

APPENDIX A:
INITIAL STUDY





The Westport Mixed-Use Project

Initial Study Checklist

INTRODUCTION

The Westport Mixed-Use Project is a “project” under the California Environmental Quality Act (CEQA). This Initial Study was prepared by PlaceWorks for the City of Cupertino (City), Community Development Department. This Initial Study was prepared pursuant to the CEQA (Public Resources Code sections 21000 et seq.), CEQA Guidelines (Title 14, section 15000 et seq. of the California Code of Regulations).

1. **Project Title:** The Westport Mixed-Use Project
2. **Lead Agency Name and Address:** City of Cupertino Community Development Department
10300 Torre Avenue
Cupertino, CA 95014
3. **Contact Person and Phone Number:** Gian Martire, Senior Planner, 408-777-3319
4. **Location:** 21267 Stevens Creek Boulevard
Cupertino, CA 95014
5. **Applicant’s Name and Address:** Mark Tersini, KT Urban
21710 Stevens Creek Boulevard #200
Cupertino, CA 95014
6. **General Plan Land Use Designations:** Commercial / Residential
7. **Zoning:** Planned Development with General Commercial and Residential P(CG/RES)
8. **Description of Project:** See pages 15 to 28 of this Initial Study.
9. **Surrounding Land Uses and Setting:** See pages 5 to 8 of this Initial Study.
10. **Other Required Approvals:** See page 27 of this Initial Study.
11. **Have California Native American Tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?:** The City has not received any request from any Tribes in the geographic area with which they are traditionally and culturally affiliated with or otherwise to be notified about projects in Cupertino.

INCORPORATED BY REFERENCE

All documents cited in this report and used in its preparation are hereby incorporated by reference into this Initial Study. Copies of documents referenced herein are available for review at the City of Cupertino Community Development Department at 10300 Torre Avenue, Cupertino, California 95014.

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ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors listed below would be affected by the proposed project, involving at least one impact that is a Potentially Significant Impact, as indicated by the checklist on the following pages.

- | | | |
|---|--|---|
| <input type="checkbox"/> Aesthetics | <input type="checkbox"/> Agriculture & Forestry Resources | <input checked="" type="checkbox"/> Air Quality |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Cultural Resources | <input type="checkbox"/> Energy |
| <input checked="" type="checkbox"/> Geology & Soils | <input checked="" type="checkbox"/> Greenhouse Gas Emissions | <input checked="" type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology & Water Quality | <input type="checkbox"/> Land Use & Planning | <input type="checkbox"/> Mineral Resources |
| <input checked="" type="checkbox"/> Noise | <input type="checkbox"/> Population & Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input checked="" type="checkbox"/> Transportation | <input checked="" type="checkbox"/> Tribal Cultural Resources |
| <input checked="" type="checkbox"/> Utilities & Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

Determination:

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment and a NEGATIVE DECLARATION will be prepared.
- I find that, although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the City. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT (EIR) will be prepared.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Approved by:

Gian Martire, Senior Planner

Date

11/8/19

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OVERVIEW AND BACKGROUND

The 8.1-acre project site is identified as a Priority Housing Element Site in the City of Cupertino General Plan (Community Vision 2015-2040) to accommodate the Regional Housing Needs Allocation (RHNA) for the 2014 to 2022 planning period and meet Cupertino's fair-share housing obligation of 1,064 units.¹ The Westport Mixed-Use Project, herein referred to as "proposed project," would include up to 242 residential units comprised of 19 rowhouse units, 69 townhouse units, 115 multi-family units, and 39 senior residential units as well as 20,000 square feet of retail space.

The City certified the Environmental Impact Report (EIR) for the General Plan Amendment, Housing Element Update, and associated Rezoning Project,² which included an evaluation of the project site as "Housing Element Site 18 (The Oaks Shopping Center)" with a new mixed-use development including residential uses that could have up to 235 net residential units.³ The EIR evaluated a maximum height of 75 feet with a retail component and a permitted residential density of up to 35 dwelling units per acre and a Zoning designation change to Planned Development with General Commercial, Residential (P(CG, Res)) to allow for future mixed-use development including residential uses.

This Initial Study checklist was prepared to assess the environmental effects of the proposed project. This document includes a description of the existing environmental setting, the project description, and a discussion of physical environmental effects that may result from construction and operation of the proposed project. While no unmitigated significant impacts are anticipated from the construction and operation of the proposed project for the reasons stated in the Environmental Analysis section, to be conservative a focused EIR will be prepared for some topic areas.

LOCATION AND SETTING

REGIONAL LOCATION

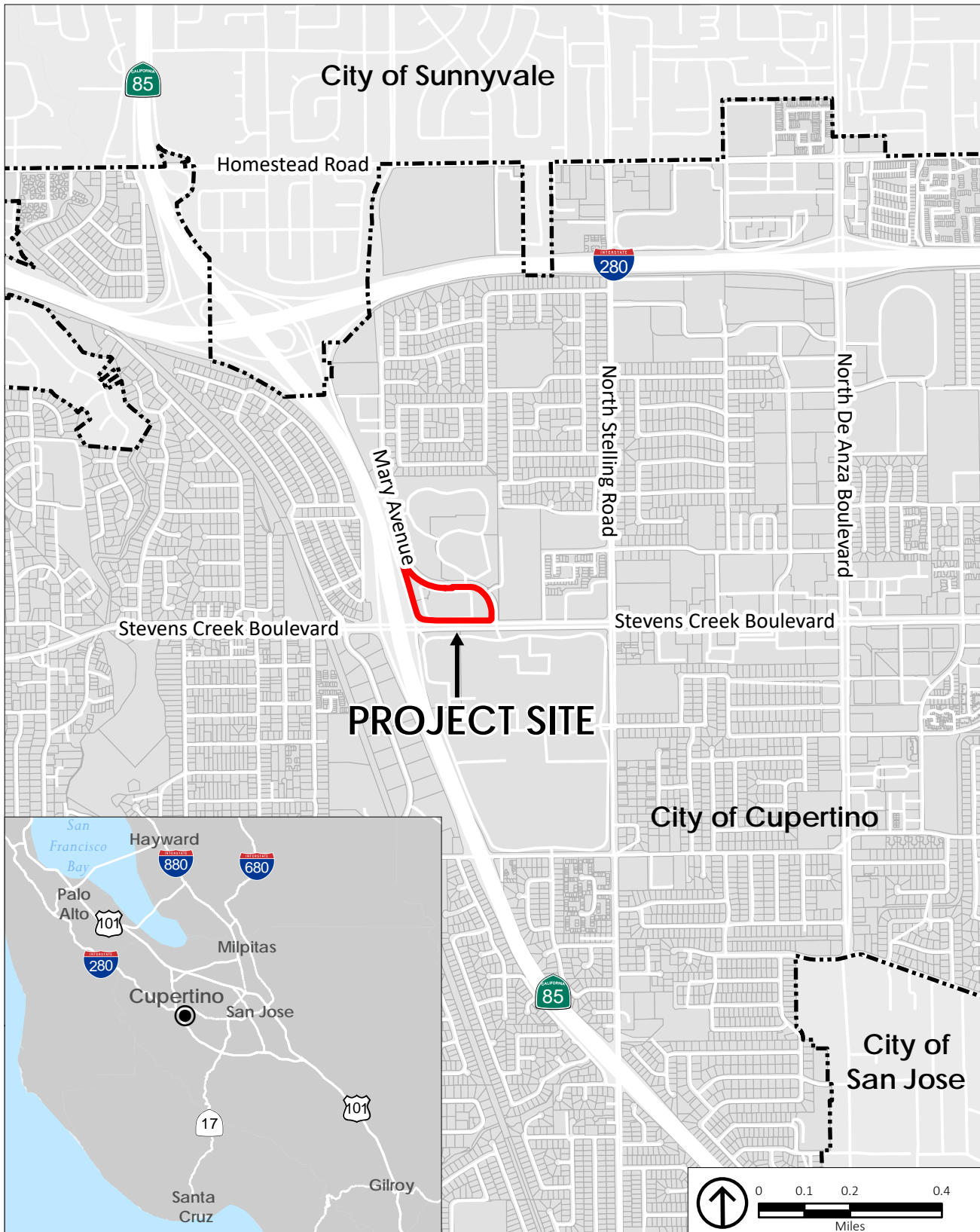
Figure 1 shows the relationship of the project site to Cupertino and the greater San Francisco Bay area. The project site is located in the central portion of Cupertino, which is in Santa Clara County. Cupertino is approximately 46 miles southeast of San Francisco and is one of the cities that make up the area commonly known as the Silicon Valley. Cupertino is generally located north of the City of Saratoga, east of unincorporated Santa Clara County, south of the City of Sunnyvale, and west of the City of San José. Cupertino also shares a boundary with the City of Los Altos to the north.

Regional access to the project site is provided by Interstate 280 (I-280), State Route 85 (SR-85), Stevens Creek Boulevard, Santa Clara Valley Transportation Authority (VTA) bus service, and by Caltrain via the Sunnyvale, Lawrence, and Santa Clara Caltrain Stations. Caltrain is operated by the Peninsula Corridor Joint Powers Board.

¹ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 4, Housing Element, Table HE-5: Summary of Priority Housing Element Sites to Meet the RHNA - Scenario A, page HE-18.

² City of Cupertino, certified General Plan Amendment, Housing Element Update, and Associated Rezoning EIR, (December 2014) and approved General Plan Amendment, Housing Element Update, and Associated Rezoning EIR Final Addendum, State Clearinghouse Number 2014032007 (October 2015).

³ The project site was evaluated in the Certified EIR as Housing Element Site 18 (The Oaks Shopping Center).



Source: ESRI, 2017; PlaceWorks, 2019.



-  Project Site
-  Cupertino City Limit

Figure 1
Regional and Vicinity Map

LOCAL SETTING

The 8.1-acre project site is the existing Oaks Shopping Center on Stevens Creek Boulevard. The project site includes several street addresses; therefore, the centrally located 21267 Stevens Creek Boulevard location is used to identify the site.⁴ As shown on Figure 2, the project site is bounded by Mary Avenue to the north and east, Stevens Creek Boulevard to the south, and a SR-85 on-ramp to the west of Stevens Creek Boulevard. The project site is surrounded by the Glenbrook Apartments to the north, the Cupertino Senior Center and Cupertino Memorial Park to the east, De Anza College to the south, and residential and industrial land uses to the west beyond SR-85. The project site is accessible from Stevens Creek Boulevard and Mary Avenue. The closest VTA bus stop (Line 81) is located at the Mary Avenue/Stevens Creek Boulevard intersection, approximately 200 feet east of the site, and bus stops are located at De Anza College, approximately 1,900 feet to the east at the Stevens Creek Boulevard/South Stelling Road intersection. The nearest Caltrain station to the project site is the Sunnyvale station, which is located approximately 4 miles to north. The nearest public airports are San José International Airport, approximately 7 miles to the northeast, and Palo Alto Airport, approximately 9.5 miles to the northwest. The nearest heliports are McCandless Towers Heliport, approximately 5.5 miles to the northeast, and County Medical Center Heliport, approximately 6 miles to the east. The nearest private airport is Moffett Federal Airfield, approximately 6 miles to the north. Additional setting information as it relates to each environmental topic area is provided in the Environmental Analysis section of this Initial Study.

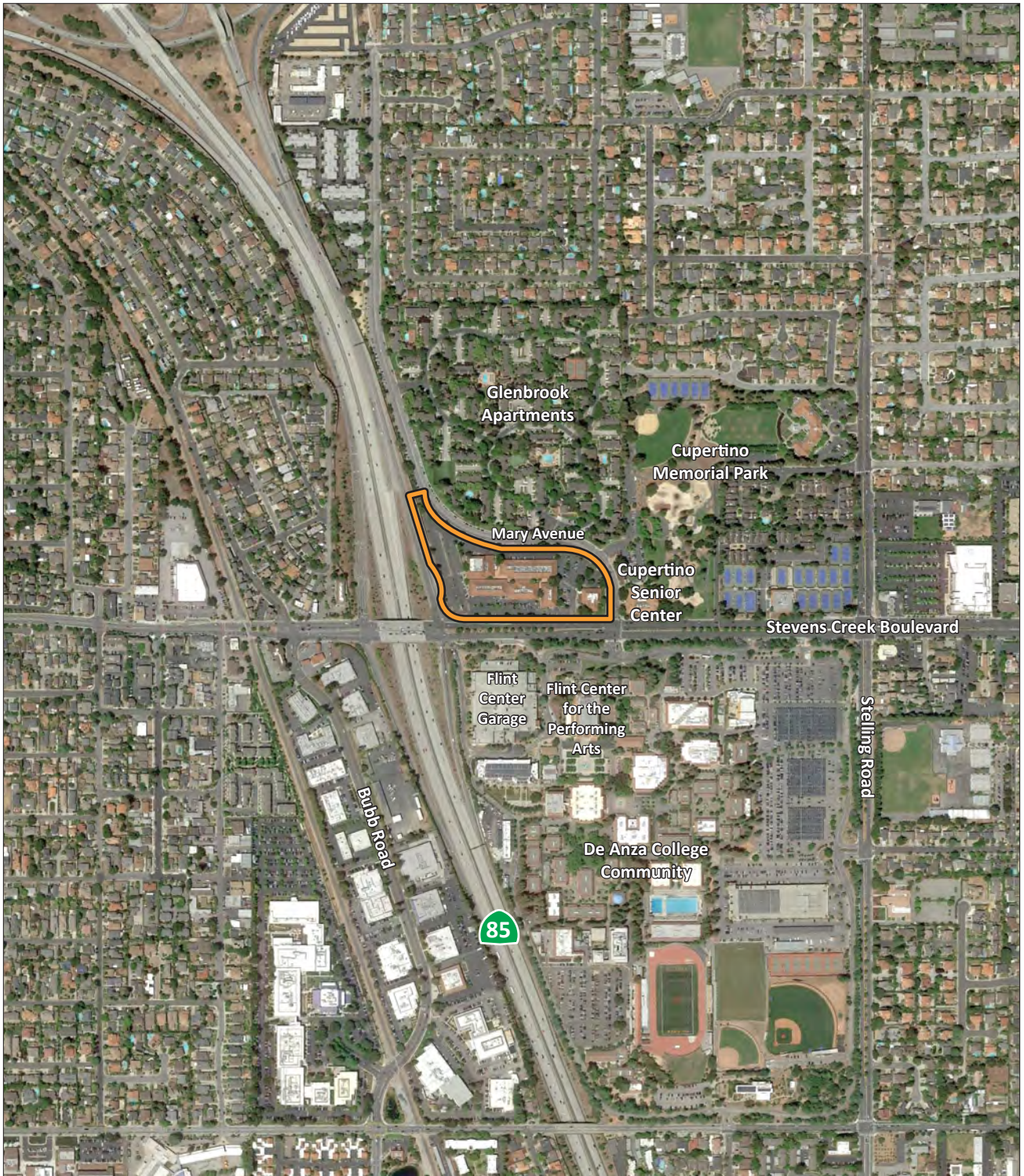
PUBLIC SERVICE AND UTILITY PROVIDERS

The following public service providers would serve the proposed project:

- Santa Clara County Fire District for fire protection, emergency, medical, and hazardous materials
- Santa Clara County Sheriff's Office and West Valley Patrol Division for police protect services
- Santa Clara County Library District
- Cupertino Union High School District
- City of Cupertino Department of Recreation and Community Services
- Cupertino Sanitary District for sanitary sewer services and wastewater would be treated at the San José/Santa Clara Water Pollution Control Plant
- Cupertino Water Service via San José Water Company for water services
- Silicon Valley Clean Energy and Pacific Gas & Electric (PG&E) for electricity and PG&E for natural gas

⁴ Multiple street addresses on Stevens Creek Boulevard are associated with the project site, including 21255, 21265, 21267, 21269, and 21271.

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Source: Google Earth Professional, 2018; PlaceWorks, 2018.



Figure 2
Aerial View of Project Site

EXISTING SITE CONDITIONS

SITE CHARACTER

The 8.1-acre project site is currently developed with a one-story shopping center (The Oaks Shopping Center) consisting of five occupied buildings with retail stores and restaurants, as shown in Figure 3, which was built between 1973 and 1976. The existing approximately 71,250 square-foot shopping center currently includes retail uses and office uses. The project site also has 201,831 square feet of paved area, which includes parking associated with the shopping center, sidewalks, patios, and driveways, and 45,486 square feet of native and non-native landscaping.

Due to the age of the buildings, the buildings have the potential to be considered historic buildings; however, they are not currently listed on the National Register of Historic Places or the list of California Historical resources.⁶

VEGETATION AND LANDCOVER

Using data from the Classification and Assessment with Landsat of Visible Ecological Groupings (CALVEG)⁷ habitat mapping program, the site is classified as an “urban area”. The urban area classification areas tend to have low to poor wildlife habitat value due to replacement of natural communities, fragmentation of remaining open space areas and parks, and intensive human disturbance. The project site does not contain and is not adjacent to habitat for special-status plant or animal species.⁸ According to the California Natural Diversity Database, the nearest special-status animals (White-tailed kite and Yuma myotis) are located approximately 0.5 miles to the southwest.

The California Department of Forestry and Fire Protection (CAL FIRE) has designated the project site as a Local Responsibility Area (LRA) and a non-very high fire hazard severity zone (NVHFHSZ). The project site is not near lands designated as a State Responsibility Area (SRA) by CAL FIRE. The nearest SRA is approximately 2 miles to the west of the project site.⁹ The project is not located within the wildland-urban interface, which is an area of transition between wildland (unoccupied land) and land with human development (occupied land).¹⁰

⁶ California Office of Historic Preservation. 2019. California Historical Resources. <http://ohp.parks.ca.gov/ListedResources/?view=county&criteria=43>, accessed on June 11, 2019.

⁷ The CALVEG system was initiated in January 1978 by the Region 5 Ecology Group of the US Forest Service to classify California’s existing vegetation communities for use in statewide resource planning. CALVEG maps use a hierarchical classification on the following categories: forest; woodland; chaparral; shrubs; and herbaceous.

⁸ Special-status species are plants and animals that are legally protected under the federal Endangered Species Act/California Endangered Species Act (ESA/CESA) or other regulations, as well as other species that are considered rare enough by the scientific community and trustee agencies to warrant special consideration, particularly with regard to protection of isolated populations, nesting or denning locations, communal roosts, and other essential habitat.

⁹ California Department of Forestry and Fire Protection (CAL FIRE). 2008. Cupertino, Very High Fire Hazard Severity Zones in LRA. http://www.fire.ca.gov/fire_prevention/fhsz_maps/FHSZ/santa_clara/Cupertino.pdf

¹⁰ California Department of Forestry and Fire Protection (CAL FIRE). 2018. Wildland-Urban Interface Fire Threat. <http://www.arcgis.com/home/item.html?id=d45bf08448354073a26675776f2d09cb>, accessed June 11, 2019.



Source: Google Earth Professional, 2018; PlaceWorks, 2018.



Figure 3
Existing Conditions

The project site is generally flat with elevations ranging from approximately 290 feet above sea level on the northeast portion of the site to approximately 300 feet above sea level on the northwest portion of the site.¹¹ Site topography generally slopes downward to the east or southeast towards the intersection of Stevens Creek Boulevard and Mary Avenue. Groundwater generally flows to the east, generally following surface topography. The surficial geology is described as young, unconsolidated Quaternary Valley Floor Alluvium.¹²

The existing impervious surface totals 307,444 square feet. Stormwater from the site would drain to a network of City-maintained storm drains that collect runoff from city streets and carries it to the creeks that run through Cupertino and to the San Francisco Bay.

LAND USE AND ZONING

The project site is assigned Assessor's Parcel Numbers (APNs) 326-27-039, 326-27-040, and 326-27-041. In addition to the General Plan land use designation, the project site is located in a special planning area, a designated gateway, and a priority Housing Element site. A description of the applicable General Plan policies and permitted development in these areas and designations is provided below.

GENERAL PLAN

Planning Area

The project site is within the Heart of the City Special Area, which is a key mixed-use, commercial corridor in Cupertino. Development within this Special Area is guided by the *Heart of the City Specific Plan* (Specific Plan). The Specific Plan provides detailed development guidance for development within the Specific Plan area. The Specific Plan is split into five subareas, including the West Stevens Creek Boulevard subarea along Stevens Creek Boulevard between SR-85 and Stelling Road, which encompasses the project site. Mixed commercial and residential, with residential located behind primary uses (quasi-public/public facilities) and above the ground level is permitted in this subarea. Development in the Heart of the City Special Area/Specific Plan is envisioned to create a greater sense of place, more community identity, and a positive and memorable experience for residents, workers, and visitors of Cupertino.¹³

Gateway

The project site is the Oaks Gateway. Gateways represent entry points to the city. As shown on the Heart of the City Special Area Diagram and the General Plan Community Form Diagram, the Oaks Gateway is a neighborhood commercial center. A neighborhood center is an area intended to provide shopping and gathering spaces for local residents. Mixed-use development is allowed in the Oaks Gateway if it promotes revitalization of retail uses, creation of new gathering spaces, and parcel assembly. General Plan Policy LU-

¹¹ Langan Treadwell Rollo, 2014. Preliminary Geotechnical Investigation, The Oaks 21255 Stevens Creek Boulevard Cupertino, California, January 1, 2014.

¹² City of Cupertino General Plan EIR, Chapter 4.5 Geology, Soils, Seismicity, Figure 4.5-1 Geologic Map, Cupertino, California.

¹³ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 2, Planning Areas, Figure PA-1, page PA-1.

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14.5 (Oaks Gateway Node) states that the Oaks Gateway is a retail and shopping node and that new residential, if allowed, should be designed on the “mixed-use village” concept.¹⁴ The mixed-use urban village concept includes providing parcel assembly, complete site redevelopment, mixed-use village layout with streets, alleys, sidewalks, open spaces, mix of retail uses, public open spaces, and high-quality, pedestrian-oriented design.¹⁵

Housing Element Site

The project site is identified as Priority Housing Element Site A3 (The Oaks Shopping Center). As described in the General Plan, many of the City’s Housing Element sites, including the project site, are located in major corridors to reduce traffic and environmental impacts and preserve neighborhoods.¹⁶ The Housing Element defines the maximum height on the project site as 45 feet and the maximum density as 30 dwelling units per acre (du/ac).¹⁷ The Housing Element also describes that for projects that comply with General Plan Housing Element Strategy HE-2.3.7 (Density Bonus Ordinance), changes to development standards or zoning code requirements may be allowed under certain conditions.¹⁸

Land Use Designation

The General Plan land use designation for the project site is Commercial/Residential. This land use designation allows primarily commercial uses and secondarily residential uses or a compatible combination of the two. Commercial use means retail sales, businesses, limited professional offices, and service establishments with direct contact with customers. This applies to commercial activities ranging from neighborhood convenience stores to regionally oriented specialty stores. Retail stores that would be a nuisance for adjoining neighborhoods or harmful to the community identity would be regulated by the commercial zoning ordinance and use permit procedure. Smaller commercial parcels in existing residential areas may be needed to provide local neighborhood serving retail; otherwise, they may be redeveloped at residential densities compatible with the surroundings.

