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Idlewild Shopping Center/United Furniture

Supplemental Reports

Idlewild Townhomes Project CEQA Exemption

City of Cupertino

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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 Idlewild Townhomes Project (proposed project) pursuant to the requirements of the California Environmental Quality Act (CEQA).[1] Additionally, this section describes the standards in the City of Cupertino Municipal Code (CMC) Chapter 17.04, *Cupertino Standard Environmental Protection Requirements,* that apply to all projects in Cupertino.

1.1 CATEGORICAL EXEMPTION

Article 19 (Categorical Exemptions) of the CEQA Guidelines[2] 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 commercial development on the project site into the proposed 59-unit townhome 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 Guidelines Section 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 5 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.

[1] The CEQA Statute is found at Public Resources Code, Division 13, *Environmental Quality*, Sections 21000 to 21189.

[2] The CEQA Guidelines are found at California Code of Regulations, Title 14, *Natural Resources*, Division 6, *Resources Agency*, Chapter 3, *Guidelines for Implementation of the California Environmental Quality Act*, Sections 15000 to 15387.

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.

1.2 STANDARD ENVIRONMENTAL PROTECTION REQUIREMENTS

In addition to the standards identified in Section 1.1, *Categorical Exemption*, all projects in Cupertino are required to comply with the CMC Chapter 17.04, *Standard Environmental Protection Requirements.* Pursuant to CMC Section 17.04.030(A), these requirements apply to every project in the city. Pursuant to CMC Section 17.04.030(B)(1), because the proposed residential townhome project has more than four units, compliance must be demonstrated through submittal and implementation of a construction management plan and/or permit plans, as applicable, prior to issuance of a discretionary approval, to the satisfaction of the City. Pursuant to CMC Chapter 17.04, development projects must submit technical reports for air quality, hazardous materials, vehicle miles traveled (VMT), and construction vibration. These reports are subject to peer review by the City's third-party reviewers. This chapter of the CMC also includes nine permit submittal requirements:

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 southeast 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 Saratoga. Regional access to the project site is provided by Interstate 280 (I-280) via North Wolfe Road to the north, and by Highway 85 via Stevens Creek Boulevard to the west. See Figure 2-1, *Regional and Vicinity Ma*p.

