

MEMORANDUM

DATE June 29, 2022

TO Erika Poveda, Associate Planner
City of Cupertino, Community Development Department

FROM Terri McCracken & Jacqueline Protsman Rohr

SUBJECT 22690 Stevens Creek Boulevard Project Modified Noise Mitigation Addendum to the Approved Initial Study/Mitigated Negative Declaration

Introduction and Purpose

This document is an Addendum to the Initial Study/Mitigated Negative Declaration (IS/MND) for the 22690 Stevens Creek Boulevard Project, approved on January 13, 2022 (herein referred to as the “Approved Project”). This Addendum serves as the environmental review for a proposed modification to conduct noticing regarding construction noise pursuant to the Cupertino Municipal Code (CMC) Section 17.04.050(G)(1)(a)(i) rather than Mitigation Measure NOISE-1 in the IS/MND. This Addendum has been prepared pursuant to the provisions of the California Environmental Quality Act (CEQA), Public Resources Code Sections 21000 et seq. and the State CEQA Guidelines.

This Addendum documents that none of the conditions described in CEQA Section 21166 or CEQA Guidelines Sections 15162 or 15164 calling for preparation of a subsequent or supplemental EIR have occurred. Pursuant to the provisions of CEQA and the State CEQA Guidelines, the City of Cupertino is the lead agency charged with the responsibility of deciding whether or not to approve the proposed action. This Addendum analyzes the proposed minor changes to the Approved Project.

Standard for Preparation of an Addendum

Pursuant to Section 21166, *Subsequent or Supplement Impact Report; Conditions*, of CEQA and Section 15162, *Subsequent EIRs and Negative Declarations*, of the State CEQA Guidelines, when an Environmental Impact Report (EIR) has been certified for a project, no subsequent EIR or negative declaration shall be prepared for the project unless the lead agency determines that one or more of the following conditions are met:

- Substantial project changes are proposed that will require major revisions of the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- Substantial changes would occur with respect to the circumstances under which the project is undertaken that require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- New information of substantial importance that was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified was adopted shows any of the following:
 - The project will have one or more significant effects not discussed in the previous EIR.

- Significant effects previously examined will be substantially more severe than identified in the previous EIR.
- Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponent declines to adopt the mitigation measures or alternatives.
- Mitigation measures or alternatives that are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponent declines to adopt the mitigation measures or alternatives.

Where none of the conditions specified in Section 15162 are present,¹ the lead agency must determine whether to prepare an Addendum or whether no further CEQA documentation is required (CEQA Guidelines Section 15162[b]). An Addendum is appropriate where some minor technical changes or additions to the previously certified EIR or IS/MND are necessary, but there are no new or substantially more severe significant impacts (CEQA Guidelines Section 15164, *Addendum to an EIR or Negative Declaration*).

In accordance with the CEQA Guidelines, the City has determined that an Addendum to the approved IS/MND is the appropriate environmental document for the Modified Project. This Addendum reviews the changes proposed by the Modified Project and examines whether, as a result of any changes or new information, a subsequent MND may be required. This examination includes an analysis pursuant to the provisions of Section 21166 of CEQA and Section 15162 of the State CEQA Guidelines concerning their applicability to the Modified Project.

Project Description

LOCATION AND SETTING

The project site is located at 22690 Stevens Creek Boulevard on the southwest corner at the intersection of Stevens Creek Boulevard and South Foothill Boulevard. As shown on Figure 3-2, the project site is surrounded by residential and office uses to the north, residential uses and a gas service station with an auto repair shop to the east, residential uses to the south, and residential uses and the Monta Vista Fire Station to the west. South Foothill Boulevard to the east of the project site, Stevens Creek Boulevard to the north of the project site, and Camino Vista Drive to the west of the project site are both two-lane roadways.

The site is in the Other Non-Residential/Mixed-Use Special Area² and a Neighborhood Center.³ The site is at the northeast corner of the Inspiration Heights Neighborhood at the four-corner intersection where the Oak Valley, Creston-Pharlap, the Monta Vista North Neighborhood meet.⁴ The site has a General Plan land use

¹ See also Section 15163 of the State CEQA Guidelines, which applies the requirements of Section 15162 to supplemental EIRs.