ZONING ORDINANCE

The project site is zoned Planned Development with General Commercial and Residential (P(CG,RES)) on the City’s Zoning Map. Pursuant to Cupertino Municipal Code (CMC) Section 19.80.030(B), all planned development districts are identified on the zoning map with the letter coding “P” followed by a specific

¹⁴ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 3, Land Use and Community Design Element, page LU-44.

¹⁵ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 3, Land Use and Community Design Element, page LU-18.

¹⁶ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 3, Land Use and Community Design Element, page LU-18.

¹⁷ *Heart of the City Specific Plan* and page 15 (height), and City of Cupertino General Plan (Community Vision 2015-2040), Chapter 4, Housing Element, Table HE-5: Summary of Priority Housing Element Sites to Meet the RHNA - Scenario A, page HE-17.

¹⁸ City of Cupertino Municipal Code, Title 19, Zoning, Chapter 19.56 Density Bonus, Sections 19.56.030, Density Bonus, and 19.56.040, Incentives or Concessions, Waives and Reduction of Parking Standards.

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reference to the general type of use allowed in the particular planning development zoning district.¹⁹ The general types of uses allowed on the project site are General Commercial and Residential.

As described in CMC Section 19.80.010, the planned development zoning district is intended to provide a means of guiding land development or redevelopment of the city that is uniquely suited for planned coordination of land uses.²⁰ Development in “P” zoning district provides for a greater flexibility of land use intensity and design because of accessibility, ownership patterns, topographical considerations, and community design objectives. This zoning district is intended to accomplish the following:

- Encourage variety in the development pattern of the community
- Promote a more desirable living environment
- Encourage creative approaches in land development
- Provide a means of reducing the amount of improvements required in development through better design and land planning
- Conserve natural features
- Facilitate a more aesthetic and efficient use of open spaces
- Encourage the creation of public or private common open space

Pursuant to CMC Chapter 19.60,²¹ the General Commercial (CG) zoning designation is intended to regulate retail, office, and service establishments offering goods and services to the general public to assure maximum compatibility with surrounding residential areas, as well as minimize adverse traffic impacts resulting from commercial development.

PRIORITY DEVELOPMENT AREA/TRANSIT PRIORITY AREA

Plan Bay Area 2040 is the Bay Area’s current Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS) that was adopted jointly by the Association of Bay Area Government’s (ABAG) and Metropolitan Transportation Commission (MTC) on July 26, 2017. As part of the implementing framework for *Plan Bay Area*, local governments have identified Priority Development Areas (PDAs) to focus growth. PDAs are transit-oriented, infill development opportunity areas within existing communities. In addition to PDAs, *Plan Bay Area* identifies Transit Priority Areas (TPAs), which are areas within one-half mile of a major transit stop (15 minute or less service level frequency) that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations.

An overarching goal of the regional *Plan Bay Area 2040* is to concentrate development in areas where there are existing services and infrastructure rather than locating new growth in outlying areas where substantial transportation investments would be necessary to maximize energy conservation and achieve

¹⁹ Cupertino Municipal Code, Title 19, Zoning, Chapter 19.80, Planned Development, Section 19.80.030, Establishment of Districts-Permitted and Conditional Uses.

²⁰ Cupertino Municipal Code, Title 19, Zoning, Chapter 19.80, Planned Development, Section 19.80.010, Purpose.

²¹ Cupertino Municipal Code, Title 19, Zoning, Chapter 19.60, General Commercial (CG) Zones, Section 19.60.010, Purpose.

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the per capita passenger vehicle, vehicle miles traveled (also referred to as “VMT”), and associated greenhouse gas (GHG) emissions reductions.

The project site is located in a Santa Clara Valley Transportation Authority City Cores, Corridors & Station Areas PDA. Because the project is in close proximity to existing employment centers, roadways, transit, and bicycle and pedestrian routes, it is a designated Transit Priority Area (TPA).²² See the Environmental Analysis section below, for more discussion on PDAs and TPAs.

OTHER REQUIREMENTS

LANDSCAPING ORDINANCE

CMC Chapter 14.15, Landscape Ordinance, implements the California Water Conservation in Landscaping Act of 2006 by establishing new water-efficient landscaping and irrigation requirements. In general, any commercial, industrial, office, multi-family residential, public and institutional building or landscape projects that involve less than 2,500 square feet of landscape area are required to submit a Prescriptive Compliance Submittal, and those that involve more than 2,500 square feet of landscape area are required to submit a Landscape Project Submittal, to the Director of Community Development for approval. Existing and established landscapes of more than 1 acre, including cemeteries, are required to submit water budget calculations and audits of established landscapes.

PROTECTED TREE ORDINANCE

CMC Chapter 14.12, Trees, establishes regulations for the planting, care, and maintenance of public trees, and provides for the continuous maintenance of the public trees, with the goal of encouraging preservation of trees. The City funds the planting and maintenance of public trees through payment of reimbursement costs as a conditions of building permit issuance.²³

CMC Chapter 14.18, Protected Trees, provides regulations for the protection, preservation, and maintenance of protected trees as defined in the ordinance. “Protected” trees include trees of a certain species and size in all zoning districts; heritage trees in all zoning districts; any tree required to be planted or retained as part of an approved development application, building permit, tree removal permit, or code enforcement action in all zoning districts; and approved privacy protection planting in R-1 zoning districts. Removal of a protected tree requires a permit from the City.²⁴

ENERGY CONSERVATION

The California Green Building Standards Code (Part 11, Title 24, known as “CALGreen”) was adopted as part of the California Building Standards Code (Title 24, California Code of Regulations) to apply to the planning, design, operation, construction, use, and occupancy of every newly constructed building or

²² *Plan Bay Area*, Association of Bay Area Governments (ABAG)/Metropolitan Transportation Commission (MTC) Priority Development Area (PDA) and Transit Priority Area (TPA) Map for CEQA Streamlining, <https://www.planbayarea.org/pda-tpa-map>, accessed on July 11, 2019.

²³ City of Cupertino Municipal Code, Title 14, Streets, Sidewalks and Landscaping, Chapter 14.12, Trees.

²⁴ City of Cupertino Municipal Code, Title 14, Streets, Sidewalks and Landscaping, Chapter 14.18, Protected Trees.

structure, unless otherwise indicated in the code, throughout the State of California. CALGreen established planning and design standards for sustainable site development, energy efficiency (in excess of the California Energy Code requirements), water conservation requiring new buildings to reduce water consumption by 20 percent, material conservation, and internal air contaminants. The local building permit process enforces the building efficiency standards.

CMC Chapter 16.58, Green Building Standards Code Adopted, includes the CALGreen requirements with local amendments for projects in the city. The City's Green Building Ordinance codifies green building techniques, including measures affecting water use efficiency and water conservation. CMC Sections 16.58.100 through 16.58.220 sets forth the standards for green building requirements by type of building. As shown on Table 101.10 in CMC Section 16.58.220, mixed-use project with residential and non-residential components shall comply by either: (1) meeting the applicable requirements for each use; or (2) meeting the applicable requirements for the use that comprises the majority of the project's square footage where uses are attached and/or combined in a building. For the residential component, new construction greater than nine homes is required to be Green Points Rated (GPR) certified at a minimum of 50 points, Silver in Leadership in Energy & Environmental Design (LEED), or Alternate Reference Standard pursuant to Section 101.10.2. For the non-residential component, development of less than 25,000 square feet is required to comply with the CALGreen Building Code pursuant to Chapter 5 of the California Green Building Standards Code. CMC Section 16.58.230 permits applicants to apply an alternate green building standard for a project in lieu of the minimum standards in CMC Section 16.58.220 that meet the same intent of conserving resources and reducing solid waste.

SOLID WASTE REDUCTION

Consistent with CALGreen, CMC Chapter 16.72, Recycling and Division of Construction and Demolition Waste, requires that a minimum of 65 percent of all non-hazardous construction and demolition debris must be recycled or salvaged and that all applicants have a waste management plan for on-site sorting of construction debris. In December 2017, the City adopted a Zero Waste Policy.²⁵ According to the Zero Waste Policy, the City will require, through the City's waste hauling franchise agreement, steadfast and ongoing efforts by the City's franchisee to maintain a minimum residential and commercial waste diversion rate of 75 percent with a goal of reaching and maintaining 80 percent by 2025.

WATER QUALITY

CMC Chapter 9.18, Storm Water Pollution Prevention and Watershed Protection provides regulations and gives legal effect to the Municipal Regional Storm Water National Pollutant Discharge Elimination System (NPDES) Permit (MRP) issued to the City. This chapter also ensures ongoing compliance with the most recent version of the City's MRP regarding municipal stormwater and urban runoff requirements. This chapter applies to all water entering the storm drain system generated on any private, public, developed, and undeveloped lands within the city. The CMC contains permit requirements for construction projects and new development or redevelopment projects to minimize the discharge of storm water runoff.

²⁵ City of Cupertino, Public Works, Garbage & Recycling, <https://www.cupertino.org/our-city/departments/environment-sustainability/waste>, accessed June 11, 2019.

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PROJECT DESCRIPTION

The proposed project would demolish the existing buildings and construct 18 buildings with 242 residential units, up to 20,000 square feet of retail space, below and at-grade parking, and landscape and hardscape areas. See Figures 4 through 9.

The proposed development is summarized in Table 1. The proposed development, population and employment projections, construction phasing, as well as the required permits and approvals are described in detail below. A complete set of conceptual site plans is included on the City’s website at www.cupertino.org/westport.

TABLE 1 PROPOSED DEVELOPMENT BY LAND USE

Building Type	Buildings	Units	Square Footage			Common Open Space
			Residential	Garage	Retail	
Rowhouses	3	19	34,245	10,840		155 square feet per unit
Townhomes	13	69	139,850	39,450		
Residential-Retail Building 1	1	115	193,500	97,750	17,600	
Residential-Retail Building 2	1	39	38,800	n/a	2,400	
Total	18	242	406,395	148,040	20,000	37,601

Note: Square footages are rounded up and include residential and parking.
Source: C2K Architecture Inc. (project applicant), November 2018.

PROPOSED DEVELOPMENT

Residential

The proposed residential component consists of three rowhouse buildings (attached homes) located on the western edge of the project site, 13 townhouse buildings (attached homes) located at the center of the project site, and two mixed-use (residential and retail), including senior housing, located on the eastern and southeastern portion of the project site. See Figure 4.

The rowhouse buildings would be three stories tall (30 feet at the roofline) and have a total of 19 units. See Figure 5. The townhouse buildings would also be three stories tall (30 feet at the roofline) and have a total of 69 units. See Figure 6.

Residential-Retail Building 1 would be six stories tall (70 feet at the roofline). See Figures 7 and 8. Building 1 would have up to 115 market-rate units on floors two through six consisting of one-, two-, and three-bedroom units. Building 1 would also include a fitness center, lounge, and outdoor terrace on the second story for resident use only.

Residential-Retail Building 2 would be five stories tall (55 feet at the roofline). See Figure 9. Building 2 would have up to 39 senior housing units located on floors two through five, comprising of studio and one-bedroom units. Building 2 would also include a common room on the ground level for use by residents only.

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Source: C2K Architecture Inc., November 2018.



Figure 4
Conceptual Site Plan

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Source: C2K Architecture Inc., November 2018.

Figure 5
Site Sections: Rowhouses

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Source: C2K Architecture Inc., November 2018.

Figure 6
Site Section: Townhomes

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Source: C2K Architecture Inc., November 2018.

Figure 7
Elevations: Residential-Retail Building 1 (North, East)

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Source: C2K Architecture Inc., November 2018.

Figure 8
Elevations: Residential-Retail Building 1 (South, West)

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Source: C2K Architecture Inc., November 2018.

Figure 9
Elevations: Residential-Retail Building 2 (North, East, South, West)

Retail

The proposed retail component would consist of a total of 20,000 square feet and would be located on the ground level of the Residential-Retail Buildings 1 and 2. Residential-Retail Building 1 would have 17,600 square feet of retail space located at the corner of Stevens Creek Boulevard and Mary Avenue. Residential-Retail Building 2 would have 2,400 square feet of retail space on the ground level fronting Stevens Creek Boulevard. At-grade parking for these retail uses would be provided along Mary Avenue for Building 1 and along the internal street along Building 2. A one-level subterranean parking garage would be provided below Building 1. See Figure 4.

Open Space

Private open space areas would be provided for each residential unit either as a balcony or patio. The rowhouses would include private patios that range in size from 295 to 375 square feet per unit. The townhomes would include private patios that range in size from 104 to 125 square feet per unit. Building 1 would include private balconies that range in size from 60 to 132 square feet per unit. Building 2 would include private balconies that are 60 square feet per unit. Common open space areas would be provided throughout the project site including a large central green space. The project site would include up to 37,601 square feet of common open space. Common retail outdoor space totaling 2,400 square feet would be provided at Residential-Retail Building 1 and 2.

Landscaping & Stormwater Treatment

The project site includes landscaping throughout the interior and the surrounding perimeter of the project site. See Figure 10. The proposed project would retain some existing trees and would plant approximately 400 additional trees. The proposed project would result in 45,486 square feet of replaced pervious surfaces and 42,360 square feet of new pervious surfaces for a total of 87,846 square feet of pervious landscaped surfaces and 6,852 square feet of pervious paving pursuant to the City's Landscape Ordinance (CMC Chapter 14.15). The proposed landscaping would be consistent with the surrounding Northern California landscape and would include native and/or adaptive, drought resistant plant materials grouped by hydrozones (i.e., areas similar water use). The majority of plantings would be drought tolerant grasses, shrubs, and trees that, once established, would be adapted to a dry summer and intermittent rain in the winter season. Landscaping would be specifically designed around the rowhouses, townhomes, and mixed-use units to provide privacy between adjacent land uses. The proposed project would reduce the total amount of impervious surface from 307,444 square feet to 247,222 square feet which would reduce the peak flows into the storm drain system. Because the proposed project would include a total of 247,222 square feet of impervious surfaces, the proposed project would be required to include 10,268 square feet of bioretention areas (i.e., stormwater treatment areas).²⁶ The proposed project includes 10,320 square feet of bioretention areas, which is 52 square feet more than the required amount. The bioretention areas would be incorporated into the landscaped areas throughout the project site. See Figure 11.

²⁶ Santa Clara Valley Water District Municipal Regional Stormwater NPDES Permit C.3 requires 4 percent of the proposed impervious surface be treated to control the flow of stormwater and stormwater pollutants from new development, http://www.scvurppp-w2k.com/pdfs/1516/c3_handbook_2016/SCVURPPP_C.3_Technical_Guidance_Handbook_2016_Chapters.pdf.

INITIAL STUDY



Source: C2K Architecture Inc., November 2018.

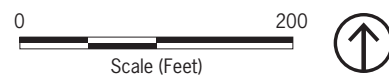
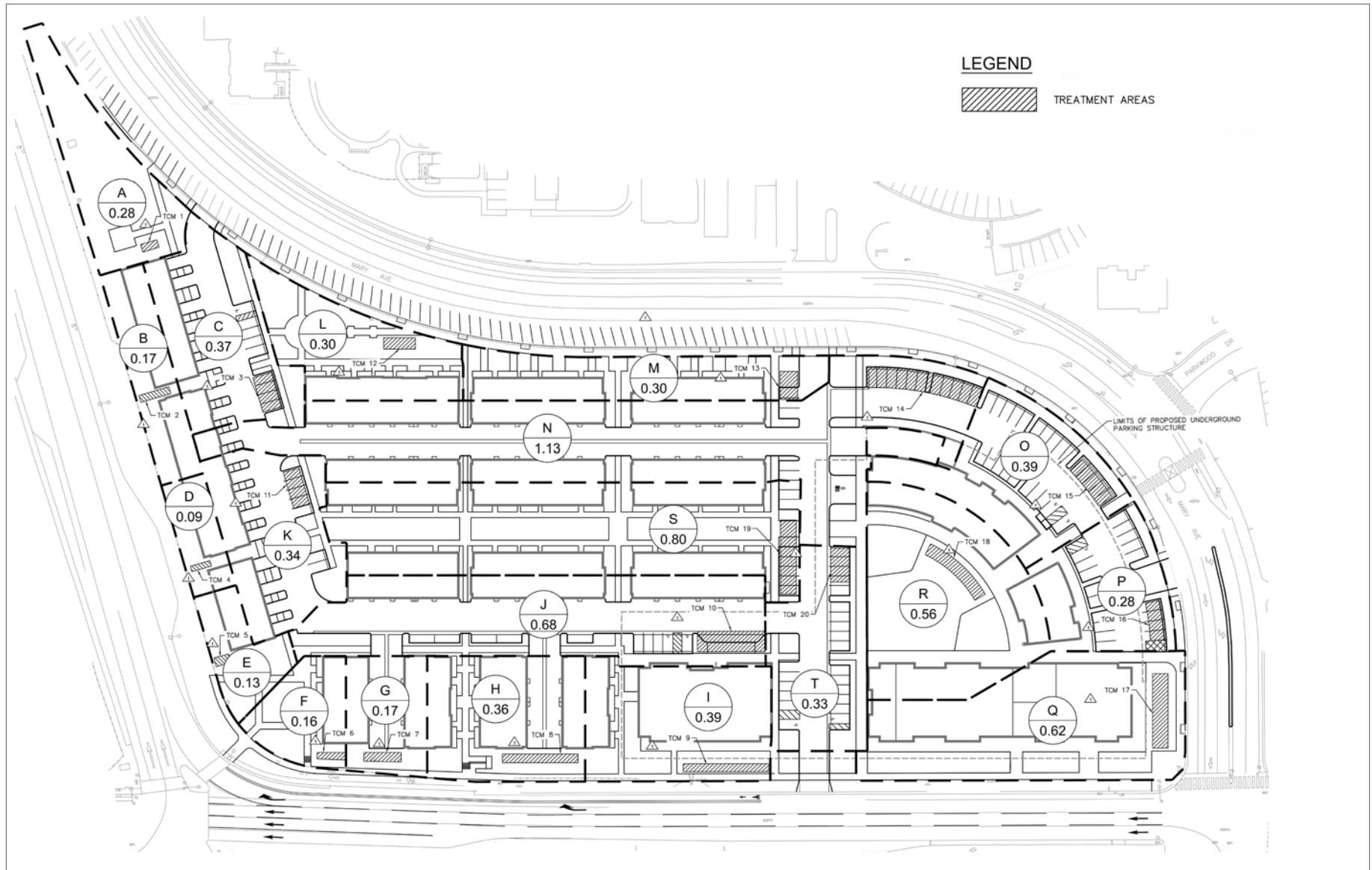


Figure 10
Landscape Plan

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Source: C2K Architecture Inc., February 2019.



PLACEWORKS

Figure 11
Stormwater Treatment Plan

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Lighting and Glare

The source, intensity, and type of exterior lighting for the project site would generally be provided for the purpose of orienting site users and for safety needs. All on-site lighting would be low-level illumination and shielded to reduce light spill or glare. There would be no up-lighting or spotlights on the project site and non-emergency lighting would be turned off at night. In landscaped and paved areas, light sources would be concealed and not visible from a public viewpoint, and landscaping would not funnel open space toward the building façade. All exterior surface and above-ground mounted fixtures would be complementary to the architectural theme. The proposed project would limit large areas of transparent or reflective glass by including solid wall buildings with recessed windows, mullions or muntins²⁷ to divide overall window size, non-reflective glass railings, fritted glass and opaque panels, arcades, and overhanging roods that shield the windows. The proposed project would avoid transparent glass skyways, walkways, and entryways, as well as free-standing glass walls and transparent building corners. The proposed landscaping would also reduce reflections and view of foliage through glass.

Access and Circulation

The proposed project would have one access point from Stevens Creek Boulevard and three access points from Mary Avenue. See Figure 4. The below-grade parking at Residential-Retail Building 1 would be accessed from the central access point on Mary Avenue. A series of internal roadways, sidewalks, and bike lanes would provide access to the proposed buildings. In addition to the on-site internal sidewalks, the proposed project would also include off-site sidewalk modifications along Stevens Creek Boulevard and Mary Avenue.

The proposed project would include the following on- and off-site improvements that are consistent with the recommendations in the 2016 *Bicycle Transportation Plan* (2016 Bike Plan):²⁹

- **Class I Bike Path.** The proposed project would install an on-site Class I bike path on the western portion of the project site that would connect to Stevens Creek Boulevard to the south and Mary Avenue to the north.
- **Class IV Separated Bikeway.** The proposed project would upgrade the bike lane on Stevens Creek Boulevard between Mary Avenue and the northbound SR-85 on-ramp from an Enhanced bike lane to a Class IV separated bikeway. The proposed project would reconfigure the existing westbound right turn movement from Stevens Creek Boulevard onto the northbound SR-85 on ramp to accommodate the proposed Class IV separated bikeway. The proposed project would include a signal control for the westbound right turn movement, the cars would have a continuous green right-turn arrow until a cyclist or pedestrian arrives and activates the proposed pedestrian or bike crossing signal, at which time a red right-turn arrow would stop the cars. This pedestrian/bicycle signal call could only occur on the east-west signal phasing plan of the intersection when there are no other conflicting movements with the pedestrian and/or bicycle phase. This reconfiguration would convert the existing westbound

²⁷ A *mullion* is a vertical element that forms a division between units of a window or screen or is used decoratively. When dividing adjacent window units is its primary purpose, it is a rigid support to the glazing of the window. *Muntins* on the other hand divide, reinforce and join glass within a single window or sash frame. These are the small vertical and horizontal bars that change large pieces of glass into small “divided lites.”

²⁹ City of Cupertino 2016 Bicycle Transportation Plan, Figure 3-7, Bikeway Projects, page 3-8.

“free” right turn lane to a signal controlled right turn movement to allow for an exclusive, protected phase for pedestrians and cyclists to cross the on-ramp leg.

- **Bridge.** The proposed project would include public access easements on the northwest and southwest corners of the project site to accommodate the bridge over SR-85 connecting Mary Avenue to Alhambra Avenue.

The proposed project would include a total of 117 bicycle parking facilities,³⁰ consisting of five Class 1 facilities for retail uses, 18 Class 2 facilities for retail uses, 78 Class 1 facilities for residential uses, and 16 Class 2 facilities for residential uses. Bike facilities would be located adjacent to Buildings 1 and 2, in addition to within the proposed buildings.

The proposed project would also install a bus stop on the section of Stevens Creek Boulevard west of Mary Avenue and east of the SR-85 northbound ramp. The precise design-level details would need to be coordinated with VTA and City of Cupertino Public Works Department. For this EIR, it is assumed the bus stop would include a concrete bus pad and bus shelter.

