

# Chapter 4 Setting, Potential Impacts, and Mitigation Measures

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## 4.1 LAND USE, PLANS, AND POLICIES

This section evaluates the project's consistency with applicable land use plans, goals, and policies and also addresses land use compatibility issues.

### 4.1.1 Environmental Setting

#### Existing Land Uses

The 143-acre West Valley College campus is located in eastern Saratoga, southeast of the Saratoga Civic Center. The campus is bounded by Fruitvale Avenue on the west and Allendale Avenue on the north. Residential uses abut the southern and eastern campus boundaries. The Saratoga City Hall is located northwest of the site across the Fruitvale Avenue/Allendale Avenue intersection. Adjacent land uses include Redwood Middle School and residential uses to the west across Fruitvale Avenue as well as residential uses to the north across Allendale Avenue. The Church of Jesus Christ of Latter Day Saints is located immediately east of the campus on Allendale Avenue. The Odd Fellows Home (Independent Order of Odd Fellows' Grand Lodge of California), a senior care facility, is located approximately 500 feet south of the campus as part of the existing residential development south of the campus. Existing land uses are shown in Figure 4.1-1.

#### Campus History

In July 1962, the first public meeting convened to address the formation of the West Valley Joint Community College District. In October of that year, the California State Board of Education approved the District's formation, and in January 1963, the voters residing within the Campbell, Los Gatos-Saratoga, and Santa Clara High School Districts established the District.

The District's first college, West Valley Junior College, became operational in September 1964. The College opened on a 12.5-acre site in Campbell, occupying a remodeled grammar school. The 1964-65 academic year began with an enrollment of 3,203 students and a staff of 10 administrators and 53 instructors. One hundred courses were offered in the first year. The following year the name of the college was changed to West Valley College.



Civic Center

Redwood Middle School

Fruitvale Avenue

Single-Family Residential

Allendale Avenue

West Valley College

Church

Single-Family Residential

Single-Family Residential

Single-Family Residential

Single-Family Residential



In 1964, the District purchased the current 143-acre Fruitvale – Allendale site in Saratoga. Funding from the State Junior College Construction Act was obtained, and between 1964 and 1974 the campus was developed. The first building was completed in 1968, and the first classes began in fall of that year.

In 1979, the District opened Mission College in Santa Clara. The name of the district was changed to West Valley – Mission Community College District to reflect the addition of the second campus.

### **4.1.2 Conformance with Local Plans and Policies**

The following discussion identifies the compliance requirements for the Long Range Development Plan’s improvement projects and the extent to which the proposed project complies with adopted and proposed land use objectives and policies affecting the project site. For complex legal reasons discussed below, some individual activities contemplated by the proposed LRDP are subject to local regulation, while others may not be.

Prior to 1959, the California Supreme Court held that public school activities were a matter of statewide concern and that school districts, being local agencies of the state, were not subject to municipal construction regulations when engaged in such sovereign activities as the construction of school buildings. *Hall v. City of Taft* (1956) 47 Cal.2d 177. It was subsequently held that school districts were likewise exempt from municipal zoning ordinances and that the state had occupied the field of school site selection by general laws contained in the Education and Government Codes. *Town of Atherton v. Superior Court* (1958) 159 Cal.App.2d 417. Because of the broad implications of the Taft and Atherton decisions, the legislature responded in 1959 by enacting Government Code Sections 53090-53095. Subsequent amendments added sections 53096, 53097, 53097.3, and 53097.5.

In general, Government Code section 53091 requires each local agency” to comply with “all applicable *building ordinances* and *zoning ordinances* of the county or city in which the territory of the local agency is situated.” (Emphasis added.) Here, the “local agency” whose zoning and building ordinances might apply is the City of Saratoga. However, the District is exempted from compliance with the City of Saratoga’s building ordinances as a result of other express provisions contained in Section 53091 which provide that, notwithstanding the preceding provisions of the statute, “this section does not require a school district...to comply with the building ordinances of a city or county.”

In addition, Government Code section 53094 creates exceptions to the general principle that school districts are subject to cities’ zoning ordinances. This statute provides that, notwithstanding section 53091, a school district need not “comply with the zoning ordinances of a county or city unless the zoning ordinance makes provision for the location of public schools and unless the city or county has adopted a general plan.” Section 53094 also provides that, where a school district has consulted with the relevant local planning agency to obtain its input with respect to a proposed project, “the governing board of a school district, . . . by a vote of two-thirds of its members, may render a city or county zoning ordinance inapplicable to a proposed use of property by the school district.” However, “[t]he governing board . . .

may not take this action when the proposed use of the property by the school district is for *nonclassroom facilities*, including, but not limited to, warehouses, administrative buildings, and automotive storage and repair buildings.” (Emphasis added.)

