

FINAL
ENVIRONMENTAL IMPACT REPORT
for the
COMMUNICATIONS HILL SPECIFIC PLAN

CITY OF SAN JOSE
MARCH 1992

VOLUME I OF II

PREFACE

This Final Environmental Impact Report consists of the Draft EIR and subsequent Amendments to the document. The Amendments contain: (1) comments and responses to comments on the Draft EIR; (2) revisions to the text of the Draft EIR; and (3) a record of the public hearing, including the action of the Planning Commission to certify the EIR as complete and in conformance with the California Environmental Quality Act.

**FINAL AMENDMENT
TO THE COMMUNICATIONS HILL SPECIFIC PLAN
ENVIRONMENTAL IMPACT REPORT**

Record of the Meeting of the Planning Commission, February 26, 1992.

A. Staff Presentation

Staff described the proposed General Plan text amendments associated with the Communications Hill Specific Plan and indicated that these proposed General Plan amendments are also covered by the Communications Hill Specific Plan Environmental Impact Report. Staff stated that the First and Second Amendments to the Draft EIR, consisting of comments received on the Draft EIR, responses to comments and text revisions, have been distributed to the Planning Commission.

Staff clarified that the state standard of a minimum of 30% relocatable school buildings applies to the square footage, district wide, for the construction of new classrooms financed through participation in state school funding programs.

At the request of the Planning Commission, staff described the difference between program and project EIR's as follows:

The California Environmental Quality Act specifies that a program EIR may be prepared to address a series of actions that can be characterized as one large project and are related geographically or by a common plan or common regulations. The advantages of a Program EIR are that it:

- o Can provide a more comprehensive analysis than would be practical in an EIR on an individual action
- o Insures consideration of cumulative impacts
- o Avoids duplication of basic policy discussion
- o Allows consideration of broad policy alternatives and program-wide mitigation at an early stage in the planning process.
- o Simplifies the task of preparing subsequent environmental documents since subsequent environmental review for individual actions to implement the program can build upon the original analysis in the program-level EIR.

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CEQA requires that the level of detail of an EIR be commensurate with the level of detail of the action it addresses. Therefore, a Program EIR typically differs from a project-level EIR in that it is less specific in its discussion of impacts and mitigation.

Staff stated that the Communications Hill Environmental Impact Report represents the City's independent judgment regarding environmental impacts, mitigation and alternatives to the proposed project.

Staff recommended that the Planning Commission certify the EIR as complete as amended, and in conformance with CEQA.

B. Public Testimony

Comment: Mr. Richard Zlatunich stated that the easement agreement between PG&E and the property owner does not require reimbursement to PG&E for relocation of the 60kv transmission line.

Response: Staff noted Mr. Zlatunich's comment and stated that the question of financial responsibility for the relocation of the transmission line was a private matter rather than an environmental issue.

Comment: Mr. Young, a member of the Canoas Garden Neighborhood Association and a member of the Communications Hill Specific Plan Task Force, stated his concern regarding the potential for sewage from the development of Communications Hill to impact the Almaden 1B interceptor sanitary sewer system.

Response: Public Works replied that prior to allowing any new connection to the Almaden 1B interceptor an independent study of potential impacts would be required. A new connection would not be permitted unless the study proved that there would be no capacity or odor impacts.

Comment: Mr. Robert Corley and Mr. Jack Schreder, representing the East Side Union High School District and the Franklin-McKinley School District spoke separately but expressed similar concerns. They acknowledged the language added to the Specific Plan indicating that further negotiations would take place between developers and affected school districts (see page 7 revisions to Specific Plan text). Both Mr. Corley and Mr. Schreder stated the EIR document, as it is currently written, is not in conformance with CEQA because it fails to identify the increased demand

for school services as a significant environmental impact. Mr. Corley also stated that the EIR is deficient in a number of other items mandated by CEQA including cumulative impacts and that the document should have included a discussion of the cumulative impacts on San Jose Unified School District.

Mr. Corley and Mr. Schreder requested that (1) the language added to the Specific Plan be included in the EIR as mitigation for school impacts, or (2) that the Commission not certify the EIR.

Response: The Planning Commission asked staff whether it would be possible for the EIR to reference the language added to the Specific Plan regarding schools.

Staff responded that it would not be appropriate to identify Specific Plan language as mitigation; however if the Commission so directed staff, the language could be presented in the EIR as part of the proposed Specific Plan, but should not be identified as CEQA mitigation. The Commission did not direct staff to add the language requested by Mr. Corley and Mr. Schreder.

Comment: Mr. Garbett stated that he had a number of concerns regarding the Specific Plan EIR, but had not had sufficient time to prepare a written statement as he had been denied access to the Draft EIR until 2 days before the certification hearing. Mr. Garbett, requested that the certification hearing be rescheduled to allow him time to review the document.

Response: Staff stated that Mr. Garbett had spoken with Planning Staff in the middle of December and had been advised that the Draft could be purchased, or was available for review in the public libraries and the Planning Department. Mr. Garbett was also advised that staff would respond to written comments submitted to staff prior to the public hearing on the Draft EIR. Mr. Garbett did not avail himself of any of these opportunities.

C. Written comments received on February 26th

1. See attached letter from Mr. Young
2. See attached letter from Mr. Schreder

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D. Action of the Planning Commission

The Planning Commission stated that the EIR represented the independent judgment of the City and voted 6-0-0 to find the EIR complete as amended, and in conformance with CEQA.



 Gary J. Schoennauer
Planning Director

GJS:LQ:hs

final\LQ

February 26, 1992

Carol Hamilton, Senior Planner
City of San Jose
Department of City Planning
801 N. First Street
San Jose, CA 95110-1795

Dear Ms. Hamilton:

Please consider this correspondence a response from the Franklin-McKinley School District to the first amendment to the Draft EIR for the Communication Hill Specific Plan. We provide the following for your consideration:

1) The response to A.3 on page 4 of the first amendment to the Draft EIR incorporate an unrealistically narrow view of growth inducement impacts. We are concerned about growth inducement impact on the Franklin-McKinley School District. While it may be true that sewer lines and highways may not be impacted (page 192 of Draft EIR), schools will be. This report states that the addition of 4000 new residential units in the Franklin-McKinley School District will not induce growth within that District. The 4000 new dwelling units will generate 2240 new K-8 students to be served by the Franklin-McKinley Elementary School District (student yield .56/dwelling unit Appendix A).

2) Your response to A-4 refuses to recognize the case law that clearly and consistently has held that an adverse impact on school facilities is a "significant effect on the environment." Your disregard for the legal precedence on this issue is both surprising and disappointing. Adverse school impacts are environmental issues. The attempt to explain these real environmental issues away with incomplete quotations (page 5) causes continued concern with the completeness and accuracy of this Draft EIR.

3) Your response to A-5 is difficult to understand. On page 163 of the Draft EIR it is stated that based on a student yield of .3 students per dwelling unit "would generate as many as 1200 additional students for the primary schools within the Franklin-McKinley School District" yet recognize no environmental impact. We project 2240 students with significant environmental impact. Please note that while the Draft EIR projects 1200, students the appendix n in your responses projects 800 students. If the General Plan projects 800 students (see appendix b) and the Specific Plan projects 1200 students, the Specific Plan is not carrying out the guidelines of the General Plan. Please explain.

4) The response to A-6 is based on a letter from the Superintendent regarding student yield. Her letter states that "the District has projected at least .3 children from each of the residential units on Communication Hill." The student yield calculated by the District consultants (Appendix A) is at least .3. In fact it is .567, which we have rounded to .56. Please provide evidence of any study done by the City of San Jose as noted in your response.

5) Thank you for the clarification of language on page 163 regarding the clarification of the Year Round Education capacity issue (response A-7).

6) The response to A-9 is evidence that there is little, if any understanding of school impact issues as they relate to growth. A statement on page 8 of your response is wrong. You state that "a minimum of 30% of the square footage of schools, district wide, must be provided in relocatable buildings." The 30% factor is for classrooms only and is not a requirement if the project is not in the Leroy Greene Lease Purchase Program. There is a maximum number of relocatables to be placed on a site. Children need some play areas on school grounds. The Franklin-McKinley School District Board of Education has been elected to set policy for the District. The consultant writing the Draft EIR is not empowered to determine the local student loading factors (30/classroom) nor set policy for more Year Round School Programs. It is imperative that the Draft EIR recognize the environmental impact on the District and let the locally elected board set policy.

7) The response to A-10 assumes that one 10.2 acre site, which includes a park, will house 2240 students. The site is too small. The encroachment of the 5 acre park may not be appropriate and students must be bused.

8) We appreciate the response to A-11. We recognize the language provided in Section 4.3 of the Specific Plan. We would also like language in this Draft EIR to reflect significant environmental impact and require that a "negotiated agreement between the property owner (developers) and Franklin-McKinley School District which will mitigate the impact of this project" be incorporated as a mitigation measure in the EIR.

9) The response to A-13 says it all. Your statement that "the Draft EIR has not identified any significant environmental impacts relative to the provisions of school services; therefore, no mitigation is necessary" is the basic theme of most responses. We have demonstrated significant impacts and request mitigation measures in the Draft EIR.

10) The response to A-15 is further indication that the consultant is stonewalling the issue with "boiler plate" response. This is evidence of an inadequate EIR.

11) Thank you for pointing out an error in the calculation regarding statutory fees - we did not include commercial/industrial square foot statutory fee. We calculate the commercial/industrial fee to be $630,000 \text{ square feet} \times \$0.27 = \$170,100$.

We correct the unmitigated impact as follows:

Impact	\$24,686,240
Statutory Residential Fee	<u>-5,232,000</u>
	\$19,454,240
Statutory Commercial/Industrial Fee	<u>- 170,100</u>
	\$19,284,140

Conclusion

We respectfully request that the Draft EIR reflect the intent of the California Environmental Quality Act. Clearly the approval of a project of 4000 dwelling units and commercial/industrial space of 630,000 square foot will have a significant environmental impact on the Franklin-McKinley School District. We request that a finding of significant environmental impact be included in the report and that appropriate mitigation measures, as suggested in our correspondence of November 20, 1992 be included.

Sincerely,



Jack Schreder

Is
enclosure

Bill Glynn

*1.58 approved 8 May 90
to be implemented
July 9, 1990*

Appendix A

***Justification Report for the
Assessment of School Facility Fees
by Franklin-McKinley School District***

April 27, 1990

**Center for Educational Planning
Santa Clara County Office of Education**

and

**Rob Corley
Consultant, School Facilities and Planning**

This factor means that, on average, each additional worker will demand 0.69 new or existing housing units. For example, of 1,000 new employees in a given commercial/ industrial development, 34.4% are likely to reside in the District. These 344 new resident workers will demand an average of 0.69 homes each, or a total of 237 additional homes.

2.4 Factor D: Number of Pupils per Home

Table 4 shows the ratio of students per dwelling unit at each grade level in the District. These figures are average numbers determined by dividing the number of students enrolled in each grade, as of October 1989, by the estimated number of housing units in the District by the end of 1989. This housing unit value was obtained by adding the total number of housing units reported in the District during the 1980 Census and the number of housing units issued building permits in the District from 1980-1989 (this information was obtained from the San Jose City Planning Department). The County also issues building permits for unincorporated territory. However, the County maintain county-wide records, so it is impossible to determine how many housing units were built in unincorporated territory in the District. According to County records, permits were issued for less that 230 dwelling units in 1989 for the entire county. Therefore, it is unlikely that a residential construction in unincorporated territory will alter significantly the estimated 16,752 housing units in the District.

Dividing the District's October 1989 enrollment (9,500) by the total number of housing units (16,752) will yield a pupil generation factor per home. Overall, the District has an average of 0.57 K-8 pupils per home. The average is consistent with information from the District and will be used in this report. It should be noted that the student per household factor has increased in the District since 1980. The 1980 value (obtained by dividing the number of students enrolled in the District, as of October 1980, by the total number of housing units reported in the 1980 Census) was 0.45 students per household.

Table 4: Students per Home by Grade

Grade	Number
Kind.	0.070
1	0.075
2	0.072
3	0.069
4	0.061
5	0.056
6	0.054
7	0.053
8	0.045
9	
10	
11	
12	
Spec.Ed.	0.012
Total	0.567

Appendix B

NUMBER OF STUDENTS GENERATED BY PROPOSED
PROJECTS AND APPROVED GENERAL PLAN AMENDMENTS

Project	Potential Dwelling Units	Potential Number of Students
Waterford	1,516	303
Communications Hill		
Specific Plan	4,000	800
Flea Market GP*	1,464	293
Sobrato GP	268	45
Rincon De Los Esteros	265	53
KEEN Radio	205	41
Fleming Ave.	25	5
Levin GP	990	198
Jasmine Ranch	31	6
Evergreen Specific Plan	3,000	600
Silver Creek Country	1,500	310
Cerro Plata	550	110
Richmond Ranch	260	52
Greenbriar's Hillstone	136	27
Total	14,210	2,843

*1991 General Plan Amendment request was deferred to the
1992 General Plan Annual Review.
General Plan Annual Review

CANOAS GARDEN NEIGHBORHOOD ASSOCIATION

P.O. Box 36146 SAN JOSE, CA 95158-6146

February 26, 1992

City of San Jose
Planning Commission Meeting

Good Evening:

My name is Robert Young and I am a board member of the Canoas Garden Neighborhood Association. I was also a task force member for the Communications Hill Specific Plan.

One of my major concerns with the development of Communications Hill was the routing of sanitary sewage discharge from the development.

Since our association is in the Nightingale Drive, Apple Valley Drive and Pebble Beach Drive section of the Almaden 1B interceptor sanitary sewer system, many times during our general plan meetings for Communications Hill, the routing of the sanitary system was raised. Each time the question was raised, most of the task force agreed to delay a decision on the sanitary system until after the Environmental Impact Report was prepared.

Well, the Environmental Impact Report is now prepared and is up for certification by this Planning Commission. On page 160 of the EIR it states that the development of Communications Hill is expected to generate a 21% increase into a sanitary sewage system that is already flowing at capacity. It also states on the same page in the EIR (page 160) that the sanitary sewer service impact on the Almaden 1B interceptor from the development of Communications Hill is potentially significant.

The poor response from the City of San Jose to the past problems of the Almaden 1B interceptor does not speak well of their response in mitigating any future problems.

On behalf of the Canoas Garden Neighborhood Association, I strongly urge this Planning Commission to recommend that no sanitary sewage discharge from this project be allowed to flow into the Almaden 1B interceptor.

Thank you.

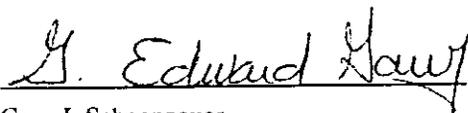
Robert A. Young

SECOND AMENDMENT TO THE DRAFT EIR
CONSISTING OF COMMENTS, RESPONSES TO COMMENTS
AND TEXT REVISIONS

for the

COMMUNICATIONS HILL
SPECIFIC PLAN

CITY OF SAN JOSE
February 1992


for Gary J. Schoennauer,
Director of Planning

SECTION I
REVISIONS TO TEXT OF DRAFT EIR

<u>Page</u>	<u>Amendment</u>
11	Figure 5 is revised as shown in Attachment A.
42	Delete the last bullet o Priority zoning study would be conducted to identify alternate aggregate resources to replace the resources on communications hill.
88	Revise the second bullet as follows: Site specific Area wide species specific surveys would be required during the project development environmental review prior to zoning in order to determine the presence or absence of Metcalf Canyon Jewel flower, the uncommon Jewel flower, the fragrant fritillary, the Mt. Hamilton thistle, the phalangids, Opler's longhorn moth, and to develop mitigation for impacts if they are found to inhabit the site.

Communications Hill Planned Community

Attachment A

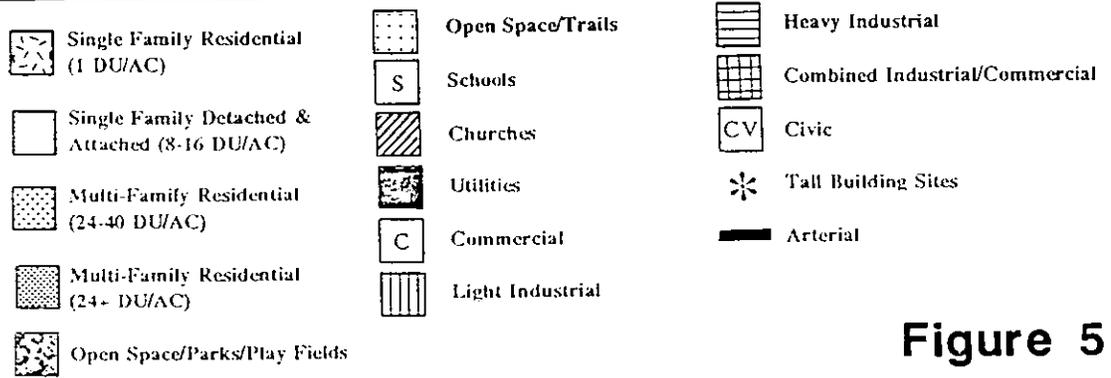
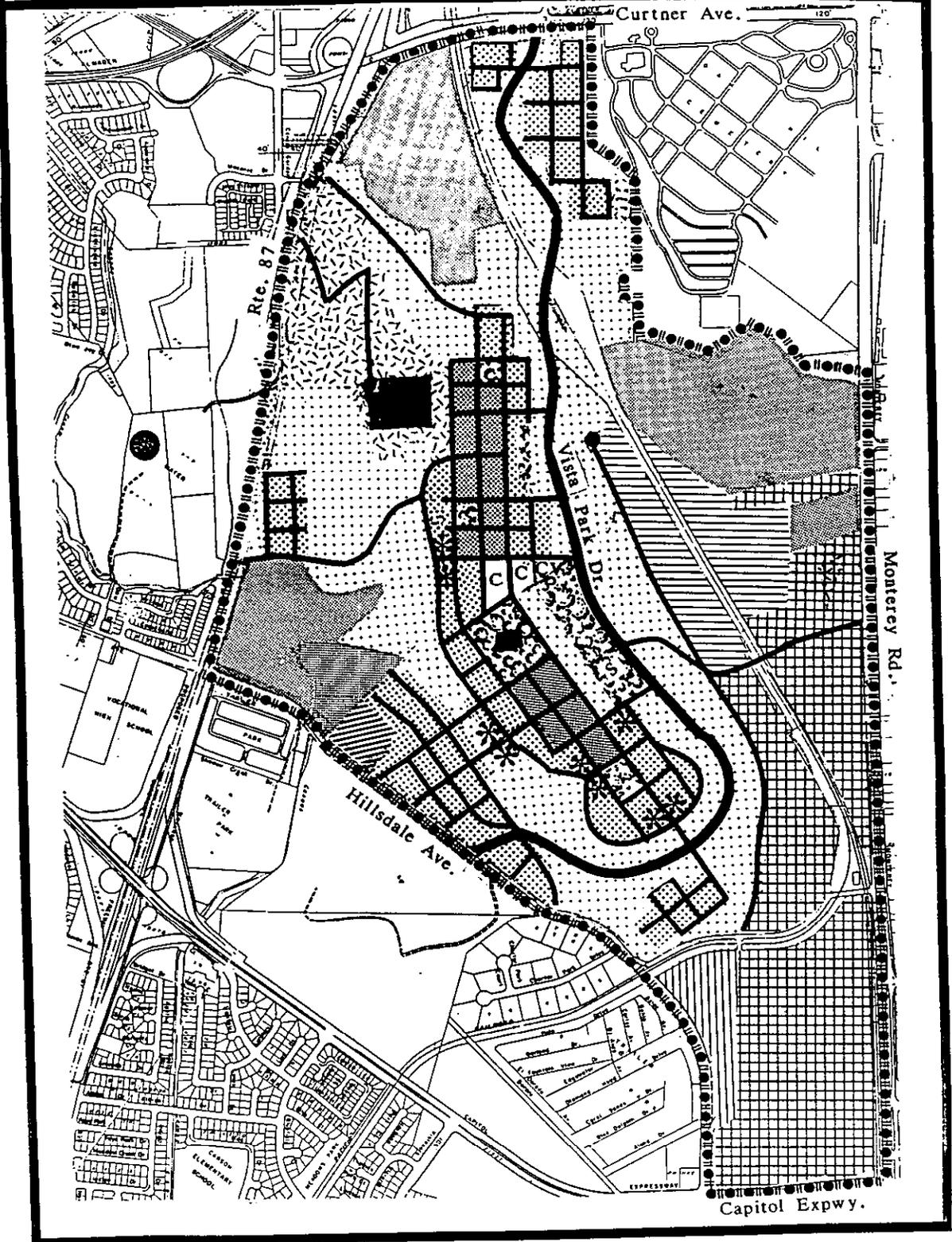


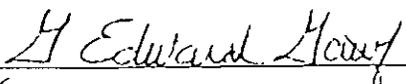
Figure 5

FIRST AMENDMENT TO THE DRAFT EIR
CONSISTING OF COMMENTS, RESPONSES TO COMMENTS
AND TEXT REVISIONS

for the

COMMUNICATIONS HILL
SPECIFIC PLAN

CITY OF SAN JOSE
February 1992



Gary J. Schoennauer,
Director of Planning

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SECTION I

LIST OF AGENCIES COMMENTING ON
THE DRAFT EIR

SECTION I

LIST OF ORGANIZATIONS, AGENCIES AND INDIVIDUALS COMMENTING ON
THE COMMUNICATIONS HILL SPECIFIC PLAN DRAFT EIR

<u>Comments Received From</u>	<u>Response Required</u>	<u>Date Received</u>
A. Jack Schreder & Associates	Yes	Nov. 21, 1991
B. William G. Glynn	Yes	Nov. 27, 1991
C. Rob Corley	Yes	Dec. 2, 1991
D. East Side Union High School District	Yes	Dec. 23, 1991
E. State Department of Fish and Game	Yes	Nov. 13, 1991
F. U.S. Department of the Interior Fish and Wildlife Service	Yes	Nov. 20, 1991
G. The California Regional Water Quality Control Board, San Fran- cisco Bay Region	Yes	Nov. 25, 1991
H. Pacific Gas and Electric Company	Yes	Nov. 25, 1991
I. Robert J. Bettencourt	Yes	Dec. 2, 1991
J. Brandenburg, Staedler and Moore	Yes	Dec. 2, 1991
K. HMM Incorporated	Yes	Dec. 2, 1991
L. VEP Home Owners Association	Yes	Dec. 12, 1991
M. Santa Clara County Transportation Agency	Yes	Dec. 2, 1991
N. City of Saratoga	Yes	Nov. 20, 1991
O. County of Santa Clara, Public Services Agency, Parks and Recreation Department	Yes	Dec. 9, 1991
P. Robert J. Bettencourt	Yes	Jan. 13, 1992

	<u>Comments Received From</u>	<u>Response Required</u>	<u>Date Received</u>
Q.	Canoas Gardens Neighborhood Association	Yes	Jan. 23, 1992
R.	Department of the Army San Francisco District Army Corps of Engineers	Yes	Feb. 3, 1992
S.	Santa Clara Valley Water District	Yes	Dec. 2, 1991
T.	California Archaeological Inventory	No	Nov. 12, 1991

SECTION II
RESPONSES TO COMMENTS ON THE DRAFT EIR
REQUIRING RESPONSES

SECTION II

A. RESPONSE TO COMMENTS FROM JACK SCHREDER, RECEIVED ON
NOVEMBER 21, 1991.

1. COMMENT: Please consider this correspondence as the official response from the Franklin McKinley Elementary School District to the Draft Environmental Impact Report for the Communication Hill specific plan. We provide these comments for your review and request that all comments be considered prior to the adoption of the final Environmental Impact Report. We request that all responses to our comments be provided to the District in writing for our further review.

RESPONSE: Comment noted. As required by State law, the City's responses to comments from the Franklin-McKinley School District will be provided to the District at least 10 days prior to the public hearing on the certification of the Communications Hill Specific Plan Draft EIR.

2. COMMENT: We consider the Draft Environmental Impact Report to be informational, but inadequate. Factual data presented is inaccurate. Assumptions regarding Franklin McKinley educational facility policy are erroneous and the cavalier way in which the study analyzes the impact of the Communication Hill Project does not meet the requirements of the California Environmental Quality Act (CEQA) of 1970. We question the study with regard to completeness, accuracy and its effort to fully disclose the environmental impact of this project on the Franklin McKinley Elementary School District.

RESPONSE: See response to comments A.3 through A.20.

3. COMMENT: The California environmental Quality Act requires that an Environmental Impact Report be prepared to examine all potentially significant effects that a project may have upon the environment. In evaluating a project for potentially significant effects, CEQA and the State guidelines for the implementing CEQA specifically require that cities and counties consider the way in which a proposed project could foster economic or population growth and thereby

tax existing community service facilities, including schools.

RESPONSE: Section 15126(g) of CEQA requires that an EIR discuss the ways in which the proposed project could foster economic or population growth or the construction of additional housing. The growth-inducing effects of the proposed project are discussed in the Draft EIR on pages 192-194. The proposed Specific Plan is within San Jose's Urban Service Area, therefore development of the hill will not induce outward urban expansion. The total number of proposed residential units exceeds the projected housing demand from the proposed commercial and industrial development within the Specific Plan area, therefore, no excess residential growth would be induced by the adoption of the proposed Specific Plan. The Specific Plan would not result in significant growth inducing impacts.

4. COMMENT: California courts have consistently held that an adverse impact on school facilities is a "significant effect on the environment", within the meaning of CEQA and, accordingly, requires a full environmental review. For example, in El Dorado Union High School District v. City of Placerville (1983) 144 Cal.App.3d 123,192 Cal.Rptr. 480, the City was considering approval of a new 552-unit residential development. The local high school district demanded that a full Environmental Impact Report be prepared to consider the effects of the proposed development on school facilities. The city and the developer refused, arguing that potential increases in student enrollment are not physical environmental effects cognizable under CEQA. The court rejected the city's arguments, holding that, where there was evidence of overcrowded school facilities, projections of gradually increasing school enrollment and the necessity for construction of new school facilities, CEQA required a full Environmental Impact Report to address the impact of proposed residential development on the school district. Id., at 131-132, 192 Cal.Rptr. at 484.

The El Dorado court based its decision, in part, on Fullerton Joint Union High School District v. State Board of Education (1982) 32Cal.3d 779, 187 Cal.Rptr.398, where the Supreme Court held that a school district reorganization plan which would likely require the construction of new school facilities raised the "possibility of a significant impact" and therefore was subject to a thorough environmental review under CEQA.

The position taken by the courts in El Dorado and Fullerton has been more recently followed in William S. Hart Union High School District v. Regional Planning Commission of the County of Los Angeles (1991)277 Cal.Rptr. 645 and Murrieta Valley v. County of Riverside, supra. In each of these decisions, the court held the county liable, under CEQA, for failing to consider school impact measures when granting legislative approvals which paved the way for new development projects.

These court decisions make it absolutely clear that, where there is evidence that a project may have an adverse impact on school facilities, CEQA requires a detailed evaluation of this impact. Where this impact is found to be significant, the Environmental Impact Report must incorporate adequate mitigation measures, which eliminate the impact or reduce it to a level of insignificance. (14 California Code of Regulations Section 15092.)

RESPONSE: The CEQA Guidelines specify that an EIR should focus on the environmental impacts of a project (CEQA Section 15126(a)). Section 15131 of the CEQA Guidelines indicates that an EIR may trace a sequence of cause and effect from economic impacts of a project to secondary physical impacts; however, the Guidelines state that the focus of the analysis should be on the physical changes and that "Economic or social effects of a project shall not be treated as significant effects on the environment.

The Draft EIR identifies that the additional students generated by the Specific Plan would result in a fiscal impact on the school district. The Draft EIR concludes that the lack of adequate funding for new school facilities would not result in secondary physical impacts that would be considered significant environmental impacts.

The Communications Hill Specific Plan designates a primary school site on Communications Hill as well as identifying an alternate site. Additional environmental review would be required at the time the District proposes to construct the school. The School District would be the lead agency responsible for preparing environmental documents for any future school projects. The Draft EIR adequately addresses the environmental impacts associated with the Specific Plan at a level of specificity appropriate to the level of specificity of the Plan.

5. COMMENT: While this Draft Environmental Impact Report indicates an impact on the school districts, the impacts are understated and based on assumptions that are erroneous.

The report states that schools and sites in the Franklin McKinley Elementary School district are at or over capacity (page 157) and yet, as a mitigation measure, loads these schools with 1200 more students from new development. If the schools and sites "are at capacity", a mitigation measure that will load more students on the site is an inadequate mitigation measure. What is the justification for this recommendation?

RESPONSE: The Draft EIR does not identify the addition of 1200 additional students as mitigation. On page 164 the Draft EIR identifies the addition of students as a fiscal impact to the school district and the potential construction of a school on the designated school site as a potential physical impact. On Page 171 of the Draft EIR states that the proposed Specific Plan would not result in significant environmental impacts.

6. COMMENT: The student yield as stated in the Draft Environmental Impact Report is .3 students per household. This is wrong. The District has completed a Developer Fee Justification Document that establishes the student yield at .56 students. The break down of this student yield is K - 6 = .41 and 7 - 8 = .15 for the total of .56. The Draft Environmental Impact Report has understated the student yield by .26 students. This error has resulted in an understated projected enrollment of 1040 K - 8 students.

Calculations of Students Generated

Student Yield	x	Units =	Student Generated
Official Student Yield	.56	4000	2240
DEIR Student Yield	.3	4000	<u>1200</u>
			1040 Difference

The student yield calculated by the District incorporated a demographically sound methodology to determine a valid number and was conducted by the Center of Educational Planning in San Jose. What justification can the study provide that would indicate a student yield of .3 students per household? (page 163)?

RESPONSE: The Developer Fee Justification Document referred to above is dated December, 1990. The student yield of .3, is based on information provided to the City in a letter dated March 5, 1991 from Dolores A. Ballesteros, Superintendent of the Franklin McKinley School District. This letter, in response to a request by the City for information relative to the Communications Hill Specific Plan, clearly states that the appropriate student generation rate is 0.3 students per dwelling unit. The March 5th letter has been added to the Draft EIR as Appendix M in Section IV of this Amendment.

A study conducted as part of the City of San Jose's Housing Initiative indicates even lower yields. For existing housing in San Jose with densities similar to that proposed for Communications Hill the study showed student yields of no more than .13 children per household between the ages of 5 and 17.

7. COMMENT: The study indicates that an elementary school "typically accommodates only 800 students" (emphasis added). An 800 student elementary school is a large school. A 600 student elementary school will accommodate 800 on a year round program. 600 students are present at any given time.

What is the justification for creating overcrowded K - 6 elementary schools? Do you have educational research that show larger schools (800) on campus are better than moderate size schools? If so, please site the research.

RESPONSE: The Draft EIR text referenced in the above comment was intended to explain that schools constructed to accommodate 600 students during a nine month school program can house 800 students annually if the school operates on a multi-track year round program. Only 600 students attend school at any give time. Page 163 of the Draft EIR has been modified in Section III of this Amendment to clarify this information.

8. COMMENT: The study indicates that "alternatives might include, but are not limited to, the use of portable classrooms, busing, construction of new schools, year round operation of schools, use of open enrollment, and/or the opening of closed school."

This paragraph is an excellent indication of the "boilerplate" approach used in the inaccurate,

inadequate and flawed Draft Environmental Impact Report.

RESPONSE: The list of alternative means for accommodating students is intended to identify measures the School District might consider to provide school facilities if funds are not available to build new schools. The list does not suggest that any one option should be employed by the District, nor does it include all possible means of accommodating increased enrollment. Rather, the list represents a range of possible choices that have been employed by school districts in the past to accommodate additional students. Also see response to Comment I.19.

9. COMMENT: Let's consider these issues one by one.

The District is currently utilizing 78 portable classrooms. The state standard for relocatable classrooms is 30% relocatable classrooms. The district currently has over 30% portable classrooms which exceeds the state standard. In order to house the students generated by the "Communication Hill Project", the District would add 74 more portables and have 51% portable classrooms. How do you justify exceeding the state portable standard by an additional 74 portables.

RESPONSE: According to the Facilities Planning Division of the State Department of Education, the state standard of 30% relocatable classrooms applies district-wide to school districts participating in state financing programs. A minimum of 30% of the square footage of schools, district wide, must be provided in relocatable buildings. There is no maximum on the number of portables that can be added to a school site in excess of the 30%, provided the applicable Uniform Building Codes and safety standards are met. Also see response to comment A-17.

Assuming the student yield of 0.3 supplied by the District (see response to comment A.6.) and a maximum build-out of the Specific Plan of 4000 dwelling units, the plan would generate approximately 1200 primary school students (K-8). Each portable classroom can accommodate 30 students; therefore, 1200 students would require 40 portables, if no other options were available and all additional students were to be housed in portables. The operation of schools on a multi-tract, year-round program reduces the number of portables to 30. A lower student yield (as anticipated

by the Housing Initiative study referred to in response to comment A.6.) and/or a less than total build-out of the plan would result in the need for still fewer portables. Past experience in San Jose indicates that areas designated 25-40 dwelling units per acre typically do not develop at the maximum density range.

10. COMMENT: Increased busing is one of the most expensive and unsatisfactory solutions to the impact created. The District currently operates a fleet of 17 buses. We would need an additional 32 buses to serve the additional students generated by the communication Hill Project. The District expends \$455,000 per year, in excess of state support, for its current transportation program. These additional buses would not mitigate but rather compound an already existing logistical and financial problem. In what way would this alternative serve to mitigate impact created by the project? Does an increase of 32 buses compound other environmental issues? How will the district pay for buses and on going costs? How does busing accommodate the District goal of neighborhood schools?

RESPONSE: The Specific Plan Land Use Plan designates a school site and identifies an additional school site in the Discretionary Alternate Uses section (page 70 of the Specific Plan). Neither school site would require the busing of students from within the Specific Plan area; both school sites would achieve the District's goal of providing neighborhood schools. Busing is identified in the Draft EIR as one of a number of possible options that have been utilized by school districts in the past to accommodate increased student enrollments. See response to comment A.8. The Draft EIR adequately addresses the environmental issues associated with busing.

11. COMMENT: Construction of new schools is a viable alternative. Where is the language in the Draft Environmental Impact Report that dedicates adequate school sites for school construction? Where does the District obtain funds to construct the new school?

RESPONSE: Page 163 of the Draft EIR identifies the construction of new schools as an option for providing school facilities for students generated by the Communications Hill Specific Plan. The availability of funding for construction of new schools does not constitute an environmental impact that requires discussion in this EIR.

Please note that the Specific Plan Financing Strategy (Specific Plan Section 4.3) has incorporated the following language: "At the time of assessment district formation, a negotiated agreement between the property owners and affected school districts will determine the actual costs to be borne by development for the provision of adequate school facilities."

12. COMMENT: The suggestion that year round programs be utilized by the Franklin McKinley Elementary School District as an alternative is inappropriate. The District is currently operating on a multi track year round program. Why do you suggest that we implement an alternative that is already being utilized? Do you have other year round suggestions? If so, please explain.

RESPONSE: The Franklin McKinley School District's concern regarding the appropriateness of year-round programs is hereby acknowledged and incorporated into the environmental record. Please note that not all Franklin-McKinley schools are currently on a year round program. According to information received from the Franklin-McKinley School District, four of the District's 13 schools are not currently on a multi-track, year-round program. Arboles Elementary School and Sylvandale Middle School, two of the four schools not currently operating on a year round program, are located in the vicinity of Communications Hill. (See Table 14 of the Draft EIR and Table I (Attachment A) in Section III of this Amendment.) Operating on a year-round program, these two schools could accommodate 33% more students than they do currently.

13. COMMENT: You suggest that we use "open enrollment." At the same time you stipulate that we are at capacity, you suggest that open enrollment is an alternative. How does "open enrollment" mitigate student housing impacts when a District is at capacity? Please explain.

RESPONSE: The Draft EIR has not identified any significant environmental impacts relative to the provisions of school services; therefore, no mitigation is necessary. The statement on page 163 of the Draft EIR identifies a number of possible options that school districts have employed in the past to accommodate increases in student enrollment. Page 163 of the Draft EIR states that East Side Union High School District does not currently practice open enrollment.

While open enrollment does not increase overall student capacity, open enrollment is a tool that could be used to balance the number of students accommodated by each school in the district should there be any excess capacity elsewhere in the District at the time a specific project is proposed.

14. COMMENT: The opening of closed schools as an alternative might work if a District had closed schools that could be opened. Where are the closed schools located in the Franklin McKinley District?

RESPONSE: The fact that there are currently no closed schools within the District is acknowledged. Canoas Garden Elementary School, the school located closest to the Communications Hill area is owned by the San Jose Unified School District, however the campus is not currently operated as a public school. If San Jose Unified School District continues to have excess capacity when specific development is proposed, Franklin-McKinley School District could consider leasing this school from San Jose Unified. See response to comment I.19.

15. COMMENT: The alternatives that are suggested on page 163 are inappropriate to this study. It is an indication that the Draft Environmental Impact Report is not in compliance with CEQA requirement and was prepared in "boilerplate" fashion without application to the Franklin McKinley Elementary School District. Why do you suggest alternatives that already exist or are inappropriate to the Franklin McKinley District as ways to mitigate impact?

RESPONSE: The Draft EIR has not identified any significant environmental impacts relative to school services; therefore, no mitigation is necessary. The alternative means of providing school facilities are identified as options that school districts have employed in the past and are not proposed as mitigation. See response to comments A.8. through A.13.

16. COMMENT: On page 164, the study suggests the 40 portables will be needed at the elementary schools. That number should be 74 based on a .56 student yield.

RESPONSE: See response to comment A.9.

17. COMMENT: The District has no more room on its current sites for portables. Pacific Gas & Electric refuses to

add transformers to the current sites because current sites are at 110% capacity at this time. No more water hookups at current sites are available. The congestion created by adding portables will not be approved by the fire marshall. How do we address these issues? Please explain.

RESPONSE: San Jose Water Company has stated that it has no knowledge of denying the district water hookups. Both San Jose Water and Pacific Gas and Electric have indicated that they review each request for service on a site specific basis as service requests are received. There is no evidence to suggest that service cannot be provided to existing sites.

The State of California Fire Marshall oversees school-related fire protection issues for District schools in conjunction with the Office of the State Architect (OSA). New portable classroom structures are required to meet Section 8 of the Uniform Building Code which, among other criteria, requires access to a public street 20 feet or more in width. Setbacks from other structures are also reviewed. The Director of Facilities for the Franklin McKinley School District has indicated in a phone conversation of December 22, 1991 that each site is reviewed individually, and that is it incorrect that the addition of portables to all of the District sites would be denied by the Fire Marshal based on congestion.

A visual survey of the 13 District school sites (December 18 and 20), indicates that approximately half of the school sites have sufficient space to fit one or more new portable classrooms in conformance with the setback requirements of the UBC. In addition, the City of San Jose's School Site Reuse Plan indicates the District has excess land for sale adjacent to Farr Middle School and Sylvandale Middle School. The proposed removal of existing portables from Hillsdale Elementary (used during school asbestos repairs) and the proposed removal of portable administrative offices at Franklin School could result in additional space for portables in the future.

18. COMMENT: The study indicates that a five acre site has been identified (page 164). Do you recommend schools of 800 on a 5 acre site? Would you please explain how 800 students are to be housed on 5 acres? The state standard for a K - 6 school of 600 is a 10 acre site. Where in the report is the identification of adequate sites? Attached is a copy of the "State Criteria for

Site Selection." You may wish to use this as a reference in answering these questions.

RESPONSE: It is the intent of the Specific Plan that the school site occupy a 10.2 acre site, including a 5 acre play field. To clarify this, page 16 of the Draft EIR has been revised in Section III of this Amendment. As the District has stated in comment A.7, a 600 student elementary school will accommodate 800 students if the school is run on a year round program. Under such a program, only 600 students would be present at any given time.

19. COMMENT: The following quote is from page 164 of the report "additional students that would be generated by development of the proposed specific plan would impact the fiscal resources of the District. However, the increased demand on school facilities associated with future residential development would not have a significant environmental impact." (Emphasis added)

RESPONSE: Comment noted.

20. COMMENT: We provide the following analysis of the fiscal impact, based on student housing needs, that will be created by the Communication Hill Project.

Fiscal Impact of Communication Hill
 on the Franklin McKinley Elementary School District

Grade	Student Yield	x	Units	=	Students	x	Cost To House	=	Total Cost
K - 6	.41		4000		1640		\$10,231		\$16,778,840
7 - 8	.15		4000		600		\$13,179		\$ 7,907,400
	.56				2240				\$24,686,240

The total cost to house students generated by the Communication Hill Project is \$24,686,240. This is based on land at \$200,000/acre and utilizing the year round program currently in effect in the District. The building will be constructed at the state standard with 30% relocatable classrooms.

Expected Revenue from Statutory Fees

Units	x	Avg Sq Ft	=	Total Sq Ft	x	Statutory Fee	=	Total Fees
4000		1200		4,800,000		\$1.09		\$5,232,000

The total fiscal impact after statutory fees are collected is:

Impact	24,686,240
Statutory Fee	5,232,000
Unmitigated Impact	19,454,240

RESPONSE: The fiscal information calculated by the District cited above is acknowledged and incorporated into the environmental record. It should be noted that the analysis cited above is based on 2240 students rather than the 1200 students intensified in the Draft EIR and that the analysis does not include statutory school fees for new commercial or industrial square footage. Also, see response to comments A.6 and A.

21. COMMENT: The fact that the report states that "residential development would not have a significant environmental impact" when we demonstrate that the unmitigated impact is \$19,454,240 is further evidence that the Draft Environmental Impact Report is inadequate. Do you consider an impact of \$19,454,240 to be less than significant? If so, please explain.

RESPONSE: The fiscal impact identified by the District does not constitute a significant environmental impact. The Draft EIR adequately addresses the significant environmental impacts of the proposed Specific Plan. See response to comment A.4.

22. COMMENT: We agree with the statement on page 167 in Goals and Practices D. Services and facilities; Level of Service Policies:

2. Capital and facility needs generated by new development should be financed by new development. The existing community should not be burdened by increased taxes or by lowered service levels to accommodate the needs created by new growth. The City Council may provide a system whereby funds for capital and facility needs may be advanced and later repaid by the affected property owners.

RESPONSE: Comment noted.

23. COMMENT: The language in item 18 on page 167 is inadequate to require mitigation of impact. We request that this language be changed as follows:

18. The City shall require mitigation of all impacts on school districts created by new development in the Communication Hill specific plan area. The evidence that developers have satisfied this requirements shall be a mitigation agreement signed by an authorized representative of the District and the developer(s).

RESPONSE: The General Plan mitigation referenced in the Utilities and Services section of the Draft EIR consists of General Plan policies relevant to utilities and services. General Plan policy cannot be modified without a General Plan amendment. Page 164 of the Draft EIR states that the project will not result in a significant environmental impact relative to the demand on schools facilities; consequently, mitigation is not required. Also, see second paragraph of response to A.11.

24. COMMENT: We are concerned that the Environmental Impact Report adequately address the environmental issues related to schools as required by CEQA. This document as written does not adequately address those issues.

RESPONSE: See response to comments A.4 through A.22.

