



COMMUNITY DEVELOPMENT DEPARTMENT

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CITY COUNCIL STAFF REPORT

Date: June 2, 2026

Subject

Consider a residential project with 27 three-story townhomes, including 5 affordable units, with associated site improvements and condominium map, to replace a commercial office building on a 1.55-acre site. The project utilizes Senate Bill 330 and provisions of State Density Bonus law. (Application No(s): ASA-2025-016, TM-2025-008, & TR-2025-033; Applicant: SummerHill Homes, LLC; Location: 10268 Bandley Drive; APNs: 326-33-097.)

Recommended Action

1. Find the project statutorily exempt from the California Environmental Quality Act (CEQA); and
2. Approve the following permits:
 - a. Adopt Resolution No. 26-XXX approving Architectural & Site Approval Permit (ASA-2025-016) (Attachment A);
 - b. Adopt Resolution No. 26-XXX approving Tentative Map (TM-2025-008) (Attachment B);
 - c. Adopt Resolution No. 26-XXX approving Tree Removal permit (TR-2025-033) (Attachment C).

Executive Summary

This report outlines a project proposed by SummerHill Homes for a 27-unit housing development on an existing commercial/office parcel. The report covers the applicable State laws, including the Housing Accountability Act, Housing Crisis Act, and Density Bonus law, and local standards applicable to the project. The report also includes a summary of the Planning Commission hearing on May 12, 2026, including public comment, and the Planning Commission's discussion. Finally, the report summarizes the findings necessary for the Council to act on the project.

Discussion

Project Data

General Plan Land Use Designation	Office / Industrial / Commercial / Residential with a maximum residential density of 25 du/acre*
Special Planning Area	N. De Anza Boulevard Conceptual Plan
Zoning Designation	P(CG, ML, Res)*

Lot Area	1.55 acres	
	Allowed/Required	Proposed
Maximum Density	Up to 25 units per acre*	17.41 units per acre
Height of Structures	Max. 45 feet measured from sidewalk to top of cornice, parapet, or eave line of a peaked roof.	41'-3"
Setbacks		
Front	20 feet from property line	8 feet from property line (Waiver)
Sides	First Floor – 10 feet from property line Upper Floors – 12 feet from property line	13 feet from property line
Rear	First Floor – 20 feet or 20% of the lot depth, whichever is greater. Main building may encroach as close as 10 feet to rear lot line if a usable rear-yard setback area of not less than twenty times the width of the lot is maintained. Upper Floors – 20 feet or 20% of the lot depth, whichever is greater.	12.5 feet (Waiver)
Usable Open Space		
Private	60 square feet per unit and no dimension less than 6 feet	68 square feet per unit.
Project Consistency with:		
General Plan ¹	Consistent under SB330 & state density bonus law.	
Conceptual Plan ²	Consistent under state density bonus law. Density bonus waiver requested for landscape setback.	
Zoning	Consistent under SB330 and state density bonus law. Density bonus waivers requested for setbacks, parking standards, and landscaping.	
* Since the project utilizes the provisions of SB330 (as discussed later in the report) the development standards, regulations & fees applicable at the time of submitting a SB330 preliminary application apply. No changes have been made to the land use and zoning designations of the property since receipt of the SB330 preliminary application on July 15, 2025.		

¹ The applicable General Plan can be found online at https://records.cupertino.org/WebLink/DocView.aspx?id=1019620&dbid=0&repo=CityofCupertino&_gl=1*gufghv*_ga*OTc5OTgwMjc4LjE3NDQ3Mzc0NDM.*_ga_NCY1KGMD5Y*cze3NDkwMDIwNzAkczY2JGcxJHQxNzQ5MDAyMDgwJGo1MCRsMCRoMA.

