

Leon Townhomes Development CEQA Exemption

City of Cupertino
Prepared for:

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SOURCES

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

1. Introduction

This section describes the standards for determining a significant effect on the environment from construction and operation of the proposed Leon Townhomes Development project (proposed project) pursuant to the requirements of the California Environmental Quality Act (CEQA). Additionally, this section introduces the City of Cupertino Standard Environmental Protection Requirements that apply to all projects in Cupertino.

1.1 CATEGORICAL EXEMPTION

Article 19 (Categorical Exemptions) of the California Environmental Quality Act (CEQA) Guidelines includes, as required by CEQA Section 21084 (List of Exempt Classes of Projects; Projects Damaging Scenic Resources), a list of classes of projects that have been determined not to have a significant effect on the environment and, as a result, are exempt from review under CEQA. This document has been prepared to demonstrate CEQA compliance as it pertains to the redevelopment of the existing four-unit residential development on the project site into the proposed seven-unit development, herein referred to as the proposed project. This document also provides information to decision makers regarding a finding that the proposed project is exempt under CEQA.

This document describes how the proposed project qualifies for a Class 32 CEQA Exemption pursuant to CEQA Guideline Sections 15332 (Infill Development Projects), which requires that:

- (a) The proposed project is consistent with the applicable General Plan designation and all applicable General Plan policies, as well as the applicable Zoning designations and regulations;
- (b) The proposed project would occur within the city limits on a site of less than five acres in size that is substantially surrounded by urban uses;
- (c) The project site has no value for endangered, rare or threatened species;
- (d) The proposed project would not result in any significant effects related to traffic, noise, air quality or water quality; and
- (e) The project site can be adequately served by all required utilities and public services.

In addition, this document demonstrates that none of the exceptions to categorical exemptions apply pursuant to CEQA Guidelines Section 15300.2 (Exceptions), which are based on the following:

- (a) The project is not located within a sensitive environment;
- (b) There would be no cumulative impacts;

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- (c) There would be no significant effects on the environment due to an unusual circumstance;
- (d) There would be no impacts to a scenic highway;
- (e) The project site is not located on a hazardous waste site; and
- (f) There would be no impacts to historical resources.

1.2 STANDARD ENVIRONMENTAL PROTECTION REQUIREMENTS

In addition to the environmental topics identified in Section 1.1, all projects in Cupertino are required to comply with the Cupertino Municipal Code (CMC) Chapter 17.04, *Standard Environmental Protection Requirements*. Pursuant to CMC Section 17.04.030(A), the requirements apply to every project within the city. Pursuant to CMC Section 17.04.030(B)(1), because the residential project has more than four units, compliance shall be demonstrated through submittal and implementation of a construction management plan and/or permit plans, as applicable, prior to issuance of an approval to the satisfaction of the City. Development projects must submit technical reports for air quality, hazardous materials, vehicle-miles traveled (VMT), and construction vibrations. This section also includes nine distinct permit submittal requirements for each topic area, including the following:

1. Air Quality
2. Hazardous Materials
3. Greenhouse Gas Emissions and Energy
4. Biologic Resources
5. Cultural Resources
6. Hydrology and Water Quality
7. Noise and Vibration
8. Paleontological Resources
9. Utilities and Service Systems

2. Project Description

2.1 REGIONAL LOCATION

The project site is in the city of Cupertino, approximately 38 miles southwest of San Francisco. Cupertino is on the western edge of Santa Clara County and west of the city of San Jose, south of the city of Sunnyvale, and north of the city of Los Gatos. Regional access to the project site is provided by Interstate 280 (I-280) via De Anza Boulevard to the north, and by Highway 85 via Stevens Creek Boulevard to the west. See Figure 2-1, *Regional and Vicinity Map*.

2.2 PROJECT SITE

2.2.1 Location

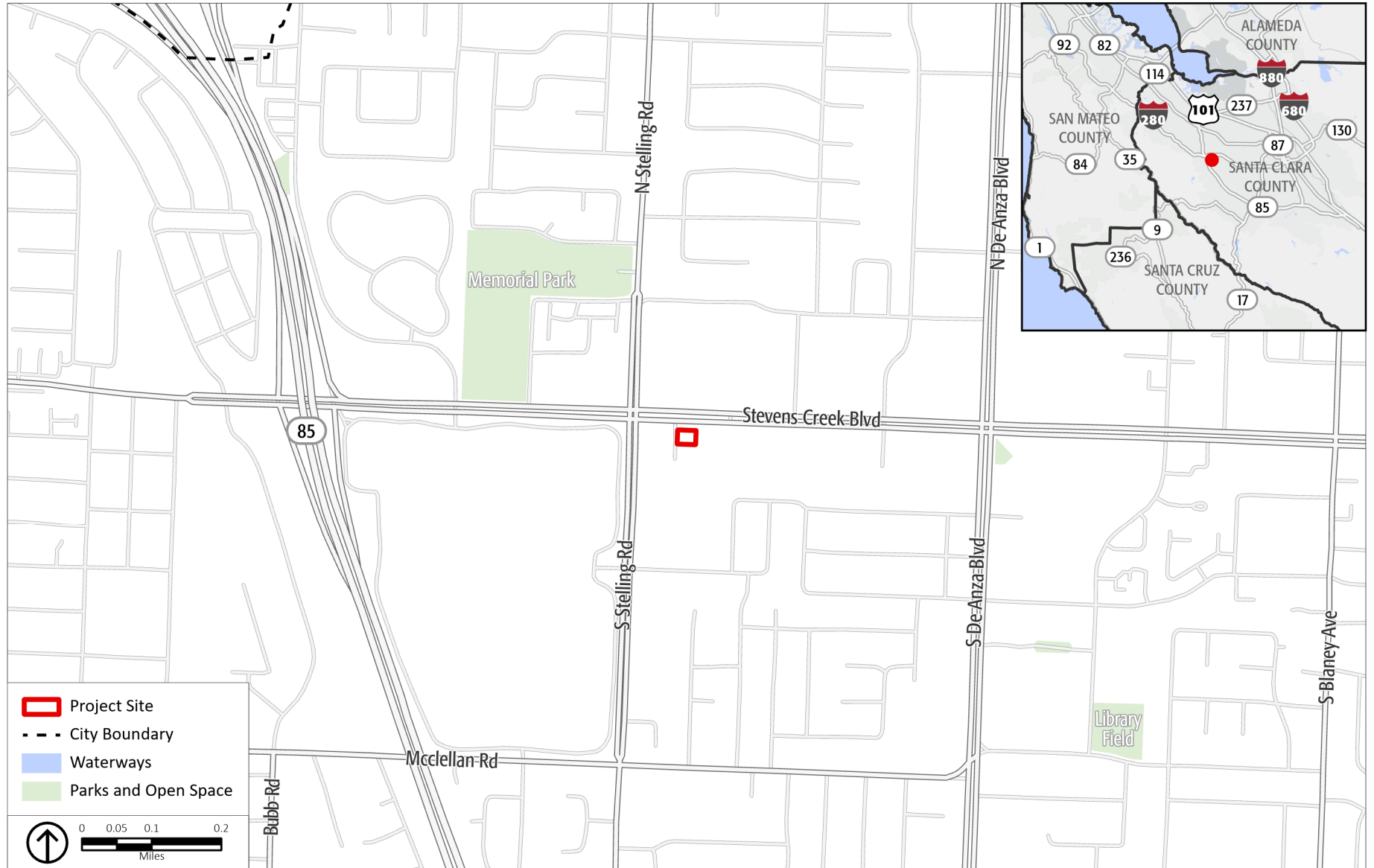
The approximately 0.3-acre project site is at 10046 Bianchi Way¹ in the central region of the city near the intersection of Stevens Creek Boulevard and Bianchi Way. The project site is within a Santa Clara Valley Transportation Authority (VTA) *City Cores, Corridors, and Station Areas Priority Development Area (PDA)*² and within a Transit Priority Area (TPA).³ As shown on Figure 2-2, *Aerial View of Project Site and Surroundings*, the project site is in a built-up and urbanized area in the vicinity of the commercial uses across Stevens Creek Boulevard to the north, institutional (church) and commercial uses across the surface parking lot to the east, multifamily residences and institutional uses (William Faria Elementary School) to the south, and restaurants and multifamily residences across Bianchi Way to the west. The project site is bounded by a medical use building (chiropractor) to the north, surface parking lot to the east, carports associated with the apartments to the south, and Bianchi Way to the east.

¹ Addresses for the project site also include 10040 Bianchi Way, 10042 Bianchi Way, and 10044 Bianchi Way, but for the purposes of this document, a single address (10046 Bianchi Way) is used to represent the entire project site.

² Association of Bay Area Governments and Metropolitan Transportation Commission, 2020. *Priority Development Areas (Plan Bay Area 2050)*, <https://opendata.mtc.ca.gov/datasets/priority-development-areas-plan-bay-area-2050>, accessed June 20, 2022.

³ Association of Bay Area Governments and Metropolitan Transportation Commission, 2021. *Transit Priority Areas (2021)*, <https://www.arcgis.com/apps/mapviewer/index.html?layers=370de9dc4d65402d992a769bf6ac8ef5>, accessed June 20, 2022.

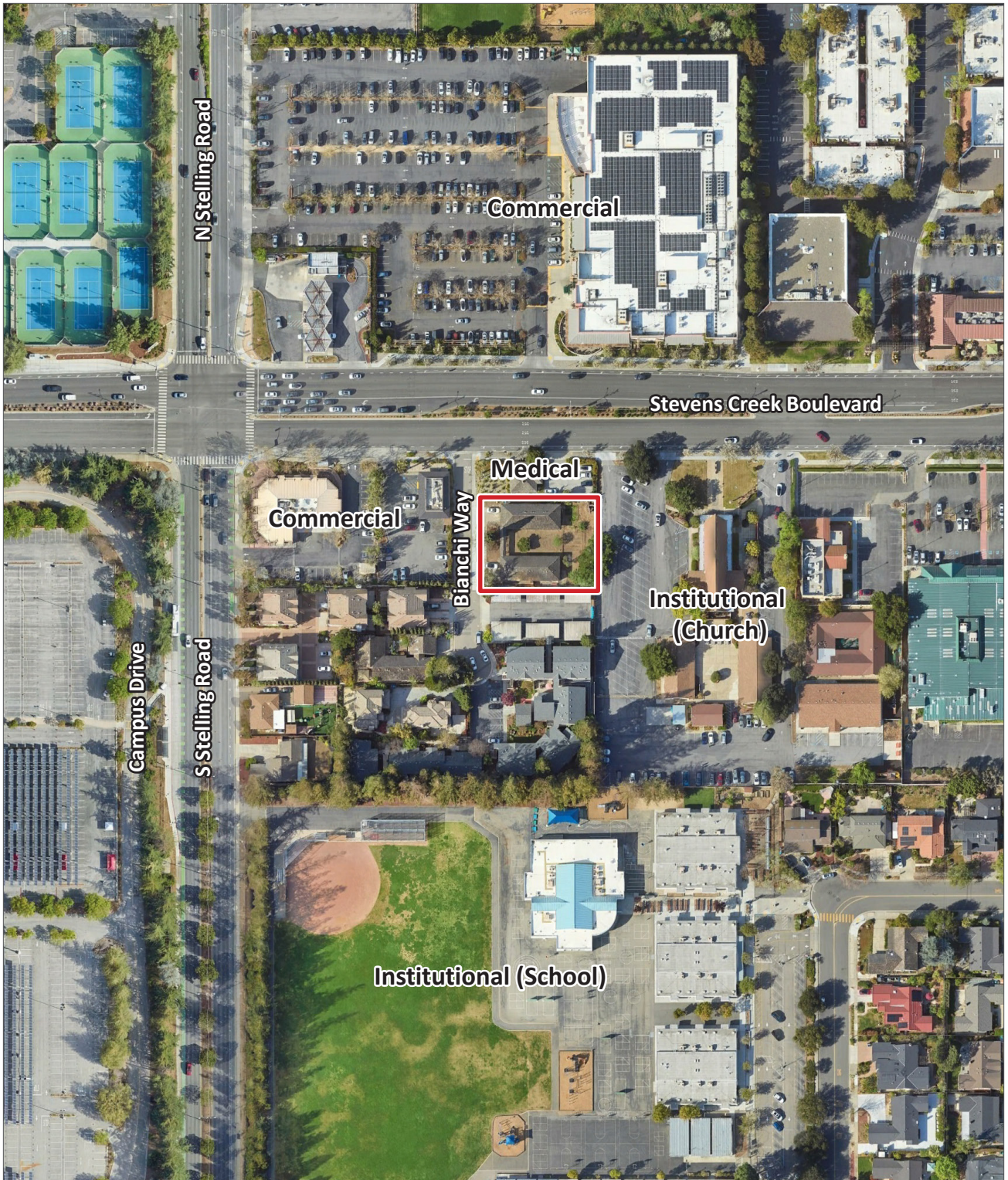
PROJECT DESCRIPTION



Source: ESRI, 2023; City of Cupertino, 2023; PlaceWorks, 2023.

Figure 2-1
Regional and Vicinity Map

PROJECT DESCRIPTION



Source: © Google Earth, 2023. (6-14-2023)



 Project Site Boundary

Figure 2-2
Aerial View of Project Site and Surroundings

2. Project Description

Sensitive receptors include places with people that have an increased sensitivity to air pollution, noise, or environmental contaminants. These sites can include schools, parks and playgrounds, day care centers, hotels, senior housing, nursing homes, hospitals, and residential dwelling units. Sensitive receptors within 0.25 miles (1,320 feet)⁴ of the project site include the following:

- Medical building (chiropractor) that shares a property line with the project site to the north;
- Church building approximately 0.02 miles (115 feet) across the surface parking lot to the east;
- Residential multifamily units roughly 0.01 miles (70 feet) and a school facility (William Faria Elementary School) roughly 0.5 miles (275 feet) to the south; and
- Residential duplex units approximately 0.01 miles (60 feet) to the southwest.

