



OFFICE OF COMMUNITY DEVELOPMENT

CITY HALL

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ADMINISTRATIVE HEARING STAFF REPORT

Agenda Date: December 4, 2025

Subject

Tentative Map, Minor Residential Permit, and Tree Removal Permit applications to allow the subdivision of an approximately 0.77 acre lot into two (2) parcels and the development of a home on one of the two resultant parcels; (Application No(s): TM-2024-002, RM-2024-026, and TR-2024-040; Applicant(s): Ben Engelman; Location: 10621 Madera Drive; APN: 326-35-061).

Recommended Action

That the Hearing Officer adopt the draft resolutions to:

1. Approve the Tentative Parcel Map application (Attachment 1);
2. Approve the Minor Residential Permit application (Lot 1) (Attachment 2); and
3. Approve the Tree removal Permit application (Attachment 3)

Discussion

Project Data:

General Plan Planning Area	Creston-Pharlap Neighborhood	
General Plan Designation	Low Density (1-5 DU/Ac.)	
Zoning Designation	R1-10	
	Existing	Proposed
Density:	0.76 DU/acre	Lot 1: 0.44 DU/acre Lot 2: 0.32 DU/acre
Lot Size	33,482 square feet (0.77 acres)	
Net Lot Area	29,177 square feet (0.67 acres)	
Site Development	Proposed Lot 1	Proposed Lot 2
Net Lot Size – 10,000 sq. ft. min.	15,042 sf	14,135 sf
F.A.R. – 45% max.	5,189 sf (34.4%)	-
Lot Coverage – 50% max.	4,177sf (28%)	-

Site Development	Proposed Lot 1		Proposed Lot 2
1st Floor Setbacks			
Front – 20’ min. required	20’		No Development
Rear – 20’ min. required	49’-4.5”		-
Side - 15’ combined (no side yard setback shall be less than 5’) required	Left Side (East)	Right Side (West)	-
	10’	5’	
2nd Floor Setbacks			
Front – 25’ required	62’-8”		-
Rear – 25’ required	50’-4.5”		-
Side - 25’ combined (no side yard setback shall be less than 10’) required	Left Side (East)	Right Side (West)	-
	15’	15’	
2 nd to 1 st Floor Ratio – 66% allowed without design review	55.7%		-
Total Building Height – 28’ allowed	27’ – 6.5”		-

Background:

Site Description

The applicant, Ben Engelman, is seeking to subdivide one single-family residential lot into two single-family residential lots (see plan set – attachment 4.¹)

The 33,482 square foot parcel is located in the north-west area of Cupertino in the Creston-Pharlap neighborhood, just south of the 280 Freeway. The site is surrounded by existing single-family



▲ Somerset Park ■ Unincorporated Area
■ Steven's Creek --- Abandoned Rail Line

Figure 1: Site Aerial and Vicinity

¹ Due to limitations of state law ((Government Code § 65103.5 (SB 1214))), the distribution of copyrighted material associated with the review of development projects is limited. Plans have been emailed under

residential uses located in the city to the east and west and by single-family uses located in the County of Santa Clara to the south. Stevens Creek flows along the south property line at the rear of the site. North of the front property line is an unused railroad line that is maintained by the Union Pacific

The project site currently contains a single-family home (approximately 1,825 square feet), and an attached two car garage (approximately 400 square feet). Vegetation present on the site consists of gardens typical of single-family residences in the area, as well as several coast live oak trees.

Analysis:

Conformance with General Plan and Zoning

The proposed project is consistent with the General Plan land use (low density residential) and density (1-5 dwelling units/acre) which allows a maximum of three (3) dwelling units on the site based on its acreage prior to subdivision. The applicant is proposing only a two lot subdivision at this time. The R1-10 zoning district requires a minimum lot size of 10,000 square feet for new parcels. Both Lot 1 and Lot 2 meet the size standard at 19,347 sf at Lot 1 and 14,135 sf at Lot 2.