Here, because the proposed LRDP includes modifications to both classroom facilities and “nonclassroom facilities,” a super-majority of the Board of Trustees in some instances can vote, if it chooses, not to comply with the City of Saratoga zoning ordinance, whereas in other instances the ordinance will apply. The use of a portion of the campus for classroom facilities could be approved by such a supermajority vote notwithstanding possible objections from Saratoga, but the use of on-campus areas for nonclassroom facilities cannot.

School districts also have obligations created by Government Code section 53097. That statute provides that, notwithstanding section 53094, “the governing board of a school district shall comply with any city or county ordinance (1) regulating drainage improvements and conditions, (2) regulating road improvements and conditions, or (3) requiring the review and approval of grading plans as these ordinance provisions relate to the design and construction of onsite improvements which affect drainage, road conditions, or grading, and shall *give consideration to* the specific requirements and conditions of city or county ordinances relating to the design and construction of offsite improvements.” (Emphasis added.) If a school district elects not to comply with the requirements relating to off-site improvements, the local agency shall not be liable for any injuries or for any damage to property caused by the failure of the district to so comply.

Other state statutes help to ensure conformity between local zoning regulations and school district site locations and treatment of grounds and buildings. Government Code Section 65402(c) provides that a local agency (including a school district) shall not acquire or dispose of real property, nor construct or authorize a public building or structure, if the city has adopted a general plan and such general plan is applicable thereto, unless the location, purpose and extent of such acquisition, disposition, or such public building or structure have been submitted to and reported upon by the planning agency having jurisdiction, as to conformity with the adopted general plan. However, if the planning agency disapproves the location, purpose or extent of such acquisition, disposition, or the public building or structure, the disapproval may be overruled by the local agency (school district). Local school districts and community college districts are required to seek planning commission review of proposed acquisitions of school sites and may not act until after the planning commission completes its review. But if the commission opposes the acquisition, the district may proceed with the site acquisition following a 30-day waiting period. (Ed. Code, §§ 39004 and 81035.)

School districts are authorized to adopt five-year capital improvement programs containing specified information concerning proposed and existing capital improvements. Such a program, and revisions thereof, must be submitted to the planning agency of each affected city and county for review as to consistency with applicable general and specific plans. If the planning agency determines that the capital

improvement program is inconsistent, the district must not carry out the program unless it overrules such finding. (Gov Code, § 65403.)

Government Code Section 54999 et seq. provides that public entities, including school districts, may be required to pay “capital facility fees” to other public agencies to help defray the costs of “public utility facilities,” which are defined as facilities “for the provision of water, light, heat, communications, power, or garbage service, for flood control, drainage or sanitary purposes, or for sewage collection, treatment, or disposal.” (Gov. Code, § 54999.1, subd. (d).) (Note the absence of any reference to transportation and fire services.) This obligation was created by statute in 1988 in response to the decision of the California Supreme Court in *San Marcos Water District v. San Marcos Unified School District* (1986) 42 Cal.3d 154, which had held that public entities could not be made subject to such fees without statutory authorization. More specifically, the decision held that a water district could not require a school district to pay “sewer capacity right fees.”

In *City of Marina v. Board of Trustees of the California State University* (June 17, 2003), the Court of Appeal for the Sixth District held that, notwithstanding the general statutory CEQA mandate to mitigate significant environmental effects to the extent feasible (see Pub. Resources Code, § 21002), the California State University (“CSU”) system (and, by implication, school districts, cities, and counties) are prohibited by statute from paying fees to other public agencies for off-site transportation and fire safety improvements.

The *Marina* decision addressed the question of whether the CSU campus in the old Fort Ord military property in Monterey County was required to pay “fair share fees” for the off-site traffic and fire-related impacts associated with a campus expansion. CSU not only maintained that it was not *required* to pay such fees; it urged that it was *prohibited* from doing so. Over a vigorous dissent, a two-justice majority agreed with CSU. Interpreting Government Code sections 54999 through 54999.4, the court noted that the list of “public utility facilities” defined by section 54999.1 does not mention roads or fire stations. The decision went so far as to suggest that a public agency’s “fair share” payment to a neighboring jurisdiction’s transportation capital improvement program could be deemed a “gift of public funds.” In other words, such payments not only are not mandatory; they are forbidden.