POPULATION AND EMPLOYEE ESTIMATES

Based on an average household size of 2.87 persons,³¹ the proposed project would generate 695 residents.³² Applying the generation rate of one job for every 450 square feet of commercial uses, the proposed project would generate 45 employees.³³ The proposed project would also include a full service staff of 25 employees including leasing agents, security staff, and maintenance personnel that would be present on site to manage the property for a total of 70 employees.

There are no existing residential units on site. However, the project site has approximately 71,250 square feet of existing retail uses. Applying the generation rates applied in the General Plan EIR, the existing uses generate 135 employees; therefore, the proposed project would have a net decrease of 65 employees.³⁴ It is anticipated that future residents and employees would be drawn largely from Cupertino and other communities in the San Francisco Bay Area.

³⁰ Class 1 bicycle parking spaces include bicycle lockers or secure rooms and Class 2 bicycle parking spaces are publicly accessible bicycle racks.

³¹ This analysis is based on the Association of Bay Area Governments (ABAG) 2019 projections of the average household size of 2.87 persons for Cupertino in 2025. This is the standard approach for population and housing analysis in Cupertino.

³² 242 new units multiplied by 2.87 persons per unit equals 695 new residents.

³³ 20,000 square feet of retail divided by 450 square feet per employee equals 45 employees.

³⁴ 85 percent occupancy of approximately 71,250 square feet (about 60,563 square feet) of retail divided by 450 square feet per employee equals 135 employees. 135 existing employees – 70 proposed employees = 65 fewer employees.

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CONSTRUCTION, DEMOLITION, AND SITE PREPARATION

Development of the proposed project would occur in two phases over a 16-month period and is anticipated to be completed by the year 2023. See Figure 12. The proposed project would involve demolition of existing structures and parking stalls (approximately 71,250 square feet), and the removal of the existing landscaping on site, with the exception of four oak trees, which will be relocated on the project site as shown in Figure 10. Site preparation would include export of 69,000 cubic yards of cut. No soil import would occur. Demolition debris, including soil from excavation, would be off hauled for disposal at the Zanker Materials Recovery and Landfill in San José, which is approximately 15 miles from the project site.

Phase 1 would include the construction of Residential-Retail Buildings 1 and 2, as well as the underground parking garage on the eastern portion of the site. Phase 2 would include the construction of the rowhouses and townhouses on the western portion of the project site.

REQUIRED PERMITS AND APPROVALS

Following approval of the CEQA-required environmental review and the approval of the proposed project by the Planning Commission, the following discretionary permits and approvals from the City would be required for the proposed project:

- Development Permit
- Architectural and Site Approval Permit
- Use Permit
- Subdivision Map Permit
- Heart of the City Exception
- Tree Removal Permit

As part of the Development Permit, the proposed project is requesting a Density Bonus of 5 units pursuant to State Law as incorporated into the City's Housing Element³⁶ and CMC.³⁷ Specifically, the requests include waivers of development standards for height, slope setbacks, and the location of senior housing that would have the effect of physically precluding the development of the proposed project at the density proposed. In addition, permits for demolition, grading and building, and the certificate of occupancy would be required from the City.

The project may also require encroachment permits from Caltrans.

³⁶ City of Cupertino Housing Element Strategy HE-2.3.7 (Density Bonus Ordinance), page H-29.

³⁷ City of Cupertino Municipal Code, Title 19, Zoning, Chapter 19.56 Density Bonus, Sections 19.56.030, Density Bonus, and 19.56.040, Incentives or Concessions, Waivers and Reduction of Parking Standards.



Source: C2K Architecture Inc., November 2018.



Figure 12
Construction Phasing Plan

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ENVIRONMENTAL ANALYSIS

Consistent with the analysis presented in the General Plan EIR, and due to the proposed project's location in an urbanized city setting, the project would not have a significant effect on Agriculture and Forestry Resources or on Mineral Resources. Therefore, these topics are not discussed further in this Initial Study and will not be discussed in the EIR. Maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency categorize land within Cupertino as Urban and Built-Up Land.³⁸ In addition, according to 2006 mapping data from the California Department of Forestry and Fire Protection, the city does not contain any woodland or forestland cover.³⁹ In addition, the city does not contain land zoned for farmland or timberland production.⁴⁰ Consequently, there would be no impacts with regard to agriculture and forestry resources. While the city does have mineral resource zones (MRZ) MRZ-2, which are areas where adequate information indicates that significant mineral deposits are present, and MRZ-3, which are areas containing mineral deposits for which the significance of cannot be evaluated based on available data, the project site is not within an MRZ area; thus, it is not identified for protection or conservation with regard to mineral resources.⁴¹

Senate Bill (SB) 743 became effective on January 1, 2014 and, among other provisions, SB 743 amended CEQA by adding Public Resources Code Section 21099 regarding analysis of aesthetics, parking, and traffic impacts for urban infill projects. The following is a discussion of how aesthetics and parking are treated in SB 743.

CEQA section 21099(d)(1), states, "Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a transit priority area shall not be considered significant impacts on the environment." Accordingly, aesthetics and parking are no longer to be considered in determining if a project has the potential to result in significant environmental effects for projects that meet all of the following three criteria:

- Is located on an infill site,
- Is a residential, mixed-use residential, or an employment center, and
- Is located in a transit priority area.

As described below, the proposed mixed-use residential project is a qualified "employment center" that is located on a site that meets the definition of a designated "transit priority area" on an "infill site" pursuant to SB 743:

- **Infill Site:** An infill site is defined as "a lot located within an urban area that has been previously developed or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses." The site is currently developed with approximately 71,250 square feet of shopping

³⁸ California Resources Agency, Farmland Mapping and Monitoring Program. Santa Clara County Important Farmland 2010, accessed on accessed June 11, 2019.

³⁹ City of Cupertino, Zoning Map, <http://www.cupertino.org/index.aspx?page=291>, accessed on accessed June 11, 2019.

⁴⁰ City of Cupertino, Zoning Map, <http://www.cupertino.org/index.aspx?page=291>, accessed on accessed June 11, 2019.

⁴¹ City of Cupertino, General Plan (Community Vision 2015–2040, Chapter 6, Environmental Resources and Sustainability, Figure ES-2, Mineral Resources.

center. Surrounding uses include the Glenbrook Apartments to the north, Cupertino Memorial Park and the Cupertino Senior Center to the east, De Anza College to the south, and the SR-85 on-ramp to the west.

- **Employment Center:** An employment center is defined as “a project located on property zoned for commercial uses with a floor area ratio (FAR) of no less than 0.75 and that is located within a transit priority area.” The project site is zoned Planned Development with General Commercial and Residential (P(CG,RES)). The proposed mixed-use project would have a FAR of 1.56.
- **Transit Priority Area:** A transit priority area is defined as “an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations. The project site is within one-half mile of a “major transit stop” as defined by CEQA Guidelines Section 15191⁴² and the Santa Clara Valley Transportation Authority (VTA).⁴³ The De Anza Transit Center located approximately 500 feet (0.1 miles) from the southeast corner of the project site and approximately 1,700 feet (0.31 miles) from the northwest corner of the project site, with six regular bus lines (23, 25, 53, 54, 55, and 81) and one rapid bus line (323), qualifies as a major transit stop. Route 23 and 25 have 10-minute frequency of service intervals at peak and mid-day times on weekdays.⁴⁴

Accordingly, in compliance with SB 743 no significant aesthetic or parking impacts can be made in this environmental analysis and these topics are not discussed further in this Initial Study.

I. AIR QUALITY

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	■	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Result in a cumulatively considerable net increase of any criteria pollutant for which the project area is in non-attainment under applicable Federal or State ambient air quality standards?	■	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Expose sensitive receptors to substantial pollutant concentrations?	■	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	■

⁴² “CEQA Guidelines defines a major transit stop” means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

⁴³ The Santa Clara Valley Transportation Authority (VTA) defines a “major bus stop” as a stop where six or more buses per hour stop during the peak period and is also referred to as a “high-quality transit” area.

⁴⁴ Santa Clara Valley Transportation Authority, Bus Schedules for Bus 23, 25, 53, 54, 55, 81, and 323. <http://www.vta.org/routes/>, accessed June 11, 2019.

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GENERAL PLAN EIR

Chapter 4.2, Air Quality, of the General Plan EIR, addresses the air quality impacts associated with redevelopment of the project site. Air quality impacts were found to be significant and unavoidable in the General Plan EIR. General Plan EIR Mitigation Measures AQ-2a, AQ-2b and AQ-4b, which were adopted and incorporated into the General Plan, are project-specific mitigation measures that are required to be implemented and would reduce construction-related impacts and that the impacts of mobile sources of toxic air contaminants (TACs) that are not covered under the Bay Area Air Quality Management District (BAAQMD) permits are considered during subsequent project-level environmental review to a less-than-significant level.

While Chapter 4.2, Air Quality, of the General Plan EIR addresses the impacts associated with the development Housing Element Site A3 (The Oaks Shopping Center) the analysis was performed at a program level. This section analyzes the types and quantities of air pollutant emissions that would be generated by the construction and operation of the proposed project.

EXISTING CONDITIONS

Air Pollutants of Concern

Criteria Air Pollutants

Pollutants emitted into the ambient air by stationary and mobile sources are regulated by federal and State law under the National and California Clean Air Act, respectively. Air pollutants are categorized as primary and/or secondary pollutants. Primary air pollutants are those that are emitted directly from sources. Carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NO_x), sulfur dioxide (SO₂), coarse inhalable particulate matter (PM₁₀), fine inhalable particulate matter (PM_{2.5}), and lead (Pb) are primary air pollutants. Of these, all of them except for ROGs are “criteria air pollutants,” which means that ambient air quality standards (AAQS) have been established for them. The National and California AAQS are the levels of air quality considered to provide a margin of safety in the protection of the public health and welfare. They are designed to protect those “sensitive receptors” most susceptible to further respiratory distress, such as asthmatics, the elderly, very young children, people already weakened by other disease or illness, and persons engaged in strenuous work or exercise. Healthy adults can tolerate occasional exposure to air pollutant concentrations considerably above these minimum standards before adverse effects are observed.

Toxic Air Contaminants

In addition to criteria air pollutants, both the State and federal government regulate the release of TACs. The California Health and Safety Code define a TAC as “an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health.” A substance that is listed as a hazardous air pollutant pursuant to section 112(b) of the federal Clean Air Act (42 United States Code section 7412[b]) is a toxic air contaminant. Under State law, the California Environmental Protection Agency (CalEPA), acting through the California Air Resources Board (CARB), is authorized to identify a substance as a TAC if it determines that the substance is an air pollutant that may cause or contribute to an increase in mortality or serious illness, or may pose a present or

potential hazard to human health. Where available, the significance criteria established by the BAAQMD are relied upon to make the determinations discussed below.

DISCUSSION

a) *Would the project conflict with or obstruct implementation of the applicable air quality plan?*

BAAQMD has identified thresholds of significance for criteria pollutant emissions and criteria air pollutant precursors, including ROG, NO_x, PM₁₀, and PM_{2.5}. The proposed project would involve the construction and subsequent occupancy of a mixed-use project with multi-family residential units, senior residential units, and general retail space. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

b) *Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project area is in non-attainment under applicable federal or State ambient air quality standards?*

The San Francisco Bay Area Air Basin (SFBAAB) is currently designated as a nonattainment area for California and National ambient air quality standards (AAQS) for ozone (O₃) and for PM_{2.5}, and a nonattainment area under the California AAQS for PM₁₀.⁴⁵ Any project that does not exceed or can be mitigated to less than the BAAQMD significance levels does not add significantly to a cumulative impact.⁴⁶

As discussed in criterion (a), the proposed project would involve the construction and subsequent occupancy of new residential units as well as new construction of retail space. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

c) *Would the project expose sensitive receptors to substantial pollutant concentrations?*

The project site is adjacent to residential development to the north along Mary Avenue, and therefore, project construction emissions could potentially impact these on-site and adjacent sensitive receptors. Accordingly, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR to protect sensitive receptors from risks associated with the levels of pollution associated with construction on the project site.

d) *Would the project result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?*

Construction and operation of residential developments such as the proposed project would not generate substantial odors or be subject to odors that would affect a substantial number of people. The type of facilities that are considered to have objectionable odors include wastewater treatments plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating operations (e.g., auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical

⁴⁵ California Air Resources Board (CARB), 2017, Area Designations: Activities and Maps, <https://www.arb.ca.gov/design/design.htm>, Accessed July 31, 2018. .

⁴⁶ Bay Area Air Quality Management District (BAAQMD), 2011 Revised, California Environmental Quality Act Air Quality Guidelines.

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manufacturing, and food manufacturing facilities. Residential and retail uses are not associated with foul odors that constitute a public nuisance. Therefore, *no impact* would occur under this criterion and this issue will not be discussed in the EIR.

II. BIOLOGICAL RESOURCES

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Have a substantial adverse effect, either directly or through habitat modifications, on a plant or animal population, or essential habitat, defined as a candidate, sensitive or special-status species?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community type?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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 interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species, their wildlife corridors, or nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local ordinances or policies protecting biological resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

GENERAL PLAN EIR

Chapter 4.3, Biological Resources, of the General Plan EIR, addresses the impacts to biological resources associated with redevelopment of the project site. Impacts to biological resources were found to be less than significant and less than significant with implementation of General Plan EIR Mitigation Measure BIO-1, which were adopted and incorporated into the General Plan to ensure the protection of nesting raptors and other birds when in active use, as required by the federal Migratory Bird Treaty Act (MBTA) and the Department of Fish and Game Code (DFG Code).

EXISTING CONDITIONS

The project site and surrounding area has been urbanized and now supports roadways, structures, other impervious surfaces, areas of turf, and ornamental landscaping. Remnant native trees are scattered throughout the urbanized area, together with non-native trees, shrubs, and groundcovers. The site includes a one-story shopping center that is currently operating. The project site is bound by roadways on all sides and property beyond the roadways is developed with residential, senior services, and educational land uses.

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As previously described, the CALVEG habitat mapping program,⁴⁷ classifies the site as an “urban area” that tends to have low to poor wildlife habitat value due to replacement of natural communities, fragmentation of remaining open space areas and parks, and intensive human disturbance. The diversity of urban wildlife depends on the extent and type of landscaping and remaining open space, as well as the proximity to natural habitat. Trees and shrubs used for landscaping provide nest sites and cover for wildlife adapted to developed areas. Typical native bird species include the mourning dove, scrub jay, northern mockingbird, American robin, brown towhee, American crow, and Anna’s hummingbird, among others. Introduced species include the rock dove, European starling, house finch, and house sparrow. Urban areas can also provide habitat for several species of native mammals such as the California ground squirrel and striped skunk, as well as the introduced eastern fox squirrel and eastern red fox. Introduced pest species such as the Norway rat, house mouse, and opossum are also abundant in developed areas.

Wetlands and jurisdictional waters within the city boundary include creek corridors and associated riparian scrub and woodland, and areas of freshwater marsh around ponds, seeps, springs, and other waterbodies. Some remnant stands of riparian scrub and woodland occur along segments of the numerous creeks through the urbanized valley floor. The project site does not encompass these creek corridors or contain other regulated waters. The project site is not near or adjacent to any natural areas.

There is no existing wildlife movement corridor designation on the site by any agency, including the United States Fish and Wildlife or the California Department of Fish and Wildlife.

The California Natural Diversity Database has no record of special-status plant or animal species on the project site or urbanized areas surrounding the project site. There is a possibility that birds could nest in trees and other landscaping on the project site. The nests of most bird species are protected under the MBTA when in active use and there is a remote possibility that one or more raptor species protected under the MBTA and DFG Code could nest on the project site. These include both the Cooper’s hawk (*Accipiter cooperi*) and white-tailed kite (*Elanus leucurus*), which have reported CNDDDB occurrences within the city boundary, together with more common raptors such as red-tailed hawk, great horned owl, and American kestrel, all of which are protected by the MBTA and DFG Code when their nests are in active use. However, no essential habitat for these or other special-status species is present on the site due to its developed condition.

Numerous bat species are known to be in the Cupertino area, most of which are relatively common and are not considered special-status species. As previously stated, the CNDDDB does not show any occurrences of special-status bats within the site vicinity or anywhere in Cupertino but does show records within several miles of Cupertino. The records include occurrences of Townsend’s big-eared bat (*Corynorhinus townsendii*), hoary bat (*Lasiurus cinereus*), and Yuma myotis (*Myotis yumanensis*). These three species have no legal protected status under the State or federal Endangered Species Acts, but Townsend’s big-eared bat is considered a Species of Special Concern by the CDFW. These species have various priority rankings with the Western Bat Working Group (WBWG), ranging from “High” for Townsend’s big-eared bat, “Medium” for hoary bat, to “Low-Medium” for Yuma myotis. Bat species found

⁴⁷ The CALVEG system was initiated in January 1978 by the Region 5 Ecology Group of the US Forest Service to classify California’s existing vegetation communities for use in statewide resource planning. CALVEG maps use a hierarchical classification on the following categories: forest; woodland; chaparral; shrubs; and herbaceous.

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in the Cupertino vicinity may forage and occasionally roost in the site vicinity, but because the Oaks Shopping Center is occupied, no suitable habitat for maternity roosts are on the site.

According to the Vegetation Map shown in the Environmental Resources and Sustainability Element of the General Plan most of the City, including the project site, is within the urban forest.⁴⁸ The City recognizes that every tree on both public and private property is an important part of Cupertino's urban forest and contributes significant economic, environmental and aesthetic benefits of the community.⁴⁹ The tree study inventory and assessment prepared for the project included an evaluation of 83 trees on the site that represent 11 species. According to the tree study, some of the trees qualify as protected trees pursuant to the City's Protected Tree Ordinance, Chapter 14.18.⁵⁰ The removal of Specimen trees requires the approval of a Tree Removal Permit which may also require replacement trees to be planted.

DISCUSSION

- a) *Would the project have a substantial adverse effect, either directly or through habitat modifications, on a plant or animal population, or essential habitat, defined as a candidate, sensitive or special-status species??*

As stated above in the existing conditions discussion, there are no known occurrences of special-status plant or animal species and no suitable habitat for such species on the project site, but there is a possibility that birds that are protected by the MBTA could nest in trees and other landscaping on the project site. The analysis in the General Plan EIR found that impacts to special-status species, including nesting birds, would be reduced to less than significant with mitigation.

Avian injury and mortality resulting from collisions with buildings, towers and other man-made structures is a common occurrence in city and suburban settings. Some birds are unable to detect and avoid glass and have difficulty distinguishing between actual objects and their reflected images, particularly when the glass is transparent and views through the structure are possible. Night-time lighting can interfere with movement patterns of some night-migrating birds, causing disorientation or attracting them to the light source. The frequency of bird collisions in a particular area is dependent on numerous factors, including: characteristics of building height, fenestration (the arrangement of windows and doors on the elevations of a building) and exterior treatments of windows and their relationship to other buildings and vegetation in the area; local and migratory avian populations, their movement patterns, and proximity of water, food and other attractants, time of year; prevailing winds; weather conditions; and other variables.

The proposed project would alter the physical characteristics of the site, therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

⁴⁸ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 6, Environmental Resources and Sustainability Element, Figure ES-1.

⁴⁹ City of Cupertino, Tree Protection and Tree Removal link on the City's website, Accessed May 6, 2019 at <https://www.cupertino.org/our-city/departments/community-development/planning/residential-development/tree-protection-tree-removal>.

⁵⁰ The Oaks Cupertino, CA Tree Assessment Plan, prepared for KTP Construction Management, LLC by Hort Science, May 11, 2018.

b) *Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community type?*

As discussed in the existing conditions above and determined in the General Plan EIR, development of the proposed project would occur in urbanized areas where sensitive natural communities are absent. The project site does not include any wetlands or jurisdictional waters including creek corridors and associated riparian areas.⁵¹ Therefore, *no impact* would occur, and no mitigation measures would be required. This criterion will not be discussed in the EIR.

c) *Would the project 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 interruption, or other means?*

As discussed in the existing conditions above, there are no wetlands, jurisdictional waters or other regulated waters on the project site; therefore, *no impact* would occur directly.

Indirect impacts to wetlands and jurisdictional other waters include: 1) an increase in the potential for sedimentation due to construction grading and ground disturbance, 2) an increase in the potential for erosion due to increased runoff volumes generated by impervious surfaces, and 3) an increase in the potential for water quality degradation due to increased levels in non-point pollutants. However, indirect impacts would be largely avoided through effective implementation of best management practices during construction and compliance with water quality controls.

As discussed below in Section VIII, Hydrology and Water Quality, of this Initial Study, water quality in stormwater runoff is regulated locally by the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), which implements Provision C.3 of the Municipal Regional Storm Water NPDES Permit (MRP) adopted by the San Francisco Bay Regional Water Quality Control Board (RWQCB). Adherence to these permit conditions requires the project to incorporate treatment measures, an agreement to maintain them, and other appropriate source control and site design features that reduce pollutants in runoff to the maximum extent practicable. Many of the requirements involve low impact development practices such as the use of onsite infiltration that reduce pollutant loading. Incorporation of these measures can even improve on existing conditions.

In addition, future development would be required to comply with the Municipal Regional NPDES Permit (CMC Chapter 9.18, Storm Water Pollution Prevention and Watershed Protection) and implement a construction Storm Water Pollution Prevention Plan (SWPPP) that requires the incorporation of best management practices to control sedimentation, erosion, and hazardous materials contamination of runoff during construction. The indirect water quality-related issues are discussed further in Section VIII, Hydrology and Water Quality, of this Initial Study. As discussed in Impact HYDRO-1, water quality impacts would be less than significant. Accordingly, indirect impacts to wetlands and jurisdictional waters would be *less than significant* and this issue will not be discussed further in the EIR.

⁵¹ City of Cupertino General Plan Amendment, Housing Element Update, and Associated Rezoning Project, Chapter 4.3, Biological Resources.

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d) *Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species, their wildlife corridors, or nursery sites?*

The project site is located in an urbanized area, bordered by existing roadways and other urban uses which preclude the presence of any important wildlife movement corridors across the site. The site contains no creeks or aquatic habitat that would support fish and proposed development would not 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 nurseries. Wildlife species common to urban and suburban habitat could be displaced where existing structures are demolished and landscaping is removed as part of future development, but these species are relatively abundant, and adapted to human disturbance. The proposed project would remove most of the existing vegetation and would retain some of the existing trees. The proposed project would also include landscaping with approximately 400 additional trees that would provide replacement habitat for wildlife species that may have adapted to the project site. Therefore, project impacts on the movement of fish and wildlife, wildlife corridors, or wildlife nursery sites would be considered *less than significant* under this criterion and this issue will not be discussed in the EIR.

e) *Would the project conflict with any local ordinances or policies protecting biological resources?*

As discussed in criteria (a) through (d), above, development of the project site would occur in an urbanized area where sensitive biological and wetland resources are absent, and no major conflicts with the relevant policies or ordinances related to biological resources in the General Plan and/or CMC would occur. However, the removal of trees that qualify as protected trees pursuant to the City’s Protected Tree Ordinance is proposed, which could result in a *potentially significant* impact until the need and nature of any required mitigation has been identified as part of the EIR.

f) *Would the project conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?*

No adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved conservation plan includes the city or the project site, and the proposed project would not conflict with any adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved conservation plan. Therefore, *no impact* would result under this criterion and this issue will not be discussed in the EIR.