2.2.2 Existing Site Conditions

As shown on Figure 2-2, the project site is currently developed with two single-story, single-family attached (duplex) residential buildings with a combined total of four residential units. The project site currently includes driveways and garages associated with the residential units, and ornamental landscaping along the edges of the project site and in the courtyard of the residential units.

The project site is relatively flat with an elevation of around 268 feet above mean sea level.⁵ The surficial geology consists of late Pleistocene older surficial sediments, which is described as older alluvial terrace gravel, sand, and clay, undeformed.⁶ No paleontological resources have been identified on the project site; however, the presence of Pleistocene deposits that are known to contain fossils indicates that the overall city, including the project site, could contain paleontological resources.⁷ Unique geological features are not common in Cupertino. The geologic processes are generally the same as those in other parts of the state, country, and even the world. The geology and soils on the project site are common throughout the city and region and are not considered to be unique.

The Phase I Environmental Site Assessment (ESA) was prepared by ACC Environmental Consultants in August 2020 for the proposed project and peer reviewed by PlaceWorks. The Phase I ESA did not reveal evidence of Recognized Environmental Conditions at the project site. According to the Phase I ESA, the project site was used for agriculture uses until at least 1956, when the project site was developed with the existing two

⁴ This distance is consistent with CEQA Guidelines topic *Hazards and Hazardous Materials*, which asks “Would the project emit hazardous emissions or handle hazardous materials, substances or waste within 0.25 miles of an existing or proposed school?”

⁵ ACC Environmental Consultants, August 13, 2020. *Phase I Environmental Site Assessment Report, 20940 Stevens Creek Boulevard and 10040 & 10046 Bianchi Way, Cupertino, CA 95014.*

⁶ United States Geological Survey and Association of American State Geologists, modified May 2022. *Geologic map of the Cupertino and San Jose West quadrangles, Santa Clara and Santa Cruz Counties, California*, https://ngmdb.usgs.gov/Prodesc/proddesc_83442.htm, accessed June 16, 2022.

⁷ City of Cupertino, certified *General Plan Amendment, Housing Element Update, and Associated Rezoning EIR*, (December 2014) State Clearinghouse Number 2014032007 (October 2015), and approved Addenda (October 2015, July 2019, August 2019, and December 2019).

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residential buildings.⁸ The Phase I ESA also identifies that due to the age of the existing buildings (1956), they may contain asbestos-containing materials (ACM) and lead-based paint (LBP), which have been regulated in construction since the early 1970s. According to the Department of Toxic Substance Control, where a project site has been historically used for agricultural purposes after 1950, there is the potential of concentrations of remnant residual agricultural chemicals in the soil.⁹ As described in the Phase I ESA, during previous site development, activities and near-surface soils were likely mixed with fill material or disturbed during grading, further reducing the potential for exposure to residual agricultural chemicals, if any. Pursuant to CMC Section 17.04.040(B)(3), the recommendations of the Phase I ESA to conduct testing for these pesticides, ACMs, and LBPs would be required prior to issuance of permits. The 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 the United States Environmental Protection Agency's National Emission Standards for Hazardous Air Pollutants (Code of Federal Regulations Part 61), Bay Area Air Quality Management District's Regulation 11, Title 8 of the California Code 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.

Because the building on the project site was developed in 1956, it has the potential to be considered a historic building. However, it is not currently listed on the National Register of Historic Places¹⁰ or the list of California Historical resources,¹¹ nor is it associated with significant cultural events, persons in California's past, and it does not have any distinctive historical characteristics, and as such does not have any qualifying historical value. According to the Vegetation Map shown in the Environmental Resources and Sustainability Element of the General Plan, the project site is within the urban forest (i.e., trees in the city).¹² 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 to the community.¹³ Landscaping on-site includes five ornamental bushes and nine trees of 12 to 18 inches diameter at breast height (dbh). Six trees would be removed: an 18-inch Blue Atlas Cedar, an 18-inch Black Walnut, an 18-inch

⁸ ACC Environmental Consultants, August 13, 2020. *Phase I Environmental Site Assessment Report, 20940 Stevens Creek Boulevard and 10040 & 10046 Bianchi Way, Cupertino, CA 95014.*

⁹ California Department of Toxic Substances Control California Environmental Protection Agency, *Interim Guidance for Sampling Agricultural Properties*, page 3, August 7, 2008.

¹⁰ National Park Service, 2022. *National Register of Historic Places*, <https://www.nps.gov/subjects/nationalregister/database-research.htm>, accessed June 16, 2022.

¹¹ California Office of Historic Preservation, 2022. *California Historical Resources*, <https://ohp.parks.ca.gov/ListedResources/?view=county&criteria=43>, accessed on June 16, 2022.

¹² City of Cupertino, amended March 2020. *General Plan (Community Vision 2015-2040), Chapter 6, Environmental Resources and Sustainability Element, Figure ES-1, Vegetation*, <https://www.cupertino.org/our-city/departments/community-development/planning/general-plan/general-plan>, accessed June 16, 2022.

¹³ City of Cupertino, 2022. *Tree Protection & Tree Removal*, <https://www.cupertino.org/our-city/departments/community-development/planning/residential-development/tree-protection-tree-removal>, accessed June 16, 2022.

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Italian Cypress, a 12-inch Hollywood Juniper, a 16-inch Glossy Privet, and a 26-inch Coast Live Oak. All nine trees on-site are considered protected development trees pursuant to CMC Chapter 14.18 (City of Cupertino Protected Trees Ordinance) and would require a tree removal permit prior to removal. The project site is in a Local Responsibility Area (LRA) and is not within a Fire Hazard Severity Zone, as designated by the California Department of Forestry and Fire Protection (CAL FIRE). It is 1.7 miles northeast of a Very High Fire Hazard Severity Zone in an LRA, and 2 miles east of lands that CAL FIRE designates as a Very High Fire Hazard Severity Zone in a State Responsibility Area (SRA).¹⁴ The project site is 1.2 miles northeast of a wildland-urban interface (WUI), which is an area of transition between wildland (unoccupied land) and land with human development (occupied land).¹⁵

2.3 LAND USE AND ZONING DESIGNATIONS

The project site is assigned Assessor's Parcel Number (APN) 359-07-021. The proposed project is within the Heart of the City Special Area with a Commercial/Office/Residential General Plan land use designation, and the Planned Development with General Commercial with Residential (P(CG,RES)) zoning district. While the Commercial/Office/Residential land use designation allows primarily commercial and office uses and secondarily residential uses or a compatible combination of the two uses, it does not prohibit only commercial or only residential.¹⁶ The General Plan allows for a maximum building height of 45 feet on the project site. Existing regulations in the Heart of the City Special Area allow up to 25 dwelling units per acre. As described in CMC Section 19.80.010, *Purpose*, 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. 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. The planned development zoning district is intended to:

- 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 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.

¹⁴ California Department of Forestry and Fire Protection, November 2007. *FHSZ Viewer*, <https://egis.fire.ca.gov/FHSZ/>, accessed on June 16, 2022.

¹⁵ California Department of Forestry and Fire Protection, updated August 2020. *Wildland-Urban Interface Fire Threat*, <http://www.arcgis.com/home/item.html?id=d45bf08448354073a26675776f2d09cb>, accessed June 16, 2022.

¹⁶ City of Cupertino, amended March 2020. *General Plan (Community Vision 2015-2040), Appendix A, Land Use Definitions*, <https://www.cupertino.org/our-city/departments/community-development/planning/general-plan/general-plan>, accessed June 20, 2022.

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All planned development districts are identified on the zoning map with the letter code "P" followed by a specific reference to the general type of use allowed in the particular planning development zoning district. The general type of use allowed on the project site is General Commercial with Residential (P(CG,RES)), which allows for residences, and is the use currently on the project site.

2.4 GENERAL PLAN ENVIRONMENTAL IMPACT REPORT

The City Council certified the *General Plan Amendment, Housing Element Update, and associated Rezoning Project Environmental Impact Report* (EIR) in December 2014 and then had subsequent addenda that were approved by the City Council, together hereinafter "General Plan EIR."¹⁷ As shown in Table 2-1, *Reasonably Foreseeable Development Projects in Cupertino (Net New)*, the proposed project is within the buildout projected and evaluated in the General Plan EIR.

TABLE 2-1 REASONABLY FORESEEABLE DEVELOPMENT PROJECTS IN CUPERTINO (NET NEW)

	Hotel (units)	Residential (units)	Commercial (square feet)	Office (square feet)
General Plan EIR: Maximum Development Potential	1,339	4,421	1,343,679	4,040,231
<i>Reasonably Foreseeable Projects</i>				
<i>The Hamptons Redevelopment</i> ^a		600		
<i>The Forum</i> ^a		23		
<i>The Village Hotel</i> ^a	185			
<i>De Anza Hotel</i> ^a	155			
<i>Westport</i> ^{a, c}		267		
<i>Public Storage</i> ^{a, c}			209,485	
<i>Scandinavian Design</i> ^a			2,235	
<i>Vallco</i> ^{a, b, c}		2,402		1,810,000
<i>Loc-N-Stor</i> ^a			96,432	
<i>Canyon Crossings</i> ^{a, c}		18		
<i>22690 Stevens Creek Boulevard</i> ^a		9		
<i>19191 Vallco Parkway</i> ^{a, c}			2,300	280,000
<i>1655 South De Anza Boulevard</i> ^{a, c}		34		
<i>Marina Plaza</i> ^{a, c}		206		
<i>Total Foreseeable Development</i>	340	3,559	310,632	2,090,000
General Plan EIR: Remaining Development Potential	999	862	1,033,047	1,950,231

Notes:

a. The project has been approved or is under construction.

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

c. These sites currently have existing commercial and/or office development and the square footage shown in this table is the net new. Where the cell is blank, the project's commercial and/or office space is less than existing conditions.

Source: City of Cupertino, 2023.

¹⁷ City of Cupertino, certified General Plan Amendment, Housing Element Update, and Associated Rezoning EIR (December 2014), State Clearinghouse Number 2014032007, and approved Addenda (October 2015, July 2019, August 2019, December 2019, October 2021).

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2.5 PROPOSED PROJECT

The project applicant, Leon Hu with Top Mission Realty & Investment, Inc., is proposing the Leon Townhomes development project (previously referred to as the Bianchi Way Townhomes) that would involve the construction of a seven-unit townhome on a site that is currently developed. The proposed project would result in the demolition of the existing four residential units, and the construction of seven townhomes plus a common area. The following provides a detailed description of the proposed project as shown on the conceptual site plans dated April 2023.

2.5.1 Townhomes

The proposed townhomes would include six market-rate units and one below-market-rate unit for a total of seven townhomes. The proposed townhome units would include three bedrooms and three and a half bathrooms that would range from 2,067 to 2,089 square feet. Each townhome would be three stories (30 feet) tall. The proposed project would provide 1,050 square feet of public open space. The proposed project includes a parking exception to allow for less on-site parking than is required by the CMC, resulting in a total of 14 indoor garage parking spaces. The site plan is included on Figure 2-3, *Proposed Site Plan*.

2.5.2 Landscaping

The proposed project would include the planting of low-water use groundcovers, shrubs, and trees throughout the site. Groundcovers and shrubs proposed on site would be of the *Gazania*, *Teucrium*, *Juncus*, *Trachelosperum*, *Anigozanthos*, *Chondropetalum*, *Carex*, *Salvia*, *Lomandra*, *Dietes*, *Prunus*, *Pittosorum*, *Photinia* and *Phormium* genera. The trees to be planted on-site would be of the *Parkinsonia Aculeata*, *Quercus Douglasii*, and *Cornus Nuttalli*. Landscaping area for both hardscape (impervious) and green area (pervious) would be 2,103 and 2,667 square feet, respectively.

2.5.3 Access and Circulation

2.5.3.1 VEHICULAR ACCESS

As shown on Figure 2-3, the proposed project would have two-lane entrance/exit circulation pattern with the access point on Bianchi Way. The proposed emergency access route would be the same as the proposed vehicle access routes. The project site is within a TPA because it is within 0.25 miles of the De Anza College major transit stop,¹⁸ which provides stops with a bus frequency of service interval of 15 minutes or less during the morning and evening peak commute periods along VTA bus routes 23, 25, 51, 51H, and 55.

¹⁸ Public Resources Code, Section 21064.3, states that a 'major transit stop' is 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.

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2.5.3.2 PEDESTRIAN AND BICYCLE ACCESS

Pedestrian access to the building would be available from one access point along Bianchi Way. The proposed project provides interior pedestrian circulation throughout the site. While the proposed project does not propose any new bicycle lanes or routes, the site is accessible via the existing Enhanced Bike Lanes on Stevens Creek Boulevard and South Stelling Road.¹⁹

2.5.4 Utilities and Public Services Providers

The proposed utility infrastructure would connect to the existing water, sewer, storm drain system, and electricity network in the area, and would be served by an existing solid waste landfill.

2.5.4.1 WATER SUPPLY AND CONSERVATION

The project site is within the Cupertino Water Service (CWS) area, leased to San José Water (SJW). Water service to the project site would be provided by the existing water line on Bianchi Way via a 5/8-inch pipe, as shown on Figure 2-4, *Utility Plan*. No new connections would be needed and are not proposed as part of the project.

The project incorporates a number of features meant to conserve water. The proposed landscaping would include native and/or adaptive, and drought-resistant plants of similar water use grouped by hydrozones. 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. All landscape zones would be irrigated as required by the Cupertino Landscape Ordinance, and water uses would be tailored to meet CALGreen Building Standards, which requires water conservation and requires new buildings to reduce water consumption by 20 percent.

2.5.4.2 SANITARY SEWER SERVICE

The project site is within the Cupertino Sanitary District (CSD) service area and wastewater would be treated at the San Jose/Santa Clara Water Pollution Control Plant (SJ/SCWPCP). Wastewater generated at the project site would be collected by the existing eight-inch sanitary sewer main on Bianchi Way.