² The applicable version of the N. De Anza Conceptual Plan can be found online at <https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/General-Plan/Land-Use-Plans#docaccess-2e6e8012b418820421094c4fbb1bec76a3a7e32aac0c0192cf32549d881c84c8>

Background

On July 15, 2025, the City received an SB330 pre-application to redevelop the property located at 10268 Bandley Drive. The project site is located within the North De Anza Special Area. The applicant subsequently submitted a formal project application for the proposal on November 6, 2025, within 180 days of the submission of the SB-330 pre-application, which granted it certain vesting rights under State law.

The 1.55-acre property is located mid-block on the eastern side of Bandley Drive between Mariani Avenue and Lazaneo Drive. The site is currently developed with a 20,381 square-foot single-story office building with surface parking. The office space is currently occupied by several office tenants. The project site shares property lines with office uses to the north, south, east and west, across Bandley Drive. Other surrounding uses include the Chinese Church in Christ, also located to the west across Bandley Drive. (See Figure 1). Nearby uses include multifamily four-plexes approximately 250 feet south of the property, commercial uses (Target) approximately 1,000 feet to the south, and, while not directly accessible, single-family homes approximately 450 feet to the west.

The “P” zoning designation is detailed in Cupertino Municipal Code, Chapter 19.80, Planned Development Zones. The “P” zoning designation is intended to provide a means of guiding land development or redevelopment within the City that is uniquely suited for planned coordination of land uses and land development. Where residential development is proposed on properties in the Planned Development zoning district, and where the Specific Plan is silent, development is required to follow Multifamily (R-3) zoning regulations. Principally, the proposed project consists of 27 townhome-style condominiums. Since the project is 100% residential, review of the project is limited by several applicable State laws, including the Housing Accountability Act, the Housing Crisis Act (SB330), and Density Bonus Law (Attachment D).

While the first two State laws apply because the project meets the definition of a “housing development project,” State density bonus law applies because the project proposes to provide qualifying amounts of affordable housing. It is important to note that, while projects subject to State density bonus law are allowed to increase their maximum density

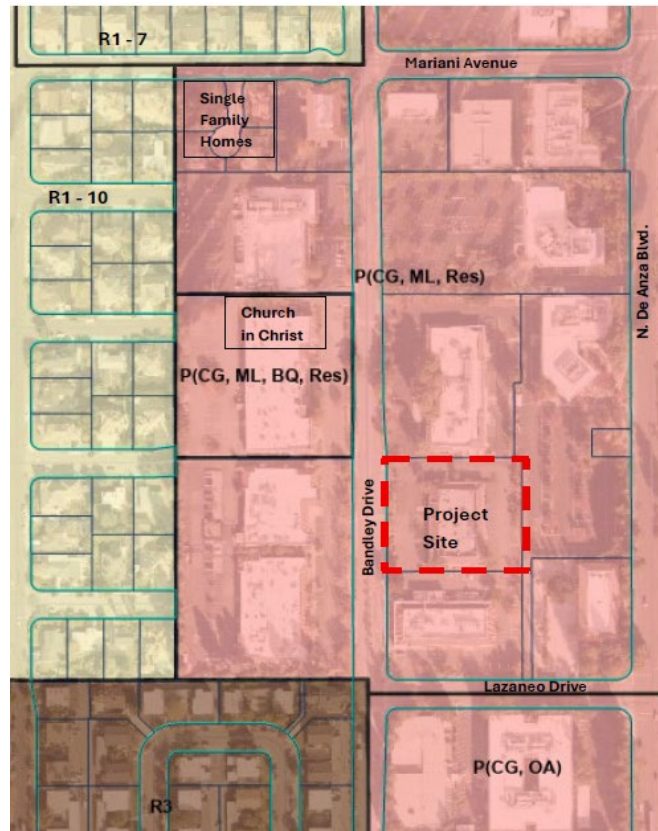


Figure 1 Vicinity map showing the project site and surrounding land uses and zoning. Most parcels within the pink areas are office use except for those specially identified.

and the total number of units proposed, an applicant may elect to utilize waivers, incentives/concessions, or reduced parking standards offered under state law, without providing additional density bonus units, as is the case with the proposed project. With twenty percent, or five (5)³, of the proposed 27 residential units affordable to moderate- and median-income households, consistent with the City’s Below Market Rate (BMR) requirements, the project is eligible for all applicable benefits of State density bonus law. The project includes a request for one concession and four waivers from applicable standards of the General Plan, Zoning Code and N. De Anza Conceptual Plan. These requests are discussed later in this report.

