

Appendix F: Notice of Preparation and Comments Received

NOTICE OF PREPARATION

DATE: July 8, 2019

FROM: Saratoga Community Development Department
Attn: Debbie Pedro, Community Development Director
13777 Fruitvale Avenue
Saratoga, CA 95070

SUBJECT: NOTICE OF PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE MOUNTAIN WINERY ANNEXATION PROJECT

The City of Saratoga as Lead Agency pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15052 has required that an Environmental Impact Report (EIR) pursuant to CEQA Guidelines Section 15161 be prepared for the project identified below. The City solicits the views of the public on the scope and content of the EIR.

Comments may be submitted to Debbie Pedro, Community Development Director at 13777 Fruitvale Avenue, Saratoga, CA 95070 or dpedro@saratoga.ca.us. All comments must be received by **August 7, 2019 at 5:00 pm**. In addition, comments can be submitted at a public **scoping meeting**. Details of the public scoping meeting are as follows:

- **Location:** Joan Pisani Community Center, Arts & Craft Room, 19655 Allendale Ave., Saratoga, CA 95070
- **Date:** July 17, 2019
- **Time:** 6:00 PM

An Environmental Checklist is attached to this Notice of Preparation to identify probable environmental effects of the project, which would be evaluated in the EIR. Where impacts are not anticipated, it is noted in the attached environmental checklist. However, the EIR will evaluate all environmental factors and the project's potential to result in significant impacts.

PROJECT LOCATION: The project site is located at 14831 Pierce Road in unincorporated Santa Clara County, north of Highway 9, west of Pierce Road. The project site is located on three contiguous parcels APN 503-46-005, 503-46-006 and 503-46-007. One of the parcels (-006) is located outside of Saratoga's Urban Service Area (USA) and within its Sphere of Influence (SOI) while the other parcel (-007) is located outside of both the USA and the SOI. The (-005) parcel is located with Saratoga's USA and SOI.

PROJECT DESCRIPTION: The City of Saratoga intends to prepare an EIR for the Mountain Winery Annexation Project (Project). The Project would consist of adjustments to the City of Saratoga's USA and SOI boundaries to include APN's 503-46-006 and 503-46-007. The Project also includes related General Plan and zoning ordinance amendments, adoption of a Precise Plan and development agreement, and subsequent annexation of the parcels into the City. In addition, the Project entails annexation into the Cupertino Sanitary District to allow for the potential to connect to the Cupertino Sanitary District system in the future. Several of these actions are subject to review and approval by the Santa Clara Local Agency Formation Commission (LAFCo).

A new General Plan land use designation of Regional Commercial (RC) and a new zoning district of Regional

A new General Plan land use designation of Regional Commercial (RC) and a new zoning district of Regional Commercial (RC) would be applied to APN 503-46-006 and a portion of APN 503-46-007, as shown in Figure 1. The City would prepare a Precise Plan to establish more specific land use regulations and design standards for the new RC land use designation and zoning district. The Precise Plan boundaries would encompass an area of previously disturbed land where the existing Mountain Winery operations occur. An existing General Plan land use designation of Hillside Open Space (OS-H) and an existing zoning district of Residential Open Space (R-OS) would be applied to the remainder of APN 503-46-007, outside the Precise Plan boundaries, as shown in Figure 1.

The new General Plan land use designation (RC) and the new zoning district (RC) and Precise Plan would allow uses permitted under the Mountain Winery's existing County Use Permit (approved in 2000, modified in 2018) to continue, while also allowing for new uses (subject to a maximum permissible density and intensity of use established by the Precise Plan). Uses currently permitted under the County Use Permit include the existing Mountain Winery operations, a future wine tasting building, a future concession building, a future event building, a future storage building, a future ticket office, and a future outdoor terrace garden area. New uses allowed by the Project would include lodging uses (up to 300 rooms), a second water tank, and future connections to the Cupertino Sanitary District infrastructure to support the new uses. The new lodging uses and water tank would be allowed within the Precise Plan boundaries, as shown in Figure 1. The infrastructure for the potential future connection to the Cupertino Sanitary District would be located on a portion of the APN 503-46-005 parcel, as shown in Figure 1. The APN 503-46-005 parcel would retain the existing land use designation of OS-H and zoning district of R-OS. The OS-H land use designation and R-OS zoning district on the portion APN 503-46-007 not in the RC designation are intended to support and enhance a rural character, promote the wise use of natural resources, and avoid natural hazards; environmentally sensitive low density residential use (up to one residential dwelling unit per 160 acres based on the slope at this site) is allowed under this land use designation and zoning district.

Signature:

Name:

James Lindsay, City Manager

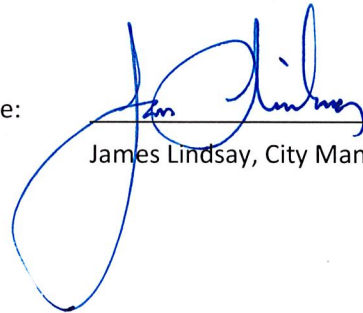
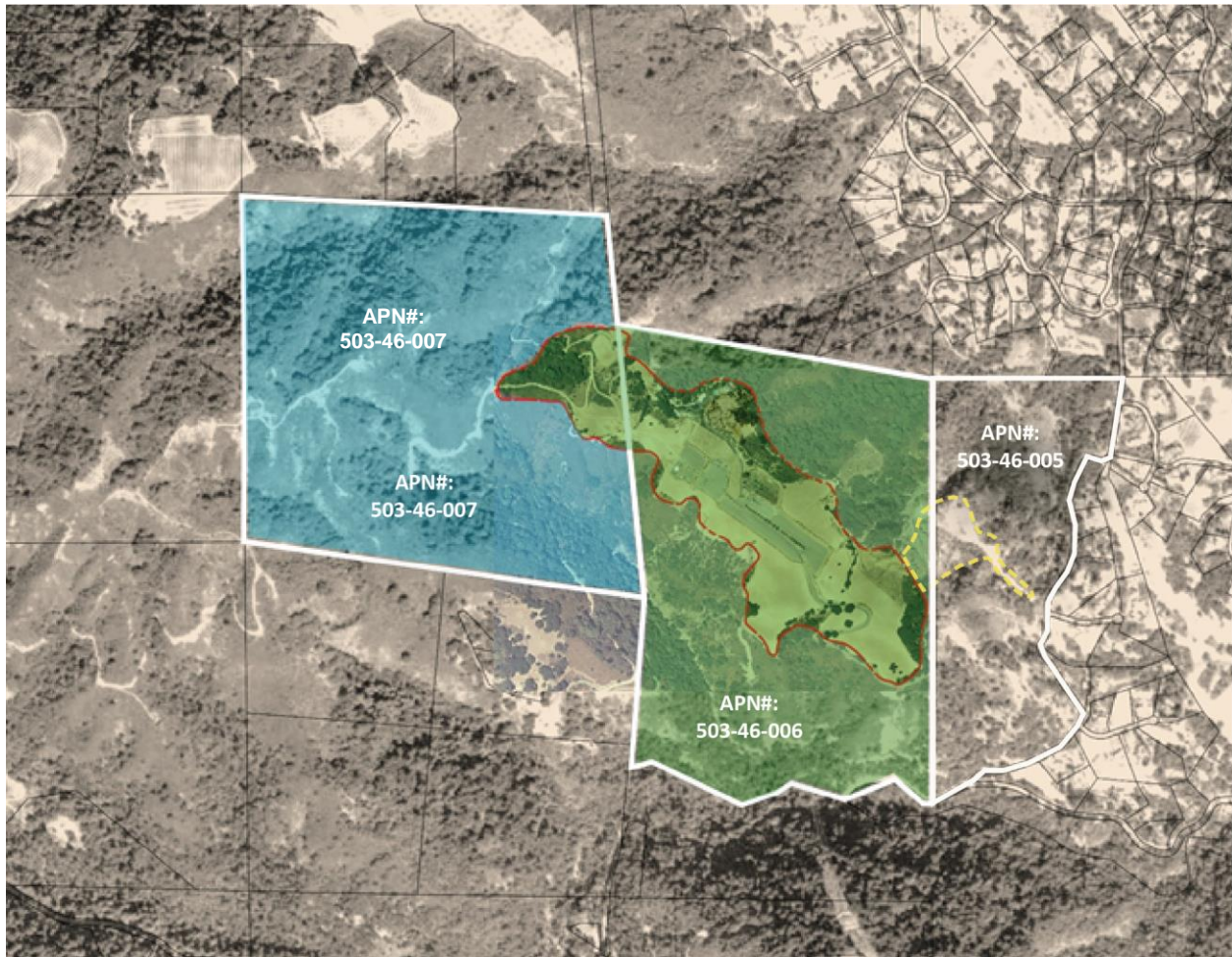
A handwritten signature in blue ink, appearing to read "James Lindsay", is written over a horizontal line. The signature is stylized with a large loop at the end.

Figure 1.

Proposed Land Use Designation and Zoning District



LAND USE Regional Commercial (RC)

ZONING Regional Commercial (RC)



LAND USE Hillside Open Space (OS-H)

ZONING Residential Open Space (R-OS)



Precise Plan Boundary



Sanitary Sewer Connection Boundary

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1.0 ENVIRONMENTAL CHECKLIST FORM

1. Project title:

Mountain Winery Annexation Project

2. Lead agency name and address:

City of Saratoga
Community Development Department
1377 Fruitvale Avenue
Saratoga, CA 95070

3. Contact person, phone number, and email:

Debbie Pedro, Community Development Director
(404) 868-1231
dpedro@saratoga.ca.us

4. Project location:

The project site is located at 14831 Pierce Road in unincorporated Santa Clara County, north of Highway 9, west of Pierce Road. The project site is located on three contiguous parcels APN 503-46-005, 503-46-006 and 503-46-007. One of the parcels (-006) is located outside of Saratoga's Urban Service Area (USA) and within its Sphere of Influence (SOI) while the other parcel (-007) is located outside of both the USA and the SOI. The (-005) parcel is located with Saratoga's USA and SOI.

5. Applicant's name and Address:

City of Saratoga
Community Development Department
1377 Fruitvale Avenue
Saratoga, CA 95070

6. General plan designation:

Hillside (HS)

7. Zoning:

Hillside-d1 District (HS-d₁); Hillside-d1-Scenic Roads (HS-d1-sr)

8. Description of project:

The City of Saratoga intends to prepare an EIR for the Mountain Winery Annexation Project (Project). The Project would consist of adjustments to the City of Saratoga's USA and SOI boundaries to include APN's 503-46-006 and 503-46-007. The Project also includes related General Plan and zoning ordinance amendments, adoption of a Precise Plan and development agreement, and subsequent annexation of the parcels into the City. In addition, the Project entails annexation into the Cupertino Sanitary District to allow for the potential to connect to the Cupertino Sanitary District system in the future. Several of these actions are subject to review and approval by the Santa Clara Local Agency Formation Commission (LAFCo).