2.5.4.3 STORMWATER MANAGEMENT

The proposed project would result in 10,927 square feet of impervious surfaces coverage and 3,192 square feet of landscape permeable pavement and bioretention features. Compared to approximately 5,709 square feet of impervious surfaces coverage in existing conditions, this would be an increase of 5,218 square

¹⁹ City of Cupertino, June 2016. *2016 Bicycle Transportation Plan*, <https://www.cupertino.org/home/showpublisheddocument/3479/636443578340030000>, accessed June 17, 2022.

2. Project Description

feet of impervious surfaces. The proposed project includes 1,159 square feet of on-site bioretention areas that would hold and treat stormwater before it is released into the City's off-site storm drain infrastructure, as well as 2,701 square feet of permeable pavement. See Figure 2-5, *Stormwater Management Plan*.

The proposed project is required to comply with the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 requirements, which include minimization of impervious surfaces, measures to detain or infiltrate runoff from peak flows to match predevelopment conditions, and agreements to ensure that the stormwater treatment and flow-control facilities are maintained in perpetuity. The project must also comply with CMC Chapter 9.18, *Stormwater Pollution Prevention and Watershed Protection*, which is intended to provide regulations and give legal effect to certain requirements of the National Pollutant Discharge Elimination System (NPDES) permit issued to the City.

2.5.4.4 SOLID WASTE SERVICES

Recology would provide curbside recycling, garbage, and compost and landscaping waste service to the project.²⁰ All nonhazardous solid waste collected under the Recology franchise agreement is taken to Newby Island Sanitary Landfill for processing. Under the agreement between the City and Recology, Recology also handles recyclable materials.

2.5.4.5 OTHER UTILITIES (GAS, ELECTRIC, AND TELECOMMUNICATIONS)

The Pacific Gas and Electric Company (PG&E) would supply electricity to the project site via existing infrastructure.²¹ The source of electricity would be provided through a partnership of Silicon Valley Clean Energy (SVCE), which provides a standard electricity offering from a 50 percent renewable portfolio,²² and PG&E. SVCE also offers a 100 percent renewable option that electricity customers can opt into.

²⁰ Recology, 2020. *Recology Courtesy Notice*, <https://www.cupertino.org/Home/ShowDocument?id=28669>, accessed June 20, 2022.

²¹ City of Cupertino, 2022. *Other Service Providers*, <https://www.cupertino.org/our-city/departments/other-service-providers>, accessed June 20, 2022.

²² Silicon Valley Clean Energy, 2022. *It's All About Choice*, <https://www.svcleanenergy.org/choices/>, accessed June 20, 2022.

PROJECT DESCRIPTION



Source: Tectonic Architects & Associates, 2023.



Figure 2-3
Proposed Site Plan

PROJECT DESCRIPTION

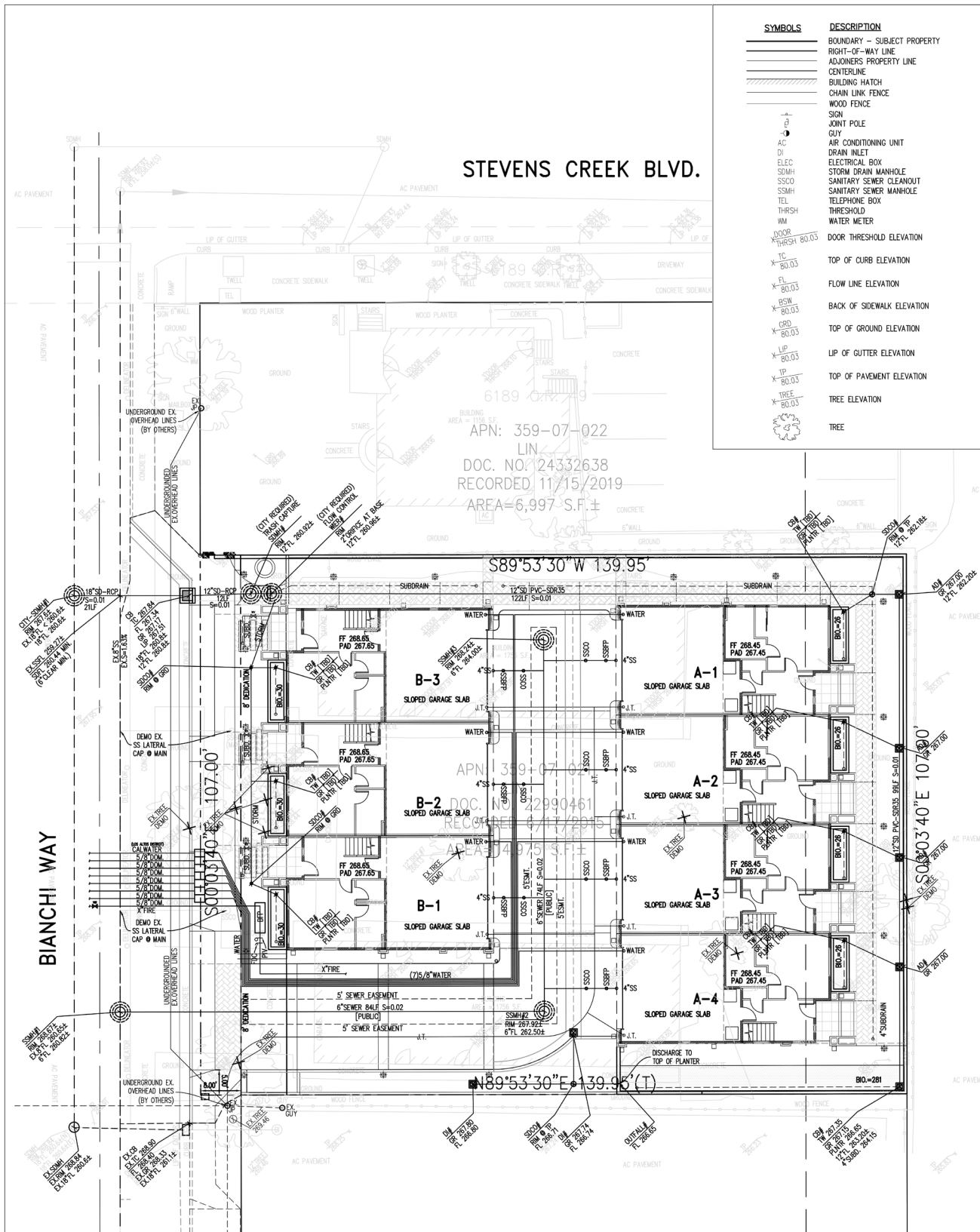
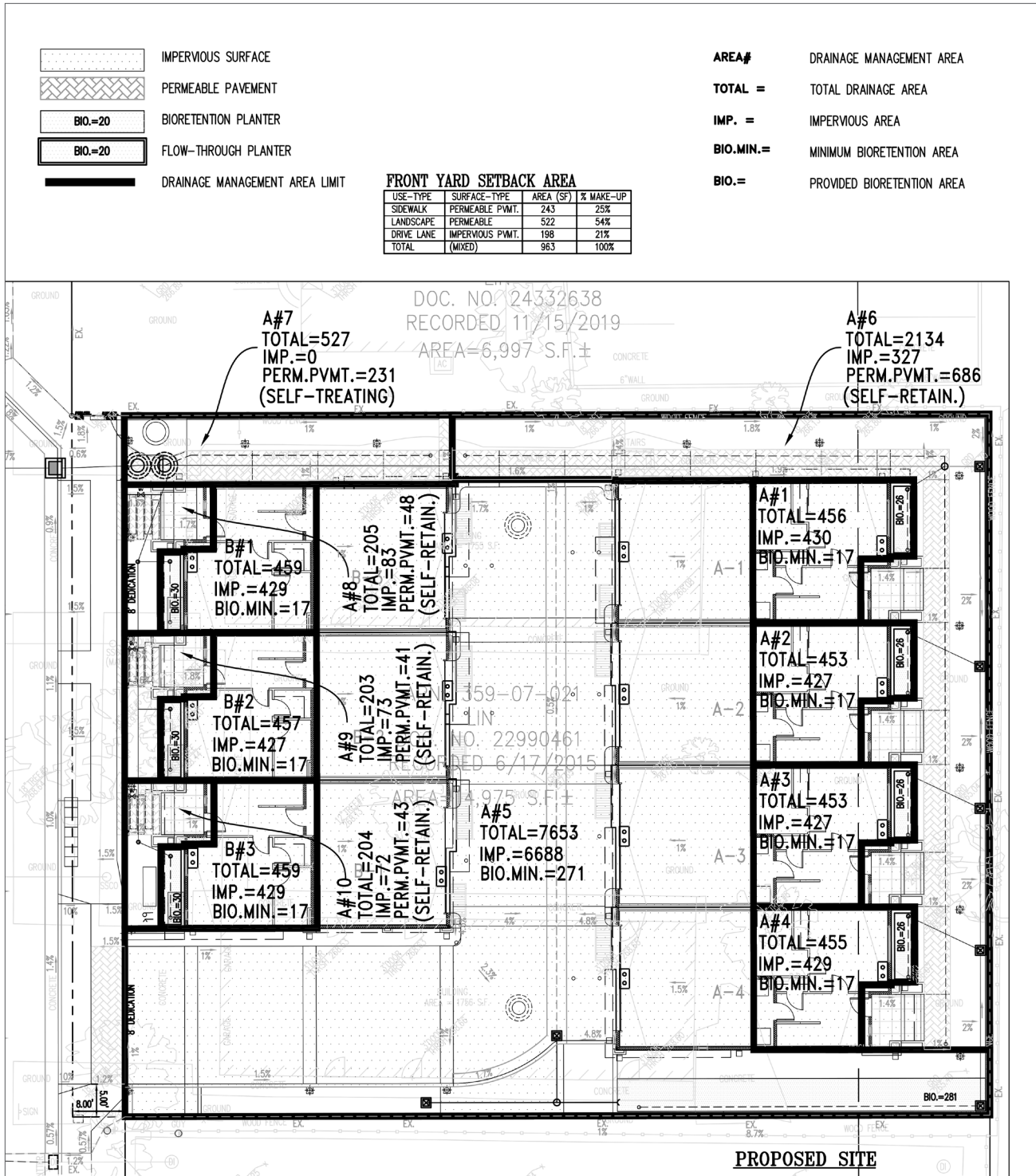


Figure 2-4
Utility Plan

PROJECT DESCRIPTION



Source: Luk and Associates, Civil Engineering, Land Planning, Land Surveying, 2023.

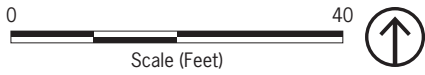


Figure 2-5
Stormwater Management Plan

2. Project Description

The California Energy Code (Part 6, Title 24) was adopted as part of the California Building Standards Code (Title 24) to reduce wasteful and unnecessary energy consumption in newly constructed and existing buildings. The City of Cupertino has adopted the California Energy Code, with local amendments, as CMC Chapter 16.54, *Energy Code*. CMC Section 16.54.100(2), *Scope for Newly Construction Building*, requires all newly constructed buildings to be All-Electric Buildings. All-Electric Buildings are defined as a building that has no natural gas or propane plumbing installed within the building, and that uses electricity as the sole source of energy for its space and water heating.²³ CMC Sections 16.58.100 through 16.58.220 set forth the standards for green building requirements by type of building. As shown in Table 101.10 of CMC Section 16.58.220, new construction greater than nine homes is required to be Green Points Rated certified at minimum 50 points, Silver in Leadership in Energy and Environmental Design (LEED) (City's preferred method), or Alternate Reference Standard pursuant to CMC Section 101.10.2.²⁴

Telephone service would be provided by AT&T and other providers. Cable television service would be available from a number of providers, including Comcast.

2.5.5 Demolition, Grading, and Construction

The project demolition, grading, and construction is assumed to take place over 16 months (approximately 486 workdays). The project applicant proposes to demolish the two existing buildings and remove the existing vegetation and six trees within the project site.

Demolition and construction work would be conducted between 7:00 a.m. and 8:00 p.m. on weekdays, as provided for in CMC Section 10.48.053, *Grading, Construction and Demolition*. Demolition and construction is not permitted on weekends or holidays for sites within 750 feet of other residential properties.²⁵ Demolition debris, including soil, would be off-hauled for disposal in accordance with the City of Cupertino's Recycling and Diversion of Construction and Demolition Waste Ordinance.²⁶ Typical equipment to be used for demolition and site preparation would include excavators, a skid steer loader, a grader, a rubber-tired dozer, scrapers, and an off-highway truck.

²³ City of Cupertino Municipal Code, Section 16.54.110, *Definitions and Rules of Construction*.

²⁴ Leadership in Energy and Environmental Design (LEED) is a green building certification program that recognizes best-in-class building strategies and practices that reduce consumption energy, and water, and reduce solid waste directly diverted to landfills. LEED certified buildings are ranked in order of efficiency from Certified, Silver, Gold and Platinum being the highest ranking with the greatest efficiency standard. LEED Silver certified buildings typically reduce is the third highest ranking out of the four, with just being certified being the lowest and Gold and Platinum being the second highest.

²⁵ Cupertino Municipal Code, Title 10, *Public Peace, Safety and Morals*, Chapter 10.48, *Community Noise Control*, Section 10.48.053, *Grading, Construction and Demolition*.

²⁶ Cupertino Municipal Code, Title 16, *Building and Construction*, Chapter 16.72, *Recycling and Diversion of Construction and Demolition Waste*.

2. Project Description

No pile driving, rock blasting, or crushing would occur during the construction phase. Typical equipment to be used during construction of the project would include a backhoe, a crane, aerial lifts, a generator, a diesel pump, dumpers, rollers, and a paver.

During demolition and construction, vehicles, equipment, and materials would be staged and stored on a centrally located portion of the project site when practical. No long-term staging of equipment would occur around the perimeter of the site where adjacent to existing residential uses. No staging would occur in the public right-of-way. The construction site and staging areas would be clearly marked, and construction fencing would be installed to prevent disturbance and safety hazards. A combination of on- and off-site parking facilities for construction workers would be identified during demolition, grading, and construction.

