of the Light Rail Alternative, most of the intersections along the corridor will be operating at congested levels. The same 10 intersections will operate at LOS E or F during one or both peak hours with the Light Rail Alternative. While the Light Rail Alternative will cause an increase in delay at some locations, the total number of congested intersections will remain the same.

## **Response to Comment P7-13**

The City, Santa Clara County Roads and Airports Department, and VTA agreed on the roadway lane widths developed in the conceptual design between July and October 2002. These widths are considered safe at the posted (or prevailing) speed limits.

The City and County developed a roadway cross section that included 17-foot-wide outside lanes that increase to 18 feet in advance of intersections. The right-turn acceleration lane and outside lane would be 17 feet, and the right-turn deceleration lane would be 18 feet. Narrowing landscape areas and acquiring additional right-of-way would provide the full 12 feet needed for an exclusive acceleration and deceleration lane.

Regarding the loss of room for planned/City-mandated left-turn lanes, these lanes were not included in the conceptual engineering for the Light Rail Alternative as described in the Draft EIS/EIR. It is VTA's understanding that these lanes were referenced in the Communications Hill Specific Plan and would be constructed as the area develops. However, the turn lanes have not yet been required as mitigation for a specific development project. When VTA further develops its

plans for transit service between Nieman Boulevard and SR 87, it will evaluate the need to redesign these intersections to accommodate the future turn lanes.

The taking of private property was minimized to the extent possible because of the effect on residences and businesses, as well as cost.

The Light Rail Alternative would widen Capitol Expressway in limited areas by a few feet. The Light Rail Alternative would improve pedestrian facilities along and across the expressway. Currently, there are no pedestrian facilities along most of the corridor. The Light Rail Alternative would construct pedestrian overcrossings, pedestrian refuge areas with pedestrian-activated push buttons to activate traffic signals, and pedestrian countdown signals. High-speed right-turn movements would be eliminated. A pedestrian path would be constructed on at least one side of the corridor. These improvements would increase safety for pedestrians.

## **Response to Comment P7-14**

An MIS evaluated 17 alternatives for the Downtown East Valley area, including light rail on the suggested roads (Alternative 4a). After extensive technical review and public outreach, the VTA Board of Directors selected a Downtown East Valley Preferred Investment Strategy on August 3, 2000, which included alternatives to extend light rail on Capitol Expressway to the Guadalupe LRT Line. Alternative 4a was rejected because of cost effectiveness and operational difficulties.

## **Response to Comment P7-15**

Both ridership and cost were considerations in the VTA Board of Directors approval of Phase 2 in the Preferred Investment Strategy. On August 5, 2004, however, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. Therefore, no light rail development between U.S. 101 and SR 87 is proposed at this time.

## **Response to Comment P7-16**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. Therefore, no light rail development is proposed between U.S. 101 and SR 87 at this time.

It should be noted that all the improvements noted in the comment are compatible with the Light Rail Alternative. The extension of the left-turn lanes at Narvaez would remove some of the area identified to accommodate landscaping on the conceptual engineering plans.

## Response to Comment P7-17

Traffic operations depend greatly on traffic volumes. Traffic volume counts can vary by 10% to 15% daily. Therefore, if the traffic counts obtained for a particular study are abnormally low or high, they will affect the resultant LOS calculations. The Santa Clara County Roads and Airports Department undertook a traffic study independent of the Light Rail Alternative in 2002. The LOS and delay from the two studies are compared in the table below.

Study	Level of Service	Delay
<b>Existing AM Peak Hour</b>		
Light Rail Study	LOS C	22.5 seconds
County Expressway Study	LOS D	26.9 seconds
<b>Existing PM Peak Hour</b>		
Light Rail Study	LOS D	32.0 seconds
County Expressway Study	LOS D	26.7 seconds

As shown, the two studies report similar levels of traffic operations. This consistency indicates that the EIS/EIR is not seriously flawed.

It should be noted that the DTEV PAB has deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved.

## Response to Comment P7-18

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, no properties between Narvaez Avenue and Vistapark Drive would be affected at this time.

VTA does not typically provide special notification to property owners from whom right-of-way may be required to construct a project. Specific discussions with property owners can only occur after the environmental process is completed and an alternative is selected. On the request of the DTEV PAB, a letter dated June 16, 2004, was sent to residential property owners who may be affected by a full acquisition of their property. Because the properties mentioned

involve partial acquisitions, these owners did not receive special notification. VTA's outreach efforts to residents and businesses along the corridor are detailed in the Response to Comment P7-6.

Mitigation Measure SOC-16a addresses impacts to properties where right-of-way is required for the project. The compensation for real property is based on its market value as determined by an appraisal prepared by a state-licensed appraiser in conformance with the Uniform Standards of Professional Appraisal Practice. The most common method used for appraising land is the sales comparison approach. Under this method, the property being appraised is compared with recent sales of similar properties.

Concerns about the proposed acquisition of property should have been communicated during the public review of the Draft EIS/EIR, which began on April 28, 2004, and ended on June 28, 2004.

VTA acknowledges VEP Community Association's concerns regarding the acquisition of residential properties for the Light Rail Alternative. As noted above, all project-level decisions between Nieman Boulevard and SR 87 have been deferred, and no property acquisition in this segment is proposed at this time. When VTA further develops its plans for transit service between Nieman Boulevard and SR 87, it will review alternatives that minimize the need to acquire private property.

## **Response to Comment P7-19**

During conceptual engineering, the City and County agreed to a roadway cross section for Capitol Expressway that included 17-foot-wide outside lanes that would increase to 18 feet in advance of intersections. The right-turn acceleration lane and outside lane would be 17 feet and the right-turn deceleration lane be 18 feet if constructed as designed in conceptual engineering. Narrowing landscape areas and acquiring additional right-of-way would provide the 12 feet required for an exclusive acceleration and deceleration lane. When VTA further develops the alternatives for transit service between Nieman Boulevard and SR 87, it will review options for maintaining the acceleration and deceleration lanes. It is not anticipated that the modifications to the outside lanes would compromise motorist safety or worsen the LOS for this part of the corridor.

## **Response to Comment P7-20**

Project-level decisions between Nieman Boulevard and SR 87 have been deferred, and no acquisition of property is proposed in this segment at this time. The right-of-way acquisition in the vicinity of Vistapark Drive is for the pedestrian/bicycle path proposed along the south side of the corridor. The minimum width of a two-way pedestrian/bicycle path is 10 feet. Where sufficient right-of-way is available, landscaping is also proposed. Landscaping is not proposed in areas where right-of-way must be acquired.

Pedestrian and bicycle facilities are an important design feature of this project. They facilitate access to transit facilities and other land uses along the corridor by providing alternative travel choices.

## **Response to Comment P7-21**

Refer to Response to Comment P7-10.

## **Response to Comment P7-22**

Refer to Responses to Comments P7-13 and P7-19.

## **Response to Comment P7-23**

Refer to Responses to Comments P7-13 and P7-19.

## **Response to Comment P7-24**

According to Jerry DeGoosman of the City in a telephone conversation on August 2, 2004, there is currently no development project that has a requirement to construct a second eastbound left-turn lane on Capitol Expressway at Vistapark Drive as a condition of project approval. However, the Communications Hill Specific Plan states that a second left-turn lane would ultimately be necessary.

The current conceptual engineering plans do not include a double left-turn lane. When VTA further develops its plans for transit service between Nieman Boulevard and SR 87, it will evaluate the need to accommodate a second left-turn lane in the designs, acquire property, adjust signal timing, and update traffic studies.

## **Response to Comment P7-25**

Volume III, Appendix A contains the plans for the Light Rail Alternative extending to SR 87. Figure A-29 depicts the design of the Vistapark Drive Station, including the configuration of the station, roadway, sidewalks, and landscaping. Volume I, Chapter 4, Section 4.16, Table 4.16-4 contains detailed information on the right-of-way requirements for the Light Rail Alternative, including APNs, addresses, and square footage. At the Capitol Expressway/Vistapark Drive intersection, right-of-way is noted as being required from the northeast and southwest corners of the intersection.



Refer to Response to Comment P7-24 regarding the right-of-way required for the “mitigation of future development” and status of improvements at this location.

## **Response to Comment P7-26**

Refer to Responses to Comments P7-13 and P7-19 regarding the acceleration and deceleration lane removal and the narrowing of lanes. Regarding the effect of the project on existing landscaping at Rosenbaum Avenue, VTA has deferred all project-level decisions between Nieman Boulevard and SR 87. As a result, no removal of existing landscaping at Rosenbaum Avenue is proposed at this time.

## **Response to Comment P7-27**

The deceleration and acceleration lanes at Bella Villagio near Vistapark Drive were installed after conceptual engineering for the Capitol Expressway Corridor began. Therefore, these lanes were not included in the current plans for the Light Rail Alternative. To incorporate these lanes in the plans and accommodate a second eastbound left-turn lane, redesign of the Light Rail Alternative would be required in the vicinity of Vistapark Drive. Because the DTEV PAB has deferred project-level decisions between Nieman Boulevard and SR 87, these modifications to the plans would be considered when VTA develops alternatives for transit service in this segment.

## **Response to Comment P7-28**

Refer to Response to Comment P7-10.

## **Response to Comment P7-29**

Refer to Responses to Comments P7-13 and P7-19.

## **Response to Comment P7-30**

The Light Rail Alternative connects with Caltrain at the Monterey Highway Station. To facilitate a direct transfer between light rail and Caltrain, the project proposed to relocate the Caltrain platform and park-and-ride lot. Three options for the location of the park-and-ride lot were evaluated in the EIS/EIR. While minor widening of the Capitol Expressway overcrossing of Monterey Highway was proposed to accommodate pedestrian and bicycle facilities, reconstructing the interchange was not included in the scope of the Light Rail Alternative.

Project-level decisions between Nieman Boulevard and SR 87 have been deferred at this time. When VTA further develops alternatives for transit service

in this corridor, it may be possible to evaluate the need to rebuild the existing interchange if additional funds for the project could be identified and other jurisdictions, such as Caltrans, the County, the City, and the Peninsula Corridor Joint Powers Board, are interested in developing designs for a full interchange at this location.

## **Response to Comment P7-31**

Refer to Responses to Comments P7-13 and P7-19 regarding the removal of acceleration and deceleration lanes.

Pedestrian safety at Seven Trees Boulevard would be enhanced through the addition of pedestrian walkways on both sides of the corridor west of the intersection and on the south side of the corridor east of the intersection.

## **Response to Comment P7-32**

The existing acceleration and deceleration movements entering and exiting businesses at Senter Road would be accommodated by the 17- and 18-foot-wide outside lanes proposed as part of the project. The proposed modification to the acceleration and deceleration lanes would not affect the safety of traffic operations, as described in Responses to Comments P7-13 and P7-19.

The traffic signal timing for pedestrians at Senter Road would be adjusted to accommodate longer crossing times with the Light Rail Alternative described in the EIS/EIR. Pedestrian countdown signal heads would also be installed on all quadrants of this intersection. These modifications were included in the traffic analysis for the Capitol Expressway/Senter Road intersection.

## **Response to Comment P7-33**

Refer to Responses to Comments P7-13 and P7-19 regarding the removal of acceleration and deceleration lanes.

Pedestrian safety at Tuers Road would be enhanced through the addition of pedestrian walkways on both sides of the corridor.

## **Response to Comment P7-34**

At its August 5, 2004, meeting, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and *Evergreen Smart Growth Strategy* have been further developed and approved. While the Capitol Expressway/McLaughlin Avenue intersection would not be impacted by the

recommended project, VTA did review a design option for the Light Rail Alternative that crosses McLaughlin Avenue on an aerial structure in the Draft EIS/EIR.

Refer to Responses to Comments P7-13 and P7-19 regarding the removal of acceleration and deceleration lanes.

## **Response to Comment P7-35**

While the U.S. 101/Capitol Expressway interchange would not be impacted by the Recommended Light Rail Alternative, VTA did review a design option for crossing U.S. 101 on an aerial structure in the EIS/EIR (see Volume I, Chapter 3, Section 3.4). When VTA further develops plans for transit service in this corridor, this option would continue to be evaluated and considered.

## **Response to Comment P7-36**

In 1999, VTA initiated an MIS for the Evergreen-Downtown Corridor. The VTA Board of Directors evaluated 17 alternatives for the corridor, using six broad criteria involving 12 performance measures. The criteria included mobility improvements, equity issues, capital and operating expenditures, cost effectiveness, transit-oriented land use, and environmental concerns. After an extensive public outreach process, the VTA Board of Directors determined that the benefits of the Light Rail Alternative were far greater than those of any of the other alternatives and selected it as the Locally Preferred Alternative.

On November 7, 2000, Santa Clara County voters approved a 30-year 0.5-cent sales tax for transit purposes. The sales tax measure specified the allocation of funds to various projects, including Downtown East Valley. The Downtown East Valley Preferred Investment Strategy includes three separate corridors: Santa Clara/Alum Rock, Capitol Expressway, and BRT on Monterey Highway. The Measure A funds for Downtown East Valley may be used for all three corridors, but not for the Coyote Valley. A study of transit needs in Coyote Valley will be the subject of a separate planning study of other potential transit corridors in Santa Clara County to be completed in 2005.

It should be noted that Comments P7-36 to P7-60 are concerned with the portion of Capitol Expressway between U.S. 101 and SR 87. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved.

## Response to Comment P7-37

Volume I, Chapter 4, Section 4.2, Tables 4.2-16 to 4.2-19 provide the LOS at each intersection on Capitol Expressway for 2010 and 2025. Also refer to Response to Comment P7-1.

## Response to Comment P7-38

The removal of the HOV lanes on Capitol Expressway with the addition of the Recommended Light Rail Alternative would have a negative effect on traffic on several intersections. There would be significant and unavoidable impacts at two intersections in 2010 and three intersections in 2025. Mitigation is proposed and feasible for all other intersections where impacts were identified.

## Response to Comment P7-39

While Santa Clara County has not “approved” the removal of the HOV lanes, the VTA Board of Directors, which includes two county supervisors, did select the Light Rail Alternative as the Locally Preferred Alternative in the MIS on August 3, 2000. In addition, the *Santa Clara County Comprehensive Expressway Planning Study* (August 2003) acknowledges VTA’s plans for replacing the HOV lanes with light rail. The study recommends that the HOV lanes be retained between Nieman Boulevard and Silver Creek Road pending the results of the *U.S. 101 Corridor Study*, which is consistent with the Recommended Light Rail Alternative.

It should also be noted that there have been discussions between the County and City regarding the relinquishment of Capitol Expressway to the City, which would affect jurisdiction over the HOV lanes.

## Response to Comment P7-40

Of the 15 intersections evaluated in the EIS/EIR, 10 will operate at LOS E or F during one or both peak hours for the 2025 No-Project Alternative condition. Therefore, without construction of the Light Rail Alternative, most of the intersections along the corridor will be operating at congested levels. The same 10 intersections will operate at LOS E or F during one or both peak hours with the Light Rail Alternative. While the Light Rail Alternative will cause an increase in delay at some locations, the total number of intersections at LOS E or F will remain the same.

Mitigation for traffic impacts, where reasonable and feasible, is required if the thresholds of significance are exceeded (see Volume I, Chapter 4, Section 4.2.4). Intersections where mitigation is required or significant and unavoidable impacts have been identified are described in Volume I, Chapter 4, Section 4.2.4.

## **Response to Comment P7-41**

Refer to Response to Comments P7-1, P7-24 and P7-25.

## **Response to Comment P7-42**

During the conceptual engineering for the Light Rail Alternative, the City and the Santa Clara County Roads and Airports Department agreed on the following roadway cross section for Capitol Expressway:

- 11-foot-wide inside left-turn lanes,
- 10-foot-wide outside left-turn lanes,
- 11-foot-wide inside through lanes,
- 12-foot-wide outside through lanes against the median, and
- 17-foot-wide outside through lanes against the outside curb widened to 18 feet in advance of an intersection.

## **Response to Comment P7-43**

The narrower lane widths would not reduce roadway capacity or safety at posted speed limits. However, travel at excessive speeds would be discouraged, consistent with the vision for Capitol Expressway as a multi-modal corridor that safely accommodates transit, pedestrians, and bicycles in addition to automobiles.

## **Response to Comment P7-44**

State and federal agencies encourage the use of engineering judgment in the design of local facilities and do not necessarily require that they meet strict standards for lane width. In addition, it is generally not required that roadways meet specific state and federal safety standards to qualify for funding. In fact, improving safety is a major justification for receiving state or federal funds.

As stated in Volume I, Chapter 3, Section 3.4, one of the objectives of this alternative is to “transform the expressway from an auto-dominant corridor to a multi-modal boulevard.” With this objective, the project design is anticipated to transform the expressway to more of an arterial. The City design standards for an arterial range from 80 to 106 feet for a minor arterial to 115 to 130 feet for a major arterial. In the Land Use/Transportation Diagram of the San Jose 2020 General Plan, it is stated that “These right-of-way standards may be varied in unique situations provided that the planned function of the Arterial Street is not compromised by the alternative right-of-way.” The City recently requested relinquishment of the expressway from the County to the City.

In addition, the lane widths of Capitol Expressway were determined during joint planning meetings between the City and County held between July and October 2002.

## **Response to Comment P7-45**

Refer to Responses to Comments P7-13 and P7-19 regarding removal of acceleration and deceleration lanes at intersections. Under the Light Rail Alternative, no driveways serving commercial entrances would be closed.

## **Response to Comment P7-46**

Significant pedestrian improvements are proposed along the Capitol Expressway Corridor. A multi-purpose path for pedestrians and bicyclists would be added to one or both sides of Capitol Expressway within the project limits. In addition, pedestrian overcrossings are proposed at the proposed Story Road and Ocala/Cunningham Avenue Stations. Pedestrian crosswalks would be provided as necessary, and pedestrian countdown signal heads would be added to all traffic signals.

## **Response to Comment P7-47**

Refer to Response to Comment P7-10.

## **Response to Comment P7-48**

Based on the engineering drawings, there are no plans to move the traffic lanes between Copperfield Drive and Vistapark Drive substantially closer to residences in this location such that measurable increases in noise levels would result. Volume I, Chapter 4, Section 4.14 evaluated the changes in the noise environment in accordance with the criteria established by FTA. Mitigation for noise impacts was identified for the South of Eastridge Transit Center Side-Running/At-Grade/Aerial Option. However, this option was not selected and is not part of the Recommended Light Rail Alternative (see Volume II, Chapter 2). Therefore, the Recommended Light Rail Alternative does not require noise mitigation, and soundwalls are not included as part of the project.

## **Response to Comment P7-49**

VTA light rail operations are subject to the FTA noise criteria and exempt from local ordinances such as city or county noise regulations. Where noise levels would exceed the FTA noise criteria, mitigation has been recommended to reduce the noise levels.

Refer to Response to Comment P7-48 regarding the location of soundwalls. Where noise has become an issue after construction of a VTA facility, VTA has conducted additional noise studies to determine whether the noise levels were consistent with the projections.

## **Response to Comment P7-50**

According to the Noise and Vibration Technical Report (Volume III, Appendix I), the Recommended Light Rail Alternative would not result in severe noise impacts as defined by FTA, and no new soundwalls would be required. As a result, VTA would not provide new or modified soundwalls with the Recommended Light Rail Alternative. Also refer to Response to Comment P7-48.

## **Response to Comment P7-51**

Refer to Response to Comment P7-10 regarding landscaping. Because the DTEV PAB deferred project-level decisions for the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87, no landscaping would be removed in these locations as a result of the Recommended Light Rail Alternative.

## **Response to Comment P7-52**

VTA will enter into an Operating and Maintenance Cost Agreement with the future owner of Capitol Expressway that defines maintenance responsibility for all facilities, including landscaping, installed by the project. The operating costs identified in Volume I, Chapter 7 include funds for maintaining VTA facilities, including stations, park-and-ride lots, substations, and storage facilities. Because of regular maintenance at VTA facilities, no significant visual impacts from trash or weeds are anticipated.

## **Response to Comment P7-53**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions between Nieman Boulevard and SR 87. As a result, there would be no changes to existing conditions at Vistapark Drive, including right-of-way and safety, as a result of the Recommended Light Rail Alternative.

## **Response to Comment P7-54**

Refer to Response to Comment P7-53.

## **Response to Comment P7-55**

Ridership forecasts for 2010 and 2025 under the Light Rail Alternative are shown in Volume I, Chapter 4, Section 4.2, Table 4.2-11. These projections are computed using the Santa Clara County Congestion Management Program (CMP) Travel Demand Model, based on specific assumptions regarding the roadway and transit network and current City land use plans. The Light Rail Alternative will provide an alternative mode of travel, and, by 2025, approximately 3,200 boardings are projected with the extension to the Eastridge Transit Center and 11,100 boardings with the extension to SR 87. Ridership was one of six major criteria for evaluating the alternatives in the DTEV MIS. Another criterion was the Transit Orientation Index, which is not based on proposed or planned developments, but on a combination of population and employment density.

It is recognized that the City plans to intensify land uses along the Capitol Expressway Corridor, especially around stations, to maximize the public's investment in transit. However, the San Jose 2020 General Plan acknowledges that development along the Capitol Expressway Corridor is expected to intensify more slowly because increased residential development is anticipated to create traffic congestion that will "not be completely mitigated by the light rail facility."

## **Response to Comment P7-56**

Refer to Response to Comment P7-9 regarding travel patterns for residents who live near the existing light rail system.

## **Response to Comment P7-57**

Projected ridership for 2010 and 2025 for the Light Rail Alternative is shown in Volume I, Chapter 4, Section 4.2, Table 4.2-11. The ridership for the Recommended Light Rail Alternative is 3,200 to the Eastridge Transit Center and 440 to Nieman Boulevard. The estimated cost (2003 dollars) of building the Light Rail Alternative, shown in Volume I, Chapter 7, Table 7-2, ranges from \$259 million for the first phase to Eastridge Transit Center and \$447 million for the second phase to SR 87. The Recommended Light Rail Alternative to Nieman Boulevard is estimated to cost \$291 million for the segment to the Eastridge Transit Center and an additional \$139 million to Nieman Boulevard (including the proposed vehicle storage facility south of Quimby Road).

The costs for building the initial phases of the Recommended Light Rail Alternative would be funded with sales tax revenues from Measure A, which was approved by Santa Clara County voters on November 7, 2000. This ballot measure specified the allocation of funds to various projects, including Downtown East Valley. The ongoing cost of operating and maintaining the Recommended Light Rail Alternative would be funded with local VTA revenues.



VTA acknowledges that additional operating revenues would be needed and has identified several potential sources in Volume I, Chapter 7, Section 7.3.4.

## **Response to Comment P7-58**

Refer to Response to Comment P7-7.

## **Response to Comment P7-59**

VTA acknowledges that there is no committed funding for Phase 2 of the Light Rail Alternative between Eastridge Transit Center and SR 87. To be eligible to receive potential state and federal funds, VTA proceeded with environmental review for the entire corridor in September 2001. Because of the subsequent initiation of major planning studies that might require substantial modifications to the conceptual engineering for Phase 2, on August 5, 2004 the DTEV PAB deferred project-level decisions between Nieman Boulevard and SR 87.

## **Response to Comment P7-60**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. Therefore, the area referred to as “the west reach” is not part of the Recommended Light Rail Alternative.

**Hurley, Kim**

---

**From:** Reycall@aol.com  
**Sent:** Wednesday, June 23, 2004 5:14 PM  
**To:** capitol\_expressway.DEIS-DEIRcomments@vta.org  
**Subject:** Re: Capitol Expressway Light Rail

Sirs:

Extending light rail along Capitol Expressway to Highway 87 can only be considered a waste of taxpayer funds for something that will be of very little benefit, from the standpoint of how many (actually how few) riders will use the trains, and how much cost there will be in degraded traffic lanes on Capitol Expressway and the loss of back yards, etc. etc. I can see only losses and no real benefits to the project.

P8-1

Rey L. Call  
4640 Royal Grove Court

## **Letter P8, Rey L. Call, June 23, 2004**

### **Response to Comment P8-1**

Opposition to the Light Rail Alternative is noted and provided to the decision makers for their consideration. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. Therefore, the Recommended Light Rail Alternative (see Volume II, Chapter 2) only includes the portion of the alternative to Nieman Boulevard, not to SR 87.

The cost of the Recommended Light Rail Alternative is addressed in Volume II, Chapter 2. The traffic impacts are addressed in Volume I, Chapter 4, Section 4.2. Significant traffic impacts are identified for three intersections under the Recommended Light Rail Alternative. Right-of-way needs are identified in Volume I, Chapter 4, Section 4.16, Table 4.16-4. Compensation and relocation benefits are discussed in Volume I, Chapter 4, Section 4.16, Mitigation Measure SOC-16a..

**Hurley, Kim**

---

**From:** A K [jmk\_408@hotmail.com]  
**Sent:** Wednesday, June 23, 2004 7:29 PM  
**To:** Capito\_Expressway.DEIS-DEIRcomments@vta.org  
**Subject:** A question about submitted comments through the mail

When the comment is responded to, presumably it would be published in full in the final EIS/EIR. Does that include the submitter's full street address? Thanks.

P9-1

---

Make the most of your family vacation with tips from the MSN Family Travel Guide! <http://dollar.msn.com>

## **Letter P9, A. K., June 23, 2004**

### **Response to Comment P9-1**

A copy of the commenter's correspondence with VTA is included in the Final EIR. If the full street address is included in the copy of the correspondence, it will appear in the Final EIR. Unless requested, VTA includes the full street address of the commenter in the Final EIR.

Hurley, Kim

From: John Marks [skram77@att.net]  
Sent: Wednesday, June 23, 2004 10:14 AM  
To: capitol\_expressway.DEIS-DEIRcomments@vta.org  
Subject: We Oppose Light rail on Capitol Expwy

Our major areas of concern:

Gridlock - Traffic congestion at many intersections will get much worse if rail is built. VTA's own studies show that we'd be better off if we left Capitol as it is now. There are no improvements scheduled for heavily congested intersections like Capitol/Narvaez or the approach ramp to Rt. 87 on Narvaez. Dramatic increases in congestion will likely cause the traffic to be diverted onto our residential streets.

P10-1

After lanes are narrowed or removed to make room for double-track light rail, space may not be available for traffic relief already promised to mitigate the impact of high-density growth in our area.

P10-2

Safety - To make room for light rail, acceleration and deceleration lanes will be removed from intersections and shopping centers. These are the lanes you use for safely merging or turning into/out of traffic. So, when leaving from Home Depot, Albertson's, Vistapark, or Copperfield, you will pull directly into the high-speed travel lane. The safety of the traffic moving on and off of Capitol will be greatly sacrificed.

P10-3

To make room for light rail, existing lanes on Capitol will be made narrower, slowing traffic and further sacrificing motorist safety. Unfortunately, unless lanes are removed, Capitol will have to get wider overall, making it more difficult for pedestrians (especially children and seniors) to cross. East of Rt. 101, existing commuter lanes will be removed to make room for light rail.

P10-4

Noise - Light rail and the need to move traffic lanes closer to our back fences will increase noise. There are no mitigation plans to help offset this impact.

P10-5

Losing Your Land - To make room for light rail, many neighbors along Capitol will lose part of their backyards. In fact, one backyard may be sacrificed

P10-6

completely to make room for a planned light rail power substation.

P10-6  
cont.

The park-n-ride lot on the north side Capitol at Narvaez may become a storage facility for trains.

P10-7

Hundreds of millions of tax dollars will be spent to result in worsened traffic congestion, worsened public safety, more noise, and a very small number of potential light rail transit riders.

P10-8

John & Donna Marks, 443 Thames Park Ct., San Jose, CA 95136

# **Letter P10, John Marks, June 23, 2004**

## **Response to Comment P10-1**

VTA acknowledges that removing the existing HOV lanes and constructing the Light Rail Alternative would result in significant traffic impacts at some intersections, as documented in Volume I, Chapter 4, Section 4.2. Delay at most intersections would be less than under the No-Project Alternative. However, it should be noted that travel time along Capitol Expressway on light rail would generally be less than the current automobile travel time during peak commute periods, as shown in Table 4.2-14.

The Capitol Expressway/Narvaez Avenue intersection currently operates at LOS C in the AM peak hour and LOS D in the PM peak hour. The intersection would operate at LOS D during both peak hours with the Light Rail Alternative in 2010 and 2025. Because the DTEV PAB deferred project-level decisions on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87, improvements to this intersection would be beyond the limits of the Recommended Light Rail Alternative.

Substantial diversion of traffic onto residential streets is not anticipated because of the relatively small increases in travel time with the Light Rail Alternative, as noted in Table 4.2-14. Because traffic that switches to other corridors with more closely spaced signalized intersections would experience longer travel times than remaining on the expressway, a shift of traffic is not anticipated to occur as a result of the Light Rail Alternative.

## **Response to Comment P10-2**

VTA acknowledges that the plans for the Light Rail Alternative did not include improvements that may have been promised by others to mitigate the impact of potential development along Capitol Expressway. It is VTA's understanding that these improvements have not yet been required as mitigation for other specific development projects. When VTA further develops its plans for transit service between Nieman Boulevard and SR 87, it will evaluate the need to redesign these intersections to accommodate the proposed improvements.

## **Response to Comment P10-3**

During Conceptual Engineering, the City and County agreed to a roadway cross section for Capitol Expressway that included 17-foot-wide outside lanes that would increase to 18 feet in advance of intersections. The acceleration lanes would be 17 feet wide, and deceleration lanes would be 18 feet wide. Narrowing landscape areas and acquiring additional right-of-way would be necessary to provide the 12 feet required for an exclusive acceleration or deceleration lane. When VTA further develops the alternatives for transit service between Nieman



Boulevard and SR 87, it will review options for maintaining the acceleration and deceleration lanes. It is not anticipated that the modifications to the outside lanes, as proposed, would compromise motorist safety.

## **Response to Comment P10-4**

To accommodate the Light Rail Alternative, the City and County agreed to modify the cross section of Capitol Expressway by reducing lane widths and removing exclusive acceleration and deceleration lanes. These modifications would not jeopardize safety at posted speed limits. VTA acknowledges that these modifications would lower automobile speeds, which is consistent with the vision of Capitol Expressway as a multi-modal boulevard that is accessible to cars, light rail, bicycles, and pedestrians.

The Light Rail Alternative would widen Capitol Expressway in limited areas by a few feet. It would also improve pedestrian facilities along and across the expressway. Currently, there are no pedestrian facilities along most of the corridor. The Light Rail Alternative would construct pedestrian overcrossings, pedestrian refuge areas with pedestrian-activated push buttons to activate traffic signals, and pedestrian countdown signals. High-speed right-turn movements would be eliminated. A pedestrian path would be constructed on at least one side of the corridor. These improvements would increase safety for pedestrians.

VTA acknowledges that the Recommended Light Rail Alternative will remove HOV lanes between Capitol Avenue and Nieman Boulevard. There would be no effect on the HOV lanes between Nieman Boulevard and U.S. 101.

## **Response to Comment P10-5**

The noise impact assessment was conducted using noise criteria developed by FTA. The assessment procedures met with both NEPA and CEQA guidelines for assessing noise impact from transit operations. The FTA criteria are based on the existing noise levels and take into account changes in noise levels due to the introduction of the project. Volume I, Chapter 4, Section 4.14 evaluated the changes in the noise environment in accordance with the criteria. Mitigation for noise impacts was identified for the South of Eastridge Transit Center Side-Running/At-Grade/Aerial Option. However, this option was not selected and is not part of the Recommended Light Rail Alternative (see Volume II, Chapter 2). Therefore, the Recommended Light Rail Alternative does not require noise mitigation, and soundwalls are not included as part of the project.

Based on the engineering drawings in Volume III, Appendix A, the Light Rail Alternative that extends to SR 87 (not recommended by the DTEV PAB) would not move the traffic lanes substantially closer to residences between U.S. 101 and SR 87 such that there would be a significant increase in noise levels.

## **Response to Comment P10-6**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87. As a result, no right-of-way would be required from the back yards in this area.

## **Response to Comment P10-7**

A portion of the park-and-ride lot at the Capitol Station (State Route 87) was identified as an optional location for a light rail storage facility. However, the DTEV PAB deferred project-level decisions on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 at its meeting on August 5, 2004. As a result, any plans to construct a storage facility at the Capitol Station (State Route 87) have been deferred.

## **Response to Comment P10-8**

While the EIS/EIR disclosed that the Recommended Light Rail Alternative would increase delay at some intersections and increase noise levels at some locations, no significant and unavoidable impacts were identified except for traffic impacts at the intersections of Capitol Expressway with Story Road and Ocala Avenue in 2010 and 2025 (see Volume I, Chapter 4, Section 4.2). In addition, impacts to public safety were evaluated, but no adverse effects were found because of the inclusion of safety devices and design features in the project (see Volume I, Chapter 4, Section 4.15).

The comments regarding the cost of the Light Rail Alternative, its effect on the environment, and its estimated ridership have been noted for the record and will be considered by VTA Board of Directors when it decides whether to approve the project.

**Hurley, Kim**

**From:** Minh Nguyen [jnguyen69@sbcglobal.net]  
**Sent:** Thursday, June 24, 2004 3:20 AM  
**To:** capitol\_expressway.DEIS-DEIRcomments@vta.org; ron.gonzales@sanjoseca.gov; pat.dando@sanjoseca.gov; don.gage@bos.co.santa-clara.ca.us  
**Cc:** jnguyen69@sbcglobal.net  
**Subject:** Capitol Expressway Corridor: Letter of Concerns

Dear Mr. Fitzwater, Mayor Gonzales, Vice Mayor Dando, and Supervisor Gage:

We, Minh (James) and Thao Nguyen as the residents of the 516 Lanfair Circle property in San Jose, CA, are writing to you to express our deep concerns regarding the Capitol Expressway Corridor (Light Rail) project impacting our property and our daily lives. We would very much like to urge you all to review our reasons below carefully and take them into consideration toward your final decision.

1. According to the information that we have received from two members of the VEP Community Association, approximately 6,420 sq-ft of our property have been proposed toward an acquisition. Well, when seeing the information, we were very upset as well as extremely disappointed because nobody from the VTA Environmental Planning Department had contacted us or informed us via any means about such as plan. The proposed plan would affect almost half of the property and our lives directly, but nobody would care to inform us. Could someone please explain why? P11-1
2. We'd like to urge you not to acquire that piece of our land because we have already had a family plan to use it in the near future. P11-2
3. Most important of all, we strongly oppose to see a power plant built behind or close to our property because of a possible cause of cancer over time due to electric field or radiation. It is very risky and hazardous to our health, not yet to mention in details about a depreciation of our property's value. P11-3

We would very much appreciate if someone in your departments could contact us and provide us with more detailed information or explanation. My contact information are:

Cell: 408-888-3212  
 Home: 408-723-5356  
 Work: 408-777-5243  
 Email: [jnguyen69@sbcglobal.net](mailto:jnguyen69@sbcglobal.net)

Best regards,  
 Minh (James) & Thao Nguyen

# **Letter P11, Minh Nguyen, June 24, 2004**

## **Response to Comment P11-1**

Because VTA advertises the availability of the Draft EIS/EIR in the newspapers and through direct mail, VTA does not typically provide special notification to property owners from whom right-of-way may be required to construct the project. Refer to Response to Comment P7-6 regarding the outreach conducted to inform the public. Upon the request of the DTEV PAB, a letter dated June 16, 2004, was sent to residential property owners who may be affected by full acquisition of their property. Because only a portion of the commenter's property would be required for the project, a copy of the letter was not sent to the commenter.

It should be noted that the DTEV PAB deferred project-level decisions on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 at its meeting on August 5, 2004. As a result, VTA is not proposing to locate a substation on a portion of the property located at 516 Lanfair Circle at this time.

## **Response to Comment P11-2**

VTA acknowledges the request not to acquire a portion of the property at 516 Lanfair Circle. As stated above, all project-level decisions between Nieman Boulevard and SR 87 have been deferred, and there are no plans to acquire a portion of the commenter's property for a substation at this time.

## **Response to Comment P11-3**

Volume I, Chapter 4, Section 4.7 describes the environmental setting and effects of the alternatives analyzed with regard to electromagnetic fields. Under the Light Rail Alternative, the greatest potential for exposure to increased magnetic fields would be within the light rail vehicles and at the proposed stations, where passengers and train operators would be exposed. Other VTA staff, such as maintenance and security personnel, would also be exposed. The magnitude of the increased magnetic fields would vary considerably by location and from minute to minute. The magnetic fields would fluctuate substantially, depending on factors such as train length, train mode (acceleration, deceleration, or idle), number of trains, and number of passengers at any given time. The strength of the magnetic field would also vary relative to an individual's proximity to the system.

Strong magnetic fields are not associated with the normal environment and the operation of light rail vehicles. The dominant source of magnetic field generation is the traction power and the control equipment under the vehicle's floor (Federal Railroad Administration 1993). The measurements of average magnetic fields for overhead-powered rail vehicles have ranged from 400

milligauss (mG) at head level to 1,500 mG at floor level. The actual field measurements inside existing light rail cars during peak commute periods in 1999 indicate that typical magnetic field levels are approximately 50% less than the American Conference of Governmental Industrial Hygienists' 5,000-mG threshold. No substantial adverse effects would result.

Regarding the depreciation of property values, no depreciation is anticipated because all project-level decisions between Nieman Boulevard and SR 87 have been deferred, and there are no plans to acquire a portion of the property located at 516 Lanfair Circle for a substation at this time.

**Hurley, Kim**

---

**From:** Al Leitch [opcodeac@hotmail.com]  
**Sent:** Saturday, June 26, 2004 8:43 AM  
**To:** Capitol\_Expressway.DEIS-DEIRcomments@vta.org  
**Subject:** My comment on the DTEV extension

Al Leitch  
 Campbell, CA 95008

Mr. Tom Fitzwater  
 Environmental Planning Manager  
 VTA – Environmental Planning Department  
 3331 North First Street  
 Building B

To Mr. Tom Fitzwater:

I have read the EIS/EIR report and I have attended the May 27th public meeting. A strong matter of concern pertains to a major stated goal: create an attractive alternative to automobile use. Unfortunately, I have doubt that this goal will be fulfilled. We reside in a valley which relies heavily on cars. In fact, I have read that public transit usage is around 3%. Due to these facts, this light rail line is not likely to pull many people from their cars. The convenience of operating on one's own schedule (as opposed to a mass transit schedule), freedom to go anywhere and even a sense of ego attached to the car would outweigh the option of using public transportation. Furthermore, the businesses, schools, residences and other land uses along Capitol Expressway are not the only destinations for expressway users. Many people like to use the expressway as a fast shortcut to reach destinations that fan out from this major artery. This light rail line will not account for these people.

P12-1

Transportation planning needs to shift its focus from pulling people out of their cars to keeping the existing transit-using population happy enough that they feel less motivated to obtain cars. Once a person acquires a car, it will be highly difficult to sway the person away from it. This goal can be accomplished by designing transportation that brings people from their residences to their jobs and major attractions in a quick and efficient manner. A good measure of the level of ridership a particular light rail line will gain would be the bus ridership. If the bus ridership through a particular corridor isn't high, the future light rail ridership is not likely to fare much better. Last of all, since this project involves high expense and acquiring certain residential and business portions of land, the justification for this project needs to be extraordinarily high.

P12-2

Thank you for your attention to this matter. I will be looking forward to an upcoming response.

P12-3

Yours truly,  
 Al Leitch

Interested Citizen

---

Make the most of your family vacation with tips from the MSN Family Travel Guide! <http://dollar.msn.com>

# **Letter P12, Al Leitch, June 26, 2004**

## **Response to Comment P12-1**

VTA notes the concern that the goal to create an attractive alternative to the automobile will not be fulfilled. Volume I, Chapter 4, Section 4.2, Table 4.2-11 provides ridership projections. These projections are computed using the Santa Clara County CMP Travel Demand Model, based on specific assumptions regarding the roadway and transit network. The Light Rail Alternative will provide an alternative mode of travel, and by 2025 approximately 3,200 boardings are projected with the extension to the Eastridge Transit Center and 11,100 boardings with the extension to SR 87.

## **Response to Comment P12-2**

The comments regarding transportation planning are noted for the record. The VTA Board of Directors evaluated 17 alternatives for the Capitol Expressway Corridor in an MIS, using six broad criteria involving 12 performance measures. The criteria included mobility improvements, equity issues, capital and operating expenditures, cost effectiveness, transit oriented land use, and environmental concerns. After extensive technical review and public outreach, the VTA Board of Directors selected a Downtown East Valley Preferred Investment Strategy on August 3, 2000, which included alternatives to extend light rail on Capitol Expressway to the Guadalupe LRT Line.

## **Response to Comment P12-3**

On November 7, 2000, Santa Clara County voters approved a 30-year 0.5-cent sales tax for transit purposes. The sales tax measure specified the allocation of funds to various projects, including Downtown East Valley. The Downtown East Valley Preferred Investment Strategy includes three separate corridors: Santa Clara/Alum Rock, Capitol Expressway, and BRT on Monterey Highway. The VTA Board of Directors selected the Light Rail Alternative as the Locally Preferred Alternative on August 3, 2000. Also refer to Response to Comment P12-2 regarding the MIS, as well as Volume I, Chapter 3, Section 3.5.



**Hurley, Kim**

**From:** Pierre.Feghali@WaukeshaElectric.spx.com  
**Sent:** Monday, June 28, 2004 12:04 AM  
**To:** capitol\_expressway.DEIS-DEIRcomments@vta.org  
**Cc:** pat.dando@sanjoseca.gov; ron.gonzales@sanjoseca.gov; don.gage@bos.co.santa-clara.ca.us  
**Subject:** Capitol Expressway Light rail

Ladies and Gentlemen:

I live at 3961 Hastings park court. My back yard backs up against Capitol Expressway. I have recently spent \$40,000 to beautify my backyard. I recently became aware that the VTA is thinking on adding light rail in the middle of Capitol expressway. I am trying to understand WHY!!!!

P13-1

I understand that the reasons could be as follows:

1. Ridership: Have you ever watched the light rail trains? Have you ever seen how many people are on the trains? Do we really want to spend hundreds of Millions of Dollars to have 1 out every 20 seats have a person in it?

2. Traffic: It takes me about 10 minutes to go from 87 to Vista park in rush hour (Less than a mile). I cannot imagine what would happen if we took lanes away to put the light rail in the middle of Capitol. I would think that safety would have to be compromised with all that is on capitol currently in stores and all. You add another dimensions, Light rail, the number of potential accidents would be unimaginable.

P13-2

The other two issues for me would be:

a. Noise: The noise right now is unacceptable. With a train in my backyard, it would be very difficult to sleep and enjoy life. My family's quality of life would definitely be compromised. Have you done a study of the noise and vibration levels and how this affects kids?

P13-3

b. Taking land away: I have spent a lot of money making my backyard what it is today. It would be devastating to my kids to lose part of the backyard that we all enjoy today.

P13-4

In conclusion, I urge everyone of you to think about the people that live in this area. It may be politically the right thing to do, however this will be a waste of money and resources. The result will be very few people riding on the train, gridlock traffic, unsafe roads, noisy homes and a lower quality of life for all of us.

P13-5

I voted for all of you, please do not make me regret it. Thanks.

Pierre Feghali, PE  
 Field Service Manager, Western Region

1200 Piper Dr  
 Milpitas, CA 95035

(408) 209 5514 Cell  
 (408) 957 8305 Fax  
 Email: Pierre.Feghali@waukeshaelectric.spx.com

The information contained in this electronic mail transmission is intended by SPX Corporation for the use of the

named individual or entity to which it is directed and may contain information that is confidential or privileged. If you have received this electronic mail transmission in error, please delete it from your system without copying or forwarding it, and notify the sender of the error by reply email or call the SPX Help Desk at 215-293-2811 so that the sender's address records can be corrected.

# **Letter P13, Pierre Feghali, June 28, 2004**

## **Response to Comment P13-1**

VTA notes the comments regarding ridership. Volume I, Chapter 4, Section 4.2, Table 4.2-11 provides the ridership projections. By 2025, the Eastridge Transit Center is projected to carry 3,205 passengers. The extension to SR 87 is projected to carry 11,075 passengers.

## **Response to Comment P13-2**

At its meeting on August 5, 2004, the DTEV PAB deferred all project-level decisions between Nieman Boulevard and SR 87. As a result, VTA is not proposing to extend light rail to Vistapark Drive at this time. However, it should be noted that Volume I, Chapter 4, Section 4.2 did evaluate the traffic impacts of the Light Rail Alternative between Vistapark Drive and SR 87. In 2010 and 2025, delay was estimated to increase under both the No-Project and Light Rail Alternatives, although the delay under the Light Rail Alternative was slightly less than under the No-Project Alternative. It should also be noted that VTA was not proposing to remove any lanes between U.S. 101 and SR 87 except for exclusive acceleration and deceleration lanes.