B. RESPONSES TO COMMENTS FROM WILLIAM G. GLYNN, FRANKLIN MCKINLEY SCHOOL DISTRICT, DATED NOVEMBER 27, 1991

1. COMMENT: Please consider the contents of this letter as an additional official response from Franklin-McKinley School District relevant to the Draft Environmental Impact Report for the Communication Hill Specific Plan. Specifically, this letter is to be considered along with the District's previous letter dated November 20, 1991 as the official response to the Draft Environmental Impact Report for the Communication Hill Specific Plan. These additional comments are provided for your review along with a request that all questions be considered prior to the adoption of the "final" Environmental Impact Report for the Communication Hill Specific Plan. We request that all responses to the Franklin-McKinley School District questions and/or comments be provided to the District in writing for our further review.

RESPONSE: Comment noted.

2. COMMENT: We consider the Draft Environmental Impact Report for the Communication Hill Specific Plan to be informational, but inadequate. Factual data presented in the Draft EIR is inaccurate. Assumptions regarding Franklin-McKinley School District educational facility policy are erroneous and the cavalier way in which the study analyzes the impact of the Communication Hill Project does not meet the requirements of the California Environmental Quality Act (CEQA) of 1970. We question the study with regard to completeness, accuracy and its effort to fully disclose the environmental impact of the project on the Franklin-McKinley Elementary School District.

RESPONSE: See response to comments A.3 through A.20 and B.3 through B.10.

3. COMMENT: The proposed school site selected within the specific plan area raises some serious concerns:

A K-5/6 Year Round, Multi-Track school requires a minimum of 10.2 acres in accordance with both OSA and OLA requirements. This fact was pointed out time and time again at Communications Hill Task Force meetings by the District (Draft EIR p. 16)! Why does the Draft EIR state that only four acres is required for the school.

RESPONSE: See response to comment A.18.

4. COMMENT: The proposed school site lies within 1/4 mile of the planned CALTRAIN maintenance yard which may release toxics into the air (Draft EIR p. 165). How is this potential hazard going to be eliminated relevant to school children?

RESPONSE: Pages 170 and 171 of the Communications Hill Draft EIR indicate that compliance with AB3205 (which will require the assessment of potential health risks in relation to placement of a school within .25 miles of the planned CalTrain maintenance facility) will insure that there is no toxic air contaminant hazard prior to the siting of the school.

5. COMMENT: The CALTRAIN yard is also a concern with regard to noise abatement (Draft EIR p.144) as it relates to the operation of a school. How are these potential hazards or nuisance factors going to be eliminated relevant to school children?

RESPONSE: The majority of the activity at the Caltrain Maintenance Facility will occur during non-school hours between 10:00 PM and 7:00 AM. Page 149 of the Draft EIR identifies future noise from the CalTrain Maintenance Facility as a potentially significant impact. Pages 149 and 150 of the Draft EIR identify program mitigation to reduce these impacts to a non-significant level. This mitigation includes additional noise analysis at the time development proposals are submitted for the Specific Plan area to insure that project specific impacts and mitigation are adequately addressed. Project specific impacts cannot be addressed at this time since a specific school design has not yet been developed. The Draft EIR adequately addresses the potentially significant noise impacts of the project at a level of specificity appropriate to the level of specificity of the proposed Specific Plan.

The noise analysis included in the Final Environmental Assessment/Environmental Impact Report for the Proposed Maintenance Facility for the Peninsula Commuter Service indicates that noise from the Caltrain facility is unlikely to impact the proposed school site. This analysis shows noise levels of 62 Ldn at one hundred feet from the maintenance facility railroad tracks. Assuming the standard 6db reduction per doubling of the distance from the noise source, noise levels at the proposed school site (located 700-800 feet from the tracks) would be well below the 60 Ldn standard. The CalTrain EA/EIR projects peak noise levels at 400 feet from the facility to be 55 db; consequently peak noise is not expected to significantly impact the proposed school site located approximately 700 feet from the noise source.

6. COMMENT: The school site is in close proximity to the PG&E overhead lines - radiation levels may be above acceptable standards to OSA/OLA for school sites (Draft EIR p.153). Has this hazard been considered in the siting of the school?

RESPONSE: The Draft EIR on page 155 has been revised in Section III of this Amendment to state that a 60kv power line on wooden poles transverses the site in a northeast to southwest direction.

The Facilities Planning Division of the State Department of Education has established school site setbacks from transmission lines based on an electric field strength graph developed by the Electronic Power Research Institute (EPRI). The setbacks for electrical

lines from the edge of a power line easement to the edge of a school site are as follows:

< 60 kv	- no setback established
100-110 kv	- 100 feet from edge of easement
220-230 kv	- 150 feet from edge of easement
345 kv	- 250 feet from edge of easement

The School Facilities Planning Division has not established setbacks for 60kv lines, and PG&E has no current plans to increase the voltage of this line. However, since the existing easement would allow a 100-110 kv line at some time in the future, the Specific Plan has been revised to include the relocation of the 60 kv transmission line prior to the construction of a school. The final location would be determined in consultation with PG&E at the time a specific project is proposed.

Page 155 of the Draft EIR has been revised in Section III of this Amendment to reflect the revision of the Specific Plan.

7. COMMENT: Are the power lines going to be placed underground?

RESPONSE: The Communications Hill Specific Plan on page 3 states that new electrical distribution lines will be undergrounded.

8. COMMENT: The school site lies in the path of the microwave tower radiation. (Draft EIR p. 177). Has this potential hazard to the school children been analyzed and appropriate mitigation measures been developed?

RESPONSE: Figure 19 of the Draft EIR shows that a microwave path crosses the extreme southwest portion of the school play field site. As indicated on page 184 and in Appendix I of the Draft EIR, worst case estimates of existing exposure from microwave transmissions on Communications Hill were performed by Environmental Science Associates using power density measurements. The estimated power density value for existing microwave transmissions is .007% of the recommended level of exposure for the general population. The measurements at ground level or indoors would be even lower.

The Draft EIR adequately addresses the environmental impacts of the site at a level of specificity appropriate for the proposed project.

9. COMMENT: The school site is located very close to the proposed water tank on the downhill side (Draft EIR p. 49). This may constitute a serious hazard to school children based upon a potential collapse of the structure and/or flooding. The placement of the school site in relationship to the location of the water tower is not even discussed in the EIR! How has this hazard been considered in selecting the proposed school site.

RESPONSE: As indicated on page 29 of the Draft EIR, a catastrophic risk analysis of the water tank (also referred to as a failure analysis), would be required prior to the construction of the water tank. Mitigation measures recommended by the analysis would be incorporated into the engineering plan to insure the seismic and structural safety of the tank and to protect the surrounding properties from flooding in the event of a rupture. Based on the rupture analysis, the tank would be designed so that water would be diverted into the storm drainage system in the event of a rupture. The Draft EIR adequately addresses the environmental impacts of the water tank at a level of specificity appropriate to the specificity of the proposed project.

10. COMMENT: There is a proposed site for a multi-story building to the south which may cast a shadow on the school itself. What is the effect of this building on the heating/cooling parameters of the school facility?

RESPONSE: It is not possible to assess the impact of shading from the multi-story building on the heating and cooling parameters of the school because neither the precise location, nor the design of the school and its heating/cooling parameters are known at this point. The Draft EIR adequately addresses the potentially significant impacts of the proposed project at a level of specificity appropriate to the level of specificity of the proposed Specific Plan.

Assuming the location of the school building as indicated on page 38 and Figure 26 of the Specific Plan, a small portion of the school building would be within the shadow cast by the tall building prior to 10:00 in the morning. After 10:00 AM none of the school building would be in shadow. This would not be

considered a significant impact. Since the siting of the school building within the 10.2 acre school/play field site is not fixed, it may be possible to site the school to completely avoid the shadow.

11. COMMENT: The proposed school site is located in an old quarry which is likely to have disturbed the asbestos-containing rock mass. No mitigation measures are mentioned relevant to the siting of the school itself as it relates to asbestos! How are children to be protected from airborne asbestos fibres and/or asbestos laden materials in and around their school campus and playgrounds?

RESPONSE: Seventy-five percent of the Specific Plan area is underlain with serpentine rock and soil material that often contains chrysotile asbestos. The potential health risks from asbestos are discussed in Section L. Environmental Hazards, of the Draft EIR. Page 186 of the Draft EIR identifies mitigation to reduce the potential impacts of airborne asbestos to a non-significant level. The Draft EIR adequately addresses the impacts of asbestos for the Specific Plan area.

12. COMMENT: The Draft EIR does not specifically state that the proposed maintenance district includes the "play field terraces" adjacent to the school as well as those next to the school playfield area. The Draft EIR describes a playfield maintenance fund but does not indicate that any portion of these funds would be used to maintain school playfields. How much of the fund will be used for school playfield maintenance and will the school be expected to make a contribution to this fund?. Specifically, will all activity areas be included in the plan or just the big playfield?

RESPONSE: The Specific Plan on page 37 states that "A maintenance district funded by the residents of Communications Hill should be established for the care and maintenance of the terraces and slopes..." The maintenance district would maintain only the terraces and slopes areas; it would not apply to parks or playfields. Therefore, the Playfield Terraces adjacent to the school/playfield would be included in the maintenance district, but the playfields themselves would not be. The details of the maintenance district would be determined at the time an area wide financing plan is prepared.

13. COMMENT: We are very concerned that the Draft Environmental Impact Report for the Communications Hill Specific Plan adequately address the environmental issues related to schools as required by CEQA. The concerns expressed by both this letter and in our previous letter to you of November 20, 1991 lead us to conclude that this document as written does not adequately address those issues.

RESPONSE: See response to comments A.3 through A.20 and B.3 through B.11.

C. RESPONSES TO COMMENTS FROM ROB CORLEY, RECEIVED DECEMBER 2, 1991.

1. COMMENT: Introduction and Summary of Comments.
This letter has been prepared for and is submitted on behalf of the East Side Union High School district ("high school district"). All references are to the Draft Environmental Impact Report (DEIR) for the Communications Hill Specific Plan dated October 15, 1991. The high school district now provides and will continue to provide public high school services for the project and has standing to comment on this project.

RESPONSE: Comment noted.

2. COMMENT: The 4,000 multi-family homes proposed in the project will cause significant overcrowding in schools serving the area. Contrary to statements made in the DEIR, impacts on public services and public facilities, including schools, are potentially significant impacts on the environment. The California Environmental Quality Act (CEQA) requires that such impacts be properly analyzed and adequate mitigation measures be incorporated into the project. This information **must** be made available to the public and decision makers reviewing the project. Further, the DEIR contains technical errors which should be addressed prior to approval by the City's decision making body. Issues are discussed in detail below.

RESPONSE: The California Environmental Quality Act Guidelines (Section 15126) specify that an EIR should focus on the physical impacts of a project. The assessment of the school facilities on pages 163 and 164 of the Draft EIR indicates that the increased demand on school facilities associated with future development of Communications Hill would not result in a significant effect on the environment. The Draft EIR adequately addresses the environmental impacts of the

project. Also see response to comments C.3 through C.13.

3. COMMENT: The DEIR correctly notes that the project will bring an estimated 800 additional high school students (grades 9-12) to the East Side Union High School District. The DEIR also correctly notes that both high schools potentially serving the project, Andrew Hill High School and Yerba Buena High School, are at capacity and cannot accommodate these students. The inability to provide basic public services is a potentially significant adverse impact under CEQA and should be considered by City decision-makers.

Conclusory Statements are not Supported by Evidence. The DEIR then dismisses this potentially significant adverse impact by stating: "Additional students that would be generated by development of the proposed Specific Plan would impact the fiscal resources of the school districts. However, the increased demand on school facilities associated with future residential development would not have a significant environmental impact. There is no factual basis in the record to support this statement.

RESPONSE: Page 164 of the Draft EIR identifies that additional students generated from the proposed project would impose additional operating costs on the high school district and would therefore be a "fiscal" impact. CEQA specifies those elements that must be addressed in an EIR, and focuses an EIR on the physical effects of a project. The Draft EIR adequately addresses the environmental impacts of the proposed Specific Plan.

4. COMMENT: **Referenced Analysis is not Included in DEIR.** The DEIR claims to include impacts from school buses in the traffic, noise and air quality sections, yet no information is included in any of those three sections or the supporting Appendices to establish whether school bus traffic has been analyzed.

RESPONSE: The City's TRANPLAN traffic model used to assess far-term traffic impacts assumes home-to-school based trips for high school students. Should the District choose to employ buses, the number of trips generated by the transportation of high school students will have been overstated in the traffic analysis.

The analysis of noise and air pollution are based on data derived from the TRANPLAN analysis. Therefore,

the projected impacts to noise and air quality from increased traffic resulting from transportation of high school students was automatically factored into the analysis of noise and air quality performed for the Draft EIR.

5. COMMENT: There is no evidence in the record that additional portable classrooms are feasible as suggested by the DEIR. (For the record, portables cannot be added to the two schools to accommodate the anticipated number of students.) There is no evidence in the record that additional high school students may be accommodated by fees levied on new residential and commercial development projects.

RESPONSE: The Draft EIR does not identify the use of portables as acceptable or feasible but rather the Draft EIR identifies the use of portables as one of a number of options that could be employed by a school district, singly or in combination, to accommodate increased student enrollment. For example, East Side Union High School District currently operates all of its schools on a 9-month school program. By adopting a multi-tract year-round program, the District could accommodate 33% more students than it currently serves. See response to comments A.8 and I-19. It should be noted that the Overview of Residential Development Impacts (November, 1991) prepared by the East Side Union High School District states that the District currently has the potential for an additional 42 portables district wide, which could accommodate an additional 1176 students.

6. COMMENT: In short, the DEIR fails to meet CEQA's goal of providing information to decision makers and the public. In *Kings County Farm Bureau et al. v. City of Hanford* (1990) the court stated: "A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decision-making and informed public participation, thereby thwarting the statutory goals of the EIR process."

RESPONSE: The Draft EIR adequately addresses the environmental impacts at a level of specificity consistent with the level of detail of the proposed project.

7. COMMENT: Discussion of Cumulative School Impacts is Flawed. Discussion in the DEIR of "cumulative school impacts" is a misleading attempt to avoid discussion of this important issue. No mention is given of the

Waterford project (1,500 homes) which is immediately adjacent to this project, the Evergreen Specific Plan project (3,000 homes), the Silver Creek Planned Community with its (1,550 homes), or any of the other projects which will affect the East Side Union High School District. In response to previous comments by this school district, it has been represented that these other projects are included in the "cumulative" traffic analysis and therefore do not need to be discussed. Such a tactic hides the cumulative impact of approved and anticipated development projects on public facilities and services other than roads and conceals relevant information from decision makers and the public. This undermines the EIR's important role as an informational document.

As discussed at length in *Emmington v. Solano County Redevelopment Agency* (1987) the public must not be left unguided and uninformed of impacts, even if addressed in other documents.

RESPONSE: A table of number of new students in the East Side Union High School District that potentially could be generated from proposed developments and approved General Plan Amendments has been added to the Draft EIR as Appendix N in Sections IV of this Amendment. Appendix N incorporates information from Exhibit 3 of the Overview of Residential Development Impacts, November 12, 1991, prepared by the East Side Union High School District. The information contained in Exhibit 3 has been revised, based on City of San Jose records, to correct student generation numbers calculated from incorrect potential dwelling unit numbers, and to delete potential students that would result from General Plan Amendment requests that were not adopted by the City Council. Appendix O has been included to the Draft EIR in Section IV of this Amendment to add a table reflecting the number of additional students that could be accommodated by portable classrooms throughout the East Side Union High School District.

The construction of Quimby High School, which is substantially funded, the use of portable classrooms, and the implementation of a multi-track, year-round school program would accommodate the students generated by proposed developments within the East Side Union High School District.

There is no significant environmental impact resulting from cumulative student generation.

8. COMMENT: **Incorrect Statements are Made in EIR Regarding City's Ability to Require Mitigation Measures.** The DEIR is inaccurate by suggesting that school facility fees are the sole means available to mitigate impacts on schools. The DEIR is deficient when it fails to identify other potential means of mitigating this impact. For example, this project could be required to participate in the funding program for the new Quimby Road High School set forth during the Evergreen Specific Plan hearings which will reduce high school impacts to a level that is less than significant.

RESPONSE: The fiscal impact identified in the Draft EIR does not constitute a significant environmental impact; consequently no CEQA mitigation is required. The Draft EIR adequately addresses the significant environmental impacts of the proposed project. Also see the second paragraph of Response to Comment A.11.

9. COMMENT: It is important to note that the high school district, unlike the city, will lose access to many funding sources after the General Plan Amendment has been approved. This gap in state law makes it critical that the City delay approval of the General Plan Amendment until the school facility issue has been resolved.

RESPONSE: Comment noted. The loss of access to funding sources and the cost of providing school services for future residents of the Specific Plan area is a fiscal impact that does not require CEQA mitigation.

10. COMMENT: **Analysis is Internally Inconsistent with Respect to School and Other Public Services.** We again note for the record that the City of San Jose considers crowded parks to be a significant impact but doesn't consider crowded schools to be significant. This inconsistency underscores the City's liability in continuing to certify Environmental Impact Reports that ignore impacts on the school districts serving new development projects.

RESPONSE: The City has chosen to address park facilities and services through the environmental process. The California Environmental Quality Act specifies those elements that must be addressed in an EIR, but it does not preclude local agencies from addressing other issues. The City's General Plan

includes goals for the provision of parks. The Parkland Dedication Ordinance provides a mechanism for providing park facilities to serve new development. Based on this policy framework, the City has chosen to address the provision of park services as a potentially significant issue in its Environmental Impact Report. This approach is not required by the provisions of CEQA, neither is it precluded. The Draft EIR adequately addresses the potential environmental effects associated with the proposed Specific Plan.

11. **COMMENT: EIR Conclusions Are Contrary to Statutory and Case Law.** Again, the East Side Union high School district must argue that the City has failed to recognize the significant impact this project will have on schools. This precise issue has been litigated before and case law has consistently held that school impacts of the magnitude anticipated in this project are presumed to be significant and must be addressed in EIRs. The leading case remains *El Dorado Union High School District v. City of Placerville, et al.* (1983):

"Where, as here, the record contains ample evidence of present overcrowding, projections of gradually increasing high school enrollment, and the necessity for construction of at least one new high school, we hold CEQA requires an EIR that addresses the impact Whispering Pines, a 552 unit project, may have on District."

In subsequent discussion, the *El Dorado* court continued:

"The EIR here is clearly inadequate. The Draft EIR contained data on the expected student yield for the project and acknowledged an increased student enrollment. The report then stated no mitigation measures were required, because the ... District has adopted a special fee on new residential construction. Letters from the District and another area school district were included as exhibits. The Final EIR merely stated no mitigation measures were required. It contained no discussion of the impact of the project on District and no mention of District's opposition to the project.

"The EIR should contain sufficient information to enable public agencies to make decisions that consider environmental consequences. The EIR here falls woefully short of that standard. Although

the Draft recognized an increase in student enrollment, neither report said anything about the effects of such an increase in the student population, and suggested no mitigation measures to deal with such an impact, required by the Guidelines. Nor is there any discussion of the cumulative impact of projects such as Whispering Pines on District, which CEQA expressly requires. Finally, District had advised the City in February 1980 the special impact fee it had imposed would not fully meet its needs. On this record, we cannot assume the City made any evaluation of the impact of the project, much less the kind of detailed evaluation CEQA contemplates under these circumstances." (Citations omitted, emphasis in original.)

Other cases concur with the *El Dorado* court. Most recently in *Murrieta Valley Unified School District v. County of Riverside* (1991), the court held in plain language that school facility impacts must be considered by cities and counties when reviewing General Plan Amendments and EIRs.

"... This latter cause of action alleges that County violated CEQA by, among other things, approving an EIR which failed to adopt adequate mitigating measures related to the environmental impact of future development on school facilities, contained findings not supported by adequate evidence, and failed, in the alternative to adopt a statement of overriding considerations to justify the project in the face of the substantial unmitigated environmental impacts. Because, under *Mira*, County was not prevented from adopting mitigation measures other than the financing measure set out in [Government Code] Section 65995, District's allegations that there is no substantial evidence to support the County's finding that the impact on school facilities will be considerably mitigated by this one measure, and that County did not make an alternative statement of overriding considerations to justify approval of the project in the face of the unmitigated impact on school facilities, are sufficient to state a valid cause of action under CEQA."

In *Fullerton Joint Union High School District v. State Board of Education* (1982) it was held that reorganization of a portion of the high school district into a new unified school district was a project under

CEQA because, in part, it would "likely require construction of a new high school" and bring other, potentially significant environmental impacts.

RESPONSE: See comments C.3 through C.10.

12. COMMENT: **Draft EIR Should be Revised.** Without mitigation, addition of 800 additional high school students to already crowded high schools will have an potentially significant adverse impact on the human environment. Impacts on schools must be correctly analyzed and mitigation measures proposed which reduce impacts to a level that is less than significant. Discussion in the EIR of infeasible actions fails to satisfy CEQA requirements.

RESPONSE: The environmental impacts of the project have been adequately addressed in the Draft EIR. See response to comment A.4 and A.8.

13. COMMENT: The Final EIR should include a mitigation measure which will require additional funding from the project which may be used to create permanent additions to the affected high schools. The precedent exists from the Evergreen Specific Plan.

RESPONSE: The Draft EIR identifies that the Specific Plan will not result in a significant environmental impact relative to school services; consequently no CEQA mitigation is required. The request of East Side Union High School to require additional funding is acknowledged and incorporated into the environmental record.

14. COMMENT: **PROJECT DESCRIPTION USES INCORRECT BASE FOR EVALUATING IMPACTS.** We believe the DEIR is inherently flawed as it fails to comply with Section 15125(c) of the CEQA Guidelines. Section 15125(c) reads in full:

"Where a proposed project is compared to an adopted plan, the analysis shall examine the existing conditions as well as the potential future conditions discussed in the plan."

This requirement is clearly stated in *Environmental Information and Planning Council v. County of El Dorado* (1982). Failure of the DEIR to comply with this fundamental CEQA requirement is most apparent in the traffic section where conditions under the Specific Plan are compared to the existing but unbuilt General Plan scenario, omitting discussion of changes from

existing conditions. For example, Table 9 shows that building 4,140 homes on Communications Hill will actually **improve** conditions at six of nine intersections studied in the traffic model.

RESPONSE: Existing conditions in the Specific Plan are discussed in Section II Environmental Setting, Impacts and Mitigation Measures. Specifically, the Draft EIR addresses existing traffic conditions beginning on page 109. Page 114 of the Draft EIR states that, should the proposed Specific Plan be adopted, a "project-level" traffic analysis would be required prior to the issuance of permission to develop the site. Should the project level analysis find the development is not in conformance with the City's intersection Level of Service Policy mitigation must be incorporated into the project. The Draft EIR adequately analyzes the impacts of the proposed project consistent with the level of specificity of the project.

15. COMMENT: **ANALYSIS OF CUMULATIVE IMPACTS IS INCOMPLETE.** The entire discussion of cumulative impacts is lacking in analysis or factual evidence. A reader may rhetorically ask whether **any** other projects are proposed anywhere in the vicinity. This section contains **no** analysis, **no** insight into conditions when other pending and proposed projects are completed. Extensive revisions are needed for the Final EIR. This failing applies to all issues examined by the DEIR.

RESPONSE: The implication that other "reasonably foreseeable" projects are not addressed in the Draft EIR is incorrect. The Draft EIR provides an analysis of cumulative impacts in conformance with the requirements of the California Environmental Quality Act. Section 15130 of the CEQA Guidelines states that an EIR can contain either a list of past, present, and reasonable anticipated future projects or may summarize the projections contained in a planning document which evaluates regional or area-wide conditions, such as a general plan. The Draft EIR employs both of these methods.

Page 191 of the Draft EIR summarizes the cumulative impacts associated with the Communications Hill Specific Plan. These impact conclusions are based on quantitative analyses included in Section II of the Draft EIR.

The City's TRANPLAN model analysis was used to assess the far-term traffic impacts of the proposed project.

This model takes into account projected development and transportation system improvements to the year 2000 based on the City's adopted Horizon 2000 General Plan Land Use/Transportation Diagram. The cumulative analysis discussed on pages 124 to 125 of the Draft EIR and pages 14-17 of Appendix E includes the Horizon 2000 General Plan assumptions and major General Plan amendments proposed city-wide during the 1991 General Plan Annual Review. A list of these "reasonably foreseeable" pipeline projects has been added to an Attachment to Appendix E in Section IV of this Amendment. This analysis concludes that the proposed Specific Plan, together with projected year 2000 development and other proposed General Plan amendments, would result in a less-than significant cumulative traffic impact.

The analysis of cumulative impacts relative to noise and air quality in the Draft EIR is based on the TRANPLAN analysis. Page 149 of the Draft EIR states that cumulative development in the vicinity of the Specific Plan area would result in local increases in noise levels that are less-than-significant.

The Specific Plan Draft EIR discusses cumulative air quality impacts on page 136. Existing air quality was compared to the projected year 2000 traffic levels to determine associated vehicular air pollution emissions. The document states that cumulative development would result in an increase in CO concentrations in the vicinity of the project, but that exceedances of the one or eight hour CO standards are not anticipated. The Draft EIR on page 136 states that cumulative air quality for criteria air pollutants would be a significant impact.

The Draft EIR adequately addresses the cumulative impacts of the proposed project, together with existing and reasonably foreseeable projects.

16. COMMENT: **CONSISTENCY WITH HORIZON 2000 POLICIES IS NOT ESTABLISHED.** Policy 2 under the "Services and Facilities" elements of Horizon 2000 states that "Capital and facility needs generated by new development should be financed by new development. The existing community should not be burdened by increased taxes or lowered service levels to accommodate the needs created by new growth." Failure of the Communications Hill project to provide funding for expanded permanent high school facilities will lead to

an outcome inconsistent with this General Plan policy. Such inconsistency is not disclosed in the DEIR.

RESPONSE: Services and Facilities Policy #2 is implemented through a variety of ordinances, development fees and level of service goals and policies. These mechanisms have been established by the City Council as the standard for determining the level of financing or provision of facilities required to provide adequate services to new development. Until January 1, 1987 Measure B represented the City's standard for developer financing of school facilities. With the passage of AB 2926 the State pre-empted Measure B and established a new standard for school financing.

AB 2926, together with the City's development fees, ordinances and level of service goals and policies are implemented at the development stage. The proposed Communications Hill Specific Plan is a General Plan level document, not a Specific Plan pursuant to Section 65451 of the Government Code. Implementation of Services and Facilities Policy #2 will not occur until a specific development proposal is submitted for the Plan area; consequently, conformance with this policy cannot be determined at this time. The Draft EIR provides a complete and accurate assessment of the Plan's conformance with the Horizon 2000 General Plan.

17. COMMENT: Longstanding city policy clearly considers school sites as space available to Jose residents for park and recreation purposes. Development of Communications Hill may affect the availability of space for public activities by converting school playfields to building sites. Such an impact reduces space available for the community and may be inconsistent with Horizon 2000 policy statements. The DEIR does not disclose or discuss this potential effect.

RESPONSE: The proposed 10.2 acre elementary school site would include a 5 acre playfield. The Horizon 2000 General Plan indicates a goal of 3.5 acres of neighborhood and community serving recreational lands per 1,000 population, of which up to 2 acres per 1,000 population can be school playfields. This General Plan policy is listed as General Plan mitigation on page 167 of the Draft EIR. The proposed Specific Plan will not reduce the recreational space available to the community and is consistent with Horizon 2000 General Plan.

18. COMMENT: We have previously provided the City with extensive written comments on deficiencies in the City's EIR procedures and will not repeat those comments. The issues presented in our comment letter dated May 13, 1991 on the Evergreen Specific Plan remain valid. Staff of the high school district remains available to discuss these issues with City representatives.

RESPONSE: The First Amendment of the Evergreen Specific Plan EIR provides a detailed response to the written comments submitted by the East Side Union High School District on May 13, 1991.

19. COMMENT: The proposed project will directly and significantly affect the East Side Union High School District yet the DEIR fails to analyze or provide mitigation of the impacts. To fulfill its public obligations and meet statutory requirements, the high school district respectfully requests that the DEIR be revised and requests the San Jose City Council, as decision-making body for the lead agency, to deny certification of the DEIR and project approval until such changes have occurred.

RESPONSE: See response to comments C.3 through C. 13

D. **RESPONSE TO COMMENTS FROM EAST SIDE UNION HIGH SCHOOL DISTRICT, RECEIVED DECEMBER 23, 1991**

1. COMMENT: The East Side Union High School District has very strong concerns about the impact that this project will have on the District as the two schools that will be impacted do not have enough space for the 29 classrooms needed unless two story buildings are constructed.

The 4,000 new homes in this proposal will generate 800 high school students. The two high schools in the area, Yerba Buena and Andrew Hill, are at capacity now, as noted in the Environmental Impact Report, page 157. The Environmental Impact Report acknowledges the fact that there will be an impact, but does not address how the impact is to be mitigated.

RESPONSE: The Draft EIR on page 164 states that the increase in students from the project will result in a fiscal impact on the District. This fiscal impact does not constitute a significant environmental impact; consequently, no CEQA mitigation is required.

2. COMMENT: The problem needs to be addressed early on in the planning stage. There are needs that must be addressed such as transportation, classrooms and enlargement of common areas at each school. The project will generate about 800 new students and require 29 classrooms. Andrew Hill and Yerba Buena only has space to accommodate 10 additional classrooms. To accommodate the students, two story buildings need to be constructed at a substantially higher price than the cost of portable classrooms. It is not enough to just add classrooms and students, without also expanding common areas, such as locker rooms, food services, gymnasium, science laboratories and library.

RESPONSE: See response to comments A-8, C-4 and C-6.

3. COMMENT: To transport the 800 new students, 11 new buses will be needed at a cost of \$1,100,000. THERE ARE NO STATE FUNDS AVAILABLE. The cost of transporting the new students to Yerba Buena and Andrew Hill is \$1,375/day or \$247,500 annually. THERE ARE NOT STATE OR DISTRICT FUNDS AVAILABLE.

When you add up the costs, you can see our concern.

29 New Classrooms @ 144,000 per Classroom	4,176,000
11 New Busses @ 100,000 per Bus	1,100,000
Annual Transportation Costs	247,500
Enlargement of Common Areas	<u>11,340,000*</u>
	Total \$16,863,500

* Two Story Construction

RESPONSE: Comment noted. See response to comment D.1.

4. COMMENT: The Environmental Impact Report, the Specific Plan and the Communications Hill Financing Plan do not address the District's concerns. Schools should be considered as a part of the infrastructure of a project and dealt with realistically as are the city services.

RESPONSE: Comment noted. See response to comments C.16 and A.11.

E. RESPONSE TO COMMENTS FROM THE CALIFORNIA DEPARTMENT OF FISH AND GAME, RECEIVED NOVEMBER 13, 1991

1. COMMENT: The DEIR fails to state the total acreage of wetlands on the project site. Destruction of these

wetlands should be considered as a cumulative effect of the project, and the acreage to be impacted needs to be disclosed. It is our policy to oppose projects which would result in a net loss in either acreage or quality of wetland habitat. Filling of the on-site wetlands would be a significant impact unless properly mitigated. Destruction of wetland habitat is typically mitigated by creation of replacement acreage at a ratio of 3:1. Habitat quality must be equal or superior to the area impacted.

RESPONSE: The Draft EIR on page 23 states that there are approximately 7 acres of wetland on the project site and page 86 of the Draft EIR identifies the loss of wetlands as a significant cumulative impact. The precise acreage of the six on-site wetland areas was not calculated for purposes of this program-level EIR.

The Draft EIR on pages 77 and 84 identifies that the filling of wetlands less than an acre in size normally qualifies for a National Permit from the Corp of Engineers, but the loss of the six wetlands could be considered a cumulative impact by the Corp of Engineers and could require individual Corp permits. The Draft EIR on pages 87 and 88 states that a mitigation plan for a wetland that requires an individual permit would be prepared in cooperation with the responsible resource agencies. On page 88 the Draft EIR states that generally, a mitigation plan would require that filled wetland habitat be replaced in the immediate vicinity of the impacted wetland on at least an acre-for-acre and value-for-value basis. The Draft EIR adequately addresses the projects' potentially significant cumulative wetland impacts.

2. COMMENT: Specific mitigation for any impacts should be described in the DEIR.

RESPONSE: The Communications Hill Specific Plan, as indicated on page i of the Draft EIR, is a "program-level" environmental document, and as such, the EIR does not provide project-specific environmental clearance. The Draft EIR addresses impacts and identifies mitigation at a level of specificity appropriate to the level of specificity of the Specific Plan. Additional environmental clearance will be required prior to rezoning, the formation of an assessment district or project specific development approvals. Project level mitigation will be identified at that time.

3. COMMENT: Surveys done for this DEIR are not sufficient to determine impacts to a number of sensitive plant and animal species, including Setchell's dudleya, Metcalf Canyon jewelflower, fragrant fritillary, uncommon jewelflower, California tiger salamander, and burrowing owl. The document also fails to address impacts to Homers blind harvestman, Silver Creek blind harvestman, and Oplers longhorn moth, although these are all Federal candidate species identified as probable residents of the project site. Removal of any of these species would be a significant impact. These impacts need to be considered for the project site as a whole rather than being taken piecemeal as individual projects under the Specific Plan are implemented.

RESPONSE: Given that the Specific Plan is a program level EIR and given the long-term nature of the phasing of development anticipated under the Specific Plan (10-15 years), the City of San Jose determined that, with the exception of the listed Bay checkerspot butterfly (the only species potentially present on the site that is protected under the Endangered Species Act), reconnaissance level biotic surveys were appropriate. Additional area wide species specific surveys of all the referenced species will be undertaken in conjunction with subsequent stages of environmental review as indicated on pages 29, 79 and 88 of the Draft EIR. Based on these surveys impacts will be assessed and mitigation will be identified as necessary.

The burrowing owl, known to occur on the site, is protected under the Migratory Bird Treaty Act. As noted on page 88 of the Draft EIR, if owls are found they will be relocated prior to the issuance of a grading permit in accordance with a relocation plan acceptable to the California Department of Fish and Game and the U.S. Fish and Wildlife Service.

The Draft EIR has adequately addressed the impacts of the special status species at a level of specificity appropriate for a program level EIR. Also see response to comment F.8.

4. COMMENT: Full disclosure of impacts and measures to avoid or mitigate such impacts need to be presented in the DEIR. The DEIR in its present form does not meet the California Environmental Quality Act requirement to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment (PRC Section 21061). We recommend that consideration of

this project be deferred until the deficiencies identified above have been addressed and the document has been revised to incorporate the new information.

RESPONSE: As stated on page i in the Preface of the DEIR, the Specific Plan EIR is intended to provide "program-level" environmental review, to be followed by subsequent more-detailed environmental review when the details of development projects to be proposed under the Specific Plan become known. The tailoring of the discussion of an EIR to correspond with the action under review is specified in Section 15146 of the CEQA Guidelines as follows:

"The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR".

"An EIR on a project such as the adoption or amendment of a ... local general plan ... need not be as detailed as an EIR on the specific construction projects that might follow".

The Draft EIR adequately addresses the potentially significant biotic impacts of the proposed project at a level of specificity appropriate to the level of detail of the Specific Plan.

F. RESPONSE TO COMMENTS FROM THE UNITED STATES DEPARTMENT OF THE INTERIOR, FISH AND WILDLIFE SERVICE, RECEIVED NOVEMBER 20, 1991.

1. COMMENT: The U.S. Fish and Wildlife Service (Service) is concerned about the possible effects of the proposed project on the threatened Bay checkerspot butterfly (*Euphydryas editha bayensis*). This animal is fully protected under the Endangered Species Act of 1973, as amended (Act). The Service also is concerned about the potential impacts of the project on fish and wildlife resources at several seasonal wetlands and a freshwater seep, and a number of candidate species in the area.

RESPONSE: Comment noted. Response to comments F.2 through F.7 address the Service's concerns regarding the Bay checkerspot butterfly; F.10 and E.1 address potential impacts to wetlands, and F.8 and E.3 address candidate species.

2. COMMENT: The DEIR indicates that one of the foodplants of the larvae (*Plantago erecta*), and a number of the adult

nectar sources of the threatened bay checkerspot butterfly occur on the 900 acre Communications Hill project site. A second floodplant (*Orthocarpus sp.*) was not found, although the DEIR indicates the botanical fieldwork was conducted during the inappropriate survey period of November.

RESPONSE: Page 73 of the Draft EIR states that reconnaissance-level field surveys conducted in November 1990 by H.T. Harvey and Associates identified five general habitat types within the Communications Hills Specific Plan area (see Appendix C of the Draft EIR). Page 76 of the Draft EIR states that plantago was found during the November, 1990 survey. Page 81 of the Draft EIR states that a subsequent survey was conducted during April and May of 1991 by Dr. Dennis Murphy to determine the presence of the Bay checkerspot butterfly. The Draft EIR states on page 81 that both of the plant species on which the butterfly larvae are dependent were found on the site. The species list attached to Dr. Murphy's April 18, 1991 letter report (see Appendix D of the Draft EIR) verifies that both *Orthocarpus* and *Plantago* were found on the site. Dr. Murphy has conducted two surveys for the Bay checkerspot butterfly on Communications Hill, one in 1989 and the other in 1991. In addition a brief field survey was conducted during 1990, a year with an unusually wet Spring. These surveys were all conducted in the spring of the year during the peak flight period of the adult butterfly.

3. COMMENT: Active colonies of the animal (Bay checkerspot butterfly) also are known from the immediate vicinity at Tulare Hill, Silver Creek, Kirby Canyon, and the Morgan Hill area. Given the significant amount of serpentine habitat at Communications Hill and the mobility of the butterfly, it is likely that through time the animal inhabits the site, even though no individuals were observed during the brief amount of survey work that was conducted during a drought year.

RESPONSE: The nearest location where the Bay checkerspot is known to be present is the Silver Creek Hills, which is located at least three miles east of Communications Hill. Tulare Hill is 6 miles to the southeast, and Kirby Canyon is 13 miles southeast of Communications Hill. As indicated in response to comment F.2 above, the butterfly was not found during surveys conducted in three consecutive years by Dr. Dennis Murphy. The years 1989-1991 were drought years; however in the spring of 1991 San Jose received above average amounts of rainfall.

In a report dated April 18, 1991 (see Appendix D of the Draft EIR) Dr. Dennis Murphy states that since the Bay checkerspot was historically distributed across virtually all serpentine soil-based grasslands in the southern Bay Area, it probably also occurred at Communications Hill. However, based on the field surveys undertaken during the flight seasons in three successive years, in addition to observation of on-site conditions, Dr. Murphy concludes that the Bay checkerspot butterfly is not currently a resident of Communications Hill (see April 18, 1991 letter in Appendix D). In a follow-up letter dated May 28, 1991, Dr. Murphy concludes that the value of Communications Hill as a potential habitat is greatly compromised due to the isolated location of the site and the limited availability of cool slope exposures required for successful reproduction (See Appendix D of Draft EIR) (emphasis added). There are no cool northerly facing slopes of grassland remaining on Communications Hill since these have all been removed by the Azevedo Quarry operation. (Emphasis added.)

Dr. Murphy was asked to prepare a supplemental letter report to address these concerns in greater detail. This letter dated December 17, 1991, has been added to Appendix I in Section IV of this First Amendment. On the issue of the relative isolation of Communications Hill, Dr. Murphy states:

The relative isolation of the site, approximately 4.5 kilometers from the nearest known Bay checkerspot butterfly population (in the Silver Creek Hills), and geographic position in the middle of the southern Santa Clara Valley, well away from the valley-defining ridge-lines favored by the butterfly, mitigates against Communications Hill as an effective stepping-stone dispersal route used by the Bay checkerspot butterfly.

The Draft EIR adequately addresses the potential impacts of the Specific Plan relative to the Bay checkerspot butterfly.

4. COMMENT: Section 9 of the Act prohibits the "take" of any federally listed endangered species. As defined in the Act, take means "... to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harm" has been further defined to include habitat destruction when it kills or injures a listed species by interfering with essential behavioral patterns such as breeding, foraging, or resting. Thus, not only is the threatened bay checkerspot

butterfly protected from activities such as collecting but also from actions that damage or destroy its habitat. The term person is defined as "an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal government, of any State, municipality, or political subdivision of a State, or any other entity subject to the jurisdiction of the United States." Persons convicted of violating the Act may be fined \$50,000 and/or imprisoned for one year for each violation.

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out the project, then initiation of formal consultation between that agency and the Service pursuant to Section 7 of the Act is required if it is determined that the proposed project may affect a federally listed species. Such consultation would result in a biological opinion that addresses the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved with the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to Section 10(a) of the Act would need to be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be affected by the project.

RESPONSE: The above information is acknowledged and incorporated into the environmental record.

5. COMMENT: The discussion in the DEIR of take and potential adverse impacts to the Bay checkerspot butterfly is inadequate. The site visit by my staff found that there are significant amounts of potential serpentine habitat for the species at the site. These areas were considered to be either "non-native grassland" or "grazed pasture" in the DEIR. The DEIR indicates that significant portions of these areas will be developed. To address this issue, the Service recommends that the serpentine habitat should be mapped accurately. The locations and approximate numbers of the foodplants of the larvae and adult nectar sources also should be mapped.

RESPONSE: As shown in Figure 3, Geologic Map, the Communications Hill site is composed predominantly of serpentine bedrock and soil. The purpose of Figure 9, Habitat types, is to identify at a general level the habitat regimes found on Communications Hill. Figure 9

shows that the remaining undisturbed portions of the Specific Plan area are composed of non-native grassland, grazed pasture and sage scrub. The EIR on page 73 points out that these habitats "are almost all on serpentine soils." These habitat designations represent the predominant habitat types for the areas mapped, although there are also isolated patches of native grassland found in these areas, as noted in the text. However, these patches were so small (e.g., 25 feet by 25 feet) that mapping them was not warranted for this program-level of assessment. The host plants for the Bay checkerspot butterfly can occur in either native or non-native grasslands or grazed pasture habitats as identified in the Draft EIR.

Given the conclusion of Dr. Murphy that the Bay checkerspot butterfly does not currently reside on the site, and that there is a very low probability that it will do so in the future, a detailed survey of host plants was deemed unnecessary at this preliminary stage of environmental review. If evidence of a viable population had been found during either of the three survey periods, then such a detailed inventory of host plants would have been appropriate in order to delineate the locations and areas of habitat involved. In light of the Service's concern in this matter, some level of surveying and mapping for these plant species should be undertaken at a subsequent stage of environmental review. Thus the DEIR has been revised on pages 29 and 88 to include this on the list of additional studies. Table 4 has been revised in Attachment B in Section III of this Amendment.

6. COMMENT: A qualified entomologist should conduct an adequate survey for the butterfly during its activity period.

RESPONSE: The field surveys and reports on the potential presence of the Bay checkerspot butterfly were conducted by Dr. Dennis Murphy of the Center of Conservation Biology at Stanford University. Dr. Murphy is acknowledged as one of the foremost experts on the Bay checkerspot butterfly. The Service has repeatedly acknowledged over the past several years that Dr. Murphy is a qualified entomologist and an expert in the Bay checkerspot butterfly. As stated in response to Comment F.2, Dr. Murphy has conducted two intensive surveys involving multiple visits during the Bay checkerspot butterfly's peak flight period, one in 1989 and another in 1991, plus a brief survey in 1990. None of these surveys revealed evidence of the butterfly's presence on the Communications Hill site.

7. COMMENT: The Service recommends that destruction or damage to areas containing serpentine habitat and potential movement corridors be avoided. If the project is not redesigned to avoid adverse impacts to these species, authorization to take listed species must be obtained under Section 7 or 10(a) of the Act.