III. CULTURAL RESOURCES

Would the proposed project:		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a)	Cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b)	Cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
c) Disturb any human remains, including those interred outside of formal cemeteries?	■	□	□	□

GENERAL PLAN EIR

Chapter 4.4, Cultural Resources, of the General Plan EIR, addresses the impacts to cultural associated with redevelopment of the project site and impacts were found to be less than significant. The following is a summary of Section, 4.4.1.2, Existing Conditions, of Chapter 4.4, which is based on the analysis of cultural resources conducted by Tom Origer & Associates on July 24, 2013, included as Appendix D, Cultural Resources Data, of the General Plan EIR. The cultural resources study consists of archival research at the Northwest Information Center at Sonoma State University, examination of the library and files, field inspection, and contact with the Native American community. As shown in Table 4.4-2, *Cultural Resources in the Project Study Area and Vicinity*, and on Figure 4.4-1, *Cultural Resources*, of the General Plan EIR, there are no identified cultural resources on the project site.

EXISTING CONDITIONS

As stated above, there are no known cultural resources (i.e., archeological or historical architectural resources) are located on the site. However, development at the project site was completed between 1973 and 1976,⁵² which is within the 45-year age limit established by the State Office of Historic Preservation (OHP) for buildings that may be of historical value.⁵³ However, the existing buildings are not associated with significant cultural events or persons in California’s past and do not have any distinctive historical characteristics, and as such do not have any qualifying historical value.

Known cultural resources within 1 mile of the project site are the Le Petit Trianon at 21250 Stevens Creek Boulevard, the Gazebo Trim at Memorial Park, Memorial Park, Community Center, Sports Complex, and Engles Grocery "Paul and Eddie's" at 21619 Stevens Creek Boulevard.

⁵² Phase I Environmental Site Characterization, The Oaks Shopping Center, prepared by EBI Consulting, March 4, 2007.

⁵³ Public Resources Code Section 5024.1

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DISCUSSION

a) *Would the project cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5?*

Under CEQA, both prehistoric and historic-period archaeological sites may qualify as historical resources.⁵⁴ Archaeological resources are addressed in criterion (b), and human remains are addressed below in criterion (c), below.

There are no local, State, or federally recognized historic properties on the project site or in the immediate vicinity. The historical building (Le Petit Trianon) located at 21250 Stevens Creek Boulevard is within 1 mile from the project site; however, construction of the proposed project would not affect this structure.

The project site currently has commercial buildings developed in 1973 and 1976. As described in the existing conditions above, the existing building does not meet the criteria for listing in the California Register of Historical Resources. Additionally, the General Plan EIR does not identify the project site or existing buildings as a historic resources and they are not listed as historic buildings.^{55,56} Therefore, demolition of the existing buildings on the project site would not affect any historic resources. Therefore, impacts would be *less than significant* under this criterion and this issue will not be discussed in the EIR.

b) *Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to section 15064.5?*

Historical and pre-contact archaeological deposits that meet the definition of historical resource under CEQA section 21084.1 or CEQA Guidelines section 15064.5 could be present at the project site and could be damaged or destroyed by ground-disturbing construction activities (e.g., site preparation, grading, excavation, and trenching for utilities) associated with development allowed under the proposed project. Should this occur, the ability of the deposits to convey their significance, either as containing information about prehistory or history, or as possessing traditional or cultural significance to Native American or other descendant communities, would be materially impaired.

A cultural resources study was prepared for the General Plan EIR. The cultural resources study did not identify any known archeological deposits on the project site. While the site is already a developed site, it could still contain subsurface archeological deposits, including unrecorded Native American prehistoric archeological materials. Therefore, any project-related ground-disturbing activities have the potential to affect subsurface prehistoric archaeological resources that may be present. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

⁵⁴ California Code of Regulations, Title 14, Chapter 3, Section 15064.5(c), Determining the Significance of Impacts on Historical and Unique Archeological Resources.

⁵⁵ Office of Historic Preservation, 1995. Instructions for Recording Historical Resources, page 2.

⁵⁶ Office of Historic Preservation, Listed California Historical Resources, <http://ohp.parks.ca.gov/ListedResources/?view=county&criteria=43>, accessed June 11,, 2019.

c) *Would the project disturb any human remains, including those interred outside of formal cemeteries?*

Similar to the discussions under criteria (a) and (b), there are no known human remains of the project site; however, the potential to unearth unknown remains during ground disturbing activities associated with the construction of the project could occur. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

IV. ENERGY

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Conflict with or obstruct a State or local plan for renewable energy or energy efficiency?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

GENERAL PLAN EIR

Chapter 4.14, Utilities and Services Systems, of the General Plan EIR addressed the impacts to Energy associated with the redevelopment of the project into at most 27 dwelling units with a 30-foot height maximum. The General Plan EIR concludes that impacts to energy associated with the redevelopment of the project site would be less than significant and would not result in substantial increase in natural gas and electrical service demands, and would not require new energy supply facilities and distribution infrastructure or capacity enhancing alterations to existing facilities. However, the General Plan EIR does not include an evaluation of wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation, or whether the project conflicts or obstructs a State or local plan for renewable energy or energy efficiency, because the General Plan EIR was completed prior to the update to the CEQA Guidelines, Appendix G update in December 2018.

EXISTING CONDITIONS

Pacific Gas & Electric (PG&E) supplies electricity and natural gas to much of northern and central California – from Humboldt and Shasta counties in the north to Kern and Santa Barbara counties in the south – including the infrastructure for the City of Cupertino. Total electricity consumption in PG&E's service area is forecast to increase from 104,868 gigawatt-hours (GWh) in 2015 to 119,633 GWh in 2027.⁵⁷ The nearest PG&E substation to the project site is the Stelling Substation on North Stelling Road approximately 1 mile northeast of the project site. The nearest electricity transmission lines to the project site are located south of the project site along Stevens Creek Boulevard.⁵⁸

⁵⁷ California Energy Commission (CEC). 2017. California Energy Demand Updated Forecast, 2017-2027. <https://efiling.energy.ca.gov/getdocument.aspx?tn=214635>, accessed on June 11, 2019.

⁵⁸ California Energy Commission (CEC). 2012, October 25. Local Reliability Maps for 2013: Enlargement Maps. http://www.energy.ca.gov/maps/infrastructure/3part_enlargements.html, accessed on June 11, 2019.

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The current project site is served by both electricity and natural gas connections. Electricity is supplied to the project site via infrastructure maintained by Pacific Gas & Electric (PG&E). Silicon Valley Clean Energy (SVCE), a locally controlled public agency that has a partnership with PG&E, supplies the electricity to the project site. SVCE provides a standard 50 percent renewable energy portfolio, in addition to a 100 percent renewable option that electricity customers can opt into. Natural gas and associated infrastructure are provided and maintained by PG&E.

Plan Bay Area 2040 is the Bay Area's current Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS). An overarching goal of the regional *Plan Bay Area 2040* is to concentrate development in areas where there are existing services and infrastructure rather than allocate new growth in outlying areas where substantial transportation investments would be necessary to maximize energy conservation and achieve the per capita passenger vehicle, vehicle miles traveled (also referred to as "VMT"), and associated greenhouse gas (GHG) emissions reductions. The project site is located in the Santa Clara Valley Transportation Authority City Cores, Corridors & Station Areas PDA and is a designated Transit Priority Area (TPA).⁵⁹

Current energy demands derive from the operation of the one-story, approximately 71,250 square-foot shopping center with both commercial and office uses, built between 1973 and 1976. The existing buildings are currently occupied by restaurant, commercial, and office uses, which provide neighborhood serving uses. The shopping center is currently about 85 percent occupied, and according to the transportation analysis, prepare for the proposed project, the existing uses generate approximately 2,287 average daily weekday trips, with 57 AM (morning) peak hour trips and 230 PM (evening) peak hour trips.

DISCUSSION

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

The proposed project would demolish the existing commercial buildings and redevelop the site with up to 20,000 square feet of commercial space and 242 residential units on a designated Priority Development Area (PDA) and a Transit Priority Area (TPA). Construction activities use energy from various sources, such as on-site heavy-duty construction vehicles, vehicles hauling materials to and from the site, and motor vehicles transporting the construction crew. The operation of the proposed mixed-use and residential buildings would use energy for cooling, heating, lighting, and landscape equipment, and for vehicle trips to and from the commercial building. The proposed project would generate a new total of 2,174 average daily weekday vehicle trips.

The proposed project is an infill development project that would result in an increase in land use intensity in a portion of the city. The project site currently has access to existing infrastructure and services; however, the proposed project would require the construction or installation of new on-site infrastructure and capacity enhancing alterations to existing on-site facilities to connect the new buildings to water, stormwater, sanitary sewer, electricity, and natural gas lines. Nevertheless, the construction of new on-site

⁵⁹ *Plan Bay Area*, Association of Bay Area Governments (ABAG)/Metropolitan Transportation Commission (MTC) Priority Development Area (PDA) and Transit Priority Area (TPA) Map for CEQA Streamlining, <https://www.planbayarea.org/pda-tpa-map>, accessed on July 11, 2019.

infrastructure and capacity enhancing alterations would be necessary as part of the construction of the residential-retail, townhome, and rowhouse buildings, and would be consistent with the design and installation of typical utility infrastructure for mixed-use or residential buildings. Therefore, the construction or installation of new infrastructure and capacity enhancing alterations would not be a wasteful, inefficient, or unnecessary use of energy.

The project provides connectivity to existing bicycle and pedestrian facilities and locates both commercial and residential uses close to transit, parks, schools, and other neighborhood serving uses. As discussed in Section XI, Population and Housing, the proposed project would not exceed the buildout projections established in the General Plan EIR and as discussed in Section IX, Land Use and Planning, the proposed project is within the permitted density on the project site.

The proposed mixed-use and residential buildings would be required to meet the 2019 Building and Energy Efficiency Standards of the California Public Resources Code, Title 24, Part 6 that will take effect on January 1, 2020, and apply to any project that is proposed to begin construction on or after August 2020. The 2019 Building Energy Efficiency Standards improve upon the 2016 Standards and require 53 percent or more and 30 percent or more energy efficiency for residential and non-residential buildings, respectively.⁶⁰ As described above in Section 3.1.4.2, Zoning, the City enforces the CalGreen Building Standards, which establish planning and design standards for sustainable site development, energy efficiency (in excess of the California Energy Code requirements), in CMC Chapter 16.58, Green Building Standards Code Adopted. CMC Chapter 16.58, Section 16.58.220, Table 101.10 requires that non-residential new construction under 25,000 square feet shall achieve a minimum green building requirement of CALGreen Building Code per Chapter 5 of the California Green Building Standards Code. CMC Chapter 16.58, Section 16.58.220, Table 101.10 also required that residential new construction exceeding nine homes shall achieve a minimum green building requirement of GPR certified at minimum 50 points, Leadership in Energy and Environmental Design (LEED) Silver, or an alternate green building standard that is as stringent as LEED or other cited standards and is subject to third party verification.

Energy conserving features of the proposed project would include new landscaping that is native and/or adaptive, and drought resistant to conserve water and subsequently energy. Where glass features are considered, the proposed project would use non-reflective or “fritted glass” and opaque spandrel panels, in addition to incorporating overhanging roofs, projecting balconies, and set back facades that would reduce direct sunlight and reduce cooling costs.

New buildings constructed in accordance with the standards identified above would not result in wasteful, inefficient, or unnecessary consumption of energy resources. Accordingly, impacts would be *less than significant*, and further discussion related to this criterion will not be included in the EIR.

⁶⁰ California Energy Commission. March 2018. 2019 Building Energy Efficiency Standards. https://www.energy.ca.gov/title24/2019standards/documents/2018_Title_24_2019_Building_Standards_FAQ.pdf, accessed on June 11, 2019.

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b) *Would the project conflict with or obstruct a State or local plan for renewable energy or energy efficiency?*

As described in the Land Use and Zoning section of this Initial Study, the proposed project is an infill mixed-use project in a PDA and TPA pursuant to *Plan Bay Area 2040*. An overarching goal of the regional *Plan Bay Area 2040* is to concentrate development in areas where there are existing services and infrastructure rather than allocate new growth in outlying areas where substantial transportation investments would be necessary to maximize energy conservation. The project site is a designated neighborhood center in the General Plan, which is an area intended to provide shopping and gathering spaces for local residents. The General Plan specifically designated this location as a High Priority Housing Element Site in a major corridor to reduce traffic and environmental impacts, and therefore, support State and local planning efforts toward energy conservation. The proposed project would not conflict with, or obstruct, any plan for renewable energy or energy efficiency. Accordingly, impacts would be *less than significant*, and further discussion related to this criterion will not be included in the EIR.

V. GEOLOGY AND SOILS

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ii) Strong seismic ground shaking?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iii) Seismic-related ground failure, including liquefaction?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
iv) Landslides, mudslides or other similar hazards?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Result in substantial soil erosion or the loss of topsoil?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Be located on expansive soil, as defined by Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

GENERAL PLAN EIR

Chapter 4.5, Geology, Soils, and Seismicity, of the General Plan EIR, addressed geological and seismic-related impacts associated with redevelopment of the project site. The following discussion is based on project site information available in Section 4.5.1.2, Existing Conditions, of Chapter 4.5.

EXISTING CONDITIONS

A Preliminary Geotechnical Investigation dated January 1, 2014 was prepared for the proposed project by Langan Treadwell Rollo.⁶¹ The purpose of the Preliminary Geotechnical Investigation was to obtain subsurface data, evaluate the potential geologic hazards at the site, and provide preliminary conclusions and recommendations for the geotechnical aspects of future development on the project site. The discussion that follows includes data from this report.

The following describes the existing conditions on the project site with respect to geology and soil:

- **Geology.** The City of Cupertino lies in the west-central part of the Santa Clara Valley, a broad, mostly flat alluvial plain that extends southward from San Francisco Bay. These alluvial fan deposits are typically coarse grained with large amounts of gravel deposits. The surficial geology is described as young, unconsolidated Quaternary alluvium. The site is generally flat with elevation ranging from 290 to 300 feet above mean sea level.
- **Soils.** This analysis uses web-accessible soil mapping data compiled by the United States Department of Agriculture's Soil Conservation Survey and the California Soil Resource Laboratory hosted by University of California at Davis to identify the major soil types on the project site. The predominant soil types for the project site are soils of the Urban Land-Flaskan and Urban Land-Botella complexes generally formed on slopes of 0 to 2 percent. In almost all instances, these soils are reportedly deep and well drained, and are typified by low runoff. Additionally, surface material encountered in the borings conducted as part of the Preliminary Geotechnical Investigation consists of 3.5 to 6 inches of asphalt concrete (AC) and aggregate base (AB). Beneath the pavement Section, the upper 2.5 to 6.5 feet consists of very dense sand with clay and gravel and hard sandy clay with varying amounts of gravel. Below these depths are medium dense to very dense sand and gravel layers with varying amounts of silt and clay interbedded with 3.5 to 7 feet thick layers of very stiff to hard sandy clay, sandy clay with gravel, and clay with gravel to the maximum explored depth of 46.5 feet.
- **Fault Rupture.** The San Francisco Bay Area is one of the most seismically active regions in the United States. The significant earthquakes that occur in the Bay Area are generally associated with crustal movement along well-defined active fault zones such as the San Andreas Fault system. Many of these zones exhibit a regional trend to the northwest. The site is not located within a State-designated Alquist-Priolo Earthquake Fault Zone (known formerly as a Special Studies Zone) or a Santa Clara County-designated Fault Rupture Hazard Zone. No active fault traces are known to cross the site.

⁶¹ Langan Treadwell Rollo, 2014. Preliminary Geotechnical Investigation, The Oaks 21255 Stevens Creek Boulevard Cupertino, California, January 1, 2014.

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- **Liquefaction.** The site is not located within a seismically induced liquefaction hazard zone, as mapped by the State of California and Santa Clara County. During cyclic ground shaking, such as seismic shaking during an earthquake, cyclically induced stresses may cause increased pore water pressures within the soil matrix, resulting in liquefaction. Liquefied soil may lose shear strength that may lead to large shear deformations and/or flow failure. Liquefied soil can also settle as pore pressures dissipate following an earthquake. Soils most susceptible to liquefaction are loose to moderately dense, saturated, non-cohesive soils with poor drainage, such as sands and silts with interbedded or capping layers of relatively low permeability soil.
- **Lateral Spreading.** Lateral spreading typically occurs as a form of horizontal displacement of relatively flat-lying alluvial material toward an open or “free” face such as an open body of water, channel, or excavation. In soils, this movement is generally due to failure along a weak plane and may often be associated with liquefaction. As cracks develop within the weakened material, blocks of soil are displaced laterally toward the open face. Cracking and lateral movement may gradually propagate away from the face as blocks continue to break free. Because of the low potential for liquefaction, the risk of lateral spreading at the site is also considered low.
- **Soil Expansion.** Laboratory test conducted as part of the Preliminary Geotechnical Investigation results indicate the near surface clay layer has low expansion potential with plasticity index of 9.
- **Groundwater.** During the Preliminary Geotechnical Investigation, groundwater was not encountered while drilling the three borings. The California Geological Survey, as part of their Seismic Hazards Zone Report (Cupertino Quadrangle) reported the historic high groundwater level in this area as approximately 50 feet below ground surface (bgs).
- **Paleontological Resources.** A review of the University of California’s Museum of Paleontology’s fossil locality database was conducted for the City of Cupertino during the General Plan Update process for the current Community Vision 2015-2040. No paleontological resources have been identified on the project site; however, the presence of Pleistocene deposits that are known to contain fossils indicates that overall the city could contain paleontological resources.

DISCUSSION

- a) *Would the project expose people or structures to 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; (ii) Strong seismic ground shaking; (iii) Seismic-related ground failure, including liquefaction; (iv) Landslides, mudslides or other similar hazards?*

Development on the project site is subject to compliance with State and City building requirements. Compliance with the California Building Code (CBC) requirements would help ensure that the proposed structures would be able to: (1) resist minor earthquakes without damage; (2) resist moderate earthquakes without structural damage, but with some non-structural damage; and (3) resist major earthquakes without collapse, but with some structural as well as non-structural damage. The CBC has been adopted by the City of Cupertino in CMC Title 16, Buildings and Construction.

Development on the project site would not cause or exacerbate 1) the rupture of a known earthquake fault; 2) strong seismic ground shaking; 3) seismic-related ground failure, including liquefaction; or 4) earthquake triggered landslides, mudslides, or other similar hazards. Therefore, *no impact* would occur, and earthquake related conditions will not be discussed further in the EIR.

b) Would the project result in substantial soil erosion or the loss of topsoil?

Substantial soil erosion or loss of topsoil during construction could, in theory, undermine structures and minor slopes during development of the project site. However, compliance with existing regulatory requirements, such as the implementation of grading erosion control measures specified in the CBC and the CMC, would reduce impacts from erosion and the loss of topsoil. Examples of these control measures are best management practices such as hydroseeding or short-term biodegradable erosion control blankets; vegetated swales, silt fences, or other forms of protection at storm drain inlets; post-construction inspection of drainage structures for accumulated sediment; and post-construction clearing of debris and sediment from these structures.

CMC Section 16.08.110 requires the preparation and submittal of Interim Erosion and Sediment Control Plans for all projects subject to City-issued grading permits, which would minimize the removal of topsoil, avoid overly steep cut and/or fill slopes, and protect existing vegetation during grading operations. These requirements are broadly applicable to residential development projects. Adherence to these regulations would help reduce the impacts of project development as they relate to substantial soil erosion or loss of topsoil. Therefore, the impacts would be *less than significant*. This criterion will not be discussed in the EIR.

c) Would the project 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?

As discussed above, the project site is not located within a seismically induced liquefaction hazard zone. Because of the low potential for liquefaction, the risk of lateral spreading at the site would also be low. As previously discussed, the project site is generally flat with on-site elevations ranging from 290 to 300 feet above mean sea level. The properties surrounding the project site are also typified by low topographic relief. Therefore, the impacts of project development as they relate to liquefaction, lateral spreading, and landslides would be *less than significant*. This criterion will not be discussed in the EIR.

d) Would the project be located on expansive soil, as defined by Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?

Expansive soils can undergo dramatic changes in volume in response to variations in soil moisture content. When wet, these soils can expand; conversely, when dry, they can contract or shrink. Sources of moisture that can trigger this shrink-swell phenomenon can include seasonal rainfall, landscape irrigation, utility leakage, and/or perched groundwater. Expansive soil can develop wide cracks in the dry season, and changes in soil volume have the potential to damage concrete slabs, foundations, and pavement. Special building/structure design or soil treatment are often needed in areas with expansive soils.

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The proposed project would be subject to the CBC regulations and provisions, as adopted in Title 16, Buildings and Construction of the CMC and enforced by the City during plan review prior to building permit issuance. The CBC contains specific requirements for seismic safety, excavation, foundations, retaining walls, and site demolition, and also regulates grading activities, including drainage and erosion control. Thus, compliance with existing regulations and policies would ensure that the potential future development impacts permitted under the proposed project would be reduced. Therefore, the impacts of project development as they relate to expansive soils would be *less than significant*. This criterion will not be discussed in the EIR.

e) *Would the project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?*

The development of the proposed project would not require the construction or use of septic tanks or alternative wastewater disposal systems. Wastewater generated by the proposed project would be conveyed to the existing municipal sanitary sewer system in Cupertino with existing connections to the sanitary sewer system on Stevens Creek Boulevard and Mary Avenue; new connections are not required. Therefore, *no impact* would result under this criterion and this issue will not be discussed in the EIR.

For more discussion on wastewater, see Section XVI, Utilities and Service Systems, below.

f) *Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

As discussed above in existing conditions, while no paleontological resources have been identified within the project location, because the proposed project requires substantial excavation that could reach significant depths below the ground surface where no such excavation has previously occurred, there could be fossils of potential scientific significance and other unique geologic features that have not been recorded. Such ground-disturbing construction associated with development under the proposed project could cause damage to, or destruction of, paleontological resources or unique geologic features. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

VI. GREENHOUSE GAS EMISSIONS

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

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Chapter 4.6, Greenhouse Gas Emissions, of the General Plan EIR, addressed the cumulative impacts from greenhouse gas emissions associated with General Plan buildout, including redevelopment of the project site. Greenhouse gas emission (GHG) impacts were found to be less than significant in the General Plan EIR.