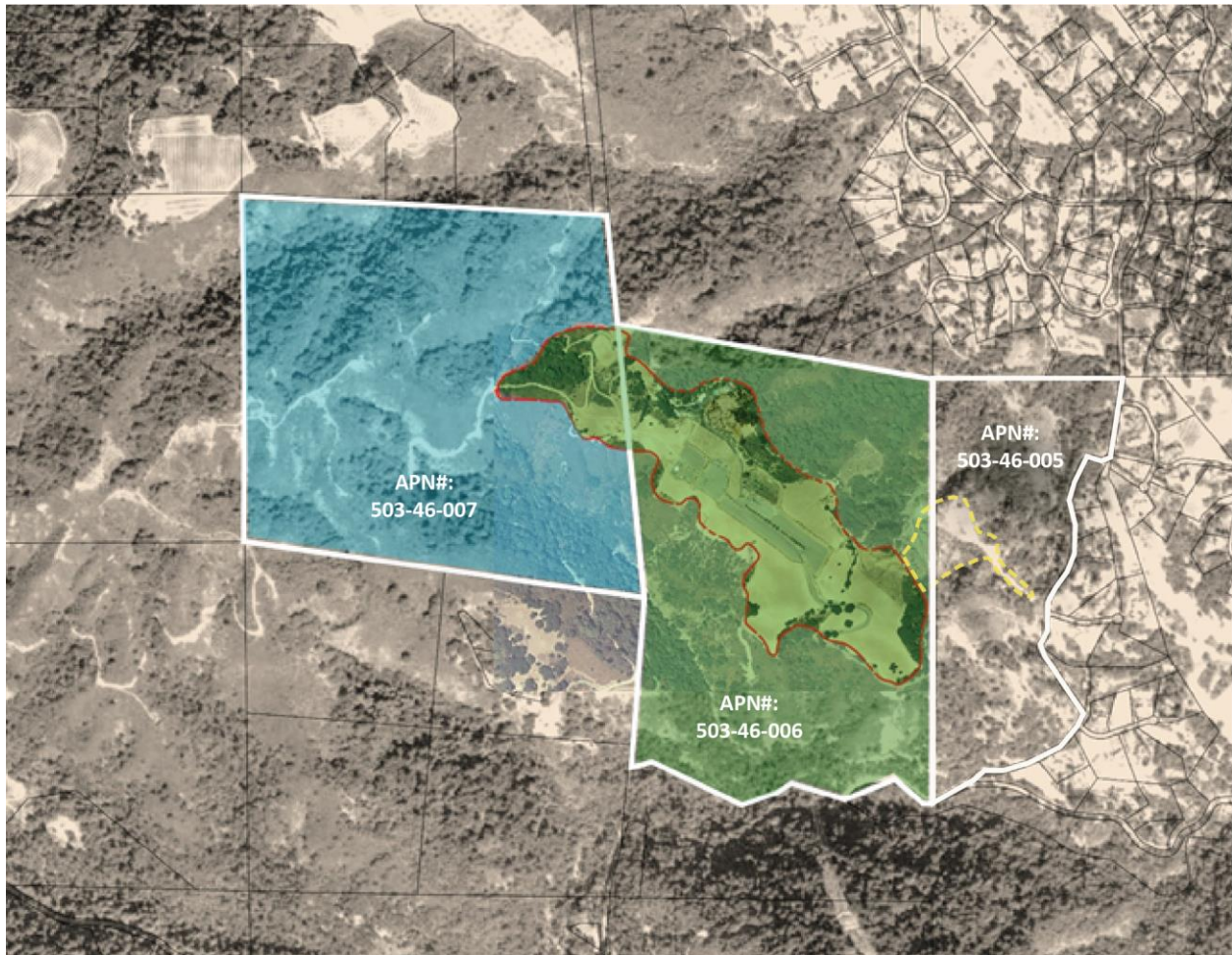
A new General Plan land use designation of Regional Commercial (RC) and a new zoning district of Regional Commercial (RC) would be applied to APN 503-46-006 and a portion of APN 503-46-007, as shown in Figure 1. The City would prepare a Precise Plan to establish more specific land use regulations and design standards for the new RC land use designation and zoning district. The Precise Plan boundaries would encompass an area of previously disturbed land where the existing Mountain Winery operations occur. An existing General Plan land use designation of Hillside Open Space (OS-H) and an existing zoning district of Residential Open Space (R-OS) would be applied to the remainder of APN 503-46-007, outside the Precise Plan boundaries, as shown in Figure 1. The new General Plan land use designation (RC) and the new zoning district (RC) and Precise Plan would allow uses permitted under the Mountain Winery's existing County Use Permit (approved in 2000, modified in 2018) to continue, while also allowing for new uses (subject to a maximum permissible density and intensity of use established by the Precise Plan). Uses currently permitted under the County Use Permit include the existing Mountain Winery operations, a future wine tasting building, a future concession building, a future event building, a future storage building, a future ticket office, and a future outdoor terrace garden area. New uses allowed by the Project would include lodging uses (up to 300 rooms), a second water tank, and future connections to the Cupertino Sanitary District infrastructure to support the new uses. The new lodging uses and water tank would be allowed within the Precise Plan boundaries, as shown in Figure 1. The infrastructure for the potential future connection to the Cupertino Sanitary District would be located on a portion of the APN 503-46-005 parcel, as shown in Figure 1. The APN 503 46-005 parcel would retain the existing land use designation of OS-H and zoning district of R OS. The OS-H land use designation and R-OS zoning district on the portion APN 503-46-007 not in the RC designation are intended to support and enhance a rural character, promote the wise use of natural resources, and avoid natural hazards; environmentally sensitive low density residential use (up to one residential dwelling unit per 160 acres based on the slope at this site) is allowed under this land use designation and zoning district.



9. Surrounding land uses and setting: Briefly describe the project's surroundings:

Land uses surrounding the site include predominantly undeveloped hillside parcels to the west, north, and south, the Mt. Eden vineyard to the north off Mt. Eden Road, and low density single-family residential neighborhoods to the east, northeast, and southeast.

Figure 1.

Proposed Land Use Designation and Zoning District



	LAND USE	Regional Commercial (RC)
	ZONING	Regional Commercial (RC)
	LAND USE	Hillside Open Space (OS-H)
	ZONING	Residential Open Space (R-OS)

 **Precise Plan Boundary**

 **Sanitary Sewer Connection Boundary**

2.0 ENVIRONMENTAL ANALYSIS

2.1 Aesthetics

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Except as provided in Public Resources Code Section 21099, would the project:				
a) Have a substantial adverse effect on a scenic vista?	X			
a) Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?	X			
b) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	X			
c) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Have a substantial adverse effect on a scenic vista?

Scenic vistas are defined as expansive views of highly-valued landscapes from publicly accessible viewpoints. The primary character of the project site consists of associated buildings, open meadows, and hillsides with native vegetation such as chaparral, oak, and pine. As determined in the 3179-18A-18G-18DR (Mt. Winery) Architecture and Site Approval, Design Review and Grading Approval for Five

New Buildings and a Garden Terrace Area Staff Report (October 2018 County Staff Report), the proposed addition of five new buildings and creation of a garden terrace area was determined to be compatible with the natural environment. Thus, views of these features are not expected to be significantly affected by the proposed projects as determined in the October 2018 County Staff Report. However, future development of a new lodging facility, very low density residential uses, connection to the Cupertino Sanitary District, and a new water tank could potentially expand the physical footprint of the existing facility operations and could have the potential to substantially change the visual character of the project site, potentially resulting in substantial adverse impacts to scenic vistas and resources. Therefore, impacts will be further discussed in the EIR.

b) Substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway?

Access to the project site is provided by a steep winding private roadway that rises from Pierce Road just north of Congress Springs Road and State Route 9 (SR-9). SR-9 is a State Scenic Route that runs from Los Gatos to Saratoga, then turns upward into the Santa Cruz Mountains and winds westward to Skyline Boulevard. Pierce Road is also designated by the City of Saratoga as a Scenic Road. As determined in the October 2018 County Staff Report, due to topography and existing vegetation, the location and design of the previously-approved buildings are such that only a small portion of one of the five buildings will be visible from surrounding vantage points. However, future development of a new lodging facility, very low density residential uses, connection to the Cupertino Sanitary District, and a new water tank could potentially expand the physical footprint of the existing facility operations and could have the potential to impact scenic resources within SR-9 and potentially result in substantial adverse impacts to scenic vistas and resources. Therefore, impacts will be further discussed in the EIR.

c) In non-urbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?

See previous comments under (a, b).

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

The project site is located on a steep sloping property, which is minimally visible from surrounding areas due to topography and existing vegetation. As determined in the October 2018 County Staff Report, due to topography and existing vegetation, the location and design of the proposed buildings are such that only a small portion of one of the five proposed buildings will be visible from surrounding vantage points. Future development of a new lodging facility, very low density residential uses, , and a new water tank could create new sources of light or glare which may have the potential to adversely affect day or nighttime views in the area. Therefore, impacts will be further discussed in the EIR.

2.2 Agriculture and Forestry Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:				
a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?				X
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?				X
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?				X
d) Result in the loss of forest land or conversion of forest land to non-forest use?				X
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?				X

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

- a) *Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*

The California Department of Conservation's Santa Clara County Important Farmland 2016 map identifies "Grazing Land" and "Urban and Built-Up Land" on the project site. Project implementation would result in the annexation of the project site into the City of Saratoga. Because the project site is not located on Important Farmlands, the proposed project would not convert lands designated as Farmland to non-agricultural use. Thus, no impacts are anticipated.

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

None of the parcels within the project site are under a Williamson Act contract. In addition, the project site is currently zoned by the County as Hillside-d1 District (HS-d1) and Hillside-d1-Scenic Roads (HS-d1-sr), with a land use designation of Hillside. Therefore, project implementation would not result in conflict with agricultural zoning or a Williamson Act contract. Thus, no impacts are anticipated.

c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?

No lands within or immediately adjacent to the project site are zoned forest land or timberland or contain any forested areas. The project site is currently zoned by the County as Hillside-d1 District (HS-d1) and Hillside-d1-Scenic Roads (HS-d1-sr), and the current County land use designation is Hillside. The Project would not involve any changes to the existing environment that, due to their location or nature, could result in impacts resulting in the loss of forest land or conversion of forest land to non-forest use, as there is no forest land on the project site. Thus, no impacts are anticipated.

d) Result in the loss of forest land or conversion of forest land to non-forest use?

No lands within or immediately adjacent to the project site are zoned forest land or timberland or contain any forested areas. The proposed project does not involve any changes to the existing environment that, due to its location or nature, could result in impacts resulting in the loss of forest land or conversion of forest land to non-forest use. As determined in the October 2018 County Staff Report, the previously-approved buildings would occur within the previously disturbed development footprint. While future development of a new lodging facility, very low-density residential uses, connection to the Cupertino Sanitary District, and a new water tank could potentially expand the physical footprint of the existing facility operations, the project site is not located in forest land and thus would not result in additional conversion of land or loss of designated forest land to non-forest uses. No impacts are anticipated.

e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?

See previous comments under (a, d).

2.3 Air Quality

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Where available, the significance criteria established by the applicable air quality management district or air pollution control district may be relied upon to make the following determinations. Would the project:				
a) Conflict with or obstruct implementation of the applicable air quality plan?	X			
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?	X			
c) Expose sensitive receptors to substantial pollutant concentrations?	X			
d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?				X

Discussion: The following analysis is based on City staff review of the project, observations on the project site and in the project vicinity.:

a) Conflict with or obstruct implementation of the applicable air quality plan?

The project site is located within the San Francisco Bay Area Air Basin. Santa Clara County has been designated as non-attainment for the pollutants PM_{2.5} and ozone. Any future construction activities could conflict with or obstruct implementation of the applicable air quality plan. Therefore, impacts will be further discussed in the EIR.

b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?

See previous comments under (a).

c) Expose sensitive receptors to substantial pollutant concentrations?

Future development could create substantial pollutant concentrations during construction activities that could expose sensitive receptors to substantial pollutant concentrations. The nearest sensitive receptors to the project site are residential uses located along Pierce Road, approximately 0.5 mile from the project site. Thus, impacts will be further discussed in the EIR.

d) Result in other emissions (such as those leading to odors adversely affecting a substantial number of people?)

Uses allowed by the project, including a new lodging facility, very low-density residential uses, connection to the Cupertino Sanitary District, and a new water tank could potentially expand the physical footprint of the existing facility operations. Such uses would not result in other emissions that cause objectionable odors, that would adversely affect a substantial number of people. Generally, lodging and residential uses are not odor generating, nor are water tanks and pipelines. Thus, no impacts are anticipated.

2.4 Biological Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?	X			
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?	X			
c) Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological	X			
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or	X			

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
impede the use of native wildlife nursery sites?				
e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	X			
f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?				X

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

- a) *Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?*
- b) *Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?*

The Mountain Winery has been in active operations since the early 1900s, and thus the project site is considered substantially disturbed and mostly developed. It is anticipated that almost all future development on parcels APN 503-46-006 and APN 503-46-007 would be limited to areas of prior disturbance; therefore, substantial adverse effects directly on any species or through modification of habitats are not anticipated. However, because limited development (e.g. water tank and connection to the Cupertino Sanitary District) could occur on previously undeveloped areas of the project site (primarily the portion of parcel APN 503-46-007 included in the precise plan and the portion of parcel APN 503-46-005 depicted on Figure 1), impacts on any species identified as a candidate, sensitive, or special-status species and potential habitat modifications would be identified further in the EIR.

