

# Recommendations for the Santa Clara County Board of Supervisors

From: Stanford Coalition for Planning an Equitable 2035 (SCoPE 2035)  
October 22, 2019

**SUBJECT: SCoPE 2035's Written Comment for the  
October 22, 2019 Board of Supervisors Hearing**



## **Executive Summary: Four Policy Recommendations**

**1) Stanford's obligation to fully mitigate its impacts by building affordable housing must be non-negotiable.** At a minimum, Stanford must build the number of units listed in the County's draft Conditions of Approval: 933 below market-rate units, in addition to 1,239 market-rate and inclusionary units.

**2) Sensible trip standards will result in equitable, just transportation policies while complementing housing requirements. We support the County's proposed Conditions of Approval regarding traffic.** Housing employees closer to their workplaces increases equity, reduces overall traffic, and lessens vehicle emissions. We are committed to transportation standards that benefit working families living on campus and will put pressure on Stanford to improve benefits for workers. **We believe that good housing and transportation policy do not need to come into conflict;** to achieve these outcomes concurrently, **we prioritize the traffic standards in the following order:**

1. **Average Daily Trips (ADT), modified to include trip credits**

Unlike the NNNRCT and NNNCT standards, the ADT standard includes commutes at non-peak commute hours, from dining hall workers and janitorial staff for instance. Requiring Stanford to limit ADT will incentivize them to improve transportation options for such workers. ADT must also be paired with trip credits would allow Stanford to benefit the surrounding community by reducing traffic and improving local transit options.

2. **No Net New Commute Trips (NNNCT)**

3. **No Net New Reverse Commute Trips (NNNRCT)\***

The NNNRCT standard is partially redundant with the ADT standard. If it is infeasible to implement all three trip standards, NNNRCT should be replaced with a lump sum payment to the County, at least 50% of which should be reserved for public transit.

For the prior standards to function as intended, **the county must also ensure that several key transit and TDM improvements are eligible as trip credits:**

- Tardiness forgiveness program for workers using delayed transit
- Marguerite extension to East Palo Alto
- SAMTrans line extensions and service, especially in East Palo Alto
- Caltrain electrification, grade separations, and increased service

**3) The needs of impacted low-income communities, particularly in southern San Mateo County, must be met through this process. This can be achieved by explicitly including, in the Conditions of Approval, mechanisms through which mitigation measures will apply to and benefit San Mateo County.**

**4) The County should not negotiate a Development Agreement with Stanford University, unless transparency and good-faith conditions are met.**

- All meetings between Stanford and the County of Santa Clara are open to the public, fully transparent, follow a public notice of the convening, and in which meeting minutes are published on the County's website.
- Stanford agrees to uphold its previous financial commitment offered to the Palo Alto Unified School District within the Development Agreement.
- Stanford agrees to deliver the market rate and below market rate units required by the County's draft Conditions of Approval, without double counting **any** units already permitted in the past.

## **Full Comment**

**1) Stanford's obligation to fully mitigate its impacts by building affordable housing must be non-negotiable.** At a minimum, Stanford must build the number of units listed in the County's draft Conditions of Approval: 933 below market-rate units, in addition to 1,239 market-rate and inclusionary units.

**Rationale:** Under the County's analysis in the Final Environmental Impact Report (FEIR), it was determined that Stanford's planned development under the proposed 2018 General Use Permit would result in an estimated increase in demand 2,425 off-campus housing units. This increase in off-campus demand for housing puts unnecessary stress on local housing markets within and outside of the borders of Santa Clara County and increases the amount of emissions produced by the commutes of employees in Stanford's expanded workforce. Santa Clara County's Conditions of Approval signify that Stanford will be held accountable for the impacts of its development on the surrounding area and the worsening housing crisis. These units specified in the CoAs *must* be held as the minimum Stanford must build to offset its impacts, since they only take into account the impact of Stanford's *future* development; currently, an approximated third of Stanford's thousands of service workers face a commute of 90+ minutes one way because they lack access to affordable housing. Furthermore, many Stanford students graduate and choose to stay in the Bay Area, an additional stressor to the Bay Area housing market that is not taken into account by the FEIR nor the CoAs. Considering the enormous role Stanford's development has had and continues to have in exacerbating the Bay Area housing crisis, we urge the Board of Supervisors to adopt the housing mitigation standards outlined in the CoAs as the first step to ensuring that Stanford's future development is offset through the construction and allocation of affordable housing units to its workers.

