

# FHDA Student Housing CEQA Exemption Memo

Foothill-De Anza Community College District

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February 2025

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# 1. Introduction

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Article 19 (Categorical Exemptions) of the California Environmental Quality Act (CEQA) Guidelines includes, as required by CEQA Statute 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 Foothill-De Anza Community College District's (District) proposed purchase and minor alteration of the existing McClellan Terrace Apartments at 7918 McClellan Road, herein referred to as the proposed project, and 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 1 CEQA Exemption pursuant to CEQA Guidelines Section 15301 (Existing Facilities), which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The proposed project would also qualify for a Class 4 CEQA Exemption pursuant to CEQA Guidelines Section 15304 (Minor Alterations to Land), which consists of minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes.

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;
- (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. INTRODUCTION

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## 2. Project Description

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The District is proposing to purchase the property at 7918 McClellan Road in Cupertino and perform minor alterations to the existing residential apartments for accessibility compliance and swimming pool for safety (proposed project). The District would maintain the residential property as student housing to provide affordable housing for the students attending Foothill College and De Anza College. A detailed description of the minor alterations is provided in Section 2.5, *Proposed Project*.

### 2.1 PROJECT LOCATION

The project site is in the city of Cupertino within Santa Clara County. The city of Cupertino is surrounded by the city of Sunnyvale to the north, the city of Santa Clara to the east, the city of Saratoga to the south, and open space to the west. The city of Cupertino is approximately 37 miles south of San Francisco and 2 miles west of downtown San Jose, on the San Francisco Peninsula.

The project site is at 7918 McClellan Road and assigned Assessor Parcel Number 362-12-001. The project site is west of State Route 85 (SR-85) and approximately 0.35 miles southwest of the District's De Anza College campus. The project site is in a built up and urbanized area that is bounded by McClellan Road to the north, residential uses to the east and south, and Union Pacific Railroad tracks to the west.

### 2.2 EXISTING SITE CONDITIONS

The project site includes existing residential apartments with amenities including central courtyards, one of which includes a pool, surface parking lot, and associated landscaping. The apartments are grouped within eight buildings that are distributed across the project site. The pool on the project site is surrounded by three of the eight residential apartment buildings. The parking lot generally covers the west side of the project site and includes covered carports and open-air parking spaces. The landscaping includes grass, shrubs, and trees. The apartments are currently available to rent by the general public.

### 2.3 SURROUNDING LAND USES

The project site is surrounded by residential and commercial buildings, public facilities, and SR-85. Commercial buildings are to north of the project site. Single-family residential buildings are to the east and south of the project site, and a public facilities area and multifamily buildings are to the west of the project site. SR-85 is to the east of the project site.

## 2. PROJECT DESCRIPTION

### 2.4 LAND USE AND ZONING DESIGNATIONS

The project site is designated as Medium Density residential in the Cupertino General Plan (Community Vision 2015-2040) and is zoned Planned Development, Multiple-Family Residential P(R3).<sup>1,2</sup>

### 2.5 PROPOSED PROJECT

The District proposes to purchase and maintain the apartments as affordable student housing that would be available for students attending Foothill College and De Anza College. Overall, the proposed project would add to the District's portfolio of student housing but would not result in an increase in the number of students enrolled at both colleges. Additionally, the proposed project would entail minor alterations to the existing residential apartments for accessibility compliance and would fill in the swimming pool for safety. Most of the alterations would be interior renovations with finishes being replaced and up to five units would be converted to accessible units. The swimming pool area would be replaced with a central courtyard area, with landscaping similar to the other existing courtyard. Overall, no ground-disturbing activities would occur on soil that has not previously been disturbed and would be limited to no more than approximately 2 feet deep.

#### 2.5.1 Construction Schedule

It is anticipated that the construction and renovation phase would occur over a one-to-two-month period and would involve limited equipment for installing concrete ramps for accessibility compliance and filling the swimming pool.

### 2.6 REQUIRED PERMITS AND APPROVALS

Following approval of the CEQA Notice of Exemption by the Foothill-De Anza Community College District Board, the project would go out to bid for renovations.

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<sup>1</sup> Cupertino General Plan (Community Vision 2015-2040), 2024, <https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/General-Plan/General-Plan-Community-Vision>, accessed on February 18, 2025.

<sup>2</sup> Cupertino Zoning Map, <https://map.gridics.com/us/ca/cupertino#11.97/37.31591/-122.03296/0/45>, accessed on February 18, 2025.