2.5.6 Required Permits and Approvals

Following approval of the CEQA Categorical Exemption, Streamlined Review, and the approval of the proposed project by the City Council, the following discretionary permits and approvals from the City would be required for the proposed project:

- Tentative Map
- Development Permit
- Parking Exception Permit
- Use Permit
- Architectural and Site Approval Permit
- Tree Removal Permit

In addition, permits for demolition, grading and building, and the certificate of occupancy would be required from the City. Encroachment permits from the City would also be required for any work performed in the public right-of-way.

Other entities that also have discretionary authority related to the project, such as PG&E, would authorize the connection/reconnection of electric utilities, San José Water would authorize the installation of a water meter connection, and CSD would be responsible for authorizing the sanitary sewer line.

3. Exemption

As stated in the Chapter 1, *Introduction*, of this document, Article 19 of the CEQA Guidelines includes a list of classes of projects that have been determined not to have a significant effect on the environment and, as a result, are exempt from review under CEQA. This document has been prepared to serve as the basis for compliance with CEQA as it pertains to the proposed project, and to demonstrate that the project qualifies for a CEQA Exemption as an Infill Development Project, consistent with the provisions of CEQA Guidelines Sections 15332 and 15300.2. Specifically, the information provided herein shows that:

- The proposed project qualifies for an exemption under CEQA Guidelines Section 15332 (Class 32: Infill Development Projects) and, as a result, would not have a significant effect on the environment.
- No exceptions to the infill exemption, as identified in CEQA Guidelines Section 15300.2, apply to the proposed project.

3.1 CEQA GUIDELINES SECTION 15332(A): GENERAL PLAN AND ZONING CONSISTENCY

For the reasons stated here, the proposed project is consistent with the applicable General Plan designation and all applicable General Plan policies, as well as the applicable zoning designations and regulations, and therefore meets the criteria for CEQA Guidelines Section 15332(a).

3.1.1 General Plan

As described in Section 2.3, *Land Use and Zoning Designations*, the project site is designated Commercial/Office/Residential, which allows for commercial, office, and/or residential uses.

The proposed project would result in the demolition of the existing four residential units and replace it with seven residential units. Therefore, implementation of the proposed project would not introduce a new incompatible land use to the project site, and the current land use of residential would remain. In addition, the 30-foot building height of the proposed project is within the 45-foot height limit allowed for the project site, and the project is within the density allowed for the project site.²⁷ Therefore, the proposed project would be consistent with the General Plan land use designation for the project site.

²⁷ A density of 25 units per acre is allowed on the project site, which would allow up to 8.6 units on the 0.3-acre project site. The seven proposed units are within this allowance.

3. Exemption

3.1.2 Zoning

As described in Section 2.3, *Land Use and Zoning Designations*, the project site is zoned Planned Development with General Commercial with Residential (P(CG,RES)) on the City of Cupertino Zoning Map. This allows for residential uses, which is the use currently on the project site. Therefore, the proposed project would not introduce a new incompatible use and would continue to be consistent with the zoning designation on the project site.

3.2 CEQA GUIDELINES SECTION 15332(B): PROJECT LOCATION, SIZE, AND CONTEXT

For the reasons stated here, the proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses and therefore meets the criteria of CEQA Guidelines Section 15332(b).

The proposed project is located within city limits on an approximately 0.3-acre site. The project site is surrounded by urban uses and paved public streets, including commercial uses, residential uses, a church, and a school, as shown on Figure 2-2, *Aerial View of the Project Site and Surroundings*. The project site is centrally located in the city and within a PDA and a TPA. Accordingly, the proposed project meets the criteria of CEQA Guidelines Section 15332(b).

3.3 CEQA GUIDELINES SECTION 15332(C): ENDANGERED, RARE, OR THREATENED SPECIES

For the reasons stated here, which includes compliance with the standard condition of approval protecting nesting birds listed herein, the project site has no value for endangered, rare, or threatened species and therefore meets the criteria of CEQA Guidelines Section 15332(c).

The project site and surrounding area are developed with urban uses. Using data from the Classification and Assessment with Landsat of Visible Ecological Groupings (CALVEG)²⁸ habitat mapping program, the site is classified as an “urban area.” Property with this classification 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 California Natural Diversity Database (CNDDDB) has no record of special-status plant and animal species on the project site or urbanized areas within a one-mile area

²⁸ 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.

3. Exemption

surrounding the project site. There are no natural lands within a one-mile area of the project site. Therefore, the project site has no value as habitat for endangered, rare, or threatened species.

All landscaping on the project site, including shrubs and the six existing trees, would be removed as a part of the proposed project. Migratory birds, which are protected under the Migratory Bird Treaty Act, may use vegetation, including existing trees, on or near the project site for nesting. The project applicant would be required to comply with CMC Chapter 17.04, *Standard Environmental Protection Requirements*. Specifically, the project applicant would be required to comply with CMC Section 17.05.050(D)(1) listed here, which would ensure that potential impacts to nesting birds during tree removal and construction would be *less than significant*:

CMC Section 17.04.050(D)(1), *Avoid Nesting Birds During Construction*. For all projects that involve removal of a tree (either protected or unprotected) or other vegetation suitable for nesting birds, or construction or ground-disturbing activities defined in CMC Section 17.04.020, the project applicant shall comply with, and the construction contractor shall indicate the following on all construction plans, when required to ensure the following measures are performed to avoid inadvertent take of bird nests protected under the federal Migratory Bird Treaty Act and California Fish and Game Code when in active use:

- a) Demolition, construction, ground-disturbing, and tree removal/pruning activities shall be scheduled to avoid the nesting season to the extent feasible. If feasible, construction, ground-disturbing, or tree removal/pruning activities shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay area extends from February 1 through August 31. Preconstruction surveys (described below) are not required for construction, ground-disturbing, or tree removal/pruning activities outside the nesting period.
- b) If demolition, construction, ground-disturbing, or tree removal/pruning activities occur during the nesting season (February 1 and August 31), preconstruction surveys shall be conducted as follows:
 - i. No more than 7 days prior to the start of demolition, construction, ground-disturbing, or tree removal/pruning activities, in order to identify any active nests with eggs or young birds on the site and surrounding area within 100 feet of construction or tree removal activities.
 - ii. Preconstruction surveys shall be repeated at 14-day intervals until demolition, construction, ground-disturbing, or tree removal/pruning activities have been initiated in the area, after which surveys can be stopped. As part of the preconstruction survey(s), the surveyor shall inspect all trees and other possible nesting habitats in, and immediately adjacent to, the construction areas for active nests, while ensuring that they do not disturb the nests as follows:

3. Exemption

1. For projects that require the demolition or construction one single-family residence, ground disturbing activities affecting areas of up to 500 square feet, or the removal of up to three trees, the property owner, or a tree removal contractor, if necessary, is permitted to conduct the preconstruction surveys to identify if there are any active nests. If any active nests with eggs or young birds are identified, the project applicant shall retain a qualified ornithologist or biologist to identify protective measures.
 2. For any other demolition, construction and ground disturbing activity or the removal of four or more trees, a qualified ornithologist or biologist shall be retained by the project applicant to conduct the preconstruction surveys.
- c) If the preconstruction survey does not identify any active nests with eggs or young birds that would be affected by demolition, construction, ground-disturbing or tree removal/pruning activities, no further mitigating action is required. If an active nest containing eggs or young birds is found sufficiently close to work areas to be disturbed by these activities, their locations shall be documented, and the qualified ornithologist or biologist shall identify protective measures to be implemented under their direction until the nests no longer contain eggs or young birds.
- d) Protective measures may include, but are not limited to, establishment of clearly delineated exclusion zones (i.e., demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by the qualified ornithologist or biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds. The active nest within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. The radius of an exclusion zone may be increased by the qualified ornithologist or biologist, if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified ornithologist or biologist only in consultation with California Department of Fish and Wildlife. The protection measures and buffers shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.
- e) A final report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required), shall be prepared by the qualified ornithologist or biologist and submitted to the Director of Community Development or his or her designee, through the appropriate permit review process (e.g., demolition, construction, tree removal, etc.), and be completed to the satisfaction of the Community Development Director prior to the start of demolition, construction, ground-disturbing, or tree removal/pruning activities.

In addition to protecting migratory birds, there are numerous bat species that are known to be in the Cupertino area, most of which are relatively common and are not considered special-status species. The

3. Exemption

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 project applicant would be required to comply with CMC Chapter 17.04, *Standard Environmental Protection Requirements*. Specifically, the project applicant would be required to comply with CMC Section 17.05.050(D)(2) listed below, which would ensure that potential impacts to roosting bats during tree removal and construction would be *less than significant*.²⁹

CMC Section 17.04.050(D)(2), *Avoid Special-Status Roosting Bats During Construction Permit Requirements*

- a) For all projects that involve demolition, renovation, or re-tenanting of an abandoned or vacant building or structure, where the property owner cannot show evidence to the satisfaction of the City of Cupertino Building Inspector that the building or structure was appropriately sealed at the time the building or structure was vacated to prevent bats from roosting, the project applicant shall retain a qualified biologist to conduct preconstruction surveys of the on-site buildings or structures prior to commencing any demolition, renovation, or re-tenanting activities. A building or structure is not appropriately sealed unless seal holes that are more than 0.5 inches in diameter or cracks that are 0.25 by 1.5 inches or larger are filled or closed with suitable material such as caulking, putty, duct tape, self-expanding polyurethane foam, 0.25-inch mesh hardware cloth, 0.5-inch or smaller welded wire mesh, installing tighter-fitting screen doors, or steel wool.
- b) The project applicant shall comply with, and the construction contractor shall include in the applicable construction documents, the following to ensure appropriate preconstruction surveys are performed and adequate avoidance provided for any special-status roosting bats, if encountered on the site. Preconstruction surveys shall:
 - i. Be conducted by a qualified biologist prior to tree removal or building demolition, renovation, or re-tenanting. Note that the preconstruction survey for roosting bats is required at any time of year since there is no defined bat roosting season as there is with nesting birds.
 - ii. Be conducted no more than 14 days prior to start of tree removal or demolition, renovation, or re-tenanting.

²⁹ Cupertino Municipal Code Chapter 17.04: *Standard Environmental Protection Requirements*, Section 17.04.050 Part D, *Biological Resources Permit Requirements*.

3. Exemption

- iii. Be repeated at 14-day intervals until construction has been initiated after which surveys can be stopped, unless construction activities are suspended for more than 7 consecutive days at which point the surveys shall be reinitiated.
 - iv. If no special-status bats are found during the survey(s), then no additional measures are warranted.
- c) Protective measures shall be included in the applicable construction documents and implemented prior to issuance of permits, if any special-status bat species are encountered or for any roosts detected within the existing structures, where individual bats could be inadvertently trapped and injured or killed during demolition unless passively evicted in advance of construction activities. Protective measures shall include:
- i. If no maternity roosts are detected, adult bats can be flushed out of the structure or tree cavity using a one-way eviction door placed over the exit location for a minimum 48-hour period prior to the time tree removal or building demolition is to commence.
 - ii. Confirmation by the qualified biologist that the one-way eviction door was effective, and that all bats have dispersed from the roost location, modifying any exclusion efforts to ensure individual bats have been successfully evicted in advance of initiating tree removal or building demolition.
 - iii. If a maternity roost is detected, and young are found roosting in a building identified for demolition, renovation, or re-tenanting, work shall be postponed until the young are flying free and are feeding on their own, as determined by the qualified biologist.
 - iv. Once the qualified biologist has determined that any young bats can successfully function without the maternity roost, then the adults and young bats can be excluded from the structure to be demolished using the one-way eviction methods described above.
 - v. Monitoring shall be provided by the qualified biologist as necessary to determine status of any roosting activity, success of any required bat exclusion, and status of any maternity roosting activity by bats, in the remote instance a maternity roost is encountered on the site.

3.4 CEQA GUIDELINES SECTION 15332(D): TRAFFIC, NOISE, AIR QUALITY, OR WATER QUALITY

For the reasons stated here, the proposed project would not result in any significant effects related to traffic, noise, air quality, or water quality and therefore meets the criteria of CEQA Guidelines Section 15332(d).

3. Exemption

3.4.1 Traffic

3.4.1.1 VEHICLES

The project site is in the central region of the city along Stevens Creek Boulevard. Regional access to the project site is provided by I-280 via De Anza Boulevard to the north, and by Highway 85 via Stevens Creek Boulevard to the west. Vehicular access to and from the project site on Bianchi Way would not change from existing conditions.

The Governor's Office of Planning and Research's *Technical Advisory On Evaluating Transportation Impacts in CEQA*,³⁰ and the City's White Paper *SB 743 Implementation Decisions for the City of Cupertino*,³¹ provides guidance on evaluating transportation impacts for redevelopment projects on infill sites and projects that are consistent with the Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS). According to these guiding documents, a project that generates less than 110 daily trips may be assumed to cause a less-than-significant transportation impact.³²

Plan Bay Area is the Bay Area's RTP/SCS that identifies the sustainable vision for the Bay Area. An overarching goal of the regional plan is to concentrate development in areas where there are existing services and infrastructure rather than allocate new growth to outlying areas where substantial transportation investments would be necessary to achieve VMT reductions. The proposed project is an infill development project that would result in a slight increase in land use intensity in a portion of the city that has access to existing infrastructure and services. Therefore, the proposed project would not conflict with the *Plan Bay Area*.³³

As described in Section 3.1.1, *General Plan*, and Section 3.1.2, *Zoning*, the proposed redevelopment is consistent with the General Plan land use designation and zoning district. As shown previously in Table 2-1, *Reasonably Foreseeable Development Projects in Cupertino (Net New)*, of this exemption in Section 2.4, *General Plan Environmental Impact Report*, the proposed project would not exceed the buildout projected in the General Plan EIR. Accordingly, implementation of the proposed project would be consistent with and have no effect on the VMT estimates presented in the General Plan EIR.

³⁰ Governor's Office of Planning and Research, *Technical Advisory On Evaluating Transportation Impacts in CEQA*, December 2018.