- c) *Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological?*

The National Wetlands Inventory provided by the United States Fish and Wildlife does not identify any wetlands within the project site. However, several dry drainages exist, which exhibit signs of flow during

the rainy winter season. The project site is bisected by a generally east-west to northwest-southeast trending ridge, which forms a drainage divide. To the south, the property is located within the Saratoga Creek watershed, and to the north, surface runoff drains to the Calabazas Creek watershed. Future development could have an effect on these drainages. Therefore, impacts will be further discussed in the EIR.

- d) *Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?*

The Mountain Winery has been in active operations since the early 1900s, and thus the project site is considered substantially disturbed and mostly developed, therefore substantial adverse effects directly on the movement of any native resident or migratory fish or wildlife species are not anticipated. However, impacts on the movement of native resident or migratory fish or wildlife species would be identified further in the EIR.

- e) *Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?*

Both native and non-native trees are common on the project site. The Mountain Winery has been in active operations since the early 1900s, and thus the project site is considered substantially disturbed and mostly developed, therefore the Project is not anticipated to conflict with any local policies and/or ordinances. However, future development could have the potential to conflict with local policies and/or ordinances. Therefore, impacts will be further discussed in the EIR.

- f) *Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?*

The project site is located outside the boundaries of the Santa Clara Valley Habitat Conservation Plan. No habitat conservation plans or other similar plans have been adopted for the project site.

2.5 Cultural Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a historical resource pursuant to in § 15064.5?	X			
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?	X			
c) Disturb any human remains, including those interred outside of dedicated cemeteries?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Cause a substantial adverse change in the significance of a historical resource pursuant to in § 15064.5?

The Mountain Winery is listed on several historic registers, including the Santa Clara County historic register. Future development of a lodging facility and water tank could have the potential to change the significance of a historical resource pursuant to in §15064.5. Therefore, impacts will be further discussed in the EIR.

b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to § 15064.5?

According to the Northwest Information Center, Sonoma State University, the Mountain Winery is not within, nor does it contain, any known archaeological sites. The project vicinity has a moderate potential of identifying Native American archaeological resources and a high potential of identifying historic-period archaeological resources in the project area. Therefore, impacts will be further discussed in the EIR.

c) Disturb any human remains, including those interred outside of dedicated cemeteries?

The Mountain Winery has been in active operations since the early 1900s, and thus the project site is considered substantially disturbed and mostly developed, therefore the Project is not anticipated to disturb any human remains. However, future development could have the potential to disturb human

remains during grading and construction-related activities. Therefore, impacts will be further discussed in the EIR.

2.6 Energy

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	X			
b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?

Future development allowed by the Project, including a new lodging facility, very low-density residential uses, connection to the Cupertino Sanitary District, and a new water tank could have the potential to result in wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation. Therefore, impacts will be further discussed in the EIR.

b) Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?

Future development allowed by the Project, including a new lodging facility, very low-density residential uses, connection to the Cupertino Sanitary District, and a new water tank could have the potential to conflict with or obstruct a state or local plan for renewable energy or energy efficiency. Therefore, impacts will be further discussed in the EIR.

2.7 Geology and Soils

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.	X			
ii) Strong seismic ground shaking?	X			
iii) Seismic-related ground failure, including liquefaction?	X			
iv) Landslides?	X			
b) Result in substantial soil erosion or the loss of topsoil?	X			
c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?	X			
d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	X			
e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?	X			

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

- a) *Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:*
- i. *Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.*
 - ii. *Strong seismic ground shaking?*
 - iii. *Seismic-related ground failure, including liquefaction?*
 - iv. *Landslides?*
 - v. *Result in substantial soil erosion or the loss of topsoil?*

The San Andreas Fault is a right-lateral strike slip fault located approximately one mile from the project site, and the Berrocal Fault, an active thrust fault associated with the Santa Cruz Mountain Uplift, crosses the northeast corner of the project site. Based on historical events, the San Andreas fault is capable of generating an 8.0+ magnitude earthquake, and the Berrocal fault has the potential to generate a 6.7 or greater magnitude (County of Santa Clara, 1999). Future development allowed by the Project, including a new lodging facility, very low-density residential uses, connection to the Cupertino Sanitary District, and a new water tank could directly or indirectly cause potential substantial adverse effects involving strong seismic ground shaking, liquefaction, landslides, and soil erosion. Therefore, impacts will be further discussed in the EIR.

- b) *Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?*

The Mountain Winery has been in active operations since the early 1900s, and thus the project site is considered substantially disturbed and mostly developed, therefore the Project is not anticipated to create a direct or indirect risk to life or property. However, future development could have the potential

to be located on expansive, unstable soil, and potentially result in a landslide, lateral spreading, subsidence, or liquefaction. Therefore, impacts will be further discussed in the EIR.

- c) *Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?*

See previous comments under (b).

- d) *Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?*

The Mountain Winery has been in active operations since the early 1900s, and thus the project site is considered substantially disturbed and mostly developed. The project site is currently served by an onsite sewage collection system, septic treatment, and percolation disposal field. Because future development could have the potential to be located on unstable soils, the EIR would further examine soil properties.

- e) *Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

According to the Northwest Information Center, Sonoma State University, the project vicinity has a moderate potential of identifying Native American archaeological resources and a high potential of identifying historic-period archaeological resources in the project area. As these can be indicators of potential paleontological resources, impacts will be further discussed in the EIR.

2.8 Greenhouse Gas Emissions

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	X			
b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?

Any future construction activities would generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment. The use of internal combustion engines for on-site mobile equipment, power generation for on-site stationary equipment, and for off-site transportation including trucking and rail transportation would generate carbon dioxide emissions. This would be considered a potentially significant impact and would be further addressed in the EIR.

b) Conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases?

The Project could potentially conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. This would be considered a potentially significant impact and would be further addressed in the EIR. The net project-related GHG emissions will be assessed against BAAQMD thresholds and consistency with applicable GHG reduction plans including applicable City policies, and other applicable regional/statewide GHG emissions reduction strategies such as the CARB Scoping Plan and the Metropolitan Transportation Commission's Plan Bay Area.

2.9 Hazards and Hazardous Materials

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	X			
b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	X			
c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	X			
d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	X			
e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?				X
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	X			

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?

According to the County Use Permit (approved in 2000, modified in 2018), the Mountain Winery does not generate any hazardous materials. The materials used and stored on site that are generally considered household hazardous materials, and include cleaning fluids, solvents, pool supplies (including small quantities of liquid chlorine), paint, and pesticides. These materials currently are stored in accordance with applicable regulations, usually in storage sheds or other structures in the project site. However, potential impacts could result from the accidental release of chemicals associated with construction equipment. Therefore, impacts will be further discussed in the EIR.

b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?

Future development could potentially create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment. Potential impacts could result from the accidental release of chemicals associated with construction equipment such as spills of fuels or other hazardous liquids. Reasonably foreseeable accident conditions include but are not limited to spills caused by topping off fuel tanks, runoff stemming from the natural (rainfall) or deliberate washing down of fuel area, and leaking storage tanks. Therefore, impacts will be further discussed in the EIR.

c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?

The closest school, Saratoga Elementary School, to the project site is located at 14592 Oak Street, approximately 1.47 miles to the east of the project site. The Project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. Thus, no impacts are anticipated.

- d) *Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?*

Previous Phase I assessments for the Mountain Winery were conducted by EBI Consulting in October 2011 and February 2012. According to the Department of Toxic Substances Control EnviroStor database and the State Water Board GeoTracker database, the project site is not currently included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5. Therefore, the Mountain Winery was found not to be located on a site which is included on a list of hazardous materials sites and would not create a significant hazard to the public or the environment. As such, no impacts are anticipated.

- e) *For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard or excessive noise for people residing or working in the project area?*

The nearest airport to the project site is the Norman Y. Mineta San Jose International Airport, located approximately 10 miles northeast of the project site. Accordingly, the project site is not located within an airport land use plan or within two miles of a public airport or public use airport and no impacts are anticipated.

- f) *Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

Fire Protection Services for the Mountain Winery are currently provided by the Saratoga Fire Protection District. The Mountain Winery also maintains an Emergency Action Guide, which is reviewed and approved by the Saratoga Fire Protection District. The Emergency Action Guide provides a list of the performing arts events, office and emergency phone numbers, maps, assignment of duties, general emergency instructions, emergency evacuation procedures, earthquake procedures, actions for riots or public disturbances and bomb threats, and actions to be taken in the event of a power failure. Future development of a new lodging facility could potentially impair with the Emergency Action Guide. Therefore, impacts will be further discussed in the EIR.

- g) *Expose people or structures, either directly or indirectly, to a significant risk of loss, injury or death involving wildland fires?*

The fire hazard at the project site and the surrounding hillsides is generally considered high to extreme in summer months. The project site is situated such that the control of a fire originating in the vicinity could present abnormally difficult fire-fighting actions because of the steep slopes, fire-loading vegetation, dry weather, high wind, or any combination of these conditions. The Saratoga General Plan also designates the Mountain Winery and surrounding lands in the western hillsides as areas subject to extreme fire hazards. Therefore, impacts will be further discussed in the EIR.

2.10 Hydrology and Water Quality

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	X			
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	X			
c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
i. Result in substantial erosion or siltation on- or off-site?	X			
ii. Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?	X			
iii. Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?	X			
iv. Impede or redirect flood flows?	X			
d) In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	X			

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) *Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?*

Future development allowed by the Project, including a new lodging facility, very low-density residential uses, connection to the Cupertino Sanitary District, and a new water tank could potentially violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality. Construction of new development could require grading and result in soil compaction, removal of vegetation, and the creation of impervious surfaces; all of which could contribute to changes in drainage patterns and a significant increase in the amount of surface water runoff, erosion of soils and discharge of sediments into existing drainages on and off the project site. Therefore, impacts will be further discussed in the EIR.

b) *Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?*

See previous comments under (a).

c) *Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:*

- i. *Result in substantial erosion or siltation on- or off-site?*
- ii. *Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or offsite?*
- iii. *Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?*
- iv. *Impede or redirect flood flows?*

- v. *In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?*
- vi. *Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?*

The project site is not located within a 100-year flood zone and does not contain any creeks or streams, which would impede or redirect flood flows. As discussed above, future development of a new lodging facility, very low-density residential uses, connection to the Cupertino Sanitary District, and a new water tank could potentially alter the existing drainage pattern of the site or area, including through the addition of impervious surfaces. New lodging uses could require substantial grading, and result in soil compaction, removal of vegetation, and the creation of impervious surfaces; all of which could contribute to changes in drainage patterns and a significant increase in the amount of surface water runoff, erosion of soils and discharge of sediments into existing drainages on and off the project site. Therefore, impacts will be further discussed in the EIR.

2.11 Land Use and Planning

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Physically divide an established community?				X
b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?			X	

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Physically divide an established community?

The project site is located on the border of the current City boundaries, and is situated in a mountainous area. The proposed project does not include the creation of any road, ditch, wall, or other feature which would physically divide an established community. The proposed project would create a new General Plan land use designation (RC) and a new zoning district (RC), which would be consistent with City

character and the surrounding land uses per the Precise Plan. Thus, the Project will not physically divide an established community, and no impact is anticipated.

b) Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?

As discussed above, the proposed project would create a new General Plan land use designation (RC) and a new zoning district (RC) and a Precise Plan, which would allow uses permitted under the existing County Use Permit (approved in 2000, modified in 2018) to continue, while also allowing for new uses (subject to a maximum permissible density and intensity of use established by the Precise Plan). While no impacts are anticipated, this will be further discussed in the EIR.

2.12 Mineral Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?				X
b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?				X

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?

There are no known mineral resources of regional value located on or near the project site. Therefore, the Project would not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the State. Thus, no impacts are anticipated.

b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?

The project site is not identified in the Santa Clara County General Plan Minerals Element or City of Saratoga General Plan as containing any locally-important mineral resources. The Project would not result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan. Thus, no impact is anticipated.