## 3. Exemptions

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As stated in Chapter 1, *Introduction*, 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 Class 1 and Class 4 CEQA Exemptions, consistent with the provisions of CEQA Guidelines Sections 15301, 15304, and 15300.2. Specifically, the information provided shows that:

- The proposed project qualifies for an exemption under CEQA Guidelines Section 15301 (Class 1: Existing Facilities) and, as a result, would not have a significant effect on the environment.
- The proposed project qualifies for an exemption under CEQA Guidelines Section 15304 (Class 4: Minor Alterations to Land) and, as a result, would not have a significant effect on the environment.
- No exceptions to the Existing Facilities or Minor Alterations to Land exemptions, as identified in CEQA Guidelines Section 15300.2, apply to the proposed project.

### 3.1 SECTION 15301: EXISTING FACILITIES CONSISTENCY

The proposed project is consistent with a Class 1, *Existing Facilities*, CEQA Exemption as it would only involve minor alterations to the existing residential buildings to comply with accessibility standards and would fill the existing pool and replace it with landscaping. Student enrollment at Foothill College and De Anza College would not increase due to the proposed project.

### 3.2 SECTION 15304: MINOR ALTERATIONS TO LAND CONSISTENCY

The proposed project is consistent with a Class 4, *Minor Alterations to Land*, CEQA Exemption. The proposed project would fill the existing pool and replace it with a landscaped area. No healthy, mature, scenic trees would be removed as part of the proposed project.

### 3. EXEMPTIONS

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## 4. Exceptions

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In addition to analyzing the applicability of CEQA Guidelines, Section 15301 (Class 1) and Section 15304 (Class 4), 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 proposed 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.

### 4.1 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, 5, 6, or 11, but does qualify for a Class 4 exemption. The project site is on an existing developed site in an urban area adjacent to SR-85 and is surrounded by residential neighborhoods, public facilities, and commercial buildings. The project site is identified in the Cupertino General Plan Community Vision 2015-2040 as part of the urban forest and outside any sensitive environments within Cupertino.<sup>3</sup> In addition, the proposed project would not result in any impact 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 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.*

Under the proposed project, the District would purchase and maintain the existing residential apartments for student housing for students attending the District's campuses. The proposed project would involve minor alterations for accessibility compliance and safety. There would be no changes in student enrollment

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<sup>3</sup> Cupertino General Plan (Community Vision 2015-2040), 2024, <https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/General-Plan/General-Plan-Community-Vision>, accessed on February 18, 2025.

## 4. EXCEPTIONS

at both colleges due to the proposed project. The proposed project would shift the type of use on the project site from housing available to the general public to student housing. The proposed project would not result in significant impacts pertaining to traffic, noise, greenhouse gas emissions, air quality, water quality, or other cumulative impact areas. Any construction effects would be temporary and short-term (approximately 2 months), confined to the project vicinity, and reduced to the extent feasible by implementing applicable regulatory requirements. Therefore, the exception under CEQA Guidelines Section 15300.2(b) does not apply to the proposed project.

### 4.3 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 proposed project. The proposed project consists of the purchase and maintenance of the residential buildings for residential uses. Short-term construction-related activities would be required to ensure the project site is in compliance with all accessibility standards and to fill in the swimming pool for safety. The proposed project would not result in a change in the existing use, introduce a new activity to the area, or increase student enrollment at Foothill College and De Anza College that could result in a significant effect on the environment. Therefore, the exception under CEQA Guidelines Section 15003.2(c) does not apply to the proposed project.

### 4.4 SECTION 15300.2(D): SCENIC HIGHWAYS

*A categorical exemption shall not be used for a project which 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 which are required as mitigation by an adopted negative declaration or certified environmental impact report (EIR).*

The proposed project would not affect a scenic resource in a designated State Scenic Highway. The closest officially designated State Scenic Highway is State Route 9 (SR-9), which is approximately 4.3 miles south of the project site.<sup>4</sup> Additionally, Interstate 280 (I-280), 1.3 miles north of the project site, is eligible for listing as a State Scenic Highway.<sup>5</sup> Based on the topography of the area, surrounding mature trees, and the relative distances from the project site, the project site is not visible from the closest part of I-280 nor the scenic highway of SR-9. Additionally, the project site and surrounding area are already developed, and the

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<sup>4</sup> Caltrans, 2018, California State Scenic Highway System Map, <https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aaca>, accessed on February 18, 2025.

<sup>5</sup> Caltrans, 2018, California State Scenic Highway System Map, <https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aaca>, accessed on February 18, 2025.

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proposed project would therefore not alter scenic resources. Thus, no scenic resources within view of a State Scenic Highway would be altered as part of the proposed project and the exception under CEQA Guidelines Section 15003.2(d) does not apply to the project.