A portion of Steven's Creek runs along the rear of Lot 1 (see Figure 2). The City's Municipal Code requires the reduction of any portion of a lot within a natural watercourse or easements related to watercourses to be deducted from the lot area calculations. (CMC Section 19.08.030). The water course easement is 4,305 square feet resulting in a reduction of lot area from 19,347 square feet to 15,042 square feet for Lot 1. However, despite the reduction in lot area as required by the Municipal Code, Lot 1 complies the minimum lot size and maximum

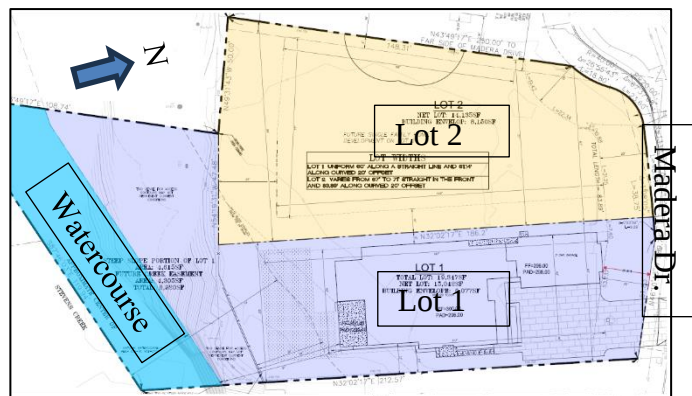


Figure 2: Subdivision Design

separate cover to allow the Administrative Hearing Officer to review the proposed plans. The Administrative Hearing Officer 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 by sending an email to planning@cupertino.gov. Plans will also be made available digitally during hearings to consider the proposal.

density standards set in R1 ordinance and General Plan Land Use.

Subdivision Design & Street Improvements

The project proposal will create two lots with frontages on Madera Drive (see Figure 2 above). The proposed lot widths are 60' feet at Lot 1 and 67' at Lot 2; both lots are compliant with development standards of the Single Family (R1) ordinance minimum of 60-foot frontage.

The project site is located in Public Work's Rural Semi-Rural designation area and is exempt from having to improve the site frontage with a detached sidewalk.

Minor Residential Permit

The project includes proposed development on Lot 1 for a new two-story single-family residence, with JADU and an attached three car garage. An application for Minor Residential Permit is required when second-story balconies with views into adjacent yards are proposed, to review the project's compliance with privacy standards (see Figure 3). The balcony meets the minimum setback requirements.

The applicant has provided privacy waivers signed by both neighboring property owners located at 10601 Madera Drive to the east and 10641 Madera Drive located to the west. Therefore, no additional trees need to be planted on the site to address privacy concerns. Stevens Creek runs along the rear property line, with several oak trees along the rear, with no privacy concerns for the neighbors located across the creek. Although not required to, the applicant has included six new Laurus Nobilis shrubs along the left property line, center of the new residence's footprint.

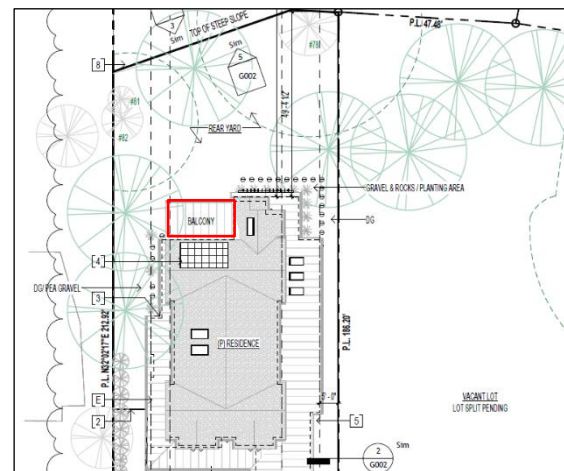


Figure 3: Enlarged Site Plan
New Trees Rear Balcony

Tree Removal Permit

The arborist report surveyed twenty-seven (27) trees onsite. Of those, there are nineteen (19) mature specimen² trees, all protected Coast Live Oak (*Quercus agrifolia*) species. The remaining (8) eight trees are not protected trees in the city and consist of one (1) olive, one

² [Cupertino Municipal Code 14.18.020](#) defines a "Mature Specimen Tree" as any specimen tree with a minimum single-trunk of twelve inches DBH (thirty-eight inch circumference) or multi-trunk DBH of twenty-four inches (seventy-five-inch circumference) or greater.

(1) apricot and six (6) Coast Live Oak trees. The six (6) Coast Live Oaks are not considered protected trees since they are non-mature specimen tree with trunk sizes less than 12" diameter at breast height (DBH) for single trunk trees and less than 24" DBH for multi-trunk trees.

The project scope of work will result in the removal of fifteen (15) of the twenty-seven (27) trees on site. This will be due in part to the proposed single-family residence on Lot 1, and due to the soil contamination discovered on site (including on Lot 2) per the Phase I and Phase II of the Environmental Site Assessment Report. The impact to trees caused by the excavation required for the soil remediation process will exceed the trees' tolerance and require removal of the trees as assessed and recommended by the city Consulting Arborist. Of the fifteen (15) trees removed, five (5) are unprotected trees and do not require Tree Removal Permits or tree replacement on site. The ten (10) Protected Coast Live Oaks proposed for removal will be replaced with ten (10) 36-inch box Coast Live Oaks dispersed across both lots. Seven (7) replacement trees will be planted on Lot 1, and three (3) planted on Lot 2.