EXISTING CONDITIONS

The primary source of GHGs is fossil fuel use. The Intergovernmental Panel on Climate Change has identified four major GHGs—water vapor, carbon dioxide (CO₂), methane (CH₄), and ozone (O₃)—that are the likely cause of an increase in global average temperatures observed within the 20th and 21st centuries. Other GHGs identified by the Intergovernmental Panel on Climate Change that contribute to global warming to a lesser extent include nitrous oxide (N₂O), sulfur hexafluoride (SF₆), hydrofluorocarbons, perfluorocarbons, and chlorofluorocarbons.^{62,63}

DISCUSSION

a) *Would the project generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?*

A project does not generate enough GHG emissions on its own to influence global climate change; therefore, this section measures the project's contribution to the cumulative environmental impact. The proposed project would contribute to global climate change through direct and indirect emissions of GHGs from transportation sources, energy (natural gas and purchased energy), water use and wastewater generation, and solid waste generation. In addition, construction activities would generate a short-term increase in GHG emissions. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

b) *Would the project conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?*

As discussed in criterion (a) above, the proposed project would contribute to global climate change through direct and indirect emissions of GHGs. Therefore, conflicts with applicable plans adopted for the purpose of reducing GHG emissions could result in *potentially significant* impacts. The need and nature of any required mitigation will be identified as part of the EIR.

⁶² Intergovernmental Panel on Climate Change, 2001, Third Assessment Report: Climate Change 2001, New York: Cambridge University Press.

⁶³ Water vapor (H₂O) is the strongest GHG and the most variable in its phases (vapor, cloud droplets, ice crystals). However, water vapor is not considered a pollutant.

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VII. HAZARDS AND HAZARDOUS MATERIALS

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?	■	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	■	<input type="checkbox"/>
c) Emit hazardous emissions or handle hazardous materials, substances or waste within one-quarter mile of an existing or proposed school?	■	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Be located on a site which is included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5 and, as a result, create a significant hazard to the public or the environment?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	■
e) For a project 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, result in a safety hazard for people living or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	■
f) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	■	<input type="checkbox"/>
g) Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	■

GENERAL PLAN EIR

Chapter 4.7, Hazards and Hazardous Materials, of the General Plan EIR, addressed the hazards- and hazardous materials-related impacts as a result of redevelopment under the General Plan including on the project site. Impacts were found to be less than significant and less than significant with mitigation measures to ensure that development on sites with known hazardous contamination would be less than significant. General Plan EIR Mitigation Measures HAZ-4a and HAZ-4b are required to be implemented for sites with known contamination and potential residual contamination. As discussed in Chapter 4.7, the project site is not listed as a site with known contamination or potential residual contamination; therefore, the identified mitigation measures in the General Plan EIR do not apply to the proposed project. The following is a summary of Section, 4.7.1.2, Existing Conditions, of Chapter 4.7.

EXISTING CONDITIONS

Two Phase 1 Environmental Site Assessments (ESAs), dated March 14, 2007 and September 18, 2015, were prepared for the project site by EBI Consulting and PIERS Environmental Services, respectively.⁶⁴ The Phase 1 ESA dated March 14, 2007 recommended the continued implementation of the existing asbestos Operation and Maintenance Plan due to suspected asbestos containing materials (ACM) in the floors, walls, and ceiling of the buildings. The Phase 1 ESA dated September 18, 2015 concluded that there was no evidence of Recognized Environmental Conditions (RECs) or Vapor Encroachment Conditions (VECs) on the project site and recommended no further investigation. In addition, a Limited Environmental Site Characterization (ESC) dated January 28, 2015 was prepared for the project site by Langan Treadwell Rollo. The purpose of the ESC was to conduct soil sampling and analysis to assess the potential for soil contamination resulting from past and/or present site activities and nearby off-site operations. The objective of the ESC was to preliminarily characterize the soil to assist in the offhaul of excavated material from the site. The ESC did not find elevated concentrations of hazardous waste exceeding State of California or Federal levels and no contaminated or hazardous materials were encountered. The following information and subsequent impact discussion are based in part on the information in these reports.

The term “hazardous material,” as used in this Initial Study, includes all materials defined in the California Health and Safety Code section 25501 definition of a hazardous material; that is: “A material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment.”

The project site is located within the General Plan land use designation Commercial/Residential and Zoning District P(CG,RES), and is currently developed with approximately 71,250 square feet of existing development, as well as associated surface parking. Development of the project site began in 1973; therefore, the existing buildings may contain asbestos-containing materials (ACM) or lead-based paint (LBP), which have only been regulated in construction since the early 1970s.

The closest school, De Anza College, a community college, is located approximately 140 feet to the south, directly across from the project site. The nearest daycares are Cupertino Child Care located 0.30 miles to the northeast; Village Little Preschool Center located 0.35 miles to the east; and Buzy Tots Childcare and Preschool located approximately 0.25 miles to the southeast. There are no other existing or proposed schools or daycares within 0.25 miles of the project site.

As shown in the General Plan EIR (see Table 4.7-2, *Hazardous Materials and LUST* [leaking underground storage tanks] and Figure 4.7-1, *Hazardous Material Sites*) the project site is not included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5. Furthermore, the project-specific Phase I ESAs and ESC did not find documentation or physical evidence of soil,

⁶⁴ PIERS Environmental Services, 2015. Phase 1 Environmental Site Assessment, 21255-21275 Stevens Creek Boulevard, Cupertino, CA, dated September 18, 2015. EBI Consulting, 2007, Phase 1 Environmental Site Assessment, The Oaks Shopping Center, Cupertino, California, dated March 14, 2007.

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groundwater, or soil gas impairments associated with the use or past use of the project site.⁶⁵ In addition, a recent search of the Department of Toxic Substances Control EnviroStor Database, which is the data management system for tracking our cleanup, permitting, enforcement and investigation efforts at hazardous waste facilities and sites with known contamination or sites where there may be reasons to investigate further, did not include any hazardous materials sites on the project site.⁶⁶

The nearest public airports are San José International Airport, approximately 7 miles to the northeast, and Palo Alto Airport, approximately 9.5 miles to the northwest. The nearest heliports are McCandless Towers Heliport, approximately 5.5 miles to the northeast, and County Medical Center Heliport, approximately 6 miles to the east. The nearest private airport is Moffett Federal Airfield, approximately 6 miles to the north.

The California Department of Forestry and Fire Protection (CAL FIRE) has designated the project site as a Local Responsibility Area (LRA) and a non-very high fire hazard severity zone (NVHFHSZ). The project site is not near lands designated as a State Responsibility Area (SRA) by CAL FIRE. The nearest SRA is approximately 2 miles to the west of the project site.⁶⁷ The project is not located within the wildland-urban interface, which is an area of transition between wildland (unoccupied land) and land with human development (occupied land).⁶⁸

DISCUSSION

a) *Would the project create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?*

The proposed project, a mixed-use commercial and residential development, is not a type of project that would involve the routine transport or disposing of hazardous materials. Project operation would involve the use of small amounts of hazardous materials for cleaning and maintenance purposes, such as cleansers, degreasers, pesticides, and fertilizers. These potentially hazardous materials would not be of a type or be present in sufficient quantities to pose a significant hazard to public health and safety or the environment. Furthermore, such substances would be used, transported, stored, and disposed of in accordance with applicable federal, State, and local laws, policies, and regulations. Any businesses that transport, generate, use, and/or dispose of hazardous materials in Cupertino are subject to existing hazardous materials regulations, such as those implemented by Santa Clara County Department of Environmental Health Hazardous Materials Compliance Division (HMCD), and hazardous materials permits from the Santa Clara Fire Department (SCCFD). The SCCFD also conducts inspections for fire safety and hazardous materials management of businesses and multi-family dwellings, in accordance with the City of Cupertino Hazardous Materials Storage Ordinance (CMC Chapter 9.12, Hazardous Materials Storage).

⁶⁵ PIERS Environmental Services, 2015. Phase 1 Environmental Site Assessment, 21255-21275 Stevens Creek Boulevard, Cupertino, CA, dated September 18, 2015. EBI Consulting, 2007, Phase 1 Environmental Site Assessment, The Oaks Shopping Center, Cupertino, California, dated March 14, 2007.

⁶⁶ California Department of Toxic Substances Control EnviroStor Database, <https://www.envirostor.dtsc.ca.gov/public/map/?myaddress=21267+Stevens+Creek+Boulevard>, accessed July 2019;

⁶⁷ California Department of Forestry and Fire Protection (CAL FIRE). 2008. Cupertino, Very High Fire Hazard Severity Zones in LRA. http://www.fire.ca.gov/fire_prevention/fhsz_maps/FHSZ/santa_clara/Cupertino.pdf

⁶⁸ California Department of Forestry and Fire Protection (CAL FIRE). 2018. Wildland-Urban Interface Fire Threat. <http://www.arcgis.com/home/item.html?id=d45bf08448354073a26675776f2d09cb>, accessed June 11, 2019.

Thus, associated impacts from the operational phase of the project would be *less than significant* and this will not be discussed in the EIR.

While construction activities at the project site would possibly involve the use of hazardous materials, such as petroleum-based fuels for maintenance and use of construction equipment, and coatings used in construction, these materials would be transported to the site periodically by vehicles and would be present temporarily during construction. These potentially hazardous materials would not be of a type, or occur in sufficient quantities on-site, to pose a significant hazard to public health and safety or the environment, and their use during construction would be short-term. Additionally, as with proposed project operation, the use, transport, and disposal of construction-related hazardous materials would be required to conform to existing laws and regulations.

Based on the analytical results from the Limited ESC, none of the soils at the project site that are proposed to be excavated for off-site disposal contains elevated concentrations exceeding State of California or Federal hazardous waste levels. Therefore, soils removed from the site during excavation activities will most likely be disposed of as unrestricted waste and no soil management plan or a health and safety plan excavated soils would be required at this time. However, if contaminated or hazardous materials are encountered during the excavation activities occurring during the construction phase, a soil management plan and health and safety plan would be required. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

b) *Would the project 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?*

As described under criterion (a) above, operation and construction of the proposed project would involve the storage and use of common cleaning substances, building maintenance products, paints, and solvents, as well as petroleum-based fuels for maintenance and construction equipment, and coatings used in construction. All of the existing buildings on the project site were developed beginning in 1973; thus, the buildings may contain ACM and LBP. The Phase 1 ESA completed in March 14, 2007 recommends the continued implementation of the existing asbestos Operation and Maintenance Plan. An impact could occur if construction and operation of the proposed project creates conditions where hazardous materials could easily contaminate surrounding soil, water, or air. The most likely scenarios would be from the demolition of buildings containing ACM or from rainwater runoff spreading contaminated waste. Stormwater runoff is discussed in Section VIII, Hydrology and Water Quality, of this Initial Study and impacts were found to be less than significant.

The proposed project, a mixed-use development, is not considered the type of project that would create a hazardous materials threat to the users of the site or the surrounding land uses. The Santa Clara County HMCDA is the Certified Unified Program Agency (CUPA) for Santa Clara County including the City of Cupertino and is responsible for enforcing Chapter 6.95 of the California Health and Safety Code. As the CUPA, Santa Clara County HMCDA is required to regulate hazardous materials business plans (HMBP) and chemical inventories, hazardous waste and tiered permitting, underground storage tanks, and risk-management plans. The HMBP is required to contain basic information on the location, type, quantity,

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and health risks of hazardous materials stored, used, or disposed of on development sites. The HMBP also contains an emergency-response plan, which describes the procedures to mitigate hazardous release, procedures, and equipment to minimize potential damage of a hazardous materials release, and provisions for immediate notification of the Governor's Office of Emergency Services (Cal OES) and other emergency-response personnel, such as the SCCFD. Implementation of the emergency response plan facilitates rapid response in the event of an accidental spill or release to reduce potential adverse impacts. Furthermore, Santa Clara County HMCD is required to conduct ongoing routine inspections to ensure compliance with existing laws and regulations; to identify safety hazards that could cause or contribute to an accidental spill or release; and to suggest preventive measures to minimize the risk of a spill or release of hazardous substances. Compliance with these regulations would ensure that the risk of accidents and spills is minimized to the maximum extent practicable during the operation of the proposed project. Consequently, operational impacts would be *less than significant* under this criterion and this issue will not be discussed in the EIR.

All spills or leakage of petroleum products during construction activities are required to be immediately contained, the hazardous material identified, and the material remediated in compliance with applicable State and local regulations. All contaminated waste would be required to be collected and disposed of at an appropriately licensed disposal or treatment facility. Furthermore, strict adherence to all emergency response plan requirements set forth by the Santa Clara County HMCD would be required through the duration of the construction of each individual development project. The Phase I ESAs revealed visible evidence of ACM, and LBP may still be present on the project site due to the age of the project site properties and existing buildings. Removal of these types of hazardous materials would be conducted by contractors licensed to remove and handle these materials and in accordance with existing federal, State, and local regulations, including United States Environmental Protection Agency's National Emission Standards for Hazardous Air Pollutants (Code of Federal Regulation Part 61), Bay Area Air Quality Management District's Regulation 11, Title 8 of the California Codes of Regulations, the Unified Program, and the City's General Plan Health and Safety Element Policy HS-6.1, and would ensure that risks associated with demolition and the transport, storage, use, and disposal of such materials would be reduced to the maximum extent practical. Consequently, associated impacts from demolition phase of the project would be *less than significant* under this criterion and this issue will not be discussed in the EIR.

c) *Would the project emit hazardous emissions or handle hazardous materials, substances or waste within one-quarter mile of an existing or proposed school?*

De Anza College is located directly south of Stevens Creek Boulevard, within 140 feet of the project site. In addition, one pre-school is located within 0.25-miles of the project site. The proposed project would not involve the storage, handling, or disposal of hazardous materials in sufficient quantities to pose a significant risk to the public. As described under criterion (b) the proposed project is not considered the type of project that would create a hazardous materials threat to the users of the site or the surrounding land uses. As the CUPA, Santa Clara County HMCD is required to regulate HMBPs and chemical inventories, hazardous waste and tiered permitting, underground storage tanks, and risk-management plans. Compliance with existing regulations would ensure that the risk of accidents and spills is minimized to the maximum extent practicable. However, due to the close proximity of sensitive receptors at the schools, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

d) *Would the project be located on a site which is included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5 and, as a result, create a significant hazard to the public or the environment?*

As described in the Existing Conditions section above, the project site is not included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5. Therefore, *no impact* would occur under this criterion and this issue will not be discussed in the EIR.

e) *For a project within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project result in a safety hazard for people living or working in the project area?*

The project site is not within an airport land use plan or within 2 miles of a private airstrip or public use airport. Therefore, *no impact* would occur under this criterion and this issue will not be discussed in the EIR.

f) *Would the project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?*

The City of Cupertino Office of Emergency Services is responsible for coordinating agency response to disasters or other large-scale emergencies in the City of Cupertino with assistance from the Santa Clara County Office of Emergency Services and the SCCFD. The Cupertino Emergency Operations Plan (EOP)⁶⁹ establishes policy direction for emergency planning, mitigation, response, and recovery activities within the city. The Cupertino EOP addresses interagency coordination, procedures to maintain communications with County and State emergency response teams, and methods to assess the extent of damage and management of volunteers.

The proposed project would not block roads and would not impede emergency access to surrounding properties or neighborhoods. As described in the project description section above, emergency vehicle access would be provided at one point located on Stevens Creek Boulevard, and three points located on Mary Avenue.

During demolition and construction, vehicles, equipment, and materials would be staged and stored on a portion of the project site. The construction site and staging areas would be clearly marked, and construction fencing would be installed to prevent disturbance and safety hazards. No staging would occur in the public right of way. A combination of on- and off-site parking facilities for construction workers would be identified during demolition, grading, and construction. The proposed project would not interfere with an adopted emergency response plan, or emergency evacuation plan; therefore, impacts would be *less than significant* under this criterion and this issue will not be discussed in the EIR.

⁶⁹ City of Cupertino, Office of Emergency Services. *Emergency Operations Plan*. September 2005.

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g) *Would the project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?*

The project site is fully developed and is surrounded by built-out urban use. The project site is not in a very high fire hazard severity zone within the Local Responsibility Areas of Cupertino and the project site is not within the General Plan designated Wildland-Urban Interface Area.⁷⁰ Therefore, *no impact* would occur under this criterion and this issue will not be discussed in the EIR.

VIII. HYDROLOGY AND WATER QUALITY

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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: <ul style="list-style-type: none"> 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 off-site; 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; or iv) Impede or redirect flood flows? 	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) In a flood hazard, tsunami, or seiche zones, risk the release of pollutants due to project inundation?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

GENERAL PLAN EIR

Chapter 4.8, Hydrology and Water Quality, of the General Plan EIR, addressed the hydrology- and water quality-related impacts as a result of redevelopment of the project site. These impacts were identified as less than significant in the General Plan EIR. The following is a summary of Section, 4.8.1.2, Existing Conditions, of Chapter 4.8.

⁷⁰ City of Cupertino. 2015. General Plan: Community Vision 2015-2040, Health and Safety Chapter, Figure HS-1.

EXISTING CONDITIONS

The project site lies within the Junipero Serra Channel watershed. No creeks are present on the project site. In addition to the natural drainage system, a network of storm drains collects runoff from City streets and carries it to the creeks and San Francisco Bay.

The City of Cupertino Department of Public Works is responsible for the design, construction, and maintenance of City-owned facilities including public streets, sidewalks, curb, gutter, storm drains. The capacity of the storm drain facilities within the City of Cupertino were evaluated and documented in the 2018 Storm Drain Master Plan, which identifies the areas within the system that do not have the capacity to handle runoff during the 10-year storm event, which is the City's design standard. The project site is located in an area where the storm drains are potentially deficient (Stevens Creek Boulevard and Mary Avenue) in conveying a 10-year storm. The lines along Steven Creek Boulevard, at to the south and Mary Avenue to the northeast are currently under capacity and designated as low priority for replacement.⁷¹

The project site lies within the Santa Clara Subbasin of the Santa Clara Valley Groundwater Basin, as does the entire city. In 2012, approximately 40 percent of the water used in Santa Clara County was pumped from groundwater.⁷² The rest of the water used in the county is purchased from the Santa Clara Valley Water District (SCVWD), which receives surface water from the State Water Project and the Central Valley Project. Additional details on water usage and local water purveyors are provided in Section XVI, Utilities and Service Systems, of this Initial Study.

Santa Clara Valley streams do not receive discharges from industrial or municipal wastewater sources.⁷³ Industrial discharges are routed to municipal sanitary sewers and then to regional municipal wastewater treatment plants that discharge treated effluent to the tidal sloughs of San Francisco Bay. The NPDES permit program was established by the federal Clean Water Act to regulate municipal and industrial discharges to surface waters of the United States from their municipal separate storm sewer systems (MS4s). Municipal storm water discharge in the City of Cupertino is subject to the Waste Discharge Requirements of Municipal Regional Permit (MRP; Order Number R2-2015-0049) and NPDES Permit Number CAS612008, which became effective on January 1, 2016.

The San Francisco Bay RWQCB monitors surface water quality through implementation of the Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) and designates beneficial uses for surface water bodies and groundwater within the Santa Clara Valley. The Basin Plan also contains water quality criteria for groundwater. Groundwater quality in the Santa Clara subbasin is generally considered to be good and water quality objectives are met in at least 95 percent of the County water supply wells without the use of treatment methods.⁷⁴

⁷¹ Schaaf & Wheeler Consulting Civil Engineers. 2018. Cupertino Storm Drain Master Plan.

⁷² Santa Clara Valley Water District, 2012, Annual Groundwater Report for Calendar Year 2012.

⁷³ Santa Clara Basin Watershed Initiative, 2003, Volume 1, Watershed Characteristics Report, <http://www.scbwmi.org/> accessed on June 11, 2019.

⁷⁴ Santa Clara Valley Water District, 2012, Santa Clara Valley Water District, 2012. 2012 Groundwater Management Plan.

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The project site is not located in a FEMA-designated 100-year floodplain or Special Flood Hazard Area. The project site is not within a dam inundation zone. The City of Cupertino is more than 8 miles south of San Francisco Bay and is more than 100 feet above mean sea level, which places the city at a distance that is considered too far to be affected by a tsunami.⁷⁵ There are no large bodies of water within the City of Cupertino or near the project site.

DISCUSSION

a) *Would the project violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?*

Because the project would disturb one or more acres during construction, the project applicant would be required to comply with the NPDES Permit and submit Permit Registration Documents to the California State Water Resources Control Board prior to the start of construction. The Permit Registration Documents include a Notice of Intent (NOI) and a site-specific construction SWPPP. The SWPPP describes the incorporation of Best Management Practices (BMPs) to control sedimentation, erosion, and hazardous materials contamination of runoff during construction. New requirements by the State Water Resources Control Board would also require the project applicant to prepare a construction SWPPP that includes post-construction treatment measures aimed at minimizing stormwater runoff. With implementation of these measures, water quality impacts during construction would be *less than significant* and this issue will not be discussed further in the EIR.

In addition, all new development or redevelopment projects that create and/or replace 10,000 square feet or more of impervious surfaces would be required to incorporate source control, site design, and stormwater treatment measures into the project, pursuant to the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) C.3 requirements. The requirements include minimization of impervious surfaces, measures to detain or infiltrate runoff from peak flows to match pre-development conditions, and agreements to ensure that the stormwater treatment and flow control facilities are maintained in perpetuity. The proposed project would implement the following measures:

- Site Design Measures: minimization of impervious surfaces, minimum impact street and parking lot design, self-retaining (bioretention) areas.
- Source Control Measures: drainage to sanitary sewer; beneficial landscaping (minimize irrigation, runoff, pesticides and fertilizers); regular maintenance, including pavement sweeping, catch basin cleaning, and good housekeeping.
- Treatment Systems: bioretention areas through landscaping and silva cells throughout the property totaling 10,320 square feet, which is 52 square feet over the required amount.

Implementation of these measures and compliance with the C.3 requirements of the MRP would ensure that post-development impacts to water quality would be *less than significant* and this issue will not be discussed further in the EIR.

⁷⁵ Association of Bay Area Governments, 2014, Interactive Tsunami Inundation Map, <http://gis.abag.ca.gov/website/Hazards/?hlyr=tsunami>, accessed on June 11, 2019.

Adherence to applicable water quality regulations, preparation of a SWPPP, implementation of best management practices during construction, and compliance with the CMC would ensure that water quality standards are not violated during construction. Implementation of stormwater site design, source control, and stormwater treatment measures and compliance with C.3 provisions of the MRP and the City of Cupertino's stormwater requirements would result in less-than-significant impacts during operation of the project. Consequently, potential impacts associated with water quality during construction and operation would be *less than significant* and this issue will not be discussed further in the EIR.