With respect to safety, as stated in Mitigation Measure SS-3, the Light Rail Alternative would be designed according to applicable CPUC regulations, which has jurisdiction over light rail crossings. All at-grade light rail crossings would be controlled by traffic signals. Light rail operators would also have signals that notify them when they can proceed through an intersection. Additional active and passive signing would be installed to warn motorists of the presence of light rail tracks and vehicles. Finally, the right-of-way between intersections would be fenced. These project features would minimize the significance of any safety impacts from the operation of the Light Rail Alternative.

## **Response to Comment P13-3**

The noise impact assessment was conducted using noise criteria developed by FTA. The assessment procedures met with both NEPA and CEQA guidelines for assessing noise impact from transit operations. The FTA criteria are based on the existing noise levels and take into account changes in noise levels due to the introduction of the project. Volume I, Chapter 4, Section 4.14 quantifies the changes in the noise environment in accordance with the criteria established by FTA. Mitigation for noise impacts was identified for the South of Eastridge Transit Center Side-Running/At-Grade/Aerial Option. However, this option was not selected and is not part of the Recommended Light Rail Alternative (see Volume II, Chapter 2). Therefore, the Recommended Light Rail Alternative does not require noise mitigation, and soundwalls are not included.

VTA and its noise consultants are not aware of any studies or research suggesting that children respond to noise and vibration differently than adults.

### **Response to Comment P13-4**

As noted in the Response to Comment P13-2, the DTEV PAB deferred all project-level decisions between Nieman Boulevard and SR 87. As a result, no right-of-way would be required in this segment at this time.

### **Response to Comment P13-5**

Refer to Response to Comment P13-2 regarding the Recommended Light Rail Alternative. The EIS/EIR evaluated impacts to transportation, safety and security, and noise. While significant and unavoidable traffic impacts were identified at the intersections of Capitol Expressway with Story Road and Ocala Avenue under the Recommended Light Rail Alternative between Alum Rock Avenue and Nieman Boulevard, no thresholds of significance were exceeded for noise or for safety and security. Volume II, Chapter 2 discusses the project costs for the Recommended Light Rail Alternative to Nieman Boulevard.

**Hurley, Kim**

**From:** David Fadness [drfadness@earthlink.net]  
**Sent:** Monday, June 28, 2004 2:37 PM  
**To:** capitol\_expressway.deis-deircomments@vta.org  
**Subject:** Capitol LRT DEIS  
**Importance:** High

Tom Fitzwater:

My comments on the Capitol LRT DEIS are attached herewith and shown below.

Dave Fadness  
 (408) 578-6428

\*\*\*\*

28 June 2004

VTA Environmental Planning Department  
 3331 North First Street, Suite B  
 San Jose, CA 95134-1927

Attn: Tom Fitzwater, Environmental Planning Manager

Subject: Capitol Expressway Corridor Draft Environmental Document

Ladies & Gentlemen:

Please explain why VTA is considering this very expensive project that will make traffic WORSE than if we did nothing. Your own DEIS shows that building light rail transit (LRT) in the Capitol Expressway median, from Alum Rock Avenue to Route 87, will:

- Increase future traffic congestion, resulting in more intersections to fall below LOS E and F in 2010 and 2025 than if we did nothing, violating your own and adjacent jurisdiction's minimums;
- Not fix existing gridlocked LOS E and F intersections as required in our CMP;
- Cost more than \$700-million to build;
- Yield low transit ridership;
- Threaten an already desperate, near-bankruptcy fiscal situation at VTA;
- Encourage high-density growth that will likely make matters much worse than is projected in your DEIS.

P14-1

Why is doing this project worse than doing nothing? To make room for LRT, VTA will have to

- Remove our county's most successful commuter lanes, removing a significant incentive for most existing ride-sharers and increasing congestion on Capitol and parallel city streets;
- Narrow existing expressway lanes, making them less safe and slowing traffic;
- Remove merging lanes, making turning movements far less safe;
- Take land from businesses and back yards.

P14-2

Also, please explain how government agencies that can never afford to maintain (or even remove weeds from) the sparse landscaping along existing rights-of-way will be able to afford the luxuriant tree-lined boulevard promised as part of your LRT plan in this DEIS. I am quite familiar with the perennial crises in local transportation budgets. And, as a volunteer who spends many hours each year with other ordinary citizens having to maintain city, county, and VTA landscaping, I find this promise very difficult to believe. My challenge to you would be to establish credibility *first* by showing us that you can do adequate landscape maintenance, then come back to us in a few years with your exquisitely landscaped LRT proposal.

P14-3

After studying Volumes 1 and 2 of your DEIS, I am convinced by your own numbers that we'll be much better off doing nothing than we will be if this project is built. Let's go back to the drawing board and find a way to do this project so that it will produce a cost-effective benefit to all residents of Santa Clara County. I am eager for your reply.

Thank you,

David Fadness  
445 Stratford Park Court  
San Jose, CA 95136  
(408) 578-6428

# Letter P14, David Fadness, June 28, 2004

## Response to Comment P14-1

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy *have* been further developed and approved.

VTA acknowledges that the EIS/EIR identified significant and unavoidable traffic impacts at two intersections for the Recommended Light Rail Alternative between Alum Rock Station and Nieman Boulevard. At all other intersections where the significance criteria, based on Congestion Management Program (CMP) standards, would be exceeded, mitigation measures are proposed that would minimize the impacts.

Implementation of the Light Rail Alternative would not improve intersections that currently operate at LOS E or F but would not be subject to significant impacts from the project. The CMP does not require a project to correct deficiencies where there is no nexus between a proposed project and the deficiency. Also, the County Expressway Implementation Summary (August 2003) states "Capitol Expressway may have LOS E and F segments east of U.S. 101." (Santa Clara County Roads and Airports Department 2003).

Regarding the cost of the project, VTA acknowledges that the Draft EIS/EIR states that the Light Rail Alternative would cost \$700 million to construct. It should be noted that the DTEV PAB has approved Phases 1A and 1B of the Light Rail Alternative between Alum Rock Station and Nieman Boulevard, only. Phase 2, which has been deferred, has been estimated at approximately \$430 million to construct.

Regarding ridership, it has been estimated that the Recommended Light Rail Alternative between Alum Rock Station and Nieman Boulevard would have an average daily ridership of 3,640.

Volume I, Chapter 7 accurately portrays the need to identify new potential sources of local revenue dedicated to VTA. Volume II, Chapter 2 accurately represents the funding situation for the Recommended Light Rail Alternative.

The technical analysis in the EIS/EIR is based on land use plans provided by local jurisdictions. In the San Jose 2020 General Plan, the City has designated Capitol Expressway as a Transit-Oriented Development Corridor, which is generally considered suitable for higher-density residential uses, more-intensive non-residential uses, and mixed uses. The City has indicated that "intensification along this corridor will occur as sufficient transportation system capacity can be identified consistent with the City Transportation Level Of Service Policy."

## Response to Comment P14-2

The Recommended Light Rail Alternative would remove HOV lanes between Capitol Avenue and Nieman Boulevard. The removal of the HOV lanes is anticipated to reduce the incentive to carpool and to increase delay at some intersections. However, these impacts would not exceed significance thresholds except for the significant and unavoidable traffic impacts identified at the intersections of Capitol Expressway with Story Road and with Ocala Avenue.

Based on discussions with the City and County, VTA is proposing to modify the roadway cross section for Capitol Expressway so that lanes would be narrower. Narrower lanes would slow prevailing speeds, but would not compromise safety at posted speed limits. Slower speeds are consistent with the vision for Capitol Expressway as a multi-modal boulevard that supports shared use by automobiles, light rail, bicycles, and pedestrians.

Exclusive acceleration and deceleration lanes would be removed and replaced with 17-foot-wide outside lanes that would increase to 18 feet in advance of intersections. This modification should allow the shared use of the outside lane for through and right-turn movements.

Volume I, Chapter 4, Section 4.16 identifies the right-of-way that would be required from residences and businesses to construct the Light Rail Alternative. Any acquisitions would comply with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970, as noted in Mitigation Measure SOC-16a.

## Response to Comment P14-3

VTA has a regular program for maintaining the landscaping at its facilities. VTA would enter into an Operating and Maintenance Cost Agreement with the future owner of Capitol Expressway that defines maintenance responsibility for all facilities, including landscaping, installed by the project.

Landscaping has been a major component of each of VTA's light rail projects. For the Capitol Avenue LRT Line, VTA installed approximately 1,000 trees as well as vines and shrubs in the light rail median, at stations, at the Penitencia Creek park-and-ride lot, and along Capitol Avenue. As shown in Volume III, Appendix A, landscaping would be included along most sections of the Capitol Expressway Corridor.

VTA has a regular program for maintaining the landscaping at its facilities. VTA would enter into an Operating and Maintenance Cost Agreement with the owner of Capitol Expressway that defines maintenance responsibility for all facilities, including landscaping, installed by the project.

Landscaping has been a major component of each of VTA's light rail projects. On the Capitol Avenue Light Rail Project, VTA installed approximately 1000 trees in addition to vines and shrubs in the light rail median, at stations, at the Penitencia Creek Park-and-Ride Lot, and along Capitol Avenue. As shown in



Volume III, Appendix A Light Rail Alternative Alignment, landscaping would be included along most sections of the Capitol Expressway Corridor.

Typically, landscaping is installed after the completion of civil construction in order to minimize damage to plantings and irrigation systems, and increase the rate of survival. As a result, VTA would not be able to install and maintain landscaping at least five years before considering the Light Rail Alternative as requested in this comment.

June 28, 2004

VTA Environmental Planning Department  
3331 N. First Street Bldg. B  
San Jose CA 95134-1927

via fax 321-5787

RE: LRT on Capitol

Dear Sirs:

I understand why you want to look at running LRT on Capitol but hope you will come to the same conclusion I did , it makes no sense.

There is no "draw" to run high-capacity LRT between two areas of the city that don't need it. As you can see from a drive on Capitol the cars usually carry more than one driver-- it is not a commute route- which LRT is better for.

P15-1

The roadway doesn't have capacity to handle the trains and safe merge lanes.

P15-2

I fear the real reason the issue of running LRT on Capitol has come up is to get zoning pumped up on the vacant lots to increase the real estate values and jam even more housing in an area that has already had huge increases in cluster housing. And the jobs didn't follow.

VTA  
ENV. ANALYSIS  
JUN 28 4:30 PM '04

P15-3

I don't think we need LRT on Capitol and we don't need the high-rise cluster housing that will follow. That will just strain our streets, libraries and schools even more. And LRT on Capitol doesn't answer any existing need, it just makes things worse.

Please spend our tax dollars on projects that make sense.

P15-4

Thank you.  
Very truly yours

L. Bertao  
P.O. Box 53755  
San Jose CA 95153-0755

c.c Vice Mayor Dando fax 271-9807  
Spvr. Gage 295-6993  
Mayor Gonzales 277-3868

## **Letter P15, L. Bertao, June 28, 2004**

### **Response to Comment P15-1**

The purpose of the project is described in Volume I, Chapter 2, Section 2.3.2 as improving public transit service, making transit an attractive alternative to automobile travel, enhancing regional connectivity, improving regional air quality, improving mobility options, and supporting local economic and land development goals. The Light Rail Alternative achieves all of these purposes. The EIS/EIR includes projections of ridership, which can be found in Volume I, Chapter 4, Section 4.2, Table 4.2-11. It should also be noted that the Light Rail Alternative would provide access to major employment centers in downtown San Jose, Milpitas, north San Jose, Santa Clara, Sunnyvale, and Mountain View through its connection to the Capitol Avenue and Tasman LRT Lines.

### **Response to Comment P15-2**

To accommodate the Light Rail Alternative, exclusive right-turn and merge lanes would be removed. However, in discussions with the City and County, it was agreed that these exclusive right-turn and merge lanes could be replaced by a 17-foot-wide outside lane that would increase to 18 feet in advance of intersections. Such a modification would facilitate the shared use of the lane for through and turning movements and provide for a safe merge.

### **Response to Comment P15-3**

The city has designated Capitol Expressway a Transit-Oriented Development Corridor in anticipation that light rail would be constructed. While these corridors are generally considered suitable for higher-density residential uses, more-intensive nonresidential uses, and mixed uses, the City has indicated that “intensification along this corridor will occur as sufficient transportation system capacity can be identified consistent with the City Transportation Level Of Service Policy.” The city’s land use plans for Capitol Expressway have been considered in the technical analysis for the EIS/EIR. Also refer to Response to Comment P15-1 regarding the purpose of the project.

Volume I, Chapter 4, Section 4.5 evaluates the impact of the Light Rail Alternative on schools and libraries. Because the Light Rail Alternative is not anticipated to induce substantial population growth beyond the planned growth levels in the San Jose 2020 General Plan, no significant impact was identified.

## **Response to Comment P15-4**

Refer to Response to Comment P15-1 regarding the purpose of the project. The comment will also be referred to the decision makers for their consideration.

June 24, 2004

VTA Environmental Planning Department  
 3331 North First Street, Bldg B  
 San Jose, CA 95134

Re: Plan to Run Light-Rail Transit Down Median  
 of Capital Expressway, Alum Rock to Route 87

Please record & consider my comments that I am "against"  
 this Light-Rail Extension for the following reasons:

1. The high cost of tax dollars that will be used for very little benefit of the majority of people in the area. This line would not be widely used like + those who might use this line, would have other lines + transportation available to them
  2. Safety Hazard by removing lanes from intersections + shopping centers. The removal of merging lanes is a major safety hazard which is likely to cause injury or deaths. Safety should not be sacrificed for a poorly ~~planned~~ planned + not needed light rail system.
  3. Added Traffic Gridlock + Congestion.
  4. Increase in neighborhood noise levels.
  5. Loss of land to backyards along Capital Expressway.
- If more information is needed, please contact me on 408-224-6512.

Taxpayer Mary Rodarte  
 530 Hyde Park Drive  
 San Jose, CA 95136

Copy to: Vice Mayor Pat Dando, City of San Jose  
 Mayor Ron Gonzales, City of San Jose  
 Supervisor Don Gage, County of Santa Clara

ENV. ANALYSIS  
 VTA  
 JUN 29 2004

## **Letter P16, Mary Rodaite, June 24, 2004**

### **Response to Comment P16-1**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy *have* been further developed and approved.

The purpose of the project is described in Volume I, Section 2.3.2 Purpose as improving public transit service, making transit an attractive alternative to automobile travel, enhancing regional connectivity, improving regional air quality, improve mobility options and support local economic and land development goals. The Recommended Light Rail Alternative achieves all of these purposes. The EIS/EIR includes projections of ridership, which can be found in Volume I, Table 4.2-11, Total Tasman/Capitol Avenue/Capitol Expressway Light Rail Transit Line Ridership. It should also be noted that the Light Rail Alternative would provide access to major employment centers in downtown San Jose, Milpitas, north San Jose, Santa Clara, Sunnyvale, and Mountain View through its connection to the Capitol Avenue and Tasman LRT Lines.

### **Response to Comment P16-2**

To accommodate the Light Rail Alternative, exclusive acceleration and deceleration lanes would be removed. In discussions with the City and County, it was agreed that these merging lanes could be replaced by a 17-foot-wide outside lane that would increase to 18 feet in advance of intersections. Such a modification would facilitate the shared use of the lane for through and turning movements. While these modifications would slow high-speed turning movements, they would not be a safety hazard. To the contrary, they would improve pedestrian and bicycle conditions by requiring automobiles to stop on a red light before proceeding.

### **Response to Comment P16-3**

The EIS/EIR states that delays at some intersections would increase and that there would be significant and unavoidable traffic impacts at two intersections with the Recommended Light Rail Alternative between the Alum Rock Station and Nieman Boulevard. At all other intersections where the significance criteria would be exceeded, mitigation measures are proposed that would reduce the impacts to acceptable levels.

## **Response to Comment P16-4**

Volume I, Chapter 4, Section 4.14 evaluated the changes in the noise environment in accordance with the criteria established by FTA. Mitigation for noise impacts was identified for the South of Eastridge Transit Center Side-Running/At-Grade/Aerial Option. However, this option was not selected and is not part of the Recommended Light Rail Alternative (see Volume II, Chapter 2). Therefore, the Recommended Light Rail Alternative does not require noise mitigation, and soundwalls are not included as part of the alternative.

## **Response to Comment P16-5**

As noted in the Response to Comment P16-1, the DTEV PAB has deferred all project-level decisions on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87. As a result, no right-of-way would be acquired in the Phase 2 at this time. Volume I, Chapter 4, Section 4.16, Table 4.16-4 identifies the properties and portions of properties to be acquired. Mitigation Measure SOC-16a states that VTA will comply with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 regarding any acquisitions.

Steve Romero Jr.  
3151 Senter Rd.  
San Jose Ca. 95111  
408 225-9500

To Whom It May Concern,

I am the business owner of the Chevron Service Station on the south-west corner of Capitol Expressway and Senter Road. We are located in the Locke neighborhood at 3151 Senter Rd. We are concerned with the Light Rail Project's partial ten foot acquisition of our border facing Capitol Expressway. We would be severely impacted if any of the following would happen: The relocation of our fuel pump islands near Capitol Expressway or the downsizing of the present fueling area limiting customer's access. We have only four fueling islands and need all present space to fully utilize each one. The closure of either driveway facing Capitol Expressway would impact us since we have lost a driveway facing Senter Road due to our 1995 environmental upgrades. This would impact not only our customers fueling and the station's economics but our ability to refill our fuel storage tanks. The modification or removal of our existing hallmark price sign which is in the ten foot partial acquisition zone could hinder our legal requirement of price posting. Thank you for allowing me this opportunity to share my concerns.

P17-1

Respectfully,

Steve Romero Jr



## **Letter P17, Steve Romero, Jr., June 24, 2004**

### **Response to Comment P17-1**

At its meeting on August 5, 2004, the DTEV PAB deferred all project-level decisions between Nieman Boulevard and SR 87. As a result, the Recommended Light Rail Alternative would not require acquisition of property at the Chevron service station on the southwest corner of the Capitol Expressway/Senter Road intersection.

Ryland Horizons Homeowners Association  
Santiago of San Jose Homeowners Association

C/o Commoncents Management  
5126 Stevens Creek Boulevard, Box 11  
San Jose, CA 95129  
Tel (408) 261-7155 Email: Ccentsmgt@aol.com

VTA  
RECEIVED

2004 JUN 28 P 3:20

BOARD SECRETARY

June 28, 2004

Environmental Services  
Santa Clara Valley Transportation Authority  
3331 North First Street, Lobby, Building B  
San Jose, CA 95134

Supervisor Pete McHugh  
Santa Clara County Board of Supervisors  
70 West Hedding Street, 10<sup>th</sup> Floor  
San Jose, CA 95110

Re: Comment Forms for VTA Light Rail Extension

Dear VTA and Supervisor McHugh:

Enclosed are comment forms from our homeowners at Ryland Horizons Homeowners Association and Santiago of San Jose Homeowners Association—both located at the corner of Nieman and Capitol Expressway. Together, the two Associations equal 90 homes with assessed values for property taxes totaling \$63 million.

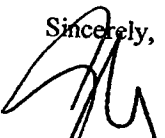
Enclosed are the comment forms from homeowners at both complexes. We only learned of the comment period about 15 days ago, so most of our homeowners did not have sufficient time to respond within the comment period. However, the enclosed forms and comments are testimony of the homeowners desire that the VTA find another location for this station.

The Boards of both Ryland Horizons Homeowners Association and Santiago of San Jose Homeowners Association wish to request the VTA and Board of Supervisors serious reconsideration to the placement of a light rail station at Nieman and Capitol Expressway. We have been in contact with the Boards of Whisman Station in Mountain View, and are very aware of the real-life problems created by the presence of a working light rail station near housing developments. In the case of Whisman Station in Mountain View, the homes near the light rail station have declined appreciably in value due to the noise and traffic issues created by the light rail station. The largest asset owned by the people at Ryland Horizons and Santiago of San Jose is the homes they currently occupy—most of the owners purchased at the height of the housing market, and would lose a significant investment if the homes were devalued by the presence of a light rail station just 100 feet from their homes.

Please relocate the Nieman station or remove it from the line. The station located at Eastridge Shopping Center will more than provide adequate coverage for the residents in the area.

If you have any questions about the enclosed, please feel free to contact me. Also, we would very much appreciate being informed of VTA or County hearings regarding the light rail line in our area in the future.

Sincerely,



Grace H. Morioka  
For Santiago of San Jose Homeowners Association  
And Ryland Horizons Homeowners Association

P18-1

P18-2

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26, 2004  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:20

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: KEVIN M. TRIEU

Signature: Kevin M. Trieu

Ryland  
Address: 2195 PETTIGREW DRIVE, SAN JOSE, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM  
(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

VTA  
RECEIVED  
2004 JUN 28 P 3:20

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

BOARD SECRETARY

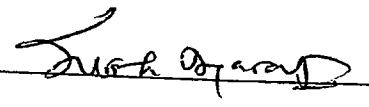
I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: SURESH V. RANGARAJAN

Signature: 

Address: 3047 CALLE DE LAS FLORES SAN JOSE CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:20

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: NHA SWARTHOUT

Signature: Nha Swarthout

Address: 3026 CALLE DE LAS FLORES SAN JOSE, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

VTA  
RECEIVED

2004 JUN 28 P 3:20

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: Joyce E. Refugio Signature: Joyce E. Refugio  
Ryland Address: 2196 Pettigrew dr. San Jose Ca. 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

VTA  
RECEIVED

2004 JUN 28 P 3:21

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

BOARD SECRETARY

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: AVINASH DESHPANDE

Signature: \_\_\_\_\_

Santiago

Address: 3007 Calle De Las Flores, San Jose, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

VTA  
RECEIVED

2004 JUN 28 P 3:21

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

BOARD SECRETARY

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: Yuanrong Laihsu  
Santiago  
Address: 3033 Calle De Las Estrella

Signature: 

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.



VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:21

BOARD SECRETARY

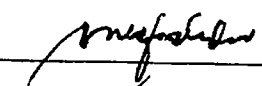
COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: ROBERTO & MARILYN FABILA Signature:   
Ryland  
Address: 2172 PETTIGROW DR. SAN JOSE, CA. 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:21

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
  - INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
  - INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: Wilda Burginger  
Santiago

Signature: Wilda Burginger

Address: 2969 Calle de las Flores San Jose CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3: 21

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: VLADIMIR G. SARKISOV

Signature: 

Santiago  
Address: 2960 CAUVE DE LAS FLORES, SAN JOSE CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3: 21

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: Amir Rezvani

Signature: Amir Rezvani

Ryland  
Address: 2212 Pettigrew Dr San Jose, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday June 26, 2004 or FAX to manager at (408) 261-9729) 2004 JUN 28 P 3:21

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: ANDY THANH

Signature: Andy Thanh

Santiago  
Address: 3050 Calle De las Flores, San Jose, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:22

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: Khanh Nguyen

Signature: Khanh Nguyen

Santiago  
Address: 3035 Calle De Las Flores San Jose CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

VTA  
RECEIVED

2004 JUN 28 P 3: 22

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: RENATO BALUXO  
Ryland  
Address: 2322 PETTIGREW DR.

Signature: [Handwritten Signature]  
S.V. - CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:22

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: HAI TONG & LEKHANIT N DANG

Signature: 

Santiago

Address: 3032 CALLE DE LAS FLORES SANJOSE CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.



VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, JUN 26 P 3: 22  
or FAX to manager at (408) 261-9729)

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: Carl D. Roberts  
Santiago

Signature: Carl D. Roberts

Address: 3020 Calle de las Flores, San Jose, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26, 2004 or FAX to manager at (408) 261-9729) JUN 28 P 3:22

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: Pearl & Greg Zavertnik  
Santiago 2983 Calle De Las Estrella  
Address: San Jose, CA 95148

Signature: \_\_\_\_\_



Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM  
(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

VTA  
RECEIVED

2004 JUN 28 P 3 22

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION BOARD SECRETARY

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: John Tse and Betty Tse

Ryland

Address: 2179 Pettigrew Drive, San Jose, CA 95148

Signature: 

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3: 23

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: LIEM D NGUYEN  
Santiago  
Address: 3059 CALLE DELAS ESTRELLA.

Signature: 

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26, 2004 or FAX to manager at (408) 261-9729) 2004 JUN 28 P 3:23

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: LUONG, VANESSA Signature: Vanessa Luong  
Ryland  
Address: 2223 Pettigrew DR. SAN JOSE, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday June 28 P 3: 23  
or FAX to manager at (408) 261-9729)

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: CHI DANG Signature: Chi Dang  
Santiago  
Address: 3094 CALLE DE LAS FLORES - SAN JOSE - CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3: 23

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: ABDUL HAMEED

Signature: 

Ryland  
Address: 2175 Pettigrew Dr, San Jose CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

VTA  
RECEIVED

2004 JUN 28 P 3:23

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

BOARD SECRETARY

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: YEN-WEI LEE  
Santiago  
Address: 3041 Calle de las Flores, San Jose, CA 95148

Signature: 

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.



VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26,  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:23

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: VIDYASAGAR EDARA

Signature: 

Ryland

Address: 2183 PETTIGREW DR, SAN JOSE, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 – Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3: 24

BOARD SECRETARY  
COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: Dyna Gylngquist Signature: Dyna Gylngquist  
Santiago  
Address: 2975 Calle de las Flores, ST, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

(Due June 26, 2004 - Please mail to Carmichael Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

VIA  
RECEIVED  
2004 JUN 28 P 3: 24  
BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SAN YAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

- We support the following ~~items~~ regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:
  - DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway, including the shopping center.
  - DO NOT install a light rail station at Escondido Shopping Center and if the light rail station is provided transportation to Escondido, it should be provided near the station.
  - INSTALL a light rail station near the now vacant lot with the train tunneling BELOW GROUND across Capitol Expressway to the station.
  - INSTALL a light rail station in the center of the station, Expressway with the station platform at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Thank you for your consideration of our request.

Homeowner Name: KATHARINE DROGANTIS Signature: [Signature]  
Street Address: 2371 CALLE DE LOS ESTEBAN, SAN JOSE, CA 95142

Please mail your comments to Carmichael Management, 5126 Spencer Court, Berkeley, CA 94705 for the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

# Letter P18, Grace Morioka, June 28, 2004

## Response to Comment P18-1

VTA regrets that the commenter learned of the comment period 15 days before the deadline for submitting comments. However, VTA made every effort to notify residents, property owners, businesses, and public agencies of the availability of the EIS/EIR and the date and time of the public hearing. VTA's outreach efforts are summarized below:

- Newspaper advertisements in English, Spanish, and Vietnamese regarding the NOA of the Draft EIS/EIR were placed in the *San Jose Mercury News*, *Thoi Boa*, *El Observador*, and *Evergreen Times*.
- Copies of the NOA were mailed to project stakeholders, and local, state and federal agencies.
- A mass mailing was conducted to more than 7,000 community members within 500 feet of the Capitol Expressway Corridor.
- A news release was issued for the NOA.
- Media communications:
  - Public service announcements were made on KLIV (1590 AM) and KRTY (95.3 FM).
  - News release printed in English and Spanish in *La Oferta*.
  - Television and other media were contacted.
- The VTA web site (<http://www.vta.org>) was updated with a link to the Draft EIS/EIR public hearing information.
- The Draft EIS/EIR was uploaded on the VTA web site.
- A news release was issued for the public hearing.
- Copies of the public hearing notice were posted at VTA bus shelters along the corridor and at the Eastridge Transit Center.
- "Meet and greets" were conducted with VTA transit customers along the Capitol Expressway Corridor.
- Copies of the public hearing notice were distributed to frequently visited community facilities along the Capitol Expressway Corridor.
- Newspaper advertisements in English, Spanish, Vietnamese and Chinese of the public hearing were placed in the *Thoi Boa*, *El Observador*, and *Eastridge Times*.

While VTA attempted to notify all who would be affected by the proposed project, VTA acknowledges that some may not have received the flyer because complications in retrieving addresses from the database of APNs.

## **Response to Comment P18-2**

The commenter's opposition to the placement of the light rail station at Nieman Boulevard and Capitol Expressway is noted. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved.

In addition, the DTEV PAB selected a side-running depressed alignment from Eastridge Transit Center to south of Quimby Road and at grade to the Nieman Boulevard Station, which would be located on the west side of Capitol Expressway. As identified in Volume II, Chapter 2, the Nieman Boulevard Station would be located several hundred feet north of Nieman Boulevard on a vacant parcel. Tail tracks would extend farther to the south and terminate north of the residential development on the west side of Capitol Expressway. The tail tracks would be used for possible overnight storage (the Recommended Light Rail Alternative also includes a Storage Facility at Quimby Road).

Regarding the Whisman Station in Mountain View, there are substantial differences between the Tasman West LRT Line and proposed Light Rail Alternative. First, the planning for the Tasman West LRT Line at this location occurred long before any residential development was proposed. The site had previously been in industrial uses. Second, the Whisman Station is located in an area in which there are not other major noise sources; therefore, it has a relatively quiet background noise environment. Contrarily, the proposed Light Rail Alternative would be located along a major roadway that carries thousands of cars and trucks each day; therefore, existing noise levels are already high and will provide some masking of the noise from the light rail vehicles.

## **Response to Comments P18-3 to P18-9**

Refer to Response to Comment P18-2.

## **Response to Comment P18-10**

The preference for a light rail station in the center median of Capitol Expressway at Nieman Boulevard is noted. Refer to Response to Comment P18-2 regarding the decision of the DTEV PAB and the location of the Nieman Boulevard Station.

## **Response to Comments P18-11 and P18-12**

Refer to Response to Comment P18-2.

## **Response to Comment P18-13**

The preference for a light rail station near the vacant lot with the train going above ground over Capitol Expressway at Nieman Boulevard is noted. Refer to Response to Comment P18-2 regarding the decision of the DTEV PAB, which includes the location of the Nieman Boulevard Station in the vacant lot as requested.

## **Response to Comments P18-14 to P18-27**

Refer to Response to Comment P18-2.

VTA  
RECEIVED

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:24

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

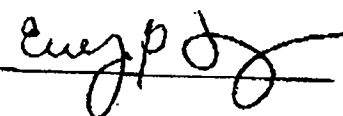
Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Eastridge is a destination that will be ideal for rail station. Installing a rail station in addition to Eastridge will create more foot traffic that ~~is~~ will add a more chaotic and busy atmosphere in ~~the~~ a quiet neighborhood. There are already sufficient public transport (buses) that are accessible and adding more (such as rail) in our neighborhood (closer to residences) will not be justifiable and will weigh more disadvantages than advantages.

P19-1

Thank you for your consideration of our request.

Homeowner Name: Evelyn Santiago  
Santiago  
Address: 2997 Calle delas Estrella

Signature: 

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

## Letter P19, Evelyn Santiago, June 28, 2004

### Response to Comment P19-1

The commenter's opposition to the placement of the light rail station at Nieman Boulevard and Capitol Expressway is noted. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy *have* been further developed and approved.

In addition, the DTEV PAB selected a side-running depressed alignment from Eastridge Transit Center to south of Quimby Road and at grade to the Nieman Boulevard Station, which would be located on the west side of Capitol Expressway. As identified in Volume II, Chapter 2, the Nieman Boulevard Station would be located several hundred feet north of Nieman Boulevard on a vacant parcel. Tail tracks would extend farther to the south and terminate north of the residential development on the west side of Capitol Expressway. The tail tracks would be used for possible overnight storage (the Recommended Light Rail Alternative also includes a Storage Facility at Quimby Road).

VTA acknowledges that adding a light rail station at Nieman Boulevard would cause more foot and bicycle traffic as residents of the neighborhood walk or bicycle to the Nieman Boulevard Station. However, increases in foot and bicycle traffic are not considered significant environmental impacts.



VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

261-7155  
2004 JUN 28 P 3:24

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION BOARD SECRETARY

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Please re-consider installing a light rail station so close to the homes. As is, there will be additional increase in noise pollution from running the trains. The potential result of also having a station so close, <sup>to our development</sup> will make living in our home unbearable.

The proposed station at Eastridge mall should be more than sufficient in providing access to the trains.

P20-1

Thank you for your consideration of our request.

Homeowner Name: Arlene Lew  
Ryland  
Address: 2203 Pettigrew Drive

Signature: [Handwritten Signature]

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

## Letter P20, Arlene Lew, June 28, 2004

### Response to Comment P20-1

The commenter's opposition to the placement of the light rail station at Nieman Boulevard and Capitol Expressway is noted. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy *have* been further developed and approved.

In addition, the DTEV PAB selected a side-running depressed alignment from Eastridge Transit Center to south of Quimby Road and at grade to the Nieman Boulevard Station, which would be located on the west side of Capitol Expressway. As identified in Volume II, Chapter 2, the Nieman Boulevard Station would be located several hundred feet north of Nieman Boulevard on a vacant parcel. Tail tracks would extend farther to the south and terminate north of the residential development on the west side of Capitol Expressway. The tail tracks would be used for possible overnight storage (the Recommended Light Rail Alternative also includes a Storage Facility at Quimby Road).

A noise impact assessment for the Nieman Boulevard Station area was conducted using noise criteria developed by FTA. The assessment procedures met with both NEPA and CEQA guidelines for assessing noise impacts from transit operations. The FTA criteria are based on the existing noise levels and take into account changes in noise levels due to the introduction of the project. Where noise impacts have been identified, mitigation measures have been recommended to reduce noise to levels within the appropriate criteria. No noise impacts were identified at Ryland Horizons under the Recommended Light Rail Alternative.

Volume I, Chapter 4, Section 4.2, Table 4.2-12 estimates that, with the terminus at SR 87, the Nieman Boulevard Station would have 666 boardings in 2010 and 829 boardings in 2025. As a result, the projected ridership at Nieman Boulevard justifies a station.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3 24

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the new vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

I recently purchased a home and have spent close to a million dollars in this property, the noise a light rail will <sup>create will</sup> devastate our home prices and value.

The proposed Eastridge shopping center light rail should be sufficient. It is bad enough that we in this community can hear the traffic noise generated by Capitol Expressway considering our huge investments. The goal of the county board of supervisors should be to create and enhance the value of this community so that it will attract affluent customers and shoppers in the same way Valleyfair (Westfield) and Santana Row has enhance the value of the surrounding properties. You do not need additional pollutants which these trains & light rail create to attract shoppers, the opposite effect will be the outcome. People need a clean and conducive atmosphere to shop which is what the expansion of Eastridge mall is trying to accomplish.

Thank you for your consideration of our request.

Homeowner Name: Romy AVENA Signature: Romy Avena  
 Santiago  
 Address: 2996 Calle de las Flores, San Jose CA 95148

P21-1

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

## Letter P21, Romy Avena, June 28, 2004

### Response to Comment P21-1

The commenter's opposition to the placement of the light rail station at Nieman Boulevard and Capitol Expressway is noted. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy *have* been further developed and approved.

In addition, the DTEV PAB selected a side-running depressed alignment from Eastridge Transit Center to south of Quimby Road and at grade to the Nieman Boulevard Station, which would be located on the west side of Capitol Expressway. As identified in Volume II, Chapter 2, the Nieman Station would be located several hundred feet north of Nieman Boulevard on a vacant parcel. Tail tracks would extend farther to the south and terminate north of the residential development on the west side of Capitol Expressway. The tail tracks would be used for possible overnight storage (the Recommended Light Rail Alternative also includes a Storage Facility at Quimby Road).

A noise impact assessment for the Nieman Boulevard Station area was conducted using noise criteria developed by FTA. The assessment procedures met with both NEPA and CEQA guidelines for assessing noise impacts from transit operations. The FTA criteria are based on the existing noise levels and take into account changes in noise levels due to the introduction of the project. Where noise impacts have been identified, mitigation measures have been recommended to reduce noise to levels within the appropriate criteria. No noise impacts were identified with the Recommended Light Rail Alternative. However, it is acknowledged that Capitol Expressway is a major existing noise source.

Volume I, Chapter 4, Section 4.2, Table 4.2-12 estimates that, with the terminus at SR 87, the Nieman Boulevard Station would have 666 boardings in 2010 and 829 boardings in 2025. As a result, the projected ridership at Nieman Boulevard justifies a station. Nieman Boulevard is recommended as a location for a light rail station because of the potential for TOD on an 87-acre vacant parcel on the west side of Capitol Expressway.

The comment on the effect of the Light Rail Alternative on property values is noted. Many factors influence the amount a seller accepts and a buyer pays for a property. While some appraisers view a property's proximity to a transit facility as a negative feature, others view being "within walking distance" of a transit facility as an amenity. VTA is not aware of conclusive studies or research that support the comment that light rail would devastate home prices and value.

Regarding the need to create and enhance the value of the community, it should be noted that the project would include urban design elements that include

landscaping to enhance the visual appearance of the corridor and art elements at stations.

Regarding pollutants resulting from light rail vehicles and operations, the EIS/EIR did evaluate the air quality impacts of the Light Rail Alternative. It concluded that the increased pollution from the Light Rail Alternative would be offset by a decrease in automobile pollution and that decreases in vehicle miles traveled would reduce emissions of reactive organic gases, oxides of nitrogen, and particulate matter.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:23

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:



DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.

- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

A station in the center median of Nieman Boulevard and Capitol Expressway will impact the homes on Nieman by obstructing the flow of traffic onto Nieman and by creating additional noise by the sound of the train horn as it enters and leaves the station. While the noise and traffic congestion will still be an issue if the station is located near the now vacant property, because a station is planned at Eastridge Shopping Center, a Nieman light rail station is not necessary.

Thank you for your consideration of our request.

Homeowner Name: PAUL NHIEU  
Ryland  
Address: 2228 PETTIGREW DR. SAN JOSE, CA 95148

Signature:

P22-1

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

## Letter P22, Paul Nhieu, June 28, 2004

### Response to Comment P22-1

The commenter's opposition to the placement of the light rail station at Nieman Boulevard and Capitol Expressway is noted. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy *have* been further developed and approved.

In addition, the DTEV PAB selected a side-running depressed alignment from Eastridge Transit Center to south of Quimby Road and at grade to the Nieman Boulevard Station, which would be located on the west side of Capitol Expressway. As identified in Volume II, Chapter 2, the Nieman Boulevard Station would be located several hundred feet north of Nieman Boulevard on a vacant parcel. Tail tracks would extend farther to the south and terminate north of the residential development on the west side of Capitol Expressway. The tail tracks would be used for possible overnight storage (the Recommended Light Rail Alternative also includes a Storage Facility at Quimby Road).

A noise impact assessment for the Nieman Boulevard Station area was conducted using noise criteria developed by FTA. The assessment procedures met with both NEPA and CEQA guidelines for assessing noise impacts from transit operations. The FTA criteria are based on the existing noise levels and take into account changes in noise levels due to the introduction of the project. Where noise impacts have been identified, mitigation measures have been recommended to reduce noise to levels within the appropriate criteria. No noise impacts were identified with the Recommended Light Rail Alternative. However, it is acknowledged that Capitol Expressway is a major existing noise source.

Volume I, Chapter 4, Section 4.2, Table 4.2-12 estimates that, with the terminus at SR 87, the Nieman Boulevard Station would have 666 boardings in 2010 and 829 boardings in 2025. As a result, the projected ridership at Nieman Boulevard justifies a station. Nieman Boulevard is recommended as a location for a Light Rail Station because of the potential for TOD on an 87-acre vacant parcel on the west side of Capitol Expressway. Because a park-and-ride lot is not planned at Nieman Boulevard Station, vehicle activity would be limited to pick-ups and drop-offs, which are estimated to range from 30 to 35 per day. This level of activity is not expected to cause additional traffic congestion in the area.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday June 26 2004  
or FAX to manager at (408) 261-9729

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

- NOISE  
- Too busy  
- The Appearance

P23-1

Thank you for your consideration of our request.

Homeowner Name: Linda Taylor  
Ryland  
Address: 2187 Pethgrew Dr  
San Jose CA 95148

Signature: [Handwritten Signature]

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.



## Letter P23, Linda Taylor, June 28, 2004

### Response to Comment P23-1

The commenter's opposition to the placement of the light rail station at Nieman Boulevard and Capitol Expressway is noted. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy *have* been further developed and approved.

In addition, the DTEV PAB selected a side-running depressed alignment from Eastridge Transit Center to south of Quimby Road and at grade to the Nieman Boulevard Station, which would be located on the west side of Capitol Expressway. As identified in Volume II, Chapter 2, the Nieman Boulevard Station would be located several hundred feet north of Nieman Boulevard on a vacant parcel. Tail tracks would extend farther to the south and terminate north of the residential development on the west side of Capitol Expressway. The tail tracks would be used for possible overnight storage (the Recommended Light Rail Alternative also includes a Storage Facility at Quimby Road).

A noise impact assessment for the Nieman Boulevard Station area was conducted using noise criteria developed by FTA. The assessment procedures met with both NEPA and CEQA guidelines for assessing noise impacts from transit operations. The FTA criteria are based on the existing noise levels and take into account changes in noise levels due to the introduction of the project. Where noise impacts have been identified, mitigation measures have been recommended to reduce noise to levels within the appropriate criteria. No noise impacts were identified with the Recommended Light Rail Alternative. However, it is acknowledged that Capitol Expressway is a major existing noise source.

Volume I, Chapter 4, Section 4.2, Table 4.2-12 estimates that, with the terminus at SR 87, the Nieman Station would have 666 boardings in 2010 and 829 boardings in 2025. As a result, the projected ridership at Nieman Boulevard justifies a station. Nieman Boulevard is recommended as a location for a Light Rail Station because of the potential for TOD on an 87-acre vacant parcel on the west side of Capitol Expressway. Because a park-and-ride lot is not planned at Nieman Station, vehicle activity would be limited to pick-ups and drop-offs, which are estimated to range from 30 to 35 per day. This level of activity is not expected to cause additional traffic congestion in the area.

During the Conceptual Engineering phase, VTA has made a consistent effort to incorporate attractive urban design elements into the Light Rail Alternative design. Volume I, Chapter 3, Section 3.4, Table 3.4-1 lists the design objectives for the Light Rail Alternative, including designing stations as gateways to the neighborhoods and retail and commercial opportunities.

VTA recognizes that the design of stations and their relationship with the adjacent neighborhoods is critical to promoting a viable transit environment. Convenience, safety, and ease of access for residents and employees arriving by foot, bike, bus, or car are primary design objectives. Additionally, stations can create identities and gateways to communities and opportunities for neighborhood-serving retail uses or a mix of commercial, residential, recreational, and community-oriented activities.

The project will also provide opportunities at the stations to incorporate art elements to enhance the visual appearance of the stations. Because the Light Rail Alternative is a project included in both VTP 2020 and 2000 Measure A, it is eligible to be included in the Community Oriented Design Enhancements (CODE) Program. The goal of the program is to integrate high-quality design enhancements, designed by artists, which reflect the identity of the communities and neighborhoods in which they are located.

To ensure the success of the program, citizens are involved early in selecting and designing CODE projects. Successful CODE elements build community pride and project support. During the conceptual engineering process, many community members expressed interest in becoming involved in this effort.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:22

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Because of the possibility of locating stations at Eastridge Mall and Silvercreek where parking is available and the minimum number of homes that would be affected I believe a station at Nieman is a poor choice. The noise, danger, and traffic would have too much of an effect on this small intersection that is completely surrounded by homes (including those soon to be built) and apartments. Our streets would become parking for the lightrail station. I live on a private street with no access control so I would like to know how the VTA plans to keep lightrail users from using my street as a place to park and what parking will be provided for those who wish to drive to the lightrail station? Pettigrew Drive is already completely full of cars because not enough parking was built into the Carlyle apartments. This has already had a huge impact on the neighborhood as it is starting to look like downtown and there are many more cars than there should be for a small residential neighborhood. There are many small children living in the homes on Pettigrew and Calle De Las Flores and I believe the traffic created would be a danger to them as well. Has a survey been done to find out if anyone in the area of the station would actually use it? Would this only bring more people from other neighborhoods who should be going to the Eastridge or Silver Creek stations?

P24-1

P24-2

Thank you for your consideration of our request.

Homeowner Name: Matthew Nelson & Han Nelson  
Santiago

Signature: *[Handwritten Signature]*

Address: 3027 calle De las flores, SAN JOSE, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

# Letter P24, Matthew and Han Nelson, June 28, 2004

## Response to Comment P24-1

The commenter's opposition to the placement of the light rail station at Nieman Boulevard and Capitol Expressway is noted. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved.

In addition, the DTEV PAB selected a side-running depressed alignment from Eastridge Transit Center to south of Quimby Road and at grade to the Nieman Station, which would be located on the west side of Capitol Expressway. As identified in Volume II, Chapter 2, the Nieman Station would be located several hundred feet north of Nieman Boulevard on a vacant parcel. Tail tracks would extend farther to the south and terminate north of the residential development on the west side of Capitol Expressway. The tail tracks would be used for possible overnight storage (the Recommended Light Rail Alternative also includes a Storage Facility at Quimby Road).