Environmental Review

Soil Remediation under Title 17 of Municipal Code: Phase I and Phase II environment assessments indicated elevated levels of Chlordane (technical), p,p-DDE, p,p-DDT, Dieldrin, and Toxaphene in soil where samples were taken from the site (see Attachments 7, 8 and 9). The reports provided by the applicant have been peer-reviewed by the City's consultants (see Attachment 6). The reports and peer review conclude these are most likely attributable to prior agricultural uses. Since this contamination can lead to adverse impacts if not corrected, the site must be remediated by removing and disposing the impacted soil as prescribed by County of Santa Clara Department of Environmental Health (DEH). DEH will determine if additional lateral and vertical delineation is required or if the applicant can proceed with remedial actions (i.e., excavation) while sampling and evaluating the amount of soil to be removed from the site. A condition of approval has been added to require DEH oversight on the project prior to any demolition or site disturbance activities.

Environmental Review under CEQA: The project was reviewed for eligibility for exemption from California Environmental Quality Act, CEQA Guidelines Section 15315. Class 15 Categorical Exemption consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years,

and the parcel does not have an average slope greater than 20 percent. The project meets all eligibility requirements and is considered exempt per Section 15315.

Other Department/Agency Review

The City's Public Works Department and Cupertino Sanitary have reviewed the project and have no objections. Their conditions have been incorporated as conditions of approval in the draft resolutions.

In compliance with the Subdivision Map Act requirements, notices have been sent to the two school districts that will serve the new parcels. However, no comments have been received on the project as of the date of production of this staff report. The applicant will be required to pay the appropriate school impact fees upon development of the lots with homes.

Public Noticing and Outreach

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

Notice of Public Meeting, Site Signage, & Legal Ad	Agenda
▪ One site sign posted on the site (<i>at least 10 days prior to hearing</i>) ▪ Legal ad placed in the newspaper (<i>at least 10 days prior to hearing</i>) ▪ Mailed Notices to property owners within 300' of project site (<i>10 days prior to hearing</i>)	▪ Posted bulletin board 11/19/2025 (<i>15 days prior to hearing</i>) ▪ Legal Ad placed 11/21/2025 (<i>13 days prior to hearing</i>) ▪ Mailed notices postmarked 11/20/2025 (<i>14 days prior to hearing</i>)

As of the production of this report, staff has not received any public comments.

Permit Streamlining Act:

This matter is adjudicatory and is subject to the Permit Streamlining Act (Government Code Section 65920 – 65964). The City has complied with the deadlines found in the Permit Streamlining Act.

Project Received: November 15, 2024; ***Deemed Incomplete:*** December 13, 2024;

Project Received: May 7, 2025; ***Deemed Incomplete:*** June 6, 2025;

Project Received: July 10, 2025; ***Deemed Incomplete:*** August 9, 2025;

Project Resubmitted: September 15, 2025; ***Deemed Complete:*** October 15, 2025

The City has 60 days, until, December 14, 2025 to make a decision on the project.

Conclusion:

Staff recommends approval of the Tentative Map, Minor Residential Permit, and Tree Removal Permits because the project is consistent with the General Plan, subdivision, protected tree, and zoning ordinances, and conforms to the single-family residential development pattern, in accordance with Chapters 14.18, 18.20, and 19.28 of the Cupertino Municipal Code.

Next Steps:

The Hearing Officer's decision on this project is final unless appealed within 14 calendar days of the decision. The applicant may submit applications for grading and other permits after the appeal period ends and may commence construction activities as soon as the site remediation is complete.

The Tentative Map approval expires on December 18, 2027, while the Minor Residential Permit and Tree Removal Permits expire on December 18, 2026, at which time the applicant may apply for one-year extensions.

Prepared by:

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Reviewed and Approved for submission by:

Piu Ghosh, Planning Manager

Attachments

- 1 – Draft Resolution for TM-2024-002
- 2 – Draft Resolution for RM-2024-026
- 3 – Draft Resolution for TR-2024-040
- 4 – Project Site Plan
- 5 – Arborist Report
- 6 – ESA Peer Review
- 7 – ESA Phase I
- 8 – ESA Phase II
- 9 – ESA Phase II Soil Removal Action