Project Proposal

The project applicant, SummerHill Homes, is proposing 27 townhome condominiums. The project consists of three 6-plex and one 9-plex buildings (see Attachment G: Site Plan and Renderings⁴ and Figure 2). All four proposed buildings are three stories high, with units ranging in size from 2,120 square feet to 2,822 square feet (including garage space). The applicant also proposes to remove several on-site trees

Based on the scope of the project, the City has required the following entitlements: Architectural and Site Approval, Tree Removal Permit and a Vesting Tentative Map.



Figure 2: Site plan with unit plan types and location of BMR units.

Architecture and Site Design

The applicant proposes to develop 27 townhome-style condominiums in four three-story buildings on the 1.55-acre site. The project continues to provide access to the site via two driveway curb cuts off Bandle Drive with a shared driveway curb cut with the property to the south, and maintains an ingress/egress driveway with the neighbor to the north.

Each townhome has a private ground-floor entry, three or four bedrooms, and an attached two-car garage. The project contemplates four different floor plans, with habitable space ranging

³ The Project is required to provide 5.4 units (20% of 27 units). Pursuant to the City’s BMR program, five units will be provided on site, and 0.4 units will be paid in in-lieu fee.

⁴ Due to limitations of Government Code § 65103.5, the distribution of copyrighted material associated with the review of development projects is limited. Plans have been emailed under separate cover to allow the Commissioners to review the proposed plans. Commissioners and Councilmembers cannot share plans with outside parties, including community members. The public is able to make an appointment with the Planning Division to view these plans at City Hall.

between approximately 1,507 and 2,292 square feet. Covered porches on the first floor, and recessed balconies on the 2nd floors will provide residents with private outdoor space. The project provides five guest parking spaces, in addition to the 2-car garage for each unit for a total of 59 parking spaces for the project. The City does not require guest parking.

The architectural style is a contemporary residential design which utilizes a high-contrast color palette paired with a mix of vertical siding and smooth-finish masonry. The elevations feature staggered building planes and recessed balconies that provide visual depth, while dark-trimmed windows add a modern aesthetic. This approach emphasizes a minimalist aesthetic through simple forms and a cohesive blend of neutral textures.

The landscape design for the project is intended to promote pedestrian circulation through a network of accessible pathways, connecting all residences to the mailbox kiosk, bicycle racks, central amenity area, and the public sidewalk on Bandley Drive. The central amenity area is proposed with an open-air gathering space with enhanced paving material, lounge seating and a seat wall. Evergreen and flowering deciduous trees are proposed for screening, shade and accent. Evergreen native and nonnative shrubs, succulents, groundcovers and grasses are proposed to provide a lush landscape while adhering to water conservation measures. Plant material is intended to complement the architecture, with a variety of flowering contextual plant massing. All water treatment areas include a variety of appropriate water treatment shrubs and grasses. A condition of approval requires installation of a sound attenuating fence along the southern property line to address neighbor concerns (*see "Public Outreach/Comment" section of report*).

Analysis

General Plan Compliance

The proposed project consists of a residential development consistent with the site's General Plan Land Use Designation of Office/Industrial/Commercial/Residential. The General Plan designation allows a maximum density of 25 dwelling units per acre, or 39 units for the 1.55-acre site. The General Plan does not require a minimum density. The 27 units proposed is below the maximum allowed by the General Plan and the project is, therefore, consistent with the density in effect when the SB330 Preliminary Application was submitted. The proposed buildings meet the height requirements of the General Plan.

Staff has evaluated the project's consistency with the General Plan and concludes that based on the conformance with the General Plan Land Use designation for the site, the general alignment of design with General Plan requirements, notwithstanding the limitations of State law, and the absence of environmental impacts as analyzed in the Notice of Exemption memo (see Environmental Review section of this Staff Report), the proposed project supports several of the City's General Plan goals, as outlined below.