A noise impact assessment for the Nieman Boulevard Station area was conducted using noise criteria developed by FTA. The assessment procedures met with both NEPA and CEQA guidelines for assessing noise impacts from transit operations. The FTA criteria are based on the existing noise levels and take into account changes in noise levels due to the introduction of the project. Where noise impacts have been identified, mitigation measures have been recommended to reduce noise to levels within the appropriate criteria. No noise impacts were identified with the Recommended Light Rail Alternative.

The Santiago of San Jose neighborhood would be separated from the light rail by Capitol Expressway. Noise impacts from the light rail station would be minimized because of the increased distance from the neighborhood, compared to the median station option, and the noise from automobile traffic on Capitol Expressway.

Volume I, Chapter 4, Section 4, Table 4.2-12 estimates that, with the terminus at SR 87, the Nieman Boulevard Station would have 666 boardings in 2010 and 829 boardings in 2025. As a result, the projected ridership at Nieman Boulevard justifies a light rail station. Nieman Boulevard is also recommended as a location for a station because of the potential for TOD on an 87-acre vacant parcel on the west side of Capitol Expressway. Because a park-and-ride lot is not planned at Nieman Boulevard Station, vehicle activity would be limited to pick-ups and drop-offs, which are estimated to range from 30 to 35 per day. This level of activity is not expected to cause additional traffic congestion in the area.

Safety issues would be addressed with enhanced pedestrian crossing facilities at Nieman Boulevard with crosswalks, pedestrian-activated push buttons to activate

traffic signals, and pedestrian countdown signals. In addition, appropriate crossing protection and safety devices, such as gates, fencing, and signage, would be incorporated into the Recommended Light Rail Alternative as required by the CPUC.

On-street parking sometimes occurs at light rail stations. Because of the proximity of the Eastridge Transit Center, which would have an expanded park-and-ride lot, no significant parking impacts were identified at Nieman Boulevard. If parking for light rail becomes a problem, a possible solution could include implementing a parking permit program. Signs are placed on the street indicating that parking is limited to 1 to 2 hours. Residents are given placards to be placed on their vehicles, enabling them to park on the street without being cited, as well as additional placards to be used by guests.

## **Response to Comment P24-2**

In Volume I, Chapter 4, Section 4.2, Table 4.2-12, it is estimated that the Nieman Boulevard Station would have 666 daily boardings in 2010 and 829 boardings in 2025 with the terminus at SR 87. The EIS/EIR contains daily and peak hour boardings by station. It is anticipated that the boardings at Nieman Boulevard would originate from the area approximately halfway between the Eastridge Transit Center and Nieman Boulevard to the area about halfway between Nieman Boulevard and Silver Creek Road. Some of the boardings at the Nieman Boulevard Station would be associated with the future development of the vacant 87-acre parcel on west side of Capitol Expressway.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:21

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

LIGHT RAIL USAGE IS VERY LOW PERCENTAGE  
ESPECIALLY LOCATED WITHIN RESIDENTIAL  
NEIGHBORHOODS. FUNDS SHOULD BE USED  
IN OTHER PROJECTS ~~HERE~~ WITH MORE  
BENEFITS AT THIS TIME.

P25-1

Thank you for your consideration of our request.

Homeowner Name: KHANH LY

Signature: [Handwritten Signature]

Address: 3214 CAVE DE LAS PUEBLES, S.J. CA 95128

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

# Letter P25, Khana Ly, June 28, 2004

## Response to Comment P25-1

The commenter's opposition to the placement of the light rail station at Nieman Boulevard and Capitol Expressway is noted. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy *have* been further developed and approved.

In addition, the DTEV PAB selected a side-running depressed alignment from Eastridge Transit Center to south of Quimby Road and at grade to the Nieman Boulevard Station, which would be located on the west side of Capitol Expressway. As identified in Volume II, Chapter 2, the Nieman Boulevard Station would be located several hundred feet north of Nieman Boulevard on a vacant parcel. Tail tracks would extend farther to the south and terminate north of the residential development on the west side of Capitol Expressway. The tail tracks would be used for possible overnight storage (the Recommended Light Rail Alternative also includes a Storage Facility at Quimby Road).

Volume I, Chapter 4, Section 4.2, Table 4.2-12 estimates that, with the terminus at SR 87, the Nieman Boulevard Station would have 666 boardings in 2010 and 829 boardings in 2025. As a result, the projected ridership at Nieman Boulevard justifies a station. Nieman Boulevard is also recommended as a location for a light rail station because of the potential for TOD on an 87-acre vacant parcel on the west side of Capitol Expressway.

On November 7, 2000, Santa Clara County voters approved a 30-year 0.5-cent sales tax for transit purposes. The sales tax measure specified the allocation of funds to various projects, including Downtown East Valley. The Downtown East Valley Preferred Investment Strategy includes three separate corridors: Santa Clara/Alum Rock, Capitol Expressway, and BRT on Monterey Highway. The Measure A funds for Downtown East Valley may be used for all three corridors. In 1999, VTA initiated an MIS for the Evergreen-Downtown Corridor. The MIS examined 17 alternatives for the corridor, including improvements to bus service. After an extensive public outreach process, the VTA Board of Directors determined that the benefits of the Light Rail Alternative were far greater than those of any of the other alternatives and selected it as the Locally Preferred Alternative.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729)

2004 JUN 28 P 3:20

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT SANTIAGO OF SAN JOSE HOMEOWNERS ASSOCIATION

I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

Certainly! The light rail station will impact our homes by noise, sound, traffic. We don't accept this project.

P26-1

Thank you for your consideration of our request.

Homeowner Name: PHAM NGOC, MYLAN

Signature: 

Address: 29721 Calle De Las Flores, CA 95148

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.



## Letter P26, Mylan Phamngoc, June 28, 2004

### Response to Comment P26-1

The commenter's opposition to the placement of the light rail station at Nieman Boulevard and Capitol Expressway is noted. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy *have* been further developed and approved.

In addition, the DTEV PAB selected a side-running depressed alignment from Eastridge Transit Center to south of Quimby Road and at grade to the Nieman Boulevard Station, which would be located on the west side of Capitol Expressway. As identified in Volume II, Chapter 2, the Nieman Boulevard Station would be located several hundred feet north of Nieman Boulevard on a vacant parcel. Tail tracks would extend farther to the south and terminate north of the residential development on the west side of Capitol Expressway. The tail tracks would be used for possible overnight storage (the Recommended Light Rail Alternative also includes a Storage Facility at Quimby Road).

A noise impact assessment for the Nieman Boulevard Station area was conducted using noise criteria developed by FTA. The assessment procedures met with both NEPA and CEQA guidelines for assessing noise impacts from transit operations. The FTA criteria are based on the existing noise levels and take into account changes in noise levels due to the introduction of the project. Where noise impacts have been identified, mitigation measures have been recommended to reduce noise to levels within the appropriate criteria. No noise impacts were identified with the Recommended Light Rail Alternative. However, it is acknowledged that Capitol Expressway is a major existing noise source.

Volume I, Chapter 4, Section 4.2, Table 4.2-12 estimates that, with the terminus at SR 87, the Nieman Boulevard Station would have 666 boardings in 2010 and 829 boardings in 2025. Because a park-and-ride lot is not planned at Nieman Boulevard Station, vehicle activity would be limited to pick-ups and drop-offs, which are estimated to range from 30 to 35 per day. This level of activity is not expected to cause additional traffic congestion in the area.

VTA LIGHT RAIL PROJECT  
PROPOSED NIEMAN and CAPITOL EXPRESSWAY STATION  
COMMENT FORM

VTA  
RECEIVED

(Due June 28, 2004 - Please mail to Commoncents Management by Saturday, June 26  
or FAX to manager at (408) 261-9729) 2004 JUN 28 P 3:20

BOARD SECRETARY

COMMENTS FROM HOMEOWNER AT RYLAND HORIZONS OWNERS ASSOCIATION

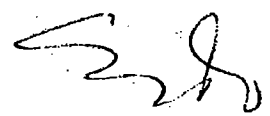
I/We support the following option regarding the proposed Nieman Boulevard/Capitol Expressway light rail station:

- DO NOT install a light rail station at Nieman Boulevard or near the now vacant property on Capitol Expressway. We support a light rail station at Eastridge Shopping Center and it should be sufficient to provide transportation to surrounding customers.
- INSTALL a light rail station near the now vacant lot with the train running BELOW GROUND across Capitol Expressway to the station.
- INSTALL a light rail station near the now vacant lot with the train going ABOVE GROUND on a bridge over Capitol Expressway to the station.
- INSTALL a light rail station in the center median of Capitol Express way with the station platforms at ground level on both sides of the intersection's traffic light.

Please use the space below to list your concerns, comments or support for the choice listed above. Attach additional pages if necessary.

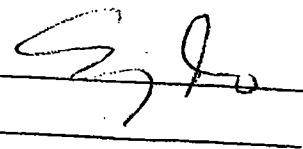
Too much noise & would be too crowded  
 Cars would be parked along our street  
 quiet.  
 We're not giving our quiet neighborhood as it.  
 Thanks for the consideration

P27-1



Thank you for your consideration of our request.

Homeowner Name: BENJAMIN T. & SILVA DO  
 Ryland Address: 2207 Pettigrew Dr  
San Jose CA 95148

Signature: 

Please mail your comments to Commoncents Management, 5126 Stevens Creek Boulevard, Box 11, San Jose, CA 95129 in the enclosed self-addressed, stamped envelope. You may also FAX your comments to the management office at (408) 261-9729.

# Letter P27, Benjamin and Sylvia Do, June 28, 2004

## Response to Comment P27-1

The commenter's opposition to the placement of the light rail station at Capitol Expressway and Nieman Boulevard is noted. At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy *have* been further developed and approved.

In addition, the DTEV PAB selected a side-running depressed alignment from Eastridge Transit Center to south of Quimby Road and at grade to the Nieman Boulevard Station, which would be located on the west side of Capitol Expressway. As identified in Volume II, Chapter 2, the Nieman Boulevard Station would be located several hundred feet north of Nieman Boulevard on a vacant parcel. Tail tracks would extend farther to the south and terminate north of the residential development on the west side of Capitol Expressway. The tail tracks would be used for possible overnight storage (the Recommended Light Rail Alternative also includes a vehicle storage facility at Quimby Road).

A noise impact assessment for the Nieman Boulevard Station area was conducted using noise criteria developed by FTA. The assessment procedures met with both NEPA and CEQA guidelines for assessing noise impacts from transit operations. The FTA criteria are based on the existing noise levels and take into account changes in noise levels due to the introduction of the project. Where noise impacts have been identified, mitigation measures have been recommended to reduce noise to levels within the appropriate criteria. No noise impacts were identified with the Recommended Light Rail Alternative. Noise impacts from the light rail station would be minimized because of the increased distance from the neighborhood, compared to the median station option.

The Santiago of San Jose neighborhood would be separated from the light rail by Capitol Expressway. Noise impacts from the light rail station would be minimized because of the increased distance from the neighborhood, compared to the median station option, and the existing noise levels from automobile traffic on Capitol Expressway.

Volume I, Chapter 4, Section 4, Table 4.2-12 estimates that, with the terminus at SR 87, the Nieman Boulevard Station would have 666 boardings in 2010 and 829 boardings in 2025. As a result, the projected ridership at Nieman Boulevard justifies a light rail station. Nieman Boulevard is also recommended as a location for a station because of the potential for TOD on an 87-acre vacant parcel on the west side of Capitol Expressway. Because a park-and-ride lot is not planned at Nieman Boulevard Station, vehicle activity would be limited to pick-ups and drop-offs, which are estimated to range from 30 to 35 per day. This level of activity is not expected to cause additional traffic congestion in the area.

Safety issues would be addressed with enhanced pedestrian crossing facilities at Nieman Boulevard with crosswalks, pedestrian-activated push buttons to activate traffic signals, and pedestrian countdown signals. In addition, appropriate crossing protection and safety devices, such as gates, fencing, and signage, would be incorporated into the Recommended Light Rail Alternative as required by the CPUC.

On-street parking sometimes occurs at light rail stations. Because of the proximity of the Eastridge Transit Center, which would have an expanded park-and-ride lot, no significant parking impacts were identified at Nieman Boulevard. If parking for light rail becomes a problem, a possible solution could include implementing a parking permit program. Under such a program, signage would be placed on the street indicating that parking is limited to one to two hours. Residents are given placards to be placed on their vehicles, enabling them to park on the street without being cited, as well as additional placards to be used by guests.

SAN JOSE PUBLIC  
HEARING ON THE DRAFT  
ENVIRONMENTAL IMPACT  
STATEMENT/ENVIRONMENTAL  
REPORT

Hank Lopez Community Center

1694 Adrian Way

San Jose, California

Taken on

Thursday, May 27, 2004

At

6:41 p.m.

#15994

1

2

A P P E A R A N C E S

3

4 Tom Fitzwater, Environmental Planner

5

6 Steven A. Fisher, Senior Transportation Planner

7

8 Christina Jaworski, Moderator

9

10

11

--o0o--

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

P R O C E E D I N G S :

MS. JAWORSKI: Well, now I'll be opening up the public hearing portion of today's meeting. Here is Shawnora to bring up the first and, I guess, only card that we've received so far.

Just to kind of go over again the format for the public hearing. If you wish to make a comment or have it read out loud, please fill out one of these yellow comment cards. We'll call your name in the order that the card is received.

Since we have one card, I guess we won't stick to that two minute time limit since there is nobody -- in any case, you can speak more than two minutes. If you can state your name and your comments clearly for the court reporter.

And then as I mentioned, we won't be responding at this time, but we will be responding in the final document to your comments given today and -- one thing I did want to mention, actually, before we get started, I did forget to mention Debra Jones, our environmental consultant, she's here today. She's in the back here. Her and her staff worked really hard in putting the document together. She's here as well. So with that, Ginger Cardona, you have the floor.

1 MS. CARDONA: My name is Ginger Cardona, and  
2 I'm up on the last phase of the project by Vista Park  
3 287. I have some concerns.

4 Number one, the biggest concern is the  
5 purpose of this project. While I can see that you're  
6 doing some environmental studies it has been, as you've  
7 stated, shown that there will be definitely an  
8 environmental impact. The environmental impact is not  
9 offset against what the purpose of this project is.  
10 Meaning, we have a bus system that goes up Capitol that  
11 has low ridership. We haven't shown that moving --  
12 putting a light rail system in is going to reduce the  
13 congestion of Capitol.

14 My other concern is that the drawings -- the  
15 studies that are done are not based on the increase of  
16 traffic or the increase of housing that is being put in  
17 around Capitol and Vista Park right now. For example,  
18 a left-hand turn lane is proposed -- or not proposed,  
19 planned for Capitol on to Vista Park. That is not in  
20 the drawing. This has to move the traffic through. It  
21 is the only place.

22 Currently at Capitol and Narvaez, that is a  
23 level F intersection. That is not listed on your  
24 intersections of a concern whatsoever. Yet there  
25 doesn't seem to be any way, if you're putting light

SP1-1

SP1-2

SP1-3



1 rail through, that that intersection is not going to  
2 become worse. And it was written up as one of the  
3 valley's worst intersections two and a half years ago.  
4 And for two and a half years we've continued to build  
5 on that. So we have -- there's houses that are all  
6 along Capitol at that point. There was nothing listed  
7 for vibration or anything else for those homes that are  
8 there. There is access to the shopping center, to the  
9 apartments and everything else that are done at the  
10 right-hand turn lane. Those are going to be  
11 eliminated.

SP1-3  
cont.

SP1-4

SP1-5

12 Capitol is already congested. There is  
13 accidents. Removing the ability to get in and out of  
14 the shopping centers and apartments is only going to  
15 cause further chaos. Besides the fact that we're going  
16 to be shrinking Capitol down and not being able to move  
17 the traffic through without any real justification that  
18 this is going to make a difference.

SP1-6

19 I am wondering why we are not utilizing the  
20 light rail that's already going up 85 and going  
21 straight out and connecting up with that light rail as  
22 that light rail is under-utilized and subject to  
23 closure. So why would we be spending all of the money  
24 to build this, to disrupt, to cause environmental  
25 impact for something that is already existing?

SP1-7

1 MS. JAWORSKI: Is that okay?

2 MS. CARDONA: That's it. I can go on and on.  
3 If you want to cut me off.

4 MS. JAWORSKI: If you have more to say.

5 MS. CARDONA: The concern is that I don't  
6 think that that area was adequately investigated. And  
7 I don't think that the growth in that area has been  
8 considered because the growth has been going on  
9 dramatically for the last two years. And we cannot  
10 handle putting a light rail in the middle without doing  
11 significant improvements out there. And that is not in  
12 the plans, nor do I see the purpose for it. I'm not  
13 exactly sure where you intend on moving these people to  
14 or why.

15 MS. JAWORSKI: Are you finished?

16 MS. CARDONA: Uh-huh.

17 MS. JAWORSKI: Sorry. I don't want to cut  
18 you off if you weren't finished.

19 Has anyone else filled out a comment card?  
20 Should I wait a few more minutes?

21 What we were planning to do is if there  
22 weren't a lot of comments right now, we would just kind  
23 of take a break, you know, for about -- maybe till a  
24 little after -- it's about 7:00 now. Maybe until 7:15  
25 or 7:10, and then we can reopen the public hearing

SP1-8

1 portion so additional people can make comments after  
2 they've had a chance to maybe look at the displays and  
3 look at some of the information that has been provided  
4 today. Does that sound like you would be interested?  
5 Okay. So we'll reconvene at about 7:10 for more public  
6 hearing statements.

7 (Whereupon, a break was taken.)

8 MS. JAWORSKI: Well, it's just about 7:10.  
9 So we'll reopen the public hearing if everybody can  
10 take their seats. We do have two more comment cards so  
11 we do have two more sets of comments. The first  
12 comment card that I have here is for Betty Tse.

13 MS. TSE: Yes.

14 MS. JAWORSKI: Okay. You have the floor.

15 MS. TSE: Okay. My concern is that --

16 MS. JAWORSKI: Excuse me. Sorry to interrupt  
17 you. But the court reporter is requesting if you can  
18 just stand up, it would help her more clearly to hear  
19 your comments.

20 MS. TSE: Because I live just right at the  
21 corner of Nieman and Capitol, like that Evergreen area,  
22 those like Quimby, Nieman, Aborn, Silver Creek, traffic  
23 is so bad already. If we're going to add on the light  
24 rail, I would see that is going to have big impact on  
25 traffic in that area.

SP2-1

1           Every morning when I try to go to work, I  
2   make a left turn from Aborn to get on to Capitol to --  
3   in order for me to make a left turn, at least I have to  
4   wait for two or three traffic lights to just making a  
5   left turn. With the light rail early -- the traffic  
6   hour going on, I don't know -- probably it will be five  
7   or six if I could even.

SP2-2

8           So I'm wondering -- the lady that spoke  
9   before -- yeah, putting a light rail along the Capitol,  
10  I don't see -- I don't see, you know, how much going  
11  to -- you know, benefit the people or improve their  
12  traffic flow along Capitol.

SP2-3

13          Another concern I have is that, you know,  
14  there's a lot of houses -- you know, you see right now  
15  along Capitol the both sides. The noise and the  
16  vibration, you know -- you know, take out people's  
17  privacy on the backyard or whatever.

18          It really depends on how you're going to do  
19  it, too. And especially in the Nieman area corner.  
20  You're going to have two options. So it's going to  
21  have a big impact on our community.

SP2-4

22          So I'm just wondering that, you know, how you  
23  going -- you know, I'm pretty sure that people live  
24  around along there, nobody is going to like it unless  
25  we going to -- you know -- you know, something that,

1 you know, is not going to impact people a lot. But  
2 right now I see a lot of impact on those people  
3 already.

4 And since you guys already have three  
5 different alternatives, I see that improving -- you  
6 know, like maybe improving the bus or whatever to --  
7 it's already -- you know, it's one of the solutions I  
8 see, that it's better than the light rail. And I was  
9 just wondering, you know, based on what circumstance  
10 that you guys make the decision which alternative you  
11 guys are going to go. Yeah. That's all.

12 MS. JAWORSKI: Okay. Thanks. Thank you,  
13 Betty, for your comments.

14 And the next speaker is David Aldag.

15 MR. ALDAG: David Aldag. I just want you to  
16 -- I have it --

17 MS. JAWORSKI: Oh, you want me to read it out  
18 loud. Sorry. I didn't see that checked.

19 His comments are: What hours will they be  
20 starting -- will they be starting to finish -- what  
21 hours will they be start to finish? What kind of noise  
22 would we have, and what kind of traffic will it cause?

23 All right. In the meantime we've gotten  
24 another comment card. This is from David Noel.

25 MR. NOEL: Hi, I'm David Noel. I'm from the

SP2-5

SP3-1

SP3-2

SP3-3

1 area near Vista Park and Capitol. And I'm previous  
2 president of the VEP Community Association. We  
3 submitted a lot of comments previously in this process,  
4 which we don't feel have been addressed well enough.

SP4-1

5 But I think the biggest issue is it's just a  
6 huge sum of money spent, and it's going to reduce the  
7 automobile capability significantly, but the ridership  
8 isn't going to be nearly enough to compensate for the  
9 reduction in automobile traffic. I think that for  
10 public transportation to be efficient or for it to work  
11 or for it to draw people, it needs to connect jobs to  
12 housing, and it needs to go fast, and it needs to be  
13 nearly as fast or faster than taking your car.

SP4-2

14 And when you build through an existing area  
15 like Capitol Expressway, which is fully developed, it's  
16 very expensive. It's very disruptive, and it's going  
17 to make -- and that light rail is going to have to go  
18 slow unless you do the whole thing elevated, which is  
19 way too expensive.

SP4-3

20 However, if instead these funds were used to  
21 connect the east valley to Coyote Valley and then  
22 connect with Highway 85 and -- it seems like that would  
23 fulfill the requirement or the desire to close the loop  
24 on the light rail system, and it would go through  
25 undeveloped land allowing that to be planned like

SP4-4

1 Highway 85 corridor was and Highway 87 corridor was,  
2 those go 55 miles an hour. That makes a huge  
3 difference. And the reason most people don't want to  
4 go down that corridor is it ends up going 10 miles an  
5 hour through downtown. And the similar thing will  
6 happen on Capitol Expressway.

SP4-4  
cont.

7           Since Coyote is going to develop in, let's  
8 say, 25 years and it's going to take 25 years to  
9 develop the light rail, why not build a world class  
10 line and plan this right in with the rest of the  
11 developments of homes and businesses, industrial and so  
12 on in Coyote Valley. That's my biggest concern.

13           And then also the huge sums of funding on  
14 this, similar to BART situation, there's not going to  
15 be enough money to operate this. So I think there's  
16 going to be huge impacts when you can't afford to  
17 operate this and reducing the level of service, and end  
18 up having one car per half an hour, or whatever,  
19 because we just can't afford to operate this project.

SP4-5

20           We're really worried about all of the  
21 development that has happened between, say, Snell or  
22 Communication Hill and Highway 87. A lot of that  
23 development has probably happened because of the  
24 promise of having light rail in the future. But we've  
25 got complete gridlock there.

1           I mean, this level of service at -- it seems  
2 like the whole project has been studied on the Phase I  
3 portion, and the Phase II is supposed to be fine  
4 because Phase I has been studied. If we had  
5 representation from our neighborhood -- and you find  
6 that there's -- it seems like everything from, say,  
7 Highway 101 to 87 has hardly been studied. It seems  
8 like that, anyway, that's the public perception. Well,  
9 it will be fine, don't worry about it. But we've  
10 studied the heck out of the first section.

SP4-6

11           We don't buy that. We know that the city has  
12 promised us turn lanes, extra lanes on -- turn lane to  
13 Vista Park and extra lane on eastbound -- eastbound  
14 Capitol from 87 to Copperfield. Things like this. We  
15 want to make sure that things that have been promised  
16 to us to relieve existing congestion aren't going to be  
17 taken away as this gets going.

SP4-7

18           And of course, again, the ridership that we  
19 have now just doesn't seem -- the ridership on the  
20 buses doesn't seem to project that ridership on light  
21 rail would be anywhere near worthwhile to offset the  
22 other impacts.

SP4-8

23           And then, finally, a lot of times during the  
24 presentation you said there are improvements that can  
25 be made with right-hand turning lanes or left-hand turn

SP4-9



1 lanes or whatever. Those are improvements compared to  
2 the things that have been disrupted and these are  
3 mitigations towards that. I don't think it's improving  
4 compared to what we have today. It's improving  
5 compared to how bad it would be if you added the light  
6 rail and didn't make this improvement. So I just  
7 wanted to say the word "improvement" is a relative  
8 term. Thank you.

9 MS. JAWORSKI: Okay. Thank you, David, for  
10 your comments.

11 Does anyone else have a comment card or is in  
12 the process of filling out a comment card?

13 I see somebody right now. Two minutes.  
14 Okay. Well, anyways, I guess we'll just wait for that  
15 gentleman back there to finish his comment. And then  
16 if anyone else has any comments that they'd like to  
17 make, we can take those at that time. So if you can  
18 just hold on, we'll have some more comments in just a  
19 minute or two.

20 The next speaker will be the public and it  
21 looks like you would like to speak -- did you want any  
22 of your comments read out loud?

23 A VOICE: Yes, the section that is checked  
24 there.

25 MS. JAWORSKI: The comment that he would like

SP4-9  
cont.

1 read out loud are: "Capitol Expressway was put in by  
2 voters of Santa Clara County as an alternative to  
3 freeway. Any condemnation by any other party must  
4 refund the current market value of the property  
5 directly to Santa Clara County voters that funded the  
6 land."

7 Did you want to add to that at all?

8 MR. GARBETT: Yes.

9 MR. FITZWATER: Can you state your name for  
10 the record.

11 MR. GARBETT: My name is William J, period,  
12 Garbett, G-a-r-b-e-t-t. And I'm an agent for an  
13 organization called The Public.

14 Many years ago the freeway system was  
15 considered encroaching upon the state of California,  
16 and Santa Clara County voters went and put in an  
17 expressway system that was not to connect with  
18 freeways. Today there have been many connections so  
19 that the sacred has been broken, and each crossing of  
20 the expressway should interconnect with the freeways  
21 today in order to establish a permanent infrastructure.

22 The replacement of the expressways by  
23 basically rendering null and void by condemning the  
24 land by local agencies, taking away land from a  
25 chartered county that has that privilege of maintaining

1 the land under state law is basically untenable. The  
2 voters need to be repaid in full, and they need to have  
3 a special election because this is a new tax under  
4 Proposition 13. It is not just merely a local agency  
5 exercising their authority.

6 With this problem we go and get many problems  
7 that go with present light rail that extend down to 87.  
8 You have taken and put old trolleys on the system that  
9 every spring when they operate create  
10 electrointerference destroying all the television and  
11 radio receptions in the communications from  
12 Communication Hill and the entire city of San Jose  
13 because the light rail electrofication amplifies  
14 signals as a big antenna throughout the valley. This  
15 is harmful to basically public safety.

16 You're going to go and establish going  
17 further and taking out more of our infrastructure that  
18 is in place for transportation. Transportation  
19 infrastructure is being eliminated for a new  
20 infrastructure. Unfortunately, the weight per  
21 passenger transported which relates to efficiency is  
22 going to be very poor as compared to the standard  
23 automobile. The automobile per passenger per weight  
24 basically gets the best efficiency over light rail.  
25 Even though the power may or may not be generated

SP5-2

SP5-3

1 outside the area, the pollution from light rail is  
2 greater consisting of ozone, and other problematic  
3 decisions that actually affect federal funding for the  
4 Bay Area. The light rail basically will not transport  
5 those passengers. It is going broke because there is  
6 no funding to operate it if it is built.

SP5-4

SP5-5

7 We the taxpayers have basically been led  
8 astray by voting for a BART issue where the funds have  
9 been diverted for light rail maintenance and other  
10 things rather than going for BART. VTA has been a  
11 fraud and a sham from the get-go. Once it broke loose  
12 from Santa Clara County and basically got its present  
13 facility, shall we say there is an element of influence  
14 on the leasehold of the present headquarters that is  
15 rather untenable as compared to the rate they were  
16 paying in the county building as a prior headquarters.  
17 The taxpayers have paid through the nose and they  
18 continue to pay without any successful delivery of any  
19 product.

SP5-6

20 The only thing they do is they do provide  
21 some access for the aid of the disabled. In many  
22 areas, for instance, the Guadalupe spur line that goes  
23 from the route 87 route down toward Oakridge toward the  
24 Santa Clara Valley Water District offices, that  
25 particular line is so useless and requires so much

SP5-7

1 maintenance in capital equipment tied up, it is  
2 unbelievable that this VTA would continue to maintain  
3 it, let alone build any new facilities.

4           The subsidy is so great that the taxpayers  
5 nationwide cannot afford it because we're actually  
6 taking funds from the rest of the nation, from the poor  
7 farmers who can't make it in Nebraska to be funding  
8 through this area through grants.

9           The Guadalupe spur line basically goes and  
10 crosses major arterials three times in a half mile,  
11 basically putting at grade pedestrians at risk with  
12 numerous deaths and accidents. It continues to block  
13 the traffic on Blossom Hill Road untenably. It  
14 basically has caused the gridlock that was not there  
15 prior to this construction, rather than relieving  
16 gridlock as was stated. It is unsafe and should be  
17 eliminated.

18           Some of the rest of it is practical, for  
19 instance, through the downtown area if they would get a  
20 downtown bypass to expose the public to the number of  
21 accidents in the downtown area with all the crossings  
22 and a slow rate basically makes it a useless line. The  
23 Bonaventure depot that all the trains are crossing  
24 through now is basically a handicap because there is no  
25 direct route.

SP5-7  
cont.

SP5-8

1                   And I can ride my bike across town from San  
2 Jose at Capitol Expressway into Santa Clara to my  
3 daughter's home in about 20 minutes. If I take light  
4 rail to the place and get on light rail, take my  
5 bicycle on light rail, go as far as I can into Santa  
6 Clara and then ride the bicycle, I'm an hour and 20 to  
7 25 minutes. Does light rail give me anything? And the  
8 answer is no.

9                   So basically you aren't making it on time.  
10 You aren't making it on money, and you definitely  
11 aren't making it on convenience.

12                   This blight along Capitol Expressway should  
13 not be allowed to be put in place merely because there  
14 is no economic, social or any other justification. For  
15 instance, the Guadalupe line there are at least three  
16 bus lines that go in and out of the same depots that it  
17 goes into. It is a replication of services that the  
18 bus provides better service, which most people tend to  
19 go and use rather than ride the light rail.

20                   If there was a downtown bypass and, for  
21 instance, direct connections to the airport with the  
22 BART to the east side of the airport, you might have an  
23 infrastructure that might work. Unfortunately, what  
24 happens is the light rail dead ends in many places in  
25 town. There is no practical way to extend it much

SP5-9

1 further because you run into hills or other such  
2 things. Tunneling is not one of those things that can  
3 be done. Although in order to prepare for BART  
4 downtown, they actually put a tunnel over towards  
5 Diridon Station. Um, why? Because they couldn't  
6 select a proper route. It was a pork barrel project.  
7 And that pork barrel project has extended over to  
8 Coleman Avenue with the airport with another tunneling  
9 project also run by VTA.

10 Do you think they're going to get anything  
11 done with BART? It makes it so impractical and so  
12 unbelievable in costs.

13 This Capitol project is going to go and  
14 bankrupt VTA as if they were not morally and  
15 financially bankrupt already. So what we should do is  
16 just take a close look at this project.

17 They made a good attempt to try to sell  
18 something to us. But then again, why don't we throw  
19 the roots out? Because they aren't going to get any  
20 more of our money.

21 In 2006 when the real tax for BART comes in  
22 they're going to find out they were barred from  
23 validating the election because they waited a couple of  
24 years before they did it. And they're barred after one  
25 year from that. So basically there will be a

SP5-10

1 challenge, and that tax will never ever be collected in  
2 2006 because they did not act properly. Therefore,  
3 there will be no future funding coming in because of  
4 the taxpayer challenge.

5 Thank you.

6 MS. JAWORSKI: All right. Did anybody else  
7 have any more comments? Has anyone else filled out a  
8 comment card?

9 Okay. With that I conclude -- or adjourn  
10 today's public hearing. Thank you all for coming.

11 As I mentioned, we will be responding in  
12 writing in the final EIR to your comments tonight.  
13 Thank you very much.

14 (Whereupon, the public comments were  
15 concluded at 7:32 p.m.)

16

17

18

19

20

21

22

23

24

25



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, NOELIA ESPINOLA, do hereby certify:

That the foregoing hearing was 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: \_\_\_\_\_

NOELIA ESPINOLA, CSR #8060

## **Speaker SP1, Ginger Cardona, May 27, 2004**

### **Response to Comment SP1-1**

The purposes of the project are described in Volume I, Chapter 2, Section 2.3.2 as improving public transit service, making transit an attractive alternative to automobile travel, enhancing regional connectivity, improving regional air quality, improving mobility options, and supporting local economic and land development goals. The Recommended Light Rail Alternative achieves all of these purposes. The EIS/EIR includes projections of ridership, which can be found in Volume I, Chapter 4, Section 4.2, Table 4.2-11. It should also be noted that the Light Rail Alternative would provide access to major employment centers in downtown San Jose, Milpitas, north San Jose, Santa Clara, Sunnyvale, and Mountain View through its connection to the Capitol Avenue and Tasman LRT Lines.

While the Recommended Light Rail Alternative would provide faster, more frequent, more efficient transit service along Capitol Expressway, Volume I, Chapter 4, Section 4.2 concludes that delay for automobiles would be increased at many Capitol Expressway intersections and that several intersections would experience significant and unavoidable traffic impacts.

### **Response to Comment SP1-2**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, the Recommended Light Rail Alternative would not affect the Capitol Expressway/Vistapark Drive intersection.

While the current conceptual engineering plans did not include a double left-turn lane from Capitol Expressway onto Vistapark Drive, there will be an opportunity to re-evaluate the plans for the intersection when VTA further refines its plans for transit service in this corridor.

### **Response to Comment SP1-3**

Existing and future traffic conditions can be found in Volume I, Chapter 4, Section 4.2, Tables 4.2-6 and 4.2-16 to 4.2-19. These tables reveal that the Capitol Expressway/Narvaez Avenue intersection currently operates at LOS C in the AM peak hour and LOS D in the PM peak hour. This intersection would operate at LOS D during both peak hours under the No Project and Light Rail Alternatives in 2010 and 2025. Because the DTEV PAB deferred project-level

decisions between Nieman Boulevard and SR 87, the Recommended Light Rail Alternative would have no effect on this intersection.

## **Response to Comment SP1-4**

From Vistapark Drive to Narvaez Avenue, with the inclusion of shredded tires as a design feature to the Light Rail Alternative, there are no residences projected to be subject to vibration impact. Also, Volume I, Chapter 4, Section 4.14, Table 4.14-5 indicates that no severe project noise impacts would occur with the Light Rail Alternative between Vistapark Drive and Narvaez Avenue. Because the DTEV PAB deferred project-level decisions between Nieman Boulevard and SR 87, there will be no change in the noise or vibration environment at the Capitol Expressway/Narvaez Avenue intersection.

## **Response to Comment SP1-5**

During conceptual engineering, the City and County agreed to a roadway cross section for Capitol Expressway that included 17-foot-wide outside lanes that would increase to 18 feet in advance of intersections. The right-turn acceleration lane and outside lane would be 17 feet wide and the right-turn deceleration lane 18 feet wide if constructed as designed in conceptual engineering. Narrowing landscape areas and acquiring additional right-of-way would provide the 12 feet required for exclusive acceleration and deceleration lanes.

Because the DTEV PAB deferred project-level decisions between Nieman Boulevard and SR 87, the Recommended Light Rail Alternative would have no effect on the right-hand turn lanes between SR 87 and Vistapark Drive.

## **Response to Comment SP1-6**

Refer to Response to Comment SP1-1.

## **Response to Comment SP1-7**

On November 7, 2000, Santa Clara County voters approved a 30-year 0.5-cent sales tax for transit purposes. The sales tax measure specified the allocation of funds to various projects, including Downtown East Valley. The Downtown East Valley Preferred Investment Strategy includes three separate corridors: Santa Clara/Alum Rock, Capitol Expressway, and BRT on Monterey Highway. The Measure A funds for Downtown East Valley may be used for all three corridors. In 1999, VTA initiated an MIS for the Evergreen-Downtown Corridor. The MIS examined 17 alternatives for the corridor, including improvements to bus service. After an extensive public outreach process, the VTA Board of Directors determined that the benefits of the Light Rail Alternative were far greater than

those of any of the other alternatives and selected it as the Locally Preferred Alternative.

A study of transit needs along the SR 85 corridor will be the subject of a separate planning study of other potential transit corridors in the county to be completed in 2005.

## **Response to Comment SP1-8**

The Draft EIS/EIR was based on regionally approved forecasts for 2010 and 2025. Future land use forecasts are generated by the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC). The forecasts are based on land use data that is collected continuously from all jurisdictions through ABAG's Local Policy Survey, and periodically through county assessor's files and other sources. FTA requires that regionally approved land use forecasts be used in the EIS/EIR.

In Volume I, Chapter 4, Section 4.2, the effects of the Light Rail Alternative on Capitol Expressway intersections are evaluated. VTA acknowledges that existing and future traffic conditions with the No-Project Alternative would be below CMP standards. Of the 15 intersections evaluated, 10 would operate at LOS E or F during one or both peak hours in 2025 under the No-Project Alternative. Therefore, without construction of the Light Rail Alternative, most of the intersections along the corridor would be operating below LOS D. The same 10 intersections would operate at LOS E or F during one or both peak hours with construction of the Light Rail Alternative. While light rail would increase delay at some intersections, the total number of intersections operating at LOS E or F would remain the same. Where impacts from light rail have been identified, mitigation has been proposed where reasonable and feasible.

## **Speaker SP2, Betty Tse, May 27, 2004**

### **Response to Comment SP2-1**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, the Recommended Light Rail Alternative would not affect the intersections of Capitol Expressway with Nieman Boulevard, Aborn Road, and Silver Creek Road.

However, Volume I, Chapter 4, Section 4.2, analyzed the effects of the Light Rail Alternative at the intersections of Capitol Expressway with Quimby Road, Nieman Boulevard, Aborn Road, and Silver Creek Road. Currently, Quimby Road, Aborn Road, and Silver Creek Road are operating at or near capacity in one or both of the peak hour periods.

With the Light Rail Alternative, traffic impacts were identified at the intersections of Capitol Expressway with Quimby Road, Aborn Road, and Silver Creek Road. Mitigation for these impacts is proposed for the intersections of Capitol Expressway with Aborn Road and with Silver Creek Road. In 2025, the impacts at the Capitol Expressway/Quimby Road intersection were determined to be substantially adverse, for which there is no feasible mitigation.

### **Response to Comment SP2-2**

Volume I, Chapter 4, Section 4.2 evaluated the effect of the Light Rail Alternative on the Capitol Expressway/Aborn Road intersection. Currently, the LOS is F and there is an average vehicle delay of 70.1 seconds in the AM peak hour. The average vehicle delay in the AM peak hour would increase to 257.1 seconds with the Light Rail Alternative (183.2 seconds with the No Project Alternative) in 2010 and 559.2 seconds with the Light Rail Alternative (405 seconds with the No Project Alternative) in 2025. The average vehicle delay in the current AM peak hour for the left turn from northbound Aborn Road to westbound Capitol Expressway is 190 seconds per vehicle.

Because the increase in delay would exceed the significance threshold for transportation impacts, the EIS/EIR includes the addition of a third left-turn lane from northbound Aborn Road to westbound Capitol Expressway to mitigate the impacts of the Light Rail Alternative on the intersection in 2010 and 2025.

Again, it should be noted that the DTEV PAB deferred all project-level decisions between Nieman Boulevard and SR 87 at its meeting on August 5, 2004. As a result, the Capitol Expressway/Aborn Road intersection will not be affected by the Recommended Light Rail Alternative.

## Response to Comment SP2-3

Volume I, Chapter 4, Section 4.2 addresses the effect of the Light Rail Alternative on traffic operations for each signalized intersection along Capitol Expressway. Many of the intersections would experience additional vehicle delay because the Light Rail Alternative removes the HOV lanes. The increase in delay during the AM and PM peak hours is contained in Tables 4.2-16 to 4.2-19.

The benefits of the Light Rail Alternative are detailed in Chapter 2, Section 2.4, and are summarized below:

- Maximize and enhance existing transit investments, such as the Tasman/Capitol Light Rail Project.
- Provide additional transit options and mobility for residents and businesses.
- Increase capacity and regional connectivity to major employment and activity centers.
- Travel time benefits.
- Improve pedestrian and bicycle access.
- Addition of landscaping and urban design features.
- Improve air quality.

## Response to Comment SP2-4

The following three designs were evaluated at Nieman Boulevard:

- An at-grade station in the median of Capitol Expressway.
- A west-side station with a side-running alignment, in which light rail would cross into the median of Capitol Expressway via an aerial structure.
- A west-side station with a side-running alignment, in which light rail would cross into the median of Capitol Expressway via a cut-and-cover tunnel structure.

Noise impacts were identified for the side-running at-grade/aerial option. These impacts would be mitigated with the addition of noise barriers or other mitigation treatments within a 500-foot segment (Volume I, Chapter 4, Section 4.14, Impact NV-5).

Vibration impacts were identified with the at-grade station and side-running/tunnel option. These impacts could be mitigated with the addition of vibration-dampening materials (Volume I, Chapter 4, Section 4.14, Impact NV-6).

Effects of the project on privacy were not specifically evaluated in the EIS/EIR. However, visual screens could be incorporated in the design of aerial structures

to obscure the view of back yards from the light rail vehicles and will be reviewed during Preliminary Engineering.

It should be noted that the DTEV PAB selected the at-grade west-side station with side-running alignment at Nieman Boulevard and to defer all project-level decisions between Nieman Boulevard and SR 87. As a result, the Recommended Light Rail Alternative would terminate at the Nieman Boulevard Station and would have no effect on noise, vibration, or privacy in the area.

## **Response to Comment SP2-5**

The VTA Board of Directors and FTA will decide on the preferred project alternative. Their decision will take into consideration environmental impacts as disclosed in the EIS/EIR compared to the purpose and need for the project as described in Volume I, Chapter 2, Sections 2.3.1 and 2.3.2. The decision will also consider financial considerations, including the construction and operation of the alternative.

## **Speaker SP3, David Aldag, May 27, 2004**

### **Response to Comment SP3-1**

In the EIS/EIR, it is assumed that the Light Rail Alternative would operate 24 hours per day. However, the actual hours of operation would be further defined during Preliminary Engineering and Final Design. Currently, light rail service operates from approximately 5 a.m. to 1 a.m. during weekdays.

### **Response to Comment SP3-2**

Volume I, Chapter 4, Section 4.14 evaluated the noise effects of the Light Rail Alternative. Because no noise impacts were identified with the Recommended Light Rail Alternative that extends to Nieman Boulevard, no soundwalls would be provided.

### **Response to Comment SP3-3**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, the Recommended Light Rail Alternative would not adversely affect traffic south of Nieman Boulevard.

Volume I, Chapter 4, Section 4.2 discusses the effects of the Light Rail Alternative on traffic. Significant adverse impacts have been identified at the intersections of Capitol Expressway with Story Road, Ocala Avenue, and Quimby Road, at which no feasible mitigation measures were identified. Generally, the Light Rail Alternative would increase delay at many intersections along Capitol Expressway.



## **Speaker SP4, David Noel, May 27, 2004**

### **Response to Comment SP4-1**

Refer to the responses to Letter P7 from Jeri Arstingstall, who is the current president of the VEP Community Association. Letter P7 includes a copy of a letter dated April 17, 2003, from David Noel. In response to Letter P7, VTA has also provided a response to the April 2003 letter.

### **Response to Comment SP4-2**

As reported in Volume I, Table 3-2, the total person throughput on Capitol Expressway would decrease with the Light Rail Alternative. For example, existing northbound person throughput in the AM peak hour is currently 4,080. With the construction of light rail, the throughput would decrease to 3,965, which includes 510 persons on light rail as forecasted in the Patronage Report for the Capitol Expressway Light Rail Corridor (Korve Engineering 2004) (Volume III, Appendix C). Capacity of the expressway, however, would increase because light rail can carry 780 seated passengers and more than 2,000 passengers per hour if standees are included when two-car light rail trains are operated on 10-minute headways.