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

The project would be connected to municipal water supplies and does not propose any groundwater wells on the property. The project site is supplied by San José Water Company, which obtains its water from groundwater production (40 percent), purchases of surface water from the SCVWD (50 percent), and local mountain surface water (10 percent).⁷⁶ The 2015 *Urban Water Management Plan* for the SCVWD, which includes the area for the project site, states that there is sufficient water for SCVWD customers for normal, single-dry, and multiple-dry years until 2025. The SCVWD identifies actions within the water shortage contingency plan that would ensure water demand is met through 2040.⁷⁷ Therefore, the project would not result in a depletion of groundwater supplies or result in a lowering of groundwater levels. Water supply is discussed in Section XVI, Utilities and Service Systems, below. For the reasons stated above, the project would have a *less-than-significant* impact to groundwater recharge and this issue will not be discussed further in the EIR.

The proposed project would be located on a site that is developed and currently has a high percentage of impervious surfaces. Because the proposed project would include a total of 247,222 square feet of impervious surfaces,⁷⁸ the proposed project would be required to include 10,268 square feet of bioretention areas.⁷⁹ The proposed project would include 10,320 square feet of bioretention areas, which is 52 square feet greater than the required amount. The bioretention areas would be incorporated into the landscaped areas throughout the project site and would contribute to groundwater recharge by infiltration. Therefore, the project would have a *less-than-significant* impact on groundwater supplies and groundwater recharge and this issue will not be discussed further in the EIR.

- c) *Would the project 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*

⁷⁶ San José Water Company, For Your Information, Education and Safety, Water Supply, https://www.sjwater.com/for_your_information/education_safety/water_supply, accessed on June 11, 2019.

⁷⁷ Santa Clara Valley Water District, 2015 Urban Water Management Plan, http://www.valleywater.org/uploadedFiles/Services/CleanReliableWater/WaterSupplyPlanning/Urban_Water_Managment_Plan/SCVWD%202015%20UWMP-Report%20Only.pdf, accessed on June 11, 2019.

⁷⁸ The existing site contains 307,444 square feet of impervious surface area, of which 235,102 square feet will be replaced and 12,120 square feet will be added. This will be offset by treating 10,320 square feet.

⁷⁹ Santa Clara Valley Water District Municipal Regional Stormwater NPDES Permit C.3 requires 4 percent of the proposed impervious surface be treated to control the flow of stormwater and stormwater pollutants from new development, http://www.scvurppp-w2k.com/pdfs/1516/c3_handbook_2016/SCVURPPP_C.3_Technical_Guidance_Handbook_2016_Chapters.pdf, accessed on June 11, 2019.

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surfaces, in a manner which would: result in substantial erosion, siltation, or flooding on- or off-site; substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; 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; or impede or redirect flood flows?

The project site is currently developed with a one-story shopping center that is connected to the City's storm drain system. The proposed redevelopment activities would not involve the alteration of any natural drainage channels or any watercourse.

As described in the 2018 Storm Drain Master Plan, the project site is located in an area where the storm drains are deficient in conveying water from a 10-year storm. The lines along Steven Creek Boulevard, to the south and Mary Avenue to the northeast, are currently under capacity and designated as low priority for replacement.⁸⁰ However, the proposed project would not exacerbate this existing condition. The proposed project would provide 20 bio-retention and flow-through planter landscaped areas on the project site. (See Figure 11) These would collect runoff from roof areas, parking lots, sidewalks and streets for treatment and flow control prior to discharge into the on-site storm drain system, which connects to the City's storm drain system on Stevens Creek Boulevard and Mary Avenue. When combined, the on-site water treatment areas would exceed the C.3 of the MRP required treatment areas by 52 square feet (10,268 square feet required compared to 10,320 square feet proposed).

The project applicant would be required, pursuant to the C.3 provisions of the MRP, to implement construction phase BMPs, post-construction design measures that encourage infiltration in pervious areas, and post-construction source control measures to help keep pollutants out of stormwater. In addition, post-construction stormwater treatment measures would be required, because the project would create and/or replace more than 10,000 square feet of impervious surface. These measures would reduce the amount of stormwater runoff from the project.

During construction, project applicants are subject to the NPDES construction permit requirements, including preparation of a SWPPP. The SWPPP includes erosion and sediment control measures to stabilize the site, protect slopes and channels, control the perimeter of the site, minimize the area and duration of exposed soils, and protect receiving waters adjacent to the site. Once constructed, the requirements for new development or redevelopment projects include source control measures and site design measures that address stormwater runoff and would reduce the potential for erosion or siltation. In addition, Provision C.3 of the MRP would require the project to implement stormwater treatment measures to contain site runoff, using specific numeric sizing criteria based on volume and flow rate.

With implementation of these erosion and sediment control measures and regulatory provisions to limit runoff for new development sites, the proposed project would not result in significant increases in erosion and sedimentation or contribute to flooding on-site or off-site. Therefore, the impacts would be *less than significant*, and this criterion will not be discussed further in the EIR.

⁸⁰Schaaf & Wheeler Consulting Civil Engineers. 2018. Cupertino Storm Drain Master Plan.

d) *In flood hazard, tsunami, or seiche zones, would the project risk the release of pollutants due to project inundation?*

The project site is not located in close proximity to San Francisco Bay of the Pacific Ocean, and is not within a mapped tsunami inundation zone.⁸¹ There are no large bodies of water in the vicinity of the project site, therefore there would be no potential for seiches to impact the project site. The project site is also outside of the Stevens Creek Reservoir dam inundation zone.⁸² In addition, the site is in a relatively flat area of the City and is outside of the ABAG mapped zones for earthquake-induced landslides or debris flow source areas.⁸³ Therefore, *no impact* would occur under this criterion and this issue will not be discussed in the EIR.

e) *Would the project conflict or obstruct implementation of a water quality control plan or sustainable groundwater management plan?*

The project site is not within the purview of a sustainable groundwater management plan. The San Francisco Bay RWQCB monitors surface water quality through implementation of the Water Quality Control Plan for the San Francisco Bay Basin, also referred to as the “Basin Plan” and designates beneficial uses for surface water bodies and groundwater within the Santa Clara Valley. The Basin Plan also contains water quality criteria for groundwater.

As required by stormwater management guidelines discussed under criterion (a), best management practices and low impact development measures would be implemented across the project site during both construction and operation of the proposed project. These measures would control and prevent the release of sediment, debris, and other pollutants into the storm drain system. Implementation of best management practices during construction would be in accordance with the provisions of the SWPPP, which would minimize the release of sediment, soil, and other pollutants. Operational best management practices would be required to meet the C.3 provisions of the MRP. These best management practices include the incorporation of site design, source control, and treatment control measures to treat and control runoff before it enters the storm drain system. The proposed treatment measures would include the use of several bioretention areas to treat and detain runoff prior to discharge to the City’s storm drain system. In addition, as discussed in criterion (b), the project would be connected to municipal water supplies and does not propose any groundwater wells on the property. The depth of groundwater is estimated to be 25 to 30 feet below ground surface and the proposed project would not disturb groundwater during construction. With implementation of these best management practices and low impact development measures in accordance with City and MRP requirements, the potential impact on water quality would be *less than significant*. Accordingly, the proposed project would not conflict with or obstruct the implementation of the Basin Plan. This criterion will be not discussed as part of the EIR.

⁸¹ Association of Bay Area Governments, 2019. *Interactive Tsunami Inundation Map*.
<http://gis.abag.ca.gov/website/Hazards/?hlyr=tsunami> accessed on June 11,, 2019.

⁸² Santa Clara County Fire Department. 2012. Joint Stevens Creek Dam Failure Plan.
<https://www.cupertino.org/home/showdocument?id=7424>

⁸³ Association of Bay Area Governments, 2019. Rainfall-Induced Landslides, Debris Flow Source Areas and Earthquake Induced Landslides. Accessed at <http://resilience.abag.ca.gov/landslides/> accessed on June 11,, 2019.

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IX. LAND USE AND PLANNING

Would the proposed project:		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a)	Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

GENERAL PLAN EIR

As discussed in Chapter 4.9, Land Use and Planning, of the General Plan EIR, impacts were determined to be less than significant as a result of redevelopment of the project site. The General Plan EIR analyzed the impacts of this project site with heights ranging from 60 to 75 feet for the retail component and a residential density of up to 35 dwelling units per acre. The following is a summary of Section, 4.9.1.2, Existing Conditions, of Chapter 4.9.

EXISTING CONDITIONS

General Plan

The General Plan land use designation for the site is Commercial/Residential. The General Plan also places the project site within the Heart of the City Special Area, which is within the *Heart of the City Specific Plan* (Specific Plan). The Specific Plan is the primary land use document for development in the Heart of the City Special Area. The project site is in the West Stevens Creek Boulevard subarea of the Specific Plan. Mixed Commercial/Residential with residential located behind primary uses (quasi-public/public facilities) and above the ground level is permitted in the West Stevens Creek Boulevard subarea.

The General Plan also identifies the project site as the Oaks Gateway, which is an important entrance point to the city. General Plan Policy LU-14.5 (Oaks Gateway Node) states that the Oaks Gateway is a retail and shopping node and new residential, if allowed, should be designed on the “mixed-use village” concept.⁸⁴ The General Plan describes the mixed-use urban village as sites that provide parcel assembly, complete site redevelopment, mixed-use village layout with streets, alley, sidewalks, and open spaces, a mix of retail uses, public open spaces, and high-quality, pedestrian-oriented design.⁸⁵

⁸⁴ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 3, Land Use and Community Design Element, page LU-44.

⁸⁵ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 3, Land Use and Community Design Element, page LU-18.

The General Plan’s Housing Element identifies the project site as Priority Housing Element Site A3 (The Oaks Shopping Center), which has a maximum height limit of 45 feet and the maximum density of 30 dwelling units per acre (du/ac).⁸⁶

Zoning

The project site is zoned Planned Development with General Commercial and Residential (P(CG,RES)), which as described in CMC Section 19.80.010,⁸⁷ this zoning district is intended to provide a means of guiding land development or redevelopment of the city that is uniquely suited for planned coordination of land uses. Development in this zoning district provides for a greater flexibility of land use intensity and design because of accessibility, ownership patterns, topographical considerations, and community design objectives.

For projects that comply with General Plan Housing Element Strategy HE-2.3.7 (Density Bonus Ordinance), which is codified in Title 19, Zoning, Chapter 19.56 Density Bonus, changes to development standards or zoning code requirements may be allowed under certain conditions.⁸⁸

DISCUSSION

a) *Would the project physically divide an established community?*

Because the development of the proposed project would occur on a site that is currently developed for commercial use, the proposed project would retain the existing roadway patterns, and would not introduce any new major roadways or other physical features through existing residential neighborhoods or other communities that would create new barriers, the project would not physically divide an established community. Therefore, *no impact* would occur under this criterion and this issue will not be discussed in the EIR.

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

The proposed project would continue the existing development pattern of the city by redeveloping a Housing Element site with a mix of uses compatible with the surrounding neighborhood. The proposed project would include a mixed-use development, with 18 buildings ranging from three to six stories, including 242 residential units, up to 20,000 square feet of retail space, below- and at-grade parking, and associated landscape and hardscape areas. The proposed project would be consistent with the types of development envisioned in the Oaks Gateway and Heart of the City Special Area, and the Specific Plan. The proposed project is within the permitted density for the project site (30 du/ac). The proposed project

⁸⁶ *Heart of the City Specific Plan* and page 15 (height), and City of Cupertino General Plan (Community Vision 2015-2040), Chapter 4, Housing Element, Table HE-5: Summary of Priority Housing Element Sites to Meet the RHNA - Scenario A, page HE-17.

⁸⁷ Cupertino Municipal Code, Title 19, Zoning, Chapter 19.80, Planned Development, Section 19.80.010, Purpose.

⁸⁸ City of Cupertino Municipal Code, Title 19, Zoning, Chapter 19.56 Density Bonus, Sections 19.56.030, Density Bonus, and 19.56.040, Incentives or Concessions, Waives and Reduction of Parking Standards.

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is eligible for a Density Bonus pursuant to CMC Chapter 19.56 and includes a waiver for development standards for height, slope setbacks, and the organization of the senior housing units.

The General Plan EIR evaluated building heights up to 75 feet on the project site and determined that impacts would be less than significant with respect to aesthetics and hazards. The proposed height increase of 79.5 feet is slightly higher than what was evaluated in the General Plan EIR. As described earlier in this Environmental Analysis, no aesthetic-related impacts may be determined for this proposed project pursuant to SB 743. Furthermore, the project is not within an airport land use plan, and no impact associated with hazards due to the additional height would occur. With respect to the waiver for slope setbacks and whether the senior units are all in one building or dispersed on the site, these development standards were not established for the purposes of avoiding or mitigating an environmental effect. Accordingly, no impact would occur as a result of these project features.

Furthermore, the proposed project would be consistent with the types of development envisioned in the General Plan and Specific Plan. Therefore, impacts would be *less than significant*, and this issue will not be discussed further in the EIR.

X. NOISE

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
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 in other applicable local, State, or federal standards?	■	□	□	□
b) Generation of excessive groundborne noise levels?	■	□	□	□
c) For a project within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within 2 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?	□	□	□	■

GENERAL PLAN EIR

Chapter 4.10, Noise, of the General Plan EIR, addressed the noise impacts associated with redevelopment of the project site. Noise impacts were found to be significant and unavoidable in the General Plan EIR. No feasible mitigation measures were identified to reduce project-level and cumulative permanent ambient noise impacts and cumulative noise impacts to a less-than-significant level. Project-specific noise evaluation would be required to assess noise impacts from the proposed redevelopment of the site. The following is a summary of Section, 4.10.1.3, Existing Conditions, of Chapter 4.10.

EXISTING CONDITIONS

Noise is defined as unwanted sound and is known to have several adverse effects on people, including hearing loss, speech and sleep interference, physiological responses, and annoyance. Based on these known adverse effects of noise, the federal government, State of California, and City of Cupertino have established criteria to protect public health and safety and to prevent disruption of certain human activities.

The project site is bounded by Mary Avenue to the north and east, Stevens Creek Boulevard to the south, a SR-85 on-ramp to the west. The project site is surrounded by residential land uses to the north (Glenbrook Apartments), the Cupertino Senior Center and Cupertino Memorial Park to the east, De Anza College to the south, and residential and industrial land use to the west beyond SR-85. The apartments to the north of the project site are the closest sensitive receptors of noise generated by the construction and operation of the proposed project.

The principal noise sources in the project area are traffic noise from I-280. The nearest public airports are San José International Airport, approximately 7 miles to the northeast, and Palo Alto Airport, approximately 9.5 miles to the northwest. The nearest heliports are McCandless Towers Heliport, approximately 5.5 miles to the northeast, and County Medical Center Heliport, approximately 6 miles to the east. The nearest private airport is Moffett Federal Airfield, approximately 5.5 miles to the north.

DISCUSSION

a) *Would the project cause the 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 in other applicable local, State, or federal standards?*

The types of uses associated with the operation of the proposed project are not typically considered to generate excessive noise. However, due to the proximity of the proposed development to the adjacent residences to the north, noise impacts from operation and construction are considered to be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

b) *Would the project generate excessive groundborne noise levels?*

Residential and retail uses, such as those proposed by the project, are not typically associated with the ongoing generation of excessive levels of vibration or groundborne noise from operations. However, due to the proximity of the proposed development to the adjacent residences to the north, vibration impacts may be *potentially significant* until the need and nature of any required mitigation has been identified as part of 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 2 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 proposed project is not located within an airport land use plan or within 2 miles of an airport. The nearest public airports are San José International Airport, approximately 7 miles to the northeast, and Palo

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Alto Airport, approximately 9.5 miles to the northwest. The proposed project is not located within the immediate vicinity of a private airstrip or heliport. The nearest heliports are McCandless Towers Heliport, approximately 5.5 miles to the northeast, and County Medical Center Heliport, approximately 6 miles to the east. The nearest private airport is Moffett Federal Airfield, approximately 5.5 miles to the north. At these relatively long distances from the aircraft facilities, the proposed project would not expose residents to excessive noise levels from private airstrip or heliport noise. Therefore, *no impact* would occur under this criterion and this issue will not be discussed in the EIR.

XI. POPULATION AND HOUSING

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Induce substantial unexpected population growth or growth for which inadequate planning has occurred, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

GENERAL PLAN EIR

As discussed in Chapter 4.11, Population and Housing, of the General Plan EIR, impacts were determined to be less than significant as a result of redevelopment of the project site. The General Plan would introduce approximately 16,855 new jobs and 4,421 households⁸⁹ to Cupertino. These new jobs and households combined with existing conditions would result in 44,242 jobs and 25,820 households at the 2040 buildout horizon. The General Plan EIR included an evaluation of the project site (Housing Element Site 18) with a density of 35 du/ac resulting in 235 net residential units. Impacts at this density were determined to be less than significant.

EXISTING CONDITIONS

The project is anticipated to be completed by 2023. According to ABAG's 2019 Projections, Cupertino would have 64,730 residents and 37,060 jobs by 2025.⁹⁰ There are no existing residential units on site. However, the project site has approximately 71,520 square feet of retail and office uses. Applying the

⁸⁹ Jobs were calculated applying the City's generation rates as follows; 4,040,231 square feet of office allocation divided by 300 square feet equals 13,467 jobs; 1,343,679 square feet of commercial allocation divided by 450 square feet equals 2,986 jobs; and 1,339 hotel rooms at .3 jobs per room equals 402 jobs for a total of 16,855 jobs.

⁹⁰ Association of Bay Area Governments (ABAG), Projections 2019, <https://data.bayareametro.gov/Demography/Projections-2040-by-Jurisdiction/grqz-amra>, accessed on July 11, 2019.

generation rates applied in the General Plan EIR, the existing uses generate 135 employees; therefore, the proposed project would have a net decrease of 65 employees.⁹¹

DISCUSSION

a) *Would the project induce substantial unexpected population growth or growth for which inadequate planning has occurred, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?*

The proposed project would result in a planned level of growth based on the local growth projections in the General Plan. The proposed project would not require any General Plan or Zoning Amendments. Based on an average household size of 2.87 persons,⁹³ it is assumed the proposed project would increase the number of residents on the site by 695.⁹⁴ Applying the generation rate of one job for every 450 square feet of commercial uses, the proposed project would generate 45 employees.⁹⁵ The proposed project would also include a full service staff of 25 employees including leasing agents, security staff, and maintenance personnel that would be present on site to manage the property for a total of 70 employees.

Given the nature and location of the project, a mixed-use development with a senior housing component across from De Anza College, it is likely that many of the residents will come from Cupertino and the surrounding area. Conservatively assuming all 695 new residents and 45 employees would move to Cupertino, the new residents would represent about 1 percent of the General Plan's residential buildout and a net decrease in employees (70 employees compared to 135 employees). However, even if they were new employees, they would only represent about twentieth of a percent of the employee projections by 2025.⁹⁶

This level of growth would be consistent with the regional planning objectives established for the Bay Area, and the proposed growth at the project site was considered in the General Plan and the General Plan EIR. Furthermore, the developable area at the project site and the surrounding the area is already developed and is well served by utility and transportation infrastructure. The proposed project would be infill development within the boundaries of the existing Oaks Shopping Center. While the proposed project may require on-site infrastructure improvements, these improvements would be made to accommodate the proposed new development and would not accommodate additional growth beyond that need. Therefore, associated impacts would be *less than significant* under this criterion and this issue will not be discussed in the EIR.

⁹¹ 85 percent occupancy of approximately 71,250 square feet (about 60,563 square feet) of retail divided by 450 square feet per employee equals 135 employees. 135 existing employees – 70 proposed employees = 65 fewer employees.

⁹³ This analysis is based on the Association of Bay Area Governments (ABAG) 2019 *Projections*, which shows the average household size of 2.87 persons for Cupertino in 2025. This is the standard approach for population and housing analysis in Cupertino.

⁹⁴ 242 new units multiplied by 2.87 persons per unit equals 695 new residents.

⁹⁵ 20,000 square feet of retail divided by 450 square feet per employee equals 45 employees.

⁹⁶ 695 new residents divided by 64,730 projected residents = 1.07 percent.

70 new employees divided by 37,060 projected employees = 0.19 percent

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b) *Would the project displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?*

The proposed project would introduce new housing and retail facilities on the existing Oaks Shopping Center site that could accommodate 695 new residents and 70 employees. No housing units are currently located on the project site and proposed project would introduce new housing. Therefore, the proposed project would not displace existing housing units or necessitate the construction of housing elsewhere. Therefore, *no impact* would occur under this criterion and this issue will not be discussed in the EIR.

XII. PUBLIC SERVICES

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Result in substantial adverse physical impacts associated with the provision of 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:				
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Libraries?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

GENERAL PLAN EIR

As discussed in Chapter 4.12, Public Services and Recreation, of the General Plan EIR, impacts were determined to be less than significant as a result of redevelopment of the project site. The proposed project would construct a 242-unit and up to 20,000-square-foot residential mixed-use project, which is within the development projections for the site that were evaluated in the General Plan EIR and would not directly result in an increase in any additional new population growth beyond what was accounted for in the General Plan EIR.

EXISTING CONDITIONS

The public service providers for the project site are as follows:

- The City of Cupertino contracts with Santa Clara County Fire District (SCCFD) for fire protection, emergency, medical, and hazardous materials services.
- The City of Cupertino contracts with Santa Clara County Sheriff's Office (Sheriff's Office) and West Valley Patrol Division for police protection services.

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- The project site is in the Cupertino Union High School District. Future residents of the project site could attend the following public schools in the project area: William Faria Elementary School, approximately 0.30 miles southeast of the project site; Garden Gate Elementary School, approximately 0.45 miles north of the project site; Abraham Lincoln Elementary School, John F. Kennedy Middle School, and Monte Vista High School, approximately 0.60 miles southwest of the project site; Homestead High School located 0.70 miles to the north; West Valley Elementary School and Cupertino Middle School, approximately 1 mile northwest of the project site; Collins Elementary School and Sam H. Lawson Middle School, approximately 1 mile northeast of the project site.
- The Santa Clara County Library District govern and administers seven community libraries, one branch library, two bookmobiles, the Home Service Library, and the 24-7 online library for all library users. The Cupertino Library located on the 10800 Torre Avenue in Cupertino, approximately 1 mile southeast of the project site, is the closest library and is operated by Santa Clara County Library District.