In summary, the Communications Hill project, as proposed in the DEIR, likely will result in take of the Bay checkerspot butterfly. The Service recommends that destruction or damage to areas containing serpentine habitat and potential movement corridors be avoided, or a Section 10(a) Permit or incidental take under Section 7 be obtained for the project.

RESPONSE: Communications Hill has not been established as constituting viable habitat for the Bay checkerspot butterfly or as providing an effective stepping stone for dispersal of the butterfly. Credible surveys and reports have been provided that indicate that the site is not currently inhabited by the butterfly. Since no potential impacts have been identified in these reports by Dr. Dennis Murphy, the Service's basis for recommending avoidance of destruction or damage to the habitat is unclear.

In order to dispel any remaining uncertainty with regard to the potential for future use of the Communications Hill site by the Bay checkerspot butterfly, it is recommended that additional surveys for the butterfly during its peak flight season be conducted in conjunction with subsequent development proposals under the Specific Plan. (See also the response to comment F.8 above regarding additional surveys.)

8. COMMENT: The brief information presented on candidate species in the biological survey report (Appendix C) in the DEIR lacks the specificity necessary to evaluate the potential adverse impacts on these taxa. The following candidate species have not been adequately addressed in the DEIR (numbers in parentheses indicate candidate status): California tiger salamander (*Ambystoma tigrinum californiense*) (2), Horn's micro-blind harvestman (*Microcina homi*) (2R), Jung's micro-blind harvestman (*Microcina jungi*) (2R), Opler's longhorn moth (*Adela oplerella*) (2R), (*Dudleya setchelli*) (Santa Clara Valley dudleya) (1), *Streptanthus albidus* ssp. *peramoenus* (Uncommon jewel flower) (1), *Fritillaria liliacea* (fragrant fritillary) (2), and *Cirsium fontinale* var. *campylon* (Mount Hamilton thistle) (2). Although candidate species are not protected under Federal law, the 1988

amendments to the Act require the Service to monitor their status. If any of these candidates decline precipitously, they could be listed under an emergency basis. The Service recommends that adequate surveys be conducted during the proper flowering or activity periods. The findings of the surveys and measures that will be taken to avoid/mitigate any adverse impacts to these species should be included in the final EIR. In addition, as part of the settlement for a lawsuit brought by an environmental group, the Service will be issuing proposed rules in the near future to list a number of category 1 candidate plant species in California, including some or all of those in the project area.

RESPONSE: The Communications Hill Specific Plan EIR is a program level EIR intended to provide environmental review adequate to determine the general effects of adopting the Specific Plan. Subsequent stages in the development process will require additional environmental review. Section 15146 of the CEQA Guidelines states that the specificity of the environmental analysis should correspond with the level of detail contained in the project under evaluation.

While the Draft EIR acknowledges the potential presence of the referenced species, it was determined that extensive surveys for individual species should appropriately be deferred to subsequent stages of environmental review when potential project impacts can be clearly identified and meaningful mitigation incorporated as appropriate.

The Draft EIR on page 88 identifies the following as species requiring further field studies at the time of project-specific environmental review: Setchell's dudleya, Metcalf Canyon jewel flower, the fragrant fritillary, the California tiger salamander and the burrowing owl. The additional species mentioned in the Service's comments (Hom's microblind harvestman, Jung's microblind harvestman, Opler's longhorn moth, and the Mount Hamilton Thistle) were not identified in the earlier letter received from the Service in response to the NOP for this EIR (contained in Appendix K of the DEIR). However, in response to the Service's current concern for these additional species, pages 29 and 88 of the Draft EIR have been revised to include these species for subsequent surveys. Table 4 has been revised in Attachment B of Section III of this Amendment.

With respect to the additional plant species to be listed as a result of the referenced legal settlement, subsequent

environmental review will address any listed species that may occur on the Communications Hill site.

9. COMMENT: The Service encourages all efforts to protect, improve and restore fish, wildlife and naturally functioning aquatic and wetland ecosystems of our Nation. Under the provisions of the Fish and Wildlife Coordination Act, the Service advises the U.S. Army Corps of Engineers on projects involving dredge and fill activities in waters and wetlands of the United States. The projects allowed under the General Plan revision may require a Corp of Engineers permit, thus triggering Service involvement under the Coordination Act. Because of our interest in the biological integrity of our Nation's waters, we generally recommend against projects that result in the destruction of wetland habitat values and are not water dependent. When projects impacting waterways or wetlands are deemed acceptable to the Service, full mitigation is recommended for any fish and wildlife value losses shown to be unavoidable. However, as directed by Section 404(b)(1) of the Clean Water Act, the project proponent must first demonstrate that there are no other less damaging practicable alternatives to the proposed project that would achieve the basic project purpose.

RESPONSE: The above comment is noted and incorporated into the environmental record.

10. COMMENT: The DEIR indicates that five seasonal wetlands and a freshwater seep would be affected by the proposed project. Over 90 percent of California's wetlands have been lost due to past agricultural conversion, urban development, and flood control activities. Wetlands provide important resting, feeding, and nesting habitat for many species of migratory birds. Because of the value of the wetland habitat to migratory birds and the scarcity of this habitat type, the seasonal wetlands and freshwater seep within the project area belong in Resource Category 2 as defined in our Mitigation Policy. For unavoidable impacts to these habitats, the Service recommends provision of mitigation that results in no net loss of in-kind habitat values or acres.

RESPONSE: Comment noted.

11. COMMENT: It would be more appropriate for the City to address this project under a regional habitat conservation plan, as described in our letter of September 26, 1991, to the City of San Jose. The issues regarding the threatened bay checkerspot butterfly, candidate species, and the wetlands have not been adequately resolved. The City of

San Jose should hold the environmental review process in abeyance until these resource issues are fully resolved. If impacts to fish and wildlife resources cannot be resolved to the satisfaction of the Service, a supplemental environmental impact report should be prepared that more adequately addresses these impacts.

RESPONSE: As discussed in the DEIR and in response to comment F.7 above, it has not been established that any listed threatened or endangered species may be subject to impact as a result of development under the Specific Plan. As such it is premature to identify the preparation of a Habitat Conservation Plan (HCP) as a mitigation measure for this project.

See response to comments F.8 above regarding candidate species. With respect to wetlands, see response to comments F.9 and F.10 above.

G. RESPONSE TO COMMENTS FROM THE CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN FRANCISCO BAY REGION, RECEIVED NOVEMBER 25, 1991.

1. COMMENT: The Regional Water Quality Control Board has several concerns and comments on the proposed project.

Hillsdale Mine, a historic mercury mine, is located at the currently operating Alvaseo (sic) Quarry. The remnants of the mine have not been fully mapped. While the DEIR examines the possible hazards associated with the former mine including: the potential for subsidence and settlement of the mine tunnels, exposure to mercury in the soil as a solid, and outgassing of mercury vapor, the DEIR fails to address water quality concerns resulting from mining activities in the area. The extraction of mercury from the local cinnabar would have produced tailings piles. Historically, these waste piles were located near the mining operation. Some of the waste may have been removed during the quarry operation, however, this has not been documented. Additionally, early mercury extraction methods tended to produce localized 'hot spots'-areas where escaping mercury vapor saturated the surrounding soils.

An investigation of the aerial extent of soils containing elevated levels of mercury should be included as part of the FEIR.

RESPONSE: The on-going operation of the Azevedo Quarry has resulted in the removal of any "tailing piles", surface soils, as well as much of the original hill which

contained the historic mercury mines. As mentioned on page 177 of the Draft EIR, the band of silica-carbonate bedrock which contains the cinnabar or mercury comprises approximately 3.5 acres of the 900-acre Specific Plan area. Testing of nine random rock samples from the silica-carbonate band were undertaken by Terratech as described in detail in Appendix H of the Draft EIR. The test results of the nine rock samples indicated that mercury levels in two of the samples exceed the State threshold for hazardous waste.

The Draft EIR identifies a number of mitigation measures to avoid mercury exposure on page 187 and 188. In addition, page 27-28 of the Draft EIR contains a list of additional studies to be performed in conjunction with subsequent environmental review. This list includes studies of the health risk associated with on-site mercury, a geophysical survey to determine the extent and size of old mine tunnels, and drainage and groundwater studies.

2. COMMENT: Erosion and sediment discharge from mined areas may impact local water bodies. Measures to protect local creeks should be discussed. The use of detention ponds for storm water may concentrate the mercury runoff. If mercury bearing soils are found, the use of detention basins may require applying for a site specific NPDES permit.

RESPONSE: The potential water quality impacts of development under the Specific Plan are discussed in the Draft EIR commencing at page 69. Pages 71 and 72 of the Draft EIR include a provision for monitoring water quality prior to discharge into the storm drain system.

Section II.D. of the Draft EIR has been revised in Section III of this Amendment to indicate that future development in the Specific Plan area will be subject to applicable general or site specific NPDES permit(s) applicable at the time of site specific development.

3. COMMENT: The DEIR mentions a seep at the site of the present quarry. This seep is most likely a function of the fault zone and the fault zone associated with the mercury bearing zone. A more complete hydrogeological investigation needs to be undertaken in order to characterize surface water runoff and shallow groundwater conditions.

RESPONSE: Page 58 of the Draft EIR identifies that springs are reportedly present around parts of the base of

Communications Hill which could pose localized problems associated with high ground water. Page 28 of the Draft EIR identifies the need for additional studies to identify potential areas of high ground water during subsequent environmental review.

4. COMMENT: Attached is a copy of the Board's program for regulating abandoned and operating mines and quarries (see Section VI.G). The requirements in the attached program should be considered when developing the final EIR.

RESPONSE: The Azevedo Quarry is currently located within an island of unincorporated Santa Clara County outside the jurisdiction of the City of San Jose. However, the site lies within the City of San Jose's Sphere of Influence, which give the City jurisdiction for general planning matters such as the adoption of the Communications Hill Specific Plan and the General Plan amendment to establish the Communications Hill Planned Community. Lands within the quarry area proposed for development under the Specific Plan must be annexed to the City prior to any development approvals. Until annexation occurs, the County of Santa Clara retains full jurisdiction over the quarry, including jurisdiction over the approval of any extension of quarry operations, as well as reclamation and closure plans.

H. **RESPONSES TO COMMENTS FROM PACIFIC GAS AND ELECTRIC COMPANY, RECEIVED NOVEMBER 25, 1991.**

1. COMMENT: Thank you for the opportunity to review and comment on the referenced Draft Environmental Impact Report.

A correction needs to be made on page 155, section 4.b. The overhead electric line which traverses the hill in a northeast-southwest direction is a 60kv transmission line, not a 21kv distribution line.

RESPONSE: Page 155 of The Draft EIR has been revised in Section III of this Amendment to reflect the above information.

2. COMMENT: Section 4 on page 162 of the report states the overhead power lines would require relocation in conjunction with site grading. PG&E would expect to be reimbursed by the developer for this expense.

We also want to point out some specific operating standards which must be maintained:

- No structures are allowed within the tower line right-of-way.
- No excavations may be made within ten feet of a transmission pole.
- Clearance from the conductors (wires) must be at least 12 feet vertically and 6 feet horizontally.
- During construction activities, dust control measures must be implemented to avoid contamination of our insulators.
- Unrestricted access to the line by PG&E crews must be maintained at all times for emergency and normal maintenance operations.

RESPONSE: The list of specific operating standards and the requirement that PG&E be reimbursed for the relocation of any power lines are acknowledged and incorporated into the environmental record. At the time a specific project is proposed, PG&E will have an opportunity to review and comment on the project plans and will be consulted regarding the relocation of the overhead transmission line.

I. RESPONSE TO COMMENTS FROM ROBERT J. BETTENCOURT, RECEIVED DECEMBER 2, 1991.

1. COMMENT: Pg. 5 Figure 3. Millpond Way is now Masonic Drive.

RESPONSE: Figure 3 has been corrected in Section III, Attachment C of this Amendment to show Millpond Drive to the east of Canoas Garden Avenue. Masonic Drive is located to the west of Canoas Garden Avenue.

2. COMMENT: Pg. 11 Figure 5. The heavy industrial land use on the former quarry site should extend around the north end of the cul-de-sac.

RESPONSE: Mr. Bettencourt's preference for heavy industrial land use around the north end of the cul-de-sac is hereby acknowledged and incorporated into the environmental record.

3. COMMENT: Pg. 17 Paragraph 9b. Mom and Pop Retail. Mom and pop store sites are allowed up to 2,000 square feet.

RESPONSE: The Draft Specific Plan text has been amended to permit "mom and pop" stores of up to 1500 square feet at any one location, with no more than 1500 square feet permitted on any block. A single cluster of larger mom and pop stores (up to 2000 square feet) would be permitted in the Curtner Grove neighborhood. Page 17 of the Draft

EIR has been revised in Section III of this Amendment to reflect the Specific Plan text.

4. COMMENT: Pg. 17 Paragraph 9c. **Additional Commercial.** Item "2) greater than 50 percent of the Village Center is complete prior to development of additional commercial" has been eliminated as a criteria from the Specific Plan.

RESPONSE: The Specific Plan has not been revised to delete this criteria. The Draft EIR accurately reflects the Plan as it is currently proposed.

5. COMMENT: Pg. 21 Paragraph 14. **Discretionary Alternative Uses.** "Additional retail/commercial uses would be permitted in the block northwest of the Village Center provided that 50 percent of the retail... is completed first". This requirement for 50% of the Village center being built prior to the construction of additional commercial has been deleted from the Specific Plan.

RESPONSE: See response to comment I.4.

6. COMMENT: Pg. 23 Paragraph 2b. **Surface Mining and Reclamation Act (SMARA) of 1975.** The current request on file with Santa Clara County to continue the quarry operation is for ten years not five years.

RESPONSE: The permit application on file with the County of Santa Clara at the time the Draft EIR was circulated was a request by Azevedo Quarry to extend quarrying operations for a period of five years.

7. COMMENT: Pg. 26 Paragraph c. **Planned Residential Community.** The second to the last sentence states "Subsequent rezoning applications under the Specific Plan would occur through Planned Development (PD) zoning which would be required for project-specific development approval for each "property" (emphasis added). Given the ownership of the entire Specific Plan area, it is not likely that large property owners could bring a single project to a P.D. stage at one time. It is more likely that smaller pieces of the single ownership property would be brought to a P.D. on a project specific basis. The EIR should be revised to substitute the word "project" for the word "property".

RESPONSE: While a Planned Development Zoning boundary is not required to follow parcel lines, for clarity page 26 of the Draft EIR has been revised to delete "for each property".

8. COMMENT: Pg. 31 2. Existing Land Uses in the Proposed Planned Community Area Paragraph 2. The pet hospital and propane outlet are located south of Pullman Way not north of Pullman.

RESPONSE: Page 31 of the Draft EIR has been revised in Section III of this Amendment to indicate the correct location of the pet hospital and propane outlet south of Pullman Way.

9. COMMENT: Page 42 Additional Recommended Mitigation The last mitigation item "Prior to zoning, a study would be conducted to identify alternative aggregate resources to replace the resources on Communication Hill" does not appear to be necessary given the statement on page 56 under item 5. Loss of Mineral Resources "Considering the abundance and accessibility of rock, aggregate and mercury materials throughout California, as well as the coordination between the Specific Plan and the proposed quarry extension and modification process, the development of Communications Hills as proposed would not represent a significant impact to the extraction of mineral resources (see Section I. F. PLANS POLICIES AND REGULATIONS, concerning mineral extraction policies)". This mitigation should be deleted from the EIR.

RESPONSE: While not required to do so, SMARA gives the City authority to request studies to identify alternative sources of aggregate for areas designated as mineral resources of regional significance. While the aggregate resources on Mr. Bettencourt's parcel are likely to be quarried prior to development, that may not apply to the remainder of Communications Hill, which is also designated as a significant regional resource. SMARA gives the City authority to request studies to identify alternative sources of aggregate; SMARA does not require the City to do so. These studies are not currently included in the proposed project.

Page 41 of the Draft EIR identifies the loss of mineral resources as an unavoidable significant impact of the implementation of the Specific Plan. Page 56 of the Draft EIR has been revised in Section III of this Amendment to reflect this impact conclusion.

10. COMMENT: Page 55. 5. Loss of Mineral resources. Paragraph 3 (at the top of page 56) The present application for extension of the quarry permit is for ten years.

RESPONSE: See response to comment I.6.

11. COMMENT: Page 62 C. **FLOODING - EXISTING CONDITIONS** Paragraph 4. When the Millpond Mobile Home Park was constructed the system was sized to accommodate the runoff from the adjacent portions of undeveloped land. This is evidenced by several storm drain lines and catch basins which extend beyond the limits of the park and under the railroad right-of-way. This storm system, approved by the City of San Jose, was installed with every intention that the cost to construct would be recaptured by connecting to the system when the surrounding areas developed.

RESPONSE: Comment noted.

12. COMMENT: Page 64. **FLOODING IMPACTS** Paragraph 2, Page 65. In 1889 the City of San Jose and County of Santa Clara entered into an agreement to divert Canoas Creek across MTA Properties and to allow the land owner to use the creek for water.

In 1968 an Assessment District No. 68-47SJ was created which included a portion of MTA Properties. Fees and taxes have been paid into the district which entitles storm water from the MTA Properties land to flow into San Jose.

The property has historical rights to use Canoas and Coyote Creeks and the Guadalupe River for storm water. The water district's lack of adequate planning does not negate the historic rights of this property.

RESPONSE: Comment noted.

13. COMMENT: Page 68. **D. WATER QUALITY - EXISTING CONDITIONS**. Paragraph 2. As stated in the above response to paragraph 4 on page 62 (this refers to Comment I.11 above), all the runoff from unincorporated areas of Communications Hill does not go to retention basins. The northerly areas of the property drain into the Millpond storm drain system.

RESPONSE: Comment noted.

14. COMMENT: Page 84. 3. Wetlands Paragraph 3. Retention basin (SW #3) west of the railroad tracks is a MANMADE retention basin.

RESPONSE: Page 77 of the Draft EIR identifies seasonal wetland #3 as manmade. For clarity, page 84 of the Draft EIR has been revised in Section III of this Amendment to also state that seasonal wetland #3 is a manmade retention basin.

15. COMMENT: Page 99. **SUMMARY OF THE DEVELOPMENT CONCEPT.** Paragraph 4. The text discusses the fact that the high-rise multi-family structures "up to 100 feet or more in height, would be ... no more than 45 feet above the crest of the hill". In a review of the preliminary grading plan it appears that the northerly highrise buildings would exceed this height. It is not clear why 45 feet is important when the Specific Plan does not limit the buildings to 100 feet in height.

RESPONSE: Pages 99 and 101 of the Draft EIR in Section III of this Amendment has been revised to delete the above referenced statement.

16. COMMENT: Page 106. **MITIGATION MEASURES - General Plan Mitigation.** 12. Mitigation number 7. "Development should be discouraged on slopes exceeding 30 percent and on ridgelines." The majority of the development of the Specific Plan takes place on the "ridgeline". This mitigation measure should be revised or removed.

RESPONSE: The sentence quoted in comment I.16 above is one of seven criteria listed as part of Urban Design Policy 12 of the Horizon 2000 General Plan for development on slopes greater than 7%. Policy 12 is intended to apply primarily to development outside the Urban Service Area or on the periphery of the valley to preserve the visual amenities surrounding the valley floor; it is not intended to apply to infill development. With the exception of development on the ridgeline, the Communications Hill Specific Plan incorporates all the criteria of Urban Design Policy 12. Development on Communications Hill follows the ridgeline where the topography is relatively flat. There are also limited instances (the 9 tall building sites) where development may occur on slopes greater than 30% to allow access to potential multi-level parking.

17. COMMENT: Page 144. 2. **Noise Impacts a. Railroad Noise Impacts.** "No increase in the number of Amtrack and freight trains ... are anticipated in the future." This statement is contrary to published information regarding the relocation of Amtrack from Oakland and new Amtrack service from San Jose to Sacramento.

RESPONSE: Page 143 of the Draft EIR states that the projection of future railroad sound levels were based on the Caltrain Maintenance Facility EIR and the Caltrain Extension to Gilroy EIR. The Caltrain Maintenance Facility EIR assumed the provision of facilities to serve Amtrack trains.

Although there has been a recent increase in train service, this increase will not exceed the 25 diesel locomotives and 125 gallery coaches which were planned for the maintenance facility. The relocation of Amtrak from Oakland will not increase the number of trains planned to travel through the Specific Plan area. The new Amtrak passenger service between Sacramento and San Jose terminates in Downtown San Jose. The Draft EIR adequately analyzes the noise impacts from the Specific Plan.

To clarify this information, page 144 of the Draft EIR has been revised in Section III of the Amendment to indicate that there will be no increase in the number of planned Caltrain, Amtrak and freight trains beyond the number evaluated by the Caltrain Maintenance Facility environmental document.

18. COMMENT: Page 152. **K. UTILITIES, FACILITIES AND SERVICES - EXISTING CONDITIONS. 1. Storm Drainage.** Paragraph 3. *"Runoff from developed portions ... does not enter the City storm drainage system."* Not true, see comment 11, 12 and 13 above.

RESPONSE: Comment noted.

19. COMMENT: Page 157. **7. Schools** Paragraph 2. *"All of the existing schools are operating at or over capacity...."* This statement assumes that the Franklin-McKinley School District is the only alternative school district. As with CEQA mandated project alternatives, (another site, no project, etc.) the EIR must look at alternative school facilities. San Jose Unified District has a vacant elementary school west of the project. The use of this school (Canoas Elementary) would not require students to cross the six lane Monterey Highway.

In the September 1989 report for the Exchange of Territory between Franklin-McKinley/East Side Union High School Districts and San Jose Unified School District it is stated on page 2 paragraph 2.3 Clear Boundary Lines:

"2.3 Clear Boundary Lines The current boundary between Franklin-McKinley/East Side and San Jose Unified appears quite haphazard. The proposed boundary offers a more sensible and understandable division between the school districts. By utilizing major barriers such as the Guadalupe Corridor and the Southern Pacific Rail Road, boundaries will be more clear to parents and other community members."

And on page 1 paragraph 2.0 Rationale for the Proposed Boundary:

"There are a number of advantages to the proposed boundary over the current boundary. The proposed boundary utilizes major barriers (e.g. freeway, railroad) to pedestrian traffic."

The report fails to examine the major barrier to students, Monterey Highway. The Curtner crossing of Monterey Highway is at grade while all crossings with the Guadalupe Corridor are grade separated. Clearly Monterey Highway would be a better dividing line between districts.

The report, on page 4 in paragraph 3.1 Projected Residential Development states that:

"Although very little residential development is currently planned in the territory proposed for transfer, the General Plan of the City of San Jose expects some residential development to take place by the year 2000. However, it is the opinion of the San Jose City Planning Department that relatively few school-age children will result from this projected development, since the majority of the development will be comprised of mid to high income townhouses and garden apartments along the Guadalupe Corridor. Given the proximity of the Guadalupe Freeway and the Light Rail System, the Planning Department projects that new residents in these areas will be composed primarily of workers from north San Jose seeking a relatively easy commute between home and work."

San Jose as far back as 1975 was moving toward an aggressive infill policy in their General Plan. In 1979 the 60 acres of MTA Properties on Curtner Avenue was changed from Light Industrial and Non-Urban Hillside to Medium High Density Residential. In Gary Schoennauer's October 5, 1981 memo to the Planning Commission he stated *"For Communications Hill, staff envisions relatively high density development yielding between 5,000 and 10,000 dwelling units..."*

The Horizon 2000 General Plan Amendment of 1984 adopted a G.P. designation which allowed for up to 5,000 DU on Communications Hill. None of this information appears in the 1989 School District report. The report does not discuss or analyze the impact of this growth on the studied school districts. As pointed in Mr. Rob Corley's

letter of June 10, 1991 the development of Communications Hill "will have a significant adverse impact on the environment as school facilities are not available and must be constructed, additional school bus miles may be driven and absence of adequate school facilities potentially may cause a hardship on the human environment."

With the extensive current and anticipated impact to Franklin-McKliney and East Side High school (see San Jose Mercury 11/27/91) it would appear that placing Communications Hill in San Jose Unified would be a good environmental decision.

Until the EIR addresses the alternative to the Franklin-McKinley School District this school section of the EIR will not be complete.

RESPONSE: Mr. Bettencourt's proposal to change the boundary between the Franklin-McKinley and East Side Union, and the San Jose Unified School District is hereby acknowledged and incorporated into the environmental record. The Draft EIR adequately addresses the environmental impacts of the project. The Draft EIR does not identify any significant environmental impacts relative to school services; therefore, no CEQA mitigation is required.

The Draft EIR, on page 163, includes a list of possible options which have been considered by school districts in the past to accommodate additional students. The Draft EIR has been revised in Section III of this Amendment to include a discussion of the realignment of the school district boundaries. Also see response to comment A.8.

20. COMMENT: Pg.159 **UTILITIES, FACILITIES AND SERVICE IMPACTS**
1. Storm Drainage Impacts. The 66 inch trunk line was installed and paid for during the construction of Millpond Mobile Home Park. The cost of this line, designed to carry storm run-off from all of the northerly lands of MTA Properties, was to be reimbursed to MTA Properties as other downstream properties connected to the line (none of the cost has ever been reimbursed).

RESPONSE: Comment noted.

21. COMMENT: Pg.163 7. **Schools.** See comments under item 19 above. It is obvious if San Jose Unified were serving the school district the number of buses could be reduced and the bus trip length could be reduced.

RESPONSE: The comment regarding the reduced need for buses were the Communications Hill area to be within the San Jose Unified School District, is noted and incorporated into the environmental record.

22. COMMENT: Pg.169 Fire Protection. Under the second mitigation measure add the words "except single family detached" after the words *sprinklered buildings*.

RESPONSE: Page 170 of the Draft EIR has been revised in Section III of this Amendment to clarify that the requirement for sprinklered buildings does not apply to single family detached residences.

23. COMMENT: Pg.170 Schools. A mitigation measure requiring a study by the two school district's Board of Trustees to realign the boundary of the districts to US 101 (Monterey Highway) should be added. Also, compliance with California Education Code Sections 35675 and 35502 should be assessed.

RESPONSE: Both California Education Code Sections 35675 and 35502 have been repealed by subsequent legislation and are, therefore, not applicable. See response to comment 19 concerning a realignment of the districts boundary's.

24. COMMENT: Pg.171 Storm Drainage. It is not clear why a parallel set of storm drainage pipes is necessary.

RESPONSE: As indicated on pages 159 and page 171 of the Draft EIR, a parallel set of storm drainage pipes is necessary because the existing pipes are undersized to handle the planned level of development.

25. COMMENT: Pg.178 3. Electromagnetic Radiation b. Communication Interference. No air right easements exist for any of the communication facilities either in fact or implied. Each facility, AT&T and County Communications may be required to either purchase air rights or relocate their dishes and antenna. County Communications could place their antenna on top of the AT&T tower and AT&T could raise and cluster their microwave dishes.

RESPONSE: Comment noted.

26. COMMENT: Pg.183 a. Communications Interference
See comment 25 above.

RESPONSE: Comment noted.

27. COMMENT: Pg.186 MITIGATION MEASURES FOR ENVIRONMENTAL HAZARDS

Specific Plan Mitigation. These mitigation measures imply an easement exists. No granted air right easement now exists. Heights and locations of future buildings could require AT&T and County Communications to relocate their transmitting equipment.

RESPONSE: Comment noted. The Draft EIR has been revised in Section III of this Amendment to reflect this information.

28. COMMENT: Pg.188 Electromagnetic Radiation
See comment 27 above.

RESPONSE: See response to comment I.27 above.

29. COMMENT: Pg.196 VI. ALTERNATIVES TO THE PROPOSED PROJECT.
The alternative of having the project in San Jose Unified School District rather than Franklin-McKinley should be discussed.

RESPONSE: See response to comment A.8 and I.19.

30. COMMENT: Pg.203 E. ALTERNATIVE WATER STORAGE CONCEPTS.
At-Grade Tank adjacent to AT&T. The elevated tank system requires pumps to fill the tank. An at-grade system requires pumps and a pneumatic tank system. Since both systems require pumps with back-up pumps, the system could have diesel back-up which would not be dependant on electrical supplies. The at-grade system would have less visual impact and be far less expensive.

RESPONSE: Pages 160 to 162 of the Draft EIR discusses the water supply impacts of the elevated water tank system proposed by the Specific Plan. Alternatives to the proposed water storage system, including an at-grade system, are discussed on pages 202-204 of the Draft EIR. The conceptual plan for water service to the Communications Hill Specific Plan area was prepared by the San Jose Water Company. The San Jose Water Company determined that the most economical way to provide adequate, reliable water service, fire protection, and service during emergency conditions is by a gravity flow delivery system requiring an elevated water tank.

The Draft EIR identifies the elevated water tank as a significant visual impact. An at-grade system would have less of a visual impact from a distance, due to its lower profile, however, the visual impact of the at-grade tank would remain significant. The Draft EIR adequately addresses alternative water supply options.

31. COMMENT: Appendix K. Comments on NOP The potential significant adverse impacts and Related Issues, addressed by Mr. Rob Corley (Consultant, EAST SIDE UNION HIGH SCHOOL DISTRICT) in his RESPONSE TO NOTICE OF PREPARATION, dated June 10, 1991, should be fully assessed.

RESPONSE: See response to comments C.3 to C.13

J. RESPONSE TO COMMENTS FROM BRANDENBURG, STAEDLER AND MOORE, RECEIVED DECEMBER 2, 1991

1. COMMENT: We are the ground lessees of the land and the developers/owners/operators of three mobilehome communities included in the Communications Hill Specific Plan Area. The mobilehome communities are Chateau La Salle, Millpond and Mountain Springs. Throughout the Communications Hill planning process we have on numerous occasions, both verbally during public hearings and in writing, requested that our three mobilehome communities be removed from the Communication Hill Specific Plan area and/or that we be given complete assurance that neither we nor our residents will incur any financial obligations pertaining to the development of Communications Hill. While City of San Jose staff have been cooperative and have attempted to respond to our concerns they have not been able to grant our requests.

We developed each of the above mobilehome communities in the 1970's and as part of our development process were required to construct extensive "off site" improvements. The communities have been fully occupied for over ten years and our ground leases have remaining terms from 17 years to 47 years with renewal options. Our mobilehome communities are fully sustainable for their "lifetime" with their existing infrastructure and require no new infrastructure and no existing infrastructure improvements. As we have previously stated, we have no interest in having the General Plan or Zoning designations changed on the properties we lease for our mobilehome communities.

We again request that our mobilehome communities be removed from the Specific Plan Area and we again state that we are not willing to be a part of any assessment district, Mello-Roos district, and/or any financing plan or district that would require us, our landlords, or our residents to fund improvements in the Communications Hill Specific Plan area.

RESPONSE: The request by Brandenburg, Staedler and Moore that the Chateau La Salle, Millpond and Mountain Spring

mobilehome parks not be included in the Communications Hill Specific Plan, or in any financing plan or district intended to fund improvements for the Communications Hill Specific, is hereby acknowledged and incorporated into the environmental record. Please note that the Specific Plan on page 73 states: "Infrastructure and public facilities costs that are made necessary by new development will be born by new development."

2. COMMENT: Any participation in the City-initiated Communications Hill Specific Plan process by us or our mobilehome residents should not be construed in any way as an approval, tacit or otherwise, by us of any action taken by the Communications Hill Specific Plan Area Committee, the San Jose City Planning Commission, and/or the San Jose City Council. While we have no objection to the prudent development of Communications Hill, we must object to and oppose the Communications Hill Specific Plan unless our three mobile home communities are removed from the Specific Plan area.

RESPONSE: Brandenburg, Staedler and Moore's opposition to inclusion of Chateau La Salle, Millpond and Mountain Springs mobile home communities in the Communications Hill Specific Plan is noted and incorporated into the environmental record.

3. COMMENT: Page 4, first paragraph. "Excluded from the Specific Plan area is the Oak Hill Cemetery, located in the southwest quadrant of Monterey Road and Curtner Avenue. However its use was considered in the overall plan."

COMMENT: We believe the concept applied to the Oak Hill Cemetery should be applied to the existing mobilehome communities within the Specific Plan Area. The mobilehome communities should be excluded from the Specific Plan but their use considered in the overall plan. The above sentence should be changed to read "Excluded from the Specific Plan area is the Oak Hill Cemetery located in the southwest quadrant of Monterey Road and Curtner Avenue, and the existing mobilehome communities of Chateau La Salle, Millpond, and Mountain Springs. However their use was considered in the overall plan."

RESPONSE: Brandenburg, Staedler and Moore's opposition to inclusion of the mobile home parks within the Specific Plan is acknowledged. The mobilehome parks were included in the boundary of the Specific Plan because the City wished to encourage participation of the owner/residents of the parks in the planning process to insure that

planned development for the area would be compatible with these existing neighborhoods. The Specific Plan includes the following goal (page 3): Integrate existing land uses, particularly mobile-home parks and single-family homes, with new land uses, ensuring the viability and compatibility of both.

4. COMMENT: Page 13, 1a. "The Specific Plan incorporates four existing areas designated as single-family residential. These include Chateau La Salle mobile home park (60) acres, Mountain Shadows mobile home park (11 acres), ... and the Millpond mobile home park (41 acres) ..."

COMMENT: This section incorrectly includes "Mountain Shadows" as one of the existing mobilehome communities within the Specific Plan area. Mountain Shadows is not within the Specific Plan area. This reference should be changed to "Mountain Springs" both on page 13 and anywhere else the EIR references this mobilehome community. Mountain Springs occupies approximately 17 acres.

RESPONSE: The Draft EIR has been revised in Section III of this Amendment to reflect the correct name for Mountain Springs throughout the document. Page 13 of the Draft EIR has also been revised to correctly state that Mountain Springs occupies approximately 17 acres.

5. COMMENT: Page 42, Additional Recommended mitigation. "Provide solid fencing along Narvaez Avenue where it borders existing residential uses:"

COMMENT: Add the following sentence to the above mitigation: "Consult with the owners and residents of the Mountain Springs Mobile Home Park on the method, design and construction of fencing or other appropriate screening measures along Narvaez where borders the Mountain Springs Mobile Home Park."

RESPONSE: At the time a specific development is proposed Brandenburg, Staedler and Moore, and the owners and residents of Mountain Springs Mobile Home Park will have an opportunity to review and comment on the proposed plan during the public review of the project.

6. COMMENT: Page 42, Additional Recommended mitigation. "Provide careful site planning, setbacks and screening to minimize conflicts between existing Millpond Mobile Home Park and the proposed Curtner Grove neighborhood and the limited access extension of Millpond Drive;"

Add the following sentence to the above mitigation:
"Consult with the owners and residents of the Millpond Mobile Home Park on the method, design, and construction of site planning, setbacks and screening."

RESPONSE: At the time a specific design for this road is proposed, Brandenburg, Staedler and Moore, and the owners and residents of the Millpond Mobile Home Park will have the opportunity to review and comment on the plans.

7. COMMENT: Page 62, last paragraph. "In addition to the flooding issues outlined above, there is a local drainage problem in the general area. According to the City of San Jose Public Works Staff, the existing Millpond Mobile Home Park has been subject to flooding due to the inadequacy of the on-site storm drainage system. The system draining the site terminates with a flap gate at its outfall into the Guadalupe River. When the water surface is high enough in the River, the flap gate remains closed, thus not allowing the local drainage from the Millpond area to escape."

COMMENT: When Millpond Mobile Home Park was developed Brandenburg, Staedler, & Moore joined with the Faith Temple Cathedral and the City of San Jose to install a storm drainage system designed to serve our collective needs. Brandenburg, Staedler & Moore contributed over sixty percent of the \$500,000+ cost of the system, the design and construction of which was approved by the City of San Jose. Since the system was installed in late 1977 it has performed adequately. Three time since 1977 intense prolonged rainstorms have caused the water level in the Guadalupe River to close the flap gate and prevent drainage from escaping from the Millpond area for a short period of time. On these occasions the standing water level in the Millpond streets and sidewalks did not exceed approximately one foot, did not reach the point where water entered any of the mobilehomes, and subsided after three to four hours.

While we agree that new developments on Communications Hill should not access the Millpond drainage system, we believe the existing system adequately serves the Millpond Mobile Home Park. The above paragraph should be reworded as follows: "In addition to the flooding issues outlined above, there is the potential for a local drainage problem in the general area. The existing Millpond Mobile Home Park has experienced drainage problems during intense prolonged rainstorms on three occasions in the past fourteen years. The system draining the site terminates with a flap gate at its outfall into the Guadalupe River.

When the water surface is high enough in the River the flap gate remains close, thus not allowing the local drainage from the Millpond areas to escape until the water in the River subsides to below the flap gate. While this drainage problem has not in the past led to significant flooding or damage in the Park, granting the proposed Communications Hill developments access to the system that serves Millpond, and/or granting the developments storm drain access to the Guadalupe River through another system (new or existing), has the potential of leading to significant drainage problems. Therefore, any incremental runoff allowed into the Guadalupe River due to the development of Communications Hill will require mitigation by the developers of Communications Hill to protect the Millpond residents." Also see comment 9 below.

RESPONSE: Flooding is discussed in the Draft EIR on pages 62-67. Drainage is discussed on pages 152, 159, and 169. As indicated on page 159, the existing 54-inch storm drainage line which serves the Millpond area would not be affected by new development in the Communications Hill Specific Plan area. Based on the conceptual drainage plan none of the proposed development area is planned to drain through the Millpond Mobile Home Park. At the time specific developments are proposed, Brandenburg, Staedler and Moore, as well as the owners and residents of the Millpond Mobile Home Park, will have an opportunity to review and comment on the proposed plans.

8. COMMENT: Page 64, fourth paragraph. "Further impacts to the local drainage problem in the Millpond Mobile Home Park would be voided providing that all new development in the vicinity be designed to have its drainage conveyed away from this area."

COMMENT: See comment 7 above. We agree that the proposed Communications Hill developments should not be allowed to access the storm drain system that serves Millpond Mobile Home Park.

RESPONSE: The above comment is acknowledge and incorporated into the environmental record.

9. COMMENT: Page 66, bottom of page: FLOODING MITIGATION MEASURES. "1. New development should be designed to provide protection from potential impacts of flooding during the 1% or 100-year flood."

COMMENT: The Communications Hill Specific Plan states that "The Santa Clara Valley Water District has stated that no increase in runoff due to the development of

Communications Hill will be acceptable..." (page 53). In order to amplify the above mitigation measure add the following sentence: "New development should be designed to insure that no increase in runoff results from the development of Communications Hill."

RESPONSE: The mitigation measure quoted above is a policy taken from the City of San Jose's Horizon 2000 General intended to be a general policy applicable to all development in San Jose. Modification of this language would require an amendment to the General Plan.

The first sentence of the second paragraph on page 65 of the Draft EIR, as referenced above, states that "The SCVWD has stated that no increase in runoff from development of the Communications Hill site would be acceptable during the 100-year flood event relative to existing conditions." This statement should read: "The SCVWD has stated that no increase in runoff resulting from development of the Communications Hill site that contributes to an increase in the peak flood flow would be acceptable....." Page 65 of the Draft EIR has been revised in Section III of this Amendment to reflect this correction.

10. COMMENT: Page 67, Specific Plan Mitigation. "Ensure that services of surrounding neighborhoods are not adversely impacted by development within the Specific Plan area."

COMMENT: Add the following to the above statement: "As noted in the EIR, of particular concern is that allowing the Communications Hill developments to access the Millpond Mobile Home Park storm drainage system has the potential of causing significant drainage problems in the area. This mitigation measure specifically includes, but is not limited to, the prohibition of Communication Hill developments accessing the storm drain system that serves the Millpond Mobile Home Park."

RESPONSE: The Specific Plan mitigation quoted in the above comment is one of the goals and policies of the Specific Plan listed on page 3 of the Plan. As indicated in response to comment J.7, the conceptual drainage plan for Communications Hill directs drainage resulting from proposed new development away from the Millpond area. Also see response to comment J.6.

11. COMMENT: Page 123, first paragraph. ..."(T)he Millpond Drive extension could be planned to provide either limited or full access for vehicle, pedestrian, and bicycle traffic to the Curtner Avenue LRT Station and other destinations. In addition, a shuttle bus service may be

implemented between the hilltop area and the LRT station. The Millpond Drive connection would be made just west of the existing mobile home park and would not add traffic within that existing neighborhood."

COMMENT: While a connection just west of the Millpond Mobile Home Park would not bring traffic directly through the Park, it would have a significant impact on Park residents, particularly if the full access option were implemented.

Millpond Drive is the only non-emergency ingress and egress point for the 309 space Millpond I Mobile Home Park. The added traffic from the Specific Plan Area resulting from the extension of Millpond Drive would be quite noticeable to Park residents and would significantly increase delays in movements to and from the Park. The last sentence in the above paragraph should be changed to read "While the Millpond Drive connection would be made just west of the existing mobile home park and would not add traffic directly within that existing neighborhood, the added traffic from the Specific Plan area, if the full access option were chosen, would significantly impact traffic circulation in the area, including mobile home park resident ingress and egress."

RESPONSE: Page 123 of the Draft EIR states that the Communications Hill Specific Plan proposes extension of Millpond Drive with limited access. Page 123 of the Draft EIR states that the added traffic from the limited access proposal would not adversely effect existing traffic patterns in the area. The Draft EIR correctly identifies that the proposed Specific Plan would not result in a significant traffic impact.

12. COMMENT: Page 123, second paragraph. "Limited access proposed. Under the limited access provisions [for the Millpond Drive extension], as proposed in the Specific Plan, access to the hilltop areas would be limited to pedestrian, bicycle, and shuttle buses."

COMMENT: If Millpond Drive is extended, we agree that the limited access option should be chosen.

RESPONSE: Brandenburg, Staedler & Moore's support of limited access is acknowledged and incorporated into the environmental record. As noted in response to comment J.11, the Communications Hill Specific Plan proposes the extension of Millpond Drive with limited access.

13. COMMENT: Page 123, third paragraph. "Full access alternative. If full vehicle and pedestrian access is considered at the Millpond Drive connection, an additional 945 to 1,145 per day vehicles during the week and 575 to 725 vehicles on Sunday are expected on Canoas Garden Avenue."

COMMENT: See comments 11 and 12 above. We oppose the full access alternative due to the significant negative impact it would have for Millpond Mobile Home Park residents and general traffic circulation in the area.

RESPONSE: Bradenburg, Staedler & Moore's opposition to the extension of Millpond Drive as a full access road is noted and incorporated into the environmental record.

14. COMMENT: Page 159, fourth paragraph. "The existing 54-inch line through the Millpond area would not be affected by the proposed development of Communications Hill, since none of the proposed development area is planned to drain through the Mobile Home Park."

COMMENT: See comments 7, 8, 9, and 10 above. We agree that none of the proposed development of Communication Hill should drain through the Mobile Home Park.

RESPONSE: The above comment is noted and incorporated into the environmental record.

K. RESPONSE TO COMMENTS FROM HMH INCORPORATED, RECEIVED DECEMBER 2, 1991.

1. COMMENT: Land Use. The DEIR does not address or analyze the impacts of a reduction in density from 5,000 units, as currently allowed under the Horizon 2000 General Plan, to a maximum of 4,000 units which would be allowed by the Specific Plan. This reduction in units contradicts a stated goal of the Specific Plan which is to provide necessary housing to complement the industrial development planned in the Edenvale, Southern San Jose and North Coyote Valley areas. How does a reduction in density work to correct the jobs/housing imbalance?