2.13 Noise

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in:				
a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?	X			
b) Generation of excessive groundborne vibration or groundborne noise levels?	X			
c) For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?				X

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?

The project site currently operates as a concert venue. The existing uses would continue on the project site after implementation of the Project, and as such, current noise levels would persist. Future development of new uses allowed by the Project could create new substantial temporary or permanent increases in ambient noise levels in the vicinity of the Project during construction activities or as a result of new uses on the project site that could result in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. Thus, impacts will be further discussed in the EIR.

b) Generation of excessive groundborne vibration or groundborne noise levels?

Future development could generate excessive groundborne vibration or groundborne noise levels during construction activities that could result in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. Thus, impacts will be further discussed in the EIR.

- c) *For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?*

The Project is not located within an airport land use plan or within two miles of a public airport or public use airport. The nearest airport is the Norman Y. Mineta San Jose International Airport, located approximately 10 miles northeast of the project site. Thus, no impact is anticipated.

2.14 Population and Housing

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	X			
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?				X

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?

New lodging uses allowed by the project could create new employment opportunities on the project site. Creation of new employment opportunities could potentially induce population growth. While it is not anticipated that any induced population growth would be substantial, impacts will be further analyzed in the EIR.

b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?

The project site is developed with the Mountain Winery and the nearest residential uses are located along Pierce Road, approximately 0.5 mile from the project site. The Project would allow new lodging uses on the project site, but would not entail off-site construction or acquisition of any land. As such, the Project would not displace any businesses or residences and displacement of substantial numbers of people due to the Project is not anticipated. Further, the Project would allow very low-density residential uses, consistent with the current County zoning and land use designation, on areas of the APN 503-46-007 parcel that are outside the boundaries of the Precise Plan. Therefore, impacts are not anticipated.

2.15 Public Services

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project result in:				
a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
i) Fire protection?			X	
ii) Police protection?			X	
iii) Schools?			X	
iv) Parks?			X	
v) Other public facilities?			X	

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:

i. Fire protection?

ii. Police protection?

The project site is currently served by Saratoga Fire Protection District and Santa Clara County Sherriff's Department. New lodging uses and very low-density residential uses allowed by the Project could potentially increase the number of people visiting the project site and therefore increase the number of

fire, police, and emergency medical calls for service that would need to be responded to by emergency service providers. However, the potential increase in demand on emergency services would likely be marginal, and it is anticipated that the Project would not require new fire or police stations to be constructed in order for Saratoga Fire Protection District and Santa Clara County Sheriff's Department to maintain service levels. Regardless, these impacts will be further evaluated in the EIR.

iii. Schools?

iv. Parks?

v. Other public facilities?

Operation of the new lodging uses allowed by the Project could create new employment opportunities, which could potentially induce population growth. Further, very low-density residential uses allowed on the APN 503-46-007 parcel could have the potential to induce population growth. While substantial population growth is not anticipated, if the Project would induce population growth, it could require the provision of new schools, parks, and other public facilities. It is not anticipated that the Project would induce substantial population growth; however, the EIR will further analyze the potential for induced population growth and the associated potential for new schools, parks, or other public facilities. Thus, these impacts will be further evaluated in the EIR.

2.16 Recreation

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?				X
b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?				X

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

The new lodging uses could create new employment opportunities, which could potentially induce population growth. While substantial population growth is not anticipated, if the Project would induce population growth, it could increase the use of, or lead to the substantial physical deterioration of existing neighborhood and regional parks or other recreational facilities. The nearest neighborhood park, Wildwood Park, located at 20764 4th Street in Saratoga, is approximately 1.1 miles east of the project site. The nearest regional park, Stevens Creek County Park, located at 11401 Stevens Canyon Road, is approximately 1.7 miles north of the project site. These two recreational facilities combined offer numerous recreational amenities, including an 86-acre reservoir at Stevens Creek County Park, which would likely be able to accommodate any potential population growth from the Project. Thus, no impacts are anticipated.

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

The Project does not include the provision of any recreational facilities. Further, as discussed above, it is not anticipated that the Project would cause the need for construction or expansion of recreational facilities. Thus, no impacts are anticipated.

2.17 Transportation

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?	X			
b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?	X			
c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			X	
d) Result in inadequate emergency access?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities?

Uses allowed by the Project, including a new lodging facility, very low-density residential uses, connection to the Cupertino Sanitary District, and a new water tank could potentially expand the physical footprint of the existing facility operations. Construction and operation of such uses allowed by the Project could potentially increase the average daily trips to and from the project site, which could affect the local roadway network. Accordingly, the Project could potentially conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities. Potential impacts of project operation traffic on the area roadway system will be evaluated further in the EIR.

b) Would the project conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b)?

These Guidelines provide that for land use projects, impacts related to vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact. Generally, projects within 0.5 mile of either an existing major transit stop along an existing high-quality transit corridor should be

presumed to cause a less than significant transportation impact. The project site is not located within 0.5 mile of transit, and therefore has the potential for a significant impact. Potential impacts of vehicle miles traveled will be evaluated further in the EIR.

c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?

New lodging uses and very low-density residential uses allowed by the Project could entail new sidewalks and other vehicular and pedestrian travel ways on the project site to provide internal circulation. New circulation routes could entail roads leading to and from new development. While all new sidewalks and vehicular and pedestrian travel ways would be designed to be safe and compatible with existing on-site circulations, potential impacts will be further evaluated in the EIR.

d) Result in inadequate emergency access?

The existing emergency access road is currently located at the northern end the project site. The existing emergency access road would continue to provide access after implementation of the Project. However, future development could have the potential to create inadequate emergency access during construction activities. Thus, impacts will be further discussed in the EIR.

2.18 Tribal Cultural Resources

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or	X			
ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:

- i. *Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code section 5020.1(k), or*
- ii. *A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resources Code Section 5024.1. In applying the criteria set forth in subdivision (c) of Public Resource Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe?*

The project site consists of developed and vacant land and is surrounded by undeveloped hillside lands. According to the Northwest Information Center, Sonoma State University, the project vicinity has a moderate potential of identifying Native American archaeological resources and a high potential of identifying historic-period archaeological resources in the project area. The City of Saratoga, as lead agency, will be required to conduct Native American Consultation in compliance with Assembly Bill 52 and Senate Bill 18. Results of the consultation will be further discussed in the EIR.

2.19 Utilities and Service Systems

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
Would the project:				
a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?	X			
b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	X			
c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	X			
d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	X			
e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications

facilities, the construction or relocation of which could cause significant environmental effects?

Future development of a new lodging facility, very low-density residential uses, connection to the Cupertino Sanitary District, and a new water tank allowed by the Project could potentially increase the demand of water, electrical power, natural gas, or telecommunications and increase the input of wastewater and storm water into the local treatment system. Therefore, future development allowed by the Project could potentially require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects. Therefore, impacts will be further discussed in the EIR.

b) Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?

Future development of a new lodging facility, very low-density residential uses, connection to the Cupertino Sanitary District, and a new water tank allowed by the project would have the potential to increase water demand and could impact the water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years. Therefore, impacts will be further discussed in the EIR.

c) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?

Currently, the project site is served by a private septic tank system with sufficient capacity to serve the existing uses and any new uses allowed by the project. The Project includes a request for annexation into the Cupertino Sanitary District and allows for the potential future connection to the Cupertino Sanitary District system. Future connection to the Cupertino Sanitary District would increase the wastewater volume input into the Cupertino Sanitary District's treatment system. Therefore, this potential impact will be further discussed in the EIR.

d) Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?

The project site is developed with the existing Mountain Winery, which has been operational since the 1900s. Future development of a new lodging facility and very low-density residential uses allowed by the Project could increase solid waste generation rates, as a result of the additional visitors to the project site. Therefore, determining if the Project would generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals will be further discussed in the EIR.

e) Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?

See response to 2.19 (d).

2.20 Wildfire

ENVIRONMENTAL IMPACTS Issues	Potentially Significant Issues	Potentially Significant Unless Mitigation Incorporated	Less Than Significant Impact	No Impact
If located in or near state responsibility areas or lands classified as very high fire hazard severity zones, would the project:				
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	X			
b) Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	X			
c) Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	X			
d) Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	X			

Discussion: The following analysis is based on review of the related documents listed in the Sources of Documentation for the Initial Study Checklist, County staff review of the project in 2000 and 2018, City Staff review of the project, and recent observations on the project site and in the vicinity.

a) Substantially impair an adopted emergency response plan or emergency evacuation plan?

According to CalFire Fire Hazard Severity Zone Map for the County of Santa Clara, the project site is in a Very High Fire Hazard Severity Zone within a State Responsibility Area. Any future construction activities could result in road closures and therefore conflict with or obstruct with an adopted emergency response plan or emergency evacuation plan. Therefore, impacts will be further discussed in the EIR.

- b) *Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?*

As discussed in Impact 2.20a, the project site is located within a Very High Fire Hazard Severity Zone within a State Responsibility Area. Any future construction activities and operation of new lodging uses and very low-density residential uses allowed by the project could expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire. Therefore, impacts will be further discussed in the EIR.

- c) *Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?*

As discussed in Impact 2.20a, the project site is located within a Very High Fire Hazard Severity Zone within a State Responsibility Area. Any future construction activities could require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment. Therefore, impacts will be further discussed in the EIR.

- d) *Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?*

As discussed in Impact 2.20a, the project site is located within a Very High Fire Hazard Severity Zone within a State Responsibility Area. The project site is located on a hilltop ridge. As a result of the project site being located within a Very High Fire Hazard Severity Zone within a State Responsibility Area and consisting of hillside topography, construction and operation of new development could expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes. Therefore, impacts will be further discussed in the EIR.

3.0 REFERENCES

- California Department of Conservation. 2016. Santa Clara County Important Farmland.
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- County of Santa Clara. 1994. Santa Clara County General Plan Book B.
- County of Santa Clara. 1999. The Mountain Winery Conditional Use Permit and Architectural and Site Approval Draft Environmental Impact Report.
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- United States Fish and Wildlife Services. 2019. National Wetlands Inventory Mapper.
<https://www.fws.gov/wetlands/data/Mapper.html>. Accessed on June 20, 2019
- Northwest Information Center, Sonoma State University. 2019. Record Search Results for the Proposed Mountain Winery Project.

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**Local Agency
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Executive Officer
Neelima Palacherla

August 7, 2019

VIA E-MAIL [dpedro@saratoga.ca.us]

Debbie Pedro
Community Development Director
Saratoga Community Development Department
13777 Fruitvale Avenue
Saratoga, CA 95070

**RE: Notice of Preparation – Draft Environmental Impact Report for the
Mountain Winery Annexation Project**

Dear Ms. Pedro:

Thank you for providing the Local Agency Formation Commission (LAFCO) of Santa Clara County with an opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report (EIR) for the Mountain Winery Annexation Project. We would also like to thank you for meeting with LAFCO staff to discuss the proposed project and the applicable LAFCO policies. The Project described in the Notice of Preparation (NOP) will require approval from LAFCO. Therefore, LAFCO is a Responsible Agency under CEQA.

As a Responsible Agency, LAFCO is generally expected to rely on the City's Draft EIR and therefore offers the following initial comments on the NOP for the City's consideration:

Provide a Detailed Project Description

According to the NOP, the proposed Project includes an amendment of the City of Saratoga's Urban Service Area (USA) and Sphere of Influence (SOI) boundaries to include two parcels and subsequently annex them into the City. The Project also includes the creation and application of a new General Plan and Zoning designation that would allow for new uses that require future annexation into the Cupertino Sanitary District. According to the NOP, in addition to the various existing and future allowed uses permitted by the County Use Permit, the new designations would include new uses such as lodging uses up to 300 rooms and a second water tank.

LAFCO requests that a more detailed project description be provided and that it include, at a minimum, the following information:

- Language for the City's proposed Regional Commercial (RC) General Plan Land Use Designation
- Language for the City's proposed Regional Commercial (RC) Zoning District

- Tentative site plans for the future development of proposed new uses.