³¹ City of Cupertino White Paper *SB 743 Implementation Decisions for the City of Cupertino*: Appendix E, Small Project Screening for SB 743, February 2021.

³² Governor's Office of Planning and Research, *Technical Advisory On Evaluating Transportation Impacts in CEQA*, December 2018, page 12 and City of Cupertino White Paper *SB 743 Implementation Decisions for the City of Cupertino*, Appendix E: Small Project Screening for SB 743, February 2021, pages 138 and 139.

³³ Governor's Office of Planning and Research, *Technical Advisory On Evaluating Transportation Impacts in CEQA*, page 18, December 2018.

3. Exemption

On February 16, 2021, the City adopted CMC Chapter 17.08, *Evaluation of Transportation Impacts Under the California Environmental Quality Act*, which provides screening criteria and VMT thresholds for land-use development projects, transportation projects, and other projects pursuant to CEQA. Under CMC Chapter 17.08, a project would be screened out from more detailed VMT analysis if the project is consistent with applicable General Plan policies and supported by substantial evidence demonstrating cumulative VMT is declining. Project screening may be used for projects that meet one or more of the following criteria:

- Projects within 0.25-mile walking distance of a high-quality transit corridor or major transit stop as defined by CEQA.
- Local-serving retail projects of up to 50,000 square feet.
- Land use projects consisting of 100 percent affordable housing.

The project site is within 0.25 miles of the De Anza College major transit stop³⁴ and therefore, the proposed project meets the City's VMT screening criterion of being within 0.25 miles of a major transit stop. Additionally, applying the *Institute of Transportation Engineer's Trip Generation Manual, 11th Edition*, rate for single-family attached housing (Land Use 215) in a General Urban/Suburban setting for the seven proposed townhomes, the proposed project would generate approximately 50 daily trips. Applying this same rate for the existing single-family attached duplex units, the existing units generate approximately 29 daily trips for a total net new 21 trips to the project site.³⁵ Therefore, the project also meets the Governor's Office of Planning and Research (OPR) VMT screening criteria of a small project generating less than 110 new trips per day. Accordingly, it can be assumed to have a less-than-significant impact on VMT. Accordingly, there would be no transportation impacts associated with operation of vehicles from the proposed project.

3.4.1.2 PEDESTRIAN, BICYCLE, AND PUBLIC TRANSIT

The project site is in central Cupertino and would continue to be accessible to pedestrians, bicyclists, and transit users. The site is served by the existing Class II bike lanes on Stevens Creek Boulevard.³⁶ Public transit to the project site is provided by local municipal bus lines 23, 51, 51H, 55, and Rapid 523 operated by the VTA with bus stops less than 0.25 miles to the west at the intersection of Stevens Creek Boulevard and North

³⁴ Public Resources Code, Section 21064.3, states that a 'major transit stop' is 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.

³⁵ (7 townhomes x 7.2 daily trips per unit = 50 daily trips) – (4 single-family attached units x 7.2 daily trips per unit = 29 daily trips) = 21 net new daily trips.

³⁶ Class I Bikeways are off-road paths and trails. Class II Bikeways are bike lanes for bicyclists that are generally adjacent to the outer vehicle travel lanes and have special lane markings, pavement legends, and signage. Class III Bikeways are bicycle routes, which are shared facilities with vehicles and other road users and are often marked by signs and sharrows.

3. Exemption

Stelling Road. Pedestrian, bicycle, and public transit access to and from the project site would not change from existing conditions.

The proposed project would not substantially increase the population at the project site resulting in a large number of vehicular trips and therefore would not result in changes to the City's transportation and circulation system that could conflict with adopted policies, plans, or programs regarding transit, bicycle, or pedestrian facilities. The proposed project would not otherwise decrease the performance or safety of such facilities or cause a substantial increase in transit demand that cannot be accommodated by existing or proposed transit capacity or alternative travel modes. Accordingly, there would be no transportation impacts related to pedestrians, bicycles, or public transit during the operation of the proposed project.

3.4.1.3 CONSTRUCTION

During the construction period, the proposed project would result in temporary changes to existing transportation conditions. Temporary traffic would be generated by construction employees and construction activities, including haul trucks. During demolition and construction, vehicle, 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. Therefore, no significant hazards for vehicles, pedestrians, and/or cyclists in the area would occur during this phase.

3.4.2 Noise

Because the proposed project would include the redevelopment of the site with the same use and is consistent with the General Plan and zoning district (see Section 3.1, *CEQA Guidelines Section 15332(a): General Plan and Zoning Consistency*), this analysis addresses increases in ambient noise levels for adjoining areas during construction and operation.

3.4.2.1 EXISTING NOISE CONDITIONS

The project site is within the 65 to 70 A-weighted decibel (dBA) community noise equivalent level (CNEL) noise contour according to the City of Cupertino General Plan Future Noise Contour (Figure D-1 in Appendix D of the Cupertino General Plan).³⁷ The noise environment in the project vicinity is primarily characterized by vehicular traffic along Stevens Creek Boulevard to the north of the project site and South Stelling Road to the west of the project site. Operations and activities from adjacent commercial and residential uses also contribute to the existing noise environment in the project vicinity.

³⁷ City of Cupertino, 2015. *Cupertino General Plan Community Vision 2015-2040*.

3. Exemption

As described in Section 2.2.1, *Location*, sensitive receptors include places with people that have an increased sensitivity to air pollution, noise, or environmental contaminants. Noise-sensitive receptors are measured from the center of the project site to the property line of the receptor. Accordingly, the nearest noise-sensitive receptor to the project site is the medical building (chiropractor) approximately 50 feet to the north.

3.4.2.2 PROJECT-RELATED CONSTRUCTION NOISE

Demolition and Construction

The proposed project would demolish the two existing buildings (four units) and remove the existing vegetation and trees on the project site. Demolition and construction work would be conducted between 7:00 a.m. and 8:00 p.m. on weekdays, as provided for in CMC Section 10.48.053, *Grading, Construction and Demolition*. Demolition and construction are not permitted on weekends or holidays for sites within 750 feet of other residential properties. Demolition debris, including soil, would be off-hauled for disposal in accordance with the City of Cupertino's Recycling and Diversion of Construction and Demolition Waste Ordinance.³⁸

During demolition and construction, vehicles, equipment, and materials would be staged and stored on a centrally located portion of the project site when practical. No long-term staging of equipment would occur around the perimeter of the site where adjacent to existing residential uses. No staging would occur in the public right-of-way. The construction site and staging areas would be clearly marked, and construction fencing would be installed to prevent disturbance and safety hazards. A combination of on- and off-site parking facilities for construction workers would be identified during demolition, grading, and construction.

Noise generated during construction is based on the type of equipment used, the location of the equipment relative to sensitive receptors, and the timing and duration of the noise-generating activities. Each activity phase (e.g., demolition, site preparation, building construction) of construction involves the use of different construction equipment, and therefore, each activity phase has its own distinct noise characteristics. No pile driving, rock blasting, or crushing would occur during the construction phase. Noise levels from construction activities are dominated by the loudest piece of construction equipment. The dominant noise source is typically the engine, although work piece noise (such as dropping of materials) can also be noticeable. Heavy equipment, such as a bulldozer or a loader, can have maximum, short-duration noise levels of 85 dBA at 50 feet. Noise from construction equipment is intermittent and diminishes at a rate of 6 dBA per doubling distance.³⁹

³⁸ Cupertino Municipal Code, Title 16, *Building and Construction*, Chapter 16.72, *Recycling and Diversion of Construction and Demolition Waste*.

³⁹ The sound attenuation rate of 6 dBA is generally conservative and does not consider additional attenuation provided by existing buildings, structures, and natural landscapes around the project site.

3. Exemption

The noise generated at each activity phase is determined by combining the L_{eq} (equivalent continuous sound level) contributions from the top-three loudest pieces of equipment used at a given time. Based on the site plans, the project site is approximately 110 feet by 150 feet. This means that construction equipment could often operate within 50 feet of any adjacent land use property line, including the nearest noise-sensitive receptor to the north. Table 3-1, *Project Construction Noise Levels by Activity Phase*, shows the aggregate construction noise emissions, by activity phase, at a reference distance of 50 feet. Additionally, Table 3-2, *Project Construction Noise Levels by Equipment*, shows the noise emissions from each individual piece of construction at 25 feet. Construction equipment was modeled using the Roadway Construction Noise Model (RCNM).

TABLE 3-1 PROJECT CONSTRUCTION NOISE LEVELS BY ACTIVITY PHASE

Activity Phase ^a	RCNM Reference Noise Level at 50 feet in dBA L_{eq} ^b
Building Demolition	82
Site Preparation	79
Grading	81
Building Construction	82
Paving	80
Architectural Coating	71
Finish and Landscaping	71

Notes:

a. Equipment mix provided by the project applicant.

b. Noise level rounded to the nearest whole number.

Source: Roadway Construction Noise Model (RCNM)

As described in CMC Section 10.48.053, construction and demolition activities are exempt for the daytime noise standard of 60 dBA provided construction noise does not exceed 80 dBA at the receptor's receiving property line or no individual piece of construction equipment exceeds 87 dBA at 25 feet. Only one of these standards is required to be met. The proposed project would meet the second criterion and no single piece of equipment would exceed 87 dBA at a distance of 25 feet (see Table 3-2).

TABLE 3-2 PROJECT CONSTRUCTION NOISE LEVELS BY EQUIPMENT

Individual Equipment ^a	RCNM Reference Noise Level at 25 feet in dBA L_{eq} ^b
Backhoe	80
Compactor	82
Compressor (air)	80
Concrete Mixer Truck	81
Concrete Pump Truck	80
Crane	79
Dozer	74
Drum Mixer	83
Dump Truck	79

3. Exemption

TABLE 3-2 PROJECT CONSTRUCTION NOISE LEVELS BY EQUIPMENT

Individual Equipment ^a	RCNM Reference Noise Level at 25 feet in dBA L_{eq} ^b
Excavator	83
Flat Bed truck	76
Paver	80
Pickup Truck	77
Pumps	84
Vibratory Concrete Mixer	79

Notes:

a. Equipment mix provided by the project applicant.

b. Noise level rounded to the nearest whole number.

Source: Roadway Construction Noise Model (RCNM)

Furthermore, CMC Chapter 17.04, *Standard Environmental Protection Requirements*, identifies standard environmental protection requirements that all construction projects must meet. Specifically, the project applicant would be required to comply with CMC Sections 17.04.050(G)(1) and 17.04.050(G)(2) listed below, which would further ensure impacts from construction would be *less than significant*:

CMC Section 17.04.050(G)(1), Notice and Signage. At least 10 days prior to the start of any demolition, ground disturbing, or construction activities, because the project site is between 0.25 to 0.5 acres, the project applicant shall send notices shall be sent to off-site businesses and residents within 250 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. Additionally, the 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.

CMC Section 17.04.050(G)(2), Manage Noise During Construction.

- a) The project applicant and contractors shall prepare and submit a Construction Noise Control Plan to the City’s Planning Department for review and approval prior to issuance of the first permit. The Construction Noise Plan shall demonstrate compliance with daytime and nighttime decibel limits pursuant to Chapter 10.48 (Community Noise Control) of Cupertino Municipal Code. The details of the Construction Noise Control Plan shall be included in the applicable construction documents and implemented by the on-site Construction Manager. Noise reduction measures selected and implemented shall be based on the type of construction equipment used on the site, distance of

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construction activities from sensitive receptor(s), site terrain, and other features on and surrounding the site (e.g., trees, built environment) and may include, but not be limited to, temporary construction noise attenuation walls, high quality mufflers. During the entire active construction period, the Construction Noise Control Plan shall demonstrate that compliance with the specified noise control requirements for construction equipment and tools will reduce construction noise in compliance with the City's daytime and nighttime decibel limits.

- b) 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.
- c) 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.
- d) 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 law.

In summary, the construction activity would be compliant with the CMC noise standards and impacts would be *less than significant*.

Vibration

The nearest structures to construction activities such as grading, site preparation, and paving that would produce vibration from paving equipment, such as a ground compactor, a backhoe, and paver, and other heavy equipment, such as graders, bulldozers, and tractors, would occur within 15 to 25 feet of the nearest off-site structures (i.e., adjacent medical building to the north and carports to the south). Accordingly, the project applicant would be required to comply with CMC Sections 17.04.040(D)(1)(b) and 17.04.040(D)(1)(c), which require the use of a static roller in lieu of a vibratory roller for all paving activities and limits all off-road equipment for grading and earthwork activities to 100 horsepower or less, respectively. Compliance with CMC Sections 17.04.040(D)(1)(b) and 17.04.040(D)(1)(c) would ensure vibration levels due to construction activities would not exceed 0.2 inches per second peak particle velocity (in/sec PPV) at nearby buildings or structures. Accordingly, impacts from construction-related vibration would be *less than significant*.

3.4.2.3 STATIONARY OPERATIONAL NOISE

The primary stationary and operational noise sources in the proposed project would be from mechanical equipment such as those associated with heating, ventilation, and air conditioning, also commonly referred

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to as HVAC equipment. The proposed project would demolish existing buildings and replace with new construction, replacing the previous HVAC equipment with new HVAC equipment. Therefore, the proposed project would not introduce a new noise source and would not result in a significant noise increase above existing conditions. Further, as a general rule, newer HVAC equipment is more efficient and quieter than the older HVAC equipment. Therefore, impacts would be *less than significant*.

3.4.2.4 TRAFFIC NOISE

As previously discussed, the proposed project is estimated to result in 21 net new daily vehicle trips. The addition of 21 net new vehicle trips when compared to the thousands of existing daily trips along Stevens Creek Boulevard would result in a negligible traffic noise increase. Therefore, impacts would be *less than significant*.

3.4.2.5 AIRCRAFT NOISE IMPACTS

Because the project site is not within two miles of a public or public use airport, which is the standard for assessing noise impacts under CEQA, the proposed project would not result in the exposure of people residing or working in the project area to excessive noise levels associated with the proximity of an airport. Accordingly, impacts would be *less than significant*.