- **Policy LU-2.2: Pedestrian-Oriented Public Spaces.** Require developments to incorporate pedestrian-scaled elements along the street and within the development such as parks, plazas, active uses along the street, active uses, entries, outdoor dining & public art.
- **Policy LU-3.3: Building Design.** Ensure that building layouts and design are compatible with the surrounding environment and enhance the streetscape and pedestrian activity.

- **Strategy LU-3.3.10: Entrances.** In multi-family projects where residential uses may front on streets, require pedestrian-scaled elements such as entries, stoops and porches along the street.
- **Policy LU-27.2: Relationship to the Street.** Ensure that new development in and adjacent to neighborhoods improve the walkability of neighborhoods by providing inviting entries, stoops and porches along the street frontage, compatible building design and reducing visual impacts of garages.
- **Policy INF 2.4.2 Development.** Require undergrounding of all utility lines in new developments and highly encourage undergrounding in remodels or redevelopment of major projects.
- **Strategy HE-2.3.7: Density Bonus Ordinance.** The City will encourage use of density bonuses and incentives, as applicable, for housing developments which include:
 - At least 10 percent of the housing units in a for-sale common interest development are restricted to moderate-income residents.

Municipal Code and Zoning Compliance

Since the project is eligible for waivers and incentives under State density bonus law, the waivers from the Municipal Code standards are discussed in the “*Density Bonus and Waivers*” section of the staff report below. Unless otherwise indicated in that section of the report, the project meets other requirements of the Municipal Code and Zoning.

Tree Removal and Replacement

The project arborist report evaluated the 25 on-site trees and 5 off-site trees on neighboring properties, adjacent to the property lines. The proposal includes the removal of all 25 protected development trees on the site due to construction conflicts. All five offsite development trees, including one native coast live oak, will be retained and protected in place during construction. The report and peer review concluded that the trees proposed for removal would be within the construction footprint and could not be preserved or adequately protected during construction. There are currently no street trees along the site’s frontage so the project has been conditioned to plant street trees to enhance the public right-of-way.

The City’s requirements for tree replacement, consistent with Cupertino Municipal Code Section 14.18.160 (A), are as indicated in Table 1 below:

Table 1: Tree Replacement

Diameter of Trunk of Removed Tree	# of Trees Proposed for Removal	Replacement Tree Size Required	Replacement Trees
12 inches or less	14	One 24" box tree	14 (24" box trees)
Greater than 12 inches and up to 18 inches	8	Two 24" box trees or One 36" box tree	16 (24" box trees) or 8 – 36" box trees
Greater than 18 inches and up to 36 inches	2	Two 24" box trees or One 36" box tree	4 - 24" box trees or 2 36" box trees
Over 36 inches	1	One 36" box tree	1 (36" box trees)

The applicant proposes to replace the 25 trees that would be removed through the project's development with 35 trees of various species. All replacement trees will be planted on-site. Replacement trees will be a mix of 24-inch and 36-inch box, with a minimum of one 36" box tree, consistent with Municipal Code tree replacement requirements.⁵ All new development trees and landscaping planted on-site will be considered protected, and a condition of approval has been included to require that an agreement be executed to ensure the ongoing preservation, maintenance, and protection of the new trees and landscaping by future property owners.

Vesting Tentative Map

The Vesting Tentative Map (VTM) application proposes to subdivide the existing lot to create a condominium-type subdivision. The map proposes 27 condominium (air-space) parcels for the proposed townhome units with additional roadway and open space parcels to support the development. The approval of a vesting tentative map confers a vested right to proceed with development in substantial compliance with the City's ordinances, policies, and standards in effect at the date the City determined the application was complete.

