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March 16, 2022

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VIA E-MAIL

Honorable Mayor Gillmor and Members of the
City Council
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Re: Patrick Henry Drive Specific Plan and Final EIR (SCH # 2019120515)

Dear Mayor Gillmor and Members of the City Council:

Buchalter, a Professional Corporation (“Buchalter”), represents O2Micro as land use counsel for the development of its property located at 3118 Patrick Henry Drive, Santa Clara, California (“O2Micro Property”) in the southern portion of the Patrick Henry Drive Specific Plan (the “PHD Specific Plan”) area. The City of Santa Clara (“City”) included various stakeholders in its planning process, and identified O2Micro as Stakeholder #6 for the Specific Plan review process. Among the 11 stakeholders in the PHD Specific Plan, O2Micro is the only one who is not a developer.

The purpose of this letter is to respectfully request your support to promptly address my client’s concern regarding the roadway connector option in the PHD Specific Plan.

About O2Micro

O2Micro is a local business which started on Patrick Henry Drive in 1995. Over the past 27 years, O2Micro has supported Santa Clara community-based organizations and has continued to do so through the recent unprecedented pandemic. In 2013, O2Micro stepped up and gave 7% of its land for a powerline easement at the City’s request while its neighbors all refused. In 2019, O2Micro was honored with the “Best of Business” award from S.C. Chamber of Commerce for its contribution to the community.

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Mayor Gillmor and Members of the City Council

March 16, 2022

Page 2

Background about the PHD Specific Plan Road Connector

Since the early days of this planning effort, City staff has unilaterally proposed to locate a four-lane public roadway plus 2 sidewalks across the O2Micro Property to Mission College Boulevard (the “Road Connector”). Staff stated in writing that this is a condition of O2Micro’s right to develop its property with residential uses under the City’s PHD Specific Plan. The final Environmental Impact Report (“EIR”) estimates that the average daily traffic on the Road Connector could range between 19,340 to 29,840 vehicle trips, not including the Levi’s Stadium cut-through traffic (Chapter 13, Pages 13-42 and 13-42A). No other stakeholder in the PHD Plan Area has been expected to bear the sole burden of a major public roadway on its property.

Various drafts of the PHD Specific Plan and EIR stated that the City could only require the Road Connector if the West Valley-Mission Community College District Board of Trustees (the “Board of Trustees”) approved it. The documents noted this specifically even as the Planning Department consistently ignored O2Micro’s concerns¹, which are incorporated herein by reference.

In fact, O2Micro is not the only stakeholder to express concerns about the Road Connector. At the City Council April 20, 2021 study session, council members Suds Jain, Karen Hardy and Kevin Park expressed concerns regarding the Road Connector’s traffic and pedestrian safety impacts. On December 21, 2021, the Board of Trustees unanimously rejected the Road Connector (the “Board’s Rejection”) due to concerns over safety, traffic, noise, pollution, maintenance, expenses, etc. O2Micro agrees with the Board of Trustees’ concerns.

We appreciate and respect the Planning Commission’s recent confirmation in its January 26, 2022 recommendation to approve the PHD Specific Plan while acknowledging that the proposed PHD Specific Plan **does not** include the Road Connector on the O2Micro Property. Instead, the final PHD Specific Plan designates open space along both sides of the property line shared by O2Micro and Summerhill. However, the Board’s Rejection is not accurately reflected in the Final EIR and PHD Specific Plan recently released in January and February, 2022. Staff seems to be unilaterally ignoring the Planning Commission’s and the Board of Trustees’ “no road connector” scenario. The PHD Specific Plan now designates O2Micro’s open space so it is the same size as the Road Connector and 72% larger than the adjacent Summerhill’s open space just in case the open space area is needed for the Roadway Connector. This is simply a guise to reserve sufficient area on the O2Micro Property for the Road Connector in the future if staff is able to convince the Board of Trustees to change its mind. But such an approach is inconsistent with the Specific Plan’s provisions stating the Road Connector option depends on the Board of Trustees’ approval of the Road Connector. As the Council is aware, the Board of Trustees

¹ Letters from O2Micro or Buchalter on O2Micro’s behalf dated 3/1/2021, 3/31/2021, 9/13/2021, 12/22/2021, and 1/24/2022.