**2) Sensible trip standards will result in equitable, just transportation policies while complementing housing requirements. We support the County's proposed Conditions of Approval regarding traffic.** Housing employees closer to their workplaces increases equity, reduces overall traffic, and lessens vehicle emissions. We are committed to transportation standards that benefit working families living on campus and will put pressure on Stanford to improve benefits for workers. To achieve these outcomes concurrently, **we prioritize the traffic standards in the following order:**

1. **Average Daily Trips (ADT), modified to include trip credits**

Unlike the NNNRCT and NNNCT standards, the ADT standard includes commutes at non-peak commute hours, which often apply to dining hall workers and janitorial staff.

Requiring Stanford to limit ADT will incentivize them to improve transportation options for such workers. ADT must also be paired with trip credits would allow Stanford to benefit the surrounding community by reducing traffic and improving local transit options.

2. **No Net New Commute Trips (NNNCT)**
3. **No Net New Reverse Commute Trips (NNNRCT)**

The NNNRCT standard is partially redundant with the ADT standard. If it is infeasible to implement all three trip standards, NNNRCT should be replaced with a lump sum payment to the County, at least 50% of which should be reserved for public transit.

**For the prior standards to function as intended, the county must also ensure that several key transit and TDM improvements are explicitly eligible as trip credits:**

- Tardiness forgiveness program for workers using delayed transit
- Marguerite extension to East Palo Alto
- SAMTrans line extensions and service, especially in East Palo Alto
- Caltrain electrification, grade separations, and increased service

**Rationale:**

We are committed to transportation standards that limit traffic, are achievable, improve the lives of workers, and also do not come into conflict with the vital provision of more on-campus housing. We believe that these outcomes can be achieved concurrently—building higher density housing nearer to people’s workplaces inherently makes transportation more equitable for working families while reducing commute times and overall traffic.

We note that measuring traffic through the use of trip standards - which depend on measurements at trip cordons around the Stanford area - does not capture the true impact on traffic that Stanford’s development may have. For example, Stanford’s development may cause traffic increases at critical infrastructure nodes, causing serious congestion issues that affect a wide radius, even if trip counts at the cordons do not increase year over year. The measures used in the current Environmental Impact Report are imperfect—treating trips as the main criteria for measuring impacts on traffic reduces our understanding of actual emissions and public transit impacts.

However, of the current measures, we would advocate that the county prioritize the use of the ADT standard. This measure allows for the counting of trip credits and captures both commutes and reverse commutes. Furthermore, it incentivizes better scheduling practices; by counting trips throughout the day, ADT does not lead to inconvenient schedules for service workers for the sole purpose of preventing them from commuting during peak hours. Furthermore, ADT provides an important impetus for Stanford to improve the commutes of workers who already do travel at off peak hours. Currently, Stanford University excludes various groups of workers from their transportation demand management program, since the program is designed around compliance with the No Net New Trips during Peak Hours policy. The Caltrain Go Pass, VTA SmartPass, and transportation tax deductions are not available to temporary, casual, contracted, and part-time workers. In addition to being unavailable for those categories of workers, Commute Club membership is also explicitly denied

to night-shift, evening-shift, and off-campus workers. Many of these workers are often commuting longer distances to Stanford, from places such as Monterey and Stockton, and face associated hardships, high transportation cost and lower quality of life. The Average Daily Trips standard is important in order to capture the many trips that workers take to Stanford in off-peak hours, in order to incentivize Stanford to include them in their Transportation Demand Management program.