2.2 PROJECT SITE

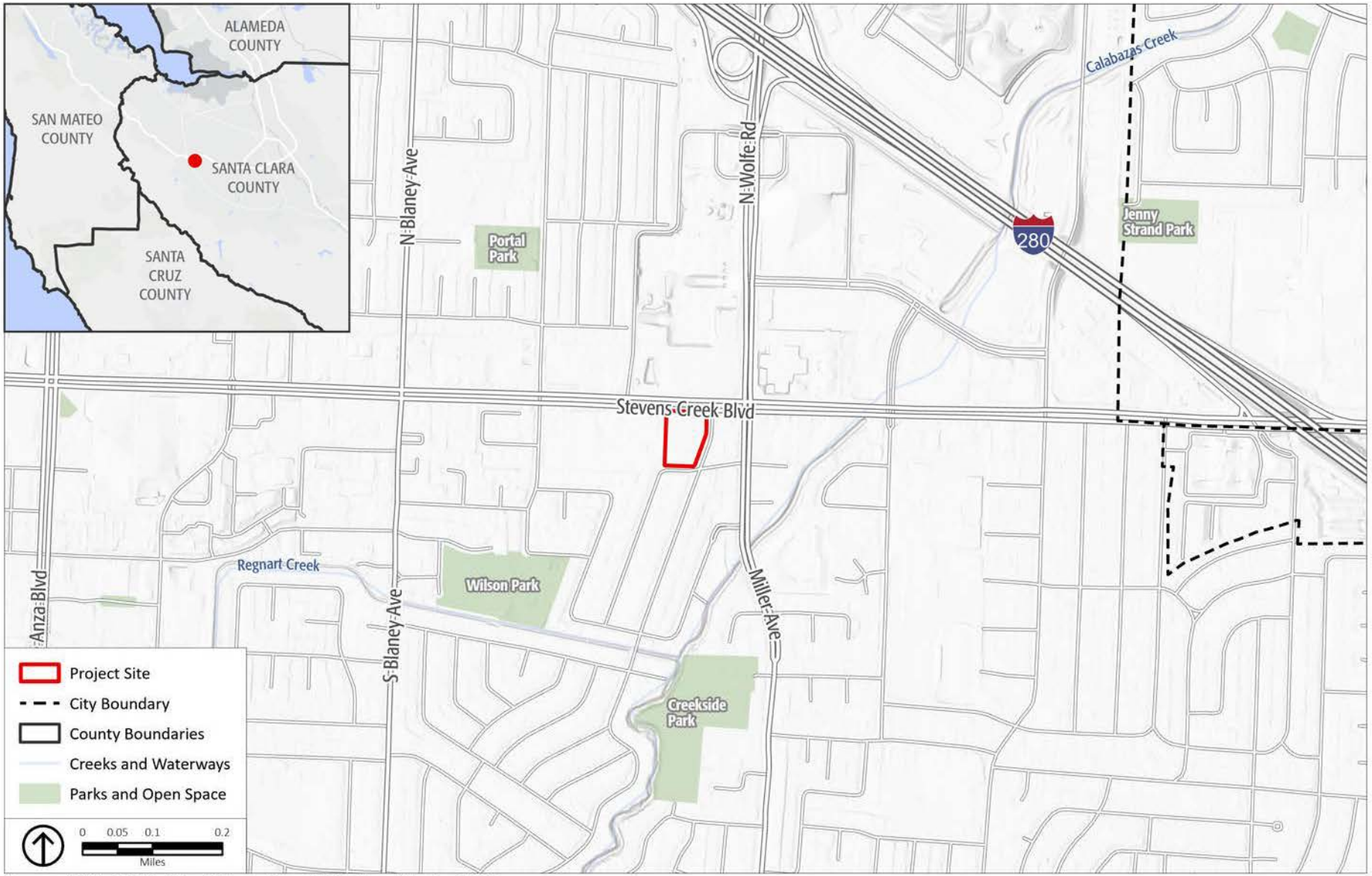
2.2.1 Location

The 2.72-acre project site at 10065 East Estates Drive[3] in the central region of the city near the intersection of Stevens Creek Boulevard and Wolfe Road. The project site is within a Santa Clara Valley Transportation Authority (VTA) City Cores, Corridors, and Station Areas Priority Development Area (PDA)[4] and within a Transit Priority Area (TPA)[5] as defined by the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC). 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 Marketplace shopping mall and a private educational institution to the west and southwest, undeveloped land to the north, commercial uses to the east, and single-family residences to the south. The project site is bounded by Stevens Creek Boulevard to the north, East Estates Drive to the east, Richwood Drive to the south, a daycare to the southwest, and commercial buildings and surface parking lot to the west.

[3] Addresses for the project site include 10065-10075 East Estates Drive, but for the purposes of this document, a single address (10065 East Estates Drive) is used to represent the entire project site.

[4] Association of Bay Area Governments and Metropolitan Transportation Commission, updated March 22, 2023, Priority Development Areas (Plan Bay Area 2050), https://opendata.mtc.ca.gov/datasets/priority-development-areas-plan-bay-area-2050, accessed March 18, 2025.

[5] Association of Bay Area Governments and Metropolitan Transportation Commission, updated March 22, 2023, Transit Priority Areas (2021), https://www.arcgis.com/apps/mapviewer/index.html?layers=370de9dc4d65402d992a769bf6ac8ef5, accessed March 18, 2025.



Source: ESRI, 2025; City of Cupertino, 2025; PlaceWorks, 2025.

Figure 2-1
Regional and Vicinity Map

Source: GoogleMaps, 2025; City of Cupertino, 2025; PlaceWorks, 2025.

Figure 2-2
Aerial View of Project Site and Surroundings

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)[6] of the project site include the following:

- Residential single-family units across Richwood Drive approximately 0.01 miles (60 feet) to the south;
- Daycare centers approximately 0.01 miles (40 feet) immediately southwest, 0.07 miles (380 feet) southeast, and 0.22 miles (1,140 feet) northwest;
- Medical buildings (dentist and orthodontist) approximately 0.03 miles (175 feet) east and medical clinics approximately 0.07 miles (350 feet) northeast and east;
- Wilson Park approximately 0.19 miles (1,010 feet) southwest and Main Street Park approximately 0.22 miles (1,150 feet) northeast;
- Bethel Lutheran Church approximately 0.22 miles (1,180 feet) southeast.

2.2.2 Existing Site Conditions

As shown on Figure 2-2, the project site is currently developed with a commercial building. The project site also currently includes a parking lot associated with the commercial building.

The project site is relatively flat with an elevation of approximately 200 feet above mean sea level.[7] The surficial geology consists of late Pleistocene older surficial sediments, which is described as older alluvial terrace gravel, sand, and clay, undeformed.[8] 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.[9] Unique geological features are not common in Cupertino. 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) conducted for the proposed project determined that the project site was used for agricultural purposes as orchards from 1939 through the late 1960s.[10] Between 1956 and 1960, the orchards were felled, and the project site was redeveloped with the existing commercial

[6] 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?"