Mayor Gillmor and Members of the City Council
March 16, 2022
Page 3

already rejected the Road Connector. That decision is final.

Planning staff's attempts to interpret the Planning Commission's recommendations at its hearing by insisting that the Road Connector remain in the PHD Specific Plan in case the Trustees some day in the future change their minds has further confused the issue. While we appreciate staff suggesting that this option *could* be reflected in the EIR since the City studied it, the City no longer should identify the Road Connector as an option in the Specific Plan because the Specific Plan said the decision was up to the Board of Trustees. The Board of Trustees already rejected the Road Connector. Insisting the Road Connector remain in the Specific Plan does not reflect the Board's Rejection of the Road Connector. Moreover, the future conversion from open space to a Road Connector will cause new potential impacts on the plan area as well as on O2Micro's development plan. The environmental impacts of converting open space to a road have not been evaluated in the EIR, so if the City were to carry forward such an option in the Specific Plan when the EIR has not studied the consequences of that action, the City will be in violation of CEQA.

O2Micro is the sole stakeholder to be burdened with the significant future uncertainty of whether or not it will be required to install a public road. This does not make sense when the Board of Trustees already made a decision to reject the Road Connector. It is no longer an option. To keep the Road Connector in the Final Specific Plan is to keep open the possibility of replacing open space with the Road Connector, indefinitely.

Thus, we respectfully request that the City Council certify the Final EIR and adopt the Specific Plan without the Road Connector as the preferred option. That decision was within the Board of Trustees' discretion, and it was already made. Secondly, O2Micro requests that the open space on the O2Micro and Summerhill properties along the same property line be equal in size. There is no equitable reason for the open space designated on the O2Micro property to be 72% larger than the size designated for Summerhill's open space.

The Final PHD Specific Plan Should Eliminate the Road Connector Option based on the Board's Rejection.

After the Board's Rejection last year, the City released for public review the Final EIR and PHD Specific Plan in January, 2022. The PHD Specific Plan acknowledged the Board's Rejection but failed to accurately and consistently depict the circulation network. At the Planning Commission public hearing on January 26, 2022, Commissioner Lance Saleme strongly recommended that the Road Connector be removed from the official documents to avoid confusion and Chairperson Nancy Biagini supported Commissioner Saleme's recommendation (please see Attachment I).

The Final Specific Plan released in February, 2022 presents open space on both sides of the property line shared by O2Micro and Summerhill as the preferred option (please see

Mayor Gillmor and Members of the City Council

March 16, 2022

Page 4

Attachment II), and the Road Connector as the alternative option for “Potential future vehicle connection subject to the approval of the Mission College Board of Trustees” (please see Attachment III). The City also included language stating that the “roadway connection is shown in this PHD Specific Plan as a future alternative, subject to reconsideration by the Board of Trustees” (see page 88), only the Trustees have not reconsidered their decision, and the property owner O2Micro does not support it.

Given the Board’s Rejection, the City’s only option is to eliminate the Road Connector in its entirety from the Specific Plan. It is not an option, nor a part of the Plan. If the City is to respect the public input process and the Board’s Rejection, it cannot carry the Road Connector forward as if it is a feasible option. There is no evidence that the Board of Trustees may reconsider its unanimous rejection of the Road Connector. Even if the Board of Trustees were open some day in the future to consider a new road through its campus, the impacts of that change at that later date would need to be evaluated through a separate public review process in accordance with CEQA.

We respectfully request that the City Council change the Final PHD Specific Plan to remove the Road Connector in its entirety from the O2Micro Property. This includes, but is not limited to, removal of references to the Road Connector or “potential future vehicle connection” from the text on page 88 and from the exhibits in the Final PHD Specific Plan as listed in Attachment III.

The Final PHD Specific Plan No Road Connector Option Should be Revised so that the Open Space on the O2Micro Property Equals the Open Space on the Summerhill Property.