RESPONSE: Page 194 of the Draft EIR identifies that the proposed Specific Plan would have a slight negative effect on the projected jobs/housing balance of the region when compared with the existing General Plan. Section VI. of the Draft EIR adequately addresses the physical impacts resulting from the proposed Specific Plan as compared to the no project alternative. It should be noted that both the 5000 units assumed in the current General Plan and the 4000 units proposed in the Specific Plan are maximum

dwelling unit yields and under either the current or proposed plans the maximum density may not be achieved. The maximum number of units proposed under the Specific Plan was reduced due to the physical and environmental constraints of the site.

2. COMMENT: The Specific Plan creates a disproportionate share of open space relative to developable areas for some property owners. In the case of the Vieira property, the imbalance is significant. The DEIR does not analyze this imbalance or provide mitigation for these impacts.

RESPONSE: Mr. Vieira's concern regarding the allocation of open space is acknowledged and incorporated into the environmental record. The distribution of planned open space relative to property ownership does not result in an environmental impact that requires analysis in this EIR; consequently, it is not addressed as an environmental issue in the Draft EIR.

3. COMMENT: **High Density Land Use**: The DEIR does not address the relocation of High Density Residential Land Use shown on the existing General Plan and that shown on the Proposed Specific Plan. In the case of the Vieira property, there is a significant reduction in the area allowed for this land use. This is an economic impact not discussed in the DEIR.

RESPONSE: Mr Vieira's concern regarding the economic impact of the changes in the distribution of High Density Residential Land Use is acknowledged and incorporated into the environmental record.

CEQA does not require that a fiscal analysis be included in this Draft EIR. Section 15131 of the CEQA Guidelines specifies that economic or social information may (emphasis added) be included in an EIR but that economic or social effects of a project should not be treated as significant environmental impacts. Such effects can be used to determine the significance of a physical impact, or can result in a secondary physical impact, but CEQA is clear that the focus of the EIR analysis is to be on the physical changes resulting from the proposed action. The Draft document adequately identifies the potentially significant environmental impact of the proposed project.

4. COMMENT: **Financing of Infrastructure**. Section 65451 of the Government Code mandates that all Specific Plans contain a program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out the Plan. Although the

Specific Plan lists potential financing opportunities, the DEIR does not address the financial impacts of the plan. An example of this would be the cost implications for use of an elevated water tower vs. an at-grade tank with pumps to achieve necessary pressure. To a typical property owner, the financial impacts of the Plan are among the most important of issues. The DEIR cannot be considered adequate without an analysis of and mitigation measures for these impacts.

RESPONSE: The Communications Hill Specific Plan is not a Specific Plan pursuant to Section 65451 of the Government Code and, consequently does not conform to its mandate. Section 65451 of the Government Code applies to charter cities only when the city has adopted the provisions of the section by chapter or ordinance. The City of San Jose has not adopted Section 65451 either by charter or by ordinance. See response to comment K.3 regarding economic impacts.

5. COMMENT: **Non-Standard Infrastructure.** The Specific Plan proposes many features that are not found in a typical hillside development. Among these area: an elevated water tank, large park areas, numerous and elaborate stairways and pathways, etc. The DEIR should address the relative value of these items in regards to their additional cost to a property owner or developer. The DEIR should state why these items were chosen over standard types of construction.

RESPONSE: CEQA requires an EIR to analyze the environmental impacts of a project as proposed. The EIR adequately addresses the significant environmental impacts of the project. As stated in response to comment K.3, page 200 of the Draft EIR addresses the environmental impact of a conventional hillside curvilinear urban structure alternative. The cost of a project relative to the cost of alternative projects is not an issue that CEQA requires be analyzed in an EIR.

6. COMMENT: **Allocation of Units.** Since the Specific Plan provides for a cap in the total number of units but does not provide for an allocation system among the various property owners, it is possible that all units could be allocated prior to development of all the properties. The potential impact caused by the Specific Plan should be analyzed and mitigated.

RESPONSE: H4H Inc.'s concern regarding the equitable distribution of dwelling units over the Specific Plan area is hereby acknowledged and incorporated into the environ-

mental record. The EIR adequately addresses the potentially significant environmental issues associated with the project.

7. COMMENT: **Existing Property Lines.** The Specific Plan ignores existing property lines. In the case of the Vieira property, the Plan would create tiny slivers of Multi-Family areas. These areas are so small that they are probably not developable from a physical or financial feasibility standpoint. The DEIR should address this issue and provide mitigation for property owners similarly affected. Although the Specific Plan discusses property swaps and states that they may be useful, neither the Specific Plan nor the DEIR analyzes or provides for mitigation for these small slivers of land that would be created due to implementation of the Specific Plan.

RESPONSE: Any future development proposed for Communications Hill would be required to be in conformance with the Specific Plan. The development review process will insure that individual development proposals conform to the Plan. The Specific Plan identifies that property swaps may be necessary to implement the urban structure proposed by the Plan.

8. COMMENT: **Achievable Density.** The Specific Plan estimates density based upon 40 dwelling units per acre for Multi-Family Residential areas using a "podium" type construction. The Specific Plan also restricts the block/lot coverage to 50% and the building height to three levels of housing over parking. A density this high with the given constraints may be difficult to achieve even on a level site. The Specific Plan area is not level. The DEIR does not address the feasibility of this density. If this density is not achievable, what is the achievable density and what is the impact of the reduction in total units on the jobs/housing imbalance?

Will an alternate type of construction, greater site coverage or increased building height be allowed to achieve the "target" density?

RESPONSE: The Specific Plan permits up to 4000 units for all new multi-family residential development and requires a density of at least 25 units per acre with a maximum of 40 units per acre. Two areas within the ridgetop neighborhood of the Specific Plan (where topography or block size could accommodate greater densities, will be permitted to exceed a density of 40 units per acre (See page 58 and 63 of the Specific Plan). In these designated

areas the Specific Plan proposes building heights in excess of 45 feet.

The Specific Plan does not specify podium construction as the only type of construction possible, nor does the Specific Plan establish a maximum site coverage for buildings. Pages 35 and 58 of the Specific Plan indicate that, in general, podium type buildings for housing would be permitted to cover no more than 50% of the total block. The other 50% of the block would be developed using other building types to insure variety.

It is acknowledged that achieving maximum densities within the limitation of three stories over parking will require careful site planning; however, it is possible. Pages 61 and 79-91 of the Specific Plan illustrate a number of block types that achieve densities between 25-40 DU/AC.

9. COMMENT: Residential Design Guidelines. The Specific Plan proposes various design concepts that must be adhered to which do not conform to the guidelines which are implemented throughout the City. No discussion is given to this matter.

RESPONSE: The residential design guidelines do not apply to high density housing development constructed on hill-sides; therefore, the Specific Plan has incorporated additional design standards specifically applicable to the site and consistent with the goals of the Specific Plan.

L. RESPONSE TO COMMENTS FROM VEP HOME OWNERS ASSOCIATION,
RECEIVED DECEMBER 12, 1991

1. COMMENT: At its November 26, 1991 general meeting the VEP membership expressed the following concerns with respect to the proposed communications Hill project. Our neighborhoods are just south, across Capitol Expressway from the project site.

We are particularly sensitive to the cumulative impact of this large development in the context of other nearby projects waiting approval and/or financing. These cumulative impacts have been purposely overlooked in the Communications Hill Specific Plan. It seems odd, for example, that the Brandenburg and Valley View Packing sites were not included in your specific planning area; these two large-scale projects alone could have a significant adverse impact on our community. Adding Communication Hill's proposed 4000 residential units, 500,000 square feet of commercial/industrial, and 180,000 feet of heavy industry to those other projects will, we are certain, be dev-

astating. Other major impacts will result from the recently approved Capitol Drive-Ins theater complex and the Caltrain/Amtrac maintenance depot off Monterey Road.

We ask that you analyze the combined impact of these and other projects planned for our area. Piecemeal analysis and planning has always led to trouble in San Jose. This may be yet another example.

RESPONSE: The VEP Homeowners Association's concern that the Communications Hill Specific Plan should encompass a larger area, is noted and incorporated into the environmental record.

The EIR adequately addresses the cumulative impacts of the proposed project together with other reasonably foreseeable projects. The Brandenburg, the Valley View Packing sites, as well as the Caltrain/Amtrack maintenance facility were included in the TRANPLAN assumptions used to analyze the far-term cumulative impacts of the Specific Plan. See response to comment C.15 for a more detailed explanation of cumulative impacts analyzed by the Draft EIR.

2. COMMENT: For twenty years VEP has worked with local government to achieve relief from traffic congestion. We want and are willing to pay for measurable improvement. Our fear is that, as Routes 85 and 87 approach completion, traffic from developments like Communications Hill will inundate these long-awaited facilities. Again, we are NOT satisfied with constant levels of congestion. We want improvement.

RESPONSE: The Communications Hill Draft EIR adequately addresses the far-term traffic impacts of the proposed Plan. Page 127 of the Draft EIR concludes that the Specific Plan will not have a significant impact on far-term traffic. The Specific Plan is a long term plan that is expected to be implemented over a 10 to 15 year period. The City will assess near-term level of service impacts at the time specific projects are proposed.

3. COMMENT: The theory that folks who live on Communications Hill (and the Brandenburg site, etc,) will use transit is very risky. We fear that this theory may backfire. If it does, we lose. Communications Hill is not really served very well by light rail and, the way it is being planned, will be difficult to serve with buses. To help encourage light rail use we endorse the idea of a transit only access road to Canoas Gardens.

RESPONSE: The Specific Plan has been designed to provide access to and encourage light rail (LRT) ridership and other public transit use. The Plan recommends shuttle bus service to the LTR and proposed Caltrain stations, a bus route through the Communications Hill development as well as pedestrian access to transit.

VEP's endorsement of limited access for the Millpond Drive extension is hereby noted and incorporated into the environmental record.

4. COMMENT: But home-to-work trips are only a fraction of our concerns. People don't go grocery shopping on LRT. Weekend and after-hour shopping trips are a growing hassle in our area, as they are city-wide. Vistapark Drive is a major corridor through our community and, as plans to complete it from Blossom Hill Road to Curtner approach implementation, we fear that many new residents of high density projects north of Capitol will drive through our neighborhoods to shopping destinations south of us. In combination with already heavy traffic on Branham Lane, added flows on Vistapark will further divide and pose threats to the safety and quality of life in our neighborhoods. Please save our neighborhoods: consider a plan that does not connect Vistapark north at Capitol.

RESPONSE: The concern of the VEP Homeowners Association regarding additional traffic through their neighborhoods as result of the Vistapark extension is hereby acknowledged and incorporated into the environmental record. The adopted Horizon 2000 General Plan Land Use/Transportation Diagram shows the connection of Vistapark from Blossom Hill Road to Curtner Avenue; consequently both the proposed Specific Plan and the no project alternative assume this connection. The traffic impacts of the Vistapark extension were analyze in the Horizon 2000 General Plan EIR.

The Draft EIR analyzes far-term traffic based on the week-day p.m. peak hour as the worst case period of traffic impact. The Draft EIR concludes that the proposed Specific Plan would not result in a significant traffic impact. The EIR adequately addresses the potentially significant impacts of the proposed project.

5. COMMENT: Added traffic will of course mean worsening air quality. If as many as 10% of all new residents on Communications Hill use transit exclusively, the usual average of about 1.5 cars per resident will mean $4000 \times 1.5 \times .09 = 5400$ more automobiles in our area. (This number will likely be much higher. Less than 3% of our population currently

uses transit. Most optimistic County Transit plans project only 6% peak period ridership in year 2010.) What will the impact of those 5400+ cars (each making multiple trips each day) be on area congestion and smog? We ask that you be realistic in your analysis.

RESPONSE: Page 139 of the Draft EIR identifies that the Specific Plan will result in significant unavoidable of air quality impacts. Pages 116 to 127 of the Draft EIR include an analysis of the potential traffic impacts of the Plan.

6. COMMENT: What impact will 4000 new residences have on the availability of water? We are absolutely fed up with ongoing water shortages. To us brown yards, dirty cars, flushing every third time, and/or showering every other week do not equate to quality of life. This is an issue every one of our members can relate to-- we are keenly aware that every new San Jose resident is competing with us for every drop of water we have. We are aware of no solution to this dilemma in current city planning. We do know that to add more people is to make this problem worse. Have you determined a solution to this issue? As taxpayers and existing residents, we expect and deserve adequate and safe water supplies.

RESPONSE: The Draft EIR on page 171 identifies that the project will not result in a significant impact relative to water service.

7. COMMENT: And we want a place for water to go once we've used it. What is the impact of 4000 more residences on our sewage treatment plant? What impact will this new development have on storm drains and contamination of the Bay? How are these impacts compounded by other developments now under consideration here?

RESPONSE: Page 171 of the Draft EIR identifies that there is adequate sewer service for the proposed project. The City's Development Tracking System monitors the capacity of the sewer treatment plant as new development is approved. At the time a specific project is proposed the capacity of the treatment plant will be re-evaluated to ensure that projected capacity is available.

8. COMMENT: Is there an answer to sewer gas problems experienced for twenty years in the "Birdland" community? Are we to believe that adding more toilets will solve these problems? Is anyone adding up these effects? Is there a solution that we can live comfortably with? If so, who will pay for mitigation?

RESPONSE: Pages 152, 159-160, and 168 of the Draft EIR discuss sanitary sewers. Page 168 of the Draft EIR states that a technical analysis of the sewer system will be required at the time a specific project is proposed. If it is determined that additional flows into the Almaden 1B Interceptor System will potentially exacerbate the reported odor problem then other discharge alternatives would be considered. On page 170 the Draft EIR concludes that there will be no significant environmental impacts to the sewer system that cannot be mitigated to less-than-significant level. The Draft EIR adequately addresses the environmental impacts of the Specific Plan on the sanitary sewer system.

9. COMMENT: Communications Hill infrastructure costs are estimated at approximately \$144 million. Some portion of this will be paid by taxpayers. We wonder whether there will be a net fiscal benefit to our city. Has anyone done an analysis of this? If public money is available to support infrastructure for this project, why can't we seem to get money for badly needed capital projects in existing neighborhoods. Widening Branham Lane between Vistapark and Snell, for example. Or building Vista Park, a project our homeowners association is chipping away at through bake sales because no public money is said to be available.

RESPONSE: The concern of the VEP Homeowners Association regarding the cost vs. benefit of the proposed Specific Plan is acknowledged and incorporated into the environmental record. A preliminary fiscal analysis was prepared in conjunction with the Specific Plan. Cost estimates of infrastructure costs are included on page 76 of the Specific Plan document. The Plan states that the estimated costs are preliminary in nature and do not include the value of land dedications required for right of ways, parks or other public facilities.

10. COMMENT: If there is no fiscal benefit, who will pay for the cops and firefighters we'll need? How will we ever find relief for our overwrought Pearl Avenue Library or fix the potholes in our streets? As density increases, the need for public services grows even faster. Will these services slip below general plan thresholds?

RESPONSE: The concerns of the VEP Homeowners Association regarding existing and future city services are hereby acknowledged and incorporated into the environmental record. Pages 159 to 166 of the Draft EIR discuss the public service impacts of the proposed Specific Plan. Program mitigation included in the Draft EIR would insure

that future implementation of the Specific Plan would not result in significant service impacts.

11. COMMENT: We are concerned that the narrow, car-lined streets and alleys planned for Communications Hill may mean difficulty in access for emergency vehicles--will San Jose insurance rates rise as a result?

RESPONSE: The Department of Public Works and the Fire Department have reviewed the proposed street sections and have determined that they meet city standards.

12. COMMENT: What will be the impact of this large development on our schools: VEP's concerns go beyond just seat space for our youngsters. They deserve quality education which relies on high teacher/student ratios and adequate educational materials. Where will the money be found for these costs?

RESPONSE: VEP Homeowners Association's concerns regarding quality education is hereby acknowledged and incorporated into the environmental record. Also, see response to comment K.3 regarding the fiscal impacts and the second paragraph of A.11 regarding school financing.

13. COMMENT: We are very concerned about the appearance of what you want to build on those hills. You should be, too. VEP opposes plans to alter General Plan Urban Design Policy 10 & 11, making buildings over 45-foot tall allowable there. High rises and/or water towers will be as bad as that microwave tower abomination we've had to look at for years. The hill is beautiful as it is--any but environmentally integrated and sensitively designed development there will be a step backward and a visual blight to our community.

RESPONSE: The concerns of the VEP Homeowners Association regarding the visual impacts of the Specific Plan are hereby acknowledged and incorporated into the environmental record. Page 108 of the Draft EIR identifies that the visual impacts of the Plan will be significant and unavoidable.

14. COMMENT: For the same reason, we are concerned that the proposed improvements (open space, parks, staircases, etc.) may not be affordable for developers. Because of their high cost, we fear that the project may go forward without these enhancements or that developers will ultimately come back with requests to further increase densities in order to pay for improvements. Has anyone analyzed the impact of infrastructure costs on the sale price of an average

residence to see whether this plan will work? Can homes be built there that pay for planned amenities and will be affordable to other than millionaires? For that matter, are the infrastructure costs estimates in fact reasonable (conservative)? Estimates included in the Specific Plan appear quite sketchy and very low to us.

RESPONSE: A fiscal analysis was prepared for the Specific Plan. The VEP Homeowners Association's concern regarding the accuracy of this analysis is hereby acknowledged and incorporated into the environmental record. The Implementation section of the Specific Plan (see page 72-77 of the Specific Plan) lists implementation principles for pathways and stairways, and for the parks, terraces and slopes within the Specific Plan area. These implementation principles will insure that stairs, pathways, parks and utilities are built concurrently with new development. The City's development review process will insure that individual development proposals conform to the Specific Plan.

15. COMMENT: General planning should consider the fiscal, economic, social, and environmental impacts of a proposed project. To be acceptable and successful, a plan must be of benefit to our residents in all four measures. We see little evidence that these factors were given due consideration in the proposed plan. More questions are asked than answered by this proposal. In consequence, we believe that the Communications Hill Specific Plan will add to our city's strife with eroding fiscal conditions and resulting deterioration in urban quality for existing residents.

RESPONSE: Comment noted.

M. RESPONSE TO COMMENTS FROM SANTA CLARA COUNTY TRANSPORTATION AGENCY, RECEIVED DECEMBER 2, 1991.

1. COMMENT: Your October 15, 1991 letter along with the Draft EIR entitled "Communications Hill Specific Plan" dated October 1991 has been reviewed. Our comments are as follows:

The June 17, 1991 and May 28, 1991 letters included our comments concerning the proposed project. A quick review of the Draft EIR indicates that the document does not respond to the following concerns raised in our June 17, 1991 and May 28, 1991 letters:

Extension of Vista Park (sic) Drive to the proposed project

On page 121 of the Draft EIR, it is stated as follows:

Vistapark Drive is assumed to be extended northerly as a four-lane arterial street between Capitol Expressway and Curtner Avenue. The portion between Hillsdale and Curtner Avenue would be built incrementally as the Communications Hill Specific Plan area is developed. The section between Hillsdale Avenue and Capitol Expressway is not included in the Specific Plan area. However, for the purposes of this analysis, Vistapark Drive has been assumed to be completed between Curtner Avenue and Capitol Expressway.

The Draft EIR should explain the reason for not including the improvements of Vista Park (sic) Drive from Capitol Expressway and Hillsdale Avenue in the project's specific plans. Also state as to who will be responsible for improving and funding this portion of Vista Park (sic) Drive.

RESPONSE: The section of Vistapark Drive between Capitol Expressway and Hillsdale Avenue was not included in the project's plans because this section of Vistapark Drive is located outside the perimeter of the Communications Hill Specific Plan area and the Plan does not propose changes to the Land Use/Transportation Diagram for Vistapark Drive between Hillsdale Avenue and Capitol Expressway. The determination of responsibility for improving the portion of Vistapark Drive between Curtner and Hillsdale will be made at the time specific development proposals are submitted that impact this roadway section.

2. COMMENT: Extension of Hillsdale Avenue westerly aligning with Foxworthy Avenue

There is no mention of this comment in the Draft EIR.

RESPONSE: The Specific Plan does not propose the extension of Hillsdale Avenue to align with Foxworthy Avenue because the TRANPLAN analysis does not project major congestion in this area in the far-term and this street connection is not identified on the City Land Use/Transportation Diagram of the Horizon 2000 General Plan.

3. COMMENT: Direct access to North Curtner Avenue and Monterey Road

The Draft EIR on Page 123 discusses access to Monterey Road via Pullman Avenue; however, direct access to Curtner Avenue from the site is not provided.

RESPONSE: The Communications Hill Specific Plan Draft EIR addresses access from the site to both North Curtner and Monterey Road. Page 123 of the Draft EIR, in the section on Site Access states that Vistapark Drive, the central street of the proposed on site roadway system, would connect to existing streets at Curtner Avenue to the north and at Hillside Avenue to the South.

4. COMMENT: Also, the proposed Capitol Expressway Caltrain Station adjacent to southeast side of site at Fehren Drive is not mentioned in the EIR, nor the impact due to this project on proposed station location.

RESPONSE: Figure 3 of the Draft EIR shows the planned CalTrain Station site on the west side of Monterey Road opposite Fehren Drive. The planned CalTrain passenger station is also identified on page 13 of the Draft EIR.

The last two paragraphs of page 69 of the Specific Plan state that:

The plan proposes to maintain the existing light industrial land use designation on the south side of Hillcap Road, however, the potential of this area may change in the near future with the building of a CalTrain passenger platform and park-n-ride lot on Monterey Boulevard.

At the time of realization of the CalTrain facility, development opportunities for a mix of uses currently considered infeasible should be reviewed. This area would become a prime location for transit-oriented development which includes places to work, to shop and to live. Prior to the building of the CalTrain facility, the Plan recommends a planning study be made which investigates the urban design of and potential for integrated mixed-use development.

5. COMMENT: Transit

The Draft EIR does not reflect the comment no. (3) of our June 17, 1991 letter regarding the three incomplete roadway connections within the project.

RESPONSE: The street connections proposed by the County Transportation Agency are located in areas of the Specific Plan where steep topography makes it impossible or impractical to continue the street system for vehicular access. The Draft EIR on page 20 states that where steep

topography precludes the extension of a street, the right-of-way will extend as stairs for pedestrian access.

Furthermore, the proposed roadway connection between Vistapark Drive to the southeast corner of the AT&T Plaza Park would bisect the proposed school/playfield site. A street bisecting a school site would not be consistent with the California State Department of Education school site selection guidelines; therefore, it was not included in the proposed street network for Communications Hill Specific Plan.

6. COMMENT: The EIR should respond to our comment regarding internal roadway circulation design and features so as to accommodate future service.

RESPONSE: The letter from the County Transportation Agency dated June 17, 1991 requests that the project design include features such as curb lanes, sidewalks, cross walks, and handicap ramps to encourage the use of public transit and reduce the dependence on motor vehicles. The Specific Plan is a long range planning document that does not include this level of detail. The general internal roadway circulation pattern is depicted in the Draft EIR on Figure 3 (p. 5) and is discussed in the Draft EIR on pages 19-20. Pages 96-97 of the Specific Plan depict typical cross sections of residential streets, including sidewalks. As indicated in the Draft EIR and the Specific Plan, two objectives of the plan are to develop a pedestrian-oriented community and to provide links to a number of transportation options such as buses, Light Rail and the planned CalTrain passenger station. The Draft EIR is a program level EIR that addresses environmental impacts and mitigation at a level of specificity appropriate to the level of detail contained in the proposed project.

7. COMMENT: On Page 114, in Item a. Methodology, it is stated that the City of San Jose's Level of Service Policy defines an acceptable operating level as Level of Service (LOS) D or better. According to Table 7 on Page 117, the existing LOS of Capitol Expressway/Senter Road intersection is F during PM peak hour. However, no mitigation measures are included to achieve LOS D or better for this intersection. Also, according to Table 10 on Page 125, there will be a Major Negative Impact on Almaden Expressway. However, the Draft EIR concludes on Page 127 that future development under the Specific Plan would result in less than significant impact. This is not consistent. Please explain the basis of conclusion.

RESPONSE: Page 114 of the Draft EIR describes existing traffic conditions in light of the City's near-term Transportation Level of Service Policy. This policy applies to development proposals, not long range planning documents.

Table 7 (page 117) summarizes traffic impacts on system links in the far term based on the TRANPLAN model analysis. This analysis takes into account the proposed Specific Plan, together with other development and transportation improvements expected by the Year 2000. It does not analyze impacts on specific intersections because it is not possible to predict the LOS of a specific intersection in the Year 2000 with any degree of certainty. Page 124 of the Draft EIR explains that a screen line analysis was completed to further assess the potential significance of the increases in congestion on roadway links identified on page 25 (Table 10). Based on this screenline analysis, (see in Appendix E of the Draft EIR) page 124 of the EIR concludes that cumulative traffic impacts are not significant.

A near-term LOS analysis will we prepared at the time specific development is proposed for the Communications Hill Specific Plan area. If the LOS analysis indicates a significant impact, mitigation measures will be incorporated into the project.

It is also correct that Table 10 on page 125 of the Draft EIR indicates a major negative impact on Almaden Expressway north of Capitol Expressway. Due to the nature of the forecast model this only indicates a potentially significant impact; therefore, additional screen line analysis was conducted. Page 124 of the Draft EIR states that screen line analysis indicates that the cumulative impacts are not significant impacts (see Appendix E pages 14-15, and Appendix E of Appendix E).

8. COMMENT: Capitol Expressway is incorrectly stated at (sic) G21 on Page 111.

RESPONSE: The Draft EIR text has been modified to delete reference of Capitol Expressway as G21.

9. COMMENT: It is observed that Almaden Expressway intersections in the project's vicinity are not included on Page 114 in the list of intersections to be analyzed for traffic impact. Please include the following intersections:

- o Almaden Expressway/Foxworthy
- o Almaden Expressway/Ironside

o Almaden Expressway/Branham Lane

RESPONSE: Page 114 of the Draft EIR identifies intersections for the purpose of showing existing Level of Service information in the vicinity of the Specific Plan. The far-term traffic analysis beginning on page 116 of the Draft EIR addresses potential impacts on all segments of Almaden Expressway.

10. COMMENT: On page 123, it is stated that the proposed on-site roadway system would connect to existing city streets at five locations as shown in Figure 11. A review of Figure 11 does not show these five locations. Please clarify.

RESPONSE: Page 123 incorrectly identifies Figure 11 instead of Figure 13. Page 123 of the Draft EIR has been revised to correctly reference Figure 13.

11. COMMENT: On Page 123, in Item b. Site Access it is stated that a shuttle bus service may be implemented between hilltop area and the LRT station. The Draft EIR should specify the funding source of the proposed shuttle service.

RESPONSE: Potential financing of the recommended shuttle bus service would be worked out at the time of project implementation.

12. COMMENT: On Page 127, the Specific Plan Mitigation Measures are listed. The Draft EIR should explain the concept of "Multi-Modal transportation system" for the Communications Hill Area and identify the funding source of the Multi-Modal transportation system, as well as proposed mass transit system serving this project.

RESPONSE: Multi-Modal generally refers to the convergence of several forms of transportation at one spot to provide a convenient way to transfer between modes of transportation. Multi-modal transportation system, as used in the context of the Specific Plan, reflects the priority of the Specific Plan to provide an overall plan and layout of streets, stairs and pathways to facilitate multiple connections to various forms of public transportation.

The term "multi-model" has been deleted from the Specific Plan (page 4) and Draft EIR (page 127) and the meaning of the Specific Plan mitigation measure has been clarified in Section III of this Amendment.

N. RESPONSE TO COMMENTS FROM THE CITY OF SARATOGA, RECEIVED
NOVEMBER 20, 1991

1. COMMENT: One page 119, it is stated that Route 85 (West Valley Freeway) is expected to provide relief to other arteries in the project vicinity. However, Table 9, page 122, does not include the traffic impacts on Route 85.

RESPONSE: Figure VI-27 of the Route 85 Transportation Corridor Project Final Environmental Impact Statement, dated July 1987, shows a decrease in the traffic anticipated for the local roadway system in the vicinity of Communications Hill as a result of the construction of Route 85.

Impacts to Route 85 were addressed in the far term traffic analysis. The Traffic Impact Summary of the Draft EIR (Table 9, page 122) depicts segments of the roadway system that were identified in the TRANPLAN model analysis as being effected, either positively or negatively, in the far term by the proposed project. As indicated on page 11 of Appendix E of the Draft EIR, roadway segments that exhibit no change in traffic congestion, are not included in the Traffic Impact Summary. The proposed project will not result in a significant far-term traffic impact on Route 85; consequently it is not listed in the Traffic Impact Summary. The Draft EIR adequately addresses the potential traffic impacts of the proposed Specific Plan.

2. COMMENT: In addition, no reference is made to the impacts on the air and surface water quality in communities in the alignment of Route 85, such as Saratoga.

RESPONSE: Since no increase in traffic congestion on Route 85 is projected in the far term from the Communications Hill Specific Plan it follows that the Specific Plan will not change the air or water quality impacts of Route 85.

O. RESPONSE TO COMMENTS FROM COUNTY OF SANTA CLARA, PUBLIC SERVICES AGENCY, PARKS AND RECREATION DEPARTMENT, RECEIVED DECEMBER 9, 1991

1. COMMENT: The County of Santa Clara Parks and Recreation Department appreciates the opportunity to comment on the DEIRs mentioned above.

As noted in the DEIR, the most adjacent County Park facility would be the proposed regional trail along the Guadalupe Freeway/Light Rail Corridor. The potential 10,800 residents of 4,000 new residential units will not only put

recreational demands on the trail corridor in the Coyote Creek County Park Chain, but also on County Parks in the area. Santa Teresa County Park, Calero County Park, and Almaden Quicksilver County Park are those that would be most affected.

From our review of the EIR, the proposed project could have an affect on county parks and regional park users in the following CEQA impact categories - Land Use, Visual and Aesthetic Resources, Traffic and Transportation, and Utilities, Facilities and Services. The following comments correspond to the organizational format of the DEIR.

RESPONSE: See response to comments 0.6 through 0.8 below.

2. COMMENT: DESCRIPTION OF THE PROPOSED GENERAL PLAN AMENDMENT. E. PROJECT DESCRIPTION

Page 12 - This agency would be concerned about the loss of the open space character of the site and its affect on County park and trail users. See comments below under II. G. Visual and Aesthetic Resources.

RESPONSE: Page 41 the Draft EIR states that the loss of open space would be partially mitigated through the incorporation of permanent open space areas, but would remain a significant unavoidable impact of the Specific Plan. Also, see response to comments 0.6 through 0.7 below and I.30.

3. COMMENT: Page 15 - This agency would like to have a copy of the Specific Plan to review the comments on the design standards for parks and pathways, specifically Section 3.1.e.

RESPONSE: A copy of the Communications Hill Specific Plan has been mailed to the County of Santa Clara Public Services Agency, Parks and Recreation Department as requested.

4. COMMENT: Page 15 - What organization would bear the responsibility for the management of the proposed open space/trails areas on the proposed development site? The final EIR should address this.

RESPONSE: The Communications Hill Specific Plan does not address the level of detail requested by County Parks and Recreation. The Specific Plan, on page 37, recommends that a maintenance district funded by the residents of Communications Hill should be established for the care and maintenance of the slopes (open space). The details of a

maintenance district would be determined at the time an area wide financing plan is prepared. The Draft EIR addresses the potentially significant impacts of the proposed Specific Plan at a level of specificity appropriate to the level of detail of the proposed Plan.

5. COMMENT: II. ENVIRONMENTAL SETTING, IMPACTS AND MITIGATION MEASURES. A. LAND USE

Page 41 - This agency would be concerned about the loss of the open space character of the site and its affect on County park and trail users. See comments below under II.G. Visual and aesthetic Resources.

RESPONSE: See response to comments 0.2 and 0.6 through 0.8.

6. COMMENT: VISUAL AND AESTHETIC RESOURCES

Page 98 - This agency is concerned about the Visual affects of the proposed project to County Regional Park and Trail users. Two specific elements of the project concern us.

First, the gridiron pattern of street layout and development seems to be contradictory to the natural terrain of the area. Apparently there would be very large amounts of cut and fill required to develop the site. Cut and fill slope of up to 125 feet, as noted on page 104 of the DEIR, are excessive.

It seems that a road layout in harmony with the existing natural terrain would be much less visually intrusive and require much less grading for construction. Terraced development pads along the roads could be developed where grading was needed for development.

RESPONSE: Page 103 of the Draft EIR states that grading for the development of the Specific Plan would be the minimum required to meet engineering design standards for construction of Vistpark Drive and on-site utilities. The grid pattern was oriented to minimize cut and fill. The impacts of grading are addressed on pages 103-104 of the Draft EIR. Page 108 of the Draft EIR identifies the grading impacts of the proposed Specific Plan as an unavoidable significant impact.

Section VI. of the Draft EIR addresses the impacts of alternatives to the proposed project, including, on page

200, a Curvilinear Urban Structure Alternative typical of suburban development. The Draft EIR adequately addresses the impacts of the proposed project and alternatives to the project.

The 125-foot cut and fill slope figure stated on page 104 of the Draft EIR is incorrect. The Draft EIR has been revised to indicate that grading for the residential development would result in cuts measuring as much as 40 feet in depth in some locations.

7. COMMENT: It is possible that the plan has considered this concept in the section VI. B. However, this section is not clearly written, and without the benefit of having the specific Plan to review with this DEIR, it is not discernable that this discussion of "Curvilinear Urban Structure" is the same as that discuss in the previous paragraph.

If it is, then this section does not provide the decision makers with objective information to review the project and its alternative. The statements that there would be increased impacts with the alternative plan regarding land use, noise, visual, geology, hydrology, water quality, biological resources and energy would not be correct. It is also erroneous to contend that the urban design concepts and elements discussed in this section are mutually exclusive to and only superior in a site design using a gridiron pattern.

RESPONSE: The Curvilinear Urban Structure alternative discussed in Section VI. B. of the Draft EIR addresses an alternative that would maximize the dwelling unit yield utilizing a contour following street system. The text of the Draft EIR has been revised to clarify this.

8. COMMENT: Our second concern in this regard is the water tower. The proposed 2.2 million gallon water tank elevated at 115 feet would be a significant visual intrusion on users of the county regional parks and trails as well as the valley residents. The "at grade alternative" discussed in section VI.E. is much preferred. Although we realize that a booster pump system would be needed for this alternative, the visual blight of the elevated tank should be avoided at all costs.

RESPONSE: See response to comment I.30.

9. COMMENT: TRAFFIC AND TRANSPORTATION.

Page 123 - b. The language in the "Site Access" section should not be so tenuous (ie.: "could be planned" and

"may" be implemented") and should support the language on page 127 "Specific Plan Mitigation", thereby definitely providing a multi-modal transportation system. As noted in our response to the NOP, this agency feels that a pedestrian circulation system that connect to trails and mass transit are necessary.

RESPONSE: The County Park Department's concern with the language in the "Site Access" section is acknowledged. Page 123 of the Draft EIR states that the Specific Plan proposes extension of Millpond Drive with access limited to shuttle buses, cyclists and pedestrians. The Draft EIR has been revised in Section III of this document to clearly state that the Plan recommends the implementation of a shuttle bus.

10. COMMENT: Cumulative traffic impacts need to address the proposed project for residential development (Waterford Zoning PDC 91-09-067) of the former Hillsdale Quarry site. Approximately 3,700 new residents would be added to the area with this proposed project.

RESPONSE: See response to comment C.15 for a discussion of cumulative impacts.

11. COMMENT: I. AIR QUALITY

Page 138 - "Specific Plan Mitigations." As noted in the preceding section, pedestrian routes and connections are vital.

RESPONSE: Comment noted.

12. COMMENT: K. UTILITIES, FACILITIES, AND SERVICES
Page 165 - 8. "Parks" It is noted that the City guidelines for parkland dedication would require 37.8 acres of parkland. The project description on page 15 suggests 23.8 acres of park land is proposed. It should be noted that the proposed project does not meet the City's requirements for parkland dedication.

RESPONSE: Please note that page 15 of the Draft EIR has been corrected to indicate 22.8 acres of park land.

In addition to the 22.8 acres which are designated as park/playfields on the Specific Plan Land Use Map, 185 acres are designated as open space. Of the 185 acres of open space, 15 acres are designated as Terraces which will function similarly to park sites. The Southwest Terraces (see Specific Plan p. 43) is a small garden-like park

surrounded by housing; steps with intermittent landings provide access to the terraces of Playfield Terraces (see Specific Plan page 43); and Vistapark Terraces will incorporate the round the hill trail.

The City's Parkland Dedication Ordinance requires dedication of parkland and/or the payment of in-lieu-of fees prior to the approval of a parcel or final map.

13. COMMENT: V. ANY SIGNIFICANT EFFECTS WHICH CANNOT BE AVOIDED IF THE PROPOSED PROJECT IS IMPLEMENTED. Page 195 - Our comments on the significant visual impacts of the proposed project are noted in the preceding paragraphs.

RESPONSE: See responses to comments 0.2 and 0.6 through 0.8.

14. COMMENT: VI. ALTERNATIVES TO THE PROPOSED PROJECT. Page 200 - B. Our comments on this section are noted in Section G. above.

RESPONSE: See response to comment 0.7 above.

15. COMMENT: In summary, the County of Santa Clara Parks and Recreation Department has concerns with the visual impacts of the land use plan and utilities for this proposed project, and the provision for pedestrian connections to County regional trails. The parkland dedication requirements need to be worked out with the City as well as effects of the proposed Waterford project development.

RESPONSE: See response to comments 0.2, 0.6 through 0.10, and 0.12 above.

P. **RESPONSE TO COMMENTS FROM ROBERT J. BETTENCOURT, RECEIVED
JANUARY 13, 1992**

1. COMMENT: This letter sets forth additional comments regarding the Draft EIR General Plan Amendment for the Communications Hill Specific Plan dated October 1991.

Page 28. Paragraphs G and H state that additional environmental review will be necessary for annexation/prezonings, rezonings, and other required approvals. Under a program EIR, subsequent activities must be examined to determine whether an additional environmental document must be prepared. It is not accurate to state that additional environmental review will be necessary. These paragraphs, therefore, should be revised accordingly.

RESPONSE: All projects undergo environmental review. The program-level Communications Hill Specific Plan EIR will be instrumental in identifying issues and determining whether additional environmental documentation will be necessary at the project level.

2. COMMENT: Page 88. The second sentence of the sixth paragraph states as follows: "Prior to submittal of an application, a request for jurisdictional determination would be required." The earlier discussion of wetlands on page 77 states that it is advisable to apply to the Corps for a Preliminary Jurisdictional Determination. These two statements contradict each other and, therefore, we suggest deleting the second sentence from the sixth paragraph on page 88.

RESPONSE: The statements on pages 77 and 88 of the Draft EIR are not contradictory; page 88 refers to wetlands over an acre in area and page 77 refers to wetlands less than an acre in area.

Q. **RESPONSE TO COMMENTS FROM THE CANOAS GARDENS NEIGHBORHOOD ASSOCIATION, RECEIVED JANUARY 23, 1992**

1. COMMENT: Our neighborhood wants to make sure the development of Communication Hill does not impact our sewer and flood control systems negatively. Our residents are worried that the draft EIR does not adequately address these issues.

Our sewer has periodically produced noxious fumes in our neighborhood for 20 years! Only in the last year, after millions? of dollars in renovations, does the odor problem appear to be fixed. This process has made us wary of "experts" evaluation of the sewer system. We feel that any large additional flow in this system will have adverse effects on our neighborhood.

RESPONSE: Page 168 of the Draft EIR states that a technical analysis of potential sewer odor impacts will be required prior to discharging additional flows into the Almaden 1B Interceptor System along Nightingale Drive. If it is determined that additional flow would exacerbate the reported odor problems other discharge alternatives would be identified. The Draft EIR adequately addresses the potentially significant impact of the project at a level of specificity appropriate to the level of specificity of the proposed Specific Plan.

2. COMMENT: Most of our neighborhood is in the "red zone" of the current 100 year flood plan. Any additional water

runoff from Communication Hill could drastically affect flooding in our neighborhood. This is of such profound importance that our residents want more than a casual assurance that our probability of flooding is not increased.

RESPONSE: Page 65 of Draft EIR has been revised in Section III of this Amendment to clarify that SCVWD requires there be no increase in runoff as a consequence of development of the Specific Plan that would result in increased peak flood flows.

R. **COMMENTS FROM THE DEPARTMENT OF THE ARMY, SAN FRANCISCO DISTRICT CORP OF ENGINEERS, RECEIVED FEBRUARY 3, 1992**

1. COMMENT: We have received your submittal of October 1991, (entitled Draft Environmental Impact Report, General Plan Amendment: Communications Hill Specific Plan) for the area bounded by Curtner Avenue, Monterey Highway, Hillside Avenue/Capitol Expressway and S.R. 87, in the City of San Jose, Santa Clara County, California.

Your proposed work may be within our jurisdiction and a permit may be required.

RESPONSE: Pages 84 and 88 of the Draft EIR identify that the Corps may have jurisdiction over wetlands within the Specific Plan area and that a Corps permit may be required.

2. COMMENT: Application for Corps authorization should be made to this office using the application form in the enclosed pamphlet. 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, we are required to advertise the proposed work by issuing a public notice for a period of 30 days.

Due to the large and increasing demand for project evaluation, the San Francisco District must quickly screen applications for accurate information to aid us in making our determinations of jurisdiction. If such information is not included applicants can anticipate delays.

Corps staff will map its jurisdiction if you so choose. We will hold your submittal for the next available field day. Due to the current backlog of requests this may take several months.

Many consultants now offer expertise in Federal jurisdictional analysis. It is generally prudent to involve such expertise when developing plans for activities which may require a Corps of Engineers permit. It is also prudent to check their references and demonstrate expertise.

A jurisdictional survey should be illustrated on a scaled topographic map or site plan. When this is forwarded with an application, Corps staff can validate and authenticate the limits of Corps jurisdiction. While it is not usually necessary to confirm all boundary points, the Corps will verify the jurisdictional boundary along one or more transects and may visit random intermediate points.

If wetlands are part or all of Corps jurisdiction on your property, the Federal Manual for Identifying and Delineating Jurisdictional Wetlands should be used (published 1989; available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402; stock number 024-010-00683-8). Data points should be indicated on the topographic or site map and all data sheets should be included with the application or submittal.

Should you choose to expedite the process by hiring an environmental consultant please forward a map and substantiating data to us, and cite the date of your original request.

RESPONSE: The above information is acknowledged and incorporated into the environmental record.