Evaluate Project's Consistency with County General Plan Policies

According to "Section 2.11: Land Use and Planning" of the Initial Study and NOP, the Project would not cause a significant environmental impact due to a conflict with any adopted policy. However, the proposed Project is inconsistent with several County General Plan policies, including the following:

- County General Plan Policy R-LU 199 states that "New land uses within the West Valley hillsides areas should be limited to non-urban uses that are compatible with the preservation of the natural appearance of the hillsides."
- County General Plan Policy R-LU 200 states that "Urban development and extension of urban services should be limited to those areas most suited for urban development. Further expansion of the urban area into the West Valley hillsides should be discouraged."
- County General Plan Policy R-LU 202 calls for the West Valley cities to "delineate and adopt long term growth boundaries indicating lands to which they are willing to provide urban services within approximately the next 20-30 years in order to:
 - a. preserve the predominantly natural character and natural resources of hillsides by preventing urban development from encroaching into them
 - b. reinforce fundamental policies concerning the appropriate location of urban development
 - c. protect public health and safety by preventing urban development in hazardous areas."
- County General Plan Policy C-GD 3 states that, "Urban service areas should generally include only those areas suited for urban development. Development of such areas should be:
 - a. reasonably serviceable with public facilities and services;
 - b. relatively free from risks associated with natural hazards;
 - c. without substantial adverse environmental impact;
 - d. not likely to create severe off-site impacts on surrounding areas; and
 - e. without cumulative adverse impacts on the county's water supply watersheds or any other natural resource."

The Draft EIR should consider "Land Use and Planning" impacts as "Potentially Significant" and evaluate the Project's consistency with relevant aspects of the County's General Plan policies that were adopted to minimize further urban encroachment into the rural hillside areas.

Evaluate Project's Consistency with LAFCO Policies

LAFCO will evaluate whether the project is consistent with LAFCO's adopted policies. The policies that are most applicable to the proposed Project are (1) Sphere of Influence Policies; (2) Urban Service Area Policies; (3) Policies relative to Annexations/Reorganizations for Cities and Special Districts; and (4) Island Annexation Policies (Attachment A).

The Draft EIR should evaluate the Project's consistency with all aspects of the applicable LAFCO policies.

Evaluate Project Impact on Public Services

The Initial Study Checklist identifies impacts to "Public Services" as "Less Than Significant." However, the impacts may be "Potentially Significant" as the Project is located within a Very High Fire Hazed Severity Zone as noted in the NOP.

The Draft EIR should consider impacts to "Public Services" as "Potentially Significant" and evaluate the Project's impacts on public services, especially fire and police protection services.

Provide Detailed Information on Adequacy of Utilities and Service Systems Serving the Project Site

As noted in the NOP, the Project will require SOI and USA amendments and annexation to the City of Saratoga and to the Cupertino Sanitary District. The Project would also include construction of a second water tank to support new uses.

The EIR should include detailed information relating to sewer service demand, supply, and capacity, including: (1) an enumeration and description of services to be extended to the project; (2) level and range of services; (3) whether these services can be feasibly extended to the project area; (4) description of any capital improvements or upgrading of structures, roads, sewer or water facilities, or other conditions the City and District would impose in conjunction with the project; and (5) information with respect to how services will be financed.

The Draft EIR should also include the project's estimated water demand for the new uses and include detailed information to demonstrate that the project has a reliable long-term source of water for potable uses, landscaping, and fire protection.

Evaluate Cumulative and Growth Inducing Impacts of the Proposed Project

The Draft EIR should evaluate the significant cumulative and growth inducing impacts of the project when considered with any past, current, and probable future projects in the area.

Evaluate Alternatives to the Proposed Project

The Draft EIR should include and consider a reasonable range of alternatives to the proposed project that minimize the expansion of the Urban Service Area and avoid growth inducing impacts on surrounding lands and rural hillsides.

We respectfully request that the City consider the concerns presented in this letter. If you have any questions regarding these comments, please contact Lakshmi Rajagopalan at (408) 993-4709.

We look forward to reviewing the subsequent environmental documentation. Thank you again for providing us with the opportunity to comment on this Project.

Sincerely,

A handwritten signature in cursive script, appearing to read "Neelima Palacherla".

Neelima Palacherla
LAFCO Executive Officer

Cc: LAFCO Members

Enclosure:

Attachment A: Santa Clara LAFCO Sphere of Influence Policies
Santa Clara LAFCO Urban Service Area Policies
Santa Clara LAFCO Policies Relative to Annexation/Reorganizations for Cities
and Special Districts
Santa Clara LAFCO Island Annexation Policies

SPHERE OF INFLUENCE POLICIES

A. GENERAL GUIDELINES

1. Pursuant to Government Code Section 56425, LAFCO must adopt and maintain a Sphere of Influence (SOI) for each local governmental agency.
2. Santa Clara LAFCO shall use SOIs to:
 - a. Promote orderly urban development
 - b. Promote cooperative planning efforts among cities, the county and special districts to address concerns regarding land use and development standards, premature conversion of agriculture and open space lands and efficient provision of services.
 - c. Serve as a master plan for future local government reorganization by providing long range guidelines for efficient provision of public services; shaping logical government entities able to provide services in the most economical manner, avoiding expensive duplication of services or facilities.
 - d. Guide consideration of proposals and studies for changes of organization or reorganization
3. Inclusion of territory within a SOI should not necessarily be seen as an indication that the city will either annex or develop to urban levels such territory. The Urban Service Area boundary will serve as LAFCO's primary means of indicating a city's intention of development and provision of urban services.
4. Each adopted SOI will be reviewed as necessary, but not less than once every five years.
5. A service review pertaining to the SOI will be prepared prior to, or in conjunction with each SOI adoption, update or amendment unless LAFCO determines that a prior service review is adequate. A minor SOI amendment will not require a service review. A minor SOI amendment is one that does not have any adverse regional, planning, economic or environmental impacts.
6. LAFCO will consider service review determinations and recommendations when rendering SOI findings.
7. While LAFCO encourages the participation and cooperation of the subject agency, the determination of the SOI is a LAFCO responsibility.

B. ADOPTION AND AMENDMENT POLICIES FOR SOI

1. LAFCO will require consistency with city / county general plans and SOIs of affected local agencies when adopting or amending a SOI. Joint City/County Specific Plans and factors such as density policies, development standards, geology, and future use will be considered by the Commission when establishing Spheres of Influence.
2. Pursuant to Government Code Section 56425, LAFCO will consider and make a written finding regarding the following, in adopting or amending a SOI for a local agency:
 - a. The present and planned land uses in the area, including agricultural and open space lands
 - b. The present and probable need for public facilities and services in the area
 - c. The present capacity of public facilities and adequacy of public services, which the agency provides or is authorized to provide;
 - d. The existence of any social or economic communities of interest in the area if the Commission determines that they are relevant to the agency.
3. LAFCO will consider fiscal impacts of proposed SOI amendments upon the County, affected cities, special districts and school districts. Where such amendments may have negative fiscal impacts upon the County or other local agencies, LAFCO may require mitigations thereof from the city / district proposing the amendment.
4. LAFCO will consider city annexation proposals outside the Urban Service Areas, but within the Sphere of Influence, only if such annexations will promote LAFCO's mandate to preserve open space areas, including agricultural open space and greenbelts.
5. Spheres of Influence for cities and special districts may overlap when both agencies expect to provide different service to the area.
6. Spheres of Influence for special districts which provide urban services will generally be tied to city growth plans.
7. LAFCO will discourage duplications in service provision in reviewing new or amended SOI proposals. Where a special district is coterminous with, or lies substantially within, the boundary or SOI of a city which is capable of providing the service, the special district may be given a zero sphere of influence which encompasses no territory.

C. ADDITIONAL REQUIREMENT FOR A CITY SOI ADOPTION / UPDATE / AMENDMENT**

1. At least thirty days prior to submitting an application for a new city SOI or a city SOI update, city and County representatives must meet to discuss SOI issues, boundaries and methods to reach agreement on such boundaries, and development standards and zoning requirements within the SOI. The purpose is to consider city and county concerns and ensure orderly development within the SOI. Discussions may continue an additional 30 days, but no longer than 60 days.

If an agreement is reached, it must be forwarded to LAFCO. LAFCO will seriously consider the agreement when determining the city's SOI. If LAFCO's final SOI determinations are consistent with a city/County agreement, the city and the County must adopt the agreement at noticed public hearings. After the agreement and related General Plan amendments are adopted, County-approved development within the SOI must be consistent with the agreement terms.

If no agreement is reached, LAFCO will render determinations and enact policies consistent with its policies and the Cortese Knox Hertzberg Act.

- ** This requirement pursuant to Government Code section 56425 expires on January 1, 2007.

D. ADDITIONAL REQUIREMENT FOR A SPECIAL DISTRICT SOI ADOPTION / UPDATE / AMENDMENT

1. LAFCO shall require the special districts to provide written statements specifying the functions or classes of service provided and establish the nature, location, and extent of any functions or classes of services provided.

Amended December 11, 2002

URBAN SERVICE AREA POLICIES

A. General Guidelines

1. Review and amendment of Urban Service Area (USA) boundaries is the Commission's primary vehicle for encouraging orderly city growth.
2. LAFCO will review/amend a city's Urban Service Area once a year, if such review is desired by the city and initiated by city resolution and application. Until a city's application has been heard and acted upon by the Commission, no further Urban Service Area amendments will be accepted for filing from that city. LAFCO may make an exception to the once a year limitation upon Urban Service Area amendment requests where amendment is needed to carry out some special institutional development or activity that is in the public interest. Such exceptions shall not normally be extended in connection with proposed residential, commercial, or industrial development.
3. Within the Urban Service Areas, LAFCO does not review city annexations and reorganizations if the proposals are initiated by city resolution and meet certain conditions. State law gives cities in Santa Clara County the authority to approve such reorganizations.

B. Urban Service Area Amendment Policies

1. LAFCO will require application of an appropriate general plan designation to territory proposed for inclusion in an Urban Service Area.
2. LAFCO encourages contractual agreements and/or plans between the cities and the County which define:
 - a. Growth at the urban fringe; and
 - b. Potential new growth areas.
3. LAFCO will consider factors included in Government Code section 56668 as well as factors such as the following to determine the local and regional impacts of a proposed Urban Service Area amendment:
 - a. The ratio of lands planned for residential use to lands planned for employment-producing use
 - b. The existence of adequate regional and local transportation capabilities to support the planned city growth;

- c. Ability of the city to provide urban services to the growth areas without detracting from current service levels;
 - d. The ability of school districts to provide school facilities;
 - e. Whether the conversion of agricultural and other open space lands is premature, or if there are other areas into which to channel growth;
 - f. The role of special districts in providing services;
 - g. Environmental considerations which may apply;
 - h. The impacts of proposed city expansion upon the County as a provider of services;
 - i. Fiscal impacts on other agencies;
 - j. Regional housing needs;
 - k. Availability of adequate water supply; and
 - l. Consistency with city or county general and specific plans.
4. LAFCO will consider the applicable service reviews and discourage urban service area amendments that undermine adopted service review determinations or recommendations.
 5. When a city with a substantial supply of vacant land within its Urban Service Area applies for an Urban Service Area expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates, will be maintained.
 6. The Commission will discourage Urban Service Area expansions which include agricultural or other open space land unless the city has accomplished one of the following:
 - a. Demonstrated to LAFCO that effective measures have been adopted for protecting the open space or agricultural status of the land. Such measures may include, but not limited to, the establishment of agricultural preserves pursuant to the California Land Conservation Act, the adoption of city/County use agreements or applicable specific plans, the implementation of clustering or transfer-of-development-rights policies; evidence of public acquisition; or
 - b. Demonstrated to LAFCO that conversion of such lands to other than open space uses is necessary to promote the planned, orderly, efficient development of the city.

7. The Commission will consider whether an Urban Service Area amendment leading to the conversion of agricultural or other open space land, will adversely affect the agricultural or open space resources of the County. Factors to be studied include, but are not limited to:
 - a. The agricultural significance of the amendment area relative to other agricultural lands in the region (soil, climate, water-related problems, parcel size, current land use, crop value, Williamson Act contracts, etc.)
 - b. The economic viability of use of the land for agriculture;
 - c. Whether public facilities, such as roads, would be extended through or adjacent to other agricultural lands in order to provide services to anticipated development in the amendment area or whether the public facilities would be sized or situated to impact other agricultural lands in the area
 - d. Whether the amendment area is adjacent to or surrounded by existing urban or residential development.
8. If an Urban Service Area proposal includes the conversion of open space lands or agricultural lands, LAFCO strongly encourages the city to develop effective mitigation measures to address the loss of the agricultural and open space lands. LAFCO will require an explanation of why the inclusion of agricultural and open space lands is necessary and how the loss of such lands will be mitigated.