Park Land Dedication

Under Cupertino Municipal Code Section 13.08.050(A), residential developments must provide park land on site and/or pay an in-lieu fee for the required park land dedication. However, State and local regulations provide that residential developments under 50 units are not subject to parkland dedication requirements but must, instead, pay an in-lieu fee. Since the proposed development consists of 27 townhomes, it is therefore subject to payment of an in-lieu of parkland dedication fee. Furthermore, the City's Housing Element and BMR Mitigation Manual waives payment of parkland in-lieu fees for deed-restricted affordable units. Therefore, the project is required to pay an in-lieu of fee for only the 22 proposed market rate units, for a total of \$1,320,000.⁶

Density Bonus

The project includes five below-market rate (BMR) units, or 19% of the total number of units proposed under state Density Bonus Law.⁷ In compliance with the City's BMR Housing Program, three of the five affordable units will be for sale to median-income households (80-100% of Area Median Income) and the remaining two will be for sale to moderate-income households (100-120% of Area Median Income). A condition of approval has been included to ensure recordation of an agreement with the City, prior to certificates of occupancy, requiring the designated BMR units to be for-sale to households at the specified income levels for a 99-year term.

Density Bonus and Waiver Requests

The project is eligible for Density Bonus waivers and concessions consistent with the City of Cupertino Municipal Code Chapter (CMC) 19.56 *Density Bonus* and State Density Bonus Law. The project includes 4 waiver requests.

⁵ In total, as currently proposed, 55 trees will be planted onsite, with 52 24-inch box and three 36-inch box.

⁶ Due to the SB330 nature of the project, the Park Fees payable are those in effect as of July 2025.

⁷ See Footnote 3 regarding project compliance with City BMR Program.

Section 19.56.070 of the City’s Density Bonus Ordinance (“*Findings*”) requires that, before approving an application which includes a request for a density bonus, waivers, or reduction in parking standards, the decision-making body must determine that the proposal is consistent with State Density Bonus Law by making the following findings⁸, as applicable:

1. That the housing development is eligible for the density bonus being requested as well as any incentives or concessions, waivers or reductions in parking standards that are requested.
2. That the development standard(s) for which the waiver(s) are requested would have the effect of physically precluding the construction of the housing development with the density bonus and incentives or concessions permitted, if a waiver was not requested.

The City may not deny a waiver of a development standard that would physically preclude the construction of the project *as it is designed*, unless it is found that the waiver or reduction would have a specific, adverse impact upon health or safety, for which there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, or would have an adverse impact on any real property that is listed in the California Register of Historical Resources.

Waivers Requested

As a density bonus project, the applicant may submit proposals for an unlimited number of waivers, or reduction of development standards, that would have the effect of physically precluding the construction of the project as proposed/designed (Government Code Section 65915(e)). As previously noted, a city may not deny a proposed project based on the theory that another project, with a similar number of units, might be designed differently and accommodated without waivers of development standards. The project requires 4 waivers⁹ as follows:

1. Front Setback (CMC Table 19.36.070 (C)(1))

Table 19.36.070 of the Cupertino Municipal Code requires a minimum setback of 20 feet on the front. The following table indicates the required and proposed front setback for the project.

Building	Required Front Setback	Proposed Front Setback
1	20’ from property line	8’ from property line

The applicant states that imposing the front setback requirements would result in the elimination of units, reduced floor areas of units, or a substantial change to the design of the buildings, which is not consistent with the project as proposed.

⁸ Government Code Section 65915 (d)(4): The city, county, or city and county shall bear the burden of proof for the denial of a requested concession or incentive.

⁹ The applicant had identified two additional waivers - side yard setbacks and garage size reductions – with their application materials. Upon review, it was determined that the proposed side setbacks conform to the R3 development standards and that the proposed garages exceed the garage/parking requirements for townhome developments. Therefore, no waivers are required for side yard setbacks or garage size.

2. Rear Setback (CMC Table 19.36.070 (C)(3))

Table 19.36.070 of the Cupertino Municipal Code requires that developments have a minimum rear setback of 20 feet or 20% of the lot depth, whichever is greater. The following table indicates the required and proposed setback for the building for which waivers are requested.