We deprioritize the NNNRCT standard, primarily because it's partially redundant with the ADT standard. Furthermore, the standard may harm households of low-income workers housed on campus, who may need to commute off-campus for an additional income source from a non-Stanford employer. Faced with this standard, we see multiple options for Stanford to meet its TDM obligations: Stanford could extend Marguerite lines and Caltrain passes to spouses of Stanford employees to encourage the use of public transit, and can increase TDM options in the reverse commute direction. **We do believe that Stanford can meet the NNNRCT standard, particularly because there are no limits to trip credits and because Stanford has been successful thus far in meeting its TDM obligations.**

Secondly, housing employees closer to their workplaces increases equity, reduces overall traffic, and lessens vehicle emissions. However, we recognize that CEQA's traffic considerations and the resulting trip standard system may allow for the NNNRCT to come into conflict with housing a larger population on campus. **Because we believe that affordable housing must be non-negotiable and will ultimately have positive outcomes for environmental justice (despite greater numbers of reverse commute trips), we deprioritize the NNNRCT standard.**

While Stanford could meet its TDM obligations by making it as easy as possible for households that have commutes in the reverse direction to use public transit, Stanford could also technically meet its obligations by creating onerous disincentives for families that use cars for reverse commute trips. The latter case, which would include policies like exorbitant prices for parking permits, would allow Stanford to meet the NNNRCT standard by simply excluding mixed-income families that depend on a household member who works off-campus and needs to make commutes in the reverse direction. Historically, Stanford has often taken the easy way out to meet its obligations, and we believe that it will choose to do the same with the NNNRCT standard. We advocate for sensible traffic standards that align with both CEQA and affordable housing goals, and out of the three existing standards, NNNRCT is the least likely to fulfill both objectives. If the County chooses to eliminate NNNRCT in favor of Stanford's proposal to pay a lump sum towards transportation, we strongly believe that a high percentage of such a lump sum should go to public transit improvements such as Caltrain grade separation and electrification: Stanford's GUP depends on filling Caltrain nearly to capacity, yet Stanford has no plans to compensate Caltrain accordingly.

Regarding the content of the standards themselves, Stanford has shown an ability for meeting trip requirements. The university has not violated the quotas from the 2000 GUP, nor have they even used trip credits to count towards those standards in the last four years. Since the 2000 GUP, Stanford has added over a 1.5 million square feet of new space and thousands of new jobs without violating these trip standards. This time, they're asking to build over 2 million square feet of academic space and thousands of new student beds. We are confident that Stanford can build more 933 more units of affordable housing and still meet trip standards - out of all of Stanford's planned development, it's a fallacy to believe that the affordable housing requirement will be the one element that will prevent Stanford from meeting its trip standard obligations.

**3) The needs of impacted low-income communities, particularly in southern San Mateo County, must be met through this process. This can be achieved by explicitly including, in the Conditions of Approval, mechanisms through which mitigation measures will apply to San Mateo County.** This ensures that impacts felt by San Mateo County are also mitigated *in* San Mateo County. For example, Santa Clara County can explicitly state that:

- If Stanford chooses to pay the in-lieu fee instead of building housing on campus, Santa Clara County should share in-lieu payments with San Mateo County based on the proportion of impact occurring in each county, as determined by the EIR.
- Any units built by Stanford should not mandate local preferences for Santa Clara County residents. San Mateo County residents should be included in any local preferences required.
- Trip credits should count towards meeting traffic standards in a larger portion of San Mateo County, particularly in a larger portion of East Palo Alto and Belle Haven (West Menlo Park). This incentivizes Stanford to invest in transit, bike and pedestrian improvements in San Mateo County as well as Santa Clara County.
- Any fees triggered through Stanford failing to meet traffic requirements should be used in intersections/transit corridors that benefit San Mateo County as well.
- A Condition of Approval should be added that in addition to the requirement of a master drainage plan, Stanford should be required to complete a stormwater detention basin in their undeveloped land in order to protect tenants in low income neighborhoods on the border of San Mateo County from extreme flooding of the San Francisquito Creek.

**Rationale:**

The Environmental Impact Report for Stanford's General Use Permit calculated impacts to the local region, not just Santa Clara County, when assessing the effect Stanford's planned development would have on traffic, housing, the environment, and more. Given that impacts to the broader community are factored into the EIR, nexus and proportionality dictates that mitigation measures should address all of those impacts. Because Santa Clara County has the jurisdiction to collect resources from Stanford's development under the 2018 GUP, it also has a responsibility and

opportunity to direct resources to other communities impacted by Stanford's development, even if those communities do not fall within the borders of Santa Clara County.