We agree with the Planning Commission’s recommendation that the Road Connector option be replaced with the No Road Connector option as the preferred land plan consistent with the Board’s Rejection. Currently, the Final Specific Plan shows that the open space on the O2Micro Property is noticeably larger than that on the adjacent Summerhill Property (please see Attachment II). While the Final Specific Plan fails to specify the exact size, the City staff showed in its presentation at the Planning Commission Hearing that the open space on the O2Micro and the adjacent Summerhill Properties are 15,800 sq. ft. and 9,200 sq. ft. respectively. The size of open space specified for O2Micro is exactly the same size as that of the Road Connector. This is simply a guise by staff to some day try to replace the open space with the Road Connector.

O2Micro agrees to provide open space. That has never been in question. O2Micro, however, respectfully requests that the City size the proposed open space depicted along the eastern boundary of the O2Micro Property to equal the open space on the Summerhill property along the same property line. This would be a fair and equitable distribution of open space and

Buchalter

Mayor Gillmor and Members of the City Council
March 16, 2022
Page 5

public amenities consistent with the Specific Plan open space requirements and the amount of development contemplated on both properties.

O2 Micro agrees with the comments provided during the public input process, the decision from the Board of Trustees and the City of Santa Clara Planning Commission. O2Micro will accept the open space scenario in the Specific Plan with the understanding that the Road Connector is completely removed from the Final Specific Plan.

My client welcomes an open collaborative discussion with the City of Santa Clara, and hopes to work with the City on a mutually acceptable plan that meets the community's interests without imposing greater impacts on O2Micro. We look forward to the City's certification of the Final EIR and approval of the Final PHD Specific Plan with the revisions O2Micro has requested.

Sincerely,

BUCHALTER
A Professional Corporation

By 

Alicia Guerra

AG:nj

cc: Hossam Haggag, City Clerk
Xander Abbe, City Attorney
Andrew Crabtree, Director of Community Development
Reena Brilliot, Assistant Director of Community Development
Lynn Lin
Yimin Zimmerer
Jane Zhang

Attachment I - Related Discussions at Planning Commission Hearing

The Road Connector was discussed in several occasions during the Planning Commission Hearing on January 26, 2022 (e.g. 0:30:20, 0:49:00, 0:50:30, 1:26:00, and 2:32:35 of the recording at [Planning Commission on 2022-01-26 6:00 PM - Jan 26th, 2022 \(granicus.com\)](https://www.granicus.com/publicinfo/PID.php?id=12276)). One reason that the staff wanted to keep the Road Connector in the Final EIR and PHD Specific Plan is in case the Board of Trustees changes its mind in the future. Another reason, as shown below, is that staff claimed to not know what specific pages need to be modified. To address the latter issue, we prepared the corresponding exhibits in Attachments II and III.

Lance Saleme: *“I think this is the point where we have to mention the proposed road. Is it possible to request that it move to an appendix or addendum to not lose the context of the fact that this investigation and the information is available, but to remove it from the official document and maybe move it to an investigated option’s appendix?”*

Nancy Biagini: *“I will accept that as a further part of my motion.”*

Xander Abbe: *“I apologize here. I have more legal concerns. You are suggesting modifying the specific without specifically identifying the pages and exactly what.”*

Lance Saleme: *“Oh boy.”*

Nancy Biagini: *“Oh lord. Are you talking about Lance’s modification of my motion?”*

Xander Abbe: *“Yes.”*

Lance Saleme: *“We can go through and then identify [the] specific pages where it’s still present. The objective is to remove the mention of that proposed road from all of the official documents in order to meet the request of both the lawyer and the other commissioners, but to maintain Staff’s work by having it available as an appendix or other addendum items within the same document.”*

Xander Abbe: *“Okay, my legal opinion, in contrast to the others who we were just talking about, I am thinking of much more liberal view of this. I do not believe that edit is necessary from the perspective of protecting the City. That’s why we turn on everything tonight. It’s all about how I can best protect the City. I do not believe that edit is necessary from the legal protection standpoint. I disagree with the attorney for O2Micro Systems. I do not believe the document is internally inconsistent.”*

Lance Saleme: *“Is there a way to alternately at least diminish its level of visible importance by greying it or doing something to hide the fact that this is not what we consider a built-in piece of the document? Do you understand what I am saying? We have to diminish its importance in the document to avoid confusion.”*

Xander Abbe: *“I understand where you are coming from. Planning Commission is required under State Law to review the Specific Plan and make a recommendation on the Specific Plan*

before it goes to the City Council. You are talking about a number of edits. We can take a 5-minute recess right now and I can page through and find the specific pages and then see if it reaches the conclusions.”