[7] ENGEO, October 25, 2023, *Phase I Environmental Site Assessment, Idlewild Shopping Center, Cupertino, California.*

[8] United States Geological Survey and Association of American State Geologists, 2007, *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 March 18, 2025.

[9] City of Cupertino, April 2024, *Cupertino General Plan Community Vision 2015-2040, Appendix G: General Plan 2040 and Zoning Code Amendments Environmental Assessment*, https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/General-Plan/General-Plan-Community-Vision, accessed March 18, 2025.

[10] ENGEO, October 25, 2023, *Phase I Environmental Site Assessment, Idlewild Shopping Center, Cupertino, California.*

building and parking areas. One Hour Dry Cleaners operated a dry-cleaning business at 10045 East Estates Drive using tetrachloroethylene (PCE) as a dry-cleaning solvent between the 1960s and 2010, when the dry-cleaning operation converted to using a hydrocarbon-based solvent.

Due to the presence of PCE, believed to be associated with the former dry-cleaning operations, in soil and soil gas, the project site is listed as an open cleanup program site (case ID 2023-17s) under the oversight of Santa Clara County Department of Environmental Health (SCCDEH) and is listed on the State Water Quality Control Board's GeoTracker website.[11] Several soil, groundwater, soil gas, indoor air, and sub-slab soil gas investigations have been conducted to delineate the lateral and vertical extents of the plume and determine the human health risks to building occupants. The majority of the PCE is present within the back alley behind the former One Hour Cleaners tenant space and impacts only soil and soil gas. The plume extends westerly to the off-site property to the west.

The property owner entered into a voluntary remedial action agreement with SCCDEH in July 2023. A Remedial Action Plan was prepared for the proposed project in September 2023, which involved installing a soil vapor extraction (SVE) system to reduce the concentrations of PCE and its breakdown products in the subsurface to a level that is acceptable for residential occupancy. The SVE system was operated from June 2024 until January 2025, when the system was shut off to undergo rebound testing and determine if there was remaining PCE mass remaining in the subsurface. Based on the rebound testing results, the SVE system will be reactivated and an additional SVE extraction well will be added to the network.

The Phase I ESA identified the following Recognized Environmental Condition (REC) and (future) controlled REC at the project site:[12]

- REC: Former One Hour Cleaners PCE releases. Discharges of PCE from former dry cleaning operations have impacted the project site and off site property to the west. PCE is present in soil gas and to a lesser degree, soil, at concentrations exceeding residential and/or commercial Environmental Screening Levels (ESLs).
- Future Controlled REC: Institutional Controls/Deed Restrictions. Institutional Controls (IC) will be required following successful completion of SVE. ICs will likely include an access agreement to allow SCCDEH personnel on the project site at any time; funding for SCCDEH oversight; and operation maintenance and monitoring (OM&M) and reporting for the vapor mitigation system that is expected to be installed under the proposed project. A corresponding deed restriction would be recorded for the project site to ensure the systems remain operational. When approved, the ICs/deed restriction will represent a controlled REC.

[11] State Water Resources Control Board, 2024, GeoTracker, https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000021095, accessed November 11, 2025.

[12] ENGEO, October 25, 2023, *Phase I Environmental Site Assessment, Idlewild Shopping Center, Cupertino, California.*

2. Project Description

An inspection for asbestos containing materials (ACMs) and lead based paint (LBP) was performed and identified the presence of ACMs within the existing building.[13] Based on current occupancy, a full inspection for asbestos in the shopping center was not feasible. The flooring, insulation, ceiling riles, wallboard, roofing, among other suspect ACMs may require additional inspection/testing and an abatement plan will be required to address ACMs.

The existing building on the project site is not currently listed on the National Register of Historic Places[14] or the list of California Historical resources,[15] nor is it associated with significant cultural events, persons in California's past, and 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 Cupertino General Plan, the project site is within the urban forest (i.e., trees in the city).[16] 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 of the community.[17] There is currently no landscaping on-site.

The project site is in a Local Responsibility Area (LRA) but is not located within a fire hazard severity zone as designated by California Department of Forestry and Fire Protection (CAL FIRE). It is located approximately 3.2 miles northeast of a very high fire hazard severity zone in an LRA, and 2.6 miles east of lands that CAL FIRE designates as a high fire hazard severity zone in a State Responsibility Area (SRA).[18] The project site is located roughly 2.6 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).[19]

[13] Stockton Environmental, Inc., October 25, 2023, *Asbestos Inspection Conducted at: Idlewild Shopping Center, 10025 E Estates Dr, Cupertino, CA 95014*.