This is especially pertinent for San Mateo County, given Stanford's location on the boundary between Santa Clara County and San Mateo County. The county line is rooted in a history of redlining and racism, and for Santa Clara County to not reckon with this within the Conditions of Approval through sharing resources with San Mateo County is to perpetuate a legacy of racial injustice and harm. The EIR found that 27% of the demand for new affordable units would be located in San Mateo County— while not precisely 27% of units need to be built in San Mateo County (and could be built on Stanford's campus), those units should at least be open to residents of the county who have felt and continue to experience affordability pressure from Stanford. It would be especially unacceptable if the community impacted most by Stanford's presence, East Palo Alto, received no support from the mitigation measures imposed through the Conditions of Approval. Especially considering the number of Stanford affiliates that must commute through East Palo Alto to arrive on campus and the number of affiliates that may seek housing in the jurisdiction, any measures that ease these burdens should be prioritized. Measures like a bus line to East Palo Alto or affordable housing accessible to East Palo Alto residents should be encouraged by the Conditions of Approval.

**4) The County should not negotiate a Development Agreement with Stanford University, unless transparency and good-faith conditions are met.**

- All meetings between Stanford and the County of Santa Clara are open to the public, fully transparent, follow a public notice of the convening, and in which meeting minutes are published on the County's website.
- Stanford agrees to uphold its previous financial commitment offered to the Palo Alto Unified School District within the Development Agreement.
- Stanford agrees to deliver the 933 market rate and below market rate units required by the County's draft Conditions of Approval, without double counting **any** units already permitted in the past.

**Rationale:**

We strongly discourage entering negotiations with Stanford for a Development Agreement because the Conditions of Approval provide a stronger framework that are based on the actual impact that the university generates. Although we are not categorically opposed to a Development Agreement, the only viable Development Agreement proposal must include full transparency, the maximum amount of affordable housing and the commitment previously made to PAUSD.

Santa Clara County's Conditions of Approval must be the minimum, baseline standards for project approval. In particular, the minimum requirement for affordable housing outlined in the CoAs must not be reduced. In its development agreement proposal, Stanford has demonstrated that it intends to prioritize some community benefits over others, treating affordable housing as a community benefit that can be traded for others rather than the mitigation for an impact on regional housing affordability. To be clear: just like keeping Stanford's environmental emissions in line with state air quality standards is non-negotiable, ensuring that Stanford's development does not actively worsen the affordable housing crisis cannot be negotiated away. In fact, Stanford has explicitly proposed to slash the number of affordable housing units it will build in its DA package by almost half. Clearly, Stanford does not care about adequate, fair mitigations for all impacted communities; the university's ability to trade community benefits means that only communities that will provide additional political leverage will be served through this process. Stanford's idea of community benefits excludes some of the most important members of the community. Their offer erases crucial affordable housing units that our community desperately needs. To date, Stanford has not offered a meaningful proposal, and their advertisement of a \$4.7 billion community benefits package is a lie—Stanford is falsely advertising their development requirements as community benefits, while the actual community benefits are only about \$165 million. **Furthermore, because we know the university's intention is to lower and trade mitigation measures, we are skeptical that DA negotiations would provide for the needs of the community at the same level as the Conditions of Approval.** In addition, we ask the County to consider the possibility that Stanford has no choice but to honor its commitment to PAUSD even without a DA. Stanford has publicly promised to compensate PAUSD, and to drop out of this public commitment because the CoAs are not exactly to its liking would not only be amoral, but also a public relations nightmare for Stanford. Many of Stanford's faculty have children who attend schools in PAUSD, and therefore for Stanford to drop its support for PAUSD would not only create blowback from the surrounding community, but also influential members of Stanford's own staff and faculty.