Mitigation measures include, but are not limited to: the acquisition and dedication of farmland, development rights, open space and conservation easements to permanently protect adjacent and other agricultural lands within the county, participation in other development programs such as transfer or purchase of development rights, payments to recognized government and non-profit organizations for such purposes, and establishment of buffers to shield agricultural operations from the effects of development.

9. Where appropriate, LAFCO will consider adopted policies advocating maintenance of greenbelts or other open space around cities in reviewing Urban Service Area amendments.
10. LAFCO will require evidence that an adequate water supply is available to the amendment areas and that water proposed to be provided to new areas does not include supplies needed for unserved properties already within the city, the city's Urban Service Area or other properties already charged for city water services. In

determining water availability, LAFCO will evaluate, review and consider:

- a. The city's plan for water service to the area and statement of existing water supply in terms of number of service units available; service units currently allocated; number of service units within city (and current USA) boundaries that are anticipating future service and service units needed for amendment area.
 - b. Whether the city is able to provide adequate water supply to the amendment area in the next 5 years, including drought years, while reserving capacity for areas within the city and Urban Service Area that have not yet developed.
 - c. Whether the city is capable of providing adequate services when needed to areas already in the city, in the city's Urban Service Area or to other properties entitled to service.
 - d. If capacity is not reserved for unserved property within the city and its Urban Service Area boundary, the current estimate of potential unserved properties and related water supply needs
 - e. Whether additional infrastructure and or new water supplies are necessary to accommodate future development or increases in service demand. If so, whether plans, permits and financing plans are in place to ensure that infrastructure and supply are available when necessary including compliance with required administrative and legislated processes, such as CEQA review, CEQA mitigation monitoring plans, or State Water Resources Board allocation permits. If permits are not current or in process, or allocations approved, whether approval is expected.
 - f. Whether facilities or services comply with environmental and safety standards so as to permit acquisition, treatment, and distribution of necessary water.
11. LAFCO will discourage proposals that undermine regional housing needs plans, reduce affordable housing stock, or propose additional urbanization without attention to affordable housing needs. LAFCO will consider:
- a. Whether the proposal creates conditions that promote local and regional policies and programs intended to remove or minimize impediments to fair housing including city/ county general plan housing elements, Analysis of Impediments to Fair Housing or Consolidated Plans for Housing and Community Development and ABAG's regional housing needs assessment and related policies.

- b. Whether the proposal introduces urban uses into rural areas thus increasing the value of currently affordable rural area housing and reducing regional affordable housing supply.
- c. Whether the proposal directs growth away from agricultural / open space lands towards infill areas and encourages development of vacant land adjacent to existing urban areas thus decreasing infrastructure costs and potentially housing construction costs.
- d. Whether funding of infrastructure to support development in the amendment area imposes an unfair burden on residents or customers within the existing boundaries thus impacting housing construction costs in the area.

Amended December 11, 2002

POLICIES RELATIVE TO ANNEXATION/REORGANIZATIONS FOR CITIES AND SPECIAL DISTRICTS

A. GENERAL GUIDELINES

1. The Commission will encourage city processing of annexations and reorganizations within Urban Service Areas without LAFCO review. Pursuant to Government Code Section 56757, reorganizations within a city's urban service area may be approved by the city council without LAFCO review if the proposal meets certain conditions.
2. Urban development should take place in cities rather than in unincorporated territory.
3. Whenever possible, cities should pursue development of vacant incorporated land before annexation of fringe areas.
4. Annexations and reorganizations should result in logical and reasonable expansions for cities and special districts.
5. Cities are encouraged to pursue annexation of unincorporated islands.
6. Cities are encouraged to exchange territory between them to improve illogical boundary or service situations.
7. The Commission encourages local agencies to seek means for increasing governmental efficiency and reducing overlaps of service provisions. Specifically:
 - a. Annexation to an existing agency is favored over creation of a new agency.
 - b. Creation of subsidiary districts, and mergers or consolidation of special districts, are encouraged whenever possible.

B. ANNEXATION/REORGANIZATION POLICIES

1. LAFCO will strongly discourage city annexations of land outside Urban Service Areas until inclusion into the Urban Service Area is appropriate. However, the Commission recognizes that in some circumstances, city annexations outside Urban Service Areas will help promote preservation of agriculture, open space, and/or greenbelts. Such cases will be considered on their merits on a case-by-case basis. LAFCO will reconsider allowance of exceptions if it appears a pattern of such requests is developing.
2. Where development outside Urban Service Areas will necessitate annexations to special districts, LAFCO will consider city general plans, joint city/county plans, and land use studies, such as the South County Plan and Preservation 2020, in reviewing proposals.

3. Proponents must clearly demonstrate that the city or special district is capable of meeting the need for services.
4. Boundaries of proposals must be definite and certain, and split lines of assessment must be avoided wherever possible.
5. The boundaries of a proposed annexation or reorganization must not create or result in areas that are difficult to serve.
6. Pre-zoning is a requirement for city annexation. Where territory is pre-zoned agricultural, but has an urban use designation on the city's general plan, the applicant will be required to demonstrate why such an annexation is not in violation of the Cortese-Knox Local Government Reorganization Act, which requires LAFCO to:
 - a. Steer growth away from agricultural areas; and
 - b. Determine that annexation and development of land for non-agricultural purposes is not premature.
7. No subsequent change may be made to the general plan or the zoning of the annexed territory that is not in conformance to the pre-zoning designations for a period of two years after the completion of the annexation unless the city council makes a finding at a public hearing that a substantial change has occurred in the circumstances that necessitate the change.
8. For annexations for residential development of five acres or more, a copy of the application shall be sent to the appropriate school district(s) for the purpose of ascertaining the impact the proposal may have on the district's ability to provide educational services.
9. All applications for annexations where pre-zoning indicates that land development could cause the number of vehicle trips per day to exceed 2,000, shall be sent by the LAFCO Executive Officer to the Congestion Management Agency with the Valley Transportation Authority for comment as to impact on regional transportation facilities and services.
10. Where service providers other than the reorganizing agencies may be substantively impacted by a proposed reorganization, LAFCO shall request comments on the proposal from the affected service providers. Comments received will be a factor considered in reviewing the proposal.
11. Concurrent detachment of territory from special districts which will no longer provide service is a required condition of city annexation.
12. LAFCO will consider the applicable service reviews and discourage changes in organization that undermine adopted service review determinations or recommendations.

C. STREET ANNEXATION POLICIES

1. Cities will be required to annex entire street sections whenever possible.
2. When streets are used as a boundary for an annexation, the annexation proposal shall be designed to include a continuous section of roadway sufficient in length to allow maintenance and policing of the street by a single jurisdiction. Annexation of full-width sections normally shall be made in increments of not less than one thousand feet, or the distance between two consecutive intersections, where 50 percent or more of the frontage on both sides of the street in said increment has been or is to be included in the city. This policy shall not supercede other provisions in State law.
3. Pursuant to Government Code Section 57329, annexation of existing short segments of county maintained road to provide single-agency oversight of a full-width section of the road shall be accomplished in the most practical manner.
4. Appropriate segments of roads, freeways, highways, expressways, private roads or railroad rights-of-way, adjacent to or within the proposed annexation should be included in the city boundaries to ensure logical boundaries and efficient provision of public services.
5. When a street is the boundary line between two cities, the centerline of the street may be used as the boundary. Such street annexations shall occur in increments as described in Policy 2, above.
6. Half-street annexations will not be approved except as provided in Policies 3 and 4, above, unless otherwise provided by State law.

ISLAND ANNEXATION POLICIES

1. In order to fulfill the intent of the state legislature and implement the joint urban development policies of the cities, County and LAFCO, and in the interests of efficient service provision and orderly growth and development, the cities should annex unincorporated urban islands.
2. LAFCO will collaborate with the cities and the County in facilitating annexation of unincorporated urban islands.
3. LAFCO will provide a LAFCO fee waiver for annexations that result in the elimination of entire unincorporated islands. This fee waiver will remain effective until rescinded by the commission.
4. Where feasible, and in furtherance of goals to support orderly growth and development, cities are encouraged to annex entire islands, rather than conducting single parcel annexations.
5. In the interests of orderly growth and development, cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs.
6. Prior to seeking any USA amendment, except if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action, the city should:
 - a. Initiate and complete annexation proceedings pursuant to Government Code Section 56375.3(a)(1), for all unincorporated islands that meet the provisions of Government Code Section 56375.3, unless the island constitutes publicly owned land, and,
 - b. For any city that has unincorporated islands larger than 150 acres, the city is strongly encouraged to adopt an annexation plan for the islands after holding community meetings, to apply a pre-zoning designation and to adopt resolutions to initiate annexation.
7. LAFCO encourages the County to remove incentives for property owners in the unincorporated islands to remain in the County, by making development standards in the unincorporated islands comparable to development standards in the surrounding city.
8. LAFCO will provide information on the island annexation procedures to each of the cities. LAFCO will develop process flow charts and public hearing notice / resolution templates for cities to use. LAFCO staff will conduct workshops on island annexation process for city staff.
9. LAFCO will work with the County, the cities and other interested parties/agencies to find ways to reduce or share the cost of processing unincorporated island annexations.
10. LAFCO staff will report to the Commission at each LAFCO meeting on the status of each city's island annexation efforts.

Adopted: February 9, 2005

Amended: October 14, 2009

County of Santa Clara

Office of the Sheriff

55 West Younger Avenue
San Jose, California 95110-1721
(408) 808-4900



Laurie Smith
Sheriff

July 8, 2019

Mr. James Lindsay
City of Saratoga
13777 Fruitvale Avenue
Saratoga, CA 95070

RE: Police Services for The Mountain Winery

Dear Mr. Lindsay,

With the pending annexation of The Mountain Winery located at 14831 Pierce Road, Saratoga CA 95070, The Santa Clara County Sheriff's Office completed a five year review of all calls-for-service to determine a potential cost factor associated to police services to the city. The review of calls identified a total of 86 events associated to the Winery and 11 crime reports authored. Total time allocated to investigating and authoring crime reports was approximately 50 hours for the five year period. Time allocated in the investigation of calls, which did not result in the need to author a crime report, was approximately 64 hours.

In total, the Sheriff's Office allocated approximately 114 hours to The Mountain Winery in police services from January 2014 to January 2019. The costs for these services were paid by the county. Given the current allocation of service hours for police services in Saratoga, the additional service hours would have minimal impact on the budget. The Sheriff's Office is confident in the ability to manage the current contractual service hours in order to allocate resources to the Winery. At this time, we do not see a need in adding additional service hours. Should the need for service levels increase in the future, The Sheriff's Office will communicate such change during the yearly budgeting process.

Sincerely,

LAURIE SMITH, SHERIFF

A handwritten signature in blue ink, appearing to read "R. Urena", written over the printed name of the signatory.

By: Captain R. Urena #1815
West Valley Patrol Division Commander

County of Santa Clara

Department of Planning and Development

County Government Center, East Wing, 7th Floor
70 West Hedding Street
San Jose, CA 95110
Phone: (408) 299-5700
www.sccplandev.org



August 7, 2019

Debbie Pedro, Community Development Director
Saratoga Community Development Department
13777 Fruitvale Avenue
Saratoga, CA 95070

Dear Ms. Pedro:

The Planning and Development Department of the County of Santa Clara received the Notice of Preparation for the draft EIR for the Mountain Winery Annexation Project dated July 8, 2019. Our comments below are organized into two categories: 1) comments concerning the scope and content of the EIR and 2) additional comments on policy issues related to the annexation.