² City of Cupertino General Plan (Community Vision 2015-2040), Chapter 2, Planning Areas, page PA-15.

³ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 3, Land Use and Community Design Element, Figure LU-1, Community Form Diagram, page LU-17.

⁴ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 2, Planning Areas, Figure PA-2, Neighborhoods, page PA-18.

designation of Commercial/Residential and a zoning district designation of Planned Development with General Commercial with Residential uses (P(CG, Res)).⁵

The site is currently developed with a single structure: a single-story, approximately 2,400 square-foot commercial building with a convenience store and an associated paved and unpaved (gravel) surface parking adjacent to South Foothill Boulevard.

PROPOSED PROJECT

This section describes the proposed modification to the Approved Project.

The approved the IS/MND for the Approved Project determined that eight topic areas would potentially cause significant impacts that could occur from construction and operation of the proposed project and identified mitigation measures to reduce the impacts to a less-than-significant level. These topic areas included Air Quality, Biological Resources, Cultural Resources, Geology and Soils, Hazards and Hazard Materials, Noise, Tribal Cultural Resources, and Utilities and Service Systems. Impacts from construction noise were found to be less than significant with implementation of Mitigation Measure NOISE-1. This mitigation included a requirement that all off-site businesses and residents within 300 feet of the project site be notified of the planned activities at least 90 days prior to the start of any construction, demolition, or grading activities.

In November 2021, the City adopted CMC Section 17.04.050(G)(1)(a)(i), which requires that at least 10 days prior to the start of any demolition, ground disturbing, or construction activities, a project applicant shall send notices of the planned activity by first class mail to off-site businesses and residents within 500 feet of the project site. In this specific section of the CMC, the 500-foot distance applies to projects on sites that are more than 0.5 acres or contain four or more residential units, and would therefore apply to the 22690 Stevens Creek Boulevard Project (0.68 acres and nine residential units) absent Mitigation Measure NOISE-1. The noticing procedures under both requirements (approved IS/MND and CMC) require the notification to include a brief description of the project, the activities that would occur, the hours when activity would occur, and the construction period's overall duration. The notification is also required to include the telephone numbers of the contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. However, the CMC also requires that the project applicant provide the City with evidence of mailing of the notice, upon request. The complete mitigation measure and CMC text are included in **Attachment A**.

The proposed modification would be to comply with the construction noise noticing requirements in CMC Chapter 17.04 (i.e., 10 days in advance of commencing construction at a distance of 500 feet), instead of the requirements in Mitigation NOISE-1 of the approved IS/MND (i.e., 90 days in advance of commencing construction at a distance of 300 feet).

⁵ City of Cupertino Land Use Map adopted November 15, 2005 and amended August 20, 2019.

Environmental Analysis

As described in the section above, Standard for Preparation of an Addendum, this Addendum has been prepared pursuant to CEQA Guidelines Sections 15162 and 15164 to determine whether implementation of the Modified Project would result in any new impacts or substantially more severe significant environmental impacts than were previously analyzed in the approved IS/MND. Accordingly, this Addendum only considers the extent to which the proposed changes could result in new or substantially more severe significant impacts; it does not reevaluate impacts that would remain consistent with the analysis in the approved MND. The environmental topic areas analyzed in the approved IS/MND include:

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources
- Energy
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Noise
- Population and Housing
- Public Services
- Parks and Recreation
- Transportation
- Utilities and Service Systems
- Wildfire

The Modified Project would not change site-specific designs or proposed development, when compared to the Approved Project. The Modified Project would not require any revisions to the environmental conclusion contained in the approved IS/MND. The proposed change to the noticing requirement does not change the amount of development, alter the active construction timeline, or result in any new information of substantial importance affecting the physical impacts to the environment (e.g., the construction noise generated from the project would be the same). Although the change to the requested noticing requirement would result in the notification occurring closer to the start of construction (10 days compared to 90 days), it would also increase the noticing distance by 200 feet, thus reaching a greater portion of the surrounding community. In addition, the notification would achieve the same objective of informing the nearby community of the pending construction activity. Lastly, the requested change would result in the 22690 Stevens Creek Boulevard Project using the same notification procedures that the City has deemed adequate for all other construction projects in the city, specifically for projects similar to the Modified Project (i.e., more than 0.5 acres and containing four or more residential units).