ATTACHMENT A

FRANKLIN-MCKINLEY SCHOOL DISTRICT INFORMATION

	SCHOOL	YEAR-ROUND CLASSES (Y/N)
1.	J.W. Fair Middle 1702 McLaughlin Avenue	Yes
2.	Franklin Elementary 420 Tully Road	Yes
3.	G.W. Hellyer Elementary 725 Hellyer Avenue	No
4.	Hillsdale Elementary 3200 Water Street	Yes
5.	Jean Meadows Middle 1250 Taper Lane	Yes
6.	R.F. Kennedy Elementary 1602 Lucretia Avenue	Yes
7.	Los Arboles Elementary 455 Los Arboles	No
8.	McKinley Elementary 651 McCredes Avenue	Yes
9.	Santee Elementary 1313 Audubon Drive	Yes
10.	Seven Trees Elementary 3975 Mira Loma Way	Yes
11.	Stonegate Elementary 2605 Gassman Drive	No
12.	Sylvandale Middle 653 Sylvandale Avenue	No
13.	Windmill Spring Elementary 2880 Aetna Way	Yes

ATTACHMENT B

TABLE 4

SPECIAL STATUS BIOLOGICAL SPECIES

SPECIES	STATUS	POTENTIAL	SURVEY
<u>STATE OR FEDERALLY ENDANGERED</u>			
American Peregrine Falcon (<i>Falco peregrinus anatum</i>)	FE, SE	Unlikely, no nesting habitat or foraging value.	No action required.
<u>STATE OR FEDERALLY THREATENED</u>			
Bay Checkerspot Butterfly (<i>Ooecryssus edithae bayensis</i>)	FT	Unlikely, but possible resident.	Further Surveys Recommended. Further Surveys Recommended.
<u>CALIFORNIA SPECIES OF SPECIAL CONCERN, STATE PROTECTED, OR FEDERAL CANDIDATE SPECIES</u>			
Phalaris (<i>Microtus horni</i> , <i>M. jingi</i>)	FC2*	Probable resident.	Minimal Surveys Recommended.
Opler's Longhorn Moth (<i>Adela oplerella</i>)	FC2	Appropriate habitat, probable resident.	Minimal Surveys Recommended.
California Tiger Salamander (<i>Ambystoma tigrinum calif.</i>)	FC2,S	Unlikely but possible resident, appropriate habitat.	Surveys recommended.
Western Spadefoot Toad (<i>Scaphiopus hammondi</i>)	S	Unlikely due to marginal habitat.	None.
Black-shouldered Kite (<i>Elanus caeruleus</i>)	SP	Probable transient, possible resident, appropriate foraging.	None.
Northern Harrier (<i>Circus cyaneus</i>)	S2	Observed foraging.	None.
Sharp-shinned Hawk (<i>Accipiter striatus</i>)	S3	Probable transient.	None.
Cooper's Hawk (<i>Accipiter cooperii</i>)	S3	Observed foraging.	None.
Golden Eagle (<i>Aquila chrysaetos</i>)	SP, S3	Infrequent occasional foraging, unlikely nesting.	None.
Merlin (<i>Falco columbarius</i>)	S1	Unlikely visitor.	None.
Prairie Falcon (<i>Falco mexicanus</i>)	S3	Unlikely visitor.	None.
Burrowing Owl (<i>Athene cucularia</i>)	S2	Occurs on-site.	Surveys recommended.
Badger (<i>Taxidea taxus</i>)	S3	Unlikely resident.	None.
Mescal Canyon jewel flower (<i>Streptanthus albidus</i>)	FC1	Potential habitat on-site, probable occurrence.	Surveys recommended.
Mount Hamilton thistle (<i>Cirsium campylon</i>)	FC2	Unlikely to occur.	Minimal Surveys Recommended.
Fragrant fritillary (<i>Fritillaria lilacea</i>)	FC2	Potential habitat on-site, probable occurrence.	Surveys recommended.
Coastal goldfields (<i>Lathraea conjugens</i>)	FC2	Unlikely to occur.	None.
Scotchell's dudleys (<i>Dudleya scotchellii</i>)	FC1/CNPSIB	Occurs on-site.	Surveys recommended.
Uncommon jewel flower (<i>Streptanthus albidus-ssp. perumocenus</i>)	CNPSIB	Potential habitat on-site, probable occurrence.	Surveys recommended.
<p>FE = Designated as an endangered species by the federal government. SE = Designated as an endangered species by the California Fish and Game Commission. FT = Designated as a threatened species by the federal government. FC1 = Designated as a candidate species by the federal government. Species on list 1 indicates that U.S. Fish and Wildlife Service has conclusive data in possession to list as endangered or threatened. FC2 = Designated as a candidate species by the federal government. Species on list 2 indicates that U.S. Fish and Wildlife Service has information in possession that proposing to list as endangered or threatened is possibly appropriate, but for which conclusive data on biological vulnerability is not currently available to support proposed rules. S = Species of special concern, included are those species whose breeding populations in the state have declined severely or are otherwise so low that extirpation is a real possibility. There are no special legal statutes governing the protection of this group. SP = Fully protected species in the state of California. CNPSIB = Designated as rare by the California Native Plant Society, with limited or vulnerable habitat, eligible for state listing, meets Sec. 1901, Chapter 10 of California Fish and Game Code.</p> <p>*Seen to be listed.</p>			

ATTACHMENT C

SECTION III

REVISIONS TO THE TEXT OF THE DRAFT EIR

SECTION III
REVISIONS TO THE TEXT OF THE EIR

The following are revisions to the text of the Draft EIR. All deletions are indicated with a ~~LINE/NUMBER/TEXT~~ and new wording is underlined.

Page Amendment

- ii Revise the third paragraph as follows:

The proposed Planned Community is consistent with the intent of the Horizon 2000 General Plan to develop Communications Hill as a dense, highly urbanized residential neighborhood in the largely undeveloped upland area (approximately 400 acres). However, the existing General Plan designation allows for a theoretical estimated maximum of 5,000 multi-family additional dwellings primarily in the upland areas of the site, while the proposed plan indicates a potential maximum buildout of 4,000 new multi-family dwelling units. ~~When were units estimated under the existing General Plan designations, it was understood that additional study would identify actual holding capacity. The proposed Specific Plan ~~would~~ would be developed at a density of 25 plus/DU/AC up to a maximum cap of 4,000 new multi-family dwelling units for the entire planning area. ~~Both~~ The 4,000 ~~and 5,000~~ dwelling unit figure represents the maximum number of potential new dwelling units for the Communications Hill Specific Plan area, calculated using the high end of the existing and proposed land use density ranges in the (existing and) proposed General Plan designations. These figures do not include any existing residences in the Specific Plan area.~~

- iii Revise the third bullet, second sentence as follows:

Mid-to high-rise structures would be allowed on 9 tall building sites (see Specific Plan, Figure 44), as well as in two areas described in the Specific Plan Design standards for Multi-Family Housing (see Specific Plan, ~~page/58~~ Section 3.2.b.), ~~and in the Village Center Specific Plan/Design Standards/Specific Plan/page/551~~

- iv Revise the first paragraph under A. LAND USE, MITIGATIONS as follows:

Impacts resulting from loss of open space would be partially mitigated through incorporation of permanent open space areas as proposed by the Specific Plan, but would remain a significant unavoidable impact.

- vi Revise the last two lines under B. GEOLOGY AND SOILS (CONT'D) MITIGATIONS as follows:

Significant/Impacts/with/Unavoidable/Mitigation
(Less-than-Significant Impact with Mitigation)

- vii Revise the heading for C. FLOODING AND DRAINAGE as follows:

C. FLOODING AND DRAINAGE

Page Amendment

viii Revise D. WATER QUALITY MITIGATIONS as follows:

Potential impacts to water quality would be mitigated through implementation of the following General Plan policy: E. Natural Resources; 3. Water Resources; Policy 1 (prevention of excessive siltation). (No related Specific Plan Policies.) Program mitigation would include conformance with applicable NPDES permit requirements. (Less than Significant Impact with Mitigation)

ix Revise the first paragraph under E. BIOLOGICAL RESOURCES (CONT'D) IMPACTS as follows:

Potential loss of habitat of the Metcalf Canyon jewel flower, fragrant fritillary, uncommon jewel flower, Mt. Hamilton thistle, California Tiger Salamander, phalangids (Hom's microblind harvestman and Jung's microblind harvestman) and Opler's longhorn moth.

xi Revise the last sentence under H. TRAFFIC AND TRANSPORTATION, MITIGATIONS as follows:

Specific Plan policies include incorporation of a multi-modal transportation system that can be safely combined in the design of streets provision of access to, and connections with, multiple forms of public transportation, encouragement of pedestrian circulation and use of public transit.

xiii Revise the last sentence under J. NOISE, IMPACTS as follows:

The site is currently exposed to peak noise from aircraft overflights, and auto races at the County Fairground and trains using the adjacent tracks.

xv Revise the last paragraph of the second column as follows:

Specific Plan mitigation for potential impacts related to communication facility transmissions and health effects include restricting the overall height of structures to allow uninterupted transmission of microwaves and setting back buildings at least 200 feet from communication facilities.
(Less-than-Significant Impacts with Mitigation)

xv Revise the last paragraph of L. Environmental Hazardous Impacts as follows:

~~Expose~~ Expansion of Communications facilities could expose future residents to potential health risks from exposure to radio waves and microwaves. ~~is a less-than-significant impact~~
(Potentially Significant Impact)

1 Revise the first paragraph, first sentence as follows:

In 1984 the San Jose City Council adopted the Horizon 2000 General Plan which established the City's intent to permit high density development with a theoretical maximum of up to 5,000 multi-family residences on portions of the Communications Hill area of south-central San Jose (see Figures 1 and 2).

Page Amendment

- 1 Revise the next to last sentence of the second paragraph as follows:

To provide support for a balance jobs/housing ratio, the City ~~will designate the residential~~ designated over 200 net acres of Communications Hill to High Density Residential (12-25 DU/AC) and Very High Density Residential (25-40 DU/AC) land use categories as part of the Horizon 2000 General Plan.

- 4 Revise the third paragraph, second sentence as follows:

The only residential development on the upper reaches of the hill is an established residential neighborhood consisting of approximately 20 10, single-family houses located on Carol Drive just north of the County Communications Center.

- 5 Figure 3 is revised as shown in Attachment C.

- 7 Revise the last sentence of paragraph two as follows:

Planning Commission and City Council actions are scheduled to occur in ~~late 1991 and~~ early 1992.

- 9 Revise the third bullet, second sentence as follows:

Mid-to high-rise structures would be allowed on 9 tall building sites (see Specific Plan, Figure 44), as well as in two areas described in the Specific Plan Design standards for Multi-Family Housing (see Specific Plan, ~~page 88~~ Section 3.2.b), ~~and in the Village Center~~ /~~Specific Plan Design Standards~~ /~~see Specific Plan page 88~~).

- 9 Insert the following between the first and second paragraph under 1. Specific Plan:

Although the Specific Plan does not have a phasing component, general criteria have been established in the Plan to guide the varying increments of building by both private and public entities. It is anticipated that full development of the Plan will occur within the next 10-15 years. The quarry operation will most likely continue for the next 5-10 years. Early development will probably occur on the more accessible, flatter portions of the hill along the perimeter of the Specific Plan area.

- 9 Revise the second paragraph, first sentence under 1. Specific Plan as follows:

The proposed Specific Land Use Plan also provides further delineation of the General Plan concept of multi-family neighborhoods, and includes sites for a public school, parks, a playfield, open spaces, a 50,000 square foot neighborhood commercial center, and adjacent 30,000 square feet mixed use residential/retail area, plus ~~additional commercial~~ /~~limited neighborhood serving small retail uses~~ throughout the proposed residential areas, and civic uses.

Page Amendment

17 Revise 9. Commercial as follows:

The bulk of retail commercial uses would be located within the Village Center (see Figure 6.). An additional 30,000 square feet of retail development could be developed in mixed retail/residential development adjacent to the Village Center. Design standards for commercial areas are described in the Section 3.2.c. of the Specific Plan. Retail uses would be subject to standards for height, massing, parking, loading areas and street frontages.

17 Revise b. Mom & Pop Retail, first sentence as follows:

There are no Mom and Pop sites specifically designated on the Plan; however, these small stores (from 250 to 1,000 square feet) (up to 1,500 square feet) would be dispersed throughout the multi-family neighborhoods. A single cluster of larger Mom & Pop stores could be permitted within the Curtner Grove neighborhood. The aggregate footage should not exceed 8,000 square feet with no more than 2,000 square feet of store(s) at any one location or on any one block.

17 Revise the first sentence of c. Additional Commercial as follows:

The 50,000 square feet listed for retail commercial uses pertain to the Village Center and not other areas.

20 Revise the second paragraph, first sentence as follows:

An extension of Millpond Drive near the existing Millpond Mobile Home Park in the northwest corner of the planning area would be routed through the "North of AT&T at Ridgetop" neighborhood to provide future access for a shuttle bus to the light rail transit station at Curtner Avenue, which may the Specific Plan recommends be provided in the future.

26 Revise the last paragraph, next to the last sentence as follows:

Subsequent rezoning applications under the Specific Plan would occur through a Planned Development (PD) zoning which would be required for projects to be developed adjacent to the Village Center.

28 Revise the first bullet as follows:

o Amend Urban Design policies 10 and 11 to allow the following exception:

For high-density housing sites (40 plus units) within the Village Center area, the maximum height of buildings shall be determined by the specific site plan and the height of the surrounding buildings. The maximum height of buildings shall be determined by the specific site plan and the height of the surrounding buildings.

Page Amendment

28 Development with unlimited height on nine tall building sites within the Communications Hill Planned Community as defined in the Communications Hill Specific Plan.

High density development with height limited to five levels of housing over parking on specified blocks within the Communications Hill Planned Community as defined in the Communications Hill Specific Plan.

28 Revise the second sentence under G. USES OF THIS EIR as follows:

It is the intent of this EIR to provide the City of San Jose and the general public with relevant environmental information to use in considering the approval or denial of the proposed Communications Hill Specific Plan and associated General Plan amendment requests.

29 Add the following to the third bullet (Biotics):

Opher's longhorn moth
Phalangids (Hom's microblind harvestman and Jung's microblind harvestman)
Mt. Hamilton thistle

31 Revise the fourth paragraph as follows:

A number of different uses are located in the Monterey Road area. These include two mobile home parks in the north end of the study area, as well as auto wreckers, auto body shops, and used automobile sales and service ~~(a pet hospital, and a propane outlet located)~~ north of Pullman Avenue. South of Pullman Avenue are located the Evergreen Concrete Batch Plant, the Granite Construction yard, a pet hospital, a propane outlet, and the Capitol Drive-in movie theater complex which also serves as a flea market.

32 Revise the second paragraph, third sentence as follows:

Toward the west along Hillsdale, near the Guadalupe Corridor, are situated a large church structure, a construction yard, the Elk Ridge Estates condominium complex and the Mountain ~~Shadows~~ Springs Mobile Home Park.

32 Revise the third paragraph, third sentence as follows:

An electrical transmission line ~~(21 kv)~~ (60 kv) on tall, wooden poles crosses the hill in an northeast southwest direction.

32 Revise the fourth paragraph, first sentence as follows:

Ten single-family residences, situated on ~~one~~ between half acre and 2 1/2 acre lots, line Carol Drive (a private drive) on the upper west-facing slopes just below the County Communications complex.

Page Amendment

33 Revise the third paragraph under 3. Surrounding Land Uses as follows:

South of Hillsdale Avenue, commercial and residential uses are expected to occupy the currently vacant former Hillsdale Quarry site. Between Canoas Creek and the Guadalupe Freeway, across from the on-site Mountain ~~Shadows~~ Springs Mobile Homes Park, there is a similar mobile home park.

34 Revise the first paragraph, first sentence under LAND USE IMPACTS as follows:

The future development of the Specific Plan project would result in development of approximately 4,000 multi-family dwelling units, 15 single-family residences, ~~1/80,000/square/foot~~ up to an 80,000 square-foot commercial center ~~village/center/inhabiting/commertial~~ plus limited small retail convenience stores dispersed throughout the community, re-use of approximately 27 acres of the Azevedo Quarry for heavy industrial uses, construction of roads and utilities, and the designation of additional land as combined industrial/commercial which could accommodate up to 457,380 square feet for new industrial/commercial uses.

35 Revise the second paragraph, fourth sentence as follows:

The loss of open space would be most apparent to existing residents in the adjacent neighborhoods such as Chateau La Salle Mobile Home Park, Mountain ~~Shadows~~ Springs Mobile Home Park, Elk Ridge Condominiums, Carol Drive Subdivision and Millpond Mobile Home Park.

36 Revise the third sentence under 3. Internal Compatibility of the Specific Plan Land Uses as follows:

Additionally, some glare could result from night lighting of the playfield and village Center, and noise from the Caltrain Maintenance Facility could impact the Chateau La Salle Mobile Home Park and the proposed school site.

36 Revise the first sentence under a. Reduced Privacy as follows:

The existing Mountain ~~Shadows~~ Springs Mobile Home Park in the southwest corner of the Specific Plan area is bordered by the existing Ridge Estate condominiums, Canoas Creek and the Guadalupe Corridor.

37 Revise paragraph two, last sentence as follows:

~~Travel/along/road/drive/would/be/reduced/by/proximaling/and/alternatē access/road/line/"North/of/AT&T/dx/Ridge/road"/neighborhood/and~~ Access to these new sites would be provided from the ridge top area via a perimeter road around the County Communications facility. ~~which~~ curved/along/road/drive.

Page Amendment

37 Revise the last sentence under c. Noise as follows:

As discussed in Section II., J. NOISE, the train washer could affect residents of Chateau La Salle; the school site, and any future Specific Plan residents located within approximately 1,000 feet from the Caltrain facility, unless mitigated as discussed in the Noise section.

38 Revise the first sentence under f. Commercial as follows:

The proposed neighborhood Village Center and adjacent mixed use development which would that could include retail and office development, would be an integral part of the hilltop community.

39 Revise the second paragraph as follows:

The Specific Plan proposes the incorporation of "Mom and Pop" retail stores (250 to 1,000 up to 1,500 square feet in size) for every 500 through out the multi-family residential neighborhoods.

39 Revise second paragraph, last sentence as follows:

Incorporation of Village Center and Mom and Pop the new retail uses throughout the Hill would be considered a less-than significant land use impact with the implementation of the design standards contained in Section 3.2.c of the Specific Plan.

42 Revise the fourth bullet as follows:

- o Height/Limitations/oh/structures/and siting of water tower to avoid interference with communication facilities.

43 Add as the first paragraph under B. GEOLOGY AND SOILS:

The project site is located within a city of San Jose Geologic Hazard Zone. A certificate of Geologic Clearance must be obtained from the Director of Public Works prior to any project-level discretionary approvals within the Specific Plan Area.

Geologic Hazards associated with this site, as described in this section, would also be present under the existing land use designations.

56 Delete the second paragraph as follows:

Considering the abundance and accessibility of rock aggregate and water materials throughout California, as well as the coordination between the specific plan and the proposed quarry extension and modification process, the development of recommendations will as proposed would not represent a significant impact to the extraction of mineral resources. See Section II.F. PLANS, POLICIES AND REGULATIONS, concerning mineral extraction policies.

Page Amendment

- 65 Revise the second paragraph, first sentence as follows:

The Santa Clara Valley Water District has stated that no increase in runoff from new development resulting in an increase in the peak flood flow from ~~development of~~ development of the Communications Hill site would be acceptable during ~~the 100-year~~ flood events, relative to existing conditions.

- 69 Revise the second paragraph, second sentence as follows:

Instead of issuing permits for individual projects, the Regional Water Quality Control Board will issue general permits ~~by 10/10/10~~ by 10/10/10.

- 72 Add the following bullet at the top of the page:

o Individual projects will be subject to NDPEs permits in effect at the time of development.

- 78 Revise the first sentence under a. Introduction as follows:

~~Four~~ Five plants and ~~three~~ six animals which are considered by resource agencies to be Species of Special Concern may be present on Communications Hill, including Setchell's dudleya and borrowing owls that have been confirmed as occurring on the site.

- 79 Revise Table 4 as shown in Attachment B.

- 80 Revise the first paragraph under b. Special Status Plant Species as follows:

~~Four~~ Five special status species of plants have been identified as occurring or possibly occurring in the project area.

- 81 Revise the first paragraph, first sentence under c. Special Status Animal Species as follows:

~~Three~~ Five special status animal species were observed on the site in appropriate habitats, or have favorable habitat conditions on the site which would raise expectation of their potential presence.

- 84 Revise the fourth paragraph, second sentence as follows:

The 0.4-acre wetland along Hillsdale Avenue (SW #2) would be displaced by multi-family residential development; the retention basin west of the railroad tracks (SW #3), ~~is~~ in the area where a Caltrain Maintenance Facility has previously been approved; a manmade retention basin is; the two man-made retention basins located east of the railroad tracks (SW #4 and 5) could be subject to removal by development of new heavy industrial uses in this area; and the freshwater seep would be impacted by grading for Vistapark Drive.

Page Amendment

- 85 Revise the third paragraph, first sentence under 4. Special Status Species as follows:

More detailed surveys are required to verify the presence or absence of the remaining ~~three~~ four special status species (Metcalf Canyon Jewel flower, fragrant fritillary, Mt. Hamilton thistle and uncommon jewel flower).

- 85 Add the following after the fourth paragraph, first sentence:

While it is unlikely that the Mount Hamilton thistle occurs on the Communications Hill site, a specific survey for this special status plant should be undertaken concurrently with surveys for the above-referenced species in order to confirm with certainty this plant's status.

- 86 Revise the 4th paragraph as follows:

In summary, potentially significant impacts to biological resources include the following: loss of approximately five oak trees; loss of a freshwater seep; the loss or modification of the 3-acre seasonal wetland area for retention basin purposes; loss of Setchell's dudleya habitat; potential loss of habitat of the Metcalf Canyon jewel flower, fragrant fritillary, uncommon jewel flower, Mt. Hamilton thistle, phalangids, (Hom's microblind harvestman and Jung's microblind harvestman) Opler's longhorn moth, and California Tiger Salamander if these special status species are found in the Specific Plan area; and loss of burrowing owls habitat.

- 88 Revise the first paragraph under Additional Recommended Mitigation as follows:

Avoidance of impacts to wetland areas and habitat of rare, threatened and/or endangered species, or species of special concern would be the preferable mitigation measure. If development of the proposed Specific Plans cannot be designed to avoid impacts, the following mitigation measures should be considered at the time of project development.

- o Further field studies would be conducted for the threatened Bay checkerspot butterfly, during the time of its peak flight period in the spring, in order to conclusively verify its presence within the Specific Plan area. Field surveys of its host plants would be undertaken concurrently to determine the location and area of potential butterfly habitat which may be subject to disturbance.

- 88 Revise the second bullet on the page as follows:

Site-specific species surveys would be required during the project development environmental review in order to determine the presence or absence of the Metcalf Canyon Jewel flower, the uncommon Jewel flower, the fragrant fritillary, the Mt. Hamilton thistle, the phalangids, Opler's longhorn moth, and to develop mitigation for impacts if they are found to inhabit the site.

Page Amendment

- 98 Revise the first paragraph, second sentence as follows:

Less direct views are available to residents of the Redwood Mobile Home Park, and the Mountain ~~SHADOWS~~ Springs Mobile Home Park which is lower in elevation than the surrounding condominium development.

- 99 Delete the last paragraph, second sentence as follows:

Up to nine mid-rise to high-rise multi-family structures would be built around the edge of the ridgetop. ~~These structures, up to 100 feet or more in height, would be constructed against the hill in a manner that would maintain their overall elevation at or more than 45 feet above the crest of the hill.~~

- 101 Revise the last sentence of the third paragraph as follows:

To residents of the Redwood and Mountain ~~SHADOWS~~ Springs Mobile Home Parks, whose areas are surrounded by existing development, the new development would be less noticeable.

- 104 Revise the third paragraph, first sentence as follows:

Grading for the residential development would result in several cut and fill slopes ~~measuring up to 125 feet~~ of up to 40 feet high; however, these would not be step, exposed cuts as in the quarry area. Instead, these cuts and fills would be relatively shallow, and nearly all of these graded areas would be covered with roads, housing, parks, terraces, and replanted open space. Grading would be evident until the proposed structures were completed, road cuts were blended into the landscape by use of retaining walls or plantings, and street trees were established.

- 111 Revise paragraph five as follows:

Capitol Expressway County Route 621

- 123 Revise the first paragraph, first sentence as follows:

The proposed on-site roadway system would connect to existing City streets at five locations (shown schematically in Figure 11 13).

- 123 Revise the next to the last sentence of the first paragraph as follows:

In addition, the plan recommends implementation of a shuttle bus service ~~may be implemented~~ between the hilltop area and the LRT station.

- 123 Delete the second paragraph, third sentence as follows:

~~The planned 15 single-family units along Barstow Drive would add 148 vehicle trips per weekday and 125 per weekend to the 1,400 to 1,500 daily vehicle trips.~~

- 123 Revise the third paragraph, first sentence as follows:

If full vehicle and pedestrian access is considered at the Millpond Drive connection, an additional 945 to 1145 vehicles per day ~~vehicles~~ during the week and 575 to 725 vehicles are expected on Canoas Garden Avenue.

Page Amendment

127 Revise the first bullet as follows:

- o Provide a multi-modal transportation system for communications Hill area which is safe, efficient and environmentally sensitive access to and connections with multiple forms of public transportation;

144 Revise the second paragraph, first sentence as follows:

No increase in the number of planned Caltrains, Amtrack and freight trains traveling on the Southern Pacific railway line are anticipated in the future beyond the number evaluated in the Caltrain Maintenance Facility Environmental document.

146 Revise the last sentence of the fourth paragraph as follows:

A small portion of the proposed residential neighborhood near Curtner Avenue and Vistapark Drive and a small portion of the school site would also be exposed to an Ldn above 60 dB.

155 Revise section b. Electric Power as follows:

Power in the area is provided by Pacific Gas and Electric Company. There are two existing 21kv overhead lines that transverse the hill generally in a north-south-southwest direction and a 60kv transmission line traverses the hill in a northeast-southeast direction, and a 21kv distribution line runs generally in an east-west direction between the ATT facility and a group of existing residences located along the east side of Route 87 (see Figure 18).

163 Revise the third paragraph as follows:

An elementary school in the Franklin-McKinley School District typically accommodates only 800 students. However, eight of the District's schools are on a year-round track, only 800 students are present during any one quarter. Eight schools in the Franklin-McKinley School District are operated on a year round multi-track program. Schools that normally accommodate 600 students annually when on a nine-month program can accommodate 800 students annually if operated under a year round program, although only 600 students attend school at any given time. Therefore, of the projected 200 additional students only 900 would be attending primary school during any quarter. The East Side Union High School currently maintains 10 full-time high schools operating on a nine-month program, with enrollments typically between 1,000 and 2000 students. Students from future residential development within the Specific Plan area would attend Andrew Hill High School, Yerba Buena High School or one or more of the other current full-time high schools within the District. As the District does not practice a policy of open enrollment, an adjustment(s) in the current attendance boundaries would be required to allow students to attend other high schools.

Page Amendment

163 Revise the last paragraph as follows:

The school districts could employ (singly or in combination) a number of alternatives used by schools in the past to accommodate increased enrollment. These alternatives options might include, but are not limited to, the use of portable classrooms, busing, construction of new schools, year-round operation of schools, use of open enrollment and/or, the opening of closed schools, and school district boundary adjustments or unification.

164 Revise the first sentence of the fourth paragraph as follows:

Approximate A 10.2 acre area has been identified on the Communications Hill Specific Plan as a site for an elementary school and/or This includes the five acre parks/playfield. site/school/site/in conjunction with the adjacent 5/acre/playfield.

165 Revise the table at the top of the page as follows:

Project	No. of New Students		East/Side/Union High/School/District
	Oak Grove School District	Franklin-McKinley School District	
Levin Property (GP91-8-5)	298		798
Communications Hill Cottle Road Prop. (GP91-2-1)		1,200	800
	600		370
Total	898	1,200	1,368

165 Revise the first paragraph as follows:

The students generated by future residential development under cumulative conditions would require the addition of 40 portables in the Oak Grove School District, and 40 portables in the Franklin-McKinley School District. and/or portables in the East/Side/Union High/School/District. In addition, the Oak Grove School District would require eighteen buses to transport new students to and from school(s), and the Franklin-McKinley School District would require thirteen buses. and the East/Side/Union High/School/District would require thirteen buses. and the addition of the portables to the existing school sites and required busing to transport students to and from schools/site would not result in a cumulative significant environmental/physical impact.

Page Amendment

165 Add the following paragraph after the first paragraph:

Appendix N provides a table indicating the number of potential East Side Union High School students that would be generated by proposed projects and approved General Plan Amendments. Approximately 2,850 students would be generated by planned development and approved General Plan Amendments within the East Side Union High School District. East side Union High School District currently has the potential to accommodate approximately 1,200 additional students by the addition of portable classrooms (see Appendix O). The construction of Quimby High School (which is substantially funded), the use of portable classrooms, and the implementation of a multi-track, year-round school program would accommodate students generated by proposed developments within the East Side Union High School District.

The addition of portables to the existing school sites, the operation of schools on a year-round program, planned new school facilities and busing to transport students to and from school, would not result in a significant environmental impact.

168 Add the following seventh bullet to the Specific Plan mitigation:

o Prior to development of the school site the 60 kv transmission line would be relocated. The location of the new easement would be determined in consultation with PG&E.

169 Revise last bullet continuing on top of page 170 as follows:

o Each development project would be required to have noncombustible roofing materials, sprinklered buildings for multi-family dwellings, adequate fire flows, hydrants, emergency vehicle access and all streets would have grades of less than 15%.

170 Revise the last bullet on the page as follows:

Compliance with the City Parkland Dedication Ordinance which would require payment of in lieu of fees or dedication of approximately 37 acres of public parks and playfields located and designed in a manner acceptable to the City.

183 Revise the last sentence of the last paragraph as follows:

For nine multi-family tall building sites located north and south of the AT&T tower, building heights would be unlimited. For specific higher density blocks identified in the Plan, the Specific plan proposes building heights of up to five stories over parking. (See Specific Plan Section 3.2b.) Building heights shall not interfere with transmission from existing communications facilities/structures.

Page Amendment

183 Delete the last paragraph continuing on the top of page 184:

THE/SPECIFIC/PLAN/PROPOSES/THAT/SEVERAL/STRUCTURES/WITHIN/THE
SPECIFIC/PLAN/AREA/EXCEED/A/BOUNDING/HEIGHT/OF/45/FEET//FOR/THE
MULTI-FAMILY/BOUNDING/SITES/LOCATED/IN/THE/TWO/NEIGHBORHOODS/LOCATED
NORTH/AND/SOUTH/OF/THE/KIT/TOWER/AND/FOR/THE/COMMERCIAL/STRUCTURES
LOCATED/IN/THE/VILLAGE/CENTER//THE/SPECIFIC/PLAN/PROPOSES/THE/BOUNDING
HEIGHTS/BE/IMPOSED/ONLY/BY/THE/CITY/THAT/THE/STRUCTURES/DO/NOT
INTERFERE/WITH/TRANSMISSIONS/FROM/EXISTING/COMMUNICATIONS/FACILITIES/

186 Delete the first bullet as follows:

o THE/OVERALL/HEIGHT/OF/BOUNDINGS/AND/OTHER/STRUCTURES/WOULD/BE
RESTRICTED/TO/ALLOW/UNINTERRUPTED/TRANSMISSION/OF/MICROWAVES/ABOUT
STRUCTURES/

195 Revise the second paragraph as follows:

Significant unavoidable land use, visual, biotic and air quality impacts would result from the Communications Hill Specific Plan include the following:

195 Add a sixth bullet as follows:

o Biotic impacts would result from the displacement of Setchell's dudleya habitat.

200 Revise the first paragraph of B. CURVILINEAR URBAN STRUCTURE ALTERNATIVE as follows:

Under the "Curvilinear Urban Structure" alternative, the Communications Hill Specific Plan area would be developed with a curvilinear road layout common to suburban subdivisions instead of the gridiron pattern of streets proposed. THIS/APPROACH/WOULD/MAXIMIZE/ Many curvilinear urban structure alternatives were developed during the preliminary analysis for the Specific Plan. Analysis of alternatives utilizing contours following curvilinear roads coupled with minimal grading resulted in considerably lower housing densities that did not fulfill the City's housing goals. Maximizing the buildable area of the site by grading it relatively flat, thus creating a plateau-like area atop Communications Hill ridge, increased the number of housing units possible using a curvilinear street pattern. However, given the inefficiencies of land use inherent in placing multi-family housing within a curvilinear street alternative, it would still only allow development of up to 2,500 dwelling units, less than 60 percent of the units reflected under the proposed Specific Plan. The irregularly-shaped parcels would not allow for efficient parking layouts, making it difficult to maximize the number of housing units on the site.

Page Amendment

200 Revise the first sentence, paragraph six as follows:

Visual impacts of this alternative would be greater than those under the proposed Specific Plan because the extensive grading necessary to create a hilltop plateau would result in greater terrain alteration.

201 Revise the second and third sentences of the second paragraph as follows:

~~However, the massive grading required therefore~~ would result in significantly greater impacts to hydrology, water quality, and biological resources than would be proposed Specific Plan. ~~As a result, the potential exposure to asbestos and mercury would be significantly increased~~ similar under the alternative concept.

209 Revise the first bullet under Transportation as follows:

Provide a/multi-modal/transportation/system/for/Communications/Hill area/which/is/safe/efficient/and/environmentally/sensitive access to and connections with multiple forms of public transportation.

211 Add the following to A. BIBLIOGRAPHY:

Caltrans Rail Management Branch, Draft Proposed Equipment Maintenance Facility for Peninsula Commute Service, Environmental Assessment/Environmental Impact Report., June 1989.

East Side Union School District, San Jose, California, Overview of Residential Development Impacts, November, 1991 (Revised 11/12/91).

213 Add the following to B. PERSONS AND ORGANIZATIONS CONSULTED,

Franklin-McKinley School District:

Charles Mollin

Pacific Gas and Electric

Pattie Holderman

State of California Department of Education

Stan Rose

Appendices Add Appendices M, N and O (See Section IV of this Amendment)

SECTION IV

REVISIONS TO THE APPENDIX OF THE DRAFT EIR

ATTACHMENT TO APPENDIX E

LIST OF GENERAL PLAN AMENDMENTS INCLUDED IN THE 1991
 CUMULATIVE TRAFFIC ANALYSIS

Ref. No.	Location (Applicant)	Existing General Plan Designation	Request
1-1	SE/c Saratoga & Campbell Aves. - 31.7 ac. -	Mixed Use with no underlying land use designation	Regional Commercial
2-1	W/s Cottle Rd., approx. 650 ft. N. of Santa Teresa Blvd. - 40.4 ac. -	Private Recreation	Medium High Density Residential (8-16 DU/AC)
3-1	NE/c 1st & Julian Sts. - 0.9 ac. -	General Commercial	Residential Support for the Core Area (25+ DU/AC)
3-2	Area bounded by 1st, Market, Julian & Devine Sts. - 2.3 ac. -	Core Area Commercial	Residential Support for the Core Area (25+ DU/AC)
3-3	B/s St. John St., btwn. 4th & 5th Sts. - 2.0 ac. -	Medium High Density Residential (8-16 DU/AC) (0.7 ac.); General Commercial (1.3 ac.)	Residential Support for the Core Area (25+ DU/AC)
3-4	N/s San Fernando St., btwn. Los Gatos Creek & Rt. 87 - 3.6 ac. -	General Commercial	Mixed Use with no underlying land use designation
3-5	N/s San Carlos St., btwn. Route 87 & Delmas Ave. - 0.5 ac. -	Residential Support for the Core Area (25+ DU/AC) (0.4 ac.); Combined Industrial/Commercial (0.1 ac.)	General Commercial

LIST OF GENERAL PLAN AMENDMENTS INCLUDED IN THE 1991
 CUMULATIVE TRAFFIC ANALYSIS

Ref. No.	Location (Applicant)	Existing General Plan Designation	Request
3-6	B/s San Carlos St., btwn. Bird Ave. & Rte. 87 - 6.7 ac. - (See 3-19, 3-20)	Combined Industrial/Commercial	General Commercial
3-7	SE/c Park Ave. & Almaden Blvd. - 0.3 ac. -	Core Area Commercial	Public/Quasi-Public
3-8	SW/c E. William & 6th Sts. - 0.4 ac. -	Very High Density Residential (25-40 DU/AC)	Residential Support for the Core Area (25+ DU/AC)
3-9	E/s 8th St., approx. 150 ft. N. of William St. - 0.8 ac. -	Very High Density Residential (25-40 DU/AC)	Residential Support for the Core Area (25+ DU/AC)
3-10	Area bounded by 4th, 5th, San Fernando & Santa Clara Sts. - 4.3 ac. -	High Density Residential (12-25 DU/AC) (1.8 ac.); General Commercial with Neighborhood Business District overlay (0.9 ac.); General Commercial (1.6 ac.)	Residential Support for the Core Area (25+ DU/AC) (3.4 ac.); Residential Support for the Core Area (25+ DU/AC) with Neighborhood Business District overlay (0.9 ac)
3-11	N/s Paseo de San Antonio, btwn. 3rd & 4th Sts. 3.1 ac.	Core Area Commercial; Residential Support for the Core Area (25+ DU/AC) overlay	Residential Support for the Core Area (25+ DU/AC)
3-12	S/s Balbach St., btwn. Almaden Ave. & 165 ft. N. of Market St. 2.1 ac.	Core Area Commercial	Medium High Density Residential (8-16 DU/AC)

LIST OF GENERAL PLAN AMENDMENTS INCLUDED IN THE 1991
 CUMULATIVE TRAFFIC ANALYSIS

Ref. No.	Location (Applicant)	Existing General Plan Designation	Request
3-13	W/s of 1st St., btwn. Edwards Ave. & Willow St. - 1.1 ac. -	High Density Residential (12-25 DU/AC)	General Commercial
3-14	Area generally bounded by Rte. 280, Rte. 87, Julian St., & 4th St. - 96 ac. -	Core Area Commer- cial; Residential Support for the Core Area (25+ DU/AC) overlay	Core Area Commercial
3-15	S/s Archer St., btwn. 1st St. & Kerley Dr. - 3.5 ac. -	Combined Indus- trial/Commercial	Transit Corridor High Density Res- idential (12+ DU/ AC)
3-23	N/s Archer St., btwn. 1st & 4th Sts. - 5.7 ac. -	Combined Indus- trial/Commercial	Transit Corridor High Density Res- idential (12+ DU/AC)
3-24	S/s E. Santa Clara St., btwn. 16th & 17th Sts. - 5.5 ac. -	Office; Neighbor- hood Business District overlay	Mixed Use with no underlying land use designation; Neighborhood Business District overlay
3-26	SE/c The Alameda & Lenzen Ave. - 2.6 ac. -	Office; Neighbor- hood Business Dis- trict overlay; within area of Historic Sensitive- ity	Residential Support for the Core Area (25+ DU/AC); Neighborhood Business District overlay; within area of Historic Sensitivity

LIST OF GENERAL PLAN AMENDMENTS INCLUDED IN THE 1991
 CUMULATIVE TRAFFIC ANALYSIS

Ref. No.	Location (Applicant)	Existing General Plan Designation	Request
4-1	B/s Berryessa Rd., W. of the Union Pacific Railroad - 97.5 ac. -	Combined Industrial/Commercial (96 ac.); Public Park/Open Space (1.5 ac.)	Mixed Use with No Underlying Land Use Designation (96 ac.); Public Park/Open Space (1.5 ac.)
7-1	W/s Hwy. 87, S. of the terminus of Canoas Garden Ave. - 9.7 ac. -	Non-Urban Hillside	Transit Corridor High Density Residential (12- DU/AC) (6.5 ac.); Public/Quasi-Public (0.7 ac.); Non-Urban Hillside (2.5 ac.)
7-4	NW of terminus of Water & Wall Sts. - 13 ac. -	Light Industrial	High Density Residential (12-25 DU/AC)
7-5	NW/c Parrott St. & Senter Rd. - 20.6 ac. -	Heavy Industrial	General Commercial
7-6	NE/c Quinn Ave. & Will Wool Dr. - 17.0 ac. -	Industrial Park	Medium High Density Residential (8-15 DU/AC)
Comm. Hill	Monterey Rd. at Capitol Expwy -400 ac.-	Mixed Use	Very High Density Residential (25+DU/AC); Commercial; Light Industrial
8-1	S/s Wendover Ln., W. of the S. terminus of Bieman Blvd - 18.7 ac. -	Silver Creek Planned Residential Community; Rural Residential (0.2 DU/AC)	Silver Creek Planned Residential Community; Rural Residential (0.2 DU/AC) (5.4 ac.); Medium Low Density Residential (5 DU/AC) (13.3 ac.)

LIST OF GENERAL PLAN AMENDMENTS INCLUDED IN THE 1991
 CUMULATIVE TRAFFIC ANALYSIS

Ref. No.	Location (Applicant)	Existing General Plan Designation	Request
8-3a	SE/c Kettman Rd. & Casey Wy. - 39.9 ac. - (See T-15)	Silver Creek Planned Residential Community; Rural Residential (0.2 DU/AC)	Silver Creek Planned Residential Community; Rural Residential (0.2 DU/AC) (32 ac.); Medium Low Density Residential (5 DU/AC) (5.6 ac.); Medium Density Residential (8 DU/AC) (2.3 ac.)
8-3b	Approx. 350 ft. W. of Cadwallader Ave., 250 ft. S. of Country Vista Ct. - 3.5 ac. -	Silver Creek Planned Residential Community; Rural Residential (0.2 DU/AC)	Silver Creek Planned Residential Community; Rural Residential (0.2 DU/AC) (1 ac.); Estate Residential (1 DU/AC) (2.5 ac.)
8-3c	Approx. 1300 ft. SE. of the intersection of Yerba Buena Rd. & Rte. 101 - 3.3 ac. -	Silver Creek Planned Residential Community; Non-Urban Hillside	Silver Creek Planned Residential Community; Non-Urban Hillside (1.8 ac.); Estate Residential (1 DU/AC) (1.5 ac.)
8-3d	Approx. 300 ft. W. of the intersection of Yerba Buena Ave. & Kolnes Ct. - 6.0 ac. -	Silver Creek Planned Residential Community; Rural Residential (0.2 DU/AC)	Silver Creek Planned Residential Community; Rural Residential (0.2 DU/AC) (2 ac.); Estate Residential (1 DU/AC) (4 ac.)

LIST OF GENERAL PLAN AMENDMENTS INCLUDED IN THE 1991
 CUMULATIVE TRAFFIC ANALYSIS

Ref. No.	Location (Applicant)	Existing General Plan Designation	Request
8-4	NE/s Yerba Buena Rd., 150 ft. S. of Baronet Ct. - 56.8 ac. -	Silver Creek Planned Residential Community; Rural Residential (0.2 DU/AC) (53 ac.); Public Park Open Space (3.8 ac.)	Silver Creek Planned Residential Community; Rural Residential (0.2 DU/AC) (20 ac.); Estate Residential (1 DU/AC)(33 ac.); Public Park/Open Space (3.8 ac.)
8-5	Approx. 900 ft. SE. of the intersection of Piercy Rd. & Tennant Ave. - 92 ac. -	Campus Industrial	Medium High Density Residential (8-16 DU/AC)
10-1	SE/c of Santa Teresa Blvd. & Blossom Hill Rd. - 24.7 ac. -	High Density Residential (12-25 DU/AC)	High Density Residential (12-25 DU/AC) (13.7 ac.); Neighborhood Community Commercial (11 ac.)

ATTACHMENT TO APPENDIX I

17 December 1991

Bert Verrips
Nolte and Associates
60 South Market Street, Suite 60
San Jose, CA 95113

Supplemental report on the status of the Bay checkerspot butterfly on Communications Hill (San Jose, Santa Clara County)

Please consider this report supplemental to our letter dated 28 May 1991 (submitted to Nolte and Associates). The serpentine-soil based grasslands located on Communications Hill have been surveyed for the Bay checkerspot butterfly (*Euphydryas editha bayensis*) annually by field biologists from the Center for Conservation Biology since 1989. During these three years the site was visited on 12 occasions on days of appropriately good weather during the probable adult flight period (as determined by the butterfly's phenology at other south Santa Clara County sites). No Bay checkerspot butterflies were observed during any of the site visits.