3.4.3 Air Quality

The proposed project is in the San Francisco Bay Area Air Basin under the jurisdiction of the Bay Area Air Quality Management District (BAAQMD), which regulates air quality in the San Francisco Bay Area. Within the BAAQMD, ambient air quality standards for ozone, carbon monoxide (CO), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), particulate matter (PM₁₀, PM_{2.5}), and lead (Pb) have been set by both the State of California and the federal government. The State has also set standards for sulfate and visibility. The San Francisco Bay Area Air Basin is under State nonattainment status for ozone and particulate matter (both PM₁₀ and PM_{2.5}) standards. The San Francisco Bay Area Air Basin is classified as nonattainment for the federal ozone 8-hour standard and nonattainment for the federal 24-hour standard for fine particulate matter of 2.5 microns or less in diameter (PM_{2.5}).⁴⁰

3.4.3.1 CONSISTENCY WITH APPLICABLE AIR QUALITY PLANS

The applicable air quality plan is the BAAQMD 2017 Clean Air Plan/Regional Climate Protection Strategy, which was adopted on April 19, 2017. The 2017 Clean Air Plan/Regional Climate Protection Strategy serves as a roadmap for the BAAQMD to reduce air pollution and protect public health and the global climate. The 2017 Clean Air Plan also includes measures and programs to reduce emissions of fine particulates and toxic

⁴⁰ Bay Area Air Quality Management District. *Air Quality Standards and Attainment Status*. <https://www.baaqmd.gov/about-air-quality/research-and-data/air-quality-standards-and-attainment-status>, accessed August 28, 2022.

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air contaminants. Additionally, the Regional Climate Protection Strategy identifies potential rules, control measures, and strategies that the BAAQMD can pursue to reduce greenhouse gases (GHGs) throughout the Bay Area.

Consistency with the 2017 Clean Air Plan is determined by whether or not the proposed project would result in significant and unavoidable air quality impacts or hinder implementation of control measures (e.g., excessive parking or preclude extension of transit lane or bicycle path). As indicated in the analysis that follows, the proposed project would not result in significant operational and construction-period emissions. Therefore, the proposed project supports the goals of the Clean Air Plan and would not conflict with any of the control measures identified in the Clean Air Plan as designed to bring the region into attainment. Additionally, the project site is in an urban area and would increase housing within a TPA. Therefore, the proposed project would not hinder or disrupt implementation of any control measures from the Clean Air Plan.

3.4.3.2 CUMULATIVELY CONSIDERABLE NET INCREASE OF ANY CRITERIA POLLUTANT

As described previously, the San Francisco Bay Area Air Basin is currently designated a nonattainment area for California and National O₃, California and National PM_{2.5}, and California PM₁₀ air quality standards. Any project that produces a significant project-level regional air quality impact in an area that is in nonattainment adds to the cumulative impact. Due to the extent of the area potentially impacted by cumulative plus project emissions (the San Francisco Bay Area Air Basin), a project is cumulatively significant when project-related emissions exceed the BAAQMD emissions thresholds.

BAAQMD has identified thresholds of significance for criteria pollutant emissions and criteria air pollutant precursors, including ROG, NO_x, PM₁₀, and PM_{2.5}. Development projects below the significance thresholds would not generate sufficient criteria pollutant emissions to violate any air quality standard or contribute substantially to an existing or projected air quality violation.

In addition, BAAQMD has developed screening criteria for a conservative indication of whether the proposed project could result in potentially significant air quality impacts. If the screening criteria are met by a proposed project, then a detailed air quality assessment of air pollutant emissions is not necessary. Table 4-1, *Single Land Use Construction and Operational Criteria Air Pollutant and Precursor Screening Levels*, of the BAAQMD CEQA Guidelines, lists an operational screening size for general condo/townhouses of 637 dwelling units, and a construction-related screening size of 416 dwelling units.⁴¹ Because the proposed project is below this threshold, it does not require a detailed air quality emissions analysis.

⁴¹ Bay Area Air Quality Management District, 2023. 2022 *CEQA Guidelines Chapter 4, "Screening for Criteria Air Pollutants and Precursors,"* page 4-4.

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In addition, BAAQMD has the following screening criteria for carbon monoxide (CO) impacts; the proposed project would result in a less-than-significant impact to localized CO concentrations if the following criteria is met:

- The project is consistent with an applicable congestion management program established by the county congestion management agency for designated roads or highways, regional transportation plan, and local congestion management agency plans.
- The project traffic would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour.
- The project traffic would not increase traffic volumes at affected intersections to more than 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited (e.g., tunnel, parking garage, bridge underpass, natural or urban street canyon, below-grade roadway).

As shown in Section 3.4.1, *Traffic*, the proposed project meets this screening criteria, and would not result in significant impacts regarding CO.

Regional Short-Term Construction Impacts

The following describes project-related impacts from regional short-term construction activities and regional long-term operation of the proposed project.

Construction activities produce combustion emissions 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. Site preparation activities produce fugitive dust emissions (PM₁₀ and PM_{2.5}) from demolition and soil-disturbing activities, such as grading and excavation. Air pollutant emissions from construction activities on-site would vary daily as construction activity levels change. Construction activities associated with the proposed project would result in emissions of ROG, NO_x, CO, PM₁₀, and fine PM_{2.5}.

Construction Fugitive Dust

Ground-disturbing activities during construction would generate fugitive dust (PM₁₀ and PM_{2.5}). The amount of dust generated during construction would be highly variable and is dependent on the amount of material being disturbed, the type of material, moisture content, and meteorological conditions. If uncontrolled, PM₁₀ and PM_{2.5} levels downwind of actively disturbed areas could possibly exceed State standards. Consequently, BAAQMD considers all impacts related to fugitive dust emissions from construction to be *less than significant* with implementation of BAAQMD's best management practices, which are also required pursuant to CMC Section 17.04.050(A)(1), *Control Fugitive Dust During Construction*. The current best management practices that are required to be implemented by the project applicant are listed herein:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.

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- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 miles per hour.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
- Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A publicly visible sign shall be posted with the telephone number and person to contact at the City of Cupertino regarding dust complaints. This person shall respond and take corrective action within 48 hours. The phone number shall also be visible to ensure compliance with applicable regulations.

Construction Exhaust Emissions

The proposed project would result in demolition, demolition debris hauling, site preparation, grading, building construction, paving, and architectural coating that would occur near existing sensitive land uses, as shown in Section 2.2.1, *Location*. CMC Section 17.04.050(A)(2), *Control Construction Exhaust*, requires projects that disturb more than one acre and are more than two months in duration to implement construction exhaust measures. The project site, approximately 0.3 acres, falls below the City's threshold. In addition, pursuant to CMC Section 17.04.050(A)(3), *Control Volatile Organic Compound Emissions from Paint*, the project applicant would be required to use low-volatile organic compound (VOC) paint (i.e., 50 grams per liter [g/L] or less) for interior and exterior wall architectural coatings. The project applicant shall include the use of low-VOC paint in the applicable construction documents prior to issuance of the first permit. Because the construction exhaust emissions are temporary, and the project site falls below the City thresholds regarding construction exhaust emissions, impacts would be *less than significant*.

Operational Impacts

Typical long-term air pollutant emissions are generated by area sources (e.g., landscape fuel use, aerosols, architectural coatings, and asphalt pavement), energy use (natural gas), and mobile sources (i.e., on-road vehicles). Types of land uses that typically generate substantial quantities of criteria air pollutants and toxic air contaminants include industrial (stationary sources), manufacturing, and warehousing (truck idling) land uses. These types of major air pollutant emissions sources are not included as part of the proposed project.

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The proposed project would not include stationary sources that emit toxic air contaminants and would not generate a significant amount of heavy-duty truck trips (a source of diesel particulate matter [DPM]). Therefore, the proposed project would not expose sensitive receptors to substantial concentrations of air pollutant emissions during operation.

BAAQMD CEQA Guidelines states that if a project meets the screening criteria for operational-related criteria air pollutants, the project would not result in the generation of operational-related criteria air pollutants and/or precursors that exceed BAAQMD's thresholds of significance. As previously stated, the proposed project's seven units on a 0.3-acre site falls below BAAQMD's thresholds (general condo/townhouses of 637 dwelling units and a construction-related screening size of 416 dwelling units) and City thresholds for quantifying air pollutants (less than one acre of disturbed land), and therefore would also not generate air pollutants that would cause a significant impact, and operational air quality impacts would be *less than significant*.

Carbon Monoxide Hotspot Analysis

Areas of vehicle congestion have the potential to create pockets of carbon monoxide (CO) called hotspots. These pockets have the potential to exceed the State 1-hour standard of 20 parts per million (ppm) or the 8-hour standard of 9 ppm.

Under existing and future vehicle emission rates, a project would have to increase traffic volumes at a single intersection by more than 44,000 vehicles per hour—or 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited—to generate a significant CO impact. As described in Section 3.4.1, *Traffic*, the proposed project would result in 21 net new daily vehicle trips. Thus, the proposed project would not increase traffic volumes at affected intersections by more than 44,000 vehicles per hour or 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited.⁴² The proposed project would not have the potential to substantially increase CO hotspots at intersections in the project vicinity. As a result, the proposed project would not increase CO concentrations at intersections. Therefore, impacts would be *less than significant*.

3.4.3.3 ODORS

During project construction, some odors may be created due to diesel exhaust. However, these odors would be temporary and limited to the construction period. The proposed project would not include any activities or operations that would generate objectionable odors and once operational, the project would not be a source of odors. Therefore, the proposed project would not create objectionable odors affecting a substantial number of people and impacts would be *less than significant*.

⁴² Bay Area Air Quality Management District (BAAQMD), 2011 Revised. *California Environmental Quality Act Air Quality Guidelines*.

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3.4.3.4 GREENHOUSE GAS EMISSIONS

A project does not generate enough GHG emissions on its own to influence global climate change; therefore, this section measures the proposed project contribution to the cumulative environmental impact associated with GHG emissions. Development of the proposed project would contribute to climate change through direct and indirect GHG emissions from the construction activities needed to implement the proposed project, which would generate a short-term increase in GHG emissions.

Construction Impacts

BAAQMD does not have thresholds of significance for construction-related GHG emissions, which are one-time, short-term emissions and therefore would not significantly contribute to the long-term cumulative GHG emissions impacts of the proposed project. Implementation of the BAAQMD basic construction best management practices, refer to Section 3.4.3.2 [*Construction Fugitive Dust*] required pursuant to Section 17.04.050(A)(1), would reduce GHG emissions by reducing the amount of construction vehicle idling and by requiring the use of properly maintained equipment. Therefore, project construction impacts associated with GHG emissions would be reduced to the extent feasible, as required by the BAAQMD, and would be *less than significant*.

Operational Impacts

The proposed project would generate a net increase in 21 daily weekday trips compared to existing on-site land uses. Because transportation emissions would generate the majority of GHG emissions associated with the proposed project, this net increase in daily trips would not substantially increase GHG emissions in the city. Additionally, the new buildings would be more energy efficient than the existing structures and would be built to achieve the latest Title 24 Building and Energy Efficiency Standards.

BAAQMD has the following thresholds for land use projects in analyzing GHG emissions impacts; projects must include conditions listed under either A or B:

A. Projects must include, at a minimum, the follow project design elements:

1. Buildings
 - a. The project will not include natural gas appliances or natural gas plumbing (in both residential and nonresidential development).
 - b. The project will not result in any wasteful, inefficient, or unnecessary energy usage as determined by the analysis required under CEQA Section 21100(b)(3) and Section 15126.2(b) of the State CEQA Guidelines.
2. Transportation
 - a. Achieve a reduction in project-generated vehicle miles traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted Senate Bill 743 VMT target, reflecting the

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recommendations provided in the Governor’s Office of Planning and Research’s Technical Advisory on Evaluating Transportation Impacts in CEQA:

- i. Residential projects: 15 percent below the existing VMT per capita
 - ii. Office projects: 15 percent below the existing VMT per employee
 - iii. Retail projects: no net increase in existing VMT
- b. Achieve compliance with off-street electric vehicle requirements in the most recently adopted version of CALGreen Tier 2.

B. Projects must be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b).

As described herein, the proposed project would meet the conditions listed under criterion B, for being consistent with a locally adopted GHG reduction strategy. In addition, it would not include natural gas appliances or plumbing, or result in any wasteful, inefficient, or unnecessary energy usage, as previously explained.

Cupertino Climate Action Plan

The *Cupertino Climate Action Plan 2.0* (CAP 2.0) is a strategic planning document that identifies sources of GHG emissions within the city’s boundaries, presents current and future emissions estimates, identifies a GHG reduction target for future years, and presents strategic goals, measures, and actions to reduce emissions from the energy, transportation, land use, water, solid waste, and green infrastructure sectors.

A specific project proposal is considered consistent with the Cupertino CAP 2.0 if it does not conflict with the required GHG reduction measures contained in the adopted CAP. Project consistency with the adopted GHG reduction measures is shown in Table 3-4, *Cupertino Climate Action Plan Consistency Matrix*:

TABLE 3-4 CUPERTINO CLIMATE ACTION PLAN CONSISTENCY MATRIX

Measure	Consistency
Measure BE-1 Reduce non-SVCE usage rate to 2 percent for residential and 10 percent for commercial by 2030 and maintain through 2040.	Consistent. The proposed project would comply with the current California Building and Energy Efficiency Standards to reduce energy consumptions.
Measure BE-4 Require new residential and commercial development to be all-electric at time of construction.	Consistent. The City of Cupertino has adopted the California Energy Code (CMC Chapter 16.54) that requires all newly constructed buildings to be All-Electric Buildings. Therefore, the proposed project would comply with this measure.
Measure TR-1 Develop and implement an Active Transportation Plan to achieve 15 percent of active transportation mode share by 2030 and 23 percent by 2040.	Consistent. The City is the responsible party for this measure. As stated in Chapter 2, <i>Project Description</i> , while the proposed project does not propose any new bicycle lanes or routes, the site is accessible via the existing Enhanced Bike Lanes on Stevens Creek Boulevard and South Stelling Road. As such, the proposed project would not conflict with the City’s 2016 <i>Bicycle Transportation Plan</i> .