[14] National Park Service, updated July 10, 2024, National Register of Historic Places, https://www.nps.gov/subjects/nationalregister/database-research.htm#table, accessed March 18, 2025.

[15] California Office of Historic Preservation, 2025, California Historical Resources, https://ohp.parks.ca.gov/ListedResources/?view=county&criteria=43, accessed March 18, 2025.

[16] City of Cupertino, May 2024, *Cupertino General Plan Community Vision 2015-2040, Chapter 6: Environmental Resources and Sustainability Element, Figure ES-1, Vegetation*, https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/General-Plan/General-Plan-Community-Vision, accessed March 18, 2025.

[17] City of Cupertino, 2025, Tree Protection & Tree Removal, https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/Residential-Planning/Tree-Protection-Removal, accessed March 18, 2025.

[18] California Department of Forestry and Fire Protection, February 24, 2025, Fire Hazard Severity Zone Viewer, https://experience.arcgis.com/experience/6a9cb66bb1824cd98756812af41292a0, accessed March 18, 2025.

[19] California Department of Forestry and Fire Protection, updated December 2, 2022, Wildland-Urban Interface Fire Threat, https://www.arcgis.com/apps/mapviewer/index.html?layers=d45bf08448354073a26675776f2d09cb, accessed March 18, 2025.

2.3 LAND USE AND ZONING DESIGNATIONS

The project site is assigned Assessor's Parcel Numbers (APN) 369-06-002, 369-06-003, and 369-06-004. While the City was in the process of obtaining certification of its (2023-2031) Housing Element by the California Department of Housing and Community Development, the developer submitted a preliminary application pursuant to the Housing Crisis Act of 2019, commonly referred to by its legislative number, Senate Bill (SB) 330. SB 330 vests the standards that are in place at the time a "preliminary application" for a housing project is submitted and prevents jurisdictions from imposing or enforcing new design standards on housing projects that are not objective. As such, the project is subject to the regulations in place at the time of the preliminary application was submitted on February 7, 2024.[20] See density standards below.

The project site is within the Heart of the City Special Area with a Commercial/Residential Very High Density General Plan land use designation, and the Planned Development with General Commercial with Multi-Family Residential (P(CG, R-4)) zoning district at the time of application. The Commercial/Residential Very High Density land use designation allows mixed-use development with commercial uses and an established maximum residential density of up to 50 dwelling units per acre.[21] The Heart of the City Specific Plan (Specific Plan) contemplates mixed-use development with a primary focus on providing commercial uses that serve the public with frontages of buildings along Stevens Creek Boulevard. On sites with a mixed-use residential designation, residential is a permitted use only on Housing Element sites. The applicable standards in the General Plan allow for a maximum building height of 45 feet on the project site.

The general type of use allowed on the project site is General Commercial with Multi-Family Residential (P(CG, R-4)), which allows for residential uses. 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. 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.

[20] At the time of the preliminary Senate Bill 330 application, the project site was zoned as Planned Development with General Commercial and Residential (P(CG, Res)) with a density 25 dwelling units per acre and a height limit of 45 feet.

[21] City of Cupertino, May 2024, *Cupertino General Plan Community Vision 2015-2040, Appendix A: Land Use Definitions*, https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/General-Plan/General-Plan-Community-Vision, accessed March 18, 2025.

- Provide a means of reducing the amount of 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.

Pursuant to the State Density Bonus Law (Government Code Section 65915) and the City's Density Bonus ordinance (CMC Chapter 19.56, *Density Bonus)*, the project applicant has requested the following, to the extent needed to comply with applicable objective standards:

- A waiver or reduction of development standards to reduce the front, side, and rear setbacks for portions of the project.
- A waiver or reduction of development standards to increase the maximum lot coverage from 40 percent to 42.4 percent.
- A waiver to the Heart of the City Specific Plan Design Guidelines for Common Open Space.
- A waiver for the Heart of the City retail requirement to allow for residential-only use.
- A reduction of vehicle parking standards pursuant to Government Code Section 65915(p).