Because neither the 1986 *San Marcos* decision nor the statutory response addressed CEQA issues, it was unclear prior to *Marina* whether the principle prohibiting one public agency from *demanding* fees from another (except for qualifying “public utility facilities”) affected a CEQA lead agency’s obligation to mitigate the significant environmental effects of its *own* projects. In other words, it was unclear whether, for example, a school district could furnish – without compulsion – funds to a city as a means of mitigating a school’s traffic impacts.

On October 1, 2003, the California Supreme Court granted a petition for review in the *City of Marina* case, rendering the Court of Appeal opinion uncitable as precedent, and leaving in question the validity of its reasoning. As of April 25, 2005, the high court had not yet issued its opinion in the case, though the

matter had been fully briefed. The law therefore remains unclear whether a city or county (e.g., the City of Saratoga) can ask an entity such as the District to pay fees for off-site transportation facilities or fire safety improvements, or whether the District, as a CEQA lead agency, may opt to use public funds to pay fees to mitigate off-site traffic and fire safety impacts.

As indicated in the Initial Study for the project, the West Valley – Mission Community College District has made a firm commitment to cooperate with the City of Saratoga in land use planning efforts that affect both jurisdictions. To ensure that the campus planning program responds to the needs of the community, the Trustees for the District removed a controversial sports complex component from the proposed LRDP program and the Trustees rescinded resolutions that made all Saratoga zoning ordinances inapplicable to District property. The following review of the LRDP with respect to the City's General Plan guidelines further supports this commitment to cooperation between the District and the City.