The serpentine-soil based grasslands of Communications Hill support scattered patches of the butterfly's larval host plants, *Plantago erecta* and *Orthocarpus* species. A number of plant species potentially providing nectar resources are also found on the site, including species of *Linanthus*, *Lomatium*, *Muilla* and *Lasthenia*. On Communications Hill, however, the larval host plants and the adult nectar resources are found primarily on south-facing and west-facing slope exposures. Slope exposures of these types are generally considered too warm to sustain Bay checkerspot butterfly populations over the long-term. Serpentine-soil based grasslands on microclimatically cool or moderate slopes, the presence of which is usually considered critical for the local persistence of Bay checkerspot butterflies, may have existed on the site, but would have been destroyed when the quarry located on the northeast portion of the site was developed. The lack of serpentine-soil based grasslands on cool and moderate slope exposures compromises the ability of Communications Hill to support Bay checkerspot butterflies except during periods of exceptionally favorable weather.

In some situations serpentine-soil based grasslands on comparatively warm slope exposures may be critical to the local persistence of the Bay checkerspot butterfly -- potentially providing early season adult nectar resources or routes for dispersal between areas of more suitable habitat. The relative isolation of the site, approximately 4.5 kilometers from the nearest known Bay checkerspot butterfly population (in the Silver Creek Hills), and geographic position in the middle of the

southern Santa Clara Valley, well away from the valley-defining ridge-lines favored by the butterfly, militates against Communications Hill as an effective stepping-stone dispersal route used by the Bay checkerspot butterfly.

It is our understanding that Communications Hill has not been surveyed for either Opler's longhorn moth (*Adela oplerella*) or for blind harvestmen (*Microcina* species). *Platystemon californicus*, the larval host plant of *Adela oplerella*, has been recorded from the site, but we know of no collections of microlepidoptera from the site.

Given our field observations, the topographic orientation of the remaining serpentine-soil based grasslands on the site, and the comparative isolation of the site, it is very doubtful that a population of Bay checkerspot butterflies is resident on Communications Hill. Opler's longhorn moth and one or more species of blind harvestmen may exist on the site, and further surveys should be effective in clarifying their presence or absence.

Alan E. Launer, Ph. D.
Staff Biologist

APPENDIX M

FRANKLIN-McKINLEY SCHOOL DISTRICT

430 TULLY ROAD • SAN JOSE, CALIFORNIA • 95111 • (408) 283-6300 • FAX (408) 283-6022



SUPERINTENDENT
Dr. Dolores A. Ballesteros

March 5, 1991

Kent Edens
Deputy Director of Planning
City of San Jose
801 North First Street
San Jose, CA 95110-1795

Dear Mr. Edens:

Thank you for your letter of February 27 regarding potential need for school sites on Communication Hill. This is a major concern to the district and we submit the following information for your review:

1. The district currently has 9,731 students, preschool-8 and anticipate approximately 9,850 for 91-92.
2. The district has projected at least .3 children from each of the residential units on Communication Hill, giving the district approximately 11,000 students on the build-out.
3. The district has 8 four-track, year-round schools to help relieve student enrollment impaction.
4. The district has 113 portables, trailers and relocatables, in addition to the eight year-round schools, because of student enrollment impaction.
5. Even if all district schools go four-track, there is a continued need for the use of portables and two new schools, one located on Communication Hill.
6. Currently, there is no district plan to place all schools on a four-track schedule. The district feels there should be a calendar choice for parents.
7. The district has been approved by the Office of Local Assistance, Sacramento, for an elementary school on Communication Hill; however, the district does not have eligible points for immediate funding.

BOARD OF EDUCATION

Francisco Dominguez

Leola Fisher

Reynold Vasquez

John Lopez

Paula W. Leach

Letter to Kent Edens

March 5, 1991

Page Two

8. The district has been approved for a new middle school to be located on Wool Creek Drive; however, the district lacks eligibility points for state funding. This school will not alleviate crowding because it is the intent to eliminate leased portables and move all sixth graders into the middle schools. It will, however, place most of the students in core facilities.
9. Franklin-McKinley School District and East Side Unified High School District are both impacted by Communication Hill.

Sincerely,



DOLORES A. BALLESTEROS
Superintendent

ps

cc: Bill Glynn

APPENDIX N

NUMBER OF STUDENTS GENERATED BY PROPOSED
PROJECTS AND APPROVED GENERAL PLAN AMENDMENTS

Project	Potential Dwelling Units	Potential Number of Students
Waterford	1,516	303
Communications Hill Specific Plan	4,000	800
Flea Market GP*	1,464	293
Sobrato GP	268	45
Rincon De Los Esteros	265	53
KEEN Radio	205	41
Fleming Ave.	25	5
Levin GP	990	198
Jasmine Ranch	31	6
Evergreen Specific Plan	3,000	600
Silver Creek Country	1,500	310
Cerro Plata	550	110
Richmond Ranch	260	52
Greenbriar's Hillstone	136	27
Total	14,210	2,843

*1991 General Plan Amendment request was deferred to the
1992 General Plan Annual Review.
General Plan Annual Review

APPENDIX O

NUMBERS OF POTENTIAL CLASSROOM SITES

SCHOOL	NUMBER OF POTENTIAL PORTABLE CLASSROOM SITES	CLASSROOM LOADING	NUMBER OF STUDENTS THAT COULD BE POTENTIALLY HOUSED
ANDREW HILL	8	28	224
FOOTHILL	2	28	56
INDEPENDENCE	0	28	0
JAMES LICK	0	28	0
MT. PLEASANT	8	28	224
OAK GROVE	4	28	112
PIEDMONT HILLS	2	28	56
SANTA TERESA	8	28	224
SILVER CREEK	5	28	140
W. C. OVERFELT	3	28	84
YERBA BUENA	2	28	56
TOTAL	42		1176

SECTION V

DRAFT EIR DISTRIBUTION LIST

SECTION V
COMMUNICATIONS HILL SPECIFIC PLAN DRAFT EIR
DISTRIBUTION LIST

Copies of the Draft EIR were sent to the following agencies and individuals:

COUNTY OF SANTA CLARA

Planning Department
Department of Parks and Recreation
Transportation Agency

FEDERAL AGENCIES

Army Corps of Engineers
Federal Highway Administration
Fish and Wildlife Service

SPECIAL DISTRICTS

Santa Clara Valley Water District

REGIONAL AGENCIES

Bay Area Air Quality Management District
Association of Bay Area Governments
Metropolitan Transportation Commission
San Francisco Bay Regional Water Quality Control Board

STATE AGENCIES

CALTRANS
Archaeological Information Center, Sonoma State
University
Department of Fish and Game
Governors Office of Planning and Research

OTHERS

East Side Union High School District
Franklin-McKinley Elementary School District
San Jose Main Library
San Jose Library, Willow Glen Branch
San Jose Library, Pearl Branch
San Jose Library, Cambrian Branch
San Jose State University (Library)
SJSU Department of Geography and Environmental Studies
Pacific Gas and Electric Company
San Jose Water Company
Water Resources Board

Waste Management Board
PG&E Region Land Planning
Southern Pacific Transportation Company

INDIVIDUALS/PRIVATE ORGANIZATIONS

Rob Bettencourt
Sharon Freitas
Scott Fuller
David Powers, David J. Powers and Associates
Evelyn Wright, Environmental Science Associates
Mr. Noor Billawala, Billawala Enterprises
Jim Zavagno, Mindigo and Associates
Loma Prieta Chapter Peninsula Conservation Center,
Sierra Club
Cecily Harris, Audobon Society of Santa Clara Valley
Elizabeth Mercer, Economic and Planning Systems
Valerie Young, CH2M HILL
Vicky Moore, Greenbelt Alliance
Peter Leffler, Staff Hydrologist, Lowney Associates
Society of California Archaeology (SJSU)

SECTION VI

COMMENTS RECEIVED ON THE DRAFT EIR

November 20, 1991

(916) 441-0986
FAX 441-3048

Lee Quintana, Report Manager
Planning Department
City of San Jose
801 North First Street
San Jose, CA 95110

RECEIVED
NOV 21 1991
CITY OF SAN JOSE
PLANNING DEPARTMENT

Dear Lee:

Please consider this correspondence as the official response from the Franklin McKinley Elementary School District to the Draft Environmental Impact Report for the Communication Hill specific plan. We provide these comments for your review and request that all comments be considered prior to the adoption of the final Environmental Impact Report. We request that all responses to our comments be provided to the District in writing for our further review.

We consider the Draft Environmental Impact Report to be informational, but inadequate. Factual data presented is inaccurate. Assumptions regarding Franklin McKinley educational facility policy are erroneous and the cavalier way in which the study analyzes the impact of the Communication Hill Project does not meet the requirements of the California Environmental Quality Act (CEQA) of 1970. We question the study with regard to completeness, accuracy and its effort to fully disclose the environmental impact of this project on the Franklin McKinley Elementary School District.

Requirements of CEQA

The California Environmental Quality Act requires that an Environmental Impact Report be prepared to examine all potentially significant effects that a project may have upon the environment. In evaluating a project for potentially significant effects, CEQA and the State guidelines for the implementing CEQA specifically require that cities and counties consider the way in which a proposed project could foster economic or population growth and thereby tax existing community service facilities, including schools.

California courts have consistently held that an adverse impact on school facilities is a "significant effect on the environment", within the meaning of CEQA and, accordingly, requires a full environmental review. For example, in El Dorado

Union High School District v. City of Placerville (1983) 144 Cal.App.3d 123, 192 Cal.Rptr. 480, the City was considering approval of a new 552-unit residential development. The local high school district demanded that a full Environmental Impact Report be prepared to consider the effects of the proposed development on school facilities. The city and the developer refused, arguing that potential increases in student enrollment are not physical environmental effects cognizable under CEQA. The court rejected the city's arguments, holding that, where there was evidence of overcrowded school facilities, projections of gradually increasing school enrollment and the necessity for construction of new school facilities, CEQA required a full Environmental Impact Report to address the impact of proposed residential development on the school district. Id., at 131-132, 192 Cal.Rptr. at 484.

The El Dorado court based its decision, in part, on Fullerton Joint Union High School District v. State Board of Education (1982) 32 Cal.3d 779, 187 Cal.Rptr. 398, where the Supreme Court held that a school district reorganization plan which would likely require the construction of new school facilities raised the "possibility of a significant impact" and therefore was subject to a thorough environmental review under CEQA.

The position taken by the courts in El Dorado and Fullerton has been more recently followed in William S. Hart Union High School District v. Regional Planning Commission of the County of Los Angeles (1991) 277 Cal.Rptr. 645 and Murrieta Valley v. County of Riverside, supra. In each of these decisions, the court held the county liable, under CEQA, for failing to consider school impact measures when granting legislative approvals which paved the way for new development projects.

These court decisions make it absolutely clear that, where there is evidence that a project may have an adverse impact on school facilities, CEQA requires a detailed evaluation of this impact. Where this impact is found to be significant, the Environmental Impact Report must incorporate adequate mitigation measures, which eliminate the impact or reduce it to a level of insignificance. (14 California Code of Regulations Section 15092.)

Adequacy of the report

While this Draft Environmental Impact Report indicates an impact on the school districts, the impacts are understated and based on assumptions that are erroneous.

1) The report states that schools and sites in the Franklin McKinley Elementary School District are at or over capacity (page 157) and yet, as a mitigation measure, loads these schools with 1200 more students from new development. If the schools and sites "are at capacity", a mitigation measure that will load more students on the site is an inadequate mitigation measure. What is the justification for this recommendation?

2) The student yield as stated in the Draft Environmental Impact Report is .3 students per household. This is wrong. The District has completed a Developer Fee Justification Document that establishes the student yield at .56 students. The break down of this student yield is K - 6 = .41 and 7 - 8 = .15 for the total of .56. The Draft Environmental Impact Report has understated the student yield by .26 students. This error has resulted in an understated projected enrollment of 1040 K - 8 students.

Calculations of Students Generated

	Student Yield	x	Units =	Student Generated	
Official Student Yield	.56		4000	2240	
DEIR Student Yield	.3		4000	<u>1200</u>	
				1040	Difference

The student yield calculated by the District incorporated a demographically sound methodology to determine a valid number and was conducted by the Center of Educational Planning in San Jose. What justification can the study provide that would indicate a student yield of .3 students per household? (page 163)

3) The study indicates that an elementary school "typically accommodates only 800 students" (emphasis added). An 800 student elementary school is a large school. A 600 student elementary school will accommodate 800 on a year round program. 600 students are present at any given time.

What is the justification for creating overcrowded K - 6 elementary schools? Do you have educational research that show larger schools (800) on campus are better than moderate size schools? If so, please site the research.

4) The study indicates that "alternatives might include, but are not limited to, the use of portable classrooms, busing, construction of new schools, year round operation of schools, use of open enrollment, and/or the opening of closed school."

This paragraph is an excellent indication of the "boilerplate" approach used in the inaccurate, inadequate and flawed Draft Environmental Impact Report. Let's consider these issues one by one.

1) The District is currently utilizing 78 portable classrooms. The state standard for relocatable classrooms is 30% relocatable classrooms. The District currently has over 30% portable classrooms which exceeds the state standard. In order to house the students generated by the "Communication Hill Project", the

District would add 74 more portables and have 51% portable classrooms. How do you justify exceeding the state portable standard by an additional 74 portables.

2) Increased busing is one of the most expensive and unsatisfactory solutions to the impact created. The District currently operates a fleet of 17 buses. We would need an additional 32 buses to serve the additional students generated by the Communication Hill Project. The District expends \$455,000 per year, in excess of state support, for its current transportation program. These additional buses would not mitigate but rather compound an already existing logistical and financial problem. In what way would this alternative serve to mitigate impact created by the project? Does an increase of 32 buses compound other environmental issues? How will the District pay for buses and on going costs? How does busing accommodate the District goal of neighborhood schools?

3) Construction of new schools is a viable alternative. Where is the language in the Draft Environmental Impact Report that dedicates adequate school sites for school construction? Where does the District obtain funds to construct the new school?

4) The suggestion that year round programs be utilized by the Franklin McKinley Elementary School District as an alternative is inappropriate. The District is currently operating on a multi track year round program. Why do you suggest that we implement an alternative that is already being utilized? Do you have other year round suggestions? If so, please explain.

5) You suggest that we use "open enrollment." At the same time you stipulate that we are at capacity, you suggest that open enrollment is an alternative. How does "open enrollment" mitigate student housing impacts when a District is at capacity? Please explain.

6) The opening of closed schools as an alternative might work if a District had closed schools that could be opened. Where are the closed schools located in the Franklin McKinley District?

The alternatives that are suggested on page 163 are inappropriate to this study. It is an indication that the Draft Environmental Impact Report is not in compliance with CEQA requirement and was prepared in "boilerplate" fashion without application to the Franklin McKinley Elementary School District. Why do you suggest alternatives that already exist or are inappropriate to the Franklin McKinley District as ways to mitigate impact?

On page 164, the study suggests the 40 portables will be needed at the elementary schools. That number should be 74 based on a .56 student yield. The District has no more room on its current sites for portables. Pacific Gas & Electric

refuses to add transformers to the current sites because current sites are at 110% capacity at this time. No more water hookups at current sites are available. The congestion created by adding portables will not be approved by the fire marshall. How do we address these issues? Please explain.

The study indicates that a five acre site has been identified (page 164). Do you recommend schools of 800 on a 5 acre site? Would you please explain how 800 students are to be housed on 5 acres? The state standard for a K - 6 school of 600 is a 10 acre site. Where in the report is the identification of adequate sites? Attached is a copy of the "State Criteria for Site Selection." You may wish to use this as a reference in answering these questions.

The following quote is from page 164 of the report "additional students that would be generated by development of the proposed specific plan would impact the fiscal resources of the District. However, the increased demand on school facilities associated with future residential development would not have a significant environmental impact." (Emphasis added)

We provide the following analysis of the fiscal impact, based on student housing needs, that will be created by the Communication Hill Project.

Fiscal Impact of Communication Hill
on the Franklin McKinley Elementary School District

Grade	Student Yield	x	Units	=	Students	x	Cost To House	=	Total Cost
K - 6	.41		4000		1640		\$10,231		\$16,778,840
7 - 8	.15		4000		600		\$13,179		\$ 7,907,400
	.56				2240				\$24,686,240

The total cost to house students generated by the Communication Hill Project is \$24,686,240. This is based on land at \$200,000/acre and utilizing the year round program currently in effect in the District. The building will be constructed at the state standard with 30% relocatable classrooms.

Expected revenue from Statutory Fees

Units	x	Avg Sq Ft	=	Total Sq Ft	x	Statutory Fee	=	Total Fees
4000		1200		4,800,000		\$1.09		\$5,232,000

The total fiscal impact after statutory fees are collected is:

Impact	24,686,240
Statutory Fee	5,232,000
Unmitigated Impact	19,454,240

The fact that the report states that "residential development would not have a significant environmental impact" when we demonstrate that the unmitigated impact is \$19,454,240 is further evidence that the Draft Environmental Impact Report is inadequate. Do you consider an impact of \$19,454,240 to be less than significant? If so, please explain.

Mitigation Measures -

We agree with the statement on page 167 in Goals and Practices D.Services and Facilities; Level of Service Policies:

2. Capital and facility needs generated by new development should be financed by new development. The existing community should not be burdened by increased taxes or by lowered service levels to accommodate the needs created by new growth. The City Council may provide a system whereby funds for capital and facility needs may be advanced and later repaid by the affected property owners.

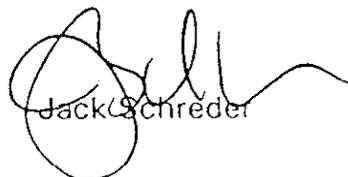
The language in item 18 on page 167 is inadequate to require mitigation of impact. We request that this language be changed as follows:

18. The City shall require mitigation of all impacts on school districts created by new development in the Communication Hill specific plan area. The evidence that developers have satisfied this requirement shall be a mitigation agreement signed by an authorized representative of the District and the developer(s).

We are very concerned that the Environmental Impact Report adequately address the environmental issues related to schools as required by CEQA. This document as written does not adequately address those issues.

We are pleased to discuss these issues at your convenience.

Sincerely,


Jack Schreder

CRITERIA FOR SITE SELECTION

SIZE/SHAPE

	<u>Grade</u>	<u>Size</u>	<u>Students</u>
Minimum net usable acres:	K-6	10 acres	600
	7-8	20 acres	750
	9-12	40 acres	1500
	Cont. High	8 acres	

Site should be basically level and rectangular in shape (recommended not more than 3 to 5 width to length ratio).

ACCESS/STREETS

Site must be safely and easily accessible to residential neighborhoods by pedestrian, bus, and private automobile traffic on publicly maintained roadways or walkways. Sites adjacent to streets with relatively high traffic volumes are not considered acceptable unless other safe access is available for the neighborhood. A new elementary school site is not acceptable along existing or proposed major streets. Street frontage on only two sides of the school is preferred.

AIRPORTS

Site must not be located within any aircraft accident exposure or airport safety areas, nor conflict with any ALUC, FAA, AICUZ, or California Division of Aeronautics policies or regulations. (If the site is within 2 miles of an airport runway or heliport, it must receive California Division of Aeronautics review).

ENVIRONMENTAL CONSTRAINTS/HAZARDS

Site, and adjacent lands affecting the use of the site, must be free of any significant environmental constraints, including but not limited to protected habitats or species, watercourses, wetlands or vernal pools, potentially toxic and hazardous substances, and geologic, seismic, topographic, or soil restrictions. Application of agricultural chemicals on farmlands adjacent to the proposed school site may be considered a constraint.

Site must not be significantly affected by any nuisance factors such as odors associated with farms operations, landfills, or sewage treatment plants.

Site must not be traversed by or immediately adjacent to major fuel, natural gas, or hazardous materials/waste pipelines or storage tanks.

Site must not be a current or previous hazardous or solid waste disposal site, or a hazardous substance release site.

Site should not be within 1/4 mile of any facility that might reasonably be anticipated to emit hazardous or acutely hazardous air emissions.

FLOODING

Site must not be located within the 100 year flood plain as indicated on the most recent FEMA Flood Insurance Rate Maps or within flood areas as indicated on local flood maps.

LAND USE PLANS

Site must be adjacent to compatible existing uses, general plan designations and zones. Industrial and commercial uses are typically not considered compatible adjacent uses for elementary schools. Site must not be on land under a Williamson Act Contract. In addition, the site should be designated on the general plan and community plan land use maps as a proposed and eventually as an existing school site.

Site should have a minimum of existing structures to be destroyed or removed and households to be relocated.

NOISE

Site must not be located within an existing or proposed noise contour line of CNEL/LdN 65 or greater. All portions of the site must be mitigatable to 60 LdN.

OTHER CRITERIA

In addition, the site must meet all State Department of Education site review requirements.

The District also requests that if the school site is located in or is proposed to be in a Community Facilities District (CFD), that the site be exempt from these taxes. If the CFD does not exempt public schools from taxes, the site should be zoned to allow the lowest tax rate possible for the site before the district acquires or utilizes the site.

POWERLINES

Site is located at least 100 feet from easement for existing or planned 100-110 kV powerlines, 150 feet from easement for existing or planned 220-230 kV powerlines, 350 feet from easement for existing or planned 500-550 kV powerlines.

RAILROAD TRACKS

Site must be located at least 1,000 feet from utilized or potentially utilized railroad tracks. If the site is within 2,500 feet of railroad tracks, the District must be advised.

UTILITIES

Site has or will have a timely basis access to all utilities and services, including sewer, water, gas, electric, and drainage. Utility easements on the site should be avoided.

Rob Corley

Consultant, School Facilities & Planning
3875 Telegraph Road, Suite A-108
Ventura, California 93003-3419
[FAX (805) 658-6433]
(805) 658-2995

RECEIVED

DEC 02 1991

CITY OF SAN JOSE
PLANNING DEPARTMENT

November 27, 1991

Lee Quintana
Department of City Planning
City of San Jose
801 North First Street
San Jose, California 95110

SUBJECT: Comments on the Draft Environmental Impact Report
FROM: East Side Union High School District
PROJECT: Communications Hill Specific Plan

I. INTRODUCTION AND SUMMARY OF COMMENTS

This letter has been prepared for and is submitted on behalf of the East Side Union High School District ("high school district"). All references are to the Draft Environmental Impact Report (DEIR) for the Communications Hill Specific Plan dated October 15, 1991. The high school district now provides and will continue to provide public high school services for the project and has standing to comment on this project.

The 4,000 multi-family homes proposed in the project will cause significant overcrowding in schools serving the area. Contrary to statements made in the DEIR, impacts on public services and public facilities, including schools, are potentially significant impacts on the environment. The California Environmental Quality Act (CEQA) requires that such impacts be properly analyzed and adequate mitigation measures be incorporated into the project. This information must be made available

to the public and decision makers reviewing the project. Further, the DEIR contains technical errors which should be addressed prior to approval by the City's decision-making body. Issues are discussed in detail below.

II. ANALYSIS OF IMPACT ON SCHOOLS IS DEFICIENT, IMPACTS ARE NOT IDENTIFIED AND MITIGATION MEASURES ARE NOT INCORPORATED

The DEIR correctly notes that the project will bring an estimated 800 additional high school students (grades 9-12) to the East Side Union High School District. The DEIR also correctly notes that both high schools potentially serving the project, Andrew Hill High School and Yerba Buena High School, are at capacity and cannot accommodate these students. The inability to provide basic public services is a potentially significant adverse impact under CEQA and should be considered by City decision-makers.

A. Conclusory Statements are not Supported by Evidence

The DEIR then dismisses this potentially significant adverse impact by stating:

"Additional students that would be generated by development of the proposed Specific Plan would impact the fiscal resources of the school districts. However, the increased demand on school facilities associated with future residential development would not have a significant environmental impact."

There is no factual basis in the record to support this statement.

B. Referenced Analysis is not Included in DEIR

The DEIR claims to include impacts from school buses in the traffic, noise and air quality sections, yet no information is included in any of those three sections or the supporting Appendices to establish whether school bus traffic

has been analyzed. There is no evidence in the record that additional portable classrooms are feasible as suggested by the DEIR. (For the record, portables cannot be added to the two schools to accommodate the anticipated number of students.) There is no evidence in the record that additional high school students may be accommodated by fees levied on new residential and commercial development projects. In short, the DEIR fails to meet CEQA's goal of providing information to decision makers and the public. In *Kings County Farm Bureau et al. v. City of Hanford* (1990) the court stated:

"A prejudicial abuse of discretion occurs if the failure to include relevant information precludes informed decisionmaking and informed public participation, thereby thwarting the statutory goals of the EIR process."

C. Discussion of Cumulative School Impacts is Flawed

Discussion in the DEIR of "cumulative school impacts" is a misleading attempt to avoid discussion of this important issue. No mention is given of the Waterford project (1,500 homes) which is immediately adjacent to this project, the Evergreen Specific Plan project (3,000 homes), the Silver Creek Planned Community with its (1,550 homes), or any of the other projects which will affect the East Side Union High School District. In response to previous comments by this school district, it has been represented that these other projects are included in the "cumulative" traffic analysis and therefore do not need to be discussed. Such a tactic hides the cumulative impact of approved and anticipated development projects on public facilities and services other than roads and conceals relevant information from decision makers and the public. This undermines the EIR's important role as an informational document.

As discussed at length in *Emmington v. Solano County Redevelopment Agency* (1987) the public must not be left unguided and uninformed of impacts, even if addressed in other documents.

D. Incorrect Statements are Made in EIR Regarding City's Ability to Require Mitigation Measures

The DEIR is inaccurate by suggesting that school facility fees are the sole means available to mitigate impacts on schools. The DEIR is deficient when it fails to identify other potential means of mitigating this impact. For example, this project could be required to participate in the funding program for the new Quimby Road High School set forth during the Evergreen Specific Plan hearings which will reduce high school impacts to a level that is less than significant. It is important to note that the high school district, unlike the city, will lose access to many funding sources after the General Plan Amendment has been approved. This gap in state law makes it critical that the City delay approval of the General Plan Amendment until the school facility issue has been resolved.

E. Analysis is Internally Inconsistent with Respect to Schools and Other Public Services

We again note for the record that the City of San Jose considers crowded parks to be a significant impact but doesn't consider crowded schools to be significant. This inconsistency underscores the City's liability in continuing to certify Environmental Impact Reports that ignore impacts on the school districts serving new development projects.

F. EIR's Conclusions Are Contrary to Statutory and Case Law

Again, the East Side Union High School District must argue that the City has failed to recognize the significant impact this project will have on schools. This precise issue has been litigated before and case law has consistently held that school impacts of the magnitude anticipated in this project are presumed to be significant and must be addressed in EIRs. The leading case remains *El Dorado Union High School District v. City of Placerville, et al.* (1983):

"Where, as here, the record contains ample evidence of present overcrowding, projections of gradually increasing high school enrollment, and the necessity for construction of at least one new high school, we hold CEQA requires an EIR that addresses the impact Whispering Pines, a 552 unit project, may have on District."

In subsequent discussion, the *El Dorado* court continued:

"The EIR here is clearly inadequate. The Draft EIR contained data on the expected student yield for the project and acknowledged an increased student enrollment. The report then stated no mitigation measures were required, because the . . . District has adopted a special fee on new residential construction. Letters from the District and another area school district were included as exhibits. The Final EIR merely stated no mitigation measures were required. It contained no discussion of the impact of the project on District and no mention of District's opposition to the project.

"The EIR should contain sufficient information to enable public agencies to make decisions that consider environmental consequences. The EIR here falls woefully short of that standard. Although the Draft recognized an increase in student enrollment, neither report said anything about the effects of such an increase in the student population, and suggested no mitigation measures to deal with such an impact, required by the Guidelines. Nor is there any discussion of the cumulative impact of projects such as Whispering Pines on District, which CEQA expressly requires. Finally, District had advised the City

in February 1980 the special impact fee it had imposed would not fully meet its needs. On this record, we cannot assume the City made any evaluation of the impact of the project, much less the kind of detailed evaluation CEQA contemplates under these circumstances." (Citations omitted, emphasis in original.)

Other cases concur with the *El Dorado* court. Most recently in *Murrieta Valley Unified School District v. County of Riverside* (1991), the court held in plain language that school facility impacts must be considered by cities and counties when reviewing General Plan Amendments and EIRs.

". . . This latter cause of action alleges that County violated CEQA by, among other things, approving an EIR which failed to adopt adequate mitigating measures related to the environmental impact of future development on school facilities, contained findings not supported by adequate evidence, and failed, in the alternative to adopt a statement of overriding considerations to justify the project in the face of the substantial unmitigated environmental impacts. Because, under *Mira*, County was not prevented from adopting mitigation measures other than the financing measure set out in [Government Code] Section 65995, District's allegations that there is no substantial evidence to support the County's finding that the impact on school facilities will be considerably mitigated by this one measure, and that County did not make an alternative statement of overriding considerations to justify approval of the project in the face of the unmitigated impact on school facilities, are sufficient to state a valid cause of action under CEQA."

In *Fullerton Joint Union High School District v. State Board of Education* (1982) it was held that reorganization of a portion of the high school district into a new unified school district was a project under CEQA because, in part, it would "likely require construction of a new high school" and bring other, potentially significant environmental impacts.



FRANKLIN-McKINLEY SCHOOL DISTRICT

645 WOOL CREEK DRIVE • SAN JOSE, CA • 95112 • (408) 283-6000 • FAX (408) 283-6022

RECEIVED

NOV 27 1991

SUPERINTENDENT
Dr. Dolores A. Ballesteros

November 26, 1991

Lee Quintana, Report Manager
Planning Department
City of San Jose
801 North First Street
San Jose, CA 95110

CITY OF SAN JOSE
PLANNING DEPARTMENT

Dear Lee:

Please consider the contents of this letter as an additional official response from Franklin-McKinley School District relevant to the Draft Environmental Impact Report for the Communication Hill Specific Plan. Specifically, this letter is to be considered along with the District's previous letter dated November 20, 1991 as the official response to the Draft Environmental Impact Report for the Communication Hill Specific Plan. These additional comments are provided for your review along with a request that all questions be considered prior to the adoption of the "final" Environmental Impact Report for the Communication Hill Specific Plan. We request that all responses to Franklin-McKinley School District questions and/or comments be provided to the District in writing for our further review.

We consider the Draft Environmental Impact Report for the Communication Hill Specific Plan to be informational, but inadequate. Factual data presented in the Draft EIR is inaccurate. Assumptions regarding Franklin-McKinley School District educational facility policy are erroneous and the cavalier way in which the study analyzes the impact of the Communication Hill Project does not meet the requirements of the California Environmental Quality Act (CEQA) of 1970. We question the study with regard to completeness, accuracy and its effort to fully disclose the environmental impact of this project on the Franklin-McKinley Elementary School District.

School Site Location

The proposed school site selected within the specific plan area raises some serious concerns:

(1) A K-5/6 Year Round, Multi-Track school requires a minimum of 10.2 acres in accordance with both (OSA) and (OLA) requirements. This fact was pointed out time and time again at Communication Hill Task Force meetings by the District (Draft EIR p. 16)! Why does the Draft EIR state that only four acres is required for the school?

BOARD OF EDUCATION:

Francisco Domínguez

Lolita Foster

Ronald Masuda

Robin Rogers

Pearle Woodall

Elementary Facility Construction Costs

I. Allowable Building Area	
A. Total Student Capacity - 800 Year-Round, 600 9-month	
B. Building Area	
1. 600 students @ 62 sf/student	37,200
2. Speech/Resource Specialist	600
TOTAL	37,800
II. Site	
A. Purchase Price of Property (10 acres @ \$200,000/acre)	\$ 2,000,000
B. Appraisals	6,000
C. Costs Incurred in Escrow	4,000
D. Surveys	6,000
E. Other Costs, Geo. & Soils Reports	<u>4,000</u>
Total - Acquisition of Site	\$ 2,020,000
III. Plans	
A. Architect's Fee for Plans	\$ 410,000
B. OSA Plans Check Fee	31,600
C. School Planning, Plans Check Fee	2,600
D. Preliminary Tests	2,000
E. Other Costs, Energy Cons. & Advertising	<u>18,000</u>
Total - Plans	\$ 464,200
IV. Construction	
A. Utility Services	\$ 150,000
B. Off-site Development	225,000
C. Site Development, Service	360,000
D. Site Development, General	240,000
E. New Construction	3,402,000
F. Unconventional Energy Source	<u>235,000</u>
Total - Construction	\$4,612,000
Total Items II, III and IV	\$ 7,096,200
Contingency 10%	709,620
Tests (Construction)	64,000
Inspection	45,000
Furniture and Movable Equipment	<u>270,000</u>
TOTAL ESTIMATED PROJECT COSTS	\$ 8,184,820
ESTIMATED COST PER STUDENT YEAR-ROUND	\$ 10,231
ESTIMATED COST PER STUDENT 9-MONTH	\$ 13,641

Middle School Facility Construction Costs

I. Allowable Building Area	
A. Total Student Capacity - 1,200 Year-Round, 900 9-Month	
B. Building Area	
1. 900 students @ 83 sf/student	74,700
2. Speech/Resource Specialist	1,360
TOTAL	76,060
II. Site	
A. Purchase Price of Property (20 acres @ \$200,000/acre)	\$ 4,000,000
B. Appraisals	8,000
C. Costs Incurred in Escrow	4,500
D. Surveys	8,000
E. Other Costs, Geo. & Soils Reports	<u>6,000</u>
Total - Acquisition of Site	\$ 4,026,500
III. Plans	
A. Architect's Fee for Plans	\$ 822,000
B. OSA Plans Check Fee	51,000
C. School Planning, Plans Check Fee	1,900
D. Preliminary Tests	3,500
E. Other Costs, Energy Cons. & Advertising	<u>27,500</u>
Total - Plans	\$ 905,900
IV. Construction	
A. Utility Services	\$ 230,000
B. Off-site Development	210,000
C. Site Development, Service	715,000
D. Site Development, General	510,000
E. New Construction	6,845,400
F. Unconventional Energy Source	<u>420,000</u>
Total - Construction	\$8,930,400
Total Items II, III and IV	\$13,862,800
Contingency 10%	\$ 1,386,280
Tests (Construction)	94,000
Inspection	55,000
Furniture and Movable Equipment	<u>417,000</u>
TOTAL ESTIMATED PROJECT COSTS	\$ 15,815,080
ESTIMATED COST PER STUDENT YEAR-ROUND	\$ 13,179
ESTIMATED COST PER STUDENT 9-MONTH	\$ 17,572

(2) The proposed school site lies within 1/4 mile of the planned CALTRAIN maintenance yard which may release toxics into the air (Draft EIR p. 165). How is this potential hazard going to be eliminated relevant to school children?

(3) The CALTRAIN yard is also a concern with regard to noise abatement (Draft EIR p. 144) as it relates to the operation of a school. How are these potential hazards or nuisance factors going to be eliminated relevant to school children?

(4) The school site is in close proximity to the PG&E overhead lines - radiation levels may be above acceptable standards to OSA/OLA for school sites (Draft EIR p. 153). Has this hazard been considered in the siting of the school? Are the power lines going to be placed underground?

(5) The school site lies in the path of the microwave tower radiation (Draft EIR p. 177). Has this potential hazard to school children been analyzed and appropriate mitigation measures been developed?

(6) The school site is located very close to the proposed water tank on the downhill side (Draft EIR p. 49). This may constitute a serious hazard to school children based upon a potential collapse of the structure and/or flooding. The placement of the school site in relationship to the location of the water tower is not even discussed in the EIR! How has this hazard been considered in selecting the proposed school site?

(7) There is a proposed site for a multi-story building to the south which may cast a shadow on the school itself. What is the effect of this building on the heating/cooling parameters of the school facility?

(8) The proposed school site is located in an old quarry which is likely to have disturbed the asbestos-containing rock mass. No mitigation measures are mentioned relevant to the siting of the school itself as it relates to asbestos! How are children to be protected from airborne asbestos fibres and/or asbestos laden materials in and around their school campus and playgrounds?

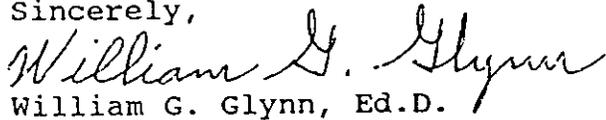
Proposed Maintenance District

The Draft EIR does not specifically state that the purposed maintenance district includes the "playfield terraces" adjacent to the school as well as those next to the school playfield area. The Draft EIR describes a playfield maintenance fund but does not indicate that any portion of these funds would be used to maintain school playgrounds. How much of the fund will be used for school playfield maintenance and will the school be expected to make a contribution to this fund?. Specifically, will all activity areas be included in the plan or just the big playfield?

We are very concerned that the Draft Environmental Impact Report for the Communication Hill Specific Plan adequately address the environmental issues related to schools as required by CEQA. The concerns expressed both by this letter and in our previous letter to you of November 20, 1991 lead us to conclude that this document as written does not adequately address those issues.

We are pleased to discuss these issues at your convenience.

Sincerely,



William G. Glynn, Ed.D.
Assistant Superintendent
Business Services

WGG/cb

cc: Jack Screder

III. Draft EIR Should be Revised

Without mitigation, addition of 800 additional high school students to already crowded high schools will have a potentially significant adverse impact on the human environment. Impacts on schools must be correctly analyzed and mitigation measures proposed which reduce impacts to a level that is less than significant. Discussion in the EIR of infeasible actions fails to satisfy CEQA requirements.

The Final EIR should include a mitigation measure which will require additional funding from the project which may be used to create permanent additions to the affected high schools. The precedent exists from the Evergreen Specific Plan.

IV. PROJECT DESCRIPTION USES INCORRECT BASE FOR EVALUATING IMPACTS

We believe the DEIR is inherently flawed as it fails to comply with Section 15125(c) of the CEQA Guidelines. Section 15125(c) reads in full:

"Where a proposed project is compared to an adopted plan, the analysis shall examine the existing conditions as well as the potential future conditions discussed in the plan."

This requirement is clearly stated in *Environmental Information and Planning Council v. County of El Dorado* (1982). Failure of the DEIR to comply with this fundamental CEQA requirement is most apparent in the traffic section where conditions under the Specific Plan are compared to the existing but unbuilt General Plan scenario, omitting discussion of changes from existing conditions. For example, Table 9 shows that building 4,140 homes on Communications Hill will actually improve conditions at six of nine intersections studied in the traffic model.

V. ANALYSIS OF CUMULATIVE IMPACTS IS INCOMPLETE

The entire discussion of cumulative impacts is lacking in analysis or factual evidence. A reader may rhetorically ask whether any other projects are proposed anywhere in the vicinity. This section contains no analysis, no insight into conditions when other pending and proposed projects are completed. Extensive revisions are needed for the Final EIR. This failing applies to all issues examined by the DEIR.

VI. CONSISTENCY WITH HORIZON 2000 POLICIES IS NOT ESTABLISHED

Policy 2 under the "Services and Facilities" elements of Horizon 2000 states that "Capital and facility needs generated by new development should be financed by new development. The existing community should not be burdened by increased taxes or lowered service levels to accommodate the needs created by new growth." Failure of the Communications Hill project to provide funding for expanded permanent high school facilities will lead to an outcome inconsistent with this General Plan policy. Such inconsistency is not disclosed in the DEIR.

Longstanding city policy clearly considers school sites as space available to Jose residents for park and recreation purposes. Development of Communications Hill may affect the availability of space for public activities by converting school playfields to building sites. Such an impact reduces space available for the community and may be inconsistent with Horizon 2000 policy statements. The DEIR does not disclose or discuss this potential effect.

VII. CONCLUSION

We have previously provided the City with extensive written comments on deficiencies in the City's EIR procedures and will not repeat those comments. The issues presented in our comment letter dated May 13, 1991 on the Evergreen Specific

Comments of the East Side Union High School District
Communications Hill Specific Plan Draft EIR
November 27, 1991
Page 9

Plan remain valid. Staff of the high school district remains available to discuss these issues with City representatives.

The proposed project will directly and significantly affect the East Side Union High School District yet the DEIR fails to analyze or provide mitigation of the impacts. To fulfill its public obligations and meet statutory requirements, the high school district respectfully requests that the DEIR be revised and requests the San Jose City Council, as decision-making body for the lead agency, to deny certification of the DEIR and project approval until such changes have occurred.

Respectfully Submitted on behalf of the
EAST SIDE UNION HIGH SCHOOL DISTRICT



Rob Corley

cc: East Side Union High School District

TRANSMITTAL

TO: Planning Department FAX (408) 277-3250
City of San Jose Phone 277-4576

ATTENTION: Lee Quintana

FROM: Rob Corley
Rob Corley, Consultant
Ventura, California

REFERENCE: NOP Response Letter - Waterford PD Zoning

ITEM SENT: via FAX

DATE: November 14, 1991

Comments of the East Side Union High School District are enclosed. A copy is following by mail. Please call if there are any questions.

Rob Corley, Consultant
3875 Telegraph Rd #A108
Ventura, California 93003-3419

Telephone: (805) 638-2995
FAX: (805) 638-0433

Rob Corley

Consultant, School Facilities & Planning
3875 Telegraph Road, Suite A-108
Ventura, California 93003-3419
[FAX (805) 658-6433]
(805) 658-2995

November 14, 1991

Department of City Planning
City of San Jose
801 North First Street
San Jose, California 95110

Subject: Response to Notice of Preparation
Comments From: East Side Union High School District
Project: Waterford Zoning, PDC-91-09-067

Summary of Potential Impact Requiring Mitigation Under CEQA

The proposed project falls entirely within the East Side Union High School District ("school district") which will provide high school and adult education for the future residents. This project WILL have a significant adverse impact on the environment as school facilities are not available and must be constructed (a physical impact), additional school bus miles may be driven (a potentially significant impact on air quality and traffic) and absence of adequate school facilities potentially may cause a hardship on the human environment. Identified significant impacts must be mitigated by measures proposed in the EIR.

Recommended Scope and Content of Analysis in EIR

1. Project description should clearly indicate number of units by type (e.g., by General Plan or zoning categories or by reference to prototype examples in existing developments). Text should include best available information on expected development timeline (i.e., number of units by year by type).
2. Text should state the expected number of pupils using the ratio of 0.20 high school age pupils per home. Deed-restricted senior housing may use a lower factor when EIR text addresses restrictions prohibiting school age residents.
3. Availability of classrooms should be based on current information from the school district. Contact person is Paul Fetting, Assistant Superintendent for

Business Services, telephone (408) 272-6451. As of the date of this letter, substantial overcrowding is expected in the schools serving the proposed project until a new high school is constructed. A site exists near Quimby Road and Ruby Avenue, however, a substantial shortfall exists in the funds to build the needed school.

4. The report should indicate the number of unhoused students (item 2 minus any available capacity in item 3).
5. The report should indicate the expected cost impact of accommodating the unhoused students, using the multiplier of \$25,955 per pupil times the number of unhoused pupils (item 4). (Based on \$54,490,000 total cost of school including land cost less \$15,557,500 from districtwide bond issue divided by 1,500 pupil capacity.)
6. Expected fees paid under Government Code Section 53080 may partly mitigate the cost impact. Detail on how expected fees are computed should be included in the discussion. Fees currently are \$1.58 per square foot of residential development (except for limited types of senior housing) and \$0.26 per square foot for commercial, industrial and qualifying senior housing projects. The high school district receives one-third of this amount, currently \$0.54 per square foot for residential projects and \$0.09 per square foot for commercial, industrial and qualifying senior housing projects.
7. EIR text should discuss amount of shortfall, if any. The following example illustrates how the cost impact may be shown:

[Table appears on the following page]

**Illustration:
 High School Impact from Waterford PD Zone Change**

1. Number of Homes*	=	1,516
2a. Pupils per Home	X	0.20
2b. Expected Pupils	=	303
3. Space Available	-	<u>0</u>
4. Unhoused Pupils	=	303
5a. Cost per Pupil	X	\$25,955
5b. Project's Cost Impact	=	\$7,864,365
6. Less expected fees**	-	<u>1,146,096</u>
7. SHORTFALL	=	\$6,718,269

* Assuming buildout at high estimated number of dwelling units.