2.4 PROPOSED PROJECT

The project applicant, Toll Brothers, is proposing the Idlewild Townhomes Development Project that would involve the demolition of the existing commercial building (approximately 35,170 square feet) and the construction of 55 townhome units and 10 accessory dwelling units (ADUs). The following provides a detailed description of the proposed project as shown on the conceptual site plan dated July 2024.[22]

2.4.1 Proposed Townhomes

The proposed townhomes would include 43 market-rate units and 12 below-market-rate units for a total of 55 townhome units, as well as 10 ADUs. There are several different townhome types proposed, including two-, three-, and four-bedroom units, ranging from 1,442 square feet to 2,295 square feet. Each townhome would have three stories with a roof deck and would be approximately 43 feet tall at the highest point. Each townhome would include private open space through a porch, roof deck, and balcony, averaging approximately 396 square feet per unit. The proposed project includes 110 off-street garage residential parking spaces and 9 guest uncovered parking spaces. Each unit will have an attached private two-car garage. Bicycle storage for residents is provided in the private garages. The proposed project would provide

[22] Effective January 1, 2023, Government Code Section 65103.5 (Senate Bill [SB] 1214) limits the distribution of copyrighted material associated with the review of development projects. Members of the public wishing to view plans that cannot otherwise be distributed under SB 1214 may make an appointment with the Planning Division to view them at City Hall by sending an email to planning@cupertino.org. Plans will also be made available digitally during hearings to consider the proposal.

1,140 square feet of common usable open space. The proposed project site plan is shown on Figure 2-3, *Proposed Site Plan*.

2.4.2 Landscaping

Groundcover, shrubs, and trees would be planted throughout the site. The total landscape area would be 3,745 square feet. Groundcovers and shrubs proposed on site would be of the *Agave, Aloe, Anigozanthus, Arctostaphylos, Bulbine, Calandrinia, Carpenteria, Cistus, Dianella, Dietes, Dodonea, Echeveria, Eremophila, Epilobium, Erigonum, Euphorbia, Galvezia, Grevillea, Festuca, Hemerocallis, Hesperaloe, Heurchera, Lirope, Lomandra, Myrsine, Myrtus, Muhlenbergia, Nandina, Pennisetum, Pittosporum, Polystichum, Prunus, Rhaphiolepis, Rosmarinus, Salvia, Senecio, Sesleria, Teucrium,* and *Yucca* genera. The proposed project would plant 93 trees on-site and off-site, including 18 street trees to replace the 9 existing trees off-site along East Estates Drive and Richwood Drive to be removed. Trees proposed as part of the plant palette include *Acer, Agonis, Cercis, Chionanthus, Chitalpa, Geijera Lagerstroemia, Laurus, Magnolia, Olea, Podocarpus, Prunus, Quercus, Rhaphiolepis, Styrax,* and *Zelkova* genera. The street trees proposed along East Estates Drive and Richwood Drive would be Wireless Zelkova (*Zelkova serrata 'Schmidtlow'*) trees.

2.4.3 Project Access and Circulation

2.4.3.1 VEHICULAR ACCESS

The proposed project would have a two-lane entrance/exit circulation pattern with the access point on East Estates Drive. The proposed emergency and garbage pick-up access route would be the same as the proposed vehicle access routes.

As stated in Section 2.2.1, *Location*, the project site is within a TPA and meets the standard for a major transit stop.[23] The closest bus stop to the project site is approximately 0.02 miles (115 feet) away, on the north side of Stevens Creek Boulevard. The nearest transit stop is located 0.05 miles (280 feet) away, on the west side of Miller Avenue, which provides stops with a bus frequency of service interval of 15 to 20 minutes during the peak weekday commute periods along VTA bus route 23 and Rapid Transit 523. In addition, VTA bus routes 25, 51, and 55 have a bus frequency of every 30 minutes or less. The project was reviewed by VTA and no improvements to the stops were requested.

[23] Public Resources Code Section 21099 states that a transit priority area means an area within one-half mile of a 'major transit stop' that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program or applicable regional transportation plan, and 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 20 minutes or less during the morning and afternoon peak commute periods. Note that Section 21064.3 was amended in 2024 and the change from 15 minutes to 20 minutes went into effect on January 1, 2025; however, the Cupertino Municipal Code Section 17.08.010, *Definitions*, includes the now outdated standard of 15 minutes.

PROJECT DESCRIPTION

Source: Toll Brothers; cbg Civil Engineers Surveyors Planners; R3 Studios; SDG Architects, Inc.

Figure 2-3
Proposed Site Plan

2.4.3.2 PEDESTRIAN AND BICYCLE ACCESS

Pedestrian access to the townhomes would be available from the access point along East Estates Drive. The proposed development provides interior pedestrian circulation throughout the site. While the proposed project does not propose any new bicycle lanes or routes, the project site is accessible via the existing Enhanced Bike Lane on Stevens Creek Boulevard.[24]

2.4.4 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.

2.4.4.1 WATER SUPPLY AND CONSERVATION

The project site is located 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 via an 8-inch pipe on Stevens Creek Boulevard and a 6-inch pipe on East Estates Drive. No new connections would be needed and are not proposed as part of the project.