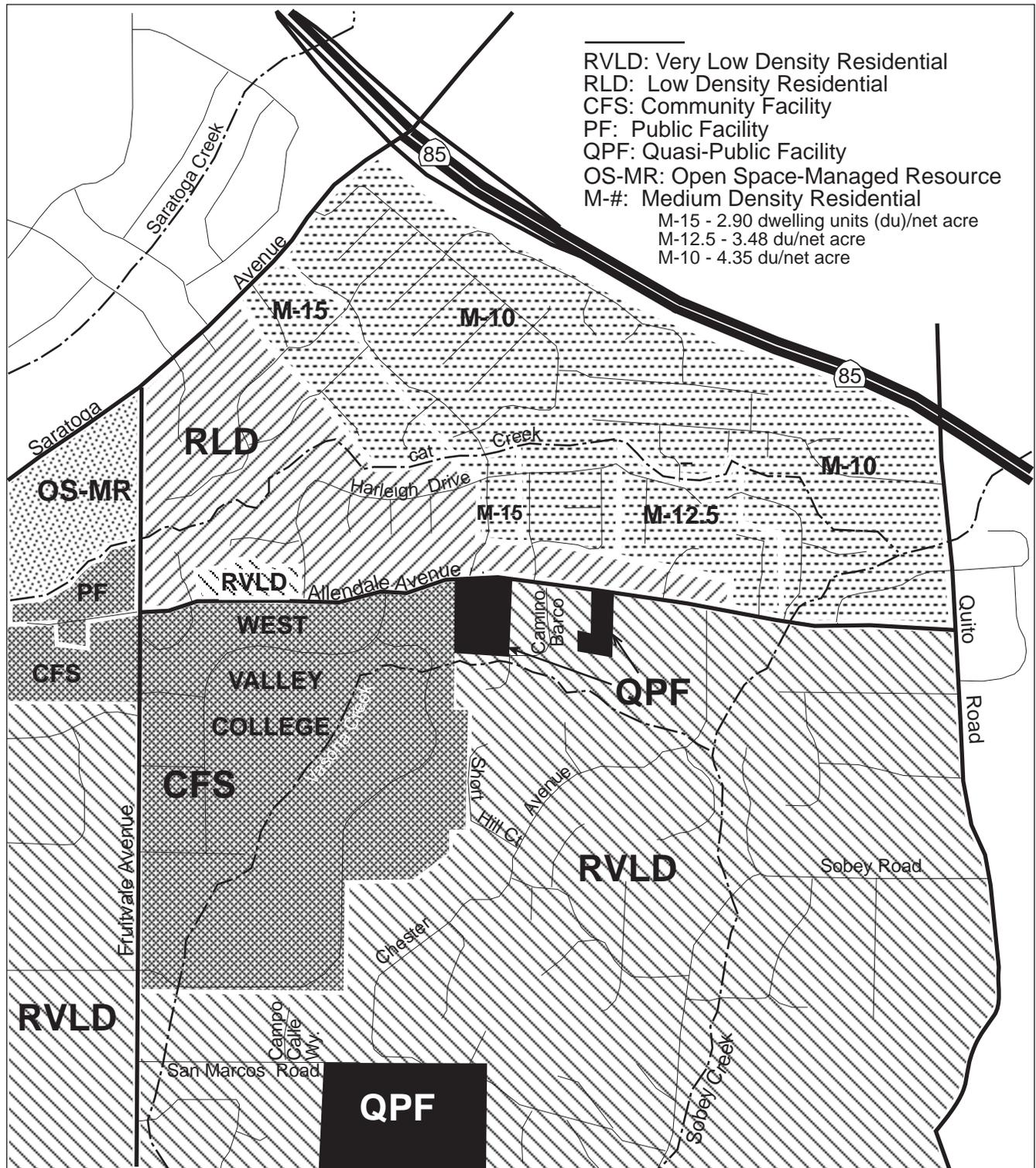
### **Saratoga General Plan**

The land uses permitted in Saratoga are divided into five broad categories: residential, commercial, industrial, open space, and community facilities. The West Valley College campus area is designated in the Land Use Element of the Saratoga General Plan as "CFS," Community Facilities (Figure 4.1-2). The Community Facility land use designation includes three sub-categories: School/Open Space, Public Facilities, and Quasi-Public Facilities. The Land Use Element identifies elementary schools, junior high schools, high schools, and West Valley Community College as the uses covered by the School/Open Space Resource category. The General Plan states:

"The open space and recreation areas of these sites are part of the City's open space inventory and help supplement City park use. Only school facilities or uses compatible with those facilities and adjacent uses are permitted. Intensity of building is governed by the zoning districts in which the schools are located. Allowable building coverage varies and is regulated by use permit."

The Saratoga General Plan includes a "statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan."

The Land Use Element provides goals, policies, and implementation measures to guide the development of lands within the community. Project consistency with relevant land use policies is discussed below.



Source: City of Saratoga 2001



**General Plan Policies****Project Analysis***Land Use Element (LU)*

*LU 5.0: The City shall use the design review process to assure that new construction and major additions thereto are compatible with the site and adjacent surroundings.*

*All proposed facilities would be developed within the existing campus. The project components of the LRDP primarily entail maintenance projects, interior remodeling of eight existing buildings, renovation and/or expansion of four existing structures, demolition and replacement of certain temporary and permanent buildings with new buildings of equal size, the development of one new building, reconfiguration of campus access points, and realignment of campus roadways and walkways. Major additions and new construction will be designed to conform with current campus architecture, assuring integration of new construction with existing facilities and consistency with the overall architectural design on the campus. In this manner, the LRDP proposals would be consistent with the intent of goal LU 5.0 to ensure that new construction is compatible with adjacent surroundings.*

*LU 6.0: Relate new development and its land uses to presently planned street capacities so as to avoid excessive noise, traffic, and public safety hazards. If it is determined that existing streets need to be improved to accommodate a project, such improvements shall be in place or bonded prior to issuance of building permits.*

*Policy LU.6.2: Proposed land uses and development proposals shall be evaluated against ordinance standards to assure that the related traffic, noise, light, appearance, and intensity of use have limited adverse impact on the area.*

*Policy LU.6.3: The capacity of existing streets shall be recognized prior to tentative building site or subdivision approval of any project. New development shall be designed to minimize disruption to the area caused by an increase in through or heavy traffic.*

*The LRDP project proposes expansion of four buildings, replacement of four existing facilities, and construction of one new building. The plan also presents access improvements that would accommodate future educational uses at the campus. These access improvements were formulated to enhance public safety for existing as well as future conditions at the campus. The schedule for campus projects provides for infrastructure improvements at the outset of LRDP implementation, conforming to the City's standard of street improvement prior to construction of new facilities. A detailed discussion of transportation-related conditions, planned improvements, and impacts is presented in the Traffic and Circulation section of this EIR.*

*LU 7.0: Promote the long-term economic soundness of the City government through careful analysis of land use decisions and fiscal practices.*

*Policy LU.7.1: The City shall consider the economic impacts of all land use decisions on the City.*

*Policy LU.7.2: The City shall adopt an ordinance which will authorize exactions in the form of improvements or fees required to from developers to compensate the City for the direct and indirect economic effects that arise from proposed development and to insure implementation of this General Plan.*