** estimated 1,516 homes X 1,400 s.f. each X \$0.54 = \$1,146,096

8. Discuss possible school facility mitigation measures including but not limited to:

- Mello-Roos Community Facilities Districts. Show feasibility for full amount and amount less fees.
- Supplemental fee payment to cover shortfall after fees.
- Dedication of site improvements to lessen cost impact.
- Other measures.

General references to potential state funding or discussion which does not address mitigation of shortfall is incomplete and non-responsive. Proposed mitigation measures should be discussed in the context of adequacy, feasibility and relationship to other measures.

9. Discussion of alternatives should include means of reducing school facility impact unless impact is mitigated by measures proposed in the EIR.

10. The Mitigation Monitoring Program should include reference to all school-related conditions and mitigation measures.

Related Issues

The following issues are germane to our concerns for the young people expected to reside in the proposed project but are separate from school facility needs.

1. Pedestrian and bicycle travel to and from school should be discussed with enough detail to assure the reader that safety of young adults has been considered in the project's design.
2. Text should include direct references to how schools, parks and recreational opportunities will be available and accessible to young people.

Conclusion

We are available to meet with city staff, project proponents or the EIR consultant to discuss any of these issues in greater depth.

Respectfully Submitted on behalf of the
EAST SIDE UNION HIGH SCHOOL DISTRICT



Rob Corley
Principal,
Rob Corley, Consultant

cc: Paul Fettig
Assistant Superintendent, Business Services
East Side Union High School District

Rob Corley

Consultant, School Facilities & Planning
3875 Telegraph Road, Suite A-108
Ventura, California 93003-3419
[FAX (805) 658-6433]
(805) 658-2995

November 25, 1991

Lee Quintana
Department of City Planning
City of San Jose
801 North First Street
San Jose, California 95110

SUBJECT: Comments on the Communications Hill Specific Plan
FROM: East Side Union High School District

Dear Mr. Quintana,

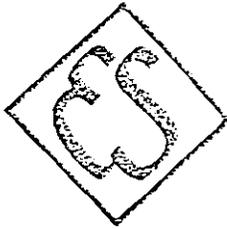
The East Side Union High School District wishes to note for the record that the proposed Specific Plan fails to provide for adequate high schools to serve the proposed project. At a minimum, the financing plan should include a budget item for assistance to the high school district above the funding provided by the fees levied under Government Code Section 53080. This requirement will be similar to and achieve the same goals as the financing plan developed as part of the Evergreen Specific Plan.

It also should be noted that the \$4 million budget for an elementary school is likely to be insufficient. This issue should be explored in more depth with the Franklin-McKinley School District.

Road plans should anticipate school buses on major streets. Design engineers should contact the school district for turnout plans and street design requirements.

Please contact the undersigned or John McElroy of the East Side Union High School District if there are any questions.


Rob Corley



East Side Union High School District

830 North Capitol Avenue • San José, California 95133-1316 • 408-272-6400

JOE COTO, SUPERINTENDENT

December 19, 1991

RECEIVED

DEC 23 1991

Lee Quintana
Department of City Planning
801 North First Street
San Jose, CA 95110

PLANNING DEPARTMENT

Mr. Lee Quintana:

SUBJECT: Comments on Communication Hill Specific Plan EIR

The East Side Union High School District has very strong concerns about the impact that this project will have on the District as the two schools that will be impacted, do not have enough space for the 29 classrooms needed unless two story buildings are constructed.

The 4,000 new homes in this proposal will generate 800 high school students. The two high schools in the area, Yerba Buena and Andrew Hill, are at capacity now, as noted in the Environmental Impact Report, page 157. The Environmental Impact Report acknowledges the fact that there will be an impact, but does not address how the impact is to be mitigated.

The problem needs to be addressed early on in the planning stage. There are needs that must be addressed such as transportation, classrooms and enlargement of common areas at each school. The project will generate about 800 new students and require 29 classrooms. Andrew Hill and Yerba Buena only has space to accommodate 10 additional classrooms. To accommodate the students, two story buildings need to be constructed at a substantially higher price than the cost of portable classrooms. It is not enough to just add classrooms and students, without also expanding common areas, such as locker rooms, food services, gymnasium, science laboratories, and library.

To transport the 800 new students, 11 new buses will be needed at a cost of \$1,100,000. **THERE ARE NO STATE FUNDS AVAILABLE.**

The cost of transporting the new students to Yerba Buena and Andrew Hill is \$1,375/day or \$247,500 annually.

THERE ARE NO STATE OR DISTRICT FUNDS AVAILABLE.

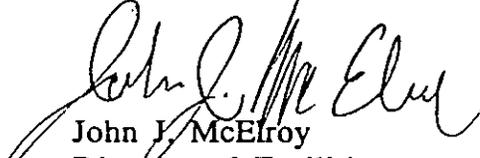
When you add up the costs, you can see our concern.

29 New Classrooms @ \$144,000 per Classroom	\$4,176,000
11 New Busses @ \$100,000 per Bus	\$1,100,000
Annual Transportation Costs	\$247,500
Enlargement of Common Areas	\$11,340,000 *
	=====
Total	\$16,863,500

* Two Story Construction

The Environmental Impact Report, the Specific Plan and the Communications Hill Financing Plan do not address the District's concerns. Schools should be considered as part of the infrastructure of a project and dealt with realistically as are the city services.

Sincerely yours,


John J. McElroy
Director of Facilities

DEPARTMENT OF FISH AND GAME

POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500



November 7, 1991

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NOV 13 1991

PLANNING DEPARTMENT

Mr. Lee Quintana
Department of City Planning
801 N. First Street
San Jose, California 95110

Dear Mr. Quintana:

Draft Environmental Impact Report (DEIR), Communications Hill Specific Plan

Department of Fish and Game personnel have reviewed the subject Draft EIR for the Communications Hill Specific Plan. The project would result in residential development of a 900- acre site in southern San Jose. The project site is in an urbanized area and is currently used primarily for cattle grazing. We offer the following comments for your consideration.

The DEIR fails to state the total acreage of wetlands on the project site. Destruction of these wetlands should be considered as a cumulative effect of the project, and the acreage to be impacted needs to be disclosed. It is our policy to oppose projects which would result in a net loss in either acreage or quality of wetland habitat. Filling of the on-site wetlands would be a significant impact unless properly mitigated. Destruction of wetland habitat is typically mitigated by creation of replacement acreage at a ratio of 3:1. Habitat quality must be equal or superior to the area impacted. Specific mitigation for any impacts should be described in the DEIR.

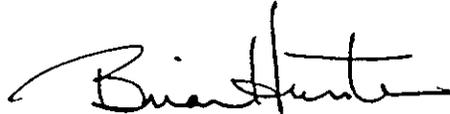
Surveys done for this DEIR are not sufficient to determine impacts to a number of sensitive plant and animal species, including Setchells dudleya, Metcalf Canyon jewelflower, fragrant fritillary, uncommon jewelflower, California tiger salamander, and burrowing owl. The document also fails to address impacts to Homers blind harvestman, Silver Creek blind harvestman, and Oplers longhorn moth, although these are all Federal candidate species identified as probable residents of the project site. Removal of any of these species would be a significant impact. These impacts need to be considered for the project site as a whole rather than being taken piecemeal as individual projects under the Specific Plan are implemented.

Full disclosure of impacts and measures to avoid or mitigate such impacts need to be presented in the DEIR. The DEIR in its present form does not meet the California Environmental Quality Act requirement to provide public agencies and the public in general with detailed information about the effect which a proposed project is likely to have on the environment (PRC Section 21061). We recommend that consideration of this project be deferred until the deficiencies identified above have been addressed and the document has been revised to incorporate the new information.

Mr. Lee Quintana
November 7, 1991
Page Two

Thank you for the opportunity to review and comment on this project. If you have any questions, please contact Ms. Jeanine DeWald, Associate Wildlife Biologist, (408) 429-9252; or Mr. Carl Wilcox, Associate Wildlife Biologist, (707) 944-5525.

Sincerely,

A handwritten signature in cursive script that reads "Brian Hunter". The signature is written in black ink and is positioned above the typed name.

Brian Hunter
Regional Manager
Region 3



United States Department of the Interior



FISH AND WILDLIFE SERVICE
Fish and Wildlife Enhancement
Sacramento Field Office
2800 Cottage Way, Room E-1823
Sacramento, California 95825-1846

In Reply Refer To:
1-1-92-TA-068

November 14, 1991

RECEIVED

NOV 20 1991

Ms. Lee Quintana
Department of City Planning
City of San Jose
801 North First Street
San Jose, California 95110-1795

PLANNING DEPARTMENT

Subject: Proposed General Plan Amendment for Communications Hill, San Jose, Santa Clara County, California and the Threatened Bay Checkerspot Butterfly

Dear Ms. Quintana:

This letter concerns the draft Environmental Impact Report for the proposed General Plan Amendment for the Communications Hill area (the area bounded by Curtner Avenue, Monterey Avenue, Hillside Avenue/Capitol Expressway and S.R. 87), San Jose, Santa Clara County, California (DEIR). The U.S. Fish and Wildlife Service (Service) is concerned about the possible effects of the proposed project on the threatened bay checkerspot butterfly (*Euphydryas editha bayensis*). This animal is fully protected under the Endangered Species Act of 1973, as amended (Act). The Service also is concerned about the potential impacts of the project on fish and wildlife resources at several seasonal wetlands and a freshwater seep, and a number of candidate species in the area. The comments and recommendations in this letter are based on the DEIR which was received by this office on October 21, 1991, and a field meeting at the site with you, three of the applicant's consultants, and Chris Nagano of my staff on October 31, 1991.

The DEIR indicates that one of the foodplants of the larvae (*Plantago erecta*), and a number of the adult nectar sources of the threatened bay checkerspot butterfly occur on the 900 acre Communications Hill project site. A second foodplant (*Orthocarpus* sp.) was not found, although the DEIR indicates the botanical fieldwork was conducted during the inappropriate survey period of November. Active colonies of the animal also are known from the immediate vicinity at Tulare Hill, Silver Creek, Kirby Canyon, and the Morgan Hill area. Given the significant amount of serpentine habitat at Communications Hill and the mobility of the butterfly, it is likely that through time the animal inhabits the site, even though no individuals were observed during the brief amount of survey work that was conducted during a drought year.

Section 9 of the Act prohibits the "take" of any federally listed endangered species. As defined in the Act, take means "...to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct." "Harm" has been further defined to include habitat destruction when it kills or injures a listed species by interfering with essential behavioral patterns such as breeding, foraging, or resting. Thus, not only is the threatened bay checkerspot butterfly protected from activities such as collecting, but also from actions that damage or destroy its habitat. The term person is defined as "an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal government, of any State, municipality, or political subdivision of a State, or any other entity subject to the jurisdiction of the United States." Persons convicted of violating the Act may be fined \$50,000 and/or imprisoned for one year for each violation.

Take incidental to an otherwise lawful activity may be authorized by one of two procedures. If a Federal agency is involved with the permitting, funding, or carrying out of the project, then initiation of formal consultation between that agency and the Service pursuant to Section 7 of the Act is required if it is determined that the proposed project may affect a federally listed species. Such consultation would result in a biological opinion that addresses the anticipated effects of the project to the listed species and may authorize a limited level of incidental take. If a Federal agency is not involved with the project, and federally listed species may be taken as part of the project, then an incidental take permit pursuant to Section 10(a) of the Act would need to be obtained. The Service may issue such a permit upon completion of a satisfactory conservation plan for the listed species that would be affected by the project.

The discussion in the DEIR of take and potential adverse impacts to the bay checkerspot butterfly is inadequate. The site visit by my staff found that there are significant amounts of potential serpentine habitat for the species at the site. These areas were considered to be either "non-native grassland" or "grazed pasture" in the DEIR. The DEIR indicates that significant portions of these areas will be developed. To address this issue, the Service recommends that the serpentine habitat should be mapped accurately. The locations and approximate numbers of the foodplants of the larvae and adult nectar sources also should be mapped. A qualified entomologist should conduct an adequate survey for the butterfly during its activity period. The Service recommends that destruction or damage to areas containing serpentine habitat and potential movement corridors be avoided. If the project is not redesigned to avoid adverse impacts to these species, authorization to take listed species must be obtained under Section 7 or 10(a) of the Act.

The brief information presented on candidate species in the biological survey report (Appendix C) in the DEIR lacks the specificity necessary to evaluate the potential adverse impacts on these taxa. The following candidate species have not been adequately addressed in the DEIR (numbers in parentheses indicate candidate status): California tiger salamander (*Ambystoma tigrinum*)

californiense) (2), Hom's micro-blind harvestman (*Microcina homi*) (2R), Jung's micro-blind harvestman (*Microcina jungi*) (2R), Opler's longhorn moth (*Adela oplerella*) (2R), *Dudleya setchelli* (Santa Clara Valley dudleya) (1), *Streptanthus albidus* ssp. *peramoenus* (Uncommon jewel flower) (1), *Fritillaria liliacea* (fragrant fritillary) (2), and *Cirsium fontinale* var. *campylon* (Mount Hamilton thistle) (2). Although candidate species are not protected under Federal law, the 1988 amendments to the Act require the Service to monitor their status. If any of these candidates decline precipitously, they could be listed under an emergency basis. The Service recommends that adequate surveys be conducted during the proper flowering or activity periods. The findings of the surveys and measures that will be taken to avoid/mitigate any adverse impacts to these species should be included in the final EIR. In addition, as part of the settlement for a lawsuit brought by an environmental group, the Service will be issuing proposed rules in the near future to list a number of category-1 candidate plant species in California, including some or all of those in the project area.

The Service encourages all efforts to protect, improve and restore fish, wildlife and naturally functioning aquatic and wetland ecosystems of our Nation. Under the provisions of the Fish and Wildlife Coordination Act, the Service advises the U.S. Army Corps of Engineers on projects involving dredge and fill activities in waters and wetlands of the United States. The projects allowed under the General Plan revision may require a Corps of Engineers permit, thus triggering Service involvement under the Coordination Act. Because of our interest in the biological integrity of our Nation's waters, we generally recommend against projects that result in the destruction of wetland habitat values and are not water dependent. When projects impacting waterways or wetlands are deemed acceptable to the Service, full mitigation is recommended for any fish and wildlife value losses shown to be unavoidable. However, as directed by Section 404(b)(1) of the Clean Water Act, the project proponent must first demonstrate that there are no other less damaging, practicable alternatives to the proposed project that would achieve the basic project purpose.

The DEIR indicates that five seasonal wetlands and a freshwater seep would be affected by the proposed project. Over 90 percent of California's wetlands have been lost due to past agricultural conversion, urban development, and flood control activities. Wetlands provide important resting, feeding, and nesting habitat for many species of migratory birds. Because of the value of the wetland habitat to migratory birds and the scarcity of this habitat type, the seasonal wetlands and freshwater seep within the project area belong in Resource Category 2 as defined in our Mitigation Policy. For unavoidable impacts to these habitats, the Service recommends provision of mitigation that results in no net loss of in-kind habitat values or acres.

In summary, the Communications Hill project, as proposed in the DEIR, likely will result in take of the bay checkerspot butterfly. The Service recommends that destruction or damage to areas containing serpentine habitat and potential movement corridors be avoided, or a Section 10(a) permit or incidental take under Section 7 be obtained for the project. However, it

would be more appropriate for the City to address this project under a regional habitat conservation plan, as described in our letter of September 26, 1991, to the City of San Jose. The issues regarding the threatened bay checkerspot butterfly, candidate species, and the wetlands have not been adequately resolved. The City of San Jose should hold the environmental review process in abeyance until these resource issues are fully resolved. If impacts to fish and wildlife resources can not be resolved to the satisfaction of the Service, a supplemental environmental impact report should be prepared that more adequately addresses these impacts.

We remain willing to work with the City and project proponents in the development of an acceptable project. Please contact Chris Nagano of my staff at the letterhead address or at 916/978-4866 if you have any questions. Thank you for your concern for endangered species.

Sincerely,

Gail C. Kobetich
for Wayne S. White
Field Supervisor

cc: FWS SFO:HC (Permits)
Ms. Jennifer Vick, Regulatory Functions Branch, U.S. Army Corps of Engineers, 211 Main Street, San Francisco, California 94105-1905
Ms. Dee Warenycia, Department of Fish and Game, 1220 S Street, Sacramento, California 95814
Ms. Jeannine DeWald, Department of Fish and Game, P.O. Box 47, Yountville, California 94599
Committee for Green Foothills, Peninsula Conservation Center, 2448 Watson Court, Palo Alto, California 94303
Loma Prieta Chapter, Sierra Club, 2420 Bridle Path Drive, Gilroy, California 95020
Santa Clara Valley Chapter, Audubon Society, 2253 Park Blvd., Palo Alto, California 94306
California Native Plant Society, 14054 Alta Vista, Saratoga, California 95070

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION
2101 WEBSTER STREET, SUITE 500
OAKLAND, CA 94612

Phone: (510) 464-1255

FAX: (510) 464-1380



November 21, 1991
File No. 2188.05 (JAM)

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NOV 25 1991

PLANNING DEPARTMENT

Lee Quintana
Department of City Planning
801 North First Street
San Jose, CA 95110

Subject: Comments on DEIR for Communications Hill Specific Plan

Dear Ms. Lee Quintana:

We have reviewed the Draft Environmental Impact Report (DEIR) for the Communications Hill Specific Plan. Communications Hill is located in south-central San Jose. Nearby water bodies include: the Guadalupe River which is located approximately one mile to the west, Canoas Creek, a constructed Channel crossing the area's southwest corner, and Coyote Creek which is approximately one mile east of the area. The DEIR consists of the Communications Hill Specific Plan, the General Plan Amendment which would adopt the Communications Hill Planned Community, and the associated General Plan text amendments. The Regional Water Quality Control Board has several concerns and comments on the proposed project.

Hillsdale Mine, a historic mercury mine, is located at the currently operating Alvaseo Quarry. The remnants of the mine have not been fully mapped. While the DEIR examines the possible hazards associated with the former mine including: the potential for subsidence and settlement of the mine tunnels, exposure to mercury in the soil as a solid, and outgassing of mercury vapor, the DEIR fails to address water quality concerns resulting from mining activities in the area. The extraction of mercury from the local cinnabar would have produced tailings piles. Historically, these waste piles were located near the mining operation. Some of the waste may have been removed during the quarry operation, however, this has not been documented. Additionally, early mercury extraction methods tended to produce localized 'hot spots'-areas where escaping mercury vapor saturated the surrounding soils.

An investigation of the aerial extent of soils containing elevated levels of mercury should be included as part of the FEIR. Erosion and sediment discharge from mined areas may impact local water bodies. Measures to protect local creeks should be discussed. The use of detention ponds for stormwater may concentrate the mercury runoff. If mercury bearing soils are found, the use of detention basins may require applying for a site specific NPDES permit.

The DEIR mentions a seep at the site of the present quarry. This seep is most likely a function of the fault zone and the fault zone associated with the mercury bearing zone. A more complete hydrogeological investigation needs to be undertaken in order to characterize surface water runoff and shallow groundwater conditions.

Attached is a copy of the Board's program for regulating abandoned and operating mines and quarries. The requirements in the attached program should be considered when developing the final EIR. If you have any questions, please feel free to contact Jill Marshall at (510) 464-0999 or Dyan Whyte at (510) 464-1324.

Sincerely,

A handwritten signature in black ink, appearing to read 'Dyan Whyte', with a stylized, cursive script.

Dyan Whyte
Engineering Geologist

MINES AND MINERAL PRODUCERS

INACTIVE SITES

Within the San Francisco Bay Region over 50 abandoned or inactive mines have been identified (figure 1 to be included at a later date). The mineral resources extracted include: mercury, magnesite, manganese, coal, copper, silver, and gold. A large percentage of the mining activities took place from 1890-1930 although some areas were mined as recently as 1971. The size of these mines varies from relatively small surface mines of less than half an acre to the world's second largest mercury mine, the New Almaden District, located in southern Santa Clara County.

Water quality problems associated with mining activities can be divided into two categories:

- Erosion and sediment discharge from surface mines and ore tailings piles.
- Acid or otherwise toxic aqueous discharge from underground mines, ore tailings, or other mining processes.

Problems of erosion and sediment discharged from mined areas may be intensified due to the fact that sediment from ore rich areas typically contain high concentrations of metals. Biological processes which take place in lake and stream bottom sediments may allow for these pollutants to be released in a form which more readily bioaccumulates in the food chain.

Recent water quality and aquatic toxicity monitoring data suggests that the beneficial uses of a number of water supply reservoirs, creeks, and streams in the Region have been impacted as a result of past mining activities. Threatened beneficial uses of lakes, streams, bays and marshes due to mining activities so far identified in the region include: fish migration, fish spawning, shellfish harvesting, wildlife habitat, preservation of rare and endangered species, freshwater fisheries habitat, and water contact recreation. In response to these findings surveys were conducted by the Regional Board staff in order to locate all abandoned and operating mines in the Region.

In many cases, the adverse results of previous surface mining activities can be reduced and in some cases eliminated through appropriate erosion and sediment control practices. The U.S. Soil Conservation Service (SCS) has developed a "Resource Management System for Surface Mined Areas". This management system references practices and treatment alternatives needed in order to address the following:

1. Erosion control practices which will dispose of surface water run-off at non-erosive velocities and reduce soil movement by wind or water to within acceptable limits.
2. Maintenance of adequate water quality and quantity for planned uses and to meet federal, state, and local requirements.
3. Pollution control to meet federal, state, and local regulations.
4. A system of planned access and/or conveyance that is within local regulations and meets the needs for the intended use.

In 1980 a memorandum of understanding was negotiated with the Council of Bay Area Resource Conservation Districts in order to provide for assessment and monitoring of potential and existing soil erosion related water quality problems, and identification of control measures. It was agreed that local units of government should have the lead role in controlling land use activities that cause erosion. Controls measures include the implementation of best management practices (BMP's). The "Resource Management System for Surface Mined Areas" developed by SCS specifically references BMP's determined to be the most effective and practicable means of preventing or reducing erosion and sediment related water quality degradation resulting from surface mining activities.

ACTIVE SITES

Within the San Francisco Bay Region there are approximately 100 active mines and mineral producers. The primary mineral commodities produced include: Clay, salt, sand and gravel, shale, and crushed stone. Water quality problems associated with mineral production activities generally consist of erosion and sediment discharge into nearby surface water bodies and wildlife habitat destruction.

Active mining and mineral production activities are in part regulated under the Surface Mining and Reclamation Act of 1975. This Act requires all mine operators to submit a reclamation plan to the California Department of Conservation, Division of Mines and Geology, and the recognized lead local agency for the area in which the mining is taking place. Recognized lead local agencies for the San Francisco Bay Region include County Planning and Public Works Departments. Additionally, some local planning departments regulate mining activities through the issuance of conditional land use permits. The goal of each Reclamation Plan is to assure that mined lands are reclaimed to a usable condition which is readily adaptable for alternate land uses and creates no danger to public health and safety. To date, very little emphasis has been placed on the need to protect beneficial uses of surface and ground waters in the established permitting process.

The Regional Board has the authority to regulate mining activities under the California Code of Regulations - Title 23, Chapter 15, Article 7, through the use of Waste Discharge Requirements and other related permits and regulations.

GOAL

The goal of this program is restore and protect beneficial uses of receiving waters now impaired, or threatened with impairment, resulting from past or present mining activities.

This goal is to be attained by the coordinated effort of the Regional Board, SCS, and Council of Bay Area Resource Conservation Districts, California Division of Mines and Geology, and Lead Local Government Agencies through the implementation of a surface mining management program.

PROGRAM

1. The Board intends to continue to work closely with Resource Conservation Districts and SCS to identify all existing and abandoned mines and mineral production sites in the Region. Responsible parties will be identified and if needed, potential funding alternatives for cleanup activities. Sites will be prioritized based on existing and potential impacts to water quality and size.
2. The responsible party or operator of each site shall be required to submit a Report of Waste Discharge to the Regional Board. Submittal of a Report of Discharge will be requested by the Regional Board pursuant to the California Water Code Section 13267. Requests will be made on a site by site basis and based on priority. A Report of Waste Discharge shall consist of a Site Closure Plan and a Operation and Management Plan for active sites.
 - a. Each Plan shall be consistent with the SCS Resource Management System for Surface Mined Areas.
 - b. Each Plan shall be designed to ensure short- and long-term protection of beneficial uses of receiving waters.
 - c. The Closure Plan shall address site restoration and long-term maintenance and monitoring.
 - d. The Management Plan shall address storm water runoff and erosion control measures and practices.

- e. Each Plan will be evaluated in regard to potential impacts to beneficial uses of receiving waters. Waste Discharge Requirements will be issued or waived at the discretion of the Board based on the threat to water quality and the effectiveness of identified and implemented control measures, and the effectiveness of Local Agency oversight.

Pacific Gas and Electric Company
Mission Trail Region

111 Almaden Boulevard
P O Box 15005
San Jose, CA 95115 0005
408/280 1212

November 21, 1991



Ms. Lee Quintana
Department of City Planning
City of San Jose
801 North First Street
San Jose, CA 95110

Re: Communications Hill Specific Plan DEIR

Dear Ms. Lee Quintana:

Thank you for the opportunity to review and comment on the referenced Draft Environmental Impact Report.

A correction needs to be made on page 155, section 4.b.. The overhead electric line which traverses the hill in a northeast-southwest direction is a 60 kv transmission line, not a 21 kv distribution line.

Section 4 on page 162 of the report states the overhead power lines would require relocation in conjunction with site grading. PG&E would expect to be reimbursed by the developer for this expense.

We also want to point out some specific operating standards which must be maintained:

- No structures are allowed within the tower line right-of-way.
- No excavations may be made within ten feet of a transmission pole.
- Clearance from the conductors (wires) must be at least 12 feet vertically and 6 feet horizontally.
- During construction activities, dust control measures must be implemented to avoid contamination of our insulators.
- Unrestricted access to the line by PG&E crews must be maintained at all times for emergency and normal maintenance operations.

Please contact me at telephone number 282-7138 if you have any questions or require additional information.

Sincerely,

A handwritten signature in cursive script that reads 'Patti Holderman'.

Patti Holderman
Region Planning Analyst

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NOV 25 1991

PLANNING DEPARTMENT

Post Office Box #8241
San Jose, CA 95155

November 28, 1991

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DEC 02 1991

CITY OF SAN JOSE
PLANNING DEPARTMENT

Gary J. Schoennauer
Director of Planning
CITY OF SAN JOSE
801 North First Street
San Jose, CA 95110
Attention: Lee Quintana

RE: COMMUNICATIONS HILL SPECIFIC PLAN DEIR

Dear Mr. Schoennauer:

The following are our comments on the Draft EIR General Plan Amendment for the Communications Hill Specific Plan dated October 1991:

1. Pg. 5 **Figure 3.** Millpond Way is now Masonic Drive.
2. Pg. 11 **Figure 5.** The heavy industrial land use on the former quarry site should extend around the north end of the cul-de-sac.
3. Pg. 17 **¶ 9b. Mom and Pop Retail.** Mom and pop store sites are allowed up to 2,000 square feet.
4. Pg. 17 **¶ 9c. Additional Commercial.** Item "2) *greater than 50 percent of the Village Center is complete prior to development of additional commercial*" has been eliminated as a criteria from the Specific Plan.
5. Pg. 21 **¶ 14. Discretionary Alternative Uses.** *"Additional retail/commercial uses would be permitted in the block northwest of the Village Center provided that 50 percent of the retail ... is completed first"*. This requirement for 50% of the Village Center being built prior to the construction of additional commercial has been deleted from the Specific Plan.
6. Pg. 23 **¶ 2b. Surface Mining and Reclamation Act (SMARA) of 1975.** The current request on file with Santa Clara County to continue the quarry operation is for ten years not five years.
7. Pg. 26 **¶ c. Planned Residential Community.** The second to the last sentence states *"Subsequent rezoning applications under the Specific Plan would occur through Planned Development (PD) zoning which would be required for project-specific development approval for each property"* (emphasis added). Given the ownership of the entire Specific Plan area, it is not likely that large property owners could bring a single project to a P.D. stage at one time. It is more likely that smaller pieces of the single ownership property would be brought to a P.D. on a project specific basis. The EIR should be revised to substitute the word "project" for the word "property".

8. Pg. 31 **2. Existing Land Uses in the Proposed Planned Community Area**
¶ 2. The pet hospital and propane outlet are located south of Pullman Way not north of Pullman.
9. Pg. 42 **Additional Recommended Mitigation**
The last mitigation item "*Prior to zoning, a study would be conducted to identify alternative aggregate resources to replace the resources on Communication Hill*" does not appear to be necessary given the statement on page 56 under item 5. **Loss of Mineral Resources** "*Considering the abundance and accessibility of rock, aggregate and mercury materials throughout California, as well as the coordination between the Specific Plan and the proposed quarry extension and modification process, the development of Communications Hills as proposed would not represent a significant impact to the extraction of mineral resources (see Section I. F. PLANS POLICIES AND REGULATIONS, concerning mineral extraction policies)*". This mitigation should be deleted from the EIR.
10. Pg. 55 **5. Loss of Mineral Resources**
¶ 3 (at the top of pg. 56) The present application for extension of the quarry permit is for ten years.
11. Pg. 62 **C. FLOODING - EXISTING CONDITIONS**
¶ 4. When the Millpond Mobile Home Park was constructed the system was sized to accommodate the runoff from the adjacent portions of undeveloped land. This is evidenced by several storm drain lines and catch basins which extend beyond the limits of the park and under the railroad right-of-way. This storm system, approved by the City of San Jose, was installed with every intention that the cost to construct would be recaptured by connecting to the system when the surrounding areas developed.
12. Pg. 64 **FLOODING IMPACTS**
¶ 2, Pg. 65. In 1889 the City of San Jose and County of Santa Clara entered into an agreement to divert Canoas Creek across MTA Properties and to allow the land owner to use the creek for water.

In 1968 an Assessment District No. 68-47SJ was created which included a portion of the MTA Properties. Fees and taxes have been paid into the district which entitles storm water from the MTA Properties land to flow into San Jose.

The property has historical rights to use Canoas and Coyote Creeks and the Guadalupe River for storm water. The water district's lack of adequate planning does not negate the historic rights of this property.
13. Pg. 68 **D. WATER QUALITY - EXISTING CONDITIONS**
¶ 2. As stated in the above response to ¶ 4 on page 62, all the runoff from unincorporated areas of Communications Hill does not go to retention basins. The northerly areas of the property drain into the Millpond storm drain system.
14. Pg. 84 **3. Wetlands**
¶ 3. Retention basin (SW #3) west of the railroad tracks is a MANMADE retention basin.

15. Pg. 99 **SUMMARY OF THE DEVELOPMENT CONCEPT**
¶ 4. The text discusses the fact that the high-rise multi-family structures "up to 100 feet or more in height, would be ... no more than 45 feet above the crest of the hill". In a review of the preliminary grading plan it appears that the northerly high-rise buildings would exceed this height. It is not clear why 45 feet is important when the Specific Plan does not limit the buildings to 100 feet in height.
16. Pg. 106 **MITIGATION MEASURES - General Plan Mitigation**
12. Mitigation number 7. "Development should be discouraged on slopes exceeding 30 percent and on ridgelines." The majority of the development of the Specific Plan takes place on the "ridgeline". This mitigation measure should be revised or removed.
17. Pg. 144 **2. Noise Impacts**
a. **Railroad Noise Impacts.** "No increase in the number of Amtrack and freight trains ... are anticipated in the future." This statement is contrary to published information regarding the relocation of Amtrack from Oakland and new Amtrack service from San Jose to Sacramento.
18. Pg. 152 **K. UTILITIES, FACILITIES AND SERVICES - EXISTING CONDITIONS**
1. Storm Drainage
¶ 3. "Runoff from developed portions ... does not enter the City storm drainage system." Not true, see comment 11, 12 and 13 above.
19. Pg. 157 **7. Schools**
¶ 2. "All of the existing schools are operating at or over capacity" This statement assumes that the Franklin-McKinley School District is the only alternative school district. As with CEQA mandated project alternatives, (another site, no project, etc.) the EIR must look at alternative school facilities. San Jose Unified District has a vacant elementary school west of the project. The use of this school (Canoas Elementary) would not require students to cross the six lane Monterey Highway.

In the September 1989 report for the Exchange of Territory between Franklin-McKinley/East Side Union High School Districts and San Jose Unified School District it is stated on page 2 ¶ 2.3 Clear Boundary Lines:

"2.3 Clear Boundary Lines

The current boundary between Franklin-McKinley/East Side and San Jose Unified appears quite haphazard. The proposed boundary offers a more sensible and understandable division between the school districts. By utilizing major barriers such as the Guadalupe Corridor and the Southern Pacific Rail Road, boundaries will be more clear to parents and other community members."

And on page 1 ¶ 2.0 Rationale for the Proposed Boundary:

"There are a number of advantages to the proposed boundary over the current boundary. The proposed boundary utilizes major barriers (e.g. freeway, railroad) to pedestrian traffic."

The report fails to examine the major barrier to students, Monterey Highway. The Curtner crossing of Monterey Highway is at grade while all crossings with the Guadalupe Corridor are grade separated. Clearly Monterey Highway would be a better dividing line between districts.

The report, on page 4 in ¶ 3.1 **Projected Residential Development** states that:
"Although very little residential development is currently planned in the territory proposed for transfer, the General Plan of the City of San Jose expects some residential development to take place by the year 2000. However, it is the opinion of the San Jose City Planning Department that relatively few school-age children will result from this projected development, since the majority of the development will be comprised of mid to high income townhouses and garden apartments along the Guadalupe Corridor. Given the proximity of the Guadalupe Freeway and the Light Rail System, the Planning Department projects that new residents in these areas will be composed primarily of workers from north San Jose seeking a relatively easy commute between home and work."

San Jose as far back as 1975 was moving toward an aggressive infill policy in their General Plan. In 1979 the 60 acres of MTA Properties on Curtner Avenue was changed from Light Industrial and Non-Urban Hillside to Medium High Density Residential. In Gary Schoennauer's October 5, 1981 memo to the Planning Commission he stated *"For Communications Hill, staff envisions relatively high density development yielding between 5,000 and 10,000 dwelling units..."*

The Horizon 2000 General Plan Amendment of 1984 adopted a G.P. designation which allowed for up to 5,000 DU on Communications Hill. None of this information appears in the 1989 School District report. The report does not discuss or analyze the impact of this growth on the studied school districts. As pointed out in Mr. Rob Corley's letter of June 10, 1991, the development of Communications Hill *"will have a significant adverse impact on the environment as school facilities are not available and must be constructed, additional school bus miles may be driven and absence of adequate school facilities potentially may cause a hardship on the human environment"*.

With the extensive current and anticipated impact to Franklin-McKliney and East Side High School (see San Jose Mercury 11/27/91) it would appear that placing Communications Hill in San Jose Unified would be a good environmental decision.

Until the EIR addresses the alternative to the Franklin-McKinley School District this school section of the EIR will not be complete.

20. Pg. 159 UTILITIES, FACILITIES AND SERVICE IMPACTS

1. Storm Drainage Impacts

The 66 inch trunk line was installed and paid for during the construction of Millpond Mobile Home Park. The cost of this line, designed to carry storm run-off from all of the northerly lands of MTA Properties, was to be reimbursed to MTA Properties as other downstream properties connected to the line (none of the cost has ever been reimbursed).

21. Pg. 163 **7. Schools**
See comments under item 19 above. It is obvious if San Jose Unified were serving the school district the number of buses could be reduced and the bus trip length could be reduced.
22. Pg. 169 **Fire Protection**
Under the second mitigation measure add the words "except single family detached" after the words *sprinklered buildings*.
23. Pg. 170 **Schools**
A mitigation measure requiring a study by the two school district's Board of Trustees to realign the boundary of the districts to US 101 (Monterey Highway) should be added. Also, compliance with California Education Code Sections 35675 and 35502 should be assessed.
24. Pg. 171 **Storm Drainage**
It is not clear why a parallel set of storm drainage pipes is necessary.
25. Pg. 178 **3. Electromagnetic Radiation**
b. Communications Interference
No air right easements exist for any of the communication facilities either in fact or implied. Each facility, AT&T and County Communications may be required to either purchase air rights or relocate their dishes and antenna. County Communications could place their antenna on top of the AT&T tower and AT&T could raise and cluster their microwave dishes.
26. Pg. 183 **a. Communications Interference**
See comment 25 above.
27. Pg. 186 **MITIGATION MEASURES FOR ENVIRONMENTAL HAZARDS**
Specific Plan Mitigation
These mitigation measures imply an easement exists. No granted air right easement now exists. Heights and locations of future buildings could require AT&T and County Communications to relocate their transmitting equipment.
28. Pg. 188 **Electromagnetic Radiation**
See comment 27 above.
29. Pg. 196 **VI. ALTERNATIVES TO THE PROPOSED PROJECT**
The alternative of having the project in San Jose Unified School District rather than Franklin-McKinley should be discussed.
30. Pg. 203 **E. ALTERNATIVE WATER STORAGE CONCEPTS**
At-Grade Tank adjacent to AT&T
The elevated tank system requires pumps to fill the tank. An at-grade system requires pumps and a pneumatic tank system. Since both systems require pumps with back-up pumps, the system could have diesel back-up which would not be dependant on electrical supplies. The at-grade system would have less visual impact and be far less expensive.

31. Appendix K. Comments on NOP
The potential significant adverse impacts and Realted Issues, addressed by Mr. Rob Corley (Consultant, EAST SIDE UNION HIGH SCHOOL DISTRICT) in his RESPONSE TO NOTICE OF PREPARATION, dated June 10, 1991, should be fully assessed.

Sincerely,



Robert J. Bettencourt

Brandenburg, Staedler & Moore
Mobilehome Communities

333 West Santa Clara Street, Suite 1212
San Jose, California 95113
(408) 279-5200
FAX (408) 279-3678

December 2, 1991

Mr. Gary J. Schoennauer
Director of Planning
City of San Jose
801 North First Street
San Jose, California 95110

Dear Mr. Schoennauer:

We have reviewed the Communication Hill Specific Plan Draft Environmental Impact Report (EIR) and submit the following comments:

- 1) We are the ground lessees of the land and the developers/owners/operators of three mobilehome communities included in the Communications Hill Specific Plan Area. The mobilehome communities are Chateau La Salle, Millpond and Mountain Springs. Throughout the Communications Hill planning process we have on numerous occasions, both verbally during public hearings and in writing, requested that our three mobilehome communities be removed from the Communication Hill Specific Plan area and/or that we be given complete assurance that neither we nor our residents will incur any financial obligations pertaining to the development of Communications Hill. While City of San Jose staff have been cooperative and have attempted to respond to our concerns they have not been able to grant our requests.

We developed each of the above mobilehome communities in the 1970's and as part of our development process were required to construct extensive "off site" improvements. The communities have been fully occupied for over ten years and our ground leases have remaining terms from 17 years to 47 years with renewal options. Our mobilehome communities are fully sustainable for their "lifetime" with their existing infrastructure and require no new infrastructure and no existing infrastructure improvements. As we have previously stated, we have no interest in having the General Plan or

Zoning designations changed on the properties we lease for our mobilehome communities.

We again request that our mobilehome communities be removed from the Specific Plan Area and we again state that we are not willing to be a part of any assessment district, Mello-Roos district, and/or any financing plan or district that would require us, our landlords, or our residents to fund improvements in the Communications Hill Specific Plan area.

Any participation in the City-initiated Communications Hill Specific Plan process by us or our mobilehome residents should not be construed in any way as an approval, tacit or otherwise, by us of any action taken by the Communications Hill Specific Plan Area Committee, the San Jose City Planning Commission, and/or the San Jose City Council. While we have no objection to the prudent development of Communications Hill, we must object to and oppose the Communications Hill Specific Plan unless our three mobile home communities are removed from the Specific Plan area.

- 2) Page 4, first paragraph. "Excluded from the Specific Plan area is the Oak Hill Cemetery, located in the southwest quadrant of Monterey Road and Curtner Avenue. However its use was considered in the overall plan."

COMMENT: We believe the concept applied to the Oak Hill Cemetery should be applied to the existing mobilehome communities within the Specific Plan Area. The mobilehome communities should be excluded from the Specific Plan but their use considered in the overall plan. The above sentence should be changed to read "Excluded from the Specific Plan area is the Oak Hill Cemetery located in the southwest quadrant of Monterey Road and Curtner Avenue, and the existing mobilehome communities of Chateau La Salle, Millpond, and Mountain Springs. However their use was considered in the overall plan."

- 3) Page 13, 1a. "The Specific Plan incorporates four existing areas designated as single-family residential. These include Chateau La Salle mobile home park (60) acres, Mountain Shadows mobile home park (11 acres), ... and the Millpond mobile home park (41 acres)..."

COMMENT: This section incorrectly includes "Mountain Shadows" as one of the existing mobilehome communities within the Specific Plan area. Mountain Shadows is not within the Specific Plan area. This reference should be changed to "Mountain Springs" both on page 13 and anywhere else the EIR references this mobilehome community. Mountain Springs occupies approximately 17 acres.

- 4) Page 42, Additional Recommended mitigation. "Provide solid fencing along Narvaez Avenue where it borders existing residential uses:"

COMMENT: Add the following sentence to the above mitigation: "Consult with the owners and residents of the Mountain Springs Mobile Home Park on the method, design and construction of fencing or other appropriate screening measures along Narvaez where it borders the Mountain Springs Mobile Home Park."

- 5) Page 42, Additional Recommended mitigation. "Provide careful site planning, setbacks and screening to minimize conflicts between existing Millpond Mobile Home Park and the proposed Curtner Grove neighborhood and the limited access extension of Millpond Drive;"

COMMENT: Add the following sentence to the above mitigation: "Consult with the owners and residents of the Millpond Mobile Home Park on the method, design, and construction of site planning, setbacks and screening."

- 6) Page 62, last paragraph. "In addition to the flooding issues outlined above, there is a local drainage problem in the general area. According to the City of San Jose Public Works Staff, the existing Millpond Mobile Home Park has been subject to flooding due to the inadequacy of the on-site storm drainage system. The system draining the site terminates with a flap gate at its outfall into the Guadalupe River. When the water surface is high enough in the River, the flap gate remains closed, thus not allowing the local drainage from the Millpond area to escape."

COMMENT: When Millpond Mobile Home Park was developed Brandenburg, Staedler, & Moore joined with the Faith Temple

Cathedral and the City of San Jose to install a storm drainage system designed to serve our collective needs. Brandenburg, Staedler & Moore contributed over sixty percent of the \$500,000+ cost of the system, the design and construction of which was approved by the City of San Jose. Since the system was installed in late 1977 it has performed adequately. Three times since 1977 intense prolonged rainstorms have caused the water level in the Guadalupe River to close the flap gate and prevent drainage from escaping from the Millpond area for a short period of time. On these occasions the standing water level in the Millpond streets and sidewalks did not exceed approximately one foot, did not reach the point where water entered any of the mobilehomes, and subsided after three to four hours.