The proposed project incorporates a number of features meant to conserve water. The proposed landscaping would include native and/or adaptive, and drought resistant plant materials 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 planting and irrigation would conform with 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. CMC Sections 16.58.100 through 16.58.140 set forth the standards for green building requirements by type of building. As shown on Table 101.10 in CMC Section 16.58.230, new construction greater than nine homes is required to be Green Points Rated certified at minimum 50 points, Silver in Leadership in Energy & Environmental Design (LEED) (City's preferred method), or Alternate Reference Standard pursuant to Section 101.10.2.[25] The proposed project will be conditioned to meet one of these mandatory standards at the Building Permit phase. The LEED rating system encourages water use reduction. Specifically, in LEED v4.1 for Building Design and Construction (BD+C), Outdoor Water

[24] City of Cupertino, June 2016, *2016 Bicycle Transportation Plan*, https://www.cupertino.gov/files/assets/city/v/1/our-community/documents/cupertino-bicycle-transpor.pdf, accessed December 30, 2024.

[25] Leadership in Energy & 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.

2. Project Description

Use Reduction, Indoor Water Use Reduction and Building-level Water Metering are prerequisites for achieving Water Efficiency (WE) credits.

2.4.4.2 SANITARY SEWER SERVICE

The project site is located within the Cupertino Sanitary District (CSD) service area and wastewater would be treated at the San Jose/Santa Clara Water Pollution Control Plant (SJ/SCWPCD). Wastewater generated at the project site would be collected by the existing 8-inch sanitary sewer main on East Estates Drive.

2.4.4.3 STORMWATER MANAGEMENT

The proposed project would result in approximately 92,600 square feet of impervious surfaces coverage. Compared to approximately 118,800 square feet of impervious surfaces coverage in existing conditions, this would be a decrease of approximately 26,200 square feet of impervious surfaces. Stormwater will be treated on site as required to meet municipal stormwater permit requirements. The proposed project includes 3,720 square feet of on-site bioretention areas that would hold and treat stormwater before it is discharged to an existing 15-inch public storm drain on East Estates Drive. 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. The proposed project also must 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.

2.4.4.4 SOLID WASTE SERVICES

Recology South Bay would provide curbside recycling, garbage, and compost and landscaping waste service to the project site.[26] Each garage will include designated space where waste and recycling bins must be stored. Residents will place their bins on their driveway for pickup. All non-hazardous 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.

[26] City of Cupertino, October 15, 2024, Service Providers, https://www.cupertino.gov/Your-City/City-Directory/Service-Providers, accessed January 2, 2025.

2.4.4.5 OTHER UTILITIES

Electric, cable, and telephone service is anticipated to connect to existing service lines along the north property line. A temporary overhead electric line would be installed to maintain power to the neighboring properties during construction. There are no existing overhead lines along the project site frontage. New on-site utilities would be placed underground, with the exception of the temporary overhead electric line and four pad-mounted transformers. The existing overhead electric lines running along Richwood Drive will remain.

The proposed project would be all electric and Pacific Gas & Electric (PG&E) would supply electricity to the project site via existing infrastructure.[27] 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,[28] and PG&E. SVCE also offers a 100 percent renewable option that electricity customers can opt into. As previously stated in Section 2.4.4.1, *Water Supply and Conservation*, the proposed project would comply with the City's adopted green building requirements, which includes the California Green Building Standards Code (Title 24) and is required to be Green Points Rated certified.

2.4.5 Demolition, Grading, and Construction

The proposed project demolition, grading, and construction is assumed to take place starting in summer 2026 and ending in 2028. The project applicant proposes to demolish the existing building on the project site.

Demolition and construction work would be conducted between 7:00 a.m. to 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.[29] Demolition debris would be off-hauled for disposal in accordance with the City of Cupertino's Recycling and Diversion of Construction and Demolition Waste Ordinance.[30] Preliminary grading plans show that there would be approximately 1,200 cubic yards of cut and 4,130 cubic yards of fill for a net 2,930 cubic yards of fill to be imported to the project site. Approximately 3,700 cubic yards of rock material would also be exported during the site preparation phase. Typical equipment to be used for demolition and site

[27] City of Cupertino, October 15, 2024, Service Providers, https://www.cupertino.gov/Your-City/City-Directory/Service-Providers, accessed January 2, 2025.

[28] Silicon Valley Clean Energy, 2022. It's All About Choice, https://www.svcleanenergy.org/choices/, accessed January 2, 2025.