Between U.S. 101 and SR 87, the Light Rail Alternative would not require the removal of a traffic lane to construct light rail and would generally not affect automobile capacity. In addition, it should be noted that the DTEV PAB deferred project-level decisions on the Light Rail Alternative Phase 2 between Nieman Boulevard and SR 87 at its meeting on August 5, 2004. As a result, the Recommended Light Rail Alternative would have no effect on the traffic capacity between Nieman Boulevard and SR 87.

### **Response to Comment SP4-3**

In Volume I, Chapter 3, Section 3.4, subheading "Alignment Description," the following is stated:

The Light Rail Alternative would be designed to reduce travel time, with signal priority at intersections and grade separation at congested intersections. Crossings at freeways, expressways, and some major arterials would also be grade-separated (either elevated or depressed) to further support higher speed transit operations.

The Recommended Light Rail Alternative includes grade separations from north of Capitol Avenue to south of Story Road, at Tully Road, at Eastridge Access Road, and at Quimby Road to minimize impacts to traffic operations and increase light rail operating speeds.

The Light Rail Alternative would also provide a connection to major employment centers in downtown San Jose, Milpitas, north San Jose, Santa Clara, Sunnyvale, and Mountain View.

The construction cost of the MOS to the Eastridge Transit Center is funded through a 30-year 0.5-cent sales tax for transit purposes approved by Santa Clara County voters on November 7, 2000.

## **Response to Comment SP4-4**

On November 7, 2000, Santa Clara County voters approved a 30-year 0.5-cent sales tax for transit purposes. The sales tax measure specified the allocation of funds to various projects, including Downtown East Valley. The Downtown East Valley Preferred Investment Strategy includes three separate corridors: Santa Clara/Alum Rock, Capitol Expressway, and BRT on Monterey Highway. The Measure A funds for Downtown East Valley may be used for all three corridors, but not for the SR 85 corridor.

A study of transit needs along the SR 85 corridor will be the subject of a separate planning study of other potential transit corridors in the county that will be completed in 2005.

## **Response to Comment SP4-5**

Volume I, Chapter 7 accurately portrays the need to identify new potential sources of local revenue dedicated to VTA in order to operate new and existing transit services. Volume II, Chapter 2 accurately represents the funding situation for the Recommended Light Rail Alternative.

## **Response to Comment SP4-6**

The environmental effects of the design features and options between U.S. 101 and SR 87 are analyzed in the EIS/EIR.

However, at its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved. As a result, the Recommended Light Rail Alternative will have no environmental effects on the Capitol Expressway Corridor between U.S. 101 and SR 87.

## **Response to Comment SP4-7**

It is VTA's understanding that these lanes were referenced in the Communications Hill Specific Plan and would be constructed as the area develops. According to City of San Jose staff, these lanes have not yet been required as mitigation for a specific development project. As a result, the conceptual engineering did not accommodate the addition of these lanes in the plans for this intersection.

Because the DTEV PAB has deferred project-level decisions on the Phase 2 from Nieman Boulevard to SR 87, there is an opportunity to re-evaluate the plans when VTA further refines its plans for transit service in this corridor.

## **Response to Comment SP4-8**

The ridership projections for the Light Rail Alternative were calculated using the CMA's TRANPLAN travel demand model. The inputs into that model are the highway and street network, transit network, and population and employment forecasts. A modal split algorithm assigns travel to a specific mode, and a distribution algorithm assigns the travel to specific paths along specific modes. These algorithms are repeated several times to optimize travel time. Based on the results from the model, it has been estimated that the Recommended Light Rail Alternative between the Alum Rock Station and Nieman Boulevard would have an average daily ridership of 3,640.

## **Response to Comment SP4-9**

Volume I, Chapter 3, Section 3.4, subheading "Urban Design" describes the objectives and principles of the Light Rail Alternative. Table 3.4-1 lists system design, access, community design, safety, and traffic operations objectives. A primary principle of the Light Rail Alternative is to transform the existing expressway from an auto-dominant corridor to a multi-modal boulevard with visual amenities.

## **Speaker SP5, William Garbett, May 27, 2004**

### **Response to Comment SP5-1**

The County and VTA are both public entities providing transportation services. The County is the current owner of Capitol Expressway and would need to issue an encroachment permit to VTA before construction of improvements in the Expressway could begin. Before the encroachment permit is issued, any financial responsibilities would be discussed, if necessary.

### **Response to Comment SP5-2**

Volume I, Chapter 4, Section 4.7 describes the environmental setting and effects of the alternatives analyzed with regard to electromagnetic fields. Under the Light Rail Alternative, the greatest potential for exposure to increased magnetic fields would be within the light rail vehicles and at the proposed stations, where passengers and train operators would be exposed. Other VTA staff, such as maintenance and security personnel, would also be exposed. The magnitude of the increased magnetic fields would vary considerably by location and from minute to minute. The magnetic fields would fluctuate substantially, depending on factors such as train length, train mode (acceleration, deceleration, or idle), number of trains, and number of passengers at any given time. The strength of the magnetic field would also vary relative to an individual's proximity to the system.

Strong magnetic fields are not associated with the normal environment and the operation of light rail vehicles. The dominant source of magnetic field generation is the traction power and the control equipment under the vehicle's floor (Federal Railroad Administration 1993). The measurements of average magnetic fields for overhead-powered rail vehicles have ranged from 400 mG at head level to 1,500 mG at floor level. The actual field measurements inside existing light rail cars during peak commute periods in 1999 indicate that typical magnetic field levels are approximately 50% less than ACGIH's 5,000-mG threshold. No substantial adverse effects would result.

### **Response to Comment SP5-3**

Efficiency is generally defined as the cost per passenger transported. The EIS/EIR did not evaluate the efficiency of the standard automobile compared to light rail. However, it included information on ridership and cost for the Light Rail Alternative that will be considered by the decision makers when making any final decisions on the alternatives.

## **Response to Comment SP5-4**

Volume I, Chapter 4, Section 4.3 evaluated the effect of the Light Rail Alternative on air quality. The EIS/EIR concluded that the increased pollution from new transit service would be offset by a slight decrease in the number of automobile trips. The No-Project Alternative, because it resulted in increased vehicle miles traveled, was determined to result in an increase in particulate emissions that would create an adverse effect that could not be mitigated.

## **Response to Comment SP5-5**

Volume I, Chapter 7 accurately portrays the need to identify new potential sources of local revenue dedicated to VTA in order to operate new and existing transit services. Volume II, Chapter 2 accurately represents the funding situation for the Recommended Light Rail Alternative.

## **Response to Comment SP5-6**

On November 7, 2000, Santa Clara County voters approved a 30-year 0.5-cent sales tax for transit purposes. The sales tax measure specified the allocation of funds to various projects, including Downtown East Valley. The Downtown East Valley Preferred Investment Strategy includes three separate corridors: Santa Clara/Alum Rock, Capitol Expressway, and BRT on Monterey Highway. Also refer to Response to Comment SP5-6.

## **Response to Comment SP5-7**

At its meeting on August 5, 2004, the DTEV PAB deferred project-level decisions, including design options and project phasing, on the Light Rail Alternative Phase 2 from Nieman Boulevard to SR 87 until land use and transportation decisions associated with the U.S. 101 Central Corridor Study and Evergreen Smart Growth Strategy have been further developed and approved.

In Volume I, Chapter 4, Section 4.15, the EIS/EIR evaluates safety risks to pedestrians and bicycles at gated crossings from the Light Rail Alternative. To minimize accident risks, VTA would design and operate the Light Rail Alternative in accordance with applicable CPUC regulations and install pedestrian-activated push buttons and pedestrian refuges to facilitate safe crossings of the light rail tracks.

Volume I, Chapter 4, Section 4.2 evaluates the effects of the Light Rail Alternative on traffic. Because the Recommended Light Rail Alternative would remove the HOV lanes, the delay at many intersections would increase. As a result, significant and unavoidable traffic impacts were identified at several Capitol Expressway intersections, including Story Road, Ocala Avenue and Quimby Road.

## **Response to Comment SP5-8**

Comments regarding the slow rate through the downtown area do not address an environmental issue related to the Capitol Expressway Corridor. Therefore, a response is not required.

## **Response to Comment SP5-9**

Volume I, Chapter 3, Section 3.4, subheading “Urban Design” describes the objectives and principles of the Light Rail Alternative. Table 3.4-1 lists system design, access, community design, safety, and traffic operations objectives. A primary principle of the Light Rail Alternative is to transform the existing expressway from an auto-dominant corridor to a multi-modal boulevard with visual amenities. In addition, the benefits of the Light Rail Alternative are detailed in Volume I, Chapter 2, Section 2.4, and are summarized as follows:

- Maximize and enhance existing transit investments, such as the Tasman/Capitol Light Rail Project.
- Provide additional transit options and mobility for residents and businesses.
- Increase capacity and regional connectivity to major employment and activity centers.
- Travel time benefits.
- Improve pedestrian and bicycle access.
- Addition of landscaping and urban design features.
- Improve air quality.

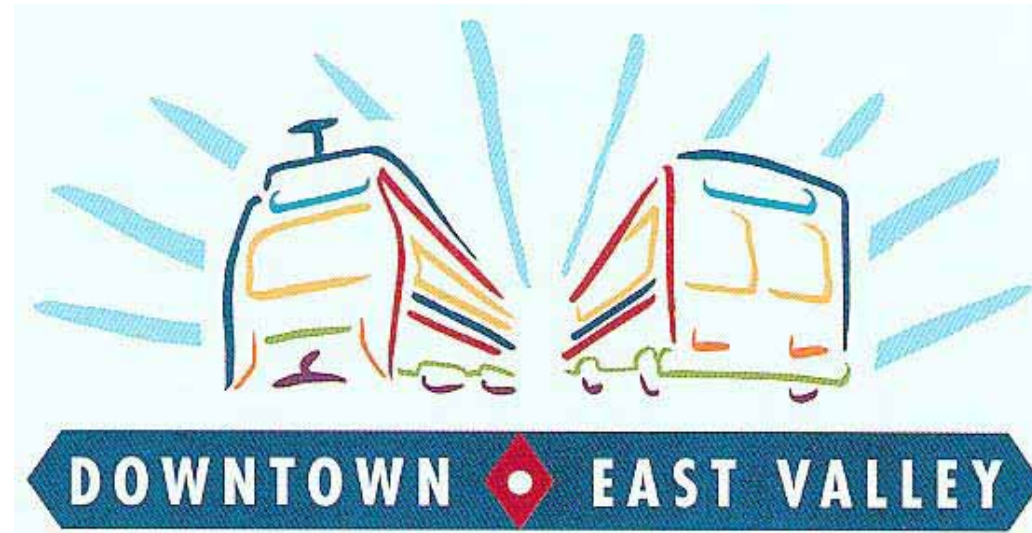
VTA notes the preference for bus service, which is one of the alternatives under consideration.

## **Response to Comment SP5-10**

Refer to Response to Comment SP5-5.

Attachment A

# **Plan and Profiles for Preferred Alternative**



---

**Light Rail Transit Corridor  
Conceptual Engineering**

**Capitol Expressway Light Rail – Preferred Alternative**

---

Prepared for:



3331 North First Street  
San Jose, CA 95134

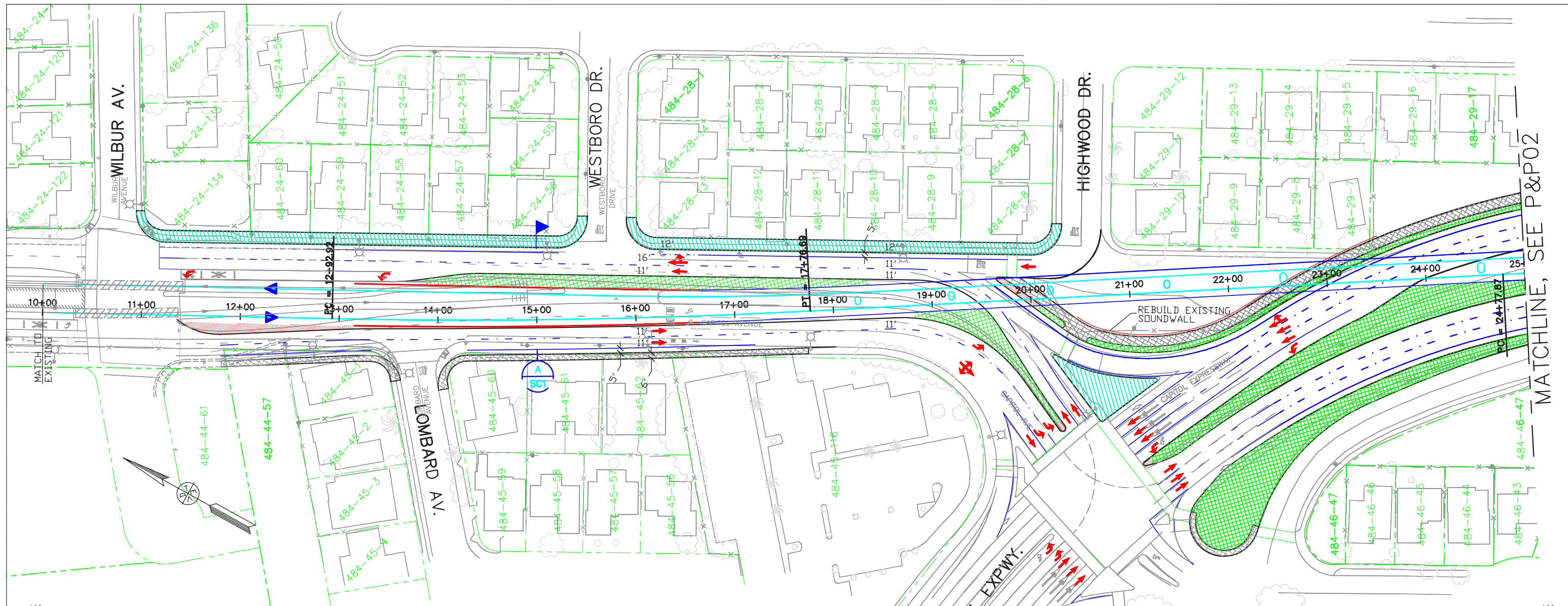
Prepared by:



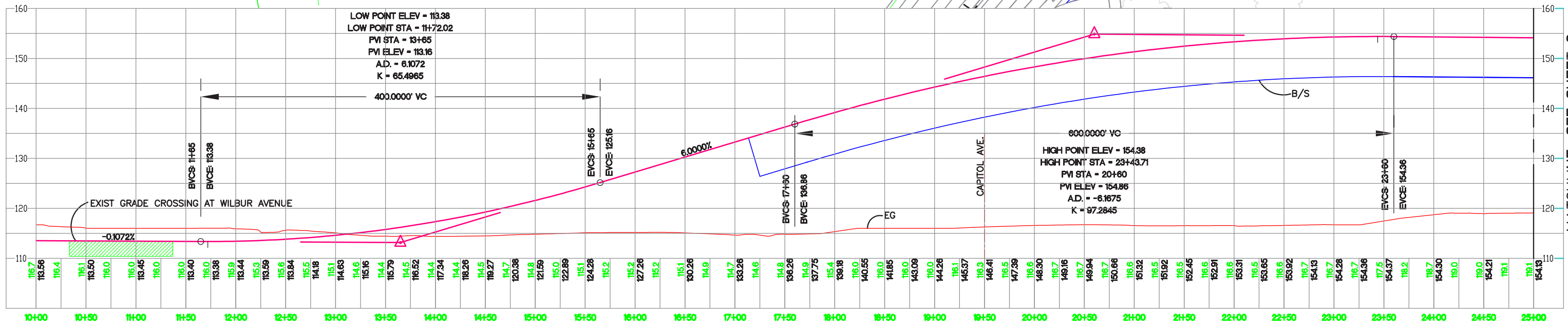
1570 The Alameda, Suite 222  
San Jose, CA 95126

**September 2004**





MATCHLINE, SEE P&P02



MATCHLINE, SEE SHEET 2

NO.	DATE	REVISIONS

SUBMITTED

1570 The Alameda, Suite 222  
San Jose, CA 95126  
(408) 298-2929

DESIGNED: DSH      CHECKED: DAS

DRAWN: DSH      CADD FILE NAME: 1018ps01



APPROVED

CADD FILE DATE: 6/16/03      SCALE: 1"=100'H; 1"=20'V

PLOT DATE: 6/16/03      BOARD APPROVAL DATE:

DOWNTOWN EAST VALLEY  
LIGHT RAIL

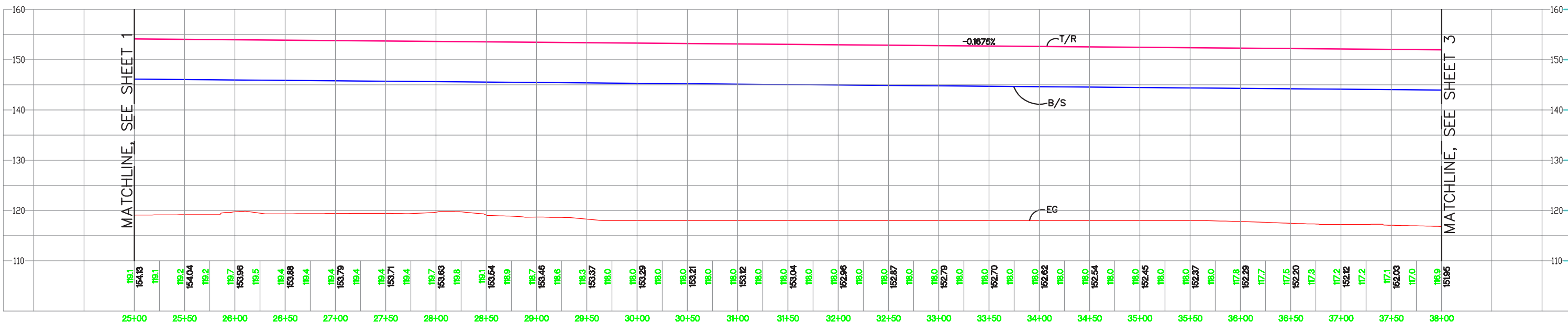
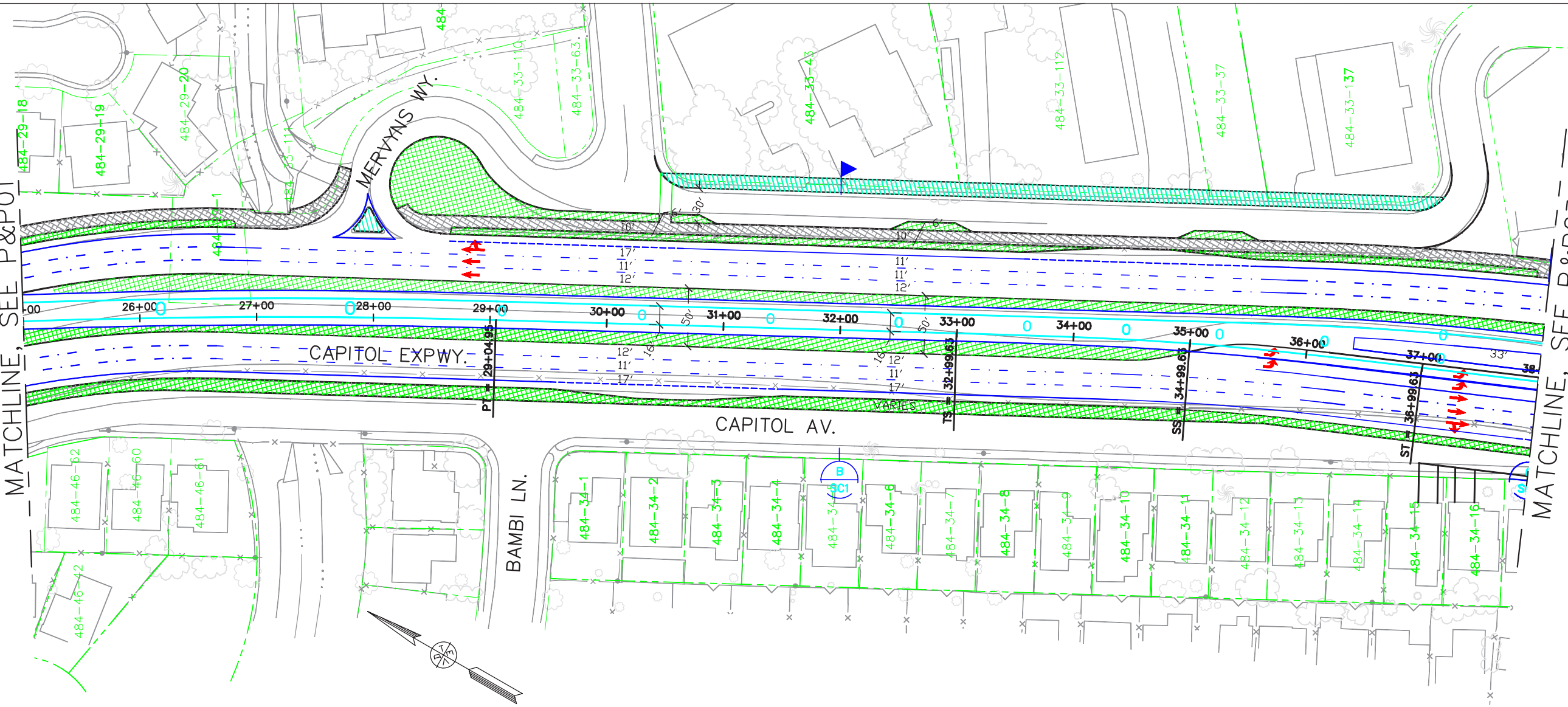
PLAN & PROFILE SHEET  
CAPITOL EXPRESSWAY NORTH BASE

PCA NO.      CONTRACT NO.      FILE LOCATION

SHEET OF      DRAWING NO. P&P01      REVISION

MATCHLINE, SEE P&P01

MATCHLINE, SEE P&P03



NO.	DATE	REVISIONS

SUBMITTED

1570 The Alameda, Suite 222  
San Jose, CA 95126  
(408) 298-2929

DESIGNED: DSH  
CHECKED: DAS  
DRAWN: DSH  
CADD FILE NAME: 1018ps01



APPROVED

CADD FILE DATE: 3/24/04  
PLOT DATE: 3/24/04

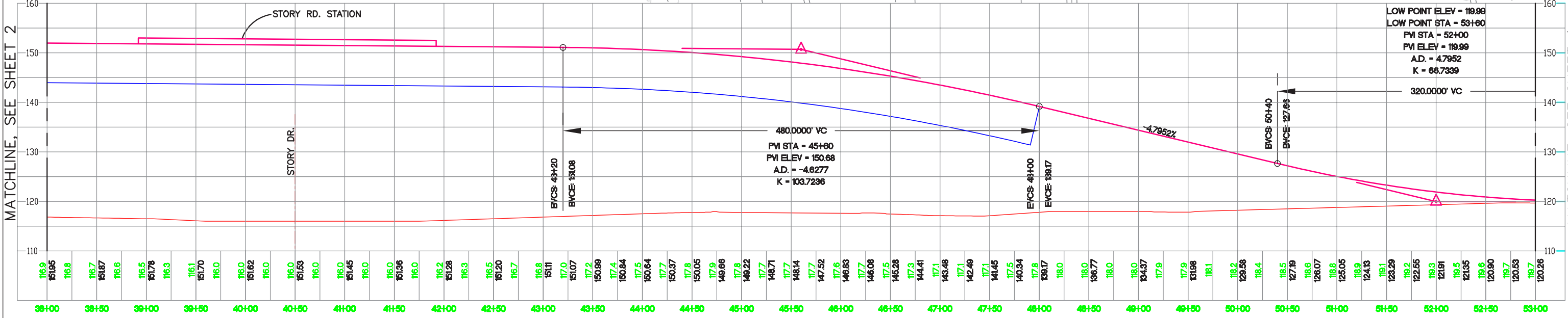
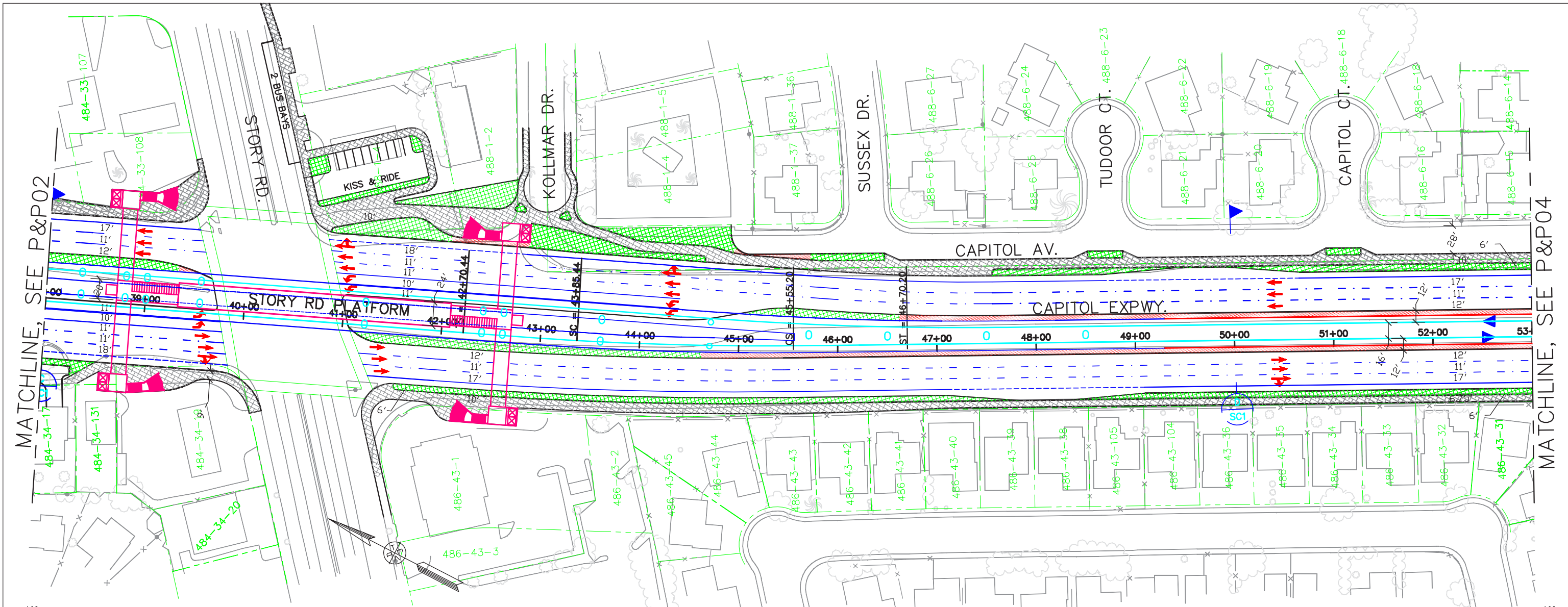
SCALE: 1"=100'H; 1"=20'V  
BOARD APPROVAL DATE:

DOWNTOWN EAST VALLEY  
LIGHT RAIL  
PLAN & PROFILE SHEET  
CAPITOL EXPRESSWAY NORTH BASE

PCA NO.:  
CONTRACT NO.:  
FILE LOCATION:


SHEET OF	P&P02
DRAWING NO.	
REVISION	





NO.	DATE	REVISIONS

SUBMITTED



1570 The Alameda, Suite 222  
San Jose, CA 95126  
(408) 298-2929

DESIGNED: DSH      CHECKED: DAS

DRAWN: DSH      CADD FILE NAME: 1018ps01



APPROVED

CADD FILE DATE: 10/14/02      SCALE: 1"=100'H; 1"=20'V

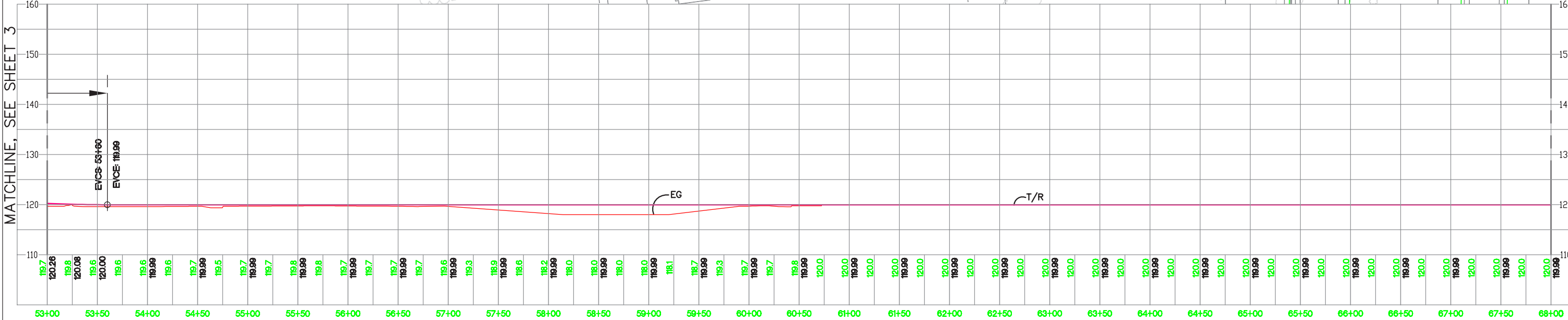
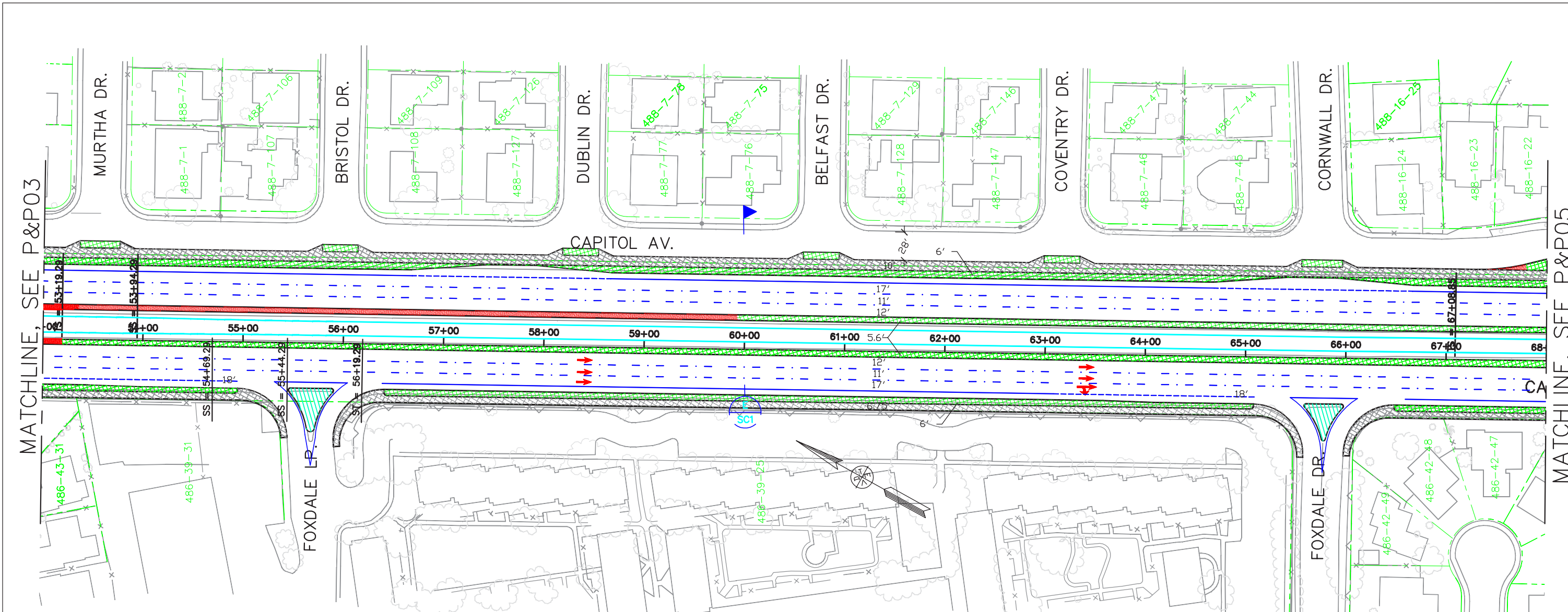
PLOT DATE: 10/14/02      BOARD APPROVAL DATE:

DOWNTOWN EAST VALLEY  
LIGHT RAIL

PLAN & PROFILE SHEET  
CAPITOL EXPRESSWAY NORTH BASE

SHEET OF      DRAWING NO. P&P03

PCA NO.      CONTRACT NO.      FILE LOCATION



SUBMITTED  1570 The Alameda, Suite 222 San Jose, CA 95126 (408) 298-2929		APPROVED   		DOWNTOWN EAST VALLEY LIGHT RAIL PLAN & PROFILE SHEET CAPITOL EXPRESSWAY NORTH BASE		SHEET OF DRAWING NO. <b>P&amp;P04</b> REVISION	
DESIGNED	DSH	CHECKED	DAS	CADD FILE DATE	3/24/04	SCALE	1"=100'; 1"=20'V
DRAWN	DSH	CADD FILE NAME	1018ps01	PLOT DATE	3/24/04	BOARD APPROVAL DATE	
NO.	DATE	REVISIONS		PCA NO.	CONTRACT NO.	FILE LOCATION	

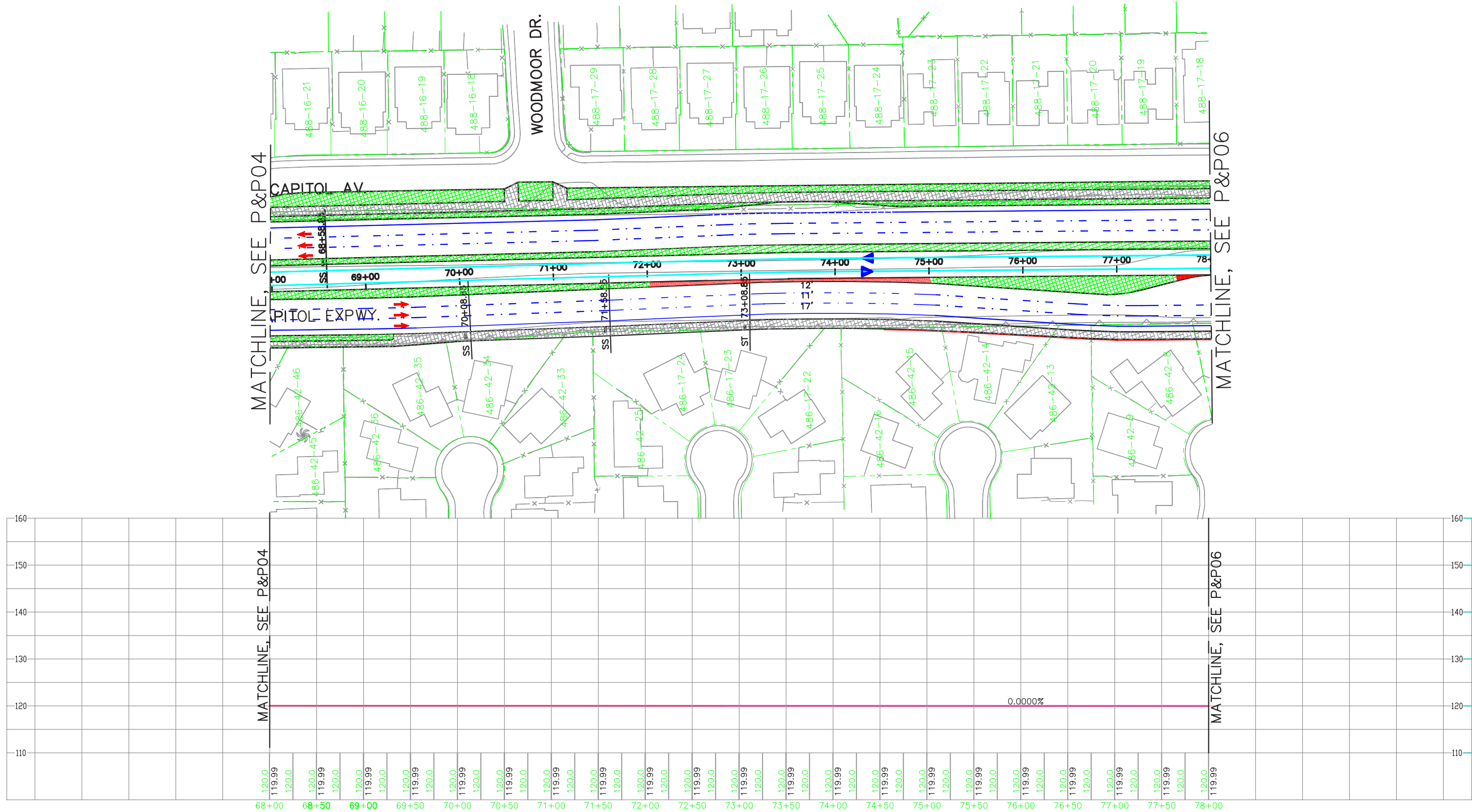
MATCHLINE, SEE P&P03

MATCHLINE, SEE P&P05

MATCHLINE, SEE SHEET 3

MATCHLINE, SEE SHEET 5





MATCHLINE, SEE P&P04

MATCHLINE, SEE P&P06


MATCHLINE, SEE P&P04

MATCHLINE, SEE P&P06

NO.	DATE	REVISIONS

DESIGNED	DSH	CHECKED	DAS
DRAWN	DSH	CADD FILE NAME	1018ps02b2

SUBMITTED



1570 The Alameda, Suite 222  
San Jose, CA 95126  
(408) 298-2929

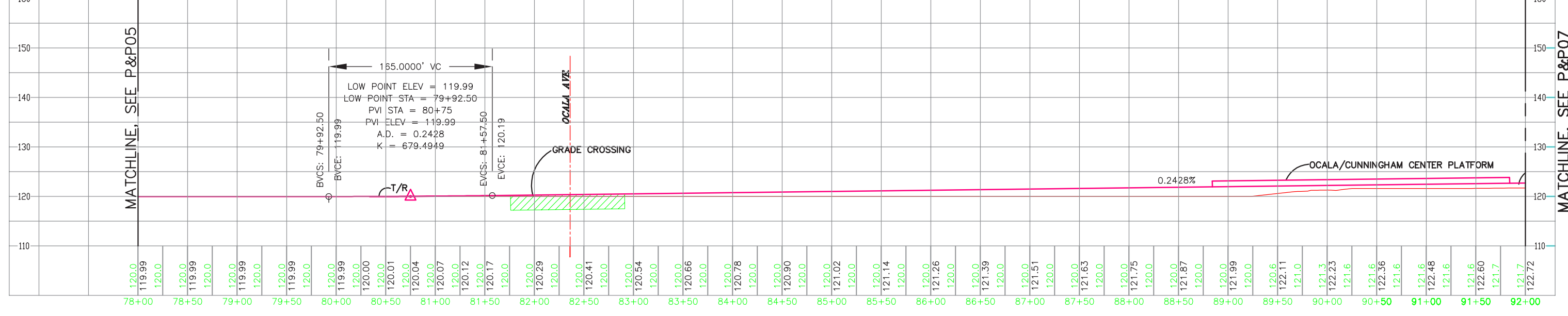
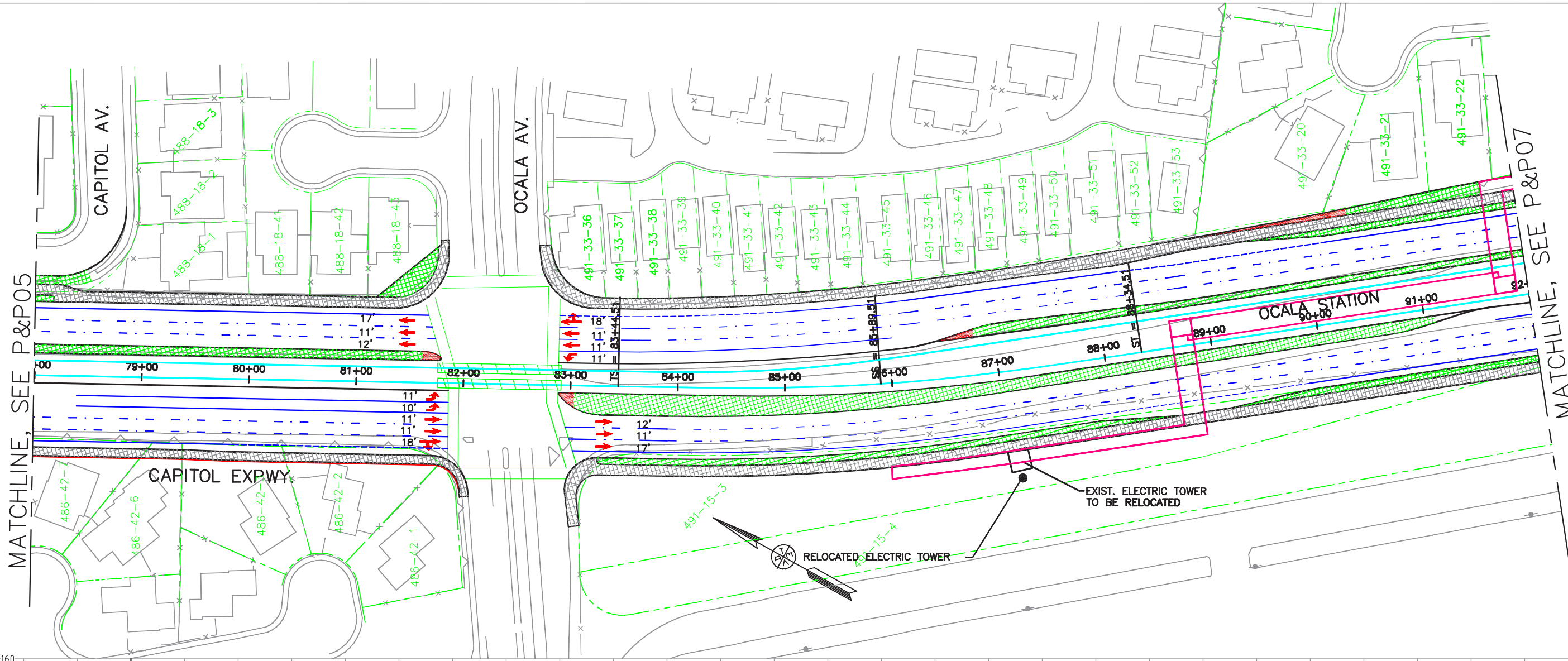