Table 1, *Comparison of Impacts of the Approved Project and Modified Project*, summarizes the impacts of the proposed modifications to the approved IS/MND compared to Approved Project.

Table 1: Comparison of Impacts of the Approved Project and Modified Project

| Topic | Environmental Impacts of the Modified Project, as Compared to Impacts in the Approved IS/MND: | | |
|---------------------------------|---|----------------------------------|---|
| | Same Impact as Approved IS/MND | Less Impact than Approved IS/MND | New Significant Impact or More Substantial Impact |
| Aesthetics | X | | |
| Air Quality | X | | |
| Biological Resources | X | | |
| Cultural Resources | X | | |
| Energy | X | | |
| Geology and Soils | X | | |
| Greenhouse Gas Emissions | X | | |
| Hazards and Hazardous Materials | X | | |
| Hydrology and Water Quality | X | | |
| Land Use and Planning | X | | |
| Noise | X | | |
| Population and Housing | X | | |
| Public Services | X | | |
| Parks and Recreation | X | | |
| Transportation | X | | |
| Utilities and Service Systems | X | | |
| Wildfire | X | | |

Based on the information provided in this Addendum, and the absence of site-specific design changes in the Modified Project, implementation of the Modified Project would not result in any new impacts or increase the severity of previously identified significant impacts analyzed in the approved IS/MND. The proposed modifications to the Approved Project would not result in a substantial change to the project and, therefore, additional environmental review is not necessary.

Conclusion

As summarized below, and for the reasons described in the section above, *Environmental Analysis*, of this Addendum, the City of Cupertino has concluded that the Modified Project would not result in any new significant impacts not previously identified in the approved IS/MND; nor would it result in a substantial increase in the severity of any significant environmental impact previously identified in the approved IS/MND. For these reasons, a subsequent EIR is not required, and an Addendum to the approved IS/MND is the appropriate CEQA document to address the Modified Project. This section provides an evaluation of the Modified Project in light of the conditions listed in CEQA Guidelines Section 15162.

SUBSTANTIAL CHANGES TO THE PROJECT

The proposed changes under the Modified Project would be to comply with the existing construction noise noticing requirements in CMC Chapter 17.04, *Standard Environmental Protection Requirements*, of 10 days in advance of commencing construction at a distance of 500 feet, instead of Mitigation Measure NOISE-1 in the approved IS/MND of 90 days in advance of commencing construction at a distance of 300 feet. As stated above, this is not a substantial change to the Approved Project analyzed in the approved IS/MND.

Consequently, there are no substantial changes proposed to the Approved Project that will require major revisions of the previous IS/MND due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.

SUBSTANTIAL CHANGES IN CIRCUMSTANCES

As described above in the environmental analysis above, the Modified Project would not result in new significant environmental impacts beyond those identified in the approved IS/MND, would not substantially increase the severity of significant environmental effects identified in the approved IS/MND, and thus would not require major revisions to the approved IS/MND. The Modified Project, therefore, is not substantial and does not require major revisions to the approved IS/MND or a subsequent IS/MND. In addition, the physical conditions within the project area have not changed substantially since the approval of the IS/MND.

NEW INFORMATION

No new information of substantial importance, which was not known and could not have been known when the approved IS/MND was approved, has been identified which shows that the Modified Project would be expected to result in: 1) new significant environmental effects not identified in the approved IS/MND; 2) substantially more severe environmental effects than shown in the approved IS/MND; 3) mitigation measures or alternatives previously determined to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project sponsor declines to adopt the mitigation or alternative; or 4) mitigation measures or alternatives which are considerably different from those identified in the Certified EIR would substantially reduce one or more significant effects of the project but the project sponsor declines to adopt the mitigation measure or alternative.