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TABLE 3-4 CUPERTINO CLIMATE ACTION PLAN CONSISTENCY MATRIX

Measure	Consistency
	Pedestrians would also have access to the site via the existing sidewalks that will connect to the pedestrian network surrounding the project site. Therefore, the proposed project would promote and would not obstruct these alternative modes of transportation.
Measure TR-2 Implement public and shared transit programs to achieve 29 percent of public transit mode share by 2030 and maintain through 2040.	Consistent. The City is the responsible party for this measure. The proposed project is a redevelopment project near the De Anza College major transit stop served by VTA bus routes 23, 51, 51H, 55, and Rapid 523. The proposed project would not conflict with implementation of this measure.
Measure TR-3 Increase zero-emission vehicle (ZEV) adoption to 35 percent for passenger vehicles and 20 percent for commercial vehicles by 2030 and 100 percent for all vehicles by 2040.	Consistent. The proposed project would result in an increase in land use intensity in a portion of the city that has access to existing transportation infrastructure and services, including the VTA bus routes 23, 51, 51H, 55, and Rapid 523. To encourage transition to electric vehicles (EVs), the proposed project would be required to install EV charging stations pursuant to the City’s code. The proposed project would be conditioned by the City to install 6 Level 2 EV Ready Circuits and six 6 Level 1 EV Ready Circuits, one of each in each of the townhome units, and therefore would be consistent with this standard to increase this to the minimum of EV-capable charging spaces to comply with the voluntary Tier 2 standards of CALGreen as required by BAAQMD.
Measure W-1 Implement SB 1383 requirements and reduce communitywide landfilled organics 75 percent by 2025 and inorganic waste 35 percent by 2030 and reduce all waste 90 percent by 2040.	Consistent. The City is the responsible party for implementing this measure. The proposed project would include compost and green waste disposal services through the City’s contracts with Recology South Bay. The materials would be collected by the City garbage waste hauler (Recology). The proposed project would not conflict with implementation of this measure.
Measure W-2 Reduce overall waste disposed to garbage, recycling, and compost per capita by 15 percent by 2035.	Consistent. The City is the responsible party for implementing this measure. The proposed project would include compost and green waste disposal services through the City’s contracts with Recology South Bay. The materials would be collected by the City garbage waste hauler. The proposed project would not conflict with implementation of this measure.
Measure W-3 Meet or exceed the SB 1383 recycled organics products procurement requirements and sequester or avoid at least 0.018 MT CO ₂ e per person by through 2045.	Consistent. The City is the responsible party for implementing this measure. The proposed project would include compost and green waste disposal services through the City’s contracts with Recology South Bay. The materials would be collected by the City garbage waste hauler. The proposed project would not conflict with implementation of this measure.

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TABLE 3-4 CUPERTINO CLIMATE ACTION PLAN CONSISTENCY MATRIX

Measure	Consistency
<p>Measure WW-2 Reduce per capita water consumption 15 percent compared to 2019 levels by 2030 and maintain through 2040</p>	<p>Consistent. The proposed project would comply with Senate Bill (SB) X7-7, which requires California to achieve a 20 percent reduction in urban per-capita water use by 2020 and would implement best management practices for water conservation to achieve the City’s water conservation goals. As described in Chapter 2, <i>Project Description</i>, the project incorporates low water-use groundcovers, shrubs, and trees throughout the project site. All landscape zones would be irrigated as required by the Cupertino Landscape Ordinance, and water uses would be tailored to meet CALGreen Building Standards, which requires water conservation and requires new buildings to reduce water consumption by 20 percent. The proposed project would not conflict with implementation of this measure.</p>
<p>Measure CS-1 Increase carbon sequestration through tree planting by developing and implementing an Urban Forest Management Plan.</p>	<p>Consistent. The City is the responsible party for this measure. As described in Chapter 2, <i>Project Description</i>, the proposed project would increase landscaping on-site. This would increase tree canopy over the buildings and hardscaped areas, reducing energy needed to cool the buildings. The proposed project would include 444 square feet of on-site bioretention facilities that would hold and treat stormwater before dispersal to the City’s off-site storm drain infrastructure. Furthermore, the project will comply with the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 and CMC Chapter 9.18, <i>Stormwater Pollution Prevention and Watershed Protection</i>, to ensure ongoing compliance with the City’s municipal stormwater and urban runoff requirements. The proposed project would not conflict with implementation of this measure.</p>

Notes: Measures BE-2 and BE-3 apply to existing development and are not applicable. Measure TR-4 is a city measure to re-focus transportation infrastructure in the City that is not applicable on a project-level. Measure CS-2 is for open space projects that can sequester carbon dioxide (CO₂), and therefore, is not directly applicable to the project.

Source: City of Cupertino, August 2022, *City of Cupertino, Climate Action Plan 2.0*. Prepared by PlaceWorks.

Development in Cupertino, including the proposed project, is required to adhere to City-adopted policy provisions, including those contained in the adopted CAP 2.0. The City ensures that the provisions of the Cupertino CAP 2.0 are incorporated into projects and their permits through development review and applications of conditions of approval as applicable. Additionally, as previously stated, the proposed project would replace the older structures with newer, more energy-efficient structures that achieve the most recent California Building and Energy-Efficiency Standards and water-efficiency standards. Furthermore, CMC Chapter 17.04, *Standard Environmental Protection Requirements*, requires the reduction of GHG emissions and energy use in Section 17.04.050(C), *Greenhouse Gas Emissions and Energy Permit Requirements*. Pursuant to CMC Section 17.04.050(C), the project applicant would be required to complete the City of Cupertino Climate Action Plan – Development Project Consistency Checklist, for review and

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approval by the City Environment and Sustainability Department prior to issuance of the first permit, to demonstrate how the project is consistent with the Cupertino Climate Action Plan, as subsequently revised, supplemented, or replaced, to reduce GHG emissions and conserve energy. Accordingly, the impact would be *less than significant*.

Other Greenhouse Gas Reduction Plans

Other applicable plans adopted for the purpose of reducing GHG emissions include the California Air Resources Board's (CARB) Scoping Plan and *Plan Bay Area 2050*. A consistency analysis with these plans is presented herein.

CARB's Scoping Plan

CARB's *Climate Change Scoping Plan* (Scoping Plan) outlines the State's strategies to reduce GHG emissions in accordance with the targets established under Assembly Bill (AB) 32, Senate Bill (SB) 32, and Executive Order (EO) B-55-18. The Scoping Plan is applicable to State agencies and is not directly applicable to cities/counties and individual projects. Nonetheless, the Scoping Plan has been the primary tool that is used to develop performance-based and efficiency-based CEQA criteria and GHG reduction targets for climate action planning efforts. CARB recently released the 2022 Scoping Plan to address measures to achieve the State's carbon neutrality goals under EO B-55-18.

Statewide strategies to reduce GHG emissions in the 2017 Climate Change Scoping Plan include implementing SB 350, which expands the Renewable Portfolio Standards to 50 percent by 2030 and doubles energy-efficiency savings; expanding the Low Carbon Fuel Standards (LCFS) to 18 percent by 2030; implementing the Mobile Source Strategy to deploy zero-electric vehicle buses and trucks; implementing the Sustainable Freight Action Plan; implementing the Short-Lived Climate Pollutant Reduction Strategy, which reduces methane and hydrofluorocarbons to 40 percent below 2013 levels by 2030 and black carbon emissions to 50 percent below 2013 levels by 2030; continuing to implement SB 375; creating a post-2020 Cap-and-Trade Program; and developing an Integrated Natural and Working Lands Action Plan to secure California's land base as a net carbon sink.

Statewide strategies to reduce GHG emissions include the low carbon fuel standards, California Appliance Energy Efficiency regulations, California Renewable Energy Portfolio standard, changes in the CAFE standards, and other early action measures as necessary to ensure the State is on target to achieve the GHG emissions reduction goals of AB 32, SB 32, and EO B-55-18. In addition, new buildings are required to comply with the current Building Energy Efficiency Standards and CALGreen. The Cupertino CAP 2.0 is consistent with the statewide GHG reduction strategy and therefore complying with the CAP 2.0 would ensure the proposed project complies with the CARB Scoping Plan. The project's GHG emissions would be reduced from compliance with statewide measures that have been adopted since AB 32, SB 32, and EO B-55-18 were adopted. Therefore, impacts would be *less than significant*.

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Plan Bay Area

Plan Bay Area 2050 is the Bay Area's RTP/SCS that identifies a sustainable vision for the Bay Area. To achieve the Metropolitan Transportation Commission's (MTC's)/Association of Bay Area Government's (ABAG's) sustainable vision for the Bay Area, the *Plan Bay Area 2050* land use concept plan for the region concentrates the majority of new population and employment growth in the region in Priority Development Areas (PDAs). PDAs are transit-oriented, infill development opportunity areas within existing communities. An overarching goal of the regional plan is to concentrate development in areas where there are existing services and infrastructure rather than allocate new growth to outlying areas where substantial transportation investments would be necessary to achieve the per-capita passenger vehicle, vehicle miles traveled, and associated GHG emissions reductions. As previously described in Section 2.2.1, *Location*, the project site is within a Santa Clara Valley Transportation Authority (VTA) City Cores, Corridors, and Station Areas PDA. The growth associated with the proposed project is consistent with ABAG projections and would not exceed regional population and employment projections. 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, including transit service. Therefore, the proposed project would not conflict with the land use concept plan for the City of Cupertino identified in the *Plan Bay Area 2050* and the impact would be *less than significant*.

3.4.4 Water Quality

3.4.4.1 CONSTRUCTION-RELATED WATER QUALITY IMPACTS

The City, as a participant in the Santa Clara Valley Urban Runoff Pollution Prevention Program, which is regulated by the NPDES Program, is committed to reducing pollutants entering waterways. Below is a discussion of the proposed project's compliance with water quality standards.

The proposed project would include the demolition of existing residential structures and construction of the seven townhomes. Because the proposed project is less than one acre, it would not be required to comply with the General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activity (Construction General Permit). It would, however, be required to comply with the Regional Water Board Municipal Regional Permit (MRP), because it would create more than 10,000 square feet of impervious surfaces. Compliance with applicable regulations would ensure that the potential adverse impacts to surface water quality throughout the construction period would be *less than significant*. The proposed project is required to comply with the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 requirements, which 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.

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3.4.4.2 OPERATION PERIOD WATER QUALITY IMPACTS

As stated previously, the proposed project would be required to comply with the MRP. In addition, stormwater from implementation of the proposed project would be directed to the existing stormwater system, in addition to being filtered through the 390 square feet of bioretention areas and 1,049 square feet of self-treating permeable pavement included as part of the proposed project. Therefore, the proposed project would continue to minimize pollutant runoff from the project site, and water quality impacts during operation would be *less than significant*.

3.4.4.3 GROUNDWATER

The proposed project would connect to the existing water lines on-site and would not use groundwater at the site. Additionally, the proposed project would include 1,159 square feet of bioretention areas and 2,701 square feet of self-treating permeable pavement, which would allow water to percolate into the groundwater basin below the project site. Therefore, the proposed project would not deplete groundwater supplies or interfere substantially with groundwater recharge.

3.4.4.4 STORMWATER COLLECTION

Stormwater runoff from the project site is channeled into a storm drain under Bianchi Way. Stormwater from Cupertino is eventually discharged into San Francisco Bay. As described in Section 2.5.4.3, *Stormwater Management*, the increased density of the proposed project would result in an increase of 5,157 square feet of impervious surfaces. As described in Section 2.5.4.3, the City participates in the Santa Clara Valley Urban Runoff Pollution Prevention Program, which implements the NPDES program throughout the county, and requires minimization of impervious surfaces and measures to control from peak flows. Additionally, CMC Chapter 9.18, *Stormwater Pollution Prevention and Watershed Protection*, provides regulations and gives legal effect to certain requirements of the NPDES permit issued to the City. In compliance with this, the proposed project includes 1,159 square feet of on-site bioretention areas that would hold and treat stormwater before it is released into the City's off-site storm drain infrastructure, as well as 2,701 square feet of self-treating permeable pavement.

3.4.4.5 FLOODING

The project site is not within a 100-year flood zone or special flood hazard area as mapped by the Federal Emergency Management Agency (FEMA). Additionally, the project site is also not located in an area subject to tsunamis, seiche, or dam failure inundation. Therefore, no impacts would occur.

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3.5 CEQA GUIDELINES SECTION 15332(E): UTILITIES AND PUBLIC SERVICES

For the following reasons, the project site can be adequately served by all required utilities and public services and therefore meets the criteria of CEQA Guidelines Section 15332(e).

The project site is in an urban area already served by all necessary municipal utilities (i.e., stormwater, water, wastewater, solid waste) and public services (i.e., police and fire).

3.5.1 Stormwater

As described in Section 3.4.4.4, *Stormwater Collection*, the project site is served by existing stormwater sewer systems, and the proposed project would not require additional or modified stormwater sewer systems. The proposed project would also implement on-site bioretention areas and self-treating permeable pavement to reduce or slow stormwater runoff. Therefore, there would be *less-than-significant impacts* to stormwater utilities.

3.5.2 Water

As described in Section 2.5.4.1, *Water Supply and Conservation*, the project site is within the CWS service area. Water service to the project site would be provided by the existing water line on Bianchi Way. No new connections would be needed and are not proposed as part of the proposed project.

The proposed project would be required to comply with CMC Section 17.04.050(l)(2), *Ensure Adequate Water Supply and Infrastructure*, which requires the project applicant to obtain written approval from the appropriate water service provider for water connections, service capability, and location and layout of water lines and backflow preventers, prior to issuance of the first permit.