Scope and Content of the EIR

Aesthetics

The parcels proposed to be annexed (APNs 503-46-006 and 503-46-007) are located in the County's -d1 Design Review Combining District (Santa Clara Valley Viewshed). Portions of these parcels northeast of the existing parking areas have been mapped as highly visible from the valley floor. The EIR should include this information as part of the existing setting and in the analysis of viewshed impacts to the extent additional development would occur in these areas.

Cultural Resources

The County concurs with the City's determination in the Initial Study that the EIR should evaluate whether future development would have the potential to cause a substantial adverse change to on-site historic resources.

Growth Inducement

In addition to evaluating the growth-inducing potential of the proposed new lodging, the EIR should also discuss whether the annexation of the parcels from the County into the City of Saratoga and the proposed connection to the Cupertino Sanitary District have the potential to induce unplanned population growth in the area.

Hydrology and Water Quality

The project site contains extensive hardscaped parking lots that drain downslope to surrounding areas. The EIR should evaluate the potential for additional development to exacerbate this existing drainage condition.

Plan Consistency

The EIR should discuss whether the annexation would be inconsistent with applicable policies of the Santa Clara County General Plan (Book A), particularly those related to expansion of urban service areas (General Plan Policies C-GD 1 through C-GD-11).

Transportation

The Mountain Winery access road from Pierce Road is substandard in terms of width and has several sharp curves. As the proposed Precise Plan would allow for the development of overnight accommodations with up to 300 rooms, the EIR should evaluate whether the addition of vehicle trips would exacerbate existing hazards on this road. The County concurs that emergency access should also be evaluated.

Additonal Planning Comments

Land Use and Planning

The NOP letter indicated that the city will be developing a new General Plan and Zoning district of Regional Commercial (RC) to accommodate the existing County Use permit for the Mountain Winery, as well as to accommodate new uses planned on the parcels. The County would like to ensure that the future RC district will be complementary to the County's General Plan policies for urban service areas (USAs), particularly that the development should be *without substantial adverse environmental impact and not likely to create severe off-site impacts* (C-GD 3). Additionally, the General Plan outlines that *lands unsuited for urban development may be allowed to annex to cities only if the land is preserved as a non-urban, open space* (C-GD 5). We understand that the planned development would be only within the precise plan boundaries, but would like to see limitations placed on further growth on the areas beyond the precise plan boundary that may induce sprawl. Our main concern is the parcel owned by the Mountain Winery (APN 503-34-001) beyond the parcels slated for annexation by the city. We would prefer that it remains protected from future development pressures.

Transportation

The county would discourage any new public roads or streets that connect to existing county roads to provide additional access to the two parcels planned for annexation, as that would be facilitating further development and sprawl.

The County is looking forward to reviewing and responding to the Draft EIR and continued dialog regarding planning issues associated with the proposed annexation.

Sincerely,



Rob Eastwood, AICP
Planning Manager, County of Santa Clara
County Government Center, East Wing, 7th Floor
70 W. Hedding St., San Jose, CA 95110

County of Santa Clara

Parks and Recreation Department

298 Garden Hill Drive
Los Gatos, California 95032-7669
(408) 355-2200 FAX (408) 355-2290
Reservations (408) 355-2201

www.parkhere.org



July 17, 2019

Ms. Debbie Pedro
Community Development Director
City of Saratoga
Planning Office
13777 Fruitvale Avenue
Saratoga, CA 95070

Subject: Notice of Preparation of a Draft Environmental Impact Report for the Mountain Winery Annexation Project

Dear Ms. Pedro:

The County of Santa Clara Department of Parks and Recreation (County Parks Department) is in receipt of the Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the Mountain Winery Annexation Project. The project site is located at 14831 Pierce Road in unincorporated Santa Clara County, north of Highway 9 and west of Pierce Road, and is located on three contiguous parcels: APNs 503-46-005, 503-46-006, and 503-46-007.

The County Parks Department functions to provide a sustainable system of diverse regional parks, trails, and open spaces that connects people with the natural environment and supports healthy lifestyles while balancing recreation opportunities with natural, cultural, historic, and scenic resources protection. The County Parks Department is also charged with the planning and implementation of the *Santa Clara County Countywide Trails Master Plan Update (Countywide Trails Plan)*, an element of the Parks and Recreation Section of the County General Plan adopted by the Board of Supervisors on November 14, 1995. The *Countywide Trails Plan* identifies the planned Juan Bautista de Anza National Historic Trail (Anza Trail) crossing the three parcels considered for annexation.

As part of the DEIR scoping, please be aware the County Parks Department was assigned a 416.6-acre deed-in easement for the Anza Trail over portions of the three parcels by Chateau Masson, LLC in 2001 (Document Number 15514767). Per the staff report submitted to the Board of Supervisors, "The trail dedication on this parcel was requested to provide an eventual trail connection for the De Anza Trail Corridor as designated in the County General Plan. County staff worked with the property owner to define a mutually agreeable alignment for the future trail corridor." The County Parks Department desires to develop a 10-foot wide trail within a 25-foot wide trail easement. The precise trail alignment has not been identified but the floating trail easement is for the alignment and construction of a non-exclusive, public, pedestrian and equestrian trail that will connect Stevens



Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Susan Ellenberg, S.Joseph Simitian
County Executive: Jeffrey V. Smith

Creek and Sanborn county parks (see attached map). The property contained within the easement is significantly larger than the trail easement to allow reasonable flexibility in mutually determining a suitable location and alignment over and across the parcels. The property owner and the County Parks Department shall cooperatively and in good faith determine the trail easement alignment on the easement property that 1) best minimizes any foreseeable impact to or from any presently permitted uses and/or future contemplated uses or improvements on the Mountain Winery property, 2) minimizes the environmental impacts of the trail construction and public use, and 3) constitutes a link to a region-wide trail and that will foster the public's recreational enjoyment. Please include this planned trail in your environmental analysis and note the existing floating easement in your annexation process.

The County Parks Department appreciates the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report (DEIR) for the Mountain Winery Annexation Project. If there are any questions regarding these or other comments, please feel free to contact me at (408) 355-2362 or via email at Michael.Hettenhausen@prk.sccgov.org.

Sincerely,

Michael Hettenhausen

Michael Hettenhausen,
Associate Planner



Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Susan Ellenberg, S.Joseph Simitian
County Executive: Jeffrey V. Smith



FIRE DEPARTMENT SANTA CLARA COUNTY



14700 Winchester Blvd., Los Gatos, CA 95032-1818
(408) 378-4010 • (408) 341-4499 (fax) • www.sccfd.org

September 17, 2019

City of Saratoga
Attn: Mr. James Lindsay
13777 Fruitvale Avenue
Saratoga, CA 95070

RE: Fire Services for the Mountain Winery

Dear Mr. Lindsay,

The Mountain Winery is situated within the Saratoga Fire District, which contracts all fire department related services to the Santa Clara County Central Fire Protection District (dba Santa Clara County Fire Department). There are questions regarding the impacts of the annexation of the Mountain Winery into the city of Saratoga, which we would like to address.

The County of Santa Clara contracts with us to provide Fire Marshal services throughout the unincorporated areas of the county, regardless of any fire district boundaries. Currently, any proposed construction projects by the Mountain Winery are reviewed by the County Fire Marshal's Office for compliance with fire and life safety codes. With the annexation of the Mountain Winery into the city of Saratoga, proposed construction projects by the Mountain Winery would continue to be reviewed by us.

As both Saratoga Fire District and Santa Clara County Central Fire Protection District are funded via property taxes from parcels within the exterior boundaries of our fire districts, there would be no fire service impact to the City of Saratoga budget.

As confirmation, in response to the question of the annexation of the Mountain Winery (located at 14381 Pierce Road), into the city of Saratoga, there would be no impact to fire services to the city and surrounding areas.

Please feel free to contact me if you have any additional questions or concerns.

Sincerely,

John Justice
Assistant Fire Chief

JJ:er

LTR_Fire Services for the Mountain Winery/er/09.17.19

Organized as the Santa Clara County Central Fire Protection District

*Serving Santa Clara County and the communities of Campbell, Cupertino, Los Altos,
Los Altos Hills, Los Gatos, Monte Sereno, and Saratoga*

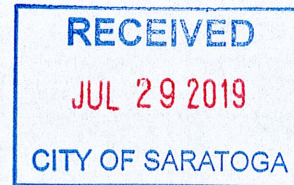
NATIVE AMERICAN HERITAGE COMMISSION
Cultural and Environmental Department

1550 Harbor Blvd., Suite 100

West Sacramento, CA 95691 Phone (916) 373-3710

Email: nahc@nahc.ca.govWebsite: <http://www.nahc.ca.gov>

Twitter: @CA_NAHC



July 23, 2019

Debbie Pedro
City of Saratoga
13777 Fruitvale Avenue
Saratoga, CA 95070

RE: SCH# 2019070155 Mountain Winery Annexation Project, Santa Clara County

Dear Ms. Pedro:

The Native American Heritage Commission (NAHC) has received the Notice of Preparation (NOP), Draft Environmental Impact Report (DEIR) or Early Consultation for the project referenced above. The California Environmental Quality Act (CEQA) (Pub. Resources Code §21000 et seq.), specifically Public Resources Code §21084.1, states that a project that may cause a substantial adverse change in the significance of a historical resource, is a project that may have a significant effect on the environment. (Pub. Resources Code § 21084.1; Cal. Code Regs., tit.14, §15064.5 (b) (CEQA Guidelines §15064.5 (b)). If there is substantial evidence, in light of the whole record before a lead agency, that a project may have a significant effect on the environment, an Environmental Impact Report (EIR) shall be prepared. (Pub. Resources Code §21080 (d); Cal. Code Regs., tit. 14, § 5064 subd.(a)(1) (CEQA Guidelines §15064 (a)(1)). In order to determine whether a project will cause a substantial adverse change in the significance of a historical resource, a lead agency will need to determine whether there are historical resources within the area of potential effect (APE).

CEQA was amended significantly in 2014. Assembly Bill 52 (Gatto, Chapter 532, Statutes of 2014) (AB 52) amended CEQA to create a separate category of cultural resources, "tribal cultural resources" (Pub. Resources Code §21074) and provides that a project with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. (Pub. Resources Code §21084.2). Public agencies shall, when feasible, avoid damaging effects to any tribal cultural resource. (Pub. Resources Code §21084.3 (a)). **AB 52 applies to any project for which a notice of preparation, a notice of negative declaration, or a mitigated negative declaration is filed on or after July 1, 2015.** If your project involves the adoption of or amendment to a general plan or a specific plan, or the designation or proposed designation of open space, on or after March 1, 2005, it may also be subject to Senate Bill 18 (Burton, Chapter 905, Statutes of 2004) (SB 18). **Both SB 18 and AB 52 have tribal consultation requirements.** If your project is also subject to the federal National Environmental Policy Act (42 U.S.C. § 4321 et seq.) (NEPA), the tribal consultation requirements of Section 106 of the National Historic Preservation Act of 1966 (154 U.S.C. 300101, 36 C.F.R. §800 et seq.) may also apply.

The NAHC recommends consultation with California Native American tribes that are traditionally and culturally affiliated with the geographic area of your proposed project as early as possible in order to avoid inadvertent discoveries of Native American human remains and best protect tribal cultural resources. Below is a brief summary of portions of AB 52 and SB 18 as well as the NAHC's recommendations for conducting cultural resources assessments.

Consult your legal counsel about compliance with AB 52 and SB 18 as well as compliance with any other applicable laws.