Furthermore, Stanford's argument that a DA would provide more certainty is a fallacy. A Development Agreement has *never* been approved for Stanford's past General Use Permits, a fact that hasn't seemed to affect Stanford's ability to successfully grow and expand over the past few decades. Stanford seems to believe that the various studies required in the Conditions of Approval - including the Safe Routes to School Study and the Municipal Services Study - are too great of a burden and leave too many mitigation measures undetermined. However, these three studies provide a standard that should be upheld and therefore required in a Development Agreement regardless. Stanford's issue with certainty then becomes an excuse to provide less mitigations and skirt their responsibility to contribute to vital municipal services. Furthermore, **the County has already eased the trip standards to no longer require Stanford to halt its development if the standards are violated**, drastically increasing the certainty that Stanford will be able to complete development without interruptions. This illustrates two key facts: first, Stanford is moving the goalposts with its demand for certainty in

hopes of convincing the County to enter DA negotiations, and second, the County can work with Stanford to ease its concerns about certainty *outside* of the bounds of the CoAs.

We would also like to reiterate that successful DA negotiations require parties working together in good faith. **Stanford is not a good faith negotiator.** Stanford has claimed that it wants to build housing, yet it has resisted and ultimately sued the County in federal court both for the inclusionary housing ordinance and the housing impact fee ordinance. The University violated the Development Agreement ground-rules by making a side deal with PAUSD in hopes of gaining more political leverage. Stanford has failed to demonstrate respect for the negotiating terms set by the County.

### ***Development Agreement Case Study: Columbia University and the West Harlem Local Development Corporation***

We stress the shortcomings of Development Agreements as a planning tool. First, **Development Agreements have historically lacked accountability and been improperly enforced.**<sup>12</sup> Perhaps the most relevant case to Stanford's proposed development is the Development Agreement created between Columbia University and the West Harlem Local Development Corporation, a nonprofit organization comprised of local elected officials, negotiated for Columbia's Manhattanville expansion. Despite opposition from both local community groups and Columbia students and faculty, the expansion was allowed to move forward. Now, about 10 years later, the project remains controversial. Vague language in the original agreement has led to the community receiving few tangible benefits, despite Columbia technically upholding its end of the bargain. This speaks to the ineffectiveness of Development Agreements as a planning tool, since last minute changes to the agreement and vague language in the agreement left many details to be hammered out after the development had already been approved and the community lacked leverage to demand further benefits when it became apparent that the agreement was not enough.<sup>3</sup> Most tellingly, a mere fraction— just \$10 million— of the \$100 million promised for affordable housing has actually been spent.<sup>4</sup> **Evidently, switching from a Conditions of Approval framework to a development agreement does not automatically guarantee that units will be built.** The County cannot allow Stanford to offer less money based on vague promises of providing more community benefits when historic examples show that these agreements do not necessarily result in units being built. The County

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<sup>1</sup> Gross, Julian. "Community Benefits Agreements: Definitions, Values, and Legal Enforceability." *Journal of Affordable Housing & Community Development Law* 17, no. 1/2 (2007): 35-58.  
<http://www.jstor.org/stable/25782803>.

<sup>2</sup> Buitelaar, Madeline S. 2019. "Cui Bono? Assessing Community Engagement in San Francisco Community Benefit Agreements." *Societies* 9, no. 1: 25.

<sup>3</sup> <http://features.columbiaspectator.com/eye/2015/03/25/ties-that-bind/>

<sup>4</sup>

<https://www.columbiaspectator.com/the-eye/2018/02/13/nine-years-later-just-1-percent-of-columbias-10-million-commitment-to-affordable-housing-has-been-spent/>

should instead rely on the Conditions of Approval which have the strength necessary to actually enforce the building of units.

We are also concerned that language often used in Development Agreements reflects less strong of a commitment than language used in Conditions of Approval or use permits themselves. For example, according to the County's Zoning Ordinance § 5.20.230 subsection (C), compliance is based on terms such as "good faith" efforts:

"The Director of the Department of Planning and Development must, at least every 12 months as provided by Government Code section 65865.1, review the development agreement and provide a written report to the Board of Supervisors. The burden of proof is on the applicant to provide necessary information verifying good faith compliance with the terms of the development agreement."

The increased ambiguity allowed by language of Development Agreements in comparison to a Permit or Conditions of Approval is cause for concern, as DAs are typically harder to enforce.

Lastly, **throughout this process we have been concerned about the lack of transparency and involvement of all stakeholders if the Board were to move forward with negotiating a Development Agreement**, and ultimately, we fear that a negotiated DA will not adequately hold Stanford responsible.