APPROVED	
CADD FILE DATE	3/24/04
SCALE	1"=100'H; 1"=20'V
PLOT DATE	3/24/04
BOARD APPROVAL DATE	

DOWNTOWN EAST VALLEY  
LIGHT RAIL  
PLAN & PROFILE SHEET  
CAPITOL EXPRESSWAY NORTH BASE

PCA NO.	CONTRACT NO.	FILE LOCATION

SHEET	
OF	
DRAWING NO.	P&P05
REVISION	



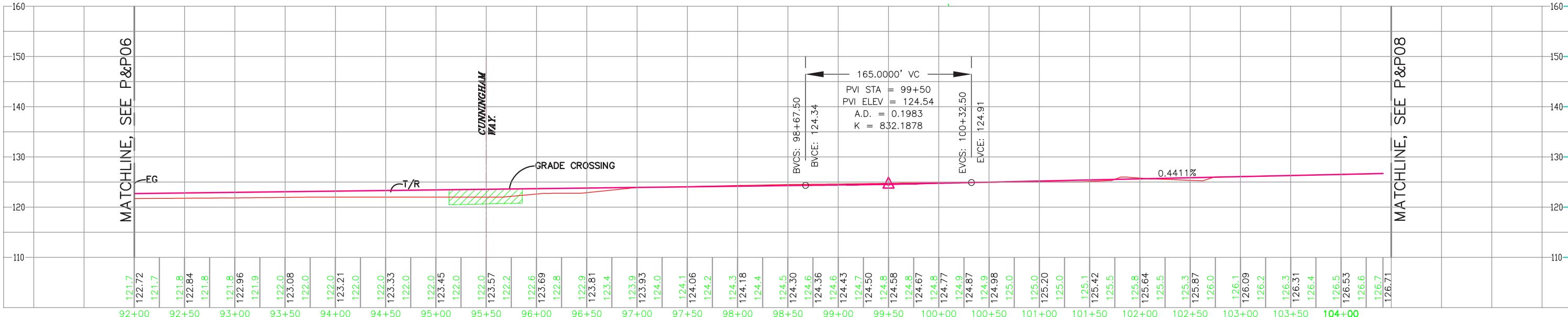
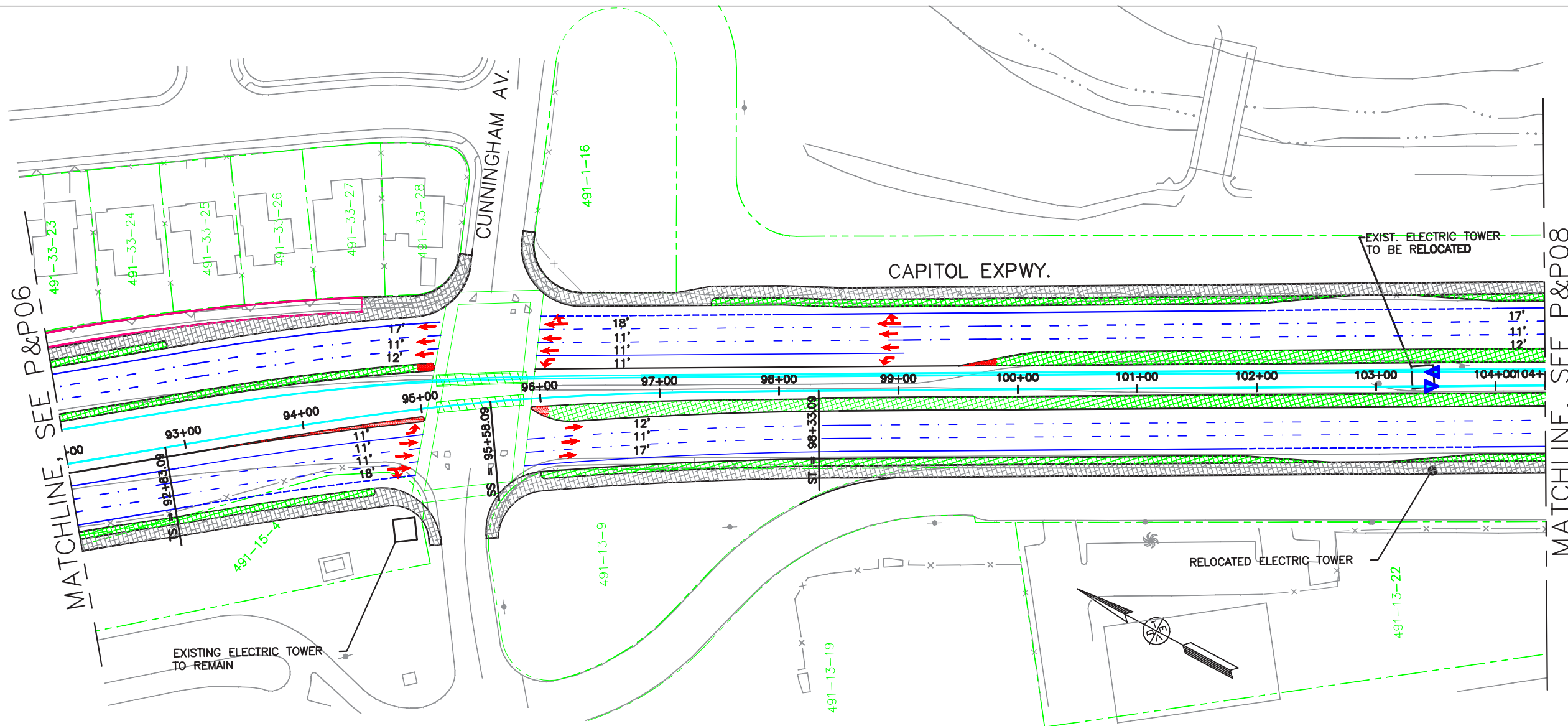
NO.	DATE	REVISIONS

SUBMITTED		 1570 The Alameda, Suite 222 San Jose, CA 95126 (408) 298-2929	
DESIGNED	DSH	CHECKED	DAS
DRAWN	DSH	CADD FILE NAME	1018ps02b2

APPROVED: \_\_\_\_\_  
 CADD FILE DATE: 3/24/04  
 PLOT DATE: 3/24/04  
 SCALE: 1"=100'H; 1"=20'V  
 BOARD APPROVAL DATE: \_\_\_\_\_

DOWNTOWN EAST VALLEY LIGHT RAIL PLAN & PROFILE SHEET CAPITOL EXPRESSWAY NORTH BASE		
PCA NO.	CONTRACT NO.	FILE LOCATION

SHEET	OF
DRAWING NO.	P&P06
REVISION	



NO.	DATE	REVISIONS

SUBMITTED  1570 The Alameda, Suite 222 San Jose, CA 95126 (408) 298-2929	
DESIGNED VT	CHECKED DAS
DRAWN VT	CADD FILE NAME 1018ps02b2

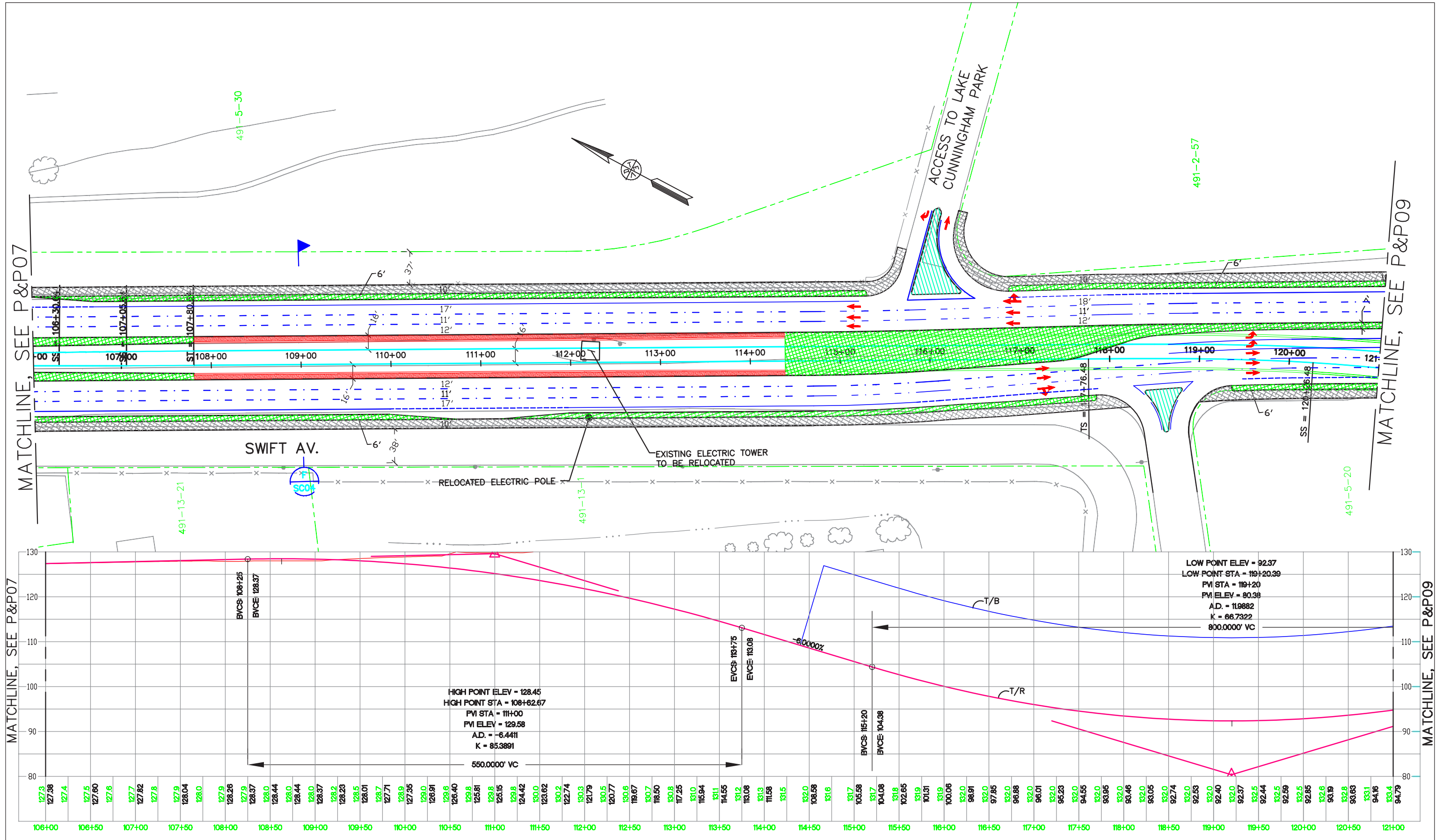
APPROVED	
CADD FILE DATE 3/24/04	SCALE 1"=100'H; 1"=20'V
PLOT DATE 3/24/04	BOARD APPROVAL DATE

DOWNTOWN EAST VALLEY  
 LIGHT RAIL  
 PLAN & PROFILE SHEET  
 CAPITOL EXPRESSWAY NORTH BASE

PCA NO.	CONTRACT NO.	FILE LOCATION
---------	--------------	---------------

SHEET OF	DRAWING NO. <b>P&amp;P07</b>
REVISION	





NO.	DATE	REVISIONS

SUBMITTED

1570 The Alameda, Suite 222  
San Jose, CA 95126  
(408) 298-2929

DESIGNED: DSH      CHECKED: DAS

DRAWN: DSH      CADD FILE NAME: 1018ps02

APPROVED

CADD FILE DATE: 3/24/04      SCALE: 1"=100'H; 1"=20'V

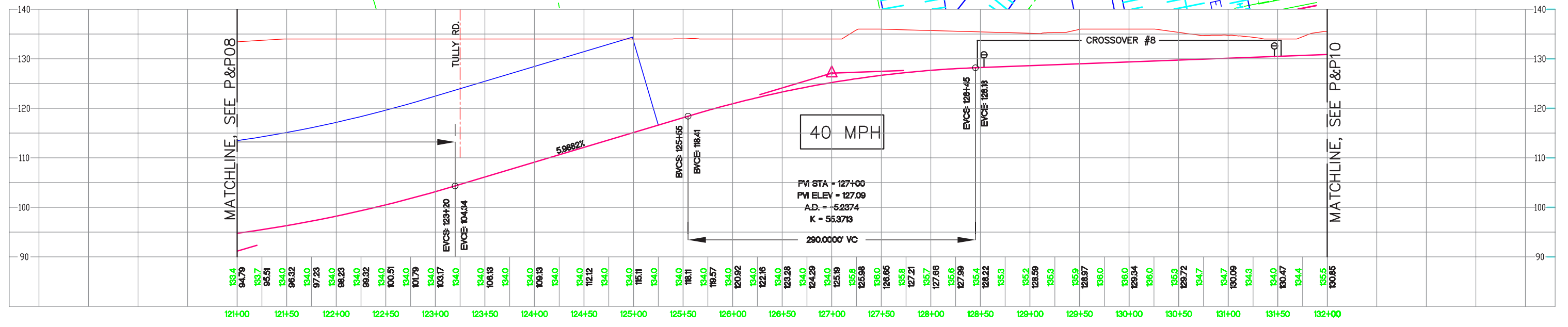
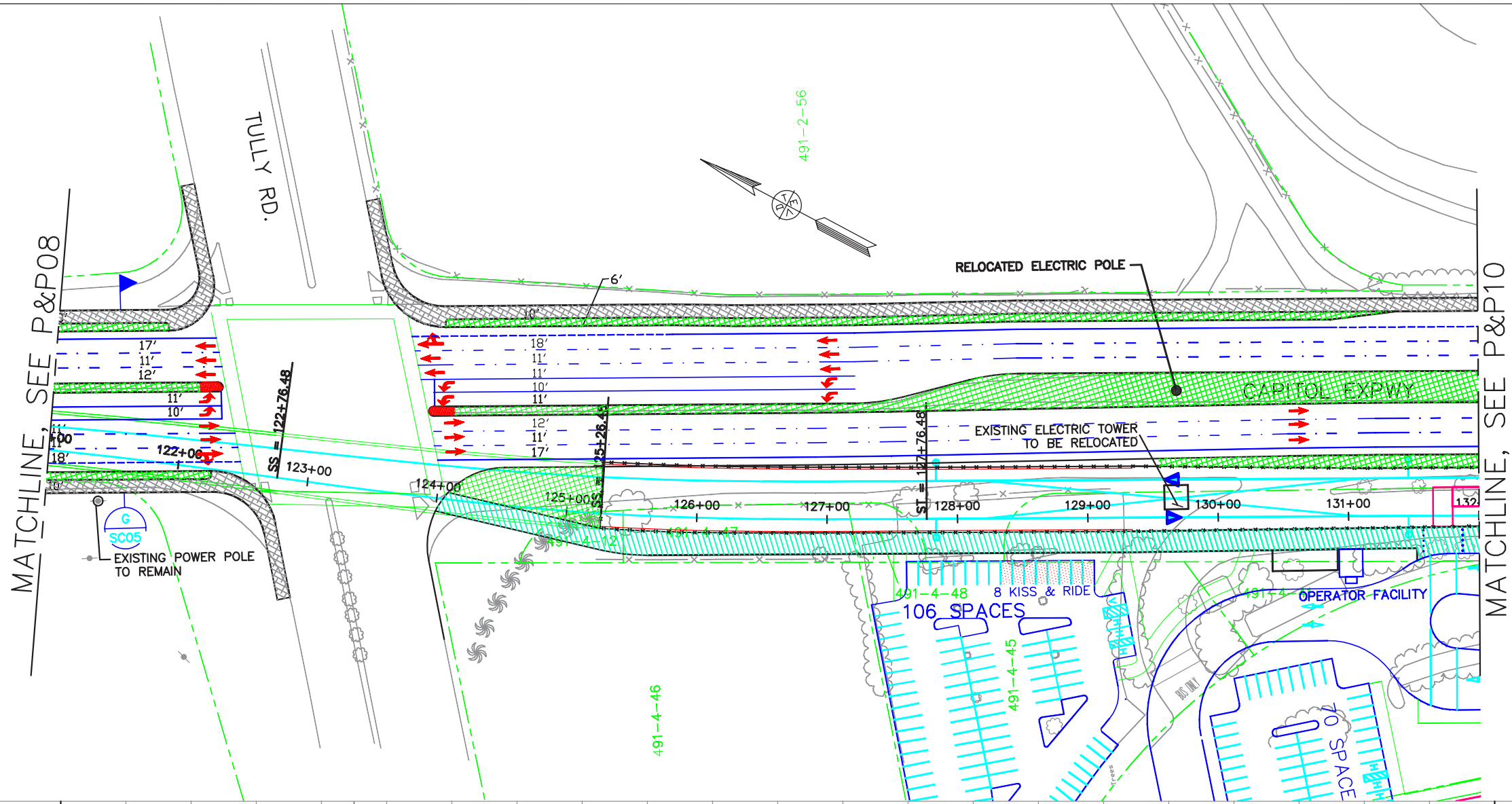
PLOT DATE: 3/24/04      BOARD APPROVAL DATE:

PCB NO.      CONTRACT NO.      FILE LOCATION

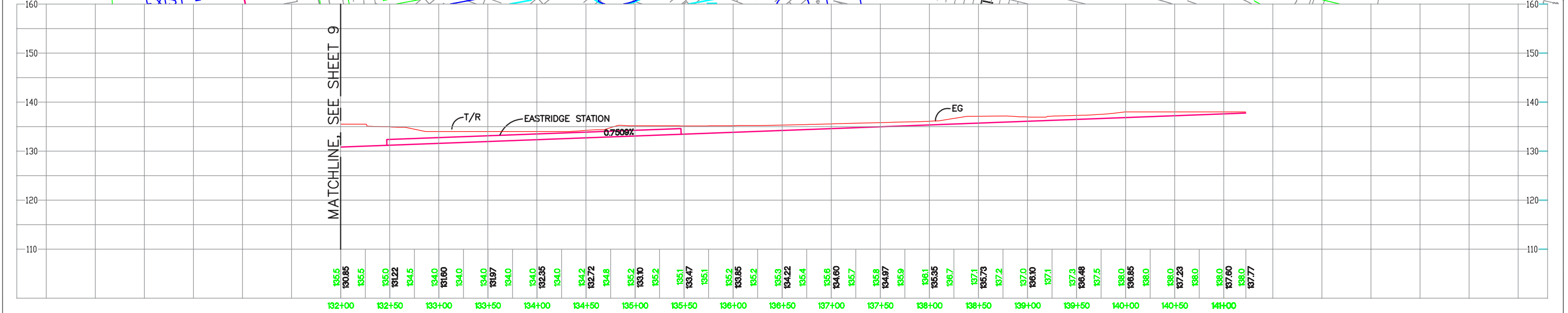
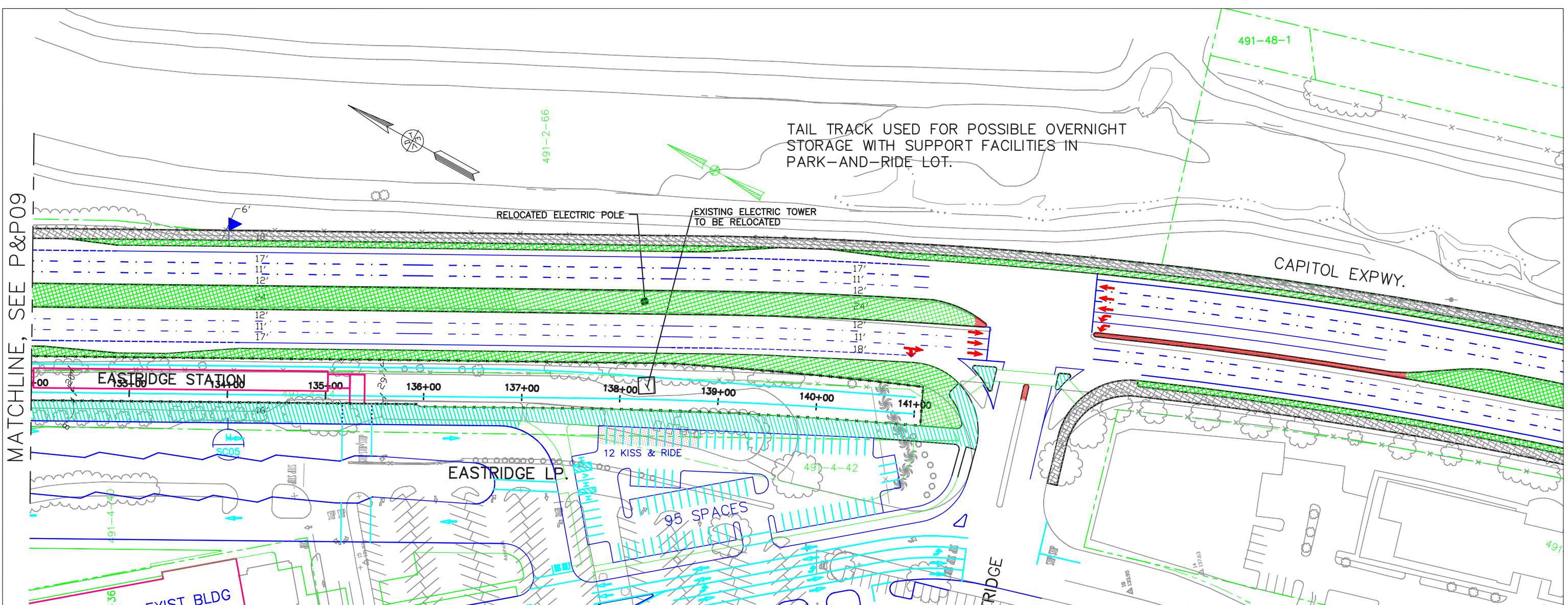
DOWNTOWN EAST VALLEY LIGHT RAIL  
PLAN & PROFILE SHEET  
CAPITOL EXPRESSWAY NORTH BASE

SHEET OF      DRAWING NO. P&P08      REVISION



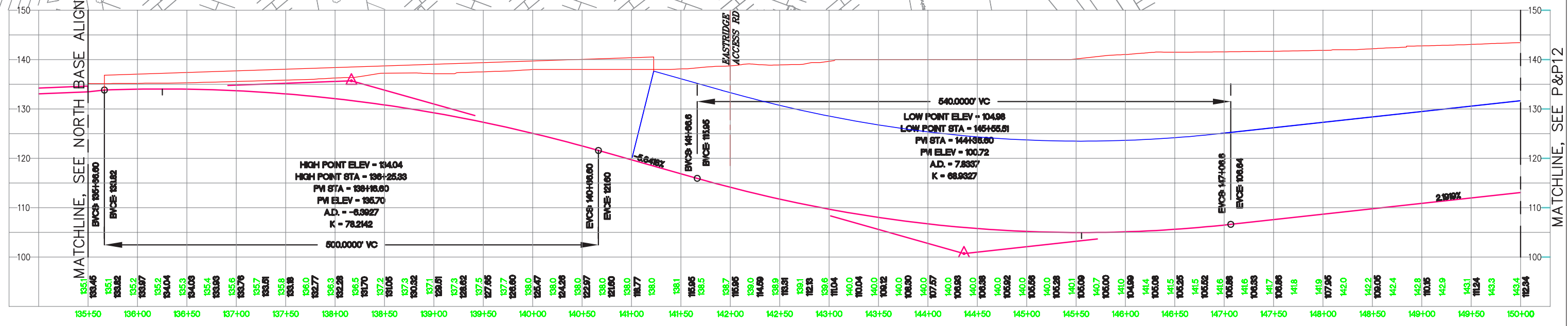
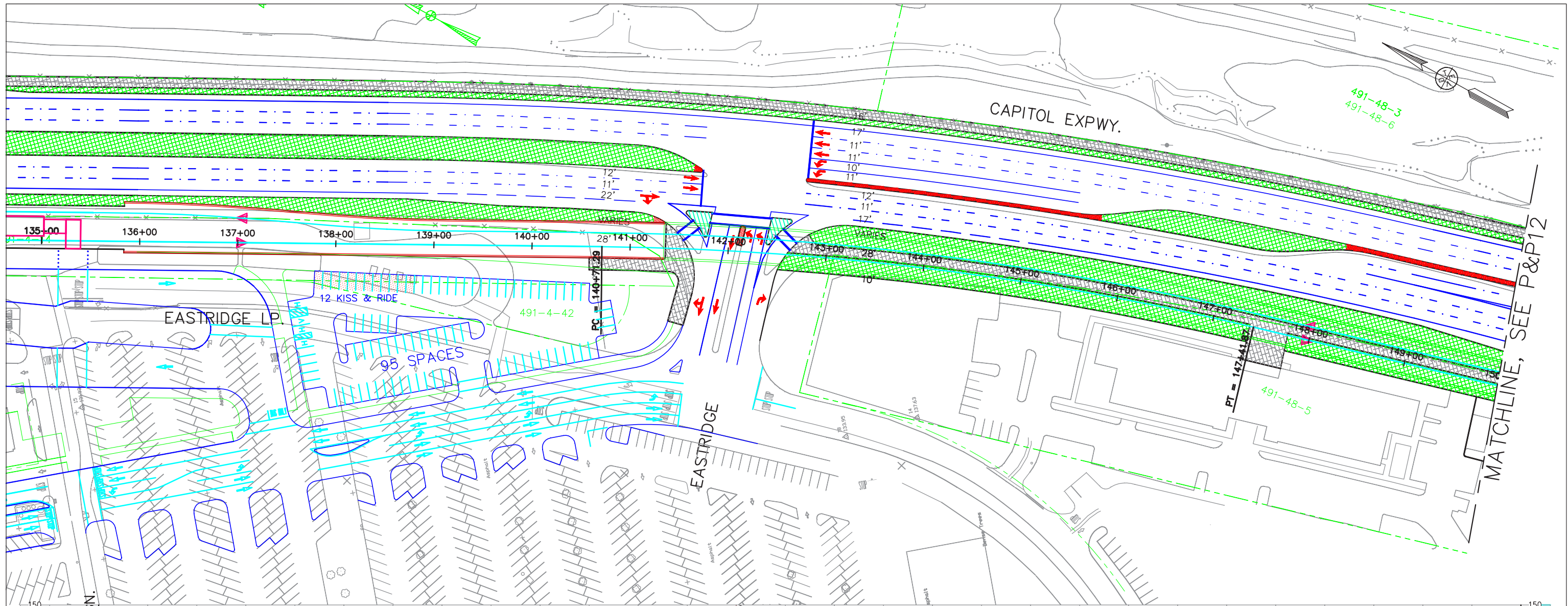


NO.		DATE	REVISIONS	SUBMITTED  1570 The Alameda, Suite 222 San Jose, CA 95126 (408) 298-2929		APPROVED 		DOWNTOWN EAST VALLEY LIGHT RAIL PLAN & PROFILE SHEET CAPITOL EXPRESSWAY NORTH BASE		SHEET OF DRAWING NO. <b>P&amp;P09</b>
DESIGNED		DSH		CHECKED		DAS		CADD FILE DATE <b>3/24/04</b>		SCALE <b>1"=100'H; 1"=20'V</b>
DRAWN		DSH		CADD FILE NAME		1018ps02		PLOT DATE <b>3/24/04</b>		BOARD APPROVAL DATE
PCA NO.				CONTRACT NO.				FILE LOCATION		REVISION




SUBMITTED		 1570 The Alameda, Suite 222 San Jose, CA 95126 (408) 298-2929		APPROVED		DOWNTOWN EAST VALLEY LIGHT RAIL PLAN & PROFILE SHEET CAPITOL EXPRESSWAY NORTH BASE		SHEET OF DRAWING NO. <b>P&amp;P10</b> REVISION	
DESIGNED		CHECKED		CADD FILE DATE		SCALE		PCA NO.	
DSH		DAS		3/24/04		1"=100'H; 1"=20'V		CONTRACT NO.	
DRAWN		CADD FILE NAME		PLOT DATE		BOARD APPROVAL DATE		FILE LOCATION	
DSH		1018ps02		3/24/04					
NO.	DATE	REVISIONS							





NO.	DATE	REVISIONS

SUBMITTED



1570 The Alameda, Suite 222  
San Jose, CA 95126  
(408) 298-2929

DESIGNED: DSH  
CHECKED: DAS  
DRAWN: NN  
CADD FILE NAME: 1018ps03C3



APPROVED

CADD FILE DATE: 3/24/04  
PLOT DATE: 3/24/04

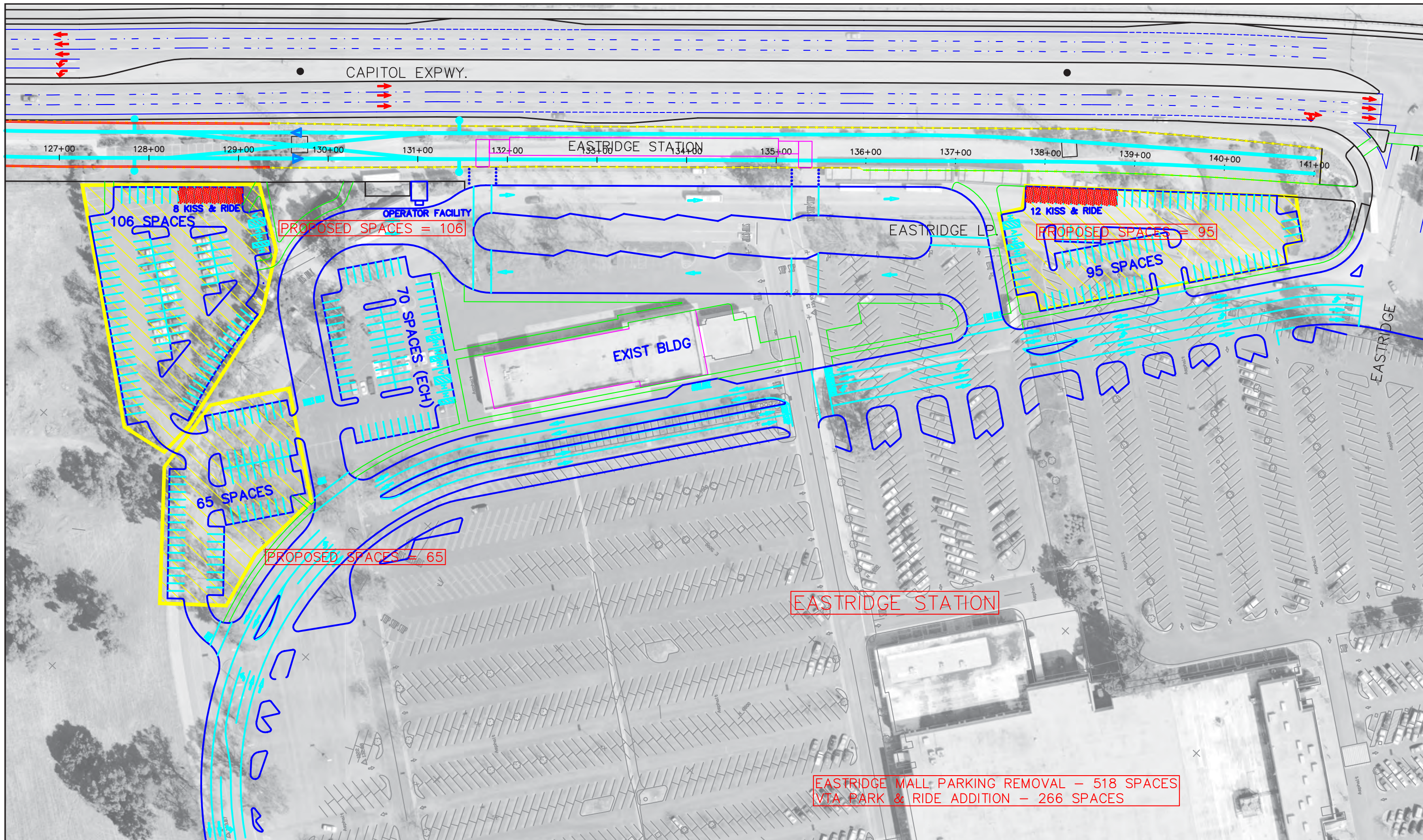
SCALE: 1"=100'H; 1"=20'V  
BOARD APPROVAL DATE:

DOWNTOWN EAST VALLEY  
LIGHT RAIL  
PLAN & PROFILE SHEET  
CAPITOL EXPRESSWAY SOUTH BASE

PCB NO.:  
CONTRACT NO.:  
FILE LOCATION:

SHEET OF: P&P11  
DRAWING NO.:  
REVISION:





NO.	DATE	REVISIONS

SUBMITTED		 1570 The Alameda, Suite 222 San Jose, CA 95126 (408) 298-2929	
DESIGNED	DSH	CHECKED	DAS
DRAWN	DSH	CADD FILE NAME	EastridgeP&R4

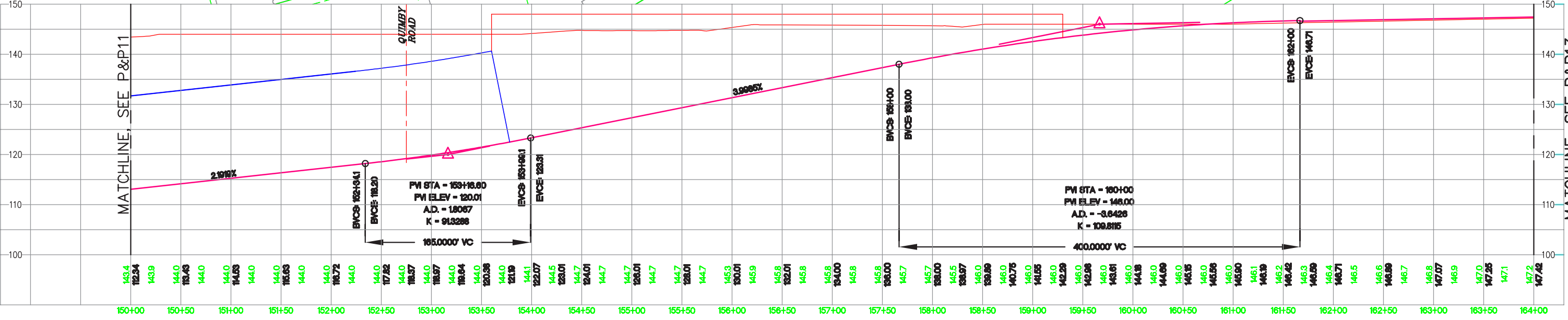
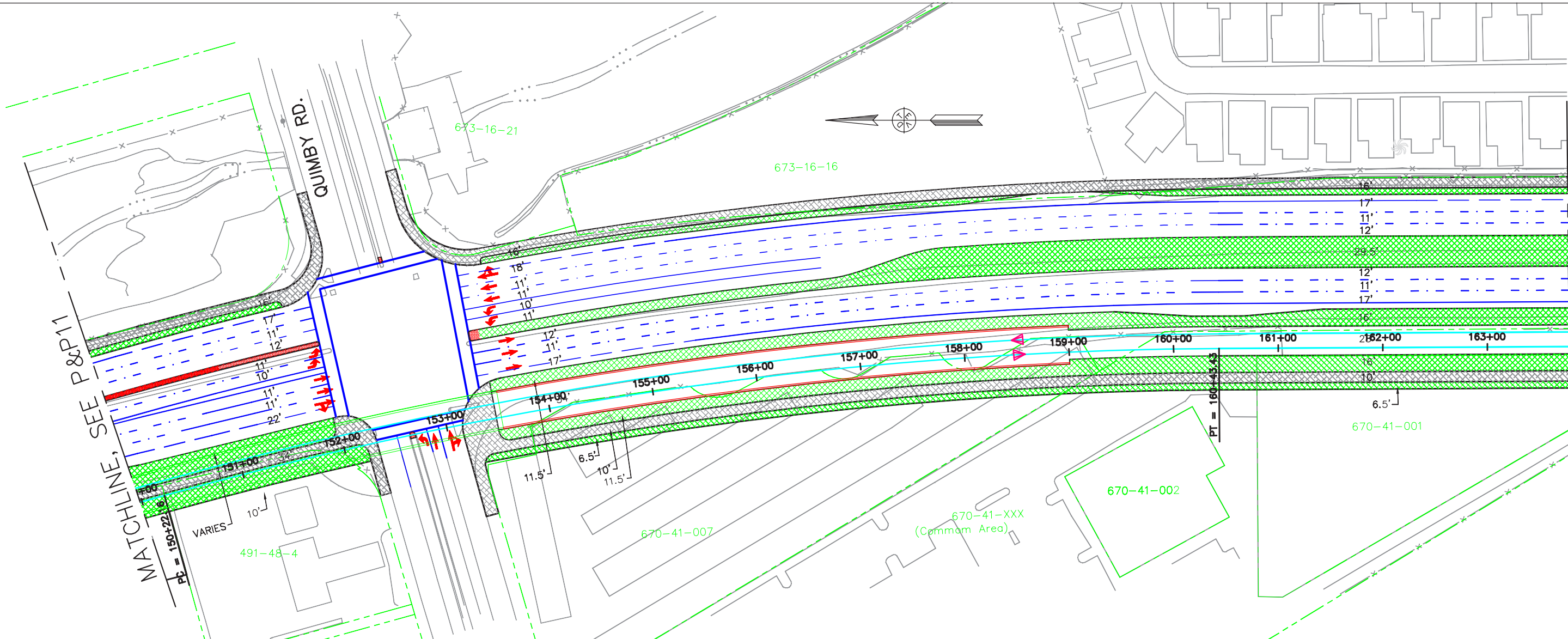


APPROVED	
CADD FILE DATE	SCALE
3/24/04	1" = 100'
PLOT DATE	BOARD APPROVAL DATE
3/24/04	

DOWNTOWN EAST VALLEY LIGHT RAIL PARK & RIDE FEASIBILITY STUDY EASTRIDGE MALL STATION		
PCA NO.	CONTRACT NO.	FILE LOCATION

SHEET
OF
DRAWING NO.
REVISION





NO.	DATE	REVISIONS

SUBMITTED		 1570 The Alameda, Suite 222 San Jose, CA 95126 (408) 298-2929	
DESIGNED	DSH	CHECKED	DAS
DRAWN	NN	CADD FILE NAME	1018ps03C3

**VTA** SANTA CLARA  
Valley Transportation Authority

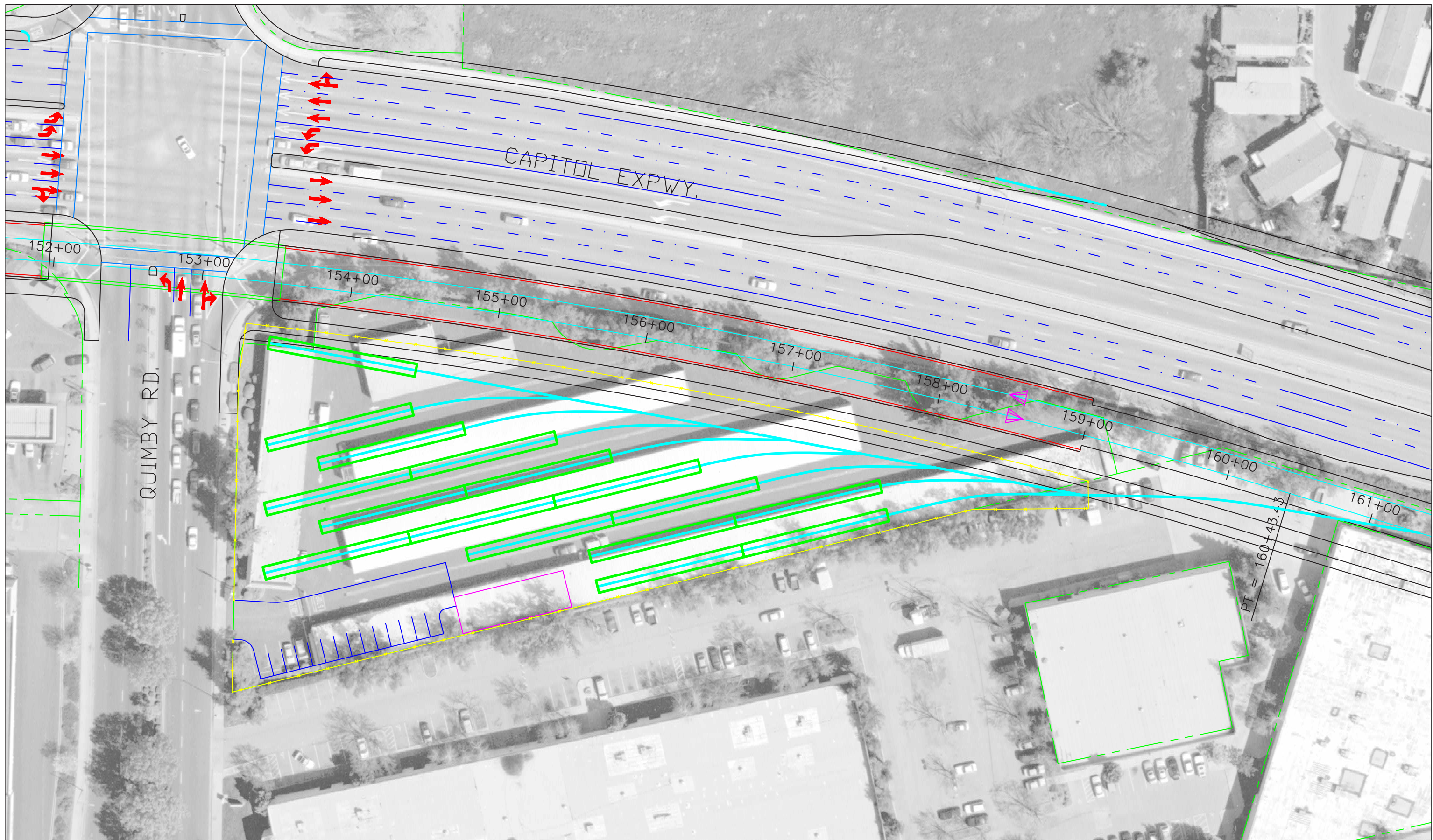
APPROVED			
CADD FILE DATE	3/24/04	SCALE	1"=100'H; 1"=20'V
PLOT DATE	3/24/04	BOARD APPROVAL DATE	

DOWNTOWN EAST VALLEY  
LIGHT RAIL  
PLAN & PROFILE SHEET  
CAPITOL EXPRESSWAY SOUTH BASE


PCA NO.	CONTRACT NO.	FILE LOCATION

SHEET OF  
DRAWING NO. P&P12  
REVISION





NO.	DATE	REVISIONS

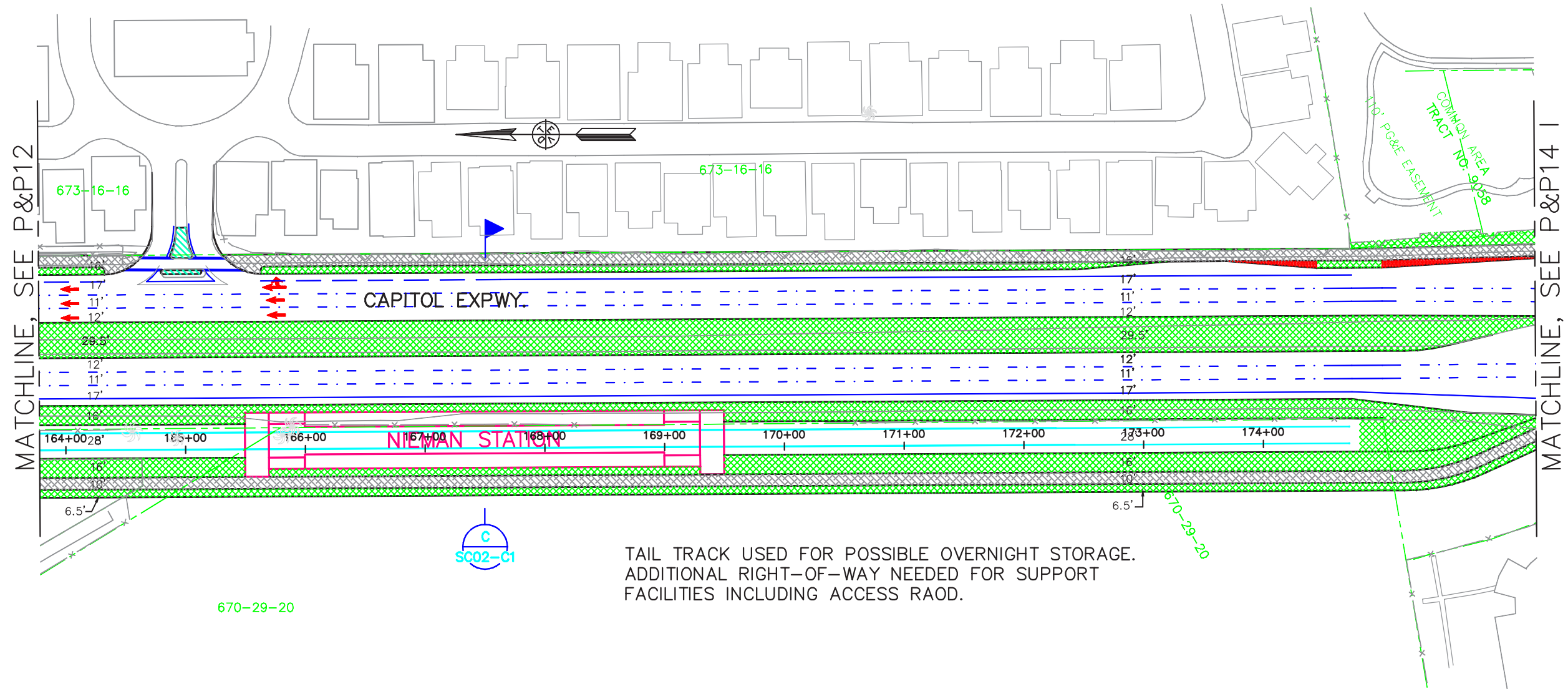
SUBMITTED		 1570 The Alameda, Suite 222 San Jose, CA 95126 (408) 298-2929	
DESIGNED	DSH	CHECKED	DAS
DRAWN	DSH	CADD FILE NAME	Quimby Storage



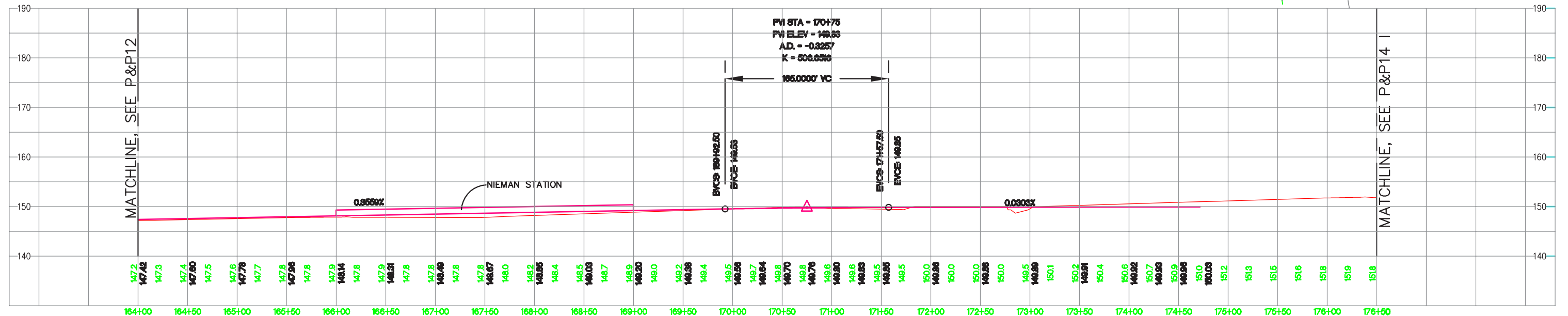
APPROVED	
CADD FILE DATE	SCALE
3-24-04	1" = 60'
PLOT DATE	BOARD APPROVAL DATE
3-24-04	

DOWNTOWN EAST VALLEY LIGHT RAIL			SHEET OF
QUIMBY STORAGE FACILITY			DRAWING NO.
			REVISION
PCA NO.	CONTRACT NO.	FILE LOCATION	





TAIL TRACK USED FOR POSSIBLE OVERNIGHT STORAGE.  
ADDITIONAL RIGHT-OF-WAY NEEDED FOR SUPPORT FACILITIES INCLUDING ACCESS ROAD.