Attachment A: Mitigation Measure and CMC Text

APPROVED PROJECT: 22690 STEVENS CREEK BOULEVARD PROJECT MITIGATION MEASURE

Mitigation Measure NOISE-1: The following shall be incorporated in all activity phases and construction plans, as required by the Cupertino Municipal Code (CMC). Construction activities shall take place only during daytime hours of 7:00 a.m. and 8:00 p.m. on weekdays and due to the close proximity of the adjacent residential land use to the west, construction may occur on the weekends, holidays or nighttime only if a special exception has been granted by the City. In addition, the construction crew shall adhere to the following best management practices:

- At least 90 days prior to the start of any construction, demolition or grading activities, all off-site businesses and residents within 300 feet of the project site will be notified of the planned activities. The notification will include a brief description of the project, the activities that would occur, the hours when activity would occur, and the construction period's overall duration. The notification should include the telephone numbers of the contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint.
- The project applicant and contractors shall prepare and submit a Construction Noise Control Plan to the City's Building Department and Code Enforcement for review and approval prior to issuance of any grading, demolition, and/or building permits. The Construction Noise Plan shall demonstrate compliance with the 80-dBA limit in the CMC. The details of the Construction Noise Control Plan, including those details listed herein, shall be included as part of the permit application drawing set and as part of the construction drawing set, shall be implemented by the on-site Construction Manager, and shall include, but not be limited to, the following available controls to comply with the 80 dBA performance standard:
 - At least 10 days prior to the start of construction activities, a sign will be posted at the entrance(s) to the job site, clearly visible to the public, which includes permitted construction days and hours, as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, they will investigate, take appropriate corrective action, and report the action to the City.
 - During the entire active construction period, equipment and trucks used for project construction will utilize the best available noise control techniques (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds), wherever feasible.
 - Include noise control requirements for equipment and tools, including concrete saws, to the maximum extent feasible. Such requirements could include, but are not limited to, erecting temporary plywood noise barriers between construction areas and nearby sensitive receptors; performing work in a manner that minimizes noise; and undertaking the noisiest activities during times of least disturbance to nearby sensitive receptors.
 - During the entire active construction period, stationary noise sources will be located as far from sensitive receptors as possible, and they will be muffled and enclosed within temporary sheds, or insulation barriers or other measures will be incorporated to the extent feasible.
 - During the entire active construction period, noisy operations will be conducted simultaneously to the degree feasible in order to reduce the time periods of these operations.

- Select haul routes that avoid the greatest amount of sensitive use areas and submit to the City of Cupertino Public Works Department for approval prior to the start of the construction phase.
- Signs will be posted at the job site entrance(s), within the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment will be turned off if not in use for more than 5 minutes.
- During the entire active construction period and to the extent feasible, the use of noise producing signals, including horns, whistles, alarms, and bells will be for safety warning purposes only. The construction manager will use smart back-up alarms, which automatically adjust the alarm level based on the background noise level or switch off back-up alarms and replace with human spotters in compliance with all safety requirements and laws.

CUPERTINO MUNICIPAL CODE TITLE 17 (ENVIRONMENTAL REGULATIONS)

Chapter 17.04, *Standard Environmental Protection Requirements*, Section 17.04.050, *Standard Environmental Protection Permit Submittal Requirements*, requires that every project shall implement the following standard environmental protection permit submittal requirements prior to the issuance of permits by the City unless they are not applicable to the project as demonstrated by a written explanation of why any standard environmental protection permit submittal requirement is not applicable to the project, subject to the review and approval of the Director of Community Development and/or the City Engineer, or his or her designee, as appropriate.

1. Notice and Signage:

- a. At least 10 days prior to the start of any demolition, ground disturbing, or construction activities, the project applicant shall send notices of the planned activity by first class mail as follows:
 - i. For projects on sites that are more than 0.5 acres or four or more residential units the notices shall be sent to off-site businesses and residents within 500 feet of the project site;
 - ii. For projects on sites between 0.25 to 0.5 acres, or two or three residential units (not including Accessory Dwelling Units) notices shall be sent to off-site businesses and residents within 250 feet of the project site; or
 - iii. For projects on sites less than 0.25 acres or one residential unit, the notices shall be sent to off-site businesses and residents within 100 feet of the project site.

The notification shall include a brief description of the project, the activities that would occur, the hours when activity would occur, and the construction period's overall duration. The notification should include the telephone numbers of the contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. The project applicant shall provide the City with evidence of mailing of the notice, upon request. If pile driving, see additional noticing requirements in subsection 3(b) below.

- b. At least 10 days prior to the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the public, which includes permitted construction days and hours, as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, they shall investigate, take appropriate corrective action, and report the action to the City within three business days of receiving the complaint.