DISCUSSION

- a) *Would the project result in substantial adverse physical impacts associated with the provision of 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: fire protection, police protection, schools, and libraries?*

The primary purpose of a public services impact analysis is to examine the impacts associated with physical improvements to public service facilities required to maintain acceptable service ratios, response times or other performance objectives. Public service facilities may need improvements (i.e., construction, renovation or expansion) as demand for services increase. Increased demand is typically driven by increases in population. The proposed project would have a significant environmental impact if it would exceed the ability of public service providers to adequately serve residents, thereby requiring construction of new facilities or modification of existing facilities.

As discussed in Section XI, Population and Housing, above, the proposed project would result in a net increase of 695 residents and fewer employees (70 compared to 135) at the project site. Given the proposed project would represent about 1 percent of the expected increase in population foreseen in General Plan and regional planning efforts, and because the proposed project would not increase what was accounted for in the General Plan EIR, which found impacts to be less than significant under full buildout conditions, it would not exceed contribute to the need for new construction or expansion of an existing fire, police, or library facility that would serve the project site. The proposed project includes 242 residential units of which 39 are designated senior units. Therefore, it is assumed the future residents of up to 203 units could generate school-age children that could attend CUSD schools. However, the project would be required to pay the required school impact fees for new residential and office development pursuant to Government Code section 65995. Therefore, the increase in demand for school services would be offset and no impact would occur. The level of development proposed by the project is within the level analyzed for the project site in the General Plan EIR, which found public service impacts to be

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less than significant. Accordingly, a *less-than-significant* impact would result under this criterion and this issue will not be discussed in the EIR.

XIII. PARKS AND RECREATION

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) 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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Result in substantial adverse physical impacts associated with the provision of new or physically altered park and recreational facilities, or result in the need for new or physically altered park and recreational facilities, the construction of which could cause significant environmental impacts?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

GENERAL PLAN EIR

As discussed in Chapter 4.12, Public Services and Recreation, of the General Plan EIR, impacts were determined to be less than significant as a result of intensified development of the project site.

EXISTING CONDITIONS

The City of Cupertino Department of Recreation and Community Services is responsible for the maintenance of the City's parks and community and recreational facilities. The City has an adopted parkland dedication standard of 3 acres of parkland for every 1,000 residents. There is a total of approximately 223 acres of parkland in Cupertino. The City's existing level of service of 3.6 acres of parkland and open space per 1,000 residents.⁹⁷

The City parks near the project site are the Cupertino Memorial Park, located approximately 500 feet to the east and the Mary Avenue Dog Park, located approximately 0.5 miles to the northwest.⁹⁸

Regional park facilities operated by the Midpeninsula Regional Open Space District (MROSD) and the Santa Clara County Parks could be used by residents of the project site. The closest MROSD parks to Cupertino are the Fremont Older, Picchetti Ranch, and Rancho San Antonio County Park/Open Space Preserve, which are located just southwest and west of the city boundaries, respectively. Santa Clara County Park facilities that serve Cupertino include Rancho San Antonio County Park, south of I-280 and west of Foothill Boulevard, and the Stevens Creek County Park.

⁹⁷ Draft Parks and Recreation System Master Plan, January 2019. page 47.

⁹⁸ City of Cupertino, Recreation and Community Services Department, City Park Finder, <http://gis.cupertino.org/parkfinder>, accessed June 12, 2019.

DISCUSSION

- 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 proposed project would offer passive recreation facilities for its residents including outdoor landscaped common areas. In addition to these facilities, new residents of the proposed project would also use existing local and regional parks and recreational facilities, including Cupertino Memorial Park and Mary Avenue Dog Park. As discussed in Section XI, Population and Housing, above, the proposed project would result in up to 695 new residents at the project site. To meet the City's parkland-to-resident ratio of 3 acres of parkland for every 1,000 residents, the proposed project would be required to provide 2.08 acres of parkland.⁹⁹ Although the proposed project would not provide on-site parkland, the proposed project's payment of City-required impact fees would contribute to the City's parks and recreation fund. The proposed project would be required to comply with CMC Chapter 14.05, Park Maintenance Fee, and Chapter 18.24, Dedications and Reservations, which require the payment of impact fees to maintain existing parks and recreation facilities or for acquisition, improvement, expansion or implementation of parks and recreational facilities and offset their fair share of impacts to parklands. Therefore, considering the proposed project's provision of on-site recreational amenities in conjunction with the collection of impact fees that support the City's parks and recreation fund, the project's impacts on the City's recreational facilities would be *less than significant* and this issue will not be discussed further in the EIR.

New residents of the project site would also be expected to use the regional park facilities operated by the MROSD and the Santa Clara County Parks in the Cupertino area; however, given the vast size of these regional park facilities, the proposed project would not result in their substantial deterioration. Furthermore, according to the MROSD's Budget and Action Plan for Fiscal Year 2017-18, a portion of the MROSD's financing is provided by property taxes, which the proposed project is required to pay. Specifically, this Budget and Action Plan states "The District's primary funding source, property tax revenue, is also increasing this year due to the Bay Area's strong real estate market." As stated in the Budget and Action Plan, the 2017-18 budget charts a fiscally sound course through the next year with enhanced capacity to meet the expectations of the public who fund the MRSOD. The payment of fees combined with the increase in usage that could potentially result from the proposed project is not likely to require the construction of new built facilities over and above that already foreseen in the long-range planning completed for these regional park facilities in the vicinity of the project site. Therefore, due to the potential increase in daily users and through the payment of property taxes that fund the MROSD that is charged with maintaining the nearby regional parks, impacts to regional parks are considered *less-than-significant* and this issue will not be discussed further in the EIR.

- b) *Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered park and recreational facilities, or result in the need for new or physically altered*

⁹⁹ 695 residents x 0.003 (3 acres of parkland per 1,000 residents) = 2.08 acres.

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park and recreational facilities, the construction of which could cause significant environmental impacts?

As discussed in criterion (a) above, because of the proposed project’s on-site open space features and the requirement to pay impact fees that support the City’s parks and recreation fund, the project’s impact on the City’s recreational facilities would be less than significant. The project does not involve the construction of a park or any physical alterations to an existing park or recreational facilities; however, the payment of impact fees would go toward supporting the City’s park fund that could be applied to the construction or expansion of recreational facilities that could have an adverse physical effect on the environment. It is not known at what time or location such facilities would be required or what the exact nature of these facilities would be, so it cannot be determined what specific environmental impacts would occur from their construction and operation. The payment of impact fees is a City requirement to offset the project’s fair share of impacts to parklands. The City would be responsible for any CEQA review required for any future City project related to the expansion of or improvement to a City recreational facility. Accordingly, impacts to park and recreational facilities as a result of the proposed project would be *less than significant* and this criterion will not be discussed in the EIR.

XIV. TRANSPORTATION

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

GENERAL PLAN EIR

The General Plan EIR included an analysis of 235 new units for the site; however, the proposed project would have only 242 new units on the project site. Traffic impacts were found to be significant and unavoidable in the General Plan EIR. Implementation of General Plan EIR Mitigation Measure TRAF-1 requires the City to commit to preparing and implementing a Transportation Mitigation Fee Program (TMFP) to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. On August 15, 2017 a Nexus Study was completed to provide the City with the technical support to adopt the Traffic Impact Fee (TIF) Program. The City Council adopted the TIF Program on October 3, 2017. This program ensures that new development and redevelopment projects pay their fair share to mitigate traffic impacts at prior to Final Map approval.

EXISTING CONDITIONS

The project site is located at 21267 Stevens Creek Boulevard. As shown on Figure 2, the project site is bounded by Mary Avenue to the north and east, Stevens Creek Boulevard to the south, a SR-85 on-ramp to the west. The project site is accessible from Stevens Creek Boulevard and Mary Avenue.

Existing Pedestrian, Bicycle, and Transit Facilities

Pedestrian Facilities

Pedestrian facilities consist of sidewalks, crosswalks, and pedestrian signals. Pedestrian connectivity immediately surrounding the project site is provided by a mostly complete network of sidewalks and crosswalks. Continuous sidewalks exist along both Mary Avenue and Stevens Creek Boulevard. The Stevens Creek Boulevard/Mary Avenue intersection provides marked crossings for pedestrians and bikes on the intersection's north, east, and south legs. Additionally, a marked crosswalk with a flashing beacon on Mary Avenue provides access to the project site from the Cupertino Memorial Park or Cupertino Senior Center.

Bicycle Facilities

Existing Class I bike facilities along Stevens Creek Boulevard and Mary Avenue provide bicycle access to the proposed project site. Along Stevens Creek Boulevard, green bike lanes are installed at the current project driveway. Class II bicycle lanes are lanes for bicyclists generally adjacent to the outer vehicle travel lanes. These lanes have special lane markings, pavement legends, and signage. Bicycle lanes are generally 5 feet wide. Adjacent vehicle parking and vehicle/pedestrian crossflow are permitted.¹⁰⁰

In 2016, the City of Cupertino adopted a *Bicycle Transportation Master Plan* (Bike Plan), which is a citywide plan to encourage bicycling as a safe, practical and healthy alternative to the use of the family car. The Bike Plan discusses the Cupertino's current bicycle network, identifies gaps in the network, and proposes improvement projects to address the identified gaps.¹⁰¹ The 2016 Bicycle Plan includes standards for engineering, encouragement, education, and enforcement intended to improve the bicycle infrastructure in the City to enable people to bike to work and school, to utilize a bicycle to run errands, and to enjoy the health and environmental benefits that bicycling provides cyclists of every age.

The VTA adopted the Santa Clara Countywide Bicycle Plan (CBP) in 2018. The CBP guides the development of major bicycle facilities in the County by identifying Cross County Bicycle Corridors and other bicycle projects of countywide or intercity significance. There are no Cross-County Bicycle Corridors near the project site.

¹⁰⁰ City of Cupertino, 2016 Bicycle Transportation Plan, Figure 1-4: Activity generators and existing bicycle network.

¹⁰¹ City of Cupertino, 2016 Bicycle Transportation Plan, Figure 3-7: Bikeway projects.

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Transit Facilities

Public transit service in Cupertino is provided by Valley Transportation Authority (VTA)-operated bus service, and Caltrain-operated commuter heavy rail service. The project site is within one-half mile of a “major transit stop” as defined by CEQA Guidelines Section 15191¹⁰² and the Santa Clara Valley Transportation Authority (VTA).¹⁰³ The De Anza Transit Center located approximately 500 feet (0.1 miles) from the southeast corner of the project site and approximately 1,700 feet (0.31 miles) from the northwest corner of the project site, with six regular bus lines (23, 5, 53, 54, 55, and 81) and one rapid bus line (323), qualifies as a major transit stop. The nearest Caltrain station to the project site is the Sunnyvale station, which is located approximately 4 miles to north of the project site.

Airports

The nearest public airports are San José International Airport, approximately 7 miles to the northeast, and Palo Alto Airport, approximately 9.5 miles to the northwest. The nearest heliports are McCandless Towers Heliport, approximately 5.5 miles to the northeast, and County Medical Center Heliport, approximately 6 miles to the east. The nearest private airport is Moffett Federal Airfield, approximately 5.5 miles to the north.

Existing Trip Generation

A Transportation Analysis dated November 27, 2018 was prepared for the proposed project by Kimley Horn.¹⁰⁴ The existing shopping center was 85 percent occupied over the last 2 years. At 85 percent occupancy, the existing shopping center generates approximately 2,287 daily trips. The existing uses generate 57 AM peak hour (7:00 to 10:00 a.m.) trips made up of 36 inbound / 21 outbound trips and 230 PM peak hour (4:00 to 7:00 p.m.) trips made up of 110 inbound / 120 outbound trips.

DISCUSSION

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

The traffic impact analysis (TIA) methodology is based on the guidelines of the City of Cupertino and Santa Clara Valley Transportation Authority (VTA), the congestion management agency for Santa Clara County. The VTA Congestion Management Program (CMP) TIA Guidelines (last updated in October 2014) present guidelines for assessing the transportation impacts of development projects and identifying whether improvements are needed to adjacent roadways, bike facilities, sidewalks, and transit services affected by the proposed project. The TIA guidelines have been adopted by local agencies within Santa Clara County, and are applied to analyze the regional transportation system. Pursuant to the TIA Guidelines, a TIA must be completed for Congestion Management Plan purposes for projects that meet or exceed the trip

¹⁰² “CEQA Guidelines defines a major transit stop” means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a frequency of service interval of 15 minutes or less during the morning and afternoon peak commute periods.

¹⁰³ The Santa Clara Valley Transportation Authority (VTA) defines a “major bus stop” as a stop where six or more buses per hour stop during the peak period and is also referred to as a “high-quality transit” area.

¹⁰⁴ Kimley Horn, 2018. Transportation Analysis, Westport Cupertino, November 27.

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threshold of generating 100 or more net new weekday AM and PM peak commute times (i.e., AM [7:00 to 10:00 a.m.] and PM [4:00 to 7:00 p.m.]) or weekend peak hour trips, including both inbound and outbound trips. The proposed project is anticipated to generate approximately 2,174 gross daily trips; 108 gross AM peak hour trips (35 inbound / 73 outbound), and 186 gross PM peak hour trips (104 inbound / 82 outbound).

The proposed project includes an internal sidewalk and bicycle network, in addition to sidewalk modifications along Stevens Creek and Mary Avenue. The sidewalk modifications would include detaching the sidewalk along Stevens Creek Boulevard and required modifications along Mary Avenue to facilitate on and offsite improvements. The project site would continue to be accessible to pedestrians from Mary Avenue and Stevens Creek Boulevard, and on-site network would provide pedestrian and bicycle circulation within the project site. Additionally, the proposed project would include a Class IV separated bikeway on Stevens Creek Boulevard between Mary Avenue and SR-85. While future residents may use public transit, it would not place a sufficient demand on these existing services that new routes or changes to existing routes would be required.

Accordingly, the project could result in a *potentially significant* impact and this topic will be discussed further in the EIR.

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

The proposed project could result in changes to vehicles miles traveled. Therefore, the impacts under this criterion are *potentially significant* and will be discussed further in the EIR.

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

The proposed project would include one access point from Stevens Creek Boulevard and three additional access points off of Mary Avenue. The access for emergency vehicles would be provided at all four access points. Emergency access is discussed below in criterion (e). The proposed project would not modify any design features to a public road or introduce a potentially unsafe feature that would increase hazards. A *less-than-significant* impact would occur, and this topic will not be discussed further in the EIR.

d) Would the project result in inadequate emergency access?

Emergency response vehicles would access the project site from the access point off Stevens Creek Boulevard and three additional access points off of Mary Avenue. The circulation pattern on the project site would allow emergency vehicles full access to all internal streets. The SCCFD and City of Cupertino Building Division coordinate the review of building permits. All access driveways would be designed in accordance with City of Cupertino standards and would have to be reviewed and approved by SCCFD prior to construction. The proposed project plans would include approved fire and emergency access during all phases of construction and operation as required by the provisions of the City's Fire Code,¹⁰⁵ which regulates emergency access. Therefore, the proposed project would not result in inadequate emergency access and a *less-than-significant* impact would occur. This topic will not be discussed further in the EIR.

¹⁰⁵ Cupertino Municipal Code, Title 16, Buildings and Construction, Chapter 16.40, Fire Code.

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XV. TRIBAL CULTURAL RESOURCES

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
<p>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:</p> <p>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</p> <p>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 Resource Code section 5024.1. In applying the criteria set forth in subdivision (c) of the Public Resource Code section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance to a California Native American tribe.</p>	■	□	□	□

GENERAL PLAN EIR

As described above in Section III, Cultural Resources, the General Plan EIR addressed impacts to cultural resources associated with redevelopment of the project site and impacts, which were found to be less than significant. The cultural resources study prepared for the General Plan EIR consists of archival research at the Northwest Information Center at Sonoma State University, examination of the library and files, field inspection, and contact with the Native American community. The cultural resources study addressed impacts associated with archeological resources, including those of Native Americans. As shown in Table 4.4-2, *Cultural Resources in the Project Study Area and Vicinity*, and on Figure 4.4-1, *Cultural Resources*, of the General Plan EIR, there were no identified cultural resources including those affiliated with Native Americans are present on the project site.

EXISTING CONDITIONS

Assembly Bill (AB) 52, which took effect on July 1, 2015, amended CEQA to add standards of significance that relate to Native American consultation and certain types of cultural resources. Projects subject to AB 52 are those that file a notice of preparation for an EIR or notice of intent to adopt a negative or mitigated negative declaration on or after July 1, 2015. In 2016, the Governor’s Office of Planning and Research (OPR) adopted guidelines and the NAHC informed tribes which agencies are in their traditional area.

AB 52 requires the CEQA lead agency to begin consultation with a California Native American Tribe that is traditionally and culturally affiliated with the geographic area of the proposed project if the Tribe

requests, in writing, to be informed by the lead agency through formal notification of the proposed projects in the area. The consultation is required before the determination of whether a negative declaration, mitigated negative declaration, or EIR is required. In addition, AB 52 includes time limits for certain responses regarding consultation. AB 52 also adds “tribal cultural resources” (TCR) to the specific cultural resources protected under CEQA.¹⁰⁶ CEQA section 21084.3 has been added, which states that “public agencies shall, when feasible, avoid damaging effects to any tribal cultural resources.” Information shared by tribes as a result of AB 52 consultation shall be documented in a confidential file, as necessary, and made part of a lead agencies administrative record. The City of Cupertino has not received any request from any Tribes in the geographic area with which it is traditionally and culturally affiliated with or otherwise to be notified about projects in the city.

A TCR is defined under AB 52 as a site, feature, place, cultural landscape that is geographically defined in terms of size and scope, sacred place, and object with cultural value to a California Native American tribe that are either included or eligible for inclusion in the California Register of Historical Resources or included a local register of historical resources, or if the City, acting as the lead agency, supported by substantial evidence, chooses at its discretion to treat the resource as a TCR.

DISCUSSION

- a) *Would the proposed project 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 Resource Code section 5024.1. In applying the criteria set forth in subdivision (c) of the Public Resource Code section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance to a California Native American tribe?*

Although AB 52 was not in effect at the time the General Plan EIR was certified and the definition of a TCR was not established, the General Plan EIR evaluated impacts to Native American resources. Therefore, the discussion in Section III, Cultural Resources, is applicable to impacts to TCRs. As discussed under criteria (b) and (d) in section IV, no known archeological resources, ethnographic sites or Native American remains are located on the project site; however, the potential to unearth unknown remains during ground disturbing activities associated with the construction of the project could occur. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

¹⁰⁶ California Environmental Quality Act Statute, Section 21074.

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XVI. UTILITIES AND SERVICE SYSTEMS

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Require or result in the construction of new water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunication facilities, the construction or relocation of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b) Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

GENERAL PLAN EIR

Chapter 4.14, Utilities and Services Systems, of the General Plan EIR, included an analysis of impacts related to water supply, wastewater, solid waste, and energy conservation. Impacts were found to be less than significant and less than significant with mitigation. The City is required to implement General Plan Mitigation Measures UTIL-6a through UTIL-6c, and UTIL-8 to ensure impacts related to wastewater and solid waste are less than significant. General Plan Mitigation Measures UTIL-6a through UTIL-6c require the City to work with the Cupertino Sanitary District (CSD) to increase the available citywide treatment and transmission capacity, identify appropriate and current wastewater generation rates that are approved by CSD, and establish a monitoring and tracking system for wastewater generation to better understand the City's need for potential capacity upgrades from CSD. General Plan Mitigation Measure UTIL-8 requires the City to continue current recycling and zero-waste practices, monitor solid waste generation and seek new landfill sites to replace the Altamont and Newby Island landfills, at such time that these landfills are closed. These mitigation measures, which were previously adopted by the City and incorporated into the General Plan, will be implemented by the City.

EXISTING CONDITIONS

The following utility and service providers would serve the proposed project:

- The Cupertino Sanitary District (CSD) provides sanitary sewer services for the project site. Wastewater would be treated at the San José/Santa Clara Water Pollution Control Plant (SJ/SCWPCP).

- The Santa Clara Valley Water District (SCVWD) is the primary water resources agency for Santa Clara County. The project site is located within the Cupertino Water service area, and Cupertino Water would supply water for the project. Water supply for Cupertino Water is a combination of groundwater from wells in the San José Water District and treated water purchased from SCVWD.
- Natural gas and electricity infrastructure would be supplied to the project site by PG&E. Electricity would be supplied by Silicon Valley Clean Energy.
- Telephone service would be provided by AT&T and other providers. Cable television service would be available from a number of providers, including Comcast.

Wastewater

The CSD maintains approximately 194.5 miles of sewer mains including the infrastructure in the vicinity of the project site.¹⁰⁷ The collected wastewater from the CSD service area is conveyed to the San José/Santa Clara Water Pollution Control Plant (SJ/SCWPCP) through mains and interceptor lines shared with both the cities of San José and Santa Clara. The CSD is one of five tributary agencies that have a contractual treatment allocation agreement with the SJ/SCWPCP. The CSD has a contractual treatment allocation with the SJ/SCWPCP of 7.85 million gallon per day (mgd), on average. CSD wastewater flow to the SJ/SCWPCP was 5.3 mgd at the time of the General Plan EIR.¹⁰⁸ The CSD wastewater system also flows through a portion of the City of Santa Clara’s sewer system. The contractual agreement between CSD and the City of Santa Clara is 13.8 mgd during peak wet weather flows. The existing CSD peak wet weather flow into the Santa Clara system is modeled at 13.29 mgd.¹⁰⁹

Water Supply

The San José Water Company (SJWC) provides groundwater, imported treated water, and local surface water for an area of approximately 139 square miles including San José, Cupertino, Campbell, Monte Sereno, Saratoga, Los Gatos, and unincorporated areas within Santa Clara County. Most of SJWC’s customers are residential or commercial.¹¹⁰ The SJWC also provides water to industrial, municipal, private fire services, and public fire protection services. The SJWC sources water from the Santa Clara Valley Water District (SCVWD), the Santa Clara Subbasin, and the Los Gatos Creek and local watersheds from the Santa Cruz Mountains.¹¹¹ According to the SJWC 2015 Urban Water Management Plan, the 2015 water use target was estimated at 140 gallons per capita per day (gpcd) and the actual water use was 96 gpcd. The projected water use target for 2020 is 127 gpcd; the SJWC is on track to meet this demand.¹¹² In

¹⁰⁷ Cupertino Sanitary District, 2016, Sewer Management Plan, page 23.

¹⁰⁸ City of Cupertino, General Plan (Community Vision 2015–2040, Appendix B: Housing Element Technical Report, 4.3 Environmental, Infrastructure & Public Service Constraints, page B-93.

¹⁰⁹ Mark Thomas. Cupertino Sanitary District Flow Modeling Analysis Homestead Flume Outfall to City of Santa Clara. February 20, 2019.

¹¹⁰ San José Water Company, 2016 Urban Water Management Plan, Chapter 3, System Description, page 3-1.

¹¹¹ San José Water Company, 2016 Urban Water Management Plan, Chapter 6, System Supplies, pages 6-1 and 6-2.