NO.	DATE	REVISIONS

SUBMITTED

1570 The Alameda, Suite 222  
San Jose, CA 95126  
(408) 298-2929

DESIGNED: DSH

CHECKED: DAS

DRAWN: NN

CADD FILE NAME: 1018ps03C1

SANTA CLARA  
Valley Transportation Authority

APPROVED

CADD FILE DATE: 3/30/04

SCALE: 1"=100'H; 1"=20'V

PLOT DATE: 3/30/04

BOARD APPROVAL DATE:

DOWNTOWN EAST VALLEY  
LIGHT RAIL  
PLAN & PROFILE SHEET  
CAPITOL EXPRESSWAY INTERIM TERMINUS

PCA NO. CONTRACT NO. FILE LOCATION

SHEET OF

DRAWING NO. P&P13 I

REVISION

Attachment B

# **Final Staff Recommendation Report**





SANTA CLARA

Valley Transportation Authority

## MEMORANDUM

**DATE:** July 23, 2004

**TO:** Downtown East Valley Policy Advisory Board

**FROM:** Julie Render, Deputy Director  
Transit Planning and Development

**SUBJECT:** Final Staff Recommendations for the Capitol Expressway Light Rail Corridor

---

### **RECOMMENDATION:**

Approve final staff recommendations regarding design options and project phasing for the Capitol Expressway Light Rail Corridor Project to be incorporated into the Preferred Alternative in the Final Environmental Impact Statement/Environmental Impact Report (EIS/EIR). These recommendations are summarized below and further described in the *Downtown East Valley Capitol Expressway Corridor Final Staff Recommendations Report Regarding Project Options Considered in the Environmental Impact Statement/Report (EIS/EIR), July 2004* (attached).

### **Final Recommendations Regarding Design Options:**

#### **Design Option #1 Vertical Alignment from Alum Rock to Story Road Station**

**(1-A) Aerial/Aerial:** Aerial alignment from Alum Rock Station over the northbound lanes of Capitol Avenue and continuing in an aerial alignment into the median of Capitol Expressway / aerial over Story Road (includes aerial station at Story Road).

#### **Design Option #2 Pedestrian Access to the Aerial Story Road Station**

**(2-B) Passenger Access via Pedestrian Overcrossings:** Passengers would access the aerial Story Road Station via pedestrian overcrossings constructed at all four corners of the intersection; the station would include two levels – a lower mezzanine level and an upper level for the LRT platform and trackway.

#### **Design Option #3 Station Location in Segment from Ocala to Cunningham**

**(3-B) Ocala/Cunningham Station:** Single center platform approximately midway between Ocala Avenue and Cunningham Avenue with passenger access via pedestrian overcrossings, with the understanding that during Preliminary Engineering (PE) design options that move the station closer to the Ocala Avenue/Capitol Expressway intersection will be examined.

#### **Design Option #4 Vertical Alignment into Eastridge Transit Center Station**

**(4-B) Depressed Alignment/At-grade Station:** Depressed (cut-and-cover) section under Tully Road returning to an at-grade station within the Eastridge Transit Center.

### **Design Option #5 Park-and-Ride Facilities in MOS-Phase 1 Segment**

**(5-B) Eastridge (expansion):** Meet projected demand with expansion to 400 spaces at Eastridge Transit Center, with an initial phase of up to 266 spaces.

### **Design Option #6 Alignment from Eastridge Transit Center to Nieman Station**

**(6-B) Side-running depressed alignment from Eastridge to south of Quimby and at-grade to Nieman Station:** Side-running alignment from Eastridge Station to Nieman Station, with grade separated (depressed) crossings of the Eastridge Loop and Quimby Roads; transitioning to an at-grade station on the west side of Capitol Expressway at the vacant 89-acre parcel north of Nieman Boulevard. Further investigation should occur during Preliminary Engineering (PE) to try to maintain HOV lanes between Tully and Nieman in Phase 1 in conjunction with the planning process for development of the vacant (Arcadia) site near Nieman Boulevard.

### **Design Option #7 Alignment from Nieman to McLaughlin Station**

### **Design Option #8 Location of Monterey Highway Park-and-Ride**

### **Design Option #9 Location of State Route (SR) 87 Station**

For Design Options #7, 8 and 9, defer project-level decisions, including design options and project phasing, on the project segment from Nieman to Route 87 until land use and transportation decisions associated with the *U.S. 101 Central Corridor Study* and the *Evergreen Smart Growth Strategy* have been further developed and approved.

### **Design Option #10 Overnight LRV Storage/Light Maintenance Facility**

**(10-B) Storage Facility south of Quimby Road:** Construct a storage facility for 15 LRVs on the property just south of Quimby Road currently used as a personal mini-storage facility. A cost-benefit analysis should be conducted as an early action item during PE to determine if the light rail storage facility is needed in Phase 1.

### **Final Recommendations Regarding Project Phasing:**

For the purpose of exploring funding strategies, project phasing should be further refined in the Capitol Expressway Light Rail Project Final EIS/EIR and identified in VTP 2030 as follows:

- Phase 1A Alum Rock Station to Eastridge Transit Center
- Phase 1B Eastridge Transit Center to Nieman Station
- Phase 2A Nieman Station to Coyote Creek
- Phase 2B Coyote Creek to SR 87

In addition, proceed with project-level approval of the EIS/EIR for Phases 1A and 1B and defer project-level decisions for Phases 2A and 2B until after land use and transportation decisions are made in this portion of the Corridor related to the *Evergreen Smart Growth Strategy* and the *U.S. 101 Central Corridor Study*.

### **BACKGROUND:**

In June 2002, the Downtown East Valley PAB approved the project description to be evaluated in the environmental document for the Capitol Expressway Light Rail Corridor. At that time, several design options were carried forward for evaluation in the Draft EIS/EIR. In addition, as the project proceeded through Conceptual Engineering (CE), additional options were identified and evaluated in the Draft EIS/EIR. These design options were identified in the Draft EIS/EIR and were fully analyzed; therefore, any combination of those options could be selected as part of the “Preferred Alternative”.

Preliminary VTA staff recommendations for the design options were presented to the PAB in March 2004 as an information item. VTA staff subsequently solicited input from the community regarding the recommendations. The Draft EIS/EIR was released by the Federal Transit Administration (FTA) and VTA and circulated for public review on April 28, 2004. The public comment period formally ended on June 28, 2004, and the Final EIS/EIR is now being prepared. The Final EIS/EIR includes responses to all comments received during the public review period and must also identify the “Preferred Alternative” that decision-makers will ultimately be asked to approve. Decisions on design options are required in order to define the Preferred Alternative to be included in the Final EIS/EIR.

The VTA staff final recommendations are based upon available information, including Conceptual Engineering and environmental technical studies, the Draft EIS/EIR, and comments received throughout the project development process to date. The final staff recommendations incorporate a substantial change from earlier recommendations for Phase 2 of the project from Nieman Boulevard to State Route (SR) 87. VTA staff recommends deferring project-level decisions on the project segment from Nieman to Route 87 until the transportation improvements associated with the *U.S. 101 Central Corridor Study* and the *Evergreen Smart Growth Strategy* have been further developed and approved.

#### **DISCUSSION:**

Staff feels this recommendation is prudent at this time. It is consistent with VTA Board policy, it will allow Phase 1 of the light rail project to move forward in the quickest manner possible without constraining creative transportation solutions between Nieman Boulevard and McLaughlin Avenue that may be generated through the *Evergreen Smart Growth Strategy* planning process, and it is also consistent with recent action by the City of San Jose.

During the public comment period on the Draft EIS/EIR and the preliminary staff recommendations it became apparent that there was a great deal of concern about traffic issues from residents of the area of the Corridor south of Nieman, particularly the removal of the HOV lanes from Aborn to U.S. 101.

The City of San Jose is proceeding with the *Evergreen Smart Growth Strategy*, which is looking closely at the impact of specific land use plans on traffic congestion and how to mitigate those impacts. The *U.S. 101 Central Corridor Study* is being used to provide a baseline of recommended traffic improvements for development in Evergreen. These planning efforts are on-going and have not been completed. The Capitol Expressway Draft EIS/EIR has not analyzed the impacts of those efforts since it is “out in front” of important decisions still pending in the light rail project area from Nieman to McLaughlin.

The City of San Jose recently adopted recommendations for the Capitol Expressway Light Rail Project (copy attached) that include the following:

- Proceed with the Environmental Impact Report (EIR) completion and approval process for the Alum Rock to Nieman segment of the project (Phase 1), with a completion goal of November 2004.
- Seek additional design options for the Nieman to McLaughlin Station segment that will allow maintaining eight lanes on Capitol Expressway from Aborn to Route 101 to support the *Evergreen Smart Growth Strategy*.

In addition, Valley Transportation Plan (VTP) 2020, the countywide transportation plan adopted in December 2000, included both parts of the Capitol Expressway Light Rail Project, but segregated them in the expenditure plan. The segment of the Capitol Expressway Light Rail Project to Eastridge and the Santa Clara/Alum Rock Corridor Project were collectively identified as “Downtown East Valley” in the Expenditure Plan with funding from local sales tax (2000 Measure A); and the “East Valley extension to Guadalupe LRT” was included as one of seven candidate corridors in the VTP 2020 category identified as “Capital funding for at least two future rail transit corridors....”.

This basic funding concept was continued in the update of VTP 2020, now called VTP 2030, which is well underway. In April 2004, the VTA Board of Directors adopted recommended allocation amounts and project lists for the VTP 2030 Program Areas, and the Measure A transit Program List included the Capitol Expressway LRT to Eastridge with an extension to Neiman Boulevard. This Board-adopted list has since been submitted to MTC for inclusion in the regional transportation plan (called T2030), also currently underway.

Attachments:

- Attachment 1, City of San Jose Capitol Expressway Light Rail Corridor Recommendations
- Attachment 2, *Downtown East Valley Capitol Expressway Light Rail Corridor Final Staff Recommendations Report Regarding Project Options Considered in the Environmental Impact Statement/Report (EIS/EIR), July 2004*

# **Downtown East Valley Capitol Expressway Light Rail Corridor**



## **Final Staff Recommendations Report Regarding Project Options Considered in the Environmental Impact Statement/Report (EIS/EIR)**

**Prepared by:  
Santa Clara Valley Transportation Authority (VTA)  
Transit Planning and Programming Department  
July 2004**



## **Table of Contents**

List of Figures.....	ii
Introduction .....	1
Background .....	2
Capitol Expressway Light Rail Corridor .....	2
Options Under Consideration .....	2
Final Staff Recommendations: Design Options .....	5
Design Option #1 Vertical Alignment from Alum Rock to Story Road Station .....	6
Design Option #2 Pedestrian Access to the Aerial Story Road Station .....	11
Design Option #3 Station Location in Segment from Ocala to Cunningham .....	15
Design Option #4 Vertical Alignment into Eastridge Transit Center Station .....	18
Design Option #5 Park-and-Ride Facilities in MOS-Phase 1 Segment .....	21
Design Option #6 Alignment from Eastridge Transit Center to Nieman Station .....	25
Design Option #7 Alignment from Nieman to McLaughlin Station .....	30
Design Option #8 Location of Monterey Highway Park-and-Ride .....	36
Design Option #9 Location of State Route (SR) 87 Station.....	38
Design Option #10 Overnight LRV Storage/Light Maintenance Facility .....	40
Final Staff Recommendation: Project Phasing .....	45
Revised Project Costs and Ridership Projections .....	48
Community Outreach and Next Steps .....	49

## **List of Figures**

Figure 1 Capitol Expressway Cross-Section .....	3
Figure 2 Final Staff Recommendations .....	4
Figure 1-A Aerial/Aerial at Story Road Station .....	8
Figure 1-B Depressed/Aerial at Story Road Station .....	9
Figure 1-C Depressed/Depressed at Story Road Station.....	10
Figure 2-A Passenger Access from Median Portals (Story Station) .....	13
Figure 2-B Passenger Access via Pedestrian Overcrossings (Story Station).....	14
Figure 3-A, 3-B, 3-C Station Location in Segment from Ocala to Cunningham.....	17
Figure 4-A Aerial Alignment/Aerial Station at Eastridge Transit Center .....	19
Figure 4-B Depressed Alignment/At-grade Station at Eastridge Transit Center.....	20
Figure 5-A Ocala Park-and-Ride .....	22
Figure 5-A Eastridge Park-and-Ride Expansion (to 310 spaces) .....	23
Figure 5-B Eastridge Park-and-Ride Expansion (to 400 spaces) .....	24
Figure 6-A Side-running At-grade Alignment Eastridge to Nieman Station .....	27
Figure 6-B Side-running Depressed to south of Quimby/At-grade to Nieman .....	28
Figure 6-C Median-running from south of Eastridge to Nieman Station .....	29
Figure 7 Nieman to Silver Creek Road.....	34
Figure 7 Silver Creek Road to McLaughlin.....	35
Figure 8-A, 8-B, 8-C Location of Monterey Highway Park-and-Ride .....	37
Figure 9-A, 9-B Location of State Route (SR 87) Station .....	39
Figure 10-A Ocala Overnight LRV Storage Facility .....	42
Figure 10-B South of Quimby Overnight LRV Storage Facility.....	43
Figure 10-C SR 87 Overnight LRV Storage Facility .....	44

# Capitol Expressway Light Rail Corridor

## Final Staff Recommendations

---

### Introduction

---

This report presents information and *Final Staff Recommendations* on the design options that are evaluated in the Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Capitol Expressway Light Rail Corridor. These recommendations have been developed based upon Conceptual Engineering work, environmental technical studies, and public and policy-level input to date. In addition to recommendations on design options, the report also addresses recommended project implementation phases.

Preliminary VTA staff recommendations were presented to the Downtown East Valley Policy Advisory Board (PAB) in March 2004 as an information item. VTA staff subsequently solicited input from the community regarding the recommendations.

The Draft EIS/EIR was released by the Federal Transit Administration (FTA) and VTA in April 2004 and circulated for public review. The public comment period formally ended on June 28, 2004. A public hearing was held on May 27, 2004. A Final EIS/EIR is now being prepared. The Final EIS/EIR includes responses to all comments received during the public review period and must also identify the “Preferred Alternative” that decision-makers will ultimately be asked to approve. These Final Recommendations will be incorporated into the Final EIS/EIR. Decisions on design options are required in order to define the Preferred Alternative to be included in the Final EIS/EIR.

This report on final recommendations includes much of the information from the earlier preliminary staff recommendations report with modifications, public comment, and other changes, as appropriate. This report is intended as VTA staff’s final recommendations based on the findings and public comments received throughout the project development process.

The final staff recommendations will be presented to the Downtown East Valley PAB as an action item on August 5, 2004. Pending FTA review and approval, the Final EIS/EIR, including the Preferred Alternative and Design Options, is anticipated to be brought to the VTA Board of Directors for approval in late 2004, and will then be forwarded to the Federal Transit Administration (FTA) for a Record of Decision (ROD).



## Background

---

In June 2002, the Downtown East Valley PAB approved the project description to be evaluated in the environmental document for the Capitol Expressway Light Rail Corridor. At that time, several design options were carried forward for evaluation in the Draft EIS/EIR. In addition, as the project proceeded through Conceptual Engineering (CE), additional options were identified and evaluated in the Draft EIS/EIR.

For the purposes of the environmental analysis, the Draft EIS/EIR includes a description of the “base project” or “Light Rail Alternative” as well as all design options under consideration. The “base project” or “Light Rail Alternative” that is described and analyzed in the Draft EIS/EIR should not be confused with the “Preferred Alternative” that will ultimately be approved by the VTA Board of Directors. The base project simply includes project elements that were defined for the environmental studies and is not intended to represent the final project description. The many design options identified in the environmental document were fully analyzed; therefore, any combination of those options could be selected as part of the ultimate “Preferred Alternative”. The purpose of this report is to identify the final staff recommendations concerning the upcoming selection of preferred options by the Downtown East Valley PAB and the VTA Board of Directors.

## Capitol Expressway Light Rail Corridor

---

The Capitol Expressway Light Rail Project would construct an 8.2-mile light rail extension along the length of Capitol Expressway from the Alum Rock Station on the Capitol (Avenue) Light Rail Line to the Eastridge Transit Center, and continue to a transfer connection with the Guadalupe Light Rail Line at State Route (SR) 87. Light rail would operate primarily in the median of Capitol Expressway.

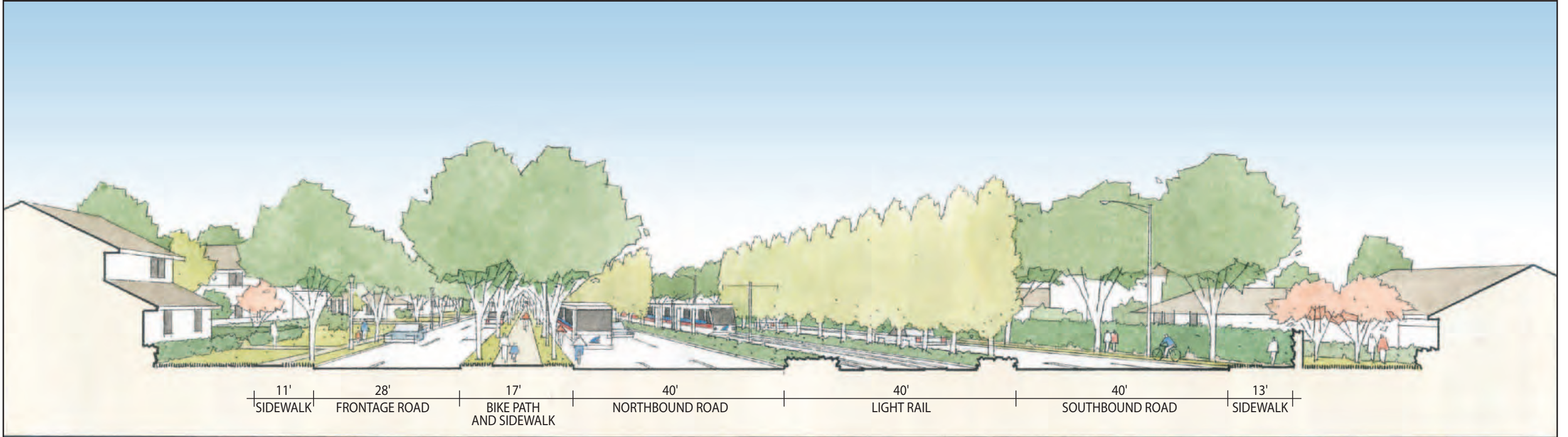
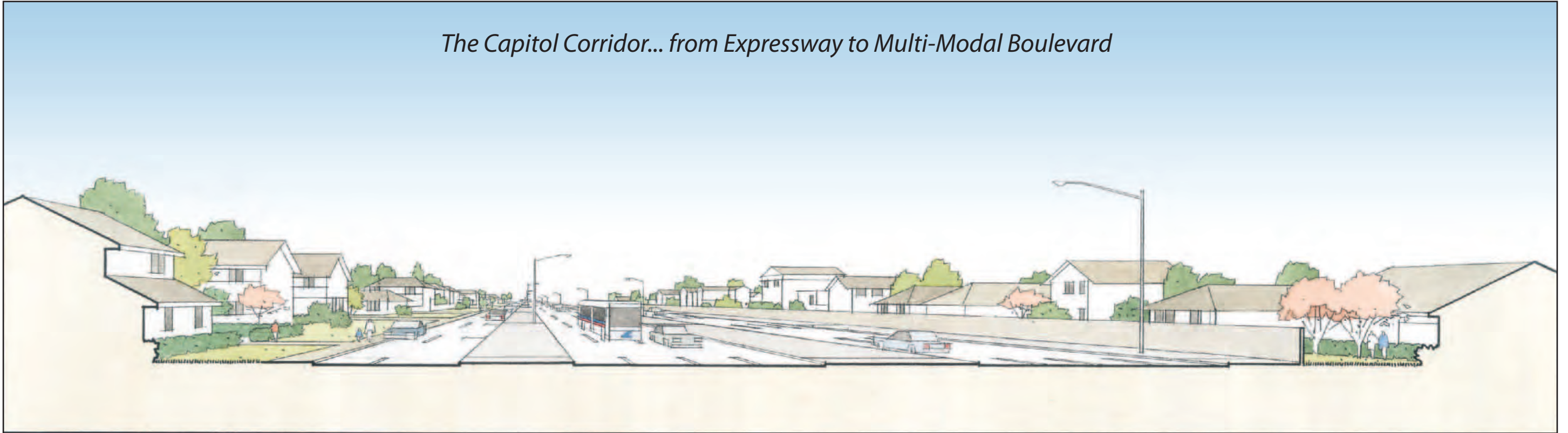
The Project incorporates many elements from VTA’s Community Design and Transportation (CDT) program that are intended to transform the Expressway into a multimodal transportation facility with improved transit, pedestrian and bicycle access. Project elements include new light rail stations, new and expanded park-and-ride facilities, grade separations at heavily congested intersections, urban design elements such as landscaping and lighting, improved connections to other VTA transit services, and accommodations for both pedestrians and bicycles for the length of the project. A cross-section illustrating this multimodal concept is shown in Figure 1.

## Options Under Consideration

---

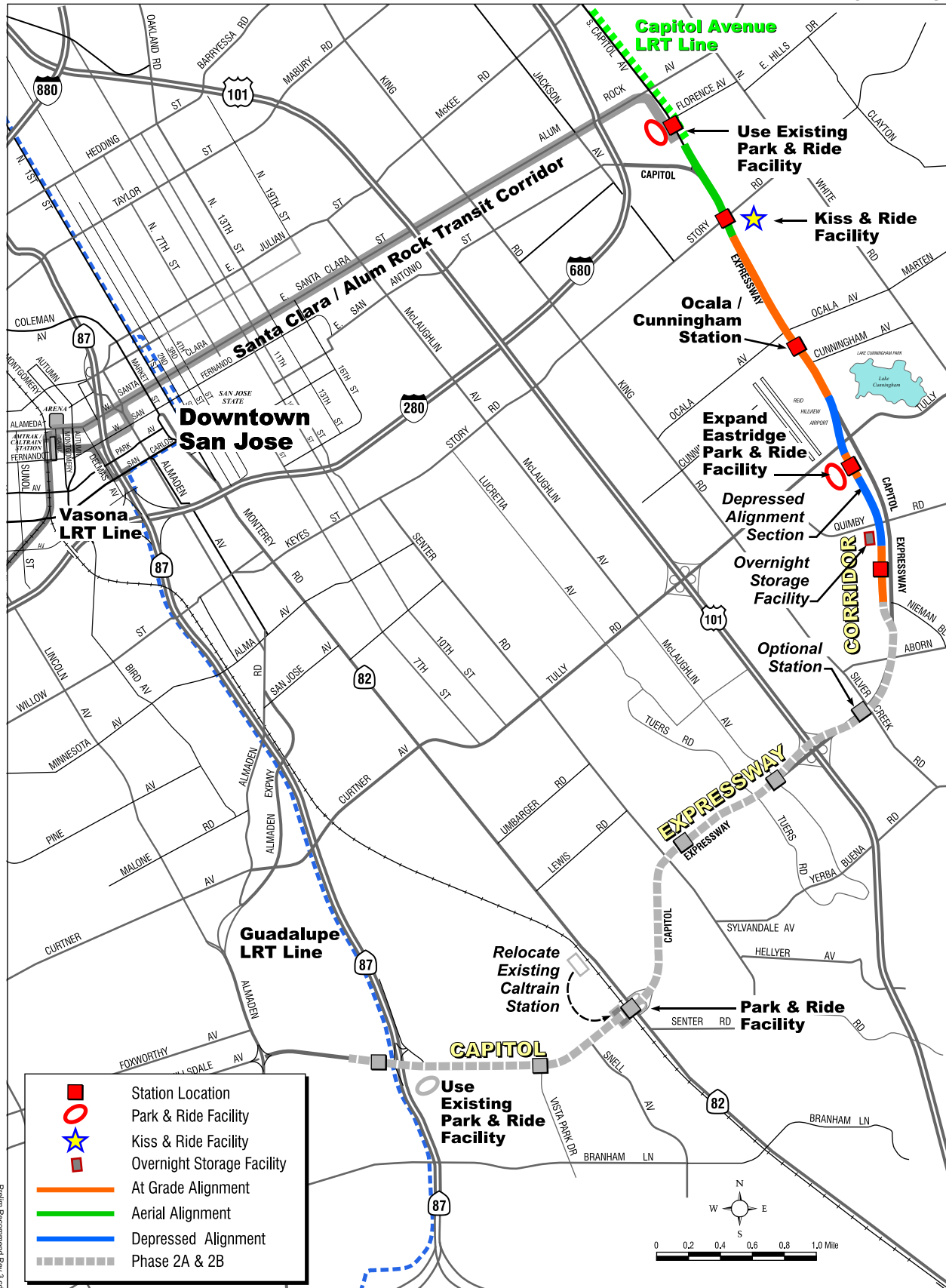
There are ten design options to be decided in the refinement of the Preferred Alternative. The design options and final staff recommendations associated with each option are briefly described in this report. In addition, the final staff recommendations are depicted on Figure 2. A more detailed evaluation of the design options is contained in the technical report entitled *Capitol Expressway Light Rail Corridor Evaluation of Design Options, February 2004*. Additional information regarding the options, including environmental impacts, is also provided in the Draft EIS/EIR dated April 2004.

*The Capitol Corridor... from Expressway to Multi-Modal Boulevard*



# Capitol Expressway Light Rail Project

*Prepared for Valley Transportation Authority by Korve Engineering and ROMA Design Group*



Prelim Recommendation Rev 3.0.d

July 2004

DOWNTOWN EAST VALLEY CAPITOL EXPRESSWAY LIGHT RAIL CORRIDOR

**Figure 2**  
**FINAL RECOMMENDATIONS**

## **Final Staff Recommendations: Design Options**

---

This section briefly describes each of the design options considered and indicates the VTA staff final recommendations based upon available information, including Conceptual Engineering and environmental technical studies, the Draft EIS/EIR, and comments received throughout the project development process to date.

This section also includes discussion and key reasoning behind the final staff recommendations for each option, relevant issues and the impact of the recommendation on the estimated cost of the “base” project.



## **Design Option #1**

### **Vertical Alignment from Alum Rock Station to Story Road Station**

**(1-A) Aerial/Aerial:** Aerial alignment from Alum Rock Station over the northbound lanes of Capitol Avenue and continuing in an aerial alignment into the median of Capitol Expressway / aerial over Story Road (includes aerial station at Story Road).

**(1-B) Depressed/Aerial:** Depressed (cut-and-cover tunnel) alignment from Alum Rock Station under the northbound lanes of Capitol Avenue and into the median of Capitol Expressway, transitioning to an aerial alignment over Story Road (includes aerial station at Story Road)

**(1-C) Depressed/Depressed:** Depressed alignment from Alum Rock Station under the Capitol Avenue northbound lanes and the median of Capitol Expressway to Story Road (includes depressed, open air station at Story Road)

**Preliminary Staff Recommendation:** (1-A) Aerial/Aerial

**Final Staff Recommendation:** (1-A) Aerial/Aerial

**Discussion and Key Reasoning:** Because of high traffic volumes at the intersections of Capitol Avenue/Capitol Expressway and Story Road/Capitol Expressway, light rail must be grade separated through both intersections, and Options 1-A, 1-B and 1-C above all accomplish this. Both Options 1-A and 1-C maintain a constant vertical profile by staying either aerial or depressed through both intersections, which allows for continuous high-speed operations and greater passenger ride quality/comfort than Option 1-B, which has multiple horizontal and vertical curves. Recommended Option 1-A results in less traffic disruption during construction, whereby both Options 1-B and 1-C require cut-and-cover construction that would disrupt traffic operations on Capitol Avenue, Capitol Expressway, and/or Story Road to a greater degree.

Option 1-A is substantially less costly than the other options despite somewhat higher right-of-way costs. The cost of constructing the project segment from Alum Rock Station to Story Road Station with Option 1-A is \$88 million; with Option 1-B is \$120 million, or \$32 million more than the recommended option; and with Option 1-C is \$155 million, or \$67 million more than the recommended option. The Aerial/Aerial design would be similar to other aerial structures recently constructed by VTA, such as near the Great Mall and Montague Stations on the Tasman East Line and the Hamilton Station on the Vasona Line.

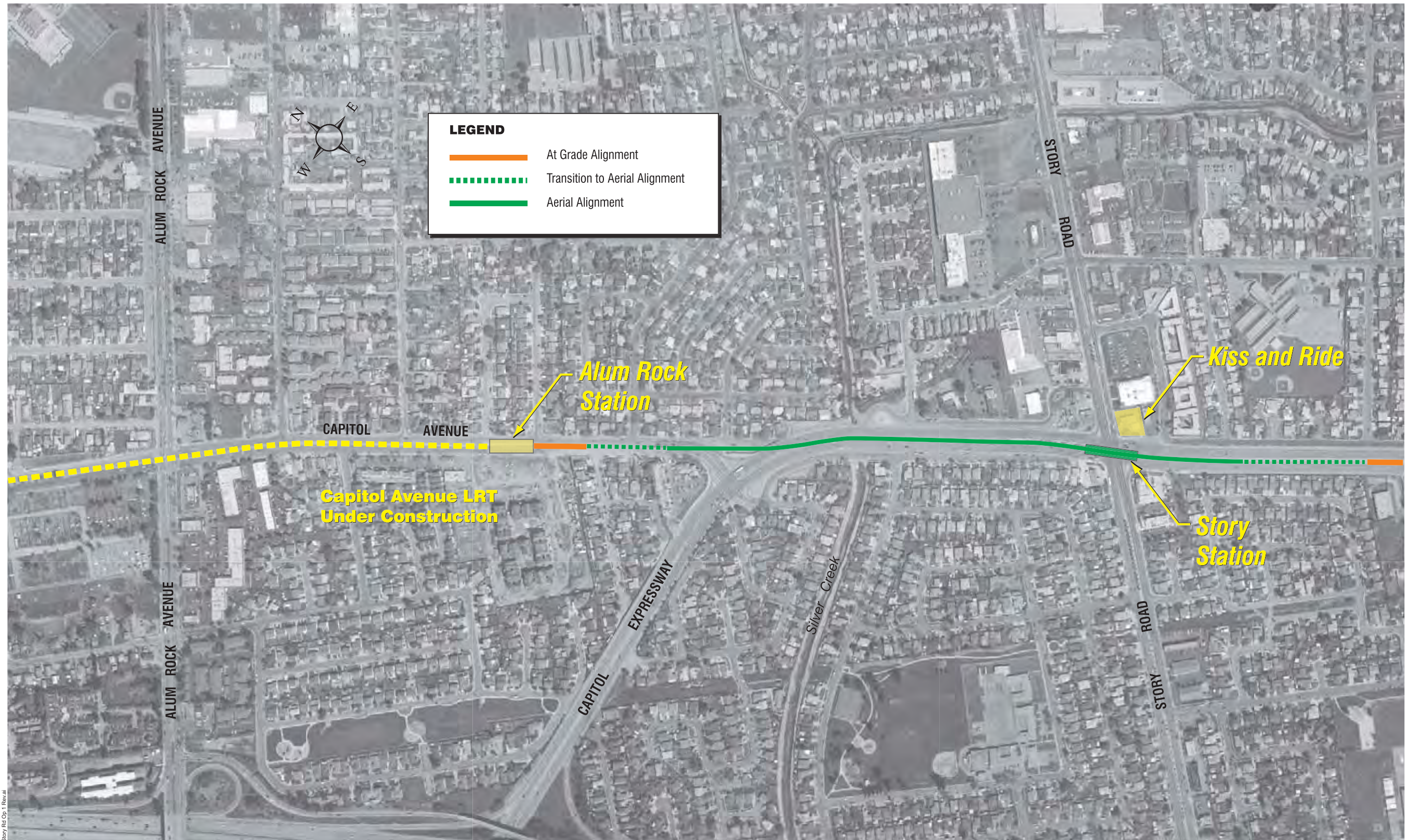
**Public Comment:** The aerial structure remains a concern to some residents of the local neighborhood; however, there was also a level of acceptance and support for the aerial structure based on transit and traffic operations.

**Issue(s):** The aerial structure for Option 1-A is approximately 4,000 feet in length and would result in a perceived visual impact, which is a concern raised by the adjacent neighborhood. However, art elements can be incorporated into the design of the structures, similar to what VTA

has successfully done at similar locations as mentioned above. Option 1-C would eliminate the neighborhood's concern. However, Option 1-C would require stairs and elevator going down to a below-grade station at Story Road, and the local community and transit riders have previously raised concerns regarding security as it relates to the reduced visibility at a below-grade station.

**Project Cost Impact:** Option 1-A Aerial/Aerial: included in base cost  
Option 1-B Depressed/Aerial: \$32 million more than base cost  
Option 1-C Depressed/Depressed: \$67 million more than base





Story Rd Op 1 Rev.a









Story Rd Op 1 Rev 2.ai



## **Design Option #2**

### **Pedestrian Access to the Aerial Story Road Station**

**(2-A) Passenger Access from the Median Portals:** Passengers would access the aerial Story Road Station via stairs and elevators in the median of Capitol Expressway and would access the Expressway median by using the at-grade crosswalks from all four corners of the intersection.

**(2-B) Passenger Access via Pedestrian Overcrossings:** Passengers would access the aerial Story Road Station via pedestrian overcrossings constructed at all four corners of the intersection; the station would include two levels – a lower mezzanine level and an upper level for the LRT platform and trackway.

**Preliminary Staff Recommendation:** (2-B) Passenger Access to Story Road Station via Pedestrian Overcrossings

**Final Staff Recommendation:** (2-B) Passenger Access to Story Road Station via Pedestrian Overcrossings

**Discussion and Key Reasoning:** The Story Road Station is projected to serve over 800 daily passengers in 2010. The high level of auto traffic at the Story/Capitol Expressway intersection causes long traffic signal cycles (150 seconds), which means that those transit passengers could experience up to 75 seconds of delay in accessing the platform, twice each day if they begin and end their trip at Story Road. Under recommended Option 2-B, transit passengers would experience no delay in reaching the light rail station because they would use pedestrian overcrossings to access the station as opposed to Option 2-A, where passengers would cross several Expressway traffic lanes to access the median before using the stairs/elevators to access the light rail station. The pedestrian overcrossings in Option 2-B would also provide safer access to the station because it eliminates the potential for auto/passenger conflicts. Option 2-B will also benefit non-transit pedestrians who could also use it to cross the Expressway. Members of the local community have voiced support for improved pedestrian safety in crossing Capitol Expressway at Story Road.

Despite additional costs and impacts, Option 2-B is recommended because it provides the best access to the station for transit passengers as well as improved convenience and safety for all pedestrians crossing Capitol Expressway at Story Road.

**Public Comment:** For the most part, the community voiced support for the staff recommendation and saw the pedestrian overcrossings as an asset for safe pedestrian movement across Capitol Expressway, even for those not using light rail.

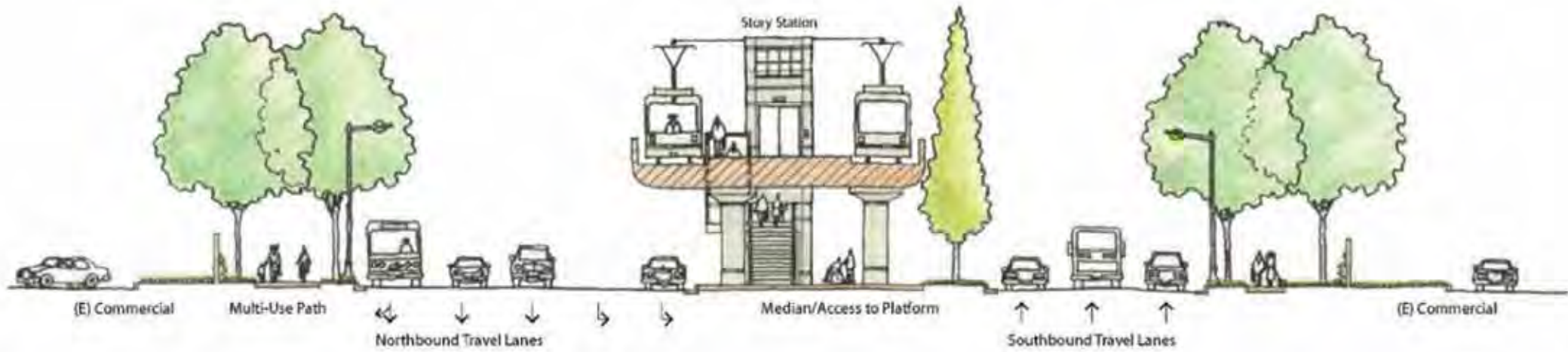
**Issue(s):** Option 2-B provides a pedestrian overcrossing at each of the four corners of the Story Road/Capitol Expressway intersection, with stairs/elevator at each corner. More right-of-way is, therefore, required for Option 2-B and the construction cost is substantially higher (\$7 million)

than for Option 2-A. The height of the structure for Option 2-B is approximately 38 feet above street level; the height of the structure for Option 2-A is approximately 28 feet above street level.

**Project Cost Impact:**

Option (2-A) Passenger Access from Median Portals: \$7 million less than base

Option (2-B) Passenger Access via Pedestrian Overcrossings: included in base cost



Section D-D: Median Running at Story Station  
 Story Station Looking South (41+00/42+00)



Site Plan at Story Station - Median Access Option

PRELIMINARY STREETSCAPE CONCEPTS

For Dimensions, see  
 Engineering Plans & Sections

# Capitol Expressway Light Rail Project

Prepared for Valley Transportation Authority by Korve Engineering and ROMA Design Group

OCTOBER 2003

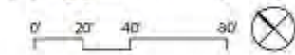




Section D-D: Median Running at Story Station  
 Story Station Looking South (41+00/42+00)



Site Plan at Story Station - Bridge Access Option



For Dimensions, see  
 Engineering Plans & Sections

PRELIMINARY STREETSCAPE CONCEPTS

# Capitol Expressway Light Rail Project

Prepared for Valley Transportation Authority by Korve Engineering and ROMA Design Group

OCTOBER 2003

### **Design Option #3**

#### **Station Location in the Segment between Ocala and Cunningham Avenues**

**(3-A) Ocala Station:** Far-side, off-set station platforms at the Ocala Avenue/Capitol Expressway intersection with at-grade pedestrian access at the crosswalks

**(3-B) Ocala/Cunningham Station:** Single center platform approximately midway between Ocala Avenue and Cunningham Avenue with passenger access via pedestrian overcrossings

**(3-C) Cunningham Station:** Far-side, off-set station platforms at the Cunningham Avenue/Capitol Expressway intersection with at-grade pedestrian access at the crosswalks

**(3-D) No Station:** No station would be constructed between the Story Road and Eastridge Transit Center Stations

**Preliminary Staff Recommendation:** (3-B) Ocala/Cunningham Station

**Final Staff Recommendation:** (3-B) Ocala/Cunningham Station, with the understanding that during Preliminary Engineering design options that move the station closer to the Ocala Avenue/Capitol Expressway intersection will be examined.

**Discussion and Key Reasoning:** Option 3-B includes a single, center platform with pedestrian overcrossings, which would provide safe, efficient grade-separated pedestrian access to the at-grade station. Station spacing is the best under Option 3-B, which would be 5,000 feet from the Story Road Station and 4,400 feet from the Eastridge Station. Although connections to the surrounding residential neighborhoods in the station area may be more convenient with Option 3-A (Ocala Avenue), the recommended station location in Option 3-B would be within a moderate walking distance of the residences in the Ocala Avenue area as well as Lake Cunningham Park and Reid-Hillview Airport.

Much less roadway reconstruction is needed for recommended Option 3-B to accommodate the rail station on a required tangent section, which is a design requirement. This results in \$3 million less in construction costs than for Option 3-A Ocala Station. More important, this also results in only one residential relocation under Option 3-B, which is less than under either Options 3-A or 3-C, which require three and four residential relocations, respectively. Option 3-C also has major conflicts with existing PG&E high-pressure gas lines.

Early in the Conceptual Design phase, Option 3-D, or building no station in the segment between Ocala and Cunningham Avenues, was considered but rejected due to community opposition.

**Public Comment:** The East Valley/680 Communities and K.O.N.A. Strong Neighborhood Initiative (SNI) Neighborhood Advisory Committees (NACs) and recommendations adopted by the City of San Jose support Option 3-A Ocala Station, based on locating the station as close as possible to the existing residential development at the Ocala Avenue/Capitol Expressway intersection.

**Issue(s):** The potential for integrating light rail and connecting bus services is somewhat limited for Option 3-B because of the disconnected street network; however, this is not an insurmountable issue and staff is confident the project can be designed to provide good interface for bus/light rail transfers at the Ocala/Cunningham location.

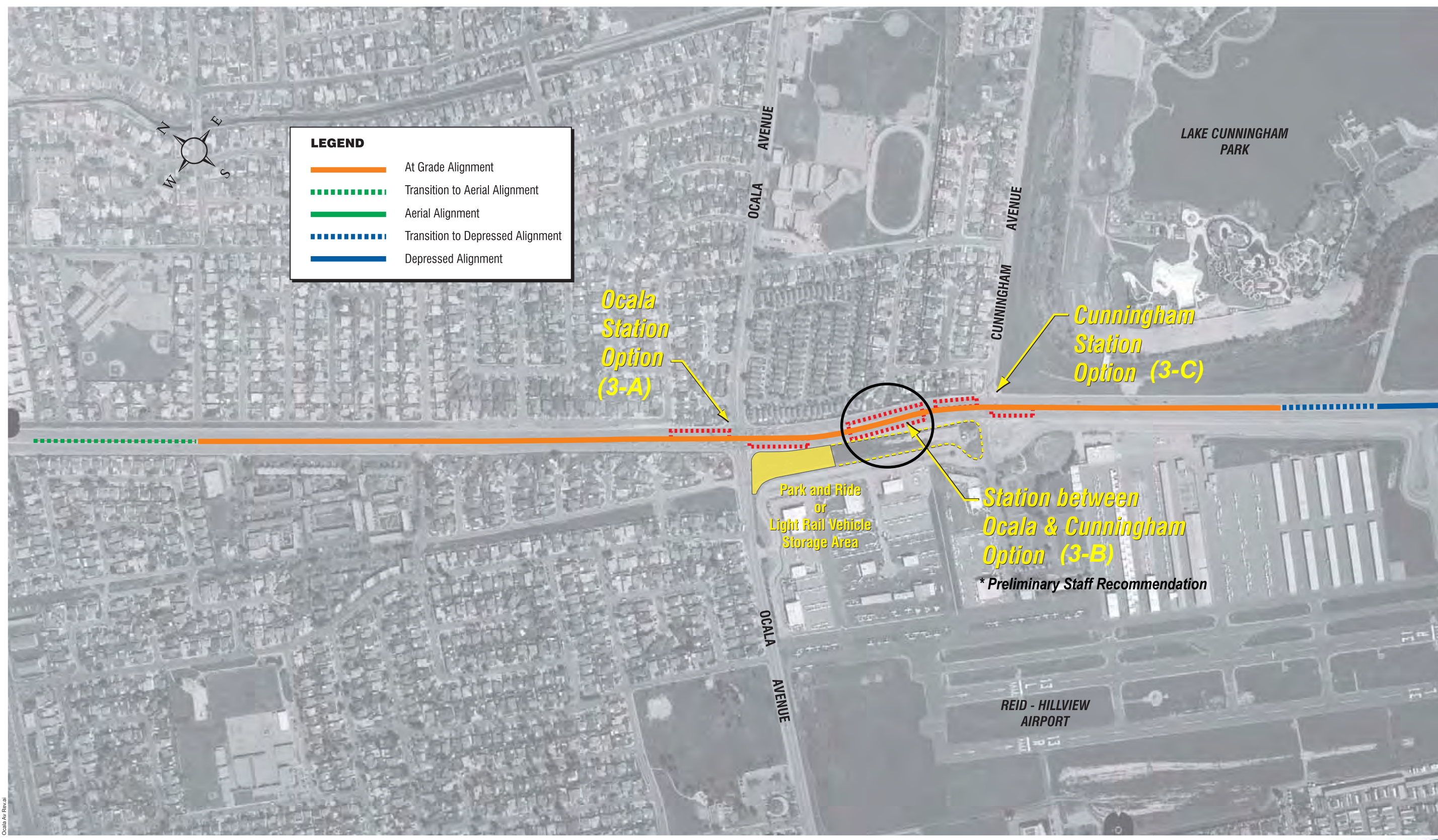
**Project Cost Impact:**

Option 3-A Ocala Station: included in base cost

Option 3-B Ocala//Cunningham Station: \$3 million less than base cost

Option 3-C Cunningham Station: \$3 million less than base cost





© 2014 by Revell



**Design Option #4**  
**Vertical Alignment into the Eastridge Transit Center**

**(4-A) Aerial Alignment/Aerial Station:** Aerial alignment over Tully Road to an aerial station at the Eastridge Transit Center with the light rail platform positioned directly above the bus loop

**(4-B) Depressed Alignment/At-grade Station:** Depressed (cut-and-cover) section under Tully Road returning to an at-grade station within the Eastridge Transit Center

**Preliminary Staff Recommendation:** (4-B) Depressed Alignment/At-grade Station

**Final Staff Recommendation:** (4-B) Depressed Alignment/At-grade Station

**Discussion and Key Reasoning:** Eastridge Transit Center is today a major transit hub in VTA's transit system, and the transit center will remain an extremely important transit facility when light rail is constructed in the Capitol Expressway Corridor. Recommended Option 4-B, with a depressed alignment under Tully Road and an at-grade station within the Eastridge Transit Center, would facilitate a much better interface between bus and light rail transfers than the aerial station in Option 4-A. With the at-grade station, there is no need to use stairs/elevator to make the transfer connection between light rail and bus.