AB 52

AB 52 has added to CEQA the additional requirements listed below, along with many other requirements:

1. Fourteen Day Period to Provide Notice of Completion of an Application/Decision to Undertake a Project: Within fourteen (14) days of determining that an application for a project is complete or of a decision by a public agency to undertake a project, a lead agency shall provide formal notification to a designated contact of, or tribal representative of, traditionally and culturally affiliated California Native American tribes that have requested notice, to be accomplished by at least one written notice that includes:
 - a. A brief description of the project.
 - b. The lead agency contact information.
 - c. Notification that the California Native American tribe has 30 days to request consultation. (Pub. Resources Code §21080.3.1 (d)).
 - d. A "California Native American tribe" is defined as a Native American tribe located in California that is on the contact list maintained by the NAHC for the purposes of Chapter 905 of Statutes of 2004 (SB 18). (Pub. Resources Code §21073).
2. Begin Consultation Within 30 Days of Receiving a Tribe's Request for Consultation and Before Releasing a Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report: A lead agency shall begin the consultation process within 30 days of receiving a request for consultation from a California Native American tribe that is traditionally and culturally affiliated with the geographic area of the proposed project. (Pub. Resources Code §21080.3.1, subds. (d) and (e)) and prior to the release of a negative declaration, mitigated negative declaration or Environmental Impact Report. (Pub. Resources Code §21080.3.1(b)).
 - a. For purposes of AB 52, "consultation shall have the same meaning as provided in Gov. Code §65352.4 (SB 18). (Pub. Resources Code §21080.3.1 (b)).
3. Mandatory Topics of Consultation If Requested by a Tribe: The following topics of consultation, if a tribe requests to discuss them, are mandatory topics of consultation:
 - a. Alternatives to the project.
 - b. Recommended mitigation measures.
 - c. Significant effects. (Pub. Resources Code §21080.3.2 (a)).
4. Discretionary Topics of Consultation: The following topics are discretionary topics of consultation:
 - a. Type of environmental review necessary.
 - b. Significance of the tribal cultural resources.
 - c. Significance of the project's impacts on tribal cultural resources.
 - d. If necessary, project alternatives or appropriate measures for preservation or mitigation that the tribe may recommend to the lead agency. (Pub. Resources Code §21080.3.2 (a)).
5. Confidentiality of Information Submitted by a Tribe During the Environmental Review Process: With some exceptions, any information, including but not limited to, the location, description, and use of tribal cultural resources submitted by a California Native American tribe during the environmental review process shall not be included in the environmental document or otherwise disclosed by the lead agency or any other public agency to the public, consistent with Government Code §6254 (r) and §6254.10. Any information submitted by a California Native American tribe during the consultation or environmental review process shall be published in a confidential appendix to the environmental document unless the tribe that provided the information consents, in writing, to the disclosure of some or all of the information to the public. (Pub. Resources Code §21082.3 (c)(1)).
6. Discussion of Impacts to Tribal Cultural Resources in the Environmental Document: If a project may have a significant impact on a tribal cultural resource, the lead agency's environmental document shall discuss both of the following:
 - a. Whether the proposed project has a significant impact on an identified tribal cultural resource.
 - b. Whether feasible alternatives or mitigation measures, including those measures that may be agreed to pursuant to Public Resources Code §21082.3, subdivision (a), avoid or substantially lessen the impact on the identified tribal cultural resource. (Pub. Resources Code §21082.3 (b)).

7. Conclusion of Consultation: Consultation with a tribe shall be considered concluded when either of the following occurs:
 - a. The parties agree to measures to mitigate or avoid a significant effect, if a significant effect exists, on a tribal cultural resource; or
 - b. A party, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached. (Pub. Resources Code §21080.3.2 (b)).
8. Recommending Mitigation Measures Agreed Upon in Consultation in the Environmental Document: Any mitigation measures agreed upon in the consultation conducted pursuant to Public Resources Code §21080.3.2 shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring and reporting program, if determined to avoid or lessen the impact pursuant to Public Resources Code §21082.3, subdivision (b), paragraph 2, and shall be fully enforceable. (Pub. Resources Code §21082.3 (a)).
9. Required Consideration of Feasible Mitigation: If mitigation measures recommended by the staff of the lead agency as a result of the consultation process are not included in the environmental document or if there are no agreed upon mitigation measures at the conclusion of consultation, or if consultation does not occur, and if substantial evidence demonstrates that a project will cause a significant effect to a tribal cultural resource, the lead agency shall consider feasible mitigation pursuant to Public Resources Code §21084.3 (b). (Pub. Resources Code §21082.3 (e)).
10. Examples of Mitigation Measures That, If Feasible, May Be Considered to Avoid or Minimize Significant Adverse Impacts to Tribal Cultural Resources:
 - a. Avoidance and preservation of the resources in place, including, but not limited to:
 - i. Planning and construction to avoid the resources and protect the cultural and natural context.
 - ii. Planning greenspace, parks, or other open space, to incorporate the resources with culturally appropriate protection and management criteria.
 - b. Treating the resource with culturally appropriate dignity, taking into account the tribal cultural values and meaning of the resource, including, but not limited to, the following:
 - i. Protecting the cultural character and integrity of the resource.
 - ii. Protecting the traditional use of the resource.
 - iii. Protecting the confidentiality of the resource.
 - c. Permanent conservation easements or other interests in real property, with culturally appropriate management criteria for the purposes of preserving or utilizing the resources or places.
 - d. Protecting the resource. (Pub. Resource Code §21084.3 (b)).
 - e. Please note that a federally recognized California Native American tribe or a non-federally recognized California Native American tribe that is on the contact list maintained by the NAHC to protect a California prehistoric, archaeological, cultural, spiritual, or ceremonial place may acquire and hold conservation easements if the conservation easement is voluntarily conveyed. (Civ. Code §815.3 (c)).
 - f. Please note that it is the policy of the state that Native American remains and associated grave artifacts shall be repatriated. (Pub. Resources Code §5097.991).
11. Prerequisites for Certifying an Environmental Impact Report or Adopting a Mitigated Negative Declaration or Negative Declaration with a Significant Impact on an Identified Tribal Cultural Resource: An Environmental Impact Report may not be certified, nor may a mitigated negative declaration or a negative declaration be adopted unless one of the following occurs:
 - a. The consultation process between the tribes and the lead agency has occurred as provided in Public Resources Code §21080.3.1 and §21080.3.2 and concluded pursuant to Public Resources Code §21080.3.2.
 - b. The tribe that requested consultation failed to provide comments to the lead agency or otherwise failed to engage in the consultation process.
 - c. The lead agency provided notice of the project to the tribe in compliance with Public Resources Code §21080.3.1 (d) and the tribe failed to request consultation within 30 days. (Pub. Resources Code §21082.3 (d)).

The NAHC's PowerPoint presentation titled, "Tribal Consultation Under AB 52: Requirements and Best Practices" may be found online at: http://nahc.ca.gov/wp-content/uploads/2015/10/AB52TribalConsultation_CalEPAPDF.pdf

SB 18

SB 18 applies to local governments and requires local governments to contact, provide notice to, refer plans to, and consult with tribes prior to the adoption or amendment of a general plan or a specific plan, or the designation of open space. (Gov. Code §65352.3). Local governments should consult the Governor's Office of Planning and Research's "Tribal Consultation Guidelines," which can be found online at: https://www.opr.ca.gov/docs/09_14_05_Updated_Guidelines_922.pdf

Some of SB 18's provisions include:

1. **Tribal Consultation:** If a local government considers a proposal to adopt or amend a general plan or a specific plan, or to designate open space it is required to contact the appropriate tribes identified by the NAHC by requesting a "Tribal Consultation List." If a tribe, once contacted, requests consultation the local government must consult with the tribe on the plan proposal. **A tribe has 90 days from the date of receipt of notification to request consultation unless a shorter timeframe has been agreed to by the tribe.** (Gov. Code §65352.3 (a)(2)).
2. **No Statutory Time Limit on SB 18 Tribal Consultation.** There is no statutory time limit on SB 18 tribal consultation.
3. **Confidentiality:** Consistent with the guidelines developed and adopted by the Office of Planning and Research pursuant to Gov. Code §65040.2, the city or county shall protect the confidentiality of the information concerning the specific identity, location, character, and use of places, features and objects described in Public Resources Code §5097.9 and §5097.993 that are within the city's or county's jurisdiction. (Gov. Code §65352.3 (b)).
4. **Conclusion of SB 18 Tribal Consultation:** Consultation should be concluded at the point in which:
 - a. The parties to the consultation come to a mutual agreement concerning the appropriate measures for preservation or mitigation; or
 - b. Either the local government or the tribe, acting in good faith and after reasonable effort, concludes that mutual agreement cannot be reached concerning the appropriate measures of preservation or mitigation. (Tribal Consultation Guidelines, Governor's Office of Planning and Research (2005) at p. 18).

Agencies should be aware that neither AB 52 nor SB 18 precludes agencies from initiating tribal consultation with tribes that are traditionally and culturally affiliated with their jurisdictions before the timeframes provided in AB 52 and SB 18. For that reason, we urge you to continue to request Native American Tribal Contact Lists and "Sacred Lands File" searches from the NAHC. The request forms can be found online at: <http://nahc.ca.gov/resources/forms/>

NAHC Recommendations for Cultural Resources Assessments

To adequately assess the existence and significance of tribal cultural resources and plan for avoidance, preservation in place, or barring both, mitigation of project-related impacts to tribal cultural resources, the NAHC recommends the following actions:

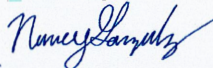
1. Contact the appropriate regional California Historical Research Information System (CHRIS) Center (http://ohp.parks.ca.gov/?page_id=1068) for an archaeological records search. The records search will determine:
 - a. If part or all of the APE has been previously surveyed for cultural resources.
 - b. If any known cultural resources have already been recorded on or adjacent to the APE.
 - c. If the probability is low, moderate, or high that cultural resources are located in the APE.
 - d. If a survey is required to determine whether previously unrecorded cultural resources are present.
2. If an archaeological inventory survey is required, the final stage is the preparation of a professional report detailing the findings and recommendations of the records search and field survey.
 - a. The final report containing site forms, site significance, and mitigation measures should be submitted immediately to the planning department. All information regarding site locations, Native American human remains, and associated funerary objects should be in a separate confidential addendum and not be made available for public disclosure.
 - b. The final written report should be submitted within 3 months after work has been completed to the appropriate regional CHRIS center.

3. Contact the NAHC for:
 - a. A Sacred Lands File search. Remember that tribes do not always record their sacred sites in the Sacred Lands File, nor are they required to do so. A Sacred Lands File search is not a substitute for consultation with tribes that are traditionally and culturally affiliated with the geographic area of the project's APE.
 - b. A Native American Tribal Consultation List of appropriate tribes for consultation concerning the project site and to assist in planning for avoidance, preservation in place, or, failing both, mitigation measures.
4. Remember that the lack of surface evidence of archaeological resources (including tribal cultural resources) does not preclude their subsurface existence.
 - a. Lead agencies should include in their mitigation and monitoring reporting program plan provisions for the identification and evaluation of inadvertently discovered archaeological resources per Cal. Code Regs., tit. 14, §15064.5(f) (CEQA Guidelines §15064.5(f)). In areas of identified archaeological sensitivity, a certified archaeologist and a culturally affiliated Native American with knowledge of cultural resources should monitor all ground-disturbing activities.
 - b. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the disposition of recovered cultural items that are not burial associated in consultation with culturally affiliated Native Americans.
 - c. Lead agencies should include in their mitigation and monitoring reporting program plans provisions for the treatment and disposition of inadvertently discovered Native American human remains. Health and Safety Code §7050.5, Public Resources Code §5097.98, and Cal. Code Regs., tit. 14, §15064.5, subdivisions (d) and (e) (CEQA Guidelines §15064.5, subds. (d) and (e)) address the processes to be followed in the event of an inadvertent discovery of any Native American human remains and associated grave goods in a location other than a dedicated cemetery.

If you have any questions or need additional information, please contact me at my email

address: Gayle.Totton@nahc.ca.gov.

Sincerely,



for

Gayle Totton

Associate Governmental Program Analyst

cc: State Clearinghouse

From: Bill Bosworth <ramblinbb@comcast.net>

Sent: Monday, July 15, 2019 6:27 PM

To: Debbie Pedro <dpedro@saratoga.ca.us>

Subject: Mt Winery Annexation

Hi Debbie,

I was told by Cupertino Sanitary District that the Mt Winery plans an expansion of "300 Units". They did not know what a "unit" was. Neither do I.

What is a "Unit"?

IF a unit comprises any type of lodging that could mean multiple cars per lodging unit, THEN that could mean 500 to 700 cars or more daily on Pierce Road.

That seems to me to be unacceptable unless provisions are made, AND COMPLETED IN ADVANCE, to improve Pierce road to accommodate such a huge traffic increase.

Thanks,

Bill Bosworth