Nancy Biagini: “Xander, let me try this. You talked about, I don’t remember where it was, Trustees did not approve. What if you just simply, I am assuming that somewhere in the bazilian pages we have, what if that was just highlighted or bolded, so in other words, it is very clear that the trustee did not approve? Does that help if it’s in the document that I think it’s in? And does that meet with what you are talking about? Because I’m with you on this Commissioner Saleme, but I’m struggling. I don’t want to make this an unwilled motion, but I want to get our thoughts in there.”

Attachment II – Open Space as the Preferred Option in Final PHD Specific Plan

The following figures in the Final PHD Specific Plan showing the No Road Connector option (which is the project) should be revised to illustrate equal size of the open space on the O2Micro and Summerhill Properties rather than open space 72% larger on the O2Micro Property compared to the open space on the Summerhill Property:

- Figure 4.2 (Urban Design Framework);
- Figure 4.3A (Land Use Plan);
- Figure 4.3B (Ground Floor Activation)
- Figure 4.3C (Building Height);
- Figure 4.5 (Parks and Greenways);
- Figure 4.6.2 (Circulation);
- Figure 4.6.2.1B (Vehicular Network);
- Figure 4.6.2.2 (Pedestrian and Bicycle Network);

Figure 4.5 below serves as an example of a typical layout for the figures above regarding the open space option.