Building	Required Rear Setback	Proposed Rear Setback
4	34' from property line ¹⁰	12'6" from property line

The applicant states that imposing the rear setback requirement would result in the elimination of units, reduced floor areas of units, or a substantial change to the design of the buildings, which is not consistent with the project as proposed by the applicant.

3. Landscape Planter (CMC Table 19.124.040 (N)(3) and (7))

The Municipal Code requires a three-foot-wide Landscape Planter Strip along the length of the parking area. The guest parking spaces will be surrounded by an access pedestrian path for motorists of the parked vehicles. The applicant states that it is not possible to comply with this requirement without eliminating units, reducing floor area or changing the height and design of the buildings.

4. Landscape Setback and Area (N. De Anza Conceptual Plan)

The N. De Anza Conceptual Plan¹¹ requires a landscape area of 25 times the lineal street frontage measured from the curb, with an average setback of 25 feet. As designed, the proposal provides a front setback of 8 feet and the project does not meet this requirement. The applicant states that it is not possible to comply with this requirement without eliminating units, reducing floor area or substantially changing the design of the project.

Concession Requested

As a density bonus project with 19% of units¹² reserved for sale to moderate-income households¹³, the applicant may request one density bonus concession¹⁴. Concessions allow an applicant to deviate from development regulations when such regulations have the potential to make the project economically infeasible to build. The applicant has requested one concession as follows:

¹⁰ This is based on 20% lot depth at 170-feet.

¹¹ N. De Anza Conceptual Plan, with amendments, are available online here: <https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/General-Plan/Land-Use-Plans#docaccess-2e6e8012b418820421094c4fbb1bec76a3a7e32aac0c0192cf32549d881c84c8>.

¹² The project is providing five, or 19%, of the total units, as affordable and paying an in-lieu payment for a fractional 0.4 unit for their 20% BMR requirement in compliance with the City's BMR mitigation manual.

¹³ State law considers units offered to households making 80-120% of the Area Median Income as moderate-income units. The City's BMR program requires for-sale projects to provide affordable units at two income levels - moderate- (80-100% of AMI) and median- (100-120% of AMI). All City BMR units are, therefore, considered moderate-income units under State density bonus law.

¹⁴ With 19% of the units affordable to moderate-income households, the project is allowed one concession.

1. General Plan Policy LU-21.2: Land Use:

General Plan Policy LU-21.2 requires the North De Anza Special Area to be primarily office, and research and development uses supplemented with limited commercial and residential uses. As a 100% residential development, the proposed project does not comply with Policy LU-21.2: Land Use. The applicant states that incorporating office, research and development space, or other commercial space on the project site as part of the project would not be the most economically viable use of the property and that eliminating this requirement for non-residential uses would result in identifiable and actual cost reductions to provide affordable housing.

State law prohibits the City from requesting any additional information from the applicant to support this claim and the burden of proof to deny this concession would be on the City. Additionally, since almost all recent new housing development approved in the City would displace non-residential uses, from an empirical perspective it is reasonable to conclude that non-residential uses are not the most economically viable use of property at this time.

Compliance with BMR Unit Comparability & Dispersion Requirements

The BMR Manual requires that BMR Units:

- Shall be comparable to market-rate units in terms of unit type, number of bedrooms per unit, quality of exterior appearance and overall quality of construction.
- Size should be generally representative of the unit sizes within the market-rate portion of residential project.
- Interior features and finishes in affordable units shall be durable, of good quality and consistent with contemporary standards for new housing.

As required by the City’s Below Market Rate (BMR) Housing Program, five of the proposed units will be affordable for sale to median- and moderate-income households. Consistent with BMR Manual Section 2.3.4, the affordable units would be dispersed through all four townhouse buildings (see Figure 2).

In addition, as seen in Table 2 below, which compares the proposed BMR units to the Market-Rate units, the proposed BMR units, while smaller on average, are comparable and generally representative of the proposed Market-Rate units. Both the Market-Rate and BMR units include 3 and 4 bedroom residences.