Option 4-B would also best preserve future opportunities to integrate light rail with potential development on the 89-acre vacant parcel south of Quimby Road (i.e., Arcadia property).

In addition, additional facilities for overnight light rail vehicle storage (if required) could be added more readily with the at-grade station in Option 4-B than with the aerial station necessitated by Option 4-A, thereby providing greater flexibility from a rail operations perspective.

**Public Comment:** There was little public comment regarding this recommendation, although there was mention of possible conflicts between the aerial option (4-A) and aircraft operations at Reid-Hillview Airport.

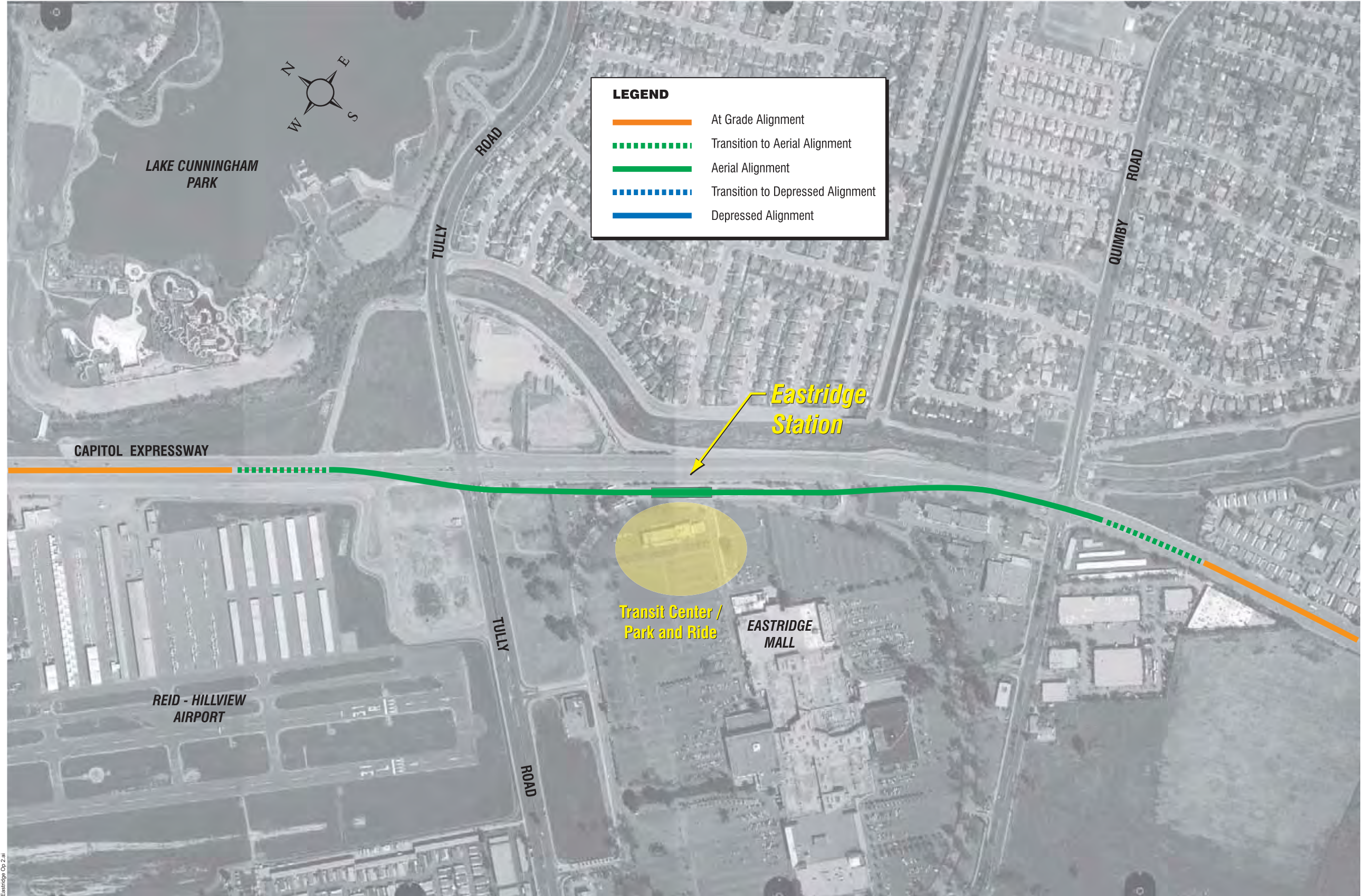
**Issue(s):** Option 4-B, the recommended option, would cost approximately \$30 million more to construct and would have somewhat greater construction impacts than Option 4-A.

**Project Cost Impact:**

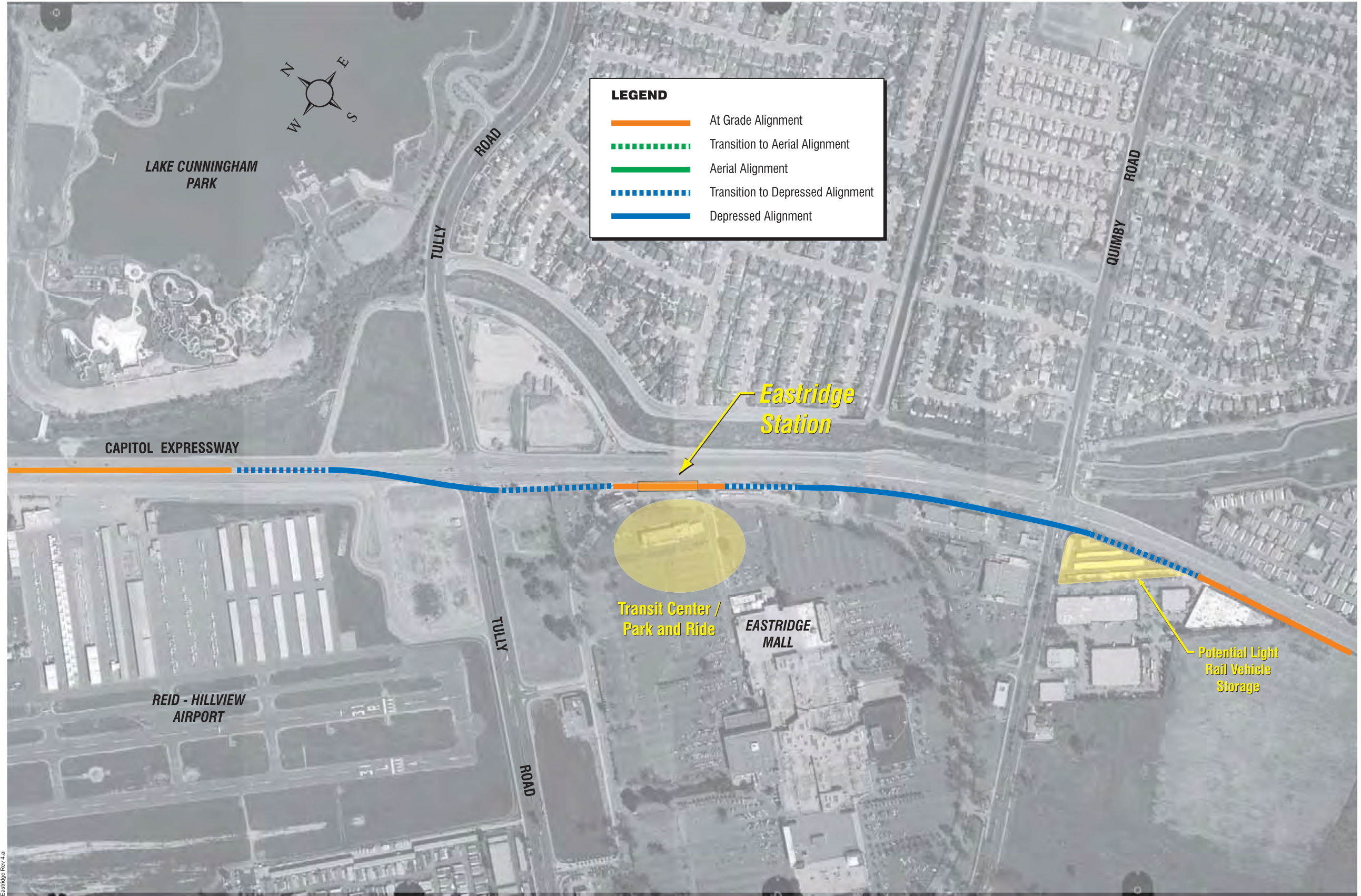
Option 4-A Aerial Alignment/Aerial Station: \$30 million less than base cost

Option 4-B Depressed Alignment/At-grade Station: included in base cost











**Design Option #5**

**Park-and-Ride Facilities in the Minimum Operating Segment (MOS) - Phase I**

**(5-A) Ocala (new) and Eastridge (expansion):** Meet projected demand with approximately 90 new park-and-ride spaces at Ocala Avenue and expansion to 310 spaces at Eastridge Transit Center

**(5-B) Eastridge (expansion):** Meet projected demand with expansion to 400 spaces at Eastridge Transit Center

**Preliminary Staff Recommendation:** 5-B Eastridge Expansion to provide 400 spaces

**Final Staff Recommendation:** 5-B Eastridge Expansion to provide 400 spaces, with an initial phase of up to 266 spaces

**Discussion and Key Reasoning:** There is a potential for conflicts with existing high-pressure PG&E gas lines at the Ocala Park-and-Ride site under Option 5-A, even though PG&E has stated that they would allow park-and-ride use above the gas lines. In addition, it would be more costly on an annual basis to operate and maintain two separate park-and-ride lots to serve a single combined demand of approximately 400 spaces in this area. Therefore, Option 5-B, which would provide for the projected demand with expansion to up to 400 spaces at Eastridge Transit Center, is recommended, with an initial phase of up to 266 spaces. This will accommodate estimated demand in the near term.

**Public Comment:** There was little public comment regarding this recommendation. However, representatives of Eastridge Mall have indicated in the past that parking, vehicular and pedestrian circulation, and the interface between the Mall and the transit facilities are important considerations.

**Issue(s):** Coordination between Eastridge Mall and VTA should occur to provide the best interface and design to meet the needs of the mall expansion (including any reconfiguration of the existing auto circulation) and the design of the transit center, light rail station, and park-and-ride lot.

**Project Cost Impact:**

(5-A) Ocala (new) and Eastridge (expansion): included in base cost

(5-B) Eastridge (expansion): included in base cost

OCALA STATION

CAPITOL AV.

OCALA AV.

OCALA NB PLATFORM

OCALA SB PLATFORM

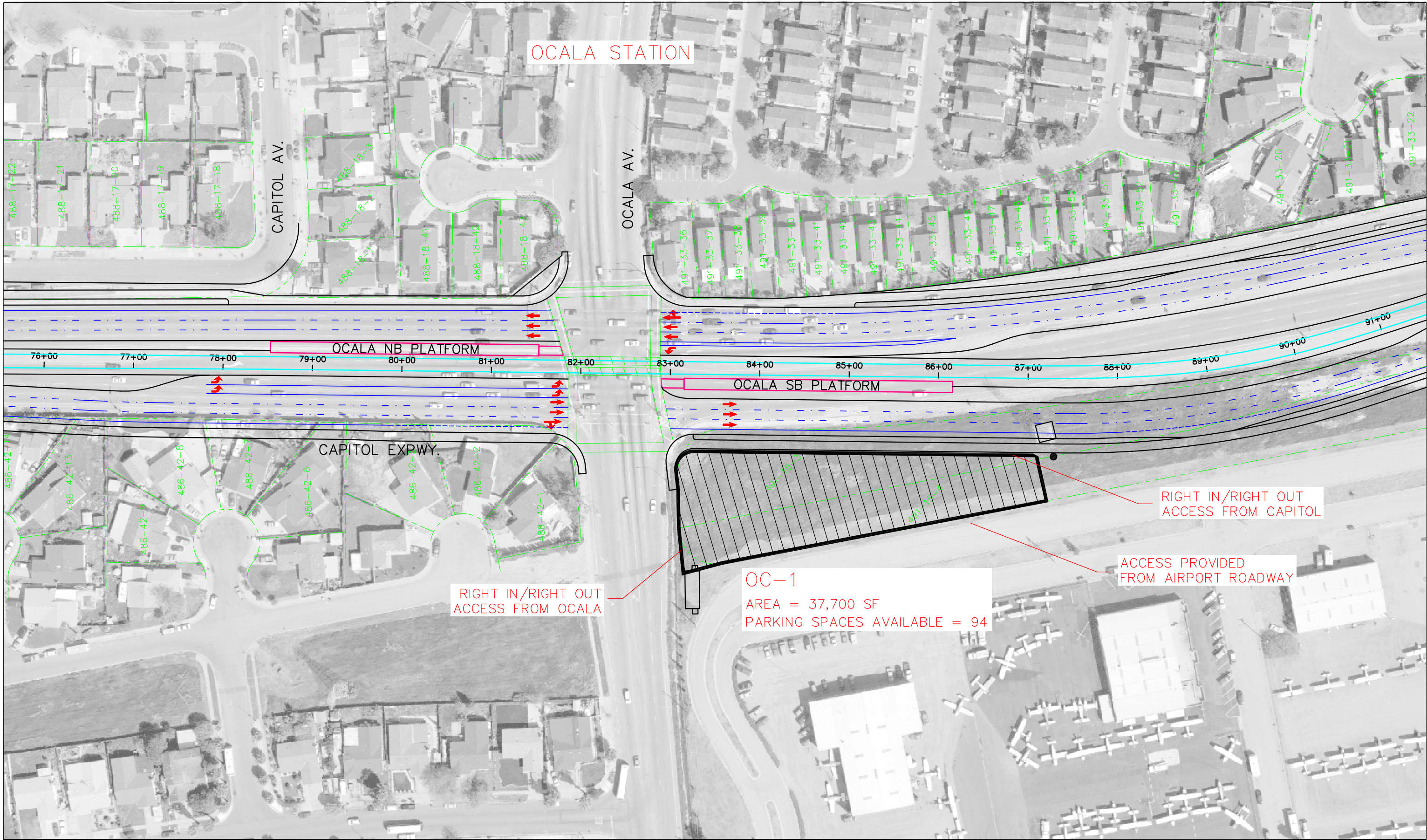
CAPITOL EXPWY.

RIGHT IN/RIGHT OUT ACCESS FROM CAPITOL

ACCESS PROVIDED FROM AIRPORT ROADWAY

RIGHT IN/RIGHT OUT ACCESS FROM OCALA

OC-1  
 AREA = 37,700 SF  
 PARKING SPACES AVAILABLE = 94



NO.	DATE	REVISIONS

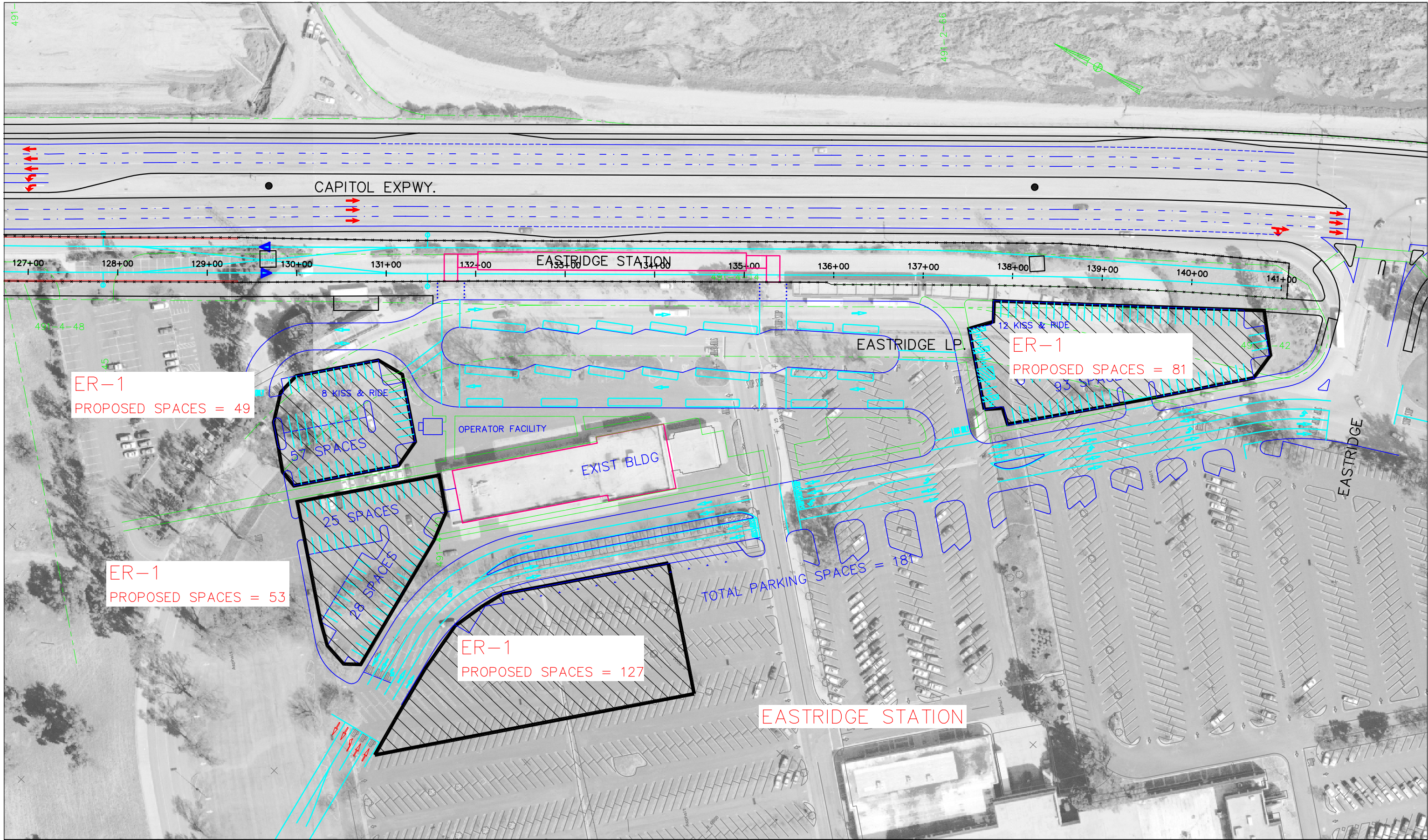

SUBMITTED			
DESIGNED		CHECKED	
DSH	KP		
DRAWN		CADD FILE NAME	
DSH	Park&Ride1		

APPROVED			
CADD FILE DATE	SCALE		
5/2/02	1" = 100'		
PLOT DATE	BOARD APPROVAL DATE		
5/2/02			


DOWNTOWN EAST VALLEY LIGHT RAIL		
PARK & RIDE FEASIBILITY STUDY		
OCALA AVENUE STATION		
P.C.A. NO.	CONTRACT NO.	FILE LOCATION

SHEET	
OF	
DRAWING NO.	
REVISION	





NO.	DATE	REVISIONS

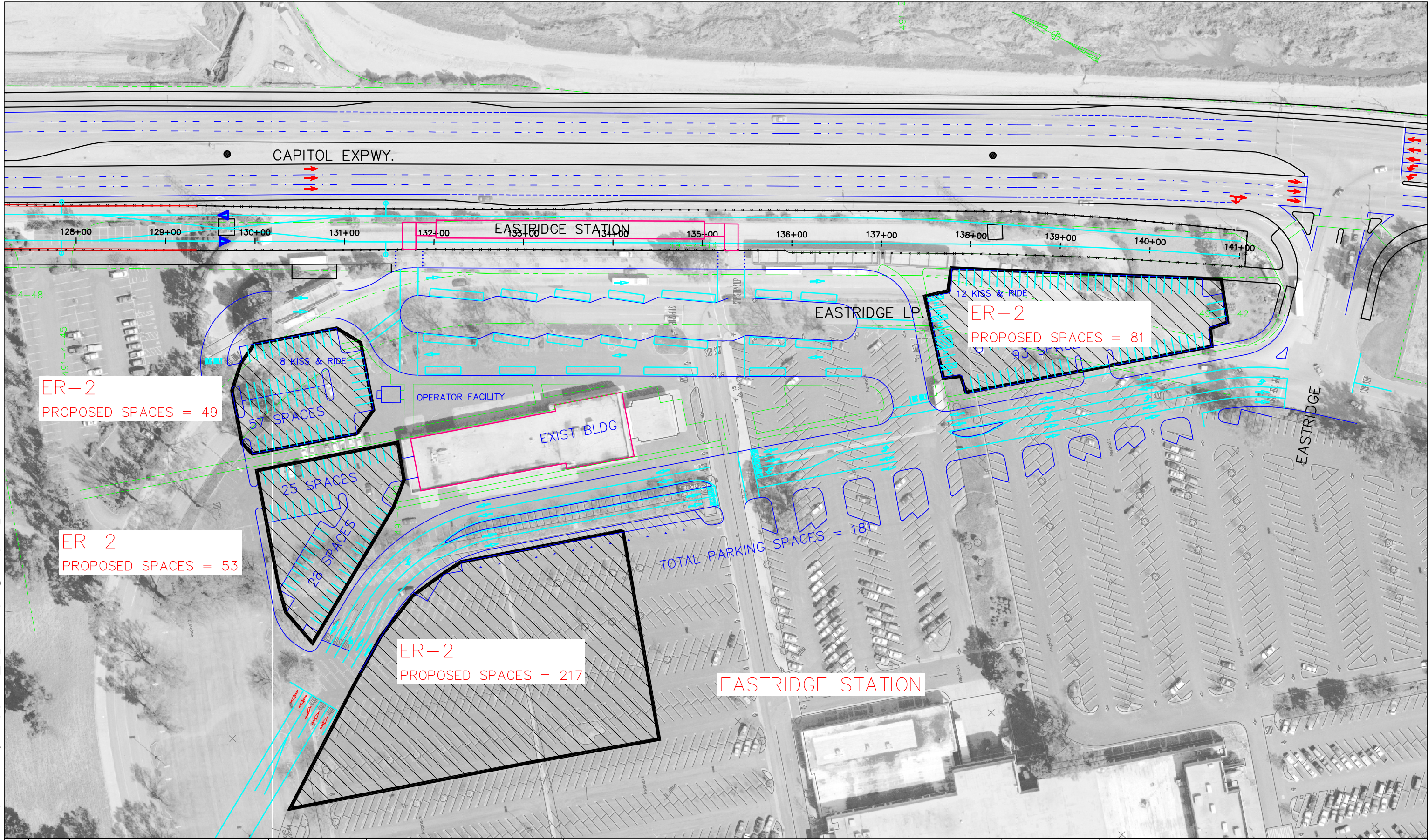
SUBMITTED		 1570 The Alameda, Suite 222 San Jose, CA 95126 (408) 298-2929	
DESIGNED	DSH	CHECKED	KP
DRAWN	DSH	CADD FILE NAME	Park&Ride1



APPROVED	
CADD FILE DATE	SCALE
1/28/04	1" = 100'
PLOT DATE	BOARD APPROVAL DATE
1/28/04	

DOWNTOWN EAST VALLEY LIGHT RAIL PARK & RIDE FEASIBILITY STUDY EASTRIDGE MALL STATION			SHEET OF DRAWING NO. REVISION
PCA NO.	CONTRACT NO.	FILE LOCATION	





NO.	DATE	REVISIONS


SUBMITTED		 1570 The Alameda, Suite 222 San Jose, CA 95126 (408) 298-2929	
DESIGNED	DSH	CHECKED	KP
DRAWN	DSH	CADD FILE NAME	EastridgeP&R2



APPROVED	
CADD FILE DATE	SCALE
1/28/04	1" = 100'
PLOT DATE	BOARD APPROVAL DATE
1/28/04	

DOWNTOWN EAST VALLEY LIGHT RAIL		
PARK & RIDE FEASIBILITY STUDY		
EASTRIDGE MALL STATION (WITHOUT OCALA)		
PCA NO.	CONTRACT NO.	FILE LOCATION

SHEET	
OF	
DRAWING NO.	
REVISION	



## Design Option #6

### Alignment from Eastridge Transit Center to Nieman Station

**(6-A) Side-running at-grade alignment from Eastridge to Nieman Station:** At-grade side-running alignment from Eastridge Station to Nieman station, with at-grade crossings of the Eastridge Loop and Quimby Roads (see map on page 34 for Nieman Station location)

**(6-B) Side-running depressed alignment from Eastridge to south of Quimby and at-grade to Nieman Station:** Side-running alignment from Eastridge Station to Nieman Station, with grade separated (depressed) crossings of the Eastridge Loop and Quimby Roads; transitioning to an at-grade station on the west side of Capitol Expressway at the vacant 89-acre parcel north of Nieman Boulevard (see map on page 34 for Nieman Station location)

**(6-C) Median-running from south of Eastridge to Nieman Station:** Cut-and-cover depressed section passing under Eastridge Loop Road, the southbound lanes of Capitol Expressway, and the Quimby Road/Capitol Expressway intersection, and transitioning back to at-grade median operations south of Quimby Road to an at-grade station in the median of Capitol Expressway at Nieman Boulevard.

**Preliminary Staff Recommendation:** (6-B) Side-running depressed alignment from Eastridge to south of Quimby and at-grade to Nieman Station

**Final Staff Recommendation:** (6-B) Side-running depressed alignment from Eastridge to south of Quimby and at-grade to Nieman Station. Further investigation should occur during Preliminary Engineering (PE) to try to maintain HOV lanes between Tully and Nieman in Phase 1 in conjunction with the planning process for development of the vacant (Arcadia) site near Nieman Boulevard.

**Discussion and Key Reasoning:** Option 6-A is not considered viable because the frequent at-grade light rail crossings of Eastridge Loop and Quimby Roads would disrupt the traffic signal cycles at those intersections to the degree that traffic signal progression along Capitol Expressway could never be accomplished. Both Options 6-B and 6-C would grade-separate those crossings and would, therefore, not have this impact on the traffic signal system.

Option 6-B (side-running) would provide a station on the west side of the Expressway and Option 6-C (median-running) would provide the station in the median of the Expressway. The “Evergreen-Eastridge Plan” completed by the Knight Program in Community Building, November 2003, identified the vacant Arcadia site south of Quimby as a strong candidate for future transit-oriented development. In addition, the City of San Jose has initiated the *Evergreen Smart Growth Strategy*, a community-based process to create a new vision to direct infill development in Evergreen consistent with Smart Growth Principles. One of the potential infill sites is the site located south of the Eastridge Shopping Mall, creating an excellent opportunity for transit-oriented development.

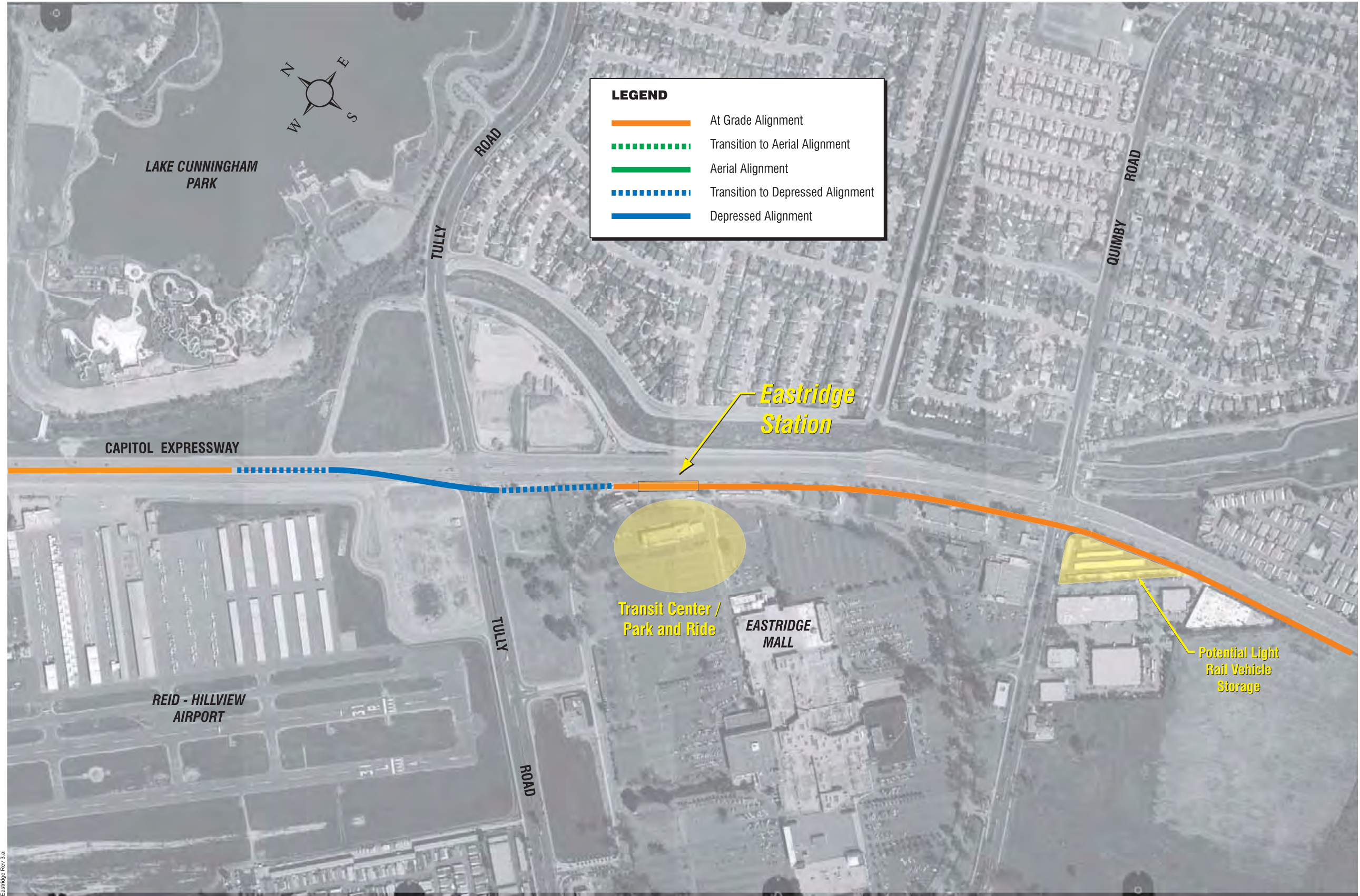


Due to potential development opportunities, the side-running option (Option 6-B) is recommended because it provides the greatest potential for integrating light rail with future development. Also, since it is side-running and does not impact Expressway operations. It was originally thought that Option 6-B would have the added benefit of allowing all eight Expressway lanes (including HOV lanes) south of Tully to remain in place until light rail is extended past Nieman. However, upon closer investigation, this does not appear possible. Further study is recommended during PE.

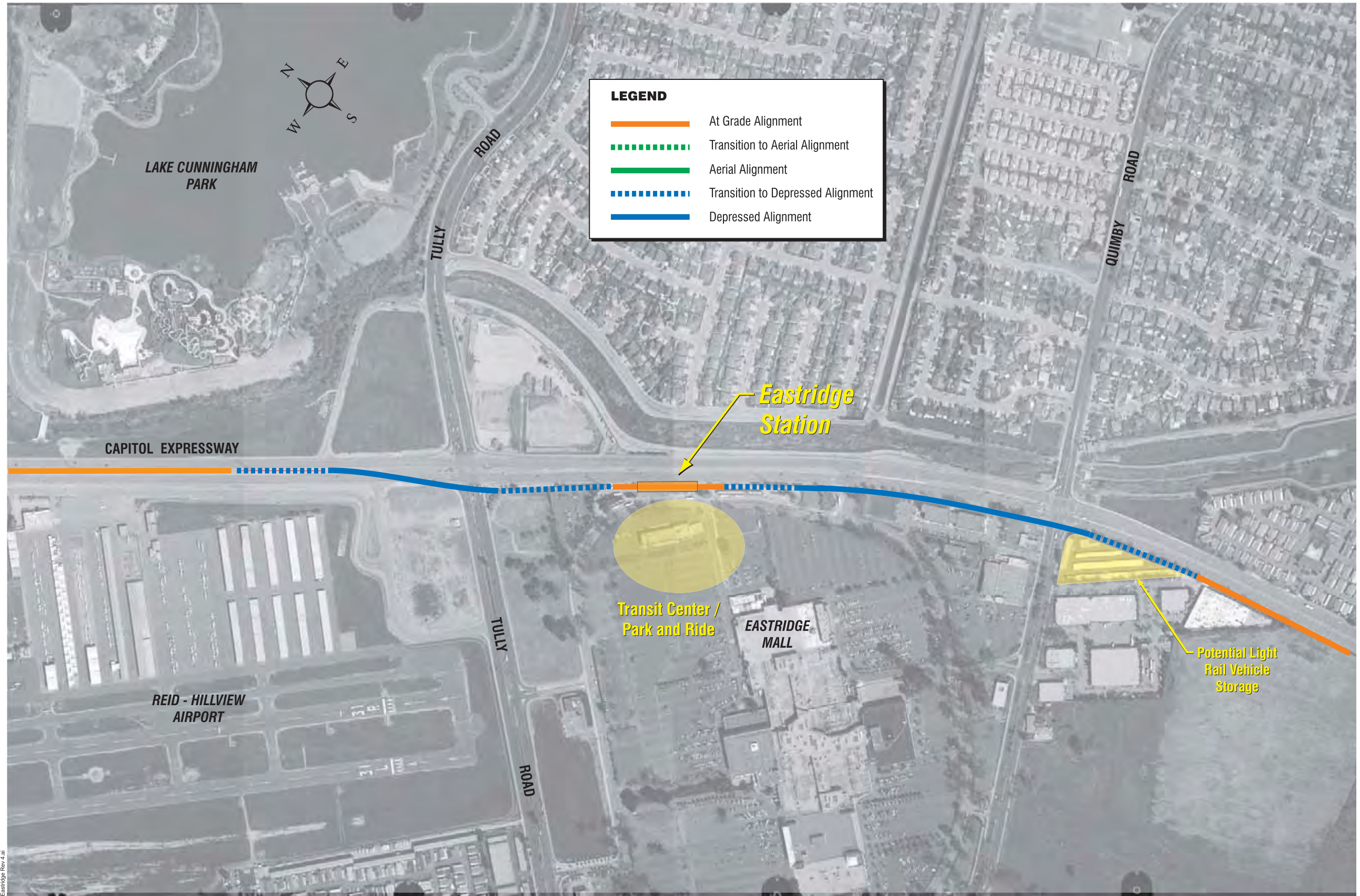
**Public Comment:** There is general support for the side-running alignment.

**Issue(s):** Coordination between future development at the vacant (Arcadia) site near Nieman Boulevard should occur to provide the best interface and design to meet the needs of the development and the design and precise location of the light rail station.

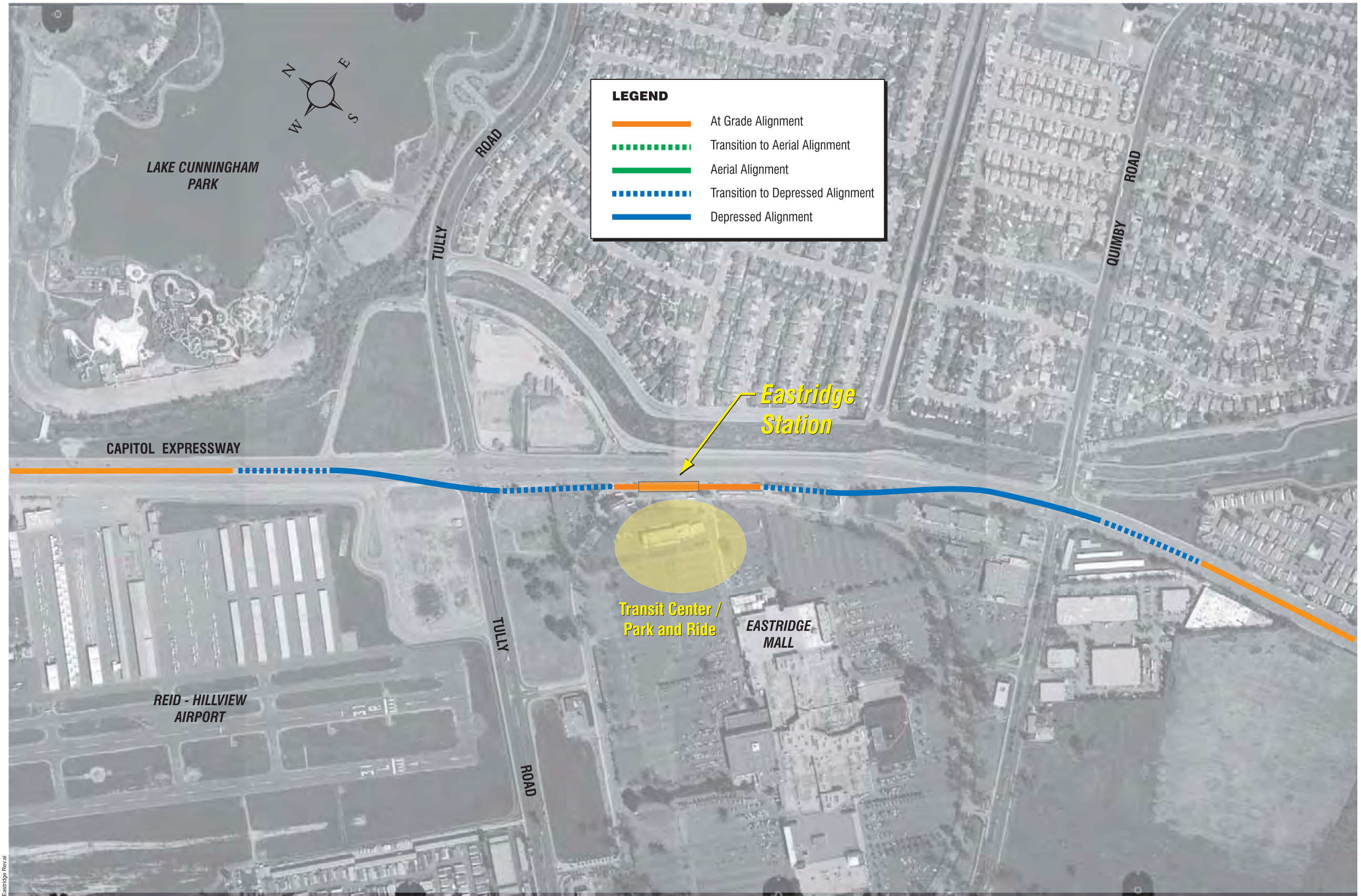
**Project Cost Impact:** (6-A) Side-running at-grade to Nieman: \$67 million less than base cost  
(6-B) Side-running depressed alignment/at-grade to Nieman: included in base cost  
(6-C) Median-running to Nieman Station: \$14 million more than base cost













**Design Option #7**  
**Alignment from Nieman Station to McLaughlin Station\***

\* *NOTE: Multiple design options were analyzed in the Draft EIS/EIR for the project segment from Nieman Station to McLaughlin Avenue, many of which would heavily influence or even dictate other design options. For this reason, the Preliminary Staff Recommendation for Design Option #7 was described as a multi-part recommendation that encompassed the many sub-options considered between Nieman Station and Coyote Creek. Although the Final Staff Recommendation would defer project-level decisions in this portion of the light rail corridor, this section provides background information relevant to both the preliminary and final staff recommendations.*

**Preliminary Staff Recommendation:**

Aerial transition from side-running at Nieman Station to the median of Capitol Expressway and continuing on a median aerial alignment over Aborn Road and Silver Creek Road; then over U.S. 101 on a new light rail bridge north of Capitol Expressway and transitioning back to a median aerial alignment east of McLaughlin Avenue and an aerial station at McLaughlin; and then transitioning back to an at-grade (median) alignment east of the Coyote Creek Bridge. This recommendation includes a future optional station at Silver Creek Road.

**Final Staff Recommendation:** Defer project level decisions, including design options and project phasing, on the project segment from Nieman to Route 87 until land use and transportation decisions associated with the *U.S. 101 Central Corridor Study* and the *Evergreen Smart Growth Strategy* have been further developed and approved.

**Background -** Traffic operations in the area of the Capitol Expressway interchange with U.S 101 are highly complex and VTA considered many factors in planning the light rail project in this area. Two other studies, the *Comprehensive County Expressway Study* (County of Santa Clara) and the *U.S. 101 Central Corridor Study* (VTA), were initiated after the Capitol Expressway environmental technical studies had begun. Both of these studies addressed the severe traffic congestion in the area of the U.S. 101/Capitol Expressway interchange to some degree. The County Expressway Study, which has been completed, identified areas of significant congestion and proposed potential mitigation. The U.S. 101 Central Corridor Study, which is nearing completion, undertook a more comprehensive analysis to identify both the underlying cause of the congestion and improvements that would reduce the level of congestion.

The County Board of Supervisors approved the County Expressway Study Implementation Plan in August 2003. It has since been transmitted to the VTA Board of Directors for consideration in the ongoing development of the countywide transportation plan – Valley Transportation Plan (VTP) 2030. The Expressway Study included a number of recommended roadway improvements on Capitol Expressway to improve traffic operations. However, it went on to acknowledge the ongoing light rail planning and indicated that potential roadway improvements would be coordinated with VTA.

It further acknowledged that the ongoing U.S. 101 Central Corridor Study would provide recommendations for actual roadway improvements for Capitol Expressway between McLaughlin Avenue and Aborn Road. Although the approved Expressway Implementation Plan included a list of roadway improvements at McLaughlin Avenue, Silver Creek, and Aborn Road, it identified them as “placeholders” pending the results of the U.S. 101 Central Corridor Study.

The U.S. 101 Central Corridor Study, initiated in 2003, is nearing completion. The draft report provides a description of improvements that would be necessary to improve operations on U.S. 101 and the resulting spillover congestion on Capitol Expressway between Aborn Road and McLaughlin Avenue assuming current land uses. It identifies near-term and long-term roadway improvements in the U.S. 101 Central Corridor, and includes the following to improve traffic operations in the Capitol Expressway interchange area:

*Near-Term*

- Add lane on southbound U.S. 101 using area in existing median from south of Story Rd. to Yerba Buena Rd.
- Add northbound 101 on-ramp (slip ramp) from collector-distributor system between Yerba Buena and Capitol Expressway.
- U.S. 101/Capitol Expressway I/C improvements – west side I/C modifications; eliminate loop ramp in southwest quadrant; widen ramps for additional storage capacity; and add new intersection on Capitol Expressway.
- U.S. 101/Capitol Expressway I/C improvements – east side I/C modifications; eliminate loop ramp in northeast quadrant; widen ramps for additional storage capacity; and add new intersection on Capitol Expressway.
- Capitol Expressway (street) – intersection modifications; left turn lane; carpool lane adjustments; and striping modifications.