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

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

preparation would include concrete/industrial saws, rubber tired dozers, tractors, loaders, backhoes, graders, and scrapers.

No pile driving, rock blasting, or crushing would occur during the construction phase. Typical equipment to be used during construction of the proposed project would include cranes, forklifts, generator sets, tractors, loaders, backhoes, welders, cement and mortar mixers, pavers, paving equipment, and rollers. In compliance with CMC Section 17.04.050(A)(3) which requires the use of Tier 4 or higher equipment, the project applicant has voluntarily committed to the use of Tier 4 Final equipment, which will also be a condition of approval.

During demolition and construction, vehicles, equipment, and materials would be staged and stored on a centrally located portion of the project site when practical. The construction staging would be reduced in size and equipment needs as the site is built out. The project applicant would be conditioned to restrict any long-term staging of equipment from being around the perimeter of the site 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.

2.4.6 Required Permits and Approvals

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

- Tentative Map
- Architectural and Site Approval
- Public Art or in-lieu fee determination
- Park Land Dedication or payment of in-lieu fee determination
- Concessions or incentives, waivers or reductions of development standards, and reductions of parking requirements pursuant to the State Density Bonus Law

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 agencies that also have discretionary authority related to the proposed 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 Chapter 1, *Introduction*, of this document, Article 19 of the CEQA Guidelines includes a list of classes (1 through 33) 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.

This chapter is based in part on the following technical studies prepared for the project applicant:

- ENGEO, June 11, 2025, *Phase I Environmental Site Assessment, Idlewild Shopping Center, Cupertino, California* (see Appendix A, *Environmental Site Assessment*, of this document).
- Hexagon Transportation Consultants, Inc., September 24, 2025, *Transportation Analysis for the Proposed Residential Development at 10065-10075 East Estates Drive in Cupertino, CA* (see Appendix B, *Transportation Analysis*, of this document).

These technical studies were also peer reviewed by PlaceWorks on behalf of the City of Cupertino.

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 at the time of project application 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/Residential Very High Density, which allows mixed-use development with commercial uses and an established residential density of up to 50 dwelling units per acre. In addition, the Heart of the City Specific Plan also designates the project site Commercial/Residential Very High Density and allows for fully

residential development through the approval of a Conditional Use Permit. The proposed project would include the demolition of the existing commercial buildings and replacement with 55 residential townhome units and 10 ADUs. Therefore, implementation of the proposed project will not introduce a new incompatible land use to the project site. The proposed project is within the density allowed for the project site.[31] Therefore, the proposed project is consistent with the General Plan land use designation for the project site. In addition, the proposed maximum building height of 45 feet is consistent with the 45-foot height limit allowed for the project site.

3.1.2 Zoning

As described in Section 2.3, *Land Use and Zoning Designations*, the project site's zoning district at the time of project application is Planned Development with General Commercial with Multi-Family Residential (P(CG, R-4)), which allows for residential uses on the property. Therefore, the proposed project will not introduce a new incompatible use and will continue to be consistent with the zoning designation on the project site applicable at the time of project application.

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 within city limits on an approximately 2.72-acre site. The project site is surrounded by urban uses and paved public streets, including commercial and residential uses, 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 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 and glass and lighting standards to reduce bird mortality from windows, other specific glass features, and certain lighting elements 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).

[31] A density of 50 units per acre is allowed on the project site, which would allow up to 136 units on the 2.72-acre project site. The proposed 55 townhome units and 10 ADUs are within this allowance.

3. Exemption

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)[32] 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 (CNDDB) has no record of special-status plant and animal species on the project site or urbanized areas within a one-mile area surrounding the project site.[33] There are no natural lands within a one-mile area of the project site. For these reasons, the project site has no value as habitat for endangered, rare, or threatened species.

While there is currently no landscaping on the project site, six existing off-site trees along Stevens Creek Boulevard will 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 will be required to comply with CMC Chapter 17.04, *Standard Environmental Protection Requirements*. Specifically, the project applicant will be required to comply with CMC Section 17.05.050(D)(1) listed here, which will minimize potential impacts to nesting birds during tree removal and construction:

> 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 through August 31), preconstruction surveys shall be conducted as follows:

[32] 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.

[33] California Natural Diversity Database, 2025, CNDDB Maps and Data, https://wildlife.ca.gov/Data/CNDDB/Maps-and-Data, accessed May 7, 2025.

3. Exemption

i. No more than seven days prior to the start of demolition, construction, ground-disturbing, or tree removal/pruning activities 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:

1. For projects that require the demolition or construction of 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 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.