As shown in the General Plan EIR, Chapter 4.14, *Hydrology and Water Quality*, the water supply at project buildout year 2025 would be 14,055 acre-feet⁴³ per year (afy) and at General Plan buildout year 2040 would be 16,984 afy. As discussed in the General Plan EIR, buildout of the General Plan would not result in insufficient water supplies from SJW 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. As shown in Table 2-1, *Reasonably Foreseeable Development Projects in Cupertino (Net New)*, in Section 2.4, *General Plan EIR*, the proposed project is within the buildout projections of the General Plan EIR. Therefore, with respect to water supply, impacts would be *less than significant*.

⁴³ 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.

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3.5.3 Wastewater

As described in Section 2.5.4.2, *Sanitary Sewer Service*, the project site is within the CSD service area, and wastewater would be treated at the SJ/SCWPCP. Wastewater generated by the proposed project would be collected by the existing sanitary sewer main along Bianchi Way.

Municipal stormwater discharges in the city of Cupertino are subject to the Waste Discharge Requirements of the Municipal Regional Permit (MRP; Order Number R2-2022-0018) and NPDES Permit Number CAS612008, which became effective on July 1, 2022. The MRP currently allows average dry-weather flow (ADWF) 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 here, 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*.

Based on the CSD's *Flow Modeling Analysis Homestead Flume Outfall to City of Santa Clara* dated December 6, 2019, the estimated ADWF generation rate for single-family residential developments is 175 gallons per day (gpd) per household and for multifamily residential developments is 133 gpd per household.⁴⁴ Applying this generation rate, the proposed project would generate an additional 693 gpd.⁴⁵

The SJ/SCWPCP's projected peak wet weather capacity stated in *The San Jose Santa Clara Water Pollution Control Plant Master Plan*, November 2013, is 450 mgd. Combined, the proposed project's wastewater generation (518 gpd or 0.000518 mgd) and the existing wastewater generated in the SJ/SCWPCP's service area (110 mgd) would not exceed the SJ/SCWPCP's current total peak wet weather capacity of 450 mgd. The ADWF capacity is 167 mgd pursuant to the most recent NPDES permit for the SJ/SCWPCP. Combined, the proposed project's wastewater generation and the existing wastewater generated would not exceed the SJ/SCWCP's current ADWF capacity limits.

The CSD has a contractual maximum treatment allocation of 7.85 mgd, on average, with the SJ/SCWPCP. At the time of the General Plan EIR, the wastewater generation of 5.3 mgd was estimated by the CSD.⁴⁶ Combined, the existing wastewater flow (5.3 mgd) plus the proposed project would not exceed the City's

⁴⁴ Mark Thomas & Co. Inc., December 6, 2019. *Cupertino Sanitary District Flow Modeling Analysis Homestead Flume Outfall to City of Santa Clara*.

⁴⁵ $(175 \text{ gpd/household} \times 7 \text{ households} = 1,225 \text{ gpd}) - (133 \text{ gpd/household} \times 4 \text{ households} = 532 \text{ gpd}) = 693 \text{ gpd}$

⁴⁶ 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.

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contractual allocation limits (7.85 mgd). Furthermore, the proposed project is within the buildout evaluated in the General Plan EIR; therefore, no new impact would result.

The CSD wastewater system flows through a portion of the City of Santa Clara's sewer system. The contractual agreement between CSD and the City of Santa Clara, for this portion of the Santa Clara sewer system, allows the City 13.8 mgd of capacity in the sewer system during peak wet weather flows. The existing CSD peak wet weather flow into the Santa Clara system is 13.14 mgd.⁴⁷ However, the estimated wastewater generation from the proposed project and from other potential projects in Cupertino, as established by the General Plan and other approved projects, is approximately 14.61 mgd, which is the total capacity needed to serve the General Plan buildout.⁴⁸ Therefore, the proposed project, and other approved and potential projects as established by the General Plan buildout, will require a reduction in sewer generation from the CSD system prior to flowing into the City of Santa Clara system, or additional capacity rights will need to be acquired from the City of Santa Clara.

Until such corrections to the system can occur, the operation of future projects in Cupertino, including the proposed project, would exceed the 13.8 mgd contractual limit through the City of Santa Clara sewer system.

The project applicant would be required to comply with CMC Chapter 17.04, *Standard Environmental Protection Requirements*. Specifically, the project applicant would be required to comply with CMC Section 17.04.050(I)(1), *Manage Wastewater Inflow and Infiltration to Sewer System*, listed below, which would ensure that potential impacts to the sewer system would be *less than significant*:

Manage Wastewater Inflow and Infiltration to Sewer System. Project applicants shall implement the following measures to reduce wastewater flow:

- a. The project applicant shall demonstrate, to the satisfaction of the City of Cupertino and Cupertino Sanitary District (CSD) that the project would not exceed the peak wet weather flow capacity of the Santa Clara sanitary sewer system by implementing one or more of the following methods:
 - i. Reduce inflow and infiltration in the CSD system to reduce peak wet weather flows, or
 - ii. Increase on-site water reuse, such as increased grey water use, or reduce water consumption of the fixtures used within the proposed project, or other methods that are measurable and reduce sewer generation rates to acceptable levels, to the satisfaction of the CSD.

⁴⁷ Mark Thomas & Co. Inc, December 6, 2019. *Cupertino Sanitary District Flow Modeling Analysis Homestead Flume Outfall to City of Santa Clara*.

⁴⁸ Mark Thomas & Co. Inc, December 6, 2019. *Cupertino Sanitary District Flow Modeling Analysis Homestead Flume Outfall to City of Santa Clara*.

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The project's estimated wastewater generation shall be calculated using the current generation rates used by the CSD unless alternative (i.e., lower) generation rates achieved by the project are substantiated by the project applicant based on evidence to the satisfaction of the CSD.

- b. The project applicant shall obtain a letter of clearance from the Cupertino Sanitary District and provide a copy of the letter of clearance to the City prior to issuance of the first permit.

This would ensure that the existing system can support the proposed project, and that impacts regarding wastewater utilities would be *less than significant*.

3.5.4 Solid Waste

As described in Section 2.5.4.4, *Solid Waste Services*, the City contracts with Recology to provide solid waste collection services to residents in the city. The proposed project site is already served by solid waste services and would continue to be served by Recology under the proposed project. The proposed project would not result in an excess of solid waste that would not be able to be accommodated for under existing services, and impacts would be *less than significant*.

3.5.5 Public Services Providers

The primary purpose of the 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 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.

Because the proposed project is in an area already served by public service providers and would only increase development compared to existing conditions by two residential units, it would not result in an increase in demand that would prevent public service providers from adequately serving residents. No mitigation measures would be required. Furthermore, through developer impact fees, development of the proposed project would support the City's public services funds that are used in part to maintain City services. Likewise, and pursuant to SB 50,⁴⁹ the project applicant would be required the school impact fees required for residential development that would deem any impacts to the Cupertino Union School District *less than significant*.

⁴⁹ Senate Bill 50 amended California Government Code Section 65995, which contains limitations on Education Code Section 17620, the statute that authorizes school districts to assess development fees within school district boundaries.

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4. Exceptions

In addition to analyzing the applicability of CEQA Guidelines Section 15332 (Class 32), this document assesses whether any of the exceptions to categorical exemptions identified in CEQA Guidelines Section 15300.2 (Exceptions) apply to the proposed project. The following analysis compares the criteria in CEQA Guidelines Section 15300.2 (Exceptions) to the project, and concludes, based on substantial evidence, that none of the exceptions are applicable to the project, and that the project is categorically exempt from CEQA pursuant to CEQA Guidelines Sections 15300 and 15332.

4.1 CEQA GUIDELINES SECTION 15300.2(A): LOCATION

Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply to all instances, except where the project may impact an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, State, or local agencies.

The proposed project does not qualify for an exemption under Classes 3, 4, 5, 6, or 11. The project site is located within an urban developed area and is not within a sensitive environment. In addition, the proposed project would not result in any impacts on an environmental resource of hazardous or critical concern. Therefore, the exception under CEQA Guidelines Section 15300.2(a) does not apply to the proposed project.

4.2 CEQA GUIDELINES SECTION 15300.2(B): CUMULATIVE IMPACT

All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

The proposed project would result in a slightly increased residential density (two additional units) on the project site in an urban neighborhood that is already served by utilities and public services, as well as transportation. As discussed in Section 3.4, *CEQA Guidelines Section 15332(d): Traffic, Noise, Air Quality, or Water Quality*, the proposed project would not result in significant impacts pertaining to traffic, noise, air quality, or water quality. Any construction effects would be temporary, confined to the project vicinity, and reduced to the extent feasible by implementing specific General Plan policies and applicable regulatory

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requirements. Therefore, the exception under CEQA Guidelines Section 15300.2(b) does not apply to the proposed project.

4.3 CEQA GUIDELINES SECTION 15300.2(C): SIGNIFICANT EFFECT

A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

There are no known unusual circumstances that are applicable to the project, which may result in a significant effect on the environment. The proposed project consists of the demolition of the existing four residential units on the project site and the construction of seven new residential units. The proposed project would not result in a change in the existing use or introduce a new activity to the area that could result in a significant effect on the environment. Therefore, the exception under CEQA Guidelines Section 15003.2(b) does not apply to the proposed project.

4.4 CEQA GUIDELINES SECTION 15300.2(D): SCENIC HIGHWAYS

A categorical exemption shall not be used for a project that may result in damage to scenic resources, including, but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements that are required as mitigation by an adopted negative declaration or certified EIR.

The proposed project would not affect a resource within a State Scenic Highway. The proposed project would not affect a resource within a State Scenic Highway. The nearest scenic highway, State Route 9, is over five miles south of the project site. Therefore, no scenic resources within view of a State Scenic Highway would be altered as part of the project.

The nearest eligible State Scenic Highway, I-280, is approximately 0.8 miles north of the project site, with urban development between. The project site is not visible from I-280. Additionally, the project site and surrounding area is already developed, and therefore the proposed project would not alter scenic resources. Therefore, no scenic resources within view of a State Scenic Highway would be altered as part of the project.

4.5 CEQA GUIDELINES SECTION 15300.2(E): HAZARDOUS WASTE SITES

A categorical exemption shall not be used for a project on a site that is included on any list compiled pursuant to Section 65962.5 of the Government Code.

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California Government Code Section 65962.5 requires the California Environmental Protection Agency (CalEPA) to compile, maintain, and update specified lists of hazardous material release sites. CEQA⁵⁰ requires the lead agency to consult the lists compiled pursuant to Government Code Section 65962.5 to determine whether a project and any alternatives are identified. The required lists of hazardous material release sites are commonly referred to as the “Cortese List” named after the legislator who authored the legislation. Because the statute was enacted more than 20 years ago, some of the provisions refer to agency activities that were conducted many years ago and are no longer being implemented and, in some cases the information required in the Cortese List does not exist. Those requesting a copy of the Cortese Lists are now referred directly to the appropriate information resources contained on internet websites hosted by the boards or departments referenced in the statute, including California Department of Toxic Substance Control’s (DTSC’s) online EnviroStor database and the State Water Resources Control Board’s (SWRCB’s) online GeoTracker database. These two databases include hazardous material release sites, along with other categories of sites or facilities specific to each agency’s jurisdiction. A search of these online databases found the project site is not on any list pursuant to Section 65962.5 of the Government Code or any other list compiled for purposes related to identifying the prior release of hazardous materials.^{51,52} The project site currently supports residential uses. Therefore, the exception under CEQA Guidelines Section 15300.2(e) does not apply to the proposed project.

4.6 CEQA GUIDELINES SECTION 15300.2(F): HISTORICAL RESOURCES

A categorical exemption shall not be used for a project that may cause a substantial adverse change in the significance of a historical resource.

No historic resources exist in the vicinity of the project site. There is also no known sensitivity for archaeological or paleontological resources on the site. However, the site may contain previously unknown subsurface archaeological and paleontological deposits. The proposed project would comply with Land Use and Community Design Element Policy 2-72 in the General Plan, which requires compliance with City, State, and federal historic preservation laws, regulations, and codes, including laws related to archaeological resources. In particular, the proposed project would be required to comply with CEQA Guidelines Section 15064.5(e), which specifies procedures to be used in the event of a discovery of Native American human remains on non-federal land. CMC Chapter 17.04, *Standard Environmental Protection Requirements*, contains cultural resources permit requirements that are necessary to protect archaeological resources and tribal cultural resources in Section 17.04.050(E), *Cultural Resources Permit Requirements*. Such

⁵⁰ California Public Resources Code Section 21092.6.

⁵¹ California Department of Toxic Substances Control. EnviroStor online database, <https://www.envirostor.dtsc.ca.gov/public/map/?myaddress=10040+bianchi+way>, accessed August 23, 2022.

⁵² California State Water Resources Control Board. GeoTracker online database, <https://geotracker.waterboards.ca.gov/map/?CMD=runreport&myaddress=10040+bianchi+way>, accessed August 23, 2022.

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requirements include providing written verification to the City that contractors and construction crews have been notified of basic archeological site indicators, the potential the potential for discovery of archaeological resources, laws pertaining to these resources, and procedures for protecting cultural and tribal cultural resources. The project applicant would be required to comply with the protocols to ensure impacts to archeological resources would be reduced. Additionally, CMC Section 17.04.050(H), *Paleontological Resources Permit Requirements*, provides protocols to protect paleontological resources during construction that the project applicant must adhere to in the event that there is a find. These requirements include temporarily halting or redirecting construction activities to allow a qualified paleontologist to assess the significance of the find, monitoring the project site if the find is found to be significant, and preparing a mitigation plan to ensure the preservation of the resources. With mandatory compliance with CMC Section 14.04.050(E) and Section 17.04.050(H), impacts to unknown archaeological and paleontological resources would be *less than significant*.

5. Conclusion

As discussed in Chapter 3, *Exemption*, of this document, the proposed project meets the criteria for categorically exempt in-fill development projects in CEQA Guidelines Section 15332 and because, as discussed previously, none of the exceptions to the categorical exemptions in CEQA Guidelines Section 15300.2 apply, and it would not have a significant effect on the environment pursuant to CEQA, this analysis finds that a Notice of Exemption is appropriate for the proposed project.

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6. List of Preparers

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