*Long-Term*

- Southbound 101 braided ramps between Capitol Expressway and Yerba Buena, including improvements at Capitol I/C.
- Northbound 101 braided ramps between Capitol Expressway and Yerba Buena, including improvements at Capitol I/C.

The Draft U.S. 101 Central Corridor Study also includes certain key findings that could influence the Capitol Expressway Light Rail Project. The study indicates that the interchange recommended in the Expressway Study at Silver Creek Road is not necessary in the near term with current land uses. It also determined that, in addition to the roadway improvements listed above, all eight traffic lanes on Capitol Expressway south of Aborn Road are necessary in order to reduce traffic congestion.

Although the Light Rail Project described in the Draft EIS/EIR and the roadway improvements recommended in the U.S. 101 Central Corridor Study are not mutually exclusive, they are not entirely compatible. Constructing the roadway improvements could potentially alter the light rail project design to some degree and vice versa. In addition, the Capitol Expressway Light Rail Project, as currently described and analyzed in the Draft EIS/EIR, would remove the HOV lanes

south of Nieman, which is in conflict with the recommendations of the U.S. 101 Central Corridor Study.

The Draft EIS/EIR for the Capitol Expressway Light Rail Project included an alternative that would have maintained all existing (eight) lanes on the Expressway in order to mitigate the traffic impacts resulting from removing the HOV lanes. However, the “Light Rail Plus Eight Expressway Lanes” alternative was discarded due to the magnitude of environmental impacts, primarily the amount of right-of-way acquisition and residential and commercial relocation required to maintain all eight lanes along with construction of the light rail project.

**Discussion and Key Reasoning:** In order to move forward and complete the Conceptual Engineering and environmental approval process for the Capitol Expressway Light Rail Corridor Project, the preliminary staff recommendation described in Design Option #7 was developed considering the factors mentioned above. The preliminary staff recommendation resulted in a viable light rail project that was fully analyzed in a Draft EIS/EIR and could be approved by the VTA Board of Directors and constructed as defined in the environmental document if funding is available.

Recognizing that roadway improvements are contemplated in the U.S. 101 Central Corridor near Capitol Expressway, the preliminary staff recommendation represented the best plan to minimize the impact of the light rail project on the existing roadway configuration. It provided for grade separation of light rail between Aborn Road and Coyote Creek, including a separate light rail bridge over the U.S. 101/Capitol Expressway interchange, thus removing light rail from this complicated, congested interchange.

Construction of an initial segment of the light rail project to Eastridge, and even a further extension to Nieman, would not preclude the construction of near-term improvements recommended in the U.S. 101 Central Corridor Study.

However, it has long been recognized that land use issues could result in further impacts in the area of the Capitol Expressway light rail corridor between Aborn Road and McLaughlin Avenue. This area has the potential for significant change over the next few years with respect to private land use changes as development pressures continue in the Evergreen area of San Jose.

The City of San Jose is proceeding with the *Evergreen Smart Growth Strategy*, which is looking closely at the impact of specific land use plans on traffic congestion and how to mitigate those impacts. The *U.S. 101 Central Corridor Study* is being used to provide a baseline of recommended traffic improvements for development in Evergreen. These planning efforts are on-going and have not been completed. The Capitol Expressway Draft EIS/EIR has not analyzed the impacts of those efforts since it is “out in front” of important decisions still pending in the light rail project area from Nieman to McLaughlin.

The City of San Jose recently adopted recommendations for the Capitol Expressway Light Rail Project that include the following:

- Proceed with the Environmental Impact Report (EIR) completion and approval process for the Alum Rock to Nieman segment of the project (Phase 1), with a completion goal of November 2004.

- Seek additional design options for the Nieman to McLaughlin Station segment that will allow maintaining eight lanes on Capitol Expressway from Aborn to Route 101 to support the *Evergreen Smart Growth Strategy*.

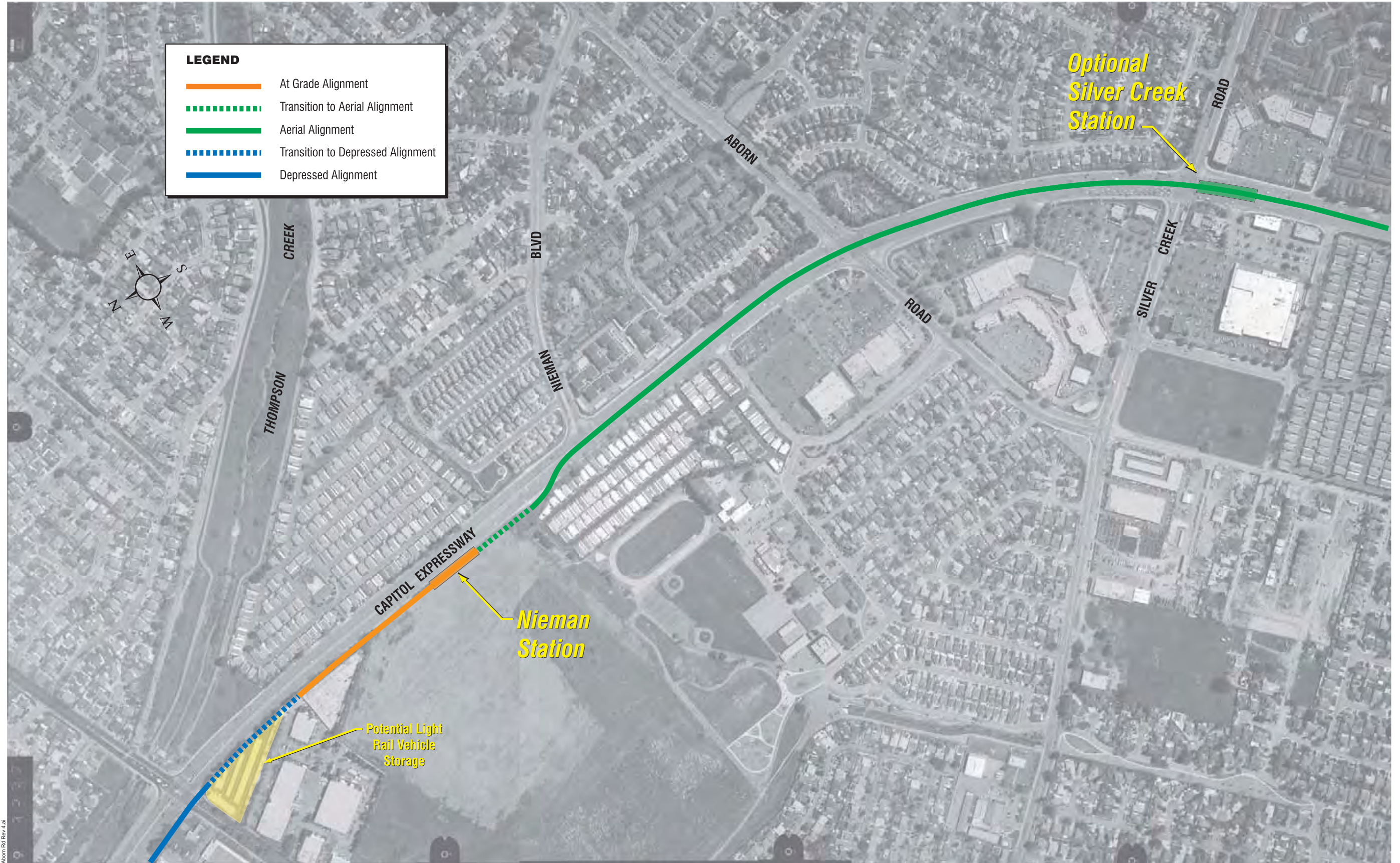
Plans for private land development in the area are becoming further defined and appear to be moving forward in the near term as part of the *Evergreen Smart Growth Strategy*. Therefore, VTA staff feels that project-level decisions made for the light rail project beyond Nieman Boulevard should be deferred to assure that creative community solutions for all transportation modes can be fully explored without constraints as part of the *Evergreen Smart Growth Strategy* planning process.

**Public Comment:** During the public comment period on the Draft EIS/EIR and the preliminary staff recommendations it became apparent that there was a great deal of concern about traffic issues from residents of the area of the Corridor south of Nieman, particularly the removal of the HOV lanes from Aborn to U.S. 101.

**Issue(s):** There is currently no approved full funding plan identified to proceed with final design, right-of-way acquisition, and construction for either the Capitol Expressway Light Rail Project or the roadway improvements recommended in the *U.S. 101 Central Corridor Study*; therefore, the timing for actual construction of either the roadway improvements or the light rail project is uncertain at this time.

**Project Cost Impact:** The multi-part preliminary staff recommendation is \$71 million more than the base cost. This may change in the future based on *Evergreen Smart Growth Strategy* development and *U.S. 101 Central Corridor* improvements .









US 101 Op 7



**Design Option #8**

**Location of Park-and-Ride Facility (260 – 300 Spaces) at Monterey Highway**

*NOTE: Although the Final Staff Recommendation would defer project-level decisions in this location, information relevant to both preliminary and final staff recommendations is provided.*

**(8-A) Park-and-Ride Lot within Expressway Loop Ramps:** Construct up to 300 park-and-ride spaces in two existing loops of the Capitol Expressway/Monterey Highway interchange

**(8-B) Park-and-Ride Lot on the Drive-In Theater/Flea Market Site:** Construct up to 300 spaces on a portion of the Drive-In Theater/Flea Market site located west of Monterey Highway and north of Capitol Expressway with access from Snell Avenue

**(8-C) Park-and-Ride Lot on Commercial Property in the northeast quadrant of Monterey Highway/Capitol Expressway:** Construct approximately 250 spaces on the commercial property on the east side of Monterey Highway immediately north of the westbound Capitol Expressway ramps with access from Monterey Highway/Rancho Drive

**Preliminary Staff Recommendation:** (8-A) Park-and-Ride within Expressway Loop Ramps

**Final Staff Recommendation:** Defer project level decisions, including design options and project phasing, on the project segment from Nieman to Route 87 until land use and transportation decisions associated with the *U.S. 101 Central Corridor Study* and the *Evergreen Smart Growth Strategy* have been further developed and approved.

**Discussion and Key Reasoning:** Regarding the Preliminary Staff Recommendation, Option 8-A is the most conveniently accessible park-and-ride lot and utilizing both loops allows access from all directions. Right-of-way impacts are substantially greater with both Options 8-B and 8-C, which are located on developed parcels; therefore, right-of-way acquisition costs would be substantially more than for Option 8-A. Additionally, Option 8-C would require relocation of businesses.

For discussion regarding the final staff recommendation to defer project-level decisions from Nieman to SR-87, refer to the discussion for Design Option #7 and the final staff recommendation regarding project phasing.

**Public Comment:** The public generally favored Option 8-A because it does not impact existing and commercially viable land uses.

**Issue(s):** Park-and-ride users will encounter a circuitous pedestrian route to access the Caltrain Station. Auto circulation patterns in and out of the Option 8-A park-and-ride lot will not be familiar to first-time or infrequent users.

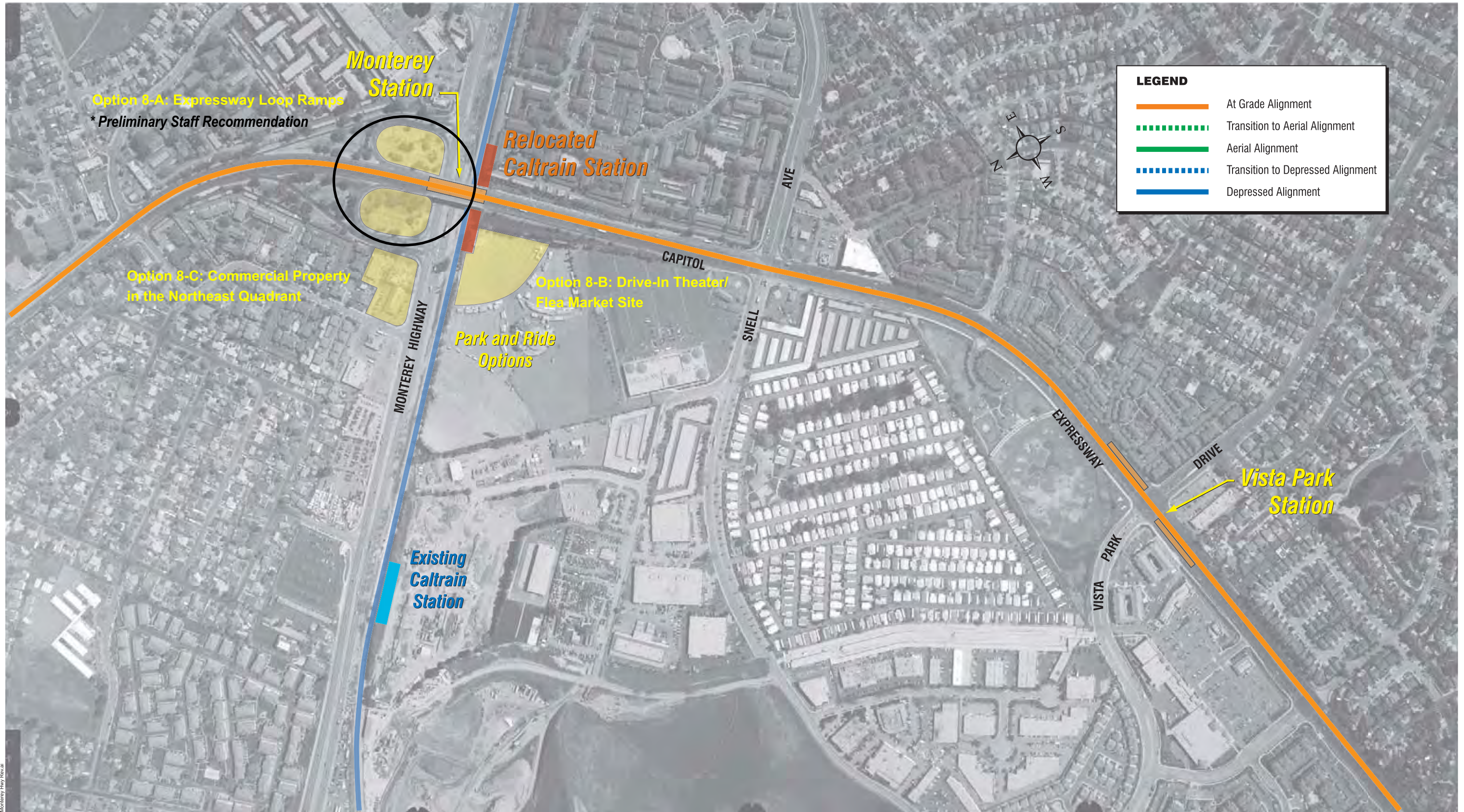
**Project Cost Impact:**

Option 8-A Park/Ride in Expressway Loop Ramps: included in base cost

Option 8-B Park/Ride at Drive-In Theater/Flea Market Site: \$7 million more than base cost

Option 8-C Park/Ride at Commercial Site at Monterey/Capitol: \$9 million more than base cost







## Design Option #9

### Location of State Route (SR) 87 Station

*NOTE: Although the Final Staff Recommendation would defer project-level decisions in this location, information relevant to both preliminary and final staff recommendations is provided.*

**(9-A) Station under Highway 87:** Center platform constructed directly under the SR 87 overcrossing

**(9-B) Station west of Highway 87:** Center platform constructed just west of the SR 87 overcrossing

**Preliminary Staff Recommendation:** (9-B) Station west of SR 87

**Final Staff Recommendation:** Defer project level decisions, including design options and project phasing, on the project segment from Nieman to Route 87 until land use and transportation decisions associated with the *U.S. 101 Central Corridor Study* and the *Evergreen Smart Growth Strategy* have been further developed and approved.

**Discussion and Key Reasoning:** Regarding the preliminary staff recommendation, a station to the west of SR 87 under Option 9-B is considered a more pleasant place to wait for a train than directly beneath the highway overcrossing as in Option 9-A. In addition, under Option 9-A the SR 87 support columns would be located in the middle of the light rail platform, presenting a fairly sizable obstacle on the station platform.

No new pedestrian crossings would be necessary under Option 9-B, whereby Option 9-A would require a new pedestrian crosswalk on the east side of the intersection of the SR 87 southbound ramps with Capitol Expressway. Currently, pedestrian signal phases and crosswalks are available across three legs of the Capitol Expressway intersection with the southbound ramps of the intersection with SR 87. Pedestrian access is available across the south, west and north legs. Pedestrian access is not provided across the east leg of the intersection because of the high traffic volume turning left from the off-ramp. There are no traffic movements that would allow pedestrians to cross this leg of the intersection simultaneously; therefore, a station platform directly under SR 87 would require that pedestrian access be provided across the east leg and that a pedestrian phase be added to the intersection. The additional signal phase will influence the traffic operations at the intersection.

For discussion regarding the final staff recommendation to defer project-level decisions from Nieman to SR-87, refer to the discussion for Design Option #7 and the final staff recommendation regarding project phasing.

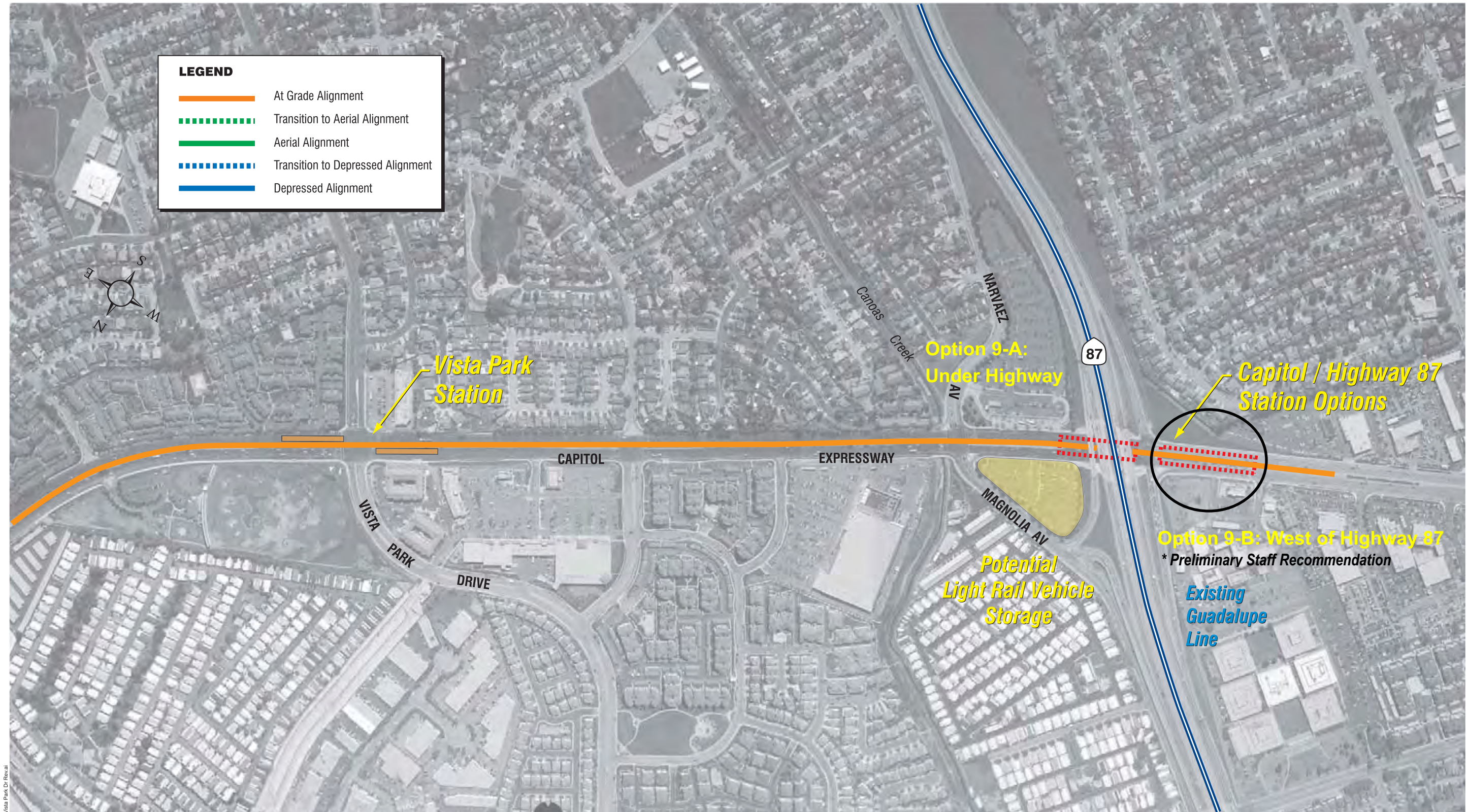
**Issue(s):** Changes to the traffic signal for the southbound SR 87 would be required with either station location option.

### Project Cost Impact:

Option (9-A) Station under Highway 87: \$2.9 million more than the base cost

Option (9-B) Station west of Highway 87: included in the base project cost





Vista Park, Dr. Rowal



**Design Option #10  
Overnight LRV Storage/Light Maintenance Facility**

**(10-A) Storage Facility at Ocala Avenue:** Construct a storage facility for 16 light rail vehicles (LRVs) in the southwest quadrant of the Ocala/Capitol Expressway intersection

**(10-B) Storage Facility south of Quimby Road:** Construct a storage facility for 15 LRVs on the property just south of Quimby Road currently used as a personal mini-storage facility

**(10-C) Storage Facility at SR 87 Park-and-Ride:** Construct a storage facility for 17 LRVs on the existing VTA park-and-ride lot on the north side of the Expressway at SR 87

**Preliminary Staff Recommendation:** (10-B) Storage Facility south of Quimby Road

**Final Staff Recommendation:** (10-B) Storage Facility south of Quimby Road. (A cost-benefit analysis should be conducted as an early action item during PE to determine if the light rail storage facility is needed in Phase 1.)

**Discussion and Key Reasoning:** Overnight LRV storage capabilities can reduce operating costs. Without an overnight storage facility, as trains leave service at either Eastridge or SR 87, they must travel back to VTA's Light Rail Vehicle Maintenance Facility on Younger Street in San Jose to be stored overnight. The following morning, vehicles must travel back to either Eastridge or SR 87 to begin service again. This represents a substantial amount of non-revenue/non-service travel. An overnight storage facility would not provide heavy maintenance services, but would provide for minor cleaning, daily inspection and overnight storage. LRVs would periodically rotate back to the Younger Street facility for regular maintenance.

Option 10-A has potential conflicts with existing high-pressure PG&E gas lines under the site, and is also adjacent to a residential neighborhood, which may not be as compatible as other locations for a storage facility. Under Option 10-C, a facility would be located on VTA-owned property currently used as the north park-and-ride lot at the Capitol Station on the Guadalupe Line. There would be no right-of-way costs associated with Option 10-C and the site is now under-utilized as a park-and-ride, so it is potentially available. However, the south Capitol park-and-ride lot has potential for joint development, which may result in an increased demand for parking on the north site. Therefore, it is not considered prudent at this time to encumber the north park-and-ride with plans for a future storage/light maintenance facility.

Under recommended Option 10-B, the storage facility would be located immediately south of the MOS-Phase I segment, which could be advantageous in providing operating flexibility in the near term, and LRV access in and out of the facility would be a continuation of the side-running alignment from the Eastridge Transit Center station.

It should be noted that, although it may be desirable, constructing the storage facility is not integral to the operation of the light rail line in the initial phase of the line to Eastridge or even a further extension as far as Nieman.

In addition, although the preliminary staff recommendation includes the location for a future storage facility, the final decision regarding the timing for construction of the facility should be made during Preliminary Engineering. This would allow further cost/benefit analysis of the operating plan and associated operating (dead-head) costs before a final determination is made regarding which project phase would include the construction of the maintenance facility. The environmental document also includes an option for tailtracks adjacent to the Eastridge Transit Center and/or adjacent to the Nieman Station. Vehicles could be stored at these locations, but no building or other facilities would be constructed. However, these options would not meet VTA's desire for both storage and the capability of performing light maintenance, and are, therefore, not included in this discussion.

**Public Comment:** Santa Clara County Roads and Airport staff and local residents did not favor the Ocala Avenue location (10-A).

**Issue(s):** Careful design of the storage facility will be needed to assure compatibility with future land uses at the vacant 89-acre Arcadia site.

In addition, the full value of the operating cost savings as compared to the capital cost outlay for the storage facility should be determined through a cost-benefit analysis during PE before final decisions are made regarding construction of the facility.

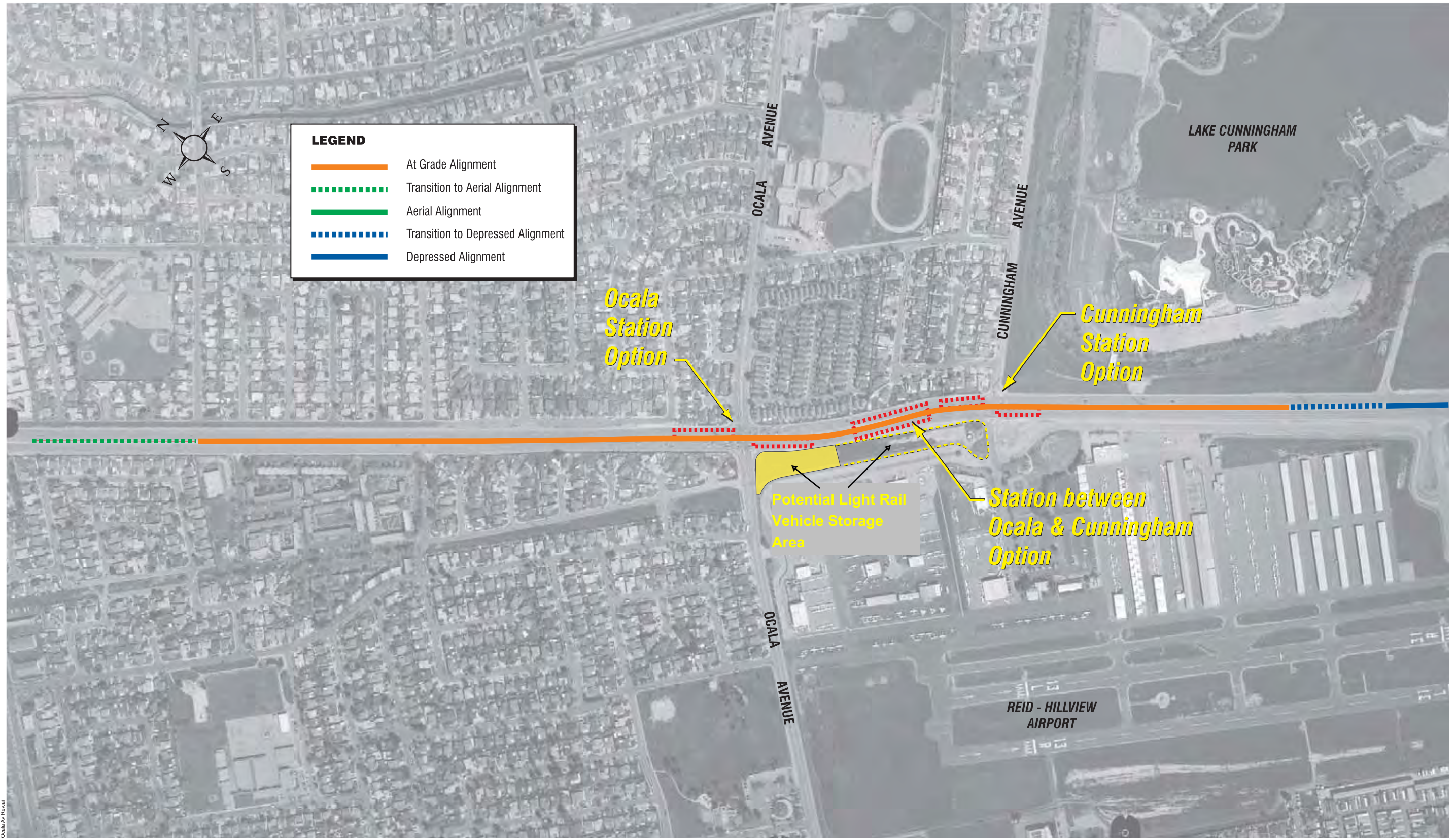
**Project Cost Impact:**

10-A Storage Facility at Ocala Avenue: \$16 million more than base cost

10-B Storage Facility south of Quimby Road: \$21 million more than base cost

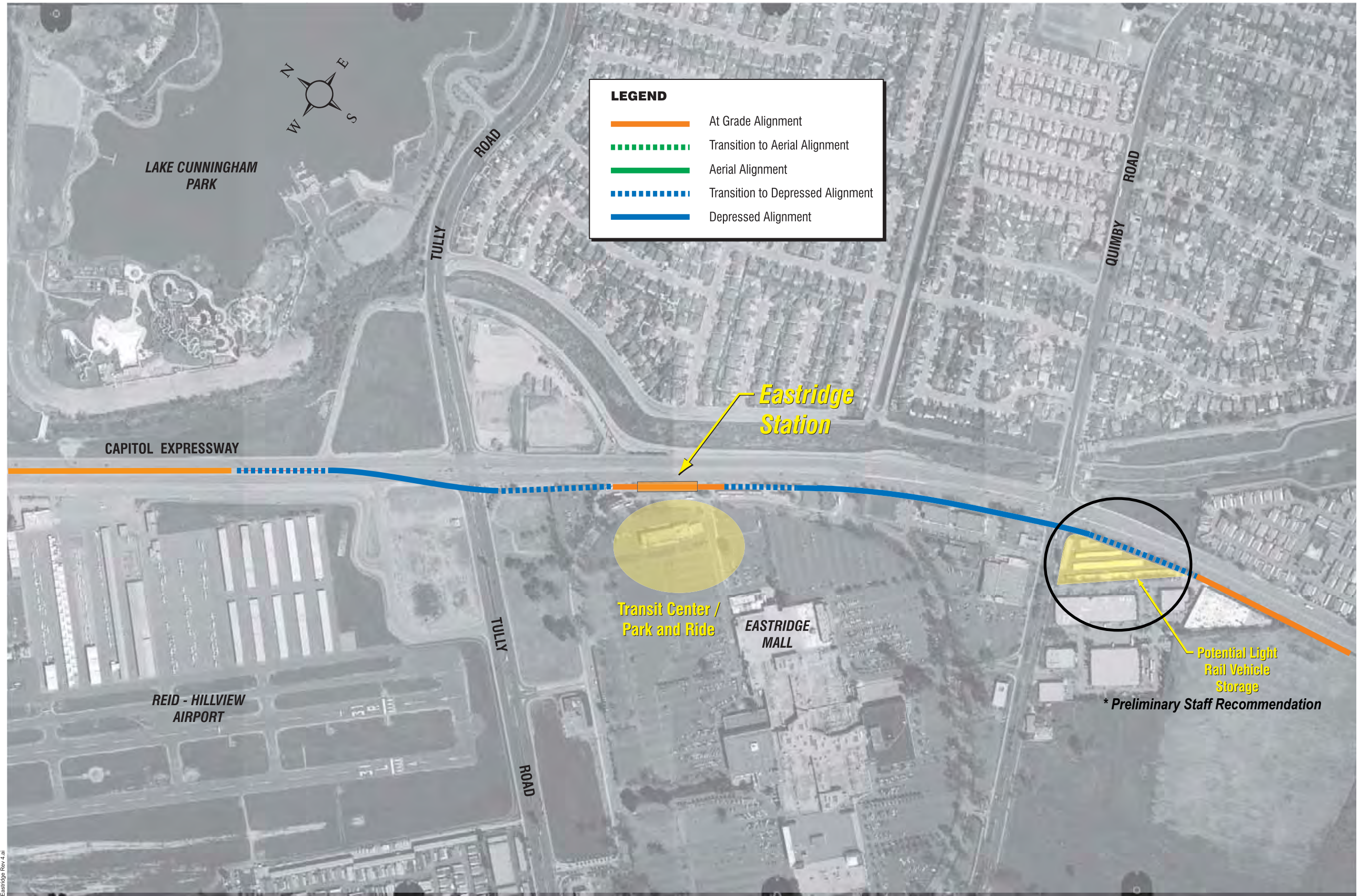
10-C Storage Facility at SR 87 Park-and-Ride: \$14 million more than base cost



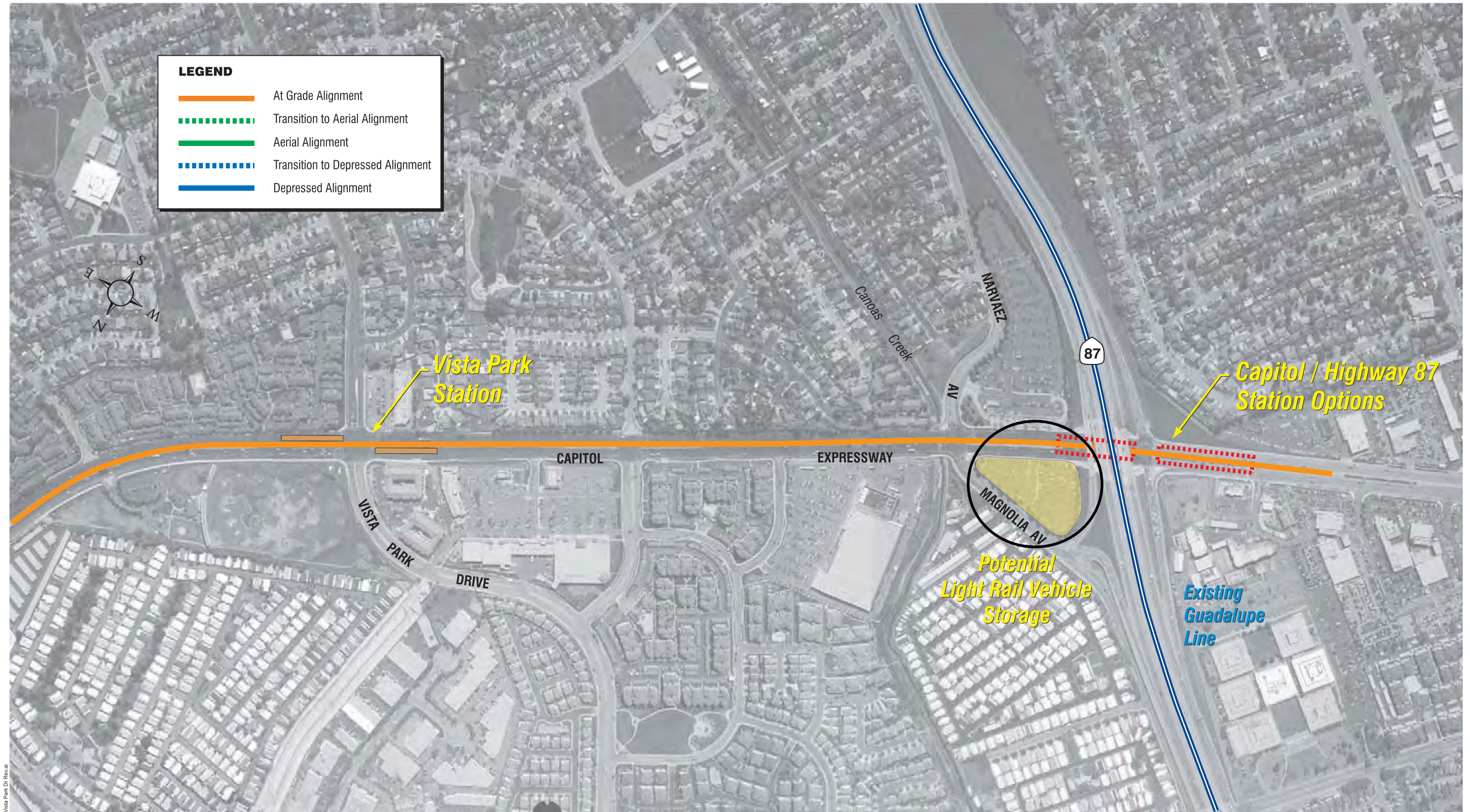


© 2014 by VTA









Vista Park, Dr. Rowal



## Final Staff Recommendations: Project Phasing

---

### Preliminary Staff Recommendation:

For the purpose of exploring funding strategies, project phasing should be further refined in the Capitol Expressway Light Rail Project Final EIS/EIR and identified in VTP 2030 as follows:

- Phase 1A Alum Rock Station to Eastridge Transit Center
- Phase 1B Eastridge Transit Center to Nieman Station
- Phase 2A Nieman Station to Coyote Creek
- Phase 2B Coyote Creek to SR 87

### Final Staff Recommendation:

- Phase 1A Alum Rock Station to Eastridge Transit Center
- Phase 1B Eastridge Transit Center to Nieman Station
- Phase 2A Nieman Station to Coyote Creek
- Phase 2B Coyote Creek to SR 87

In addition, proceed with project-level approval of the EIS/EIR for Phases 1A and 1B and defer project-level decisions for Phase 2A and 2B until after land use and transportation decisions are made in this portion of the Corridor related to the *Evergreen Smart Growth Strategy* and the *U.S. Central 101 Corridor Study*.

### Background, Discussion and Key Reasoning:

The environmental review phase for the Capitol Expressway project was initiated in Fall 2001 by issuing a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) in compliance with the Federal Environmental Policy Act (NEPA) and a Notice of Preparation (NOP) to prepare an Environmental Impact Report (EIR) in compliance with the California Environmental Quality Act (CEQA). A few months later, the Downtown East Valley PAB approved a project description, and that project description is the basis for the environmental technical studies and Draft EIS/EIR. Federal Transit Administration (FTA) approved the Draft EIS/EIR for public circulation in April 2004, a public hearing was held in May, and the Final EIS/EIR and project approval is anticipated to occur in late 2004.

The Draft EIS/EIR indicates that the 8.2-mile project would likely be constructed and operated in two or more phases, as funding permits. The environmental document identifies an initial phase (called a *Minimum Operating Segment*, or *MOS-Phase 1*) to the Eastridge Transit Center and “one or more subsequent phases” to SR 87, with the phases beyond Eastridge simply referred to as “Phase 2”. This approach is consistent with previous PAB and VTA Board policy decisions, which are further discussed below.

The initial MOS-Phase 1 segment was defined in the environmental document as the 2.3-mile segment between the Alum Rock Station and Eastridge for several reasons. First of all, Eastridge Transit Center is an existing VTA transit hub and a logical extension of light rail operations from the Alum Rock Station on the Capitol Line. In addition, planning studies in the early 1990's and the 1996 Measure A ballot initiative defined the Capitol Light Rail Line as extending "...down Capitol Avenue through east San Jose to the Alum Rock Area, with eventual service to Eastridge". A Major Investment Study (MIS) conducted in 1999 – 2000 resulted in VTA Board approval of the Downtown East Valley Transit Improvement Plan Preferred Investment Strategy in August 2000, which clearly included the entire Capitol Expressway Light Rail Project in two parts, as follows:

*To serve the Capitol Expressway/Evergreen Corridor:*

- *Alternative 2(a): LRT on Capitol Expressway from the terminus of the Capitol LRT Line to Eastridge Mall, with supporting bus feeder service from the Evergreen area to Eastridge; and*
- *Alternative 3: Light Rail Transit (LRT) on Capitol Expressway from Eastridge Mall to the Guadalupe LRT Line.*

Furthermore, Valley Transportation Plan (VTP) 2020, the countywide transportation plan adopted in December 2000, included both parts of the Capitol Expressway Light Rail Project, but segregated them in the expenditure plan. The segment of the Capitol Expressway Light Rail Project to Eastridge and the Santa Clara/Alum Rock Corridor Project were collectively identified as "Downtown East Valley" in the Expenditure Plan with \$500 million from local sales tax (2000 Measure A); and the "East Valley extension to Guadalupe LRT" was included as one of seven candidate corridors in the VTP 2020 category identified as "Capital funding for at least two future rail transit corridors....".

This basic funding concept was continued in the update of VTP 2020, now called VTP 2030, which is well underway. In April 2004, the VTA Board of Directors adopted recommended allocation amounts and project lists for the VTP 2030 Program Areas, and the Measure A transit Program List included the Capitol Expressway LRT to Eastridge with an extension to Neiman Boulevard. This Board-adopted list has since been submitted to MTC for inclusion in the update of the regional transportation plan (called T2030), also currently underway. Approval of T2030, which is the basis for State and Federal funding decisions, is anticipated in late 2004. It is important that VTP 2030 include all priority transit projects, particularly those for which VTA intends to advance during the 3-year regional plan cycle.

The continuing private land development opportunities in the East Valley, particularly in the Evergreen area, presents a compelling reason to consider extending the reach of the Phase I light rail project to Nieman Boulevard for the purposes of conducting Preliminary Engineering. The Evergreen-Eastridge Plan completed by the Knight Program in Community Building in November 2003, identified the vacant 89-acre Arcadia site on Capitol Expressway south of Quimby Road as a strong candidate for future transit-oriented development, and, as mentioned previously, the City of San Jose has initiated the *Evergreen Smart Growth Strategy* for the Evergreen area. Therefore, staff recommends that the phases identified for the Capitol Expressway Light Rail project be further refined to reflect VTA's intent to advance the extension to Nieman Boulevard in the near term.

VTA is advancing the phases to Eastridge (1A) and Nieman (1B) with \$11 million in funding for Preliminary Engineering (PE) approved by the VTA Board on January 30, 2004, and \$5 million approved on June 3, 2004. The award of the PE contract by the VTA Board of Directors, which encompasses both Phase 1A to Eastridge and 1B to Nieman, is expected in September 2004.

Refining the description of the Capitol Expressway Light Rail Corridor Project to include four separate phases – 1A, 1B, 2A and 2B – provides both clarity and flexibility for VTA as further funding and implementation strategies are explored.

**Issues:**

The area of the Capitol Expressway light rail corridor between Aborn Road and McLaughlin Avenue has the potential for significant change over the next few years with respect to potential transit improvements, roadway improvements, and private land development.

It is anticipated that the VTA Board of Directors will approve a preferred alternative in the Capitol Expressway Light Rail Corridor in late 2004; however, full funding for implementation is not yet identified.

## Revised Project Costs

The total estimated capital cost to construct the Capitol Expressway Light Rail Project from the Alum Rock Station to Nieman Boulevard with the design options included in the final staff recommendations is \$430 million (in 2003 dollars). This includes \$21 million for the Light Rail Vehicle Storage Facility in the event that it is determined necessary for Phase 1. Further detail regarding the \$430 million cost estimate is provided below:

<b>Capitol Expressway LRT Project Segment w/Recommended Elements</b>	<b>Cost in Millions of 2003 Dollars</b>
<b>Alum Rock to Eastridge</b>	<b>\$291</b>
<ul style="list-style-type: none"> <li>• Aerial over Capitol Expy/Capitol Avenue and Capitol Expy/Story Rd</li> <li>• Pedestrian overcrossings at Story Road Station</li> <li>• Ocala/Cunningham Station</li> <li>• Depressed section into Eastridge Transit Center</li> <li>• Park-and-Ride at Eastridge</li> </ul>	
<b>Eastridge to Nieman</b>	<b>\$118</b>
<ul style="list-style-type: none"> <li>• Side-running (depressed) under Eastridge Loop and Quimby Roads</li> <li>• Side-running (at-grade) south of Quimby to Nieman Station</li> </ul>	
<b>Storage Facility</b>	<b>\$ 21</b>
<ul style="list-style-type: none"> <li>• Quimby Storage Facility</li> </ul>	
<b>Total Project Cost Estimate with Design Options In Final Staff Recommendations</b>	<b>\$430</b>

## Ridership Projections

Ridership projections (2005) for the Capitol Expressway Light Rail Line are shown below:

<b>Project Segment</b>	<b>Ridership</b>
Alum Rock to Eastridge	3,200
Eastridge to Nieman	440
Eastridge to SR 87	7,360
<b>Total Ridership (Alum Rock to SR 87)</b>	<b>11,000</b>

## **Community Outreach and Next Steps**

---

The design options included in this report are also described and discussed in the Capitol Expressway Light Rail Corridor Draft EIS/EIR, which was released for public review on April 28, 2004. Many of these options have previously been presented to the community over the course of the public involvement process conducted during Conceptual Engineering.

The preliminary staff recommendations were presented to the Downtown East Valley Policy Advisory Board (PAB) as an informational item on March 4, 2004, and were reviewed with interested parties such as resident and business organizations, Strong Neighborhood Initiative Neighborhood Action Committees (SNI NACs), stakeholders, City and County staff, and the community prior to and during the 45-day public review period for the Draft EIS/EIR. A public hearing was also held on the Draft EIS/EIR on May 27, 2004.

Final recommendations will be incorporated into the “Preferred Alternative” that will be identified in the Final EIS/EIR, which is anticipated to be released by FTA for public review in Fall 2004. It is anticipated that final environmental certification by the VTA Board of Directors is expected to occur in late 2004.