¹¹² San José Water Company, 2016 Urban Water Management Plan, Chapter 5, Baselines and Targets, page 5-2.

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2015, the SJWC's actual water supply was 35,369-acre feet (af)¹¹³ and the projected water supply for 2020 is 47,444 af.¹¹⁴

Solid Waste

Recology provides curbside recycling, garbage, and compost and yard waste service to the residents of Cupertino.¹¹⁵ All non-hazardous waste is collected under the Recology contract is hauled to the Newby Island Landfill for processing. The City of Cupertino has a contract with the Newby Island Resources Recovery Park and Sanitary Landfill until 2023.¹¹⁶ The Newby Island Resources Recovery Park and Sanitary Landfill is permitted to receive 4,000 tons of waste per day. CalRecycle lists the expected closure date of the landfill to be January 1, 2041. The landfill has a total capacity of 57.5 million cubic yards and a remaining capacity of 21.2 million cubic yards.¹¹⁷ In addition to the Newby Island Landfill, solid waste generated in Cupertino can also be disposed of at the Altamont Landfill and Resource Recovery facility, the Corinda Los Trancos Landfill, Forward Landfill Inc., Guadalupe Sanitary Landfill, Kirby Canyon Recycling and Disposal Facility, the Monterey Peninsula Landfill, Recology Hay Road, the Vasco Road Sanitary Landfill, the Zanker Material Processing Facility, and the Zanker Road Class III Landfill.

Energy

The PG&E was incorporated in California in 1905 and provides natural gas and electric to approximately 15 million people throughout a 70,000-square-mile service area in northern and central California. The project site is currently served by existing PG&E distribution systems that would provide natural gas and electricity. PG&E produces or buys its energy from a mix of conventional systems to reach their customers.

DISCUSSION

- a) *Would the project require or result in the relocation or construction of new or expanded water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunications facilities, the construction of which could cause significant environmental effects?*

Wastewater Treatment Facilities

The CSD sewer collection system directs wastewater to the SJ/SCWPCP, which is jointly owned by the cities of San José and Santa Clara. Municipal storm water discharges in the City of Cupertino are subject to the Waste Discharge Requirements of the new Municipal Regional Permit (MRP; Order Number R2-2015-0049) and NPDES Permit Number CAS612008, which became effective on January 1, 2016. The MRP currently allows dry weather discharges of up to 167 million gallons per day (mgd) with full tertiary treatment, and wet weather discharges of up to 271 mgd with full tertiary treatment. As discussed below

¹¹³ There are 325,851 gallons in 1 acre-foot.

¹¹⁴ San José Water Company, 2016 Urban Water Management Plan, Chapter 6, System Supplies, pages 6-10.

¹¹⁵ City of Cupertino, Environmental Services, Garbage and Recycling, <http://www.recyclestuff.org/Guides/CityGuideCupertino.pdf>, accessed on June 11,, 2019.

¹¹⁶ City of Cupertino, Garbage and Recycling Services Fact Sheet, <http://www.recyclestuff.org/Guides/CityGuideCupertino.pdf>, accessed on June 11,, 2019.

¹¹⁷ California Integrated Waste Management Board, <http://www.calrecycle.ca.gov/SWFacilities/Directory/43-AN-0003/Detail/>, accessed on June 11,, 2019.

in criterion (c), future demands from the proposed project would not exceed the design or permitted capacity of the SJ/SCWPCP that serves the project site. Future water treatment demand was assessed in consultation with the City of Cupertino and includes consideration of development in the city through the 2040 buildout horizon of the General Plan. Therefore, development of the proposed project would not require any improvements not already considered and the impact of the proposed project on SJ/SCWPCP would be *less than significant*. Accordingly, this issue will not be discussed further in the EIR.

Storm Drainage

As previously discussed in Section VIII, Hydrology and Water Quality, the proposed project would not exceed the capacity of stormwater drainage system that serves the project site. All new development that, like the proposed project, creates or replaces 10,000 square feet or more of impervious surface would be subject to Provision C.3 guidelines for stormwater control. Through C.3 compliance, the proposed project would involve actions to minimize runoff from the project site as described in Section VIII, Hydrology and Water Quality, above. Additionally, the project would comply with CMC Chapter 9.18 described above in Section 3.1.4.2, Zoning, which is intended to provide regulations and give legal effect to certain requirements of the NPDES permit issued to the City.

As described in the 2018 Storm Drain Master Plan, the project site is located in an area where the storm drains are deficient in conveying the water from a 10-year storm. The lines on Mary Avenue and Stevens Creek Boulevard are currently under capacity and designated as low priority for replacement.¹¹⁸ However, the proposed project would not exacerbate this existing condition. The proposed project would provide 20 bioretention and flow through planter water treatment areas and drainage management areas throughout the project site. These would collect runoff from roof areas, parking lots, sidewalks and streets for treatment and flow control prior to discharge into the internal storm drain system, which connects to the City's storm drain system on Mary Avenue and Stevens Creek Boulevard. When combined, the on-site water treatment areas would exceed the required treatment areas by 52 square feet (10,268 square feet require compared to 10,320 square feet proposed). Consequently, the proposed project would not require the expansion of existing stormwater facilities or the construction of new facilities, the construction of which could otherwise have significant impacts. Therefore, impacts would be *less than significant*, and this issue will not be discussed in the EIR.

Other Utility Facilities

Other utility facilities that serve the project site include electric power, natural gas, and telecommunications facilities. PG&E would supply natural gas and electricity infrastructure to the project site. Silicon Valley Clean Energy would provide electricity to the project site. AT&T and other providers would provide telephone service. Cable television service would be available from a number of providers, including Comcast. The proposed project is an infill development project that would result in an increase in land use intensity in a portion of the city that has access to existing infrastructure and services, which was accounted for in the General Plan EIR. The project would include appropriate on-site infrastructure to connect to the existing PG&E and telecommunication systems and would not require new off-site facilities

¹¹⁸ Schaaf & Wheeler Consulting Civil Engineers. 2018. Cupertino Storm Drain Master Plan.

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and distribution infrastructure or capacity enhancing alterations to any existing facilities. Accordingly, impacts would be *less than significant*, and this issue will not be discussed further in the EIR.

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

As shown in the General Plan EIR in Chapter 4.14, the water supply at project buildout year 2020 would be 13,078 acre feet per year (afy) and at General Plan buildout year 2040 would be 16,984 afy.¹¹⁹ As discussed in the General Plan EIR, buildout of the General Plan would not result in insufficient water supplies from SJWC under normal year conditions or during single-dry year and multiple-dry years, with the proposed and existing water conservation regulations and measures in place. The water supply evaluation prepared for the General Plan EIR included new development in the city at a similar number of residential units proposed under the project (235 units compared to 242 units); therefore, water supply impacts were adequately addressed in the General Plan EIR. As discussed in Section IX, Land Use and Planning, the proposed project is consistent with the General Plan and the Zoning for the project site. A water supply evaluation dated May 15, 2018 was prepared for the project by Tully & Young and found that the forecast water supplies (37 afy) for the proposed project are expected to be fully met by the potable water supplies provided by the SJWC. Therefore, the proposed project will have a *less-than-significant* water supply impact, and this issue will not be discussed further in the EIR.

- c) *Would the project 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?*

Construction and operation of the proposed project could exceed the 13.8 mgd contractual limit through the City of Santa Clara. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

- d) *Would the project 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?*

As discussed in the existing conditions, above, the City contracts with Recology to provide solid waste collection services to residents and businesses in the city. The City has a contract with Newby Island Sanitary Landfill until 2023. In addition to the Newby Island Landfill, solid waste generated in Cupertino can also be disposed of at the Altamont Landfill and Resource Recovery facility, the Corinda Los Trancos Landfill, Forward Landfill Inc., Guadalupe Sanitary Landfill, Kirby Canyon Recycling and Disposal Facility, the Monterey Peninsula Landfill, Recology Hay Road, the Vasco Road Sanitary Landfill, the Zanker Material Processing Facility, and the Zanker Road Class III Landfill.

The proposed waste management for the proposed project would include the management of waste, recycling, and composting. Solid waste generated by construction of the proposed project would largely consist of demolition waste from the existing buildings as well as construction debris. The project would be required to comply with CMC Chapter 16.72, Recycling and Diversion of Construction and Demolition

¹¹⁹ One *acre-foot* equals about 326,000 gallons, or enough water to cover an *acre* of land, about the size of a football field, one *foot* deep.

Waste, and the City's Zero Waste Policy, which requires the recycling or diversion at least 65 percent of all generated construction and demolition (C&D) waste by salvage or by transfer to an approved facility. Prior to the permit issuance, the applicant is required to submit a properly completed Waste Management Plan, which includes the estimated maximum amount of C&D waste that can feasibly be diverted, which facility would handle the waste, and the total amount of C&D waste that would be landfilled. Compliance with CMC Chapter 16.72 and the City's Zero Waste Policy would reduce solid waste and construction-related impacts on the landfill capacity.

Based on the population and employment generation discussed in the project description section above, it is assumed the proposed project would introduce 695 new residents at buildout. The project would also include 70 new employees, which is 65 fewer than the number of employees currently on site. In 2017, Cupertino's actual disposal rate for residents was 3.6 pounds per person per day (PPD) with the target rate of 4.3 PPD. For employees, the disposal rate was 4.1 PPD with the target rate of 8.1 PPD. The City's disposal rates for both residents and employees have been below target rates and steadily decreasing since 2007, with the exception of 2014, when the actual employee rate (9.8 PPD) exceeded the target rate (8.10 PPD). Applying these disposal rates, the project would generate approximately 2,789 PPD or 1.39 tons per day (TPD) of new waste.¹²⁰ The current uses generate 135 employees¹²¹ generates approximately 534 PPD or 0.27 TPD.¹²² Therefore, the net increase in solid waste generation is 2,255 PPD or 1.12 TPD, which is well within the Newby Island Sanitary Landfill permitted daily disposal capacity of 4,000 TPD. Thus, impacts on landfill capacity would be *less than significant* and this topic will not be discussed further in the EIR.

e) *Would the project comply with federal, state, and local statutes and regulations related to solid waste?*

The City's per capita disposal rate for residents and employees in 2017 was 2.9 PPD and 3.3 PPD, respectively, which is below the 4.3 PPD and 8.1 PPD target rate established by CalRecycle.¹²³ As part of the *Countywide Integrated Waste Management Plan* to address waste management conditions within Santa Clara County, Cupertino adopted a Source Reduction and Recycling Element (SRRE)¹²⁴ and Household Hazardous Waste Element (HHWE)¹²⁵ in compliance with the California Integrated Waste Management Act.¹²⁶ The City has gone beyond the SRRE by implementing several programs, including the City's and Recology's organics or food waste collection program, and Environmental Recycling Day events offered to residents three times per year by Recology. Implementation of the referenced strategies, programs and plans, as well as the Cupertino CAP that was adopted in January 2015, will enable the City to meet the 75 percent solid waste diversion rate by the year 2020. In December 2017, the City adopted a

¹²⁰ $(4.1 \text{ PPD} \times 70 \text{ employees} = 287 \text{ PPD}) + (3.6 \text{ PPD} \times 695 \text{ residents} = 2,502 \text{ PPD}) = 2,789 \text{ PPD}$.

¹²¹ 85 percent of 71,250 square feet (about 60,563 square feet) of retail/ by 450 square feet per employee = 135 employees.

¹²² $4.1 \text{ PPD} \times 135 \text{ employees} = 533.5 \text{ PPD}$.

¹²³ CalRecycle. 2017. Disposal Rate Calculator. <https://www2.calrecycle.ca.gov/LGCentral/AnnualReporting/DisposalRateCalculator>, accessed June 12, 2019.

¹²⁴ City of Cupertino, Public Works. 1992. Source Reduction and Recycling Element, September 21, 1992.

¹²⁵ City of Cupertino, Public Works. 1992. Household Hazardous Waste Element, September 21, 1992.

¹²⁶ Cupertino Municipal Code, Title 9, Health and Sanitation, Chapter 9.6, Solid Waste, Non-Organic Recycling and Recycling Areas, Section 9.16.010(a), Purpose.

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Zero Waste Policy.¹²⁷ According to the Zero Waste Policy, the City will require, through the City’s waste hauling franchise agreement, steadfast and ongoing efforts by the City’s franchisee to maintain a minimum residential and commercial waste diversion rate of 75 percent with a goal of reaching and maintaining 80 percent by 2025. These programs will be sufficient to ensure that future development in Cupertino, including the proposed project, would not compromise the ability to meet or perform better than the State mandated target. Additionally, construction and any demolition debris associated with the project would be subject to CMC Chapter 16.72, requiring that a minimum of 65 percent of C&D debris be diverted from landfill.¹²⁸ The City’s Zero Waste Policy also requires that all private construction projects that come through the City’s permitting process, and all City projects (through contract requirements), to recover and divert at least 65 percent of the construction waste generated by the project. Compliance with applicable statutes and regulations would ensure that the impact would be *less than significant*. This criterion will not be discussed further in the EIR.

XVII. WILDFIRE

If located in or near State responsibility areas or lands classified as very high fire hazard severity zones, would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Substantially impair an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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Chapter 4.7, Hazards and Hazardous Materials, of the General Plan EIR, addressed wildfire hazard and impacts are found to be less than significant. Note this section of the Initial Study addresses additional environmental checklist questions regarding wildfire related impacts pursuant to the new CEQA Guidelines that were adopted in December 2018.

¹²⁷ City of Cupertino, Public Works, Garbage & Recycling, <https://www.cupertino.org/our-city/departments/environment-sustainability/waste>, accessed June 11,, 2019.

¹²⁸ Cupertino Municipal Code, Title 16, Buildings and Construction, Chapter 16.72, Recycling and Diversion of Construction and Demolition Waste, Section 16.72.040, Diversion Requirement.

EXISTING CONDITIONS

Wildland fire protection in California is the responsibility of either the State, local government, or the federal government. State Responsibility Areas (SRA) are the areas where the State of California has the primary financial responsibility for the prevention and suppression of wildland fires. The SRA includes a 31 million-acre area, which the CAL FIRE provides a basic level of wildland fire prevention and protection services. Local Responsibility Areas (LRA) include lands within incorporated cities, cultivated agriculture lands, and portions of the desert. LRA fire protection is typically provided by city fire departments, fire protection districts, counties, or by CAL FIRE under contract to local government.¹²⁹ CAL FIRE determines fire hazard zones within the LRA using an extension of the SRA Fire Hazard Severity Zone model as the basis. The LRA hazard rating reflects flame and ember intrusion from adjacent wildlands and from flammable vegetation in the urban area.

The California Department of Forestry and Fire Protection (CAL FIRE) designates fire hazard severity zones (FHSZs) as authorized under California Government Code Sections 51175 et seq. CAL FIRE considers many factors such as fire history, existing and potential fuel (natural vegetation), flame length, blowing embers, terrain, and typical weather for the area. There are three types of FHSZs: moderate, high, and very high.

According to California Office of Emergency Services, a Wildland-Urban Interface (WUI) is defined as any area where structures and other human development meet or intermingle within wildland vegetation.¹³⁰ Developments in the wildland-urban interface exacerbate fire occurrence and fire spread in several ways, including:

- Increased numbers of human-caused wildfires.
- Wildfires become harder to fight.
- Firefighting resources are diverted from containing the wildfire to protecting lives and homes.
- Letting natural fires burn becomes impossible; leading to buildup of fuel, increasing wildfire hazard further.¹³¹

The project site is located within an LRA and the SCCFD currently provides fire protection and emergency medical services to the city and project site. The nearest SRA is approximately 2 miles to the northeast and is designated as High FHSZ. The nearest Very High FHSZ within the Cupertino LRA is located approximately 2.5 miles to the south. The project site is not located within the Cupertino designated WUI.¹³²

¹²⁹ California Department of Forestry and Fire Prevention (CAL FIRE). Frequently Asked Questions. http://www.fire.ca.gov/firepreventionfee/sra_faqs, accessed June 12,, 2019.

¹³⁰ Cal OES. 2018. California State Hazard Mitigation Plan.

¹³¹ Radeloff, Volker; Helmers, David; Kramer, H., et al. 2018. Rapid Growth of the US Wildland-Urban Interface Raises Wildfire Risk. Proceedings of the National Academy of Sciences (PNAS): Volume 115 No. 13. <https://www.pnas.org/content/pnas/115/13/3314.full.pdf>, accessed on June 12, 2019.

¹³² Cupertino Municipal Code, Section 16.74, Wildland Urban Interface Fire Area.

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DISCUSSION

The project site is not located in or near SRAs or lands classified as high fire hazard severity zones; therefore, *no impact* would occur. This issue will not be discussed further in the EIR.

See Section VII, Hazards and Hazardous Materials, for a discussion of the project’s potential to conflict with an adopted emergency response plan or emergency evacuation plan, and expose people and structures to a significant loss, injury or death involving wildfires.

See Section VIII, Hydrology and Water Quality, for additional discussion on the project’s potential to alter the existing drainage pattern.

XVIII. MANDATORY FINDINGS OF SIGNIFICANCE

	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DISCUSSION

a) *Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?*

As described above, the project site is in an urbanized, extensively developed area of Cupertino. The project site is currently almost entirely built out with commercial development and associated surface parking. There are no sensitive natural communities, no areas of sensitive habitat, and no areas of critical habitat occurring at the project site. Additionally, there are no buildings currently listed or eligible for

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listing on the California Register of Historical Resources, no recorded archaeological sites, and no known paleontological resources located on the project site. The project site does, however, have green space and protected trees within and surrounding the on-site buildings, which will be mostly removed as part of the proposed project. The proposed project would be required to comply with the City’s Protected Tree Ordinance (CMC Chapter 14.12), which requirements for the protection, preservation, and maintenance of certain trees as a condition of approval. Therefore, this would be considered a *less-than-significant* impact.

b) *Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?*

CEQA Guidelines Section 15355 defines cumulative impacts as two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts. Cumulative impacts may result from individually minor, but collectively significant projects taking place over a period of time. CEQA Guidelines Section 15130(b) advises that a discussion of cumulative impacts should reflect both the severity of the impacts and the likelihood of their occurrence. To accomplish these two objectives, CEQA Guidelines Section 15130 permits two different methodologies for completion of a cumulative impact analysis and allows for a reasonable combination of the two approaches:

- The ‘list’ approach permits the use of a list of past, present, and probable future projects producing related or cumulative impacts, including projects both within and outside the city; and
- The ‘projections’ approach allows the use of a summary of projections contained in an adopted plan or related planning document, such as a regional transportation plan, or in an EIR prepared for such a plan. The projections may be supplemented with additional information such as regional modeling.

Table 2 shows the other reasonably foreseeable projects in Cupertino and how they relate to the maximum buildout potential evaluated in the General Plan EIR.

TABLE 2 REASONABLY FORESEEABLE DEVELOPMENT PROJECTS IN CUPERTINO

	Hotel	Residential	Commercial	Office
General Plan EIR: Maximum Development Potential	1,339	4,421	1,343,679	4,040,231
<i>Reasonably Foreseeable Projects</i>				
<i>Foothill Apartments^a</i>		15		
<i>Marina Plaza^a</i>	122	188	23,000	
<i>The Hamptons Redevelopment^a</i>		600		
<i>The Forum^a</i>		23		
<i>De Anza Hotel^b</i>	156			

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<i>The Village Hotel^b</i>	<i>185</i>			
<i>Public Storage^{a, d}</i>			<i>209,485</i>	
<i>Loc-N-Stor^{b, d}</i>			<i>96,432</i>	
<i>Canyon Crossings^b</i>	<i>18</i>		<i>4,536</i>	
<i>Vallco^{a, c}</i>	<i>2,402</i>		<i>400,000</i>	<i>1,810,000</i>
<i>Total Foreseeable Development</i>	<i>463</i>	<i>3,219</i>	<i>748,917</i>	<i>1,810,000</i>
General Plan EIR: Remaining Development Potential	876	1,202	594,762	2,230,231

Notes:

a. The project has been approved.

b. The project is under review.

c. The buildout numbers are for the Vallco SB 35 Application (0 hotel rooms, 2,402 units, 1,810,000 square feet commercial, and 400,000 square feet commercial).

d. The storage facility sites currently have existing storage facilities and the square footage shown in this table is the net new.

Source: City of Cupertino, 2019.

The General Plan EIR evaluated the cumulative effects of the General Plan Amendments, Housing Element Update, and Associated Rezoning using the summary of projections approach provided for in CEQA Guidelines Section 15130(b)(1)(B). The General Plan EIR took into account growth from the General Plan within the Cupertino city boundary and Sphere of Influence (SOI), in combination with projected growth in the rest of Santa Clara County and the surrounding region, as forecast by ABAG.

As provided for by CEQA Guidelines Section 15130, the cumulative context considered in the General Plan EIR varies, depending on the nature of the issue being studied, to best assess the geographic extent of each issue. For example, the cumulative impacts on water and air quality can be best analyzed within the boundaries of the affected resources, such as water bodies and air basins. For other cumulative impacts, such as hazard risks, traffic, and the need for new public service facilities, the cumulative impact is best analyzed within the context of the population growth and associated development that are expected to occur in the region or the public service providers' jurisdiction.

The General Plan EIR included an assessment of the redevelopment of the project site with 235 residential projects. As shown in Table 2, the project (242 units and 20,000 square feet of commercial uses) when combined with the other reasonably foreseeable projects in Cupertino would not exceed the maximum buildout potential evaluated in the General Plan EIR. The impact discussions in Section I through Section XVII, above describes the proposed projects relationship to and consistency with the scope of development, land use designations, population projections, and cumulative impacts analyses contained in the General Plan EIR. As shown, the project's cumulative impacts were determined to be less than significant or less than significant with mitigation in the cumulative context.

Since the certification of the General Plan EIR, the City has considered new development at the Vallco project site. While, as shown in Table 2, this development at the Vallco site is consistent with the maximum buildout potential in the General Plan EIR for citywide cumulative discussions (e.g., population and housing, water supply, etc.), the General Plan EIR did not evaluate localized cumulative impacts, such as traffic, traffic related noise, and utilities infrastructure, for the vicinity of the project site. Due to the distance between the proposed Westport Mixed-Use Project and the projects listed in Table 2, no localized cumulative impacts related traffic, noise, or utilities would occur.

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As described in the environmental checklist, air quality, biological resources, cultural resources, geology and soils, GHG emissions, hazards and hazardous materials, noise, transportation, tribal cultural resources, and utilities (wastewater) impacts of the proposed project may be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR. Therefore, the proposed project could contribute to significant cumulative impacts in these topic areas when considered along with other reasonably foreseeable projects in the area. This will be discussed in the EIR.

c) *Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?*

As discussed previously, the proposed project may have a *potentially significant* impact on the environment until the need and nature of any required mitigation has been identified as part of the EIR.

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