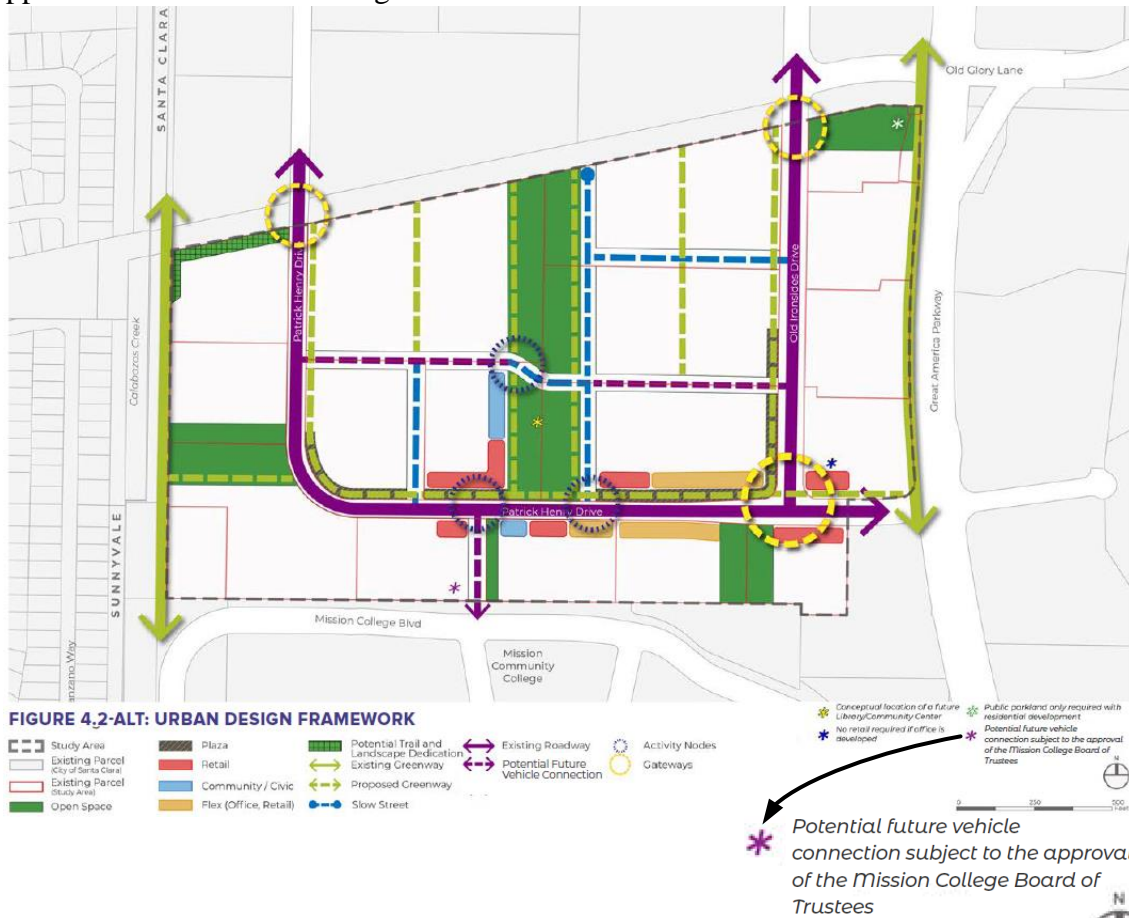


Attachment III - Road Connector as the Alternative Option in Final PHD Specific Plan

References to the Road Connector or “potential future vehicle connection” in the text on page 88, as well as the following figures in the Final Specific Plan showing the Road Connector should be removed:

- Figure 4.2-ALT (Urban Design Framework);
- Figure 4.3A-ALT (Land Use Plan);
- Figure 4.3B-ALT (Ground Floor Activation);
- Figure 4.3C-ALT (Building Height);
- Figure 4.5-ALT (Parks and Greenways);
- Figure 4.6.2-ALT (Circulation);
- Figure 4.6.2.1A-ALT (Street Types and Existing Easements);
- Figure 4.6.2.1B-ALT (Vehicular Network);
- Figure 4.6.2.2-ALT (Pedestrian and Bicycle Network);
- Key map on page 127; and
- Key map on page 132;

Figure 4.2-ALT serves as an example of a typical layout for the figures above. The Road Connector is marked with purple asterisk stating “Potential future vehicle connection subject to the approval of the Mission College Board of Trustees”.



Melissa Meslo

From: Mary Grizzle <mogrizzle2@gmail.com>

Sent: Tuesday, March 15, 2022 7:52 PM

To: Mayor and Council <MAYORANDCOUNCIL@SantaClaraCA.gov>; Nora Pimentel <NPimentel@SantaClaraCA.gov>;
cityclerk@santaclaraca.gov

Cc: Dan Meyberg <dan.meyberg@o2micro.com>; Yimin Wang <yimin_zimmerer@yahoo.com>

Subject: Patrick Henry specific Plan

Mayor Gillmor and Members of the City Council
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

March 15, 2022

Dear Mayor Gillmor and Members of the City Council,

As a long-time resident of the city of Santa Clara, I am extremely proud of how our neighborhood has emerged.

Recently I have been following the City's discussions regarding the Patrick Henry Drive Specific Plan. I attended the West Valley Mission Community College Board of Trustees Meeting in December last year, and was pleased that the trustees listened to my concerns and rejected the proposed roadway connecting Patrick Henry Drive and Mission College Boulevard on campus. Nevertheless, as of now, the roadway remains in the final Patrick Henry Drive Specific Plan as a viable option. It means that the proposed open space between Patrick Henry Drive and Mission College may not be implemented in the future. Instead, it may be replaced by the roadway. I'm sincerely concerned with this possibility, and would like to urge you to prevent it from happening.

People in our city want to live in a living environment that is safe and serene, and certainly not one surrounded by a maze of traffic. Orienting our residents and families to live in a healthy and sustainable way remain a high priority for the city of Santa Clara. We do not need more traffic, pollution and noise. Please eliminate this roadway from the final Specific Plan and make the open space stay in our community.

Thank you for allowing me to share my thoughts and concerns.

Respectfully submitted,

Mary Grizzle

mogrizzle2@gmail.com.