*As indicated above, Government Code Section 54999 et seq. provide that public entities, including school districts, may be required to pay "capital facility fees" to other public agencies to help defray the costs of "public utility facilities," which are defined as facilities "for the provision of water, light, heat, communications, power, or garbage service, for flood control, drainage or sanitary purposes, or for sewage collection, treatment, or disposal." (Gov. Code, § 54999.1, subd. (d).) The California Supreme Court is currently deciding whether the absence of any reference to transportation and fire safety facilities in the definition of "public utility facilities" operates to prevent entities such as*

**General Plan Policies****Project Analysis**

*school districts from using public funds to pay for offsite transportation and fire safety improvements, even where such entities have prepared CEQA documents showing that their projects cause significant off-site transportation and fire service impacts. However, it should be noted that the District is financially responsible for infrastructure improvements (roadway, utilities, etc.) required to serve the projects planned in the LRDP. To a certain extent, such improvements will also address existing deficiencies thereby benefiting the City.*

**Saratoga Land Use Regulations**

The General Plan Land Use Element (page 3-4) specifies that the intensity of building on lands designated Community Facilities is governed by the zoning districts in which the schools are located. The West Valley College campus is located in a “R-1-40,000” residential zone (Very Low Density Single Family) in the City (Figure 4.1-3). Low Density Single Family Residential uses (“R-1-20,000”) occur immediately north of the campus. The corresponding General Plan land use designation for the campus vicinity is:

“Very Low Density Single Family – Maximum density of 1.09 DU/net acre or 3.38 people/acre. Maximum intensity of building and impervious surface coverage: 35% of site area.

Low Density Single Family – Maximum density of 2.18 DU/net acre or 6.76 people/acre. Maximum intensity of building and impervious surface coverage: 45% of site area.”

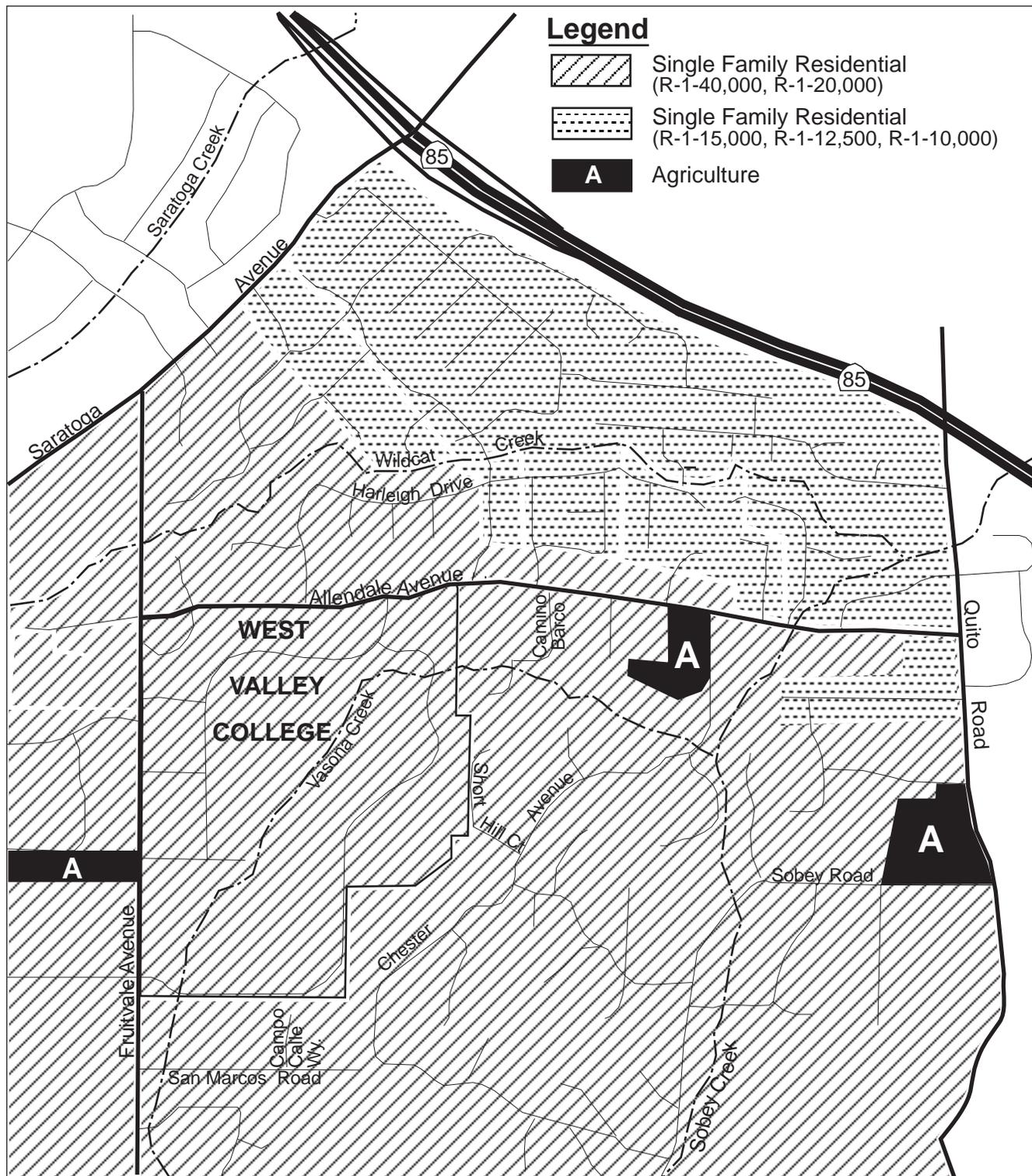
In order to implement the provisions of the General Plan, the municipal code of the City of Saratoga includes Chapter 15, Zoning Regulations. Section 15-12.030 of the Code addresses conditional uses permitted in R-1 single family residential districts. Specifically, it states:

“The following conditional uses may be allowed in the R-1 districts, upon the granting of a use permit pursuant to Article 15-55 or Article 15-56 of this Chapter:

(b) Community facilities.”

Furthermore, Section 15-55.030 (Variation from standards) of the municipal code indicates:

“A conditional use may be permitted by a use permit to have different site area, density, structure height, distances between structures, site coverage, front, side and rear yard minimums and off-street parking and loading requirements, other than as listed under the specific regulations for unconditional permitted uses in the zoning district in which it lies...”



Source: City of Saratoga 2001



The West Valley College campus includes substantial open space areas around and interspersed between existing buildings on the site. Examination of aerial photographs of the campus site indicates that approximately 36 to 40 percent of the 143-acre property is covered with impervious surfaces. This level of coverage is consistent with the City's guidelines for building coverages in very low to low density residential districts.

### **4.1.3 Potential Impacts and Mitigation Measures**

#### **Significance Criteria**

Based upon the criteria presented in Appendix G of the *CEQA Guidelines*, implementation of the proposed project would have a significant impact if it were to:

- physically divide an established community; or
- conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.

#### **Compatibility with Existing Land Uses**

##### **Impact 4.1-1: The project would alter existing land uses on the site. (Less than Significant)**

The implementation of the LRDP would result in the expansion of certain existing building space as well as renovation and remodeling of campus buildings. Additionally, the construction of the new Fox Center would incrementally reduce the open space on the campus. The development of 63,592 ASF on the West Valley College site would increase existing building areas by approximately 18 percent. The expansion of existing building area on the campus would increase building coverage of the campus from eight percent to approximately 10 percent of the total campus area over the LRDP planning period of 10 years.

The additional building space would be used for educational instruction and supporting administrative purposes associated with the routine operation of the college. Consequently, the new building space would be consistent with existing building uses on the campus, and compatible with the residential uses existing around the West Valley College campus. Furthermore, temporary construction activities would be primarily limited to existing buildings located in the central portion of the campus. For the most part, these instructional facilities are separated from surrounding residential uses by intervening parking lots and recreational fields on the campus property. The conversion of less than one percent of the campus' open area to new educational use would be a less-than-significant effect of the project.

**Mitigation Measure 4.1-1:** None required.

**References – Land Use**

City of Saratoga, 2001. *City of Saratoga General Plan and Zoning Maps*. Information provided through the City of Saratoga website (<http://www.saratoga.ca.us/>). Accessed on February 1, 2005.

\_\_\_\_\_, 1993. *City of Saratoga General Plan Elements*.

\_\_\_\_\_, 1983. *City of Saratoga General Plan*.

Education Code §39004, 81035, and 81390.

Government Code §53090-53095, 53097, and 54999 et seq. Municipal Code of the City of Saratoga, Chapter 15 Zoning Regulations. Information provided through the City of Saratoga website (<http://www.bpcnet.com/codes/saratoga/>). Accessed on January 25, 2005.

West Valley – Mission Community College District, 2001. *West Valley College Educational and Facilities Master Plan*. February 2001.