Table 2: BMR vs. Market-rate Unit comparison

	<u>Number of Units</u>	<u>Number of Bedrooms</u>	<u>Average Unit Size (sq. ft.)</u>
BMR Units	2	3	1,507
	3	4	1,676
Market-Rate Units	5	3	1,507
	0	4	1,676
	9	4	2,152
	8	4	2,292

Additionally, there is no indication on the plans that the exterior finishes of the BMR units will be any different from the market rate units. As such, it is expected that they will be of the same quality; however, as allowed in the BMR manual, the affordable units may have different interior finishes.

Other Department/Agency Review

The City's Building Division, Public Works Department, Environmental Services Division, Cupertino Sanitary District, and the Santa Clara County Fire Department have reviewed and conditioned the project.

Environmental Review

California Environmental Quality Act (CEQA)

The applicant requested that the development be reviewed in accordance with Assembly Bill (AB) 130, signed into law and effective on June 30, 2025, and codified in Public Resources Code (PRC) Section 21080.66. This law exempts qualifying infill housing development from CEQA review, creating a new statutory exemption. This exemption applies to any required permits, entitlements, or other discretionary approvals for a broad range of housing types. The attached CEQA Exemption Memorandum (Attachment E) demonstrates that the proposed project meets the requirements of PRC Section 21080.66 and is organized as follows:

- **Infill Criteria.** The project's consistency with the allowed housing development type defined in PRC Section 21080.66(a), subdivisions (1) through (5) and (8).
- **Environmental Criteria.** The project's consistency with the individual environmental requirements pursuant to PRC Section 21080.66(a), subdivisions (6) and (7).
- **Tribal Cultural Resources.** The project's consistency with the tribal notification and outreach requirements pursuant to PRC Section 21080.66(b).
- **Hazardous Materials.** The project's consistency with the requirements for the identification and treatment of hazardous materials pursuant to PRC Section 21080.66(c).
- **Other Requirements.** The project's consistency with the Labor Code requirements and eligibility of a housing development project for a density bonus, incentives or concessions, waivers or reductions of development standards, and reduced parking ratios pursuant to PRC Sections 21080.66(d) and (e), respectively.

As analyzed in Section 3.2 of the attached CEQA Exemption Memorandum, Public Resources Code Section 21080.66, the proposed project, including the conditions of approval imposed thereon, meets the criteria for statutory exemption. Accordingly, this document finds that a Notice of Exemption is appropriate for the proposed project pursuant to CEQA Guidelines Section 15062.

City Standard Environmental Requirements

In October 2019, the City adopted Chapter 17.08 of the Municipal Code which outlines standard environmental requirements to address the potential impacts of construction projects on areas of environmental concern, including air quality, hazardous materials, biological resources, cultural resources, water quality, noise, paleontological resources and availability of utilities. Chapter 17.08 also requires the City to conduct a third-party peer review of any applicant- provided reports, with the applicant bearing all associated costs. For this project, the applicant provided a

Phase I and Phase II Environmental Site Assessment (ESA), in accordance with Chapter 17.08. The resultant third-party peer review of Phase I and Phase II ESA reports concluded that there were no hazardous materials that require remediation (see Attachment H)). In addition to the requirement for an ESA, Chapter 17.08 requires that the applicant comply with standard conditions of approval related to Biological Resources, Cultural Resources, Noise, Air Quality, which have been incorporated into the draft resolutions.

Public Outreach and Noticing

The following table is a summary of the noticing done for this project:

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none"> ▪ Site Signage (14 days prior to the hearing) 	<ul style="list-style-type: none"> ▪ Posted on the City’s official notice bulletin board (<i>five days prior to the hearing</i>)
<ul style="list-style-type: none"> ▪ Legal ad placed in newspaper (at least 10 days prior to the hearing) 	<ul style="list-style-type: none"> ▪ Posted on the City of Cupertino’s website (<i>five days prior to the hearing</i>)
<ul style="list-style-type: none"> ▪ Public hearing notices were mailed to property owners within a specified area around the project site which exceeds the minimum 300-foot radius (<i>10 days prior to the hearing</i>) 	

The applicant completed community outreach to residents and property owners on April 3, 2025. Staff conducted outreach to existing commercial tenants at the project site in April 2026 through business visits, letters, phone calls, and emails. Following this outreach, in May 2026, staff provided interested businesses with follow-up support by sharing information on available commercial leasing opportunities throughout the city, keeping them informed of current vacancies and potential relocation options.