### 4.5 SECTION 15300.2(E): HAZARDOUS WASTE SITES

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

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. CEQA 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.<sup>6</sup>

The project site is not included on the Hazardous Waste and Substances Site List (Cortese) pursuant to Government Code Section 65962.5 as of February 2025.<sup>7</sup> Furthermore, additional lists of hazardous material release sites are contained on internet websites hosted by the boards or departments referenced in the statute, including California Department of Toxic Substance Control's online EnviroStor database and the State Water Resources Control Board'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.<sup>8,9</sup> Therefore, the exception under CEQA Guidelines Section 15300.2(e) does not apply to the proposed project.

### 4.6 SECTION 15300.2(F): HISTORICAL RESOURCES

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

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<sup>6</sup> California Public Resources Code Section 21092.6.

<sup>7</sup> California Department of Toxic Substances Control, 2025, Hazardous Waste and Substances Site List (Cortese), [https://www.envirostor.dtsc.ca.gov/public/search?cmd=search&reporttype=CORTESE&site\\_type=CSITES,FUDS&status=ACT,BKLG,COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29](https://www.envirostor.dtsc.ca.gov/public/search?cmd=search&reporttype=CORTESE&site_type=CSITES,FUDS&status=ACT,BKLG,COM&reporttitle=HAZARDOUS+WASTE+AND+SUBSTANCES+SITE+LIST+%28CORTESE%29), accessed February 19, 2025.

<sup>8</sup> California Department of Toxic Substances Control. EnviroStor online database, <https://www.envirostor.dtsc.ca.gov/public/map/>, accessed February 19, 2025.

<sup>9</sup> California State Water Resources Control Board. GeoTracker online database, <https://geotracker.waterboards.ca.gov/map/?CMD=runreport&myaddress=7918+McClellan+Rd#>, accessed February 19, 2025.

## 4. EXCEPTIONS

The types of cultural resources that meet the definition of historical resources under CEQA Section 21084.1 generally consist of districts, sites, buildings, structures, and objects that are significant for their traditional, cultural, and/or historical associations. Under CEQA, both prehistoric and historic-period archaeological sites may qualify based on historical associations. According to the Cupertino General Plan Community Vision 2015-2040, the project site is not identified as a historic site, a commemorative site, or a community landmark.<sup>10</sup> Additionally, the project site is not listed on the National Register or the California Register of Historic Resources.<sup>11,12</sup> The proposed project would involve limited construction-related activities associated with filling the pool and replacing it with a landscaped area. No ground-disturbing activities would occur on soil that has not previously been disturbed and would be limited to no more than approximately 2 feet deep. While there is also no known sensitivity for archaeological resources on the project site, the site may contain previously unknown subsurface archaeological resources. However, given the site has been previously disturbed for the development of the existing apartment complex and ground disturbing activities would be limited to these areas and would not exceed 2 feet in depth, the likelihood of unearthing an archeological resource is low. Should a sensitive resource be unearthed, the proposed project would comply with 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. With mandatory compliance with applicable laws and regulations related to archaeological resources, impacts to historic resources would not occur. Therefore, the exception under CEQA Guidelines Section 15300.2(f) does not apply to the proposed project.

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<sup>10</sup> City of Cupertino, Cupertino General Plan Community Vision 2015-2040, [https://www.cupertino.gov/files/assets/city/v/2/departments/documents/community-development/planning/general-plan/current-gp-documents/cupgp\\_ch3\\_landuse\\_2024update\\_8-6-2024\\_reduced\\_size.pdf](https://www.cupertino.gov/files/assets/city/v/2/departments/documents/community-development/planning/general-plan/current-gp-documents/cupgp_ch3_landuse_2024update_8-6-2024_reduced_size.pdf), accessed on February 19, 2025.

<sup>11</sup> National Parks Service, 2025 (accessed), National Register of Historic Places, <https://www.nps.gov/subjects/nationalregister/database-research.htm>, accessed on February 19, 2025.

<sup>12</sup> California State Parks, 2025 (accessed), California Historical Resources, <https://ohp.parks.ca.gov/ListedResources/?view=county&criteria=43>, accessed on February 19, 2025.

## 5. Conclusion

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As discussed in Chapter 3, *Exemptions*, the proposed project meets the criteria for categorical exemptions using Class 1, *Existing Facilities*, and Class 4, *Minor Alterations to Land*, in CEQA Guidelines Sections 15301 and 15304, respectively. Additionally, as explained in Chapter 4, *Exceptions*, none of the exceptions to the categorical exemptions in CEQA Guidelines Section 15300.2 apply, and the proposed project would not have a significant effect on the environment. Thus, this analysis finds that an exemption may be used, and a Notice of Exemption prepared for the proposed project.

## 5. CONCLUSION

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## 6. List of Preparers

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