While we agree that new developments on Communications Hill should not access the Millpond drainage system, we believe the existing system adequately serves the Millpond Mobile Home Park. The above paragraph should be reworded as follows: "In addition to the flooding issues outlined above, there is the potential for a local drainage problem in the general area. The existing Millpond Mobile Home Park has experienced drainage problems during intense prolonged rainstorms on three occasions in the past fourteen years. The system draining the site terminates with a flap gate at its outfall into the Guadalupe River. When the water surface is high enough in the River the flap gate remains closed, thus not allowing the local drainage from the Millpond area to escape until the water in the River subsides to below the flap gate. While this drainage problem has not in the past led to significant flooding or damage in the Park, granting the proposed Communications Hill developments access to the system that serves Millpond, and/or granting the developments storm drain access to the Guadalupe River through another system (new or existing), has the potential of leading to significant drainage problems. Therefore, any incremental runoff allowed into the Guadalupe River due to the development of Communications Hill will require mitigation by the developers of Communications Hill to protect the Millpond residents." Also see comment 8 below.

- 7) Page 64, fourth paragraph. "Further impacts to the local drainage problem in the Millpond Mobile Home Park would be voided providing that all new development in the vicinity be designed to have its drainage conveyed away from this area."

COMMENT: See comment 6 above. We agree that the proposed Communications Hill developments should not be allowed to access the storm drain system that serves Millpond Mobile Home Park.

- 8) Page 66, bottom of page: FLOODING MITIGATION MEASURES.
"1. New development should be designed to provide protection from potential impacts of flooding during the 1% or 100-year flood."

COMMENT: The Communications Hill Specific Plan states that "The Santa Clara Valley Water District has stated that no increase in runoff due to the development of Communications Hill will be acceptable..." (page 53). In order to amplify the above mitigation measure add the following sentence: "New development should be designed to insure that no increase in runoff results from the development of Communications Hill."

- 9) Page 67, Specific Plan Mitigation. "Ensure that services of surrounding neighborhoods are not adversely impacted by development within the Specific Plan area."

COMMENT: Add the following to the above statement: "As noted in the EIR, of particular concern is that allowing the Communications Hill developments to access the Millpond Mobile Home Park storm drainage system has the potential of causing significant drainage problems in the area. This mitigation measure specifically includes, but is not limited to, the prohibition of Communication Hill developments accessing the storm drain system that serves the Millpond Mobile Home Park."

- 10) Page 123, first paragraph. ..."(T)he Millpond Drive extension could be planned to provide either limited or full access for vehicle, pedestrian, and bicycle traffic to the Curtner Avenue LRT Station and other destinations. In addition, a shuttle bus service may be implemented between the hilltop area and the LRT station. The Millpond Drive connection would be made just west of the existing mobile home park and would not add traffic within that existing neighborhood."

COMMENT: While a connection just west of the Millpond Mobile Home Park would not bring traffic directly through the Park, it would have a significant impact on Park residents, particularly if the full access option were implemented.

Millpond Drive is the only non-emergency ingress and egress point for the 309 space Millpond I Mobile Home Park. The added traffic from the Specific Plan Area resulting from the extension of Millpond Drive would be quite noticeable to Park residents and would significantly increase delays in movements to and from the Park. The last sentence in the above paragraph should be changed to read "While the Millpond Drive connection would be made just west of the existing mobile home park and would not add traffic directly within that existing neighborhood, the added traffic from the Specific Plan area, if the full access option were chosen, would significantly impact traffic circulation in the area, including mobile home park resident ingress and egress."

- 11) Page 123, second paragraph. "Limited access proposed. Under the limited access provisions [for the Millpond Drive extension], as proposed in the Specific Plan, access to the hilltop areas would be limited to pedestrian, bicycle, and shuttle buses."

COMMENT: If Millpond Drive is extended, we agree that the limited access option should be chosen.

- 12) Page 123, third paragraph. "Full access alternative. If full vehicle and pedestrian access is considered at the Millpond Drive connection, an additional 945 to 1,145 per day vehicles during the week and 575 to 725 vehicles on Sunday are expected on Canoas Garden Avenue."

COMMENT: See comments 10 and 11 above. We oppose the full access alternative due to the significant negative impact it would have for Millpond Mobile Home Park residents and general traffic circulation in the area.

- 13) Page 159, fourth paragraph. "The existing 54-inch line through the Millpond area would not be affected by the proposed development of Communications Hill, since none of the proposed development area is planned to drain through the Mobile Home Park."

COMMENT: See comments 6, 7, 8, and 9 above. We agree that none of the proposed development of Communication Hill should drain through the Mobile Home Park.

Mr. Gary J. Schoennauer
December 2, 1991
Page 7

Thank you for this opportunity to comment on the Communications Hill Draft Environmental Impact Report. We support the prudent development of Communications Hill and look forward to reviewing your responses to our comments.

Sincerely,

BRANDENBURG, STAEDLER & MOORE



John V. Moore



Rudy Staedler

/bu

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CITY OF SAN JOSE
PLANNING DEPARTMENT



HMH, Incorporated

Civil Engineers • Planners • Surveyors

Kenneth H. Hankins, R.C.E.
Edwin J. Miller, R.C.E.
James T. Harper
John E. Eastus, R.C.E.
William J. Wagner, R.C.E.

November 25, 1991
Job No. 1549-03

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DEC 2, 1991

CITY OF SAN JOSE
PLANNING DEPARTMENT

Ms. Julie Caporgno
City of San Jose
Planning Department
801 N. First Street
San Jose, CA 95110

RE: Communications Hill
Specific Plan & Draft Environmental Impact Report

Dear Julie:

On behalf of our client, Mr. Batista Vieira, we have reviewed the Communications Hill Specific Plan and Draft Environmental Impact Report (DEIR). Mr. Vieira owns Assessor's Parcel Numbers 455-10-32, 33 & 35 within the Specific Plan Area. The comments contained in this letter are in response to the Draft Environmental Impact Report dated October 1991. We request that our comments be addressed and responses included in the Final Environmental Impact Report. The DEIR appears to be inadequate in the following areas:

1. **Land Use.** The DEIR does not address or analyze the impacts of a reduction in density from 5,000 units, as currently allowed under the Horizon 2000 General Plan, to a maximum of 4,000 units which would be allowed by the Specific Plan. This reduction in units contradicts a stated goal of the Specific Plan which is to provide necessary housing to complement the industrial development planned in the Edenvale, Southern San Jose and North Coyote Valley areas. How does a reduction in density work to correct the jobs/housing imbalance?

The Specific Plan creates a disproportionate share of open space relative to developable areas for some property owners. In the case of the Vieira property, the imbalance is significant. The DEIR does not analyze this imbalance or provide mitigation for these impacts.

2. **High Density Land Use.** The DEIR does not address the relocation of High Density Residential Land Use shown on the existing General Plan and that shown on the Proposed Specific Plan. In the case of the Vieira property, there is a significant reduction in the area allowed for this land use. This is an economic impact not discussed in the DEIR.
3. **Financing of Infrastructure.** Section 65451 of the Government Code mandates that all Specific Plans contain a program of implementation measures including regulations, programs,

public works projects, and financing measures necessary to carry out the Plan. Although the Specific Plan lists potential financing opportunities, the DEIR does not address the financial impacts of the plan. An example of this would be the cost implications for use of an elevated water tower vs. an at-grade tank with pumps to achieve necessary pressure. To a typical property owner, the financial impacts of the Plan are among the most important of issues. The DEIR cannot be considered adequate without an analysis of and mitigation measures for these impacts.

4. **Non-Standard Infrastructure.** The Specific Plan proposes many features that are not found in a typical hillside development. Among these are: an elevated water tank, large park areas, numerous and elaborate stairways and pathways, etc. The DEIR should address the relative value of these items in regards to their additional cost to a property owner or developer. The DEIR should state why these items were chosen over standard types of construction.
5. **Allocation of Units.** Since the Specific Plan provides for a cap in the total number of units but does not provide for an allocation system among the various property owners, it is possible that all units could be allocated prior to development of all the properties. The potential impact caused by the Specific Plan should be analyzed and mitigated.
6. **Existing Property Lines.** The Specific Plan ignores existing property lines. In the case of the Vieira property, the Plan would create tiny slivers of Multi-Family areas. These areas are so small that they are probably not developable from a physical or financial feasibility standpoint. The DEIR should address this issue and provide mitigation for property owners similarly affected. Although the Specific Plan discusses property swaps and states that they may be useful, neither the Specific Plan nor the DEIR analyzes or provides for mitigation for these small slivers of land that would be created due to implementation of the Specific Plan.
7. **Achievable Density.** The Specific Plan estimates density based upon 40 dwelling units per acre for Multi-Family Residential areas using a "podium" type construction. The Specific Plan also restricts the block/lot coverage to 50% and the building height to three levels of housing over parking. A density this high with the given constraints may be difficult to achieve even on a level site. The Specific Plan area is not level. The DEIR does not address the feasibility of this density. If this density is not achievable, what is the achievable density and what is the impact of the reduction in total units on the jobs/housing imbalance?

Planning Department
Job No. 1549-03
November 25, 1991
Page 3

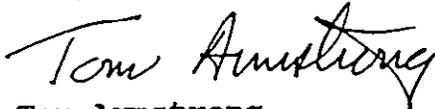
Will an alternate type of construction, greater site coverage or increased building height be allowed to achieve the "target" density?

8. **Residential Design Guidelines.** The Specific Plan proposes various design concepts that must be adhered to which do not conform to the guidelines which are implemented throughout the City. No discussion is given to this matter.

Thank you for your attention to these comments. We would be happy to clarify any of these comments for you or your staff. We look forward to a timely resolution of these issues.

Very truly yours,

HMH, INCORPORATED



Tom Armstrong
Senior Planner

TA:nw/1549-03.tg

cc: Mr. Batista Vieira
Mr. Ralph Borelli, Borelli Investment Company



P.O. BOX 18111 SAN JOSE, CA 95158

December 6, 1991

San Jose Planning Commission
San Jose City Council
c/o Gary Schoennauer, Director
Department of City Planning
801 North First Street
San Jose, CA 95110

Subject: Communications Hill Specific Plan & Draft EIR.

Honorable Members of Council, Commission, and Staff:

At its November 26, 1991 general meeting the VEP membership expressed the following concerns with respect to the proposed Communications Hill project. Our neighborhoods are just south, across Capitol Expressway from the project site.

We are particularly sensitive to the cumulative impact of this large development in the context of other nearby projects awaiting approval and/or financing. These cumulative impacts have been purposely overlooked in the Communications Hill Specific Plan. It seems odd, for example, that the Brandenburg and Valley View Packing sites were not included in your specific planning area; these two large-scale projects alone could have a significant adverse impact on our community. Adding Communication Hill's proposed 4000 residential units, 500,000 square feet of commercial/industrial, and 180,000 square feet of heavy industry to those other projects will, we are certain, be devastating. Other major impacts will result from the recently approved Capitol Drive-Ins theater complex and the Caltrain/Amtrac maintenance depot off Monterey Road.

We ask that you analyze the combined impact of these and other projects planned for our area. Piecemeal analysis and planning has always led to trouble in San Jose. This may be yet another example.

For twenty years VEP has worked with local government to achieve relief from traffic congestion. We want and are willing to pay for measurable improvement. Our fear is that, as Routes 85 and 87 approach completion, traffic from developments like Communications Hill will inundate these long-awaited facilities. Again, we are NOT satisfied with constant levels of congestion. We want improvement.

The theory that folks who live on Communications Hill (and the Brandenburg site, etc.) will use transit is very risky. We fear that this theory may backfire. If it does, we lose. Communications Hill is not really served very well by light rail and, the way it is being planned, will be difficult to serve with

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PLANNING DEPARTMENT

buses. To help encourage LRT use, we endorse the idea of a transit-only access road to Canoas Garden.

But home-to-work trips are only a fraction of our concerns. People don't go grocery shopping on LRT. Weekend and after-hour shopping trips are a growing hassle in our area, as they are city-wide. Vistapark Drive is a major corridor through our community and, as plans to complete it from Blossom Hill Road to Curtner approach implementation, we fear that many new residents of high density projects north of Capitol will drive through our neighborhoods to shopping destinations south of us. In combination with already heavy traffic on Branham Lane, added flows on Vistapark will further divide and pose threats to the safety and quality of life in our neighborhoods. Please save our neighborhoods: consider a plan that does not connect Vistapark north at Capitol.

Added traffic will of course mean worsening air quality. If as many as 10% of all new residents on Communications Hill use transit exclusively, the usual average of about 1.5 cars per residence will mean $4000 \times 1.5 \times 0.9 = 5400$ more automobiles in our area. (This number will likely be much higher. Less than 3% of our population currently uses transit. Most optimistic County Transit plans project only 6% peak period ridership in year 2010.) What will the impact of those 5400+ cars (each making multiple trips each day) be on area congestion and smog? We ask that you be realistic about your analysis.

What impact will 4000 new residences have on the availability of water? We are absolutely fed up with ongoing water shortages. To us brown yards, dirty cars, flushing every third time, and/or showering every other week do not equate to quality of life. This is an issue every one of our members can relate to—we are keenly aware that every new San Jose resident is competing with us for every drop of water we have. We are aware of no solution to this dilemma in current city planning. We do know that to add more people is to make this problem worse. Have you determined a solution to this issue? As taxpayers and existing residents, we expect and deserve adequate and safe water supplies.

And we want a place for water to go once we've used it. What is the impact of 4000 more residences on our sewage treatment plant? What impact will this new development have on storm drains and contamination of the Bay? How are these impacts compounded by other developments now under consideration here? Is there an answer to sewer gas problems experienced for twenty years in the "Birdland" community? Are we to believe that adding more toilets will solve those problems? Is anyone adding up these effects? Is there a solution that we can live comfortably with? If so, who will pay for mitigation?

Communications Hill infrastructure costs are estimated at approximately \$114-million. Some portion of this will be paid by taxpayers. We wonder whether there will be a net fiscal benefit to our city. Has anyone done an analysis of this? If public money is available to support infrastructure for this project, why can't we seem to get money for badly needed capital projects in existing neighborhoods. Widening Branham Lane between Vistapark and Snell, for example. Or building Vista Park, a project our homeowners association is chipping away at through bake sales because no public money is said to be available.

If there is no net fiscal benefit, who will pay for the cops and firefighters we'll need? How will we ever find relief for our overwrought Pearl Avenue

Library or fix the potholes in our streets? As density increases, the need for public services grows even faster. Will these services slip below general plan thresholds? We are concerned that the narrow, car-lined streets and alleys planned for Communications Hill may mean difficulty in access for emergency vehicles— will San Jose insurance rates rise as a result?

What will be the impact of this large development on our schools? VEP's concerns go beyond just seat space for our youngsters. They deserve quality education which relies on high teacher/student ratios and adequate educational materials. Where will the money be found for these costs?

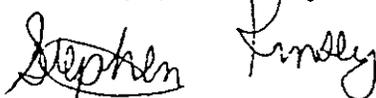
We are very concerned about the appearance of what you want to build on those hills. You should be, too. VEP opposes plans to alter General Plan Urban Design Policies 10 & 11, making buildings over 45-foot tall allowable there. High rises and/or water towers will be as bad as that microwave tower abomination we've had to look at for years. The hill is beautiful as it is— any but environmentally integrated and sensitively designed development there will be a step backward and a visual blight to our community.

For the same reason, we are concerned that the proposed improvements (open space, parks, staircases, etc.) may not be affordable for developers. Because of their high cost, we fear that the project may go forward without these enhancements or that developers will ultimately come back with requests to further increase densities in order to pay for improvements. Has anyone analyzed the impact of infrastructure costs on the sale price of an average residence to see whether this plan will work? Can homes be built there that pay for planned amenities and will be affordable to other than millionaires? For that matter, are the infrastructure cost estimates in fact reasonable (conservative)? Estimates included in the Specific Plan appear quite sketchy and very low to us.

General planning should consider the fiscal, economic, social, and environmental impacts of a proposed project. To be acceptable and successful, a plan must be of benefit to our residents in all four measures. We see little evidence that these factors were given due consideration in the proposed plan. More questions are asked than answered by this proposal. In consequence, we believe that the Communications Hill Specific Plan will add to our city's strife with eroding fiscal conditions and resulting deterioration in urban quality for existing residents.

Thank you for this opportunity to comment. Please give serious consideration to the points raised here, for the sake of our city and our hopes for a better place to live.

Sincerely yours,



Stephen Kinsey, President

cc: Thousand Oaks Homeowners Association.
Pinehurst Residents Association.
Canoas Garden Homeowners Association.

November 25, 1991

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PLANNING DEPARTMENT

✓ Lee Quintana
Planning Department
City of San Jose
801 N. First Street
San Jose, CA 95110

Subject: Draft Environmental Impact Report (EIR)
Communications Hill Specific Plan

Dear Mr. Quintana:

Your October 15, 1991 letter along with the Draft EIR entitled "Communications Hill Specific Plan" dated October 1991 has been reviewed. Our comments are as follows:

(1) The June 17, 1991 and May 28, 1991 letters (please see the attachments) included our comments concerning the proposed project. A quick review of the Draft EIR indicates that the document does not respond to the following concerns raised in our June 17, 1991 and May 28, 1991 letters:

- o Extension of Vista Park Drive to the proposed project

On Page 121 of the Draft EIR, it is stated as follows:

Vistapark Drive is assumed to be extended northerly as a four-lane arterial street between Capitol Expressway and Curtner Avenue. The portion between Hillsdale and Curtner Avenue would be built incrementally as the Communications Hill Specific Plan area is developed. The section between Hillsdale Avenue and Capitol Expressway is not included in the Specific Plan area. However, for the purposes of this analysis, Vistapark Drive has been assumed to be completed between Curtner Avenue and Capitol Expressway.

The Draft EIR should explain the reason for not including the improvements of Vista Park Drive from Capitol Expressway and Hillsdale Avenue in the project's specific plans. Also state as to who will be responsible for improving and funding this portion of Vista Park Drive.

- o Extension of Hillsdale Avenue westerly aligning with Foxworthy Avenue

There is no mention of this comment in the Draft EIR.

- o Direct access to North Curtner Avenue and Monterey Road

The Draft EIR on Page 123 discusses access to Monterey Road via Pullman Avenue; however, direct access to Curtner Avenue from the site is not provided. Also, the proposed Capitol Expressway Caltrain Station adjacent to southeast side of site at Fehren Drive is not mentioned in the EIR, nor the impact due to this project on proposed station location.

o Transit

The Draft EIR does not reflect the comment no. (3) of our June 17, 1991 letter regarding the three incomplete roadway connections within the project. The EIR should respond to our comment regarding internal roadway circulation design and features so as to accommodate future service.

(2) On Page 114, in Item a. Methodology, it is stated that the City of San Jose's Level of Service Policy defines an acceptable operating level as Level of Service (LOS) D or better. According to Table 7 on Page 117, the existing LOS of Capitol Expressway/Senter Road intersection is F during PM peak hour. However, no mitigation measures are included to achieve LOS D or better for this intersection. Also, according to Table 10 on Page 125, there will be a Major Negative Impact on Almaden Expressway. However, the Draft EIR concludes on Page 127 that future development under the Specific Plan would result in less than significant impact. This is not consistent. Please explain the basis of conclusion.

Additional Comments

(3) Capitol Expressway is incorrectly stated at G21 on Page 111.

(4) It is observed that Almaden Expressway intersections in the project's vicinity are not included on Page 114 in the list of intersections to be analyzed for traffic impact. Please include the following intersection:

- o Almaden Expressway/Foxworthy
- o Almaden Expressway/Ironside
- o Almaden Expressway/Branham Lane

(5) On Page 123, it is stated that the proposed on-site roadway system would connect to existing city streets at five locations as shown in Figure 11. A review of Figure 11 does not show these five locations. Please clarify.

(6) On Page 123, in Item b. Site Access, it is stated that a shuttle bus service may be implemented between hilltop area and LRT station. The Draft EIR should specify the funding source of the proposed shuttle service.

Lee Quintana
Page 3
November 25, 1991

(7) On Page 127, the Specific Plan Mitigation Measures are listed. The Draft EIR should explain the concept of "Multi-Modal transportation system" for Communications Hill Area and identify the funding source of the Multi-Modal transportation system, as well as proposed mass transit system serving this project.

Please call me at 299-4205 if you have any questions.

We thank you for the opportunity to review this matter.

Sincerely,

AV
11/25/91

ASHOK VYAS
PROJECT ENGINEER

AV:kh

Attachments

cc: WLK/MA
VCH
JRL
BC/KU
RGH

June 17, 1991



Lee Quintana
Planning Department
City of San Jose
801 N. First Street
San Jose, CA 95110

Subject: Notice of Preparation of a Draft Environmental Impact
Report (EIR)
Communication Hill Specific Plan

Dear Mr. Quintana:

Your May 20, 1991 Notice of Preparation and your May 20, 1991 addendum, along with the attachments have been reviewed. Our comments are as follows:

(1) Our May 28, 1991 letter included the preliminary comments concerning the proposed project. Please see the attachment. The comments of our May 28, 1991 letter are still valid and pertinent to the project. It is recommended that the Draft EIR respond to the concerns raised by us in the May 28, 1991 letter.

In addition, the Draft EIR should address the following:

(2) On Page 4 of the NOP, in C. Project Description, it is stated that access to the residential portion of the project area will be provided by Vista Park Drive. However, a review of Figure 4 shows proposed Vista Park Drive terminating at the southerly boundary of the project. At present, Vista Park Drive is a tee intersection with Capitol Expressway. The Draft EIR should clarify as to who will be responsible to improve Vista Park Drive from Capitol Expressway to the southerly boundary of the project.

(3) We have attached a copy of Figure 4 showing three locations where we believe the roadway connections are incomplete. At this time, there are no plans to extend bus services to the project site. However, if it is determined at some future time that bus service to the site should be considered, it is necessary that strategically located access roadways do not miss some critical links. It is recommended that the Draft EIR include a description of the internal roadway circulation pattern which will enable the transit service to design an efficient and convenient service.

Also, in order to provide convenient shuttle service and future bus service within the project area, the project design should include features like curb lanes or duckouts, sidewalks, cross-walks and handicap ramps to encourage the use of public transit and reduce dependence on motor vehicles.

(4) Caltrain. Development at the southeastern portion of the site should be sensitive to the location of the Capitol Expressway Caltrain Station to be constructed adjacent to the site at Fehren Drive. The development plan for portions of the site within a 2,000 foot walking distance of the Capitol Caltrain Station should allow for mixed use

Lee Quintana
Page 2
June 17, 1991

development, including commuter support services. An on-site shuttle bus service, referred to above, could also provide connections from the residential portions of the site to the Capitol Caltrain Station.

(5) A copy of the Draft EIR should be furnished to this Agency for review and comments.

Please call me at 299-4205 if you have any questions.

We thank you for the opportunity to review this matter.

Sincerely,

Ashok Vyas
6/17/91

ASHOK VYAS
PROJECT ENGINEER

AV:ai

Attachments

cc: WLK
VCH
DS
BC/KU
RGH

May 28, 1991

File

Michael C. Enderby
Planning Department
City of San Jose
801 N. First Street
San Jose, CA 95110

Subject: Communications Hill Specific Plan

Dear Mr. Enderby:

Your May 9, 1991 letter along with the sketch entitled "Proposed Land Use" was received by on May 13, 1991. We have reviewed your referral and our comments are as follows:

Your requested our comments by may 23, 1991. Please note that 10 calendar days review period is not adequate. Our normal review period is 2 to 3 weeks. Please provide adequate response time in case of the future referrals.

Based upon our phone conversation with you on may 17, 1991, we can send in our comments on or before May 28, 1991. We appreciate your consideration in this matter. It is recommended that the Draft Environmental Impact Report (EIR) of the proposed project address the following:

(A) TRAFFIC

Almaden Expressway, Capitol Expressway and Hillsdale Avenue are the existing County maintained roadways in the project's vicinity. It is recommended that the Draft EIR include a traffic report addressing the potential traffic impact due to the proposed project on above County facilities, along with the necessary mitigation measures. The Draft EIR should also identify the funding source of the required mitigation measures.

In order to reduce the potential traffic impact of the project on Almaden Expressway and Capitol Expressway, the traffic report should also examine the following scenarios:

- o Extension of Vista Park to proposed project.
- o Extension of Hillsdale Avenue westerly aligning with Foxworthy Avenue with signalized intersection at Hillsdale Avenue/Old Almaden Road.
- o Direct access to north Curtner Avenue and Monterey Road.

Michael C. Enderby
Page 2
May 28, 1991

(B) TRANSIT

County transit has existing transit services around much of the proposed project site. Unfortunately, many of these services are separated from the project by highways and railroad lines. For example, Highway 87 and Light Rail border the project to the west, and Monterey Highway and Southern Pacific border it to the east.

The City is premising development of Communications Hill on completion of traffic improvements (HWY 87 and LRT). However, in regards to LRT, the existing stations are beyond a comfortable walking distance to the proposed development... An on-site shuttle bus service could provide connections to both the Curtner and Capitol LRT Stations. This service would be especially needed during the AM and PM peak commute periods.

The City has conditioned this type of shuttle service on the developer, who is developing a similar type of project on River Oaks Parkway close to North First Street. The developer is to provide the initial funding for the shuttle service, with the homeowner's association responsible for the long term funding once the project is completed.

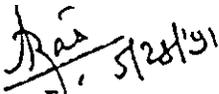
County staff is prepared to work with the developer and the City to assist in the route design.

A copy of the Draft EIR should be furnished to this Agency for review and comments.

Please call me at 299-4205 if you have any questions.

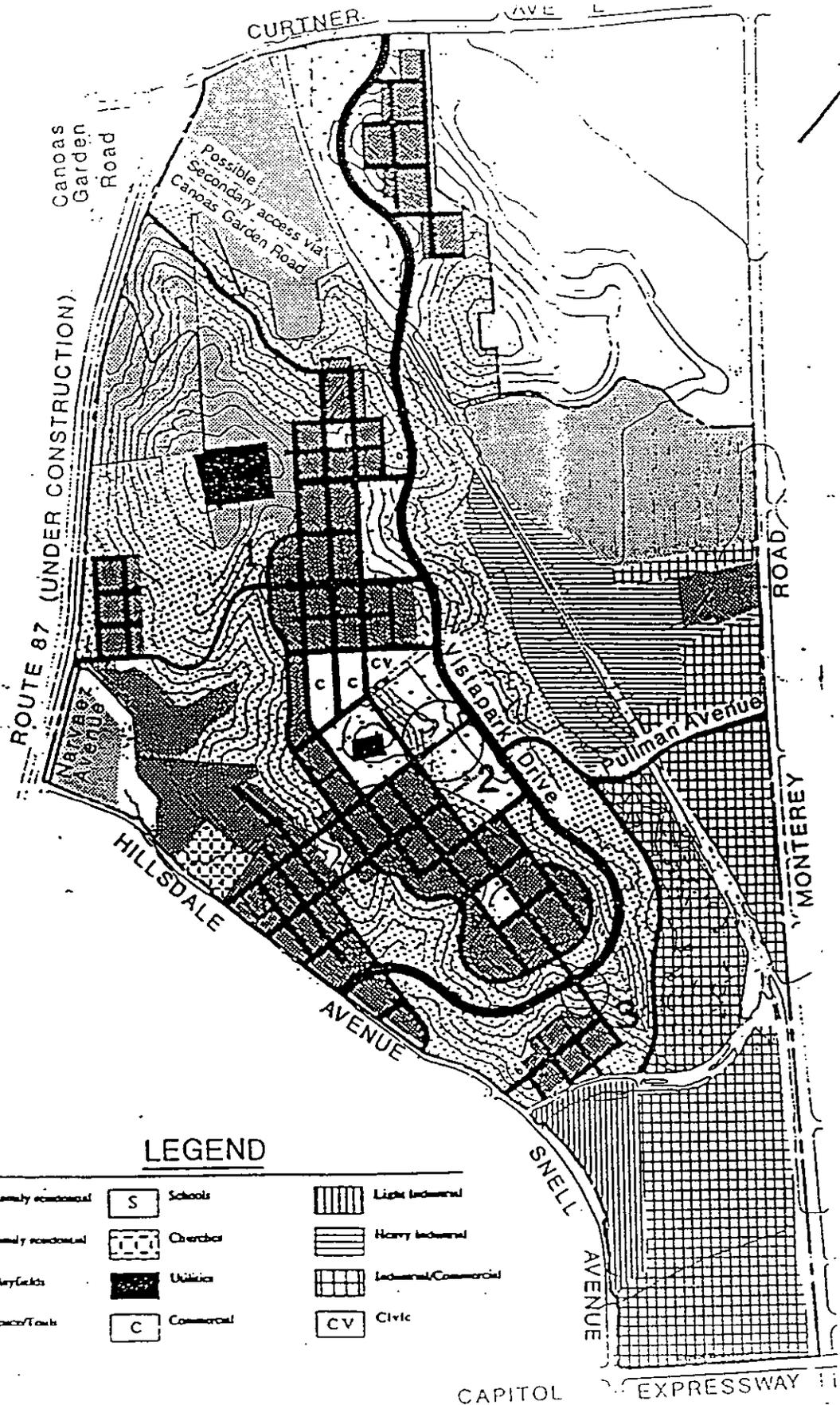
We thank you for the opportunity to review this matter.

Sincerely,


ASHOK VYAS
PROJECT ENGINEER

AV:kh

cc: WLK
VCH
DS
BC
RGH



LEGEND

	Single-family residential		Schools		Light Industrial
	Multi-family residential		Churches		Heavy Industrial
	Parks/Playfields		Utilities		Industrial/Commercial
	Open Space/Towns		Commercial		Civic

PROPOSED LAND USE

SCALE: 1" = ± 1300'
 SOURCE: SOLOMON, INC., 1981

FIGURE 4



CITY of SARATOGA

13777 FRUITVALE AVENUE • SARATOGA, CALIFORNIA 95070
(408) 867-3438

COUNCIL MEMBERS:

*Karen Anderson
Martha Clevenger
Willem Kohler
Victor Monia
Francis Stutzman*

November 20, 1991

Lee Quintana
Department of City Planning
City of San Jose
801 N. First Street, Room 400
San Jose, CA 95110

Re: Draft EIR for the Planned Development Application for the
Waterford Project (PDC 91-09-067), AM Homes

Dear Mr. Quintana:

We have reviewed the subject Draft EIR and offer the following:

On page 119, it is stated that Route 85 (West Valley Freeway) is expected to provide relief to other arteries in the project vicinity. However, Table 9, page 122, does not include the traffic impacts on Route 85. In addition, no reference is made to the impacts on the air and surface water quality in communities in the alignment of Route 85, such as Saratoga.

Sincerely,

Isabel S. Gloege, P.E.
Environmental Programs Manager

j003:isg

cc: Harry Peacock, City Manager
Tsvia Adar, Associate Planner

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NOV 20 1991

PLANNING DEPARTMENT

Post Office Box #8241
San Jose, Ca. 95155

January 10, 1992

Gary J. Schoennauer
Director of Planning
CITY OF SAN JOSE
801 North First Street
San Jose, California 95110
Attn: Lee Quintana

RE: COMMUNICATIONS HILL SPECIFIC PLAN DEIR

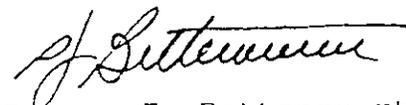
Dear Mr. Schoennauer:

This letter sets forth additional comments regarding the Draft EIR General Plan Amendment for the Communications Hill Specific Plan dated October 1991.

1. Page 28. Paragraphs G and H state that additional environmental review will be necessary for annexation/prezonings, rezonings, and other required approvals. Under a program EIR, subsequent activities must be examined to determine whether an additional environmental document must be prepared. It is not accurate to state that additional environmental review will be necessary. These paragraphs, therefore, should be revised accordingly.

2. Page 88. The second sentence of the sixth paragraph states as follows: "Prior to submittal of an application, a request for jurisdictional determination would be required". The earlier discussion of wetlands on page 77 states that it is advisable to apply to the Corps for a Preliminary Jurisdictional Determination. These two statements contradict each other and, therefore, we suggest deleting the second sentence from the sixth paragraph on page 88.

Sincerely,



Robert J. Bettencourt

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JAN 21 1992

PLANNING DEPARTMENT

County of Santa Clara

Public Services Agency
Parks and Recreation Department

298 Garden Hill Drive
Los Gatos, California 95030
(408) 358-3741, Reservations 358-3751

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DEC 09 1991

PLANNING DEPARTMENT



December 2, 1991

Ms. Lee Quintana
City of San Jose, California
Department of City Planning
801 First Street
San Jose, Ca. 95110

RE: Communications Hill Specific Plan Draft EIR

Dear Ms. Quintana:

The County of Santa Clara Parks and Recreation Department appreciates the opportunity to comment on the DEIR as mentioned above.

As noted in the DEIR, the most adjacent County Park facility would be the proposed regional trail along the Guadalupe Freeway/Light Rail Corridor. The potential 10,800 residents of 4,000 new residential units will not only put recreational demands on the trail corridor in the Coyote Creek County Park Chain, but also on County Parks in the area. Santa Teresa County Park, Calero County Park, and Almaden Quicksilver County Park are those that would be most affected.

From our review of the DEIR, the proposed project could have an affect on County parks and regional park users in the following CEQA impact categories - Land Use, Visual and Aesthetic Resources, Traffic and Transportation, and Utilities, Facilities and Services. The following comments correspond to the organizational format of the DEIR.

I. DESCRIPTION OF THE PROPOSED GENERAL PLAN AMENDMENT

E. PROJECT DESCRIPTION

page 12 - This agency would be concerned about the loss of the open space character of the site and its affect on County park and trail users. See comments below under II. G. Visual and Aesthetic Resources.

page 15 - This agency would like to have a copy of the Specific Plan to review the comments on the design standards for parks and pathways, specifically Section 3.1.e.



Board of Supervisors: Michael M. Honda, Zoe Loggion, Ron Gonzales, Rod Dirksen, Dianne McKenna
County Executive: Sally R. Reed



page 15 - What organization would bear the responsibility for the management of the proposed open space/trails areas on the proposed development site? The final EIR should address this.

II. ENVIRONMENTAL SETTING, IMPACTS AND MITIGATION MEASURES

A. LAND USE

page 41 - This agency would be concerned about the loss of the open space character of the site and its affect on County park and trail users. See comments below under II. G. Visual and Aesthetic Resources.

G. VISUAL AND AESTHETIC RESOURCES

page 98 - This agency is concerned about the visual affects of the proposed project to County Regional Park and Trail users. Two specific elements of the project concern us.

First, the gridiron pattern of street layout and development seems to be contradictory to the natural terrain of the area. Apparently there would be very large amounts of cut and fill required to develop the site. Cut and fill slope of up to 125 feet, as noted on page 104 of the DEIR, are excessive.

It seems that a road layout in harmony with the existing natural terrain would be much less visually intrusive and require much less grading for construction. Terraced development pads along the roads could be developed where grading was needed for development.

It is possible that the plan has considered this concept in the section VI. B. However, this section is not clearly written, and without the benefit of having the Specific Plan to review with this DEIR, it is not discernable that this discussion of "Curvilinear Urban Structure" is the same as what we discuss in the previous paragraph.

If it is, then this section does not provide the decision makers with objective information to review the project and its alternative. The statements that there would be increased impacts with the alternative plan regarding land use, noise, visual, geology, hydrology, water quality, biological resources and energy would not be correct. It is also erroneous to contend that the urban design concepts and elements discussed in this section are mutually exclusive to and only superior in a site design using a gridiron pattern.

Our second concern in this regard is the water tower. The proposed 2.2 million gallon water tank elevated at 115 feet would be a significant visual intrusion on users of the county regional parks and trails as well as the valley residents. The "at grade alternative" discussed in section VI.E. is much preferred. Although we realize that a booster pump system would be needed for this alternative, the visual blight of the elevated tank should be avoided at all costs.

H. TRAFFIC AND TRANSPORTATION

page 123 - b. The language in the "Site Access" section should not be so tenuous (ie: "could be planned" and "may be implemented") and should support the language on page 127 "Specific Plan Mitigation", thereby definitely providing a multi-modal transportation system. As noted in our response to the NOP, this agency feels that a pedestrian circulation system that connect to trails and mass transit are necessary.

Cumulative traffic impacts need to address the proposed project for residential development (Waterford Zoning PDC 91-09-067) of the former Hillsdale Quarry site. Approximately 3,700 new residents would be added to the area with this proposed project.

I. AIR QUALITY

page 138 - "Specific Plan Mitigations." As noted in the preceding section, pedestrian routes and connections are vital.

K. UTILITIES, FACILITIES, AND SERVICES

page 165 - 8. "Parks" It is noted that the City guidelines for parkland dedication would require 37.8 acres of parkland. The project description on page 15 suggests 23.8 acres of park land is proposed. It should be noted that the proposed project does not meet the City's requirements for parkland dedication.

V. ANY SIGNIFICANT EFFECTS WHICH CANNOT BE AVOIDED IF THE PROPOSED PROJECT IS IMPLEMENTED

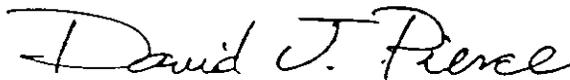
page 195 - Our comments on the significant visual impacts of the proposed project are noted in the preceding paragraphs.

VI. ALTERNATIVES TO THE PROPOSED PROJECT

page 200 - B. Our comments on this section are noted in Section G. above.

In summary, the County of Santa Clara Parks and Recreation Department has concerns with the visual impacts of the land use plan and utilities for this proposed project, and the provision for pedestrian connections to County regional trails. The parkland dedication requirements need to be worked out with the City as well as effects of the proposed Waterford project development.

Sincerely,



David J. Pierce, ASLA
Regional Park Planner

CANOAS GARDEN NEIGHBORHOOD ASSOCIATION

P.O. Box 36146 SAN JOSE, CA 95158-6146

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JAN 23 1992

CITY OF SAN JOSE
PLANNING DEPARTMENT

City of San Jose
Department of Planning
801 N. First Street
San Jose, Ca. 95110-1795

Ref: Communication Hill Specific Plan EIR

Dear Sirs;

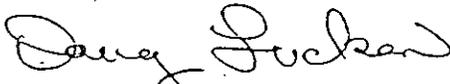
Our neighborhood wants to make sure the development of Communication Hill does not impact our sewer and flood control systems negatively. Our residents are worried that the draft EIR does not adequately address these issues.

Our sewer has periodically produced noxious fumes in our neighborhood for 20 years! Only in the last year, after millions? of dollars in renovations, does the odor problem appear to be fixed. This process has made us wary of "experts" evaluation of the sewer system. We feel that any large additional flow in this system will have adverse effects on our neighborhood.

Most of our neighborhood is in the "red zone" of the current 100 year flood plan. Any additional water runoff from Communication Hill could drastically affect flooding in our neighborhood. This is of such profound importance that our residents want more than a casual assurance that our probability of flooding is not increased.

We respectfully request that these issues be included in any further review of the Communication Hill Specific Plan.

Sincerely,



Doug Lucken
President

cc Zoe Loefgren
Susan Hammer
George Shirakawa
Nancy Ianni

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JAN 23 1992

PLANNING DEPARTMENT



DEPARTMENT OF THE ARMY
SAN FRANCISCO DISTRICT, CORPS OF ENGINEERS
211 MAIN STREET
SAN FRANCISCO, CALIFORNIA 94105 - 1905
JAN 30 1992

Regulatory Branch

SUBJECT: File No. 19482S92

Lee Quintara
Department of City Planning
801 North First Street
San Jose, California 95110

Dear Mr. Quintara:

We have received your submittal of October 1991, (entitled Draft Environmental Impact Report, General Plan Amendment: Communications Hill Specific Plan) for the area bounded by Curtner Avenue, Monterey Highway, Hillsdale Avenue/Capitol Expressway and S.R. 87, in the City of San Jose, Santa Clara County, California.

Your proposed work may 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. 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, we are required to advertise the proposed work by issuing a public notice for a period of 30 days.

Due to the large and increasing demand for project evaluation, the San Francisco District must quickly screen applications for accurate information to aid us in making our determinations of jurisdiction. If such information is not included applicants can anticipate delays.

Corps staff will map its jurisdiction if you so choose. We will hold your submittal for the next available field day. Due to the current backlog of requests this may take several months.

Many consultants now offer expertise in Federal jurisdictional analysis. It is generally prudent to involve such expertise when developing plans for activities which may require a Corps of Engineers permit. It is also prudent to check their references and demonstrated expertise.

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PLANNING DEPARTMENT

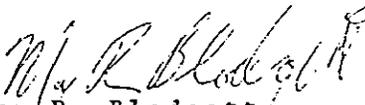
A jurisdictional survey should be illustrated on a scaled topographic map or site plan. When this is forwarded with an application, Corps staff can validate and authenticate the limits of Corps jurisdiction. While it is not usually necessary to confirm all boundary points, the Corps will verify the jurisdictional boundary along one or more transects and may visit random intermediate points.

If wetlands are part or all of Corps jurisdiction on your property, the Federal Manual for Identifying and Delineating Jurisdictional Wetlands should be used (published 1989; available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C., 20402; stock number 024-010-00683-8). Data points should be indicated on the topographic or site map and all data sheets should be included with the application or submittal.

Should you choose to expedite the process by hiring an environmental consultant please forward a map and substantiating data to us, and cite the date of your original request.

If you have any questions, please call Rob Lawrence of our Regulatory Branch (telephone 415-744-3318 Ext. 234). If you wish to write, please address all correspondence to the District Engineer, Attention: Regulatory Branch, and refer to the file number at the head of this letter.

Sincerely,


Max R. Blodgett
Acting Chief, Construction-Operations
Division

Enclosure

Santa Clara Valley Water District



5750 ALMADEN EXPRESSWAY
SAN JOSE, CALIFORNIA 95118
TELEPHONE (408) 265-2600
FACSIMILE (408) 266-0271

AN AFFIRMATIVE ACTION EMPLOYER

November 27, 1991

Ms. Lee Quintana
Department of City Planning
City of San Jose
City Hall Annex, Room 400
801 North First Street
San Jose, CA 95110-1795

Dear Ms. Quintana:

We have reviewed the Draft Environmental Impact Report for the proposed Communication Hill Specific Plan, and have the following comments:

Adequate information about the location, size and operational guidelines of the detention facility should be provided in conjunction with site development plans.

We wish to review the mitigation measures required by the Department of Public Works for the drainage facilities.

We appreciate the opportunity to review this DEIR and wish to review any subsequent documents.

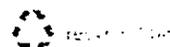
Sincerely,

Dr. Bernard H. Goldner
Environmental Specialist
Project Development Branch

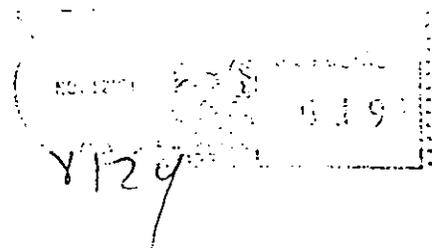
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PLANNING DEPARTMENT



CALIFORNIA ARCHAEOLOGICAL INVENTORY
Northwest Information Center
Department of Anthropology
Sonoma State University
Rohnert Park, CA 94928



Lee Quintana
Dept. of City Planning
801 North First St.
San Jose CA 95110

11 November 1991

re: Communications Hill Specific
Plan EIR

Dear Lee Quintana;

Our office has no additional comments
on the above EIR. However, thank you
for your continued interest in
cultural resources.

Sincerely,
Leigh Friedman
Asst. Coordinator