Public Comment

Several comments were received related to the project, which are attached as Attachment F. In summary, two of the commenters were in support of the project; one commenter was not in support of the project due to the potential of residential developments replacing existing commercial/office uses on Bandle Drive; and three commenters expressed neither support nor opposition to the project.

Of the comments received that were neither in support nor opposition of the project, one is a joint email from the adjoining property owners to the north and south, as well as a letter submitted by their respective tenant, requesting that conditions, covenants and restrictions (CC&Rs) for the development disclose to the residents the nature of the non-residential uses on the adjoining properties. Conditions of approval (Condition no. 17) has been added, and amended by Planning Commission, to the draft ASA Resolution to address these concerns by adding a stipulation in the CC&Rs to include a “Notice of Neighboring Uses.” In addition, a large tenant that occupies the building to the south in their letter to City Council, has expressed concerns about complaints from future tenants about existing non-residential uses located adjacent to the development, as

well as construction period coordination. Upon discussion with the applicant, a condition of approval has been added (Condition no. 11) to require the installation of a sound attenuating fence along the southern property line.

Planning Commission Review

On May 12, 2026, the Planning Commission conducted a public hearing regarding the proposed project. The Commissioners asked questions which staff, consultants and the applicant responded to, about several topics, including technical details related to the AB130 CEQA exemption memo, standards and requirements within the N. De Anza Conceptual Plan, Phase I & II ESA reports and conclusions, fencing requirements, and concerns about existing non-residential uses on adjacent properties.

After discussion, the Planning Commission, with a 4-1 vote (No: Rao), adopted resolutions recommending that the City Council approve the project with a modification to Condition 17 (*Formation of a Homeowner's Association*) of the Draft Architectural & Site Approval (ASA) Resolution. The modification was to require the applicant, as part of the project CC&R's, to provide disclosure to future homeowners that the sites (properties) around them are mixed-use residential, industrial, commercial.

Reasons for Recommendation and Available Options

Staff and the Planning Commission recommend approval of the project, as proposed, because the project and its conditions of approval support the findings for approval of the proposed project, consistent with Chapters 14.18, 18.28, 19.56, and 19.168 of the Cupertino Municipal Code.

Sustainability Impact

The project was reviewed by the Sustainability Division and the applicant completed the required Climate Action Plan Consistency Checklist. The project has been found to be exempt from CEQA through a statutory exemption and, therefore, it is expected that there will be no sustainability impact.

Fiscal Impact

A Fiscal Impact Analysis was provided by the applicant and peer reviewed by the City's third-party consultant. The peer review of the Fiscal Impact Analysis concluded that **the overall fiscal benefit is net positive**. The net impact on the General Fund would be positive \$18,700.

City Work Program (CWP) Item/Description

N/A.

Council Goal:

Housing.

California Environmental Quality Act

As discussed in the *Environmental Review* section of this report (*see above*), the project is statutorily exempt from the California Environmental Quality Act (CEQA).

Prepared by: Gian Paolo Martire, Senior Planner

Reviewed by: Luke Connolly, Assistant Director of Community Development

Benjamin Fu, Director of Community Development

Floy Andrews, Interim City Attorney

Approved for Submission by: Tina Kapoor, City Manager

Attachments:

- A. Draft Resolution for ASA-2025-016
- B. Draft Resolution for TM-2025-008
- C. Draft Resolution for TR-2025-033
- D. Summary of Relevant State Law
- E. CEQA Exemption and Memorandum
- F. Public Comment
- G. Project Site Plan and Renderings
- H. Phase I and Phase II peer review and reports