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 CNDDB 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.[34] The project applicant will be required to comply with CMC Chapter 17.04, *Standard Environmental Protection Requirements*. Specifically, the project applicant will be required to comply with CMC Section 17.05.050(D)(2) listed below, which will minimize potential impacts to roosting bats during tree removal and construction:

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.

[34] California Natural Diversity Database, 2025, CNDDB Maps and Data, https://wildlife.ca.gov/Data/CNDDB/Maps-and-Data, accessed May 7, 2025.

3. Exemption

ii. Be conducted no more than 14 days prior to the start of tree removal or demolition, renovation, or re-tenanting.

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.

Furthermore, the proposed applicant will be required to comply with CMC Chapter 19.102, *Glass and Lighting Standards*, which establishes regulations to reduce bird mortality from windows, other specific glass features, and certain lighting elements that are known to increase the risk of bird collisions. No more than 10 percent of the surface area of the façade will be untreated glass. The proposed project will avoid the funneling of flight paths along buildings or trees towards a building façade, avoid use of highly reflective glass or highly transparent glass, and not include skyways or walkways, balconies, freestanding walls, or building corners made of untreated glass or other transparent materials, or any other design elements that

are untreated and through which trees, landscape areas, water features, or the sky are visible from the exterior or from one side of the transparent element to the other. All outdoor lighting will be fully shielded fixtures, directed downward to meet the particular need and away from adjacent properties and rights-of-way to avoid light trespass.

Accordingly, the proposed project meets the criteria of CEQA Guidelines Section 15332(c).

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

For the reasons stated here, the proposed project will 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).

3.4.1 Traffic

The analysis presented in this section is based in part on the *Transportation Analysis for the Proposed Residential Development at 10065-10075 East Estates Drive in Cupertino, CA* prepared for the proposed project and appended as Appendix B, *Transportation Analysis*, to this document.

The project site is in the eastern region of the city along Stevens Creek Boulevard. Regional access to the project site is provided by I-280 via North Wolfe Road to the north, and by Highway 85 via Stevens Creek Boulevard to the west. Vehicular access to and from the project site on Stevens Creek Boulevard will be provided through the access point on East Estates Drive.

The project site will continue to be accessible to pedestrians, bicyclists, and transit users. The site is served by the existing Enhanced Bike Lane on Stevens Creek Boulevard. Public transit to the project site is provided by local municipal bus lines 23, 25, 51, 55, and Rapid Transit 523 operated by the VTA with bus stops approximately 0.02 miles away on the north side of Stevens Creek Boulevard.

3.4.1.1 CONSISTENCY WITH CIRCULATION SYSTEM PROGRAMS AND PLANS

Plan Bay Area 2050 is the Bay Area's Regional Transportation Plan (RTP) and Sustainable Community Strategy (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 within a Santa Clara VTA City

3. Exemption

Cores, Corridors, and Station Areas PDA[35] and within a TPA[36] that will result in a change in land use from commercial to residential in a portion of the city that has access to existing infrastructure and services. Therefore, the proposed project will not conflict with *Plan Bay Area 2050*.

Pedestrian, bicycle, and public transit access to and from the project site will not change from existing conditions. The proposed project will not increase the population at the project site such that it would result in a large number of vehicular trips (i.e., the existing commercial uses generate 350 net daily trips and the proposed project will generate approximately 100 net new daily trips to the project site)[37] and will not otherwise decrease the performance or safety of such pedestrian, bicycle, or public transit facilities or cause a substantial increase in transit demand that cannot be accommodated by existing or proposed transit capacity or alternative travel modes. Therefore, the proposed project will 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.

3.4.1.2 VEHICLE-MILES TRAVELED

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:

- A project located within one-quarter mile of a High-Quality Transit Corridor or transit stop as defined by CEQA.
- Local-serving retail of 50,000 square feet or less.
- Land-use projects consisting of 100% affordable housing.

CEQA Guidelines Section 21155(b) defines a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. The closest bus stop to the project site is approximately 0.02 miles away on the north side of Stevens Creek Boulevard. The nearest transit stop is located 0.05 miles away, on the west side of Miller Avenue, which provides stops with a bus frequency service interval of 15 to 20 minutes during the peak weekday commute periods along VTA

[35] Association of Bay Area Governments and Metropolitan Transportation Commission, updated March 22, 2023, Priority Development Areas (Plan Bay Area 2050), https://opendata.mtc.ca.gov/datasets/priority-development-areas-plan-bay-area-2050, accessed March 18, 2025.

[36] Association of Bay Area Governments and Metropolitan Transportation Commission, updated March 22, 2023, Transit Priority Areas (2021), https://www.arcgis.com/apps/mapviewer/index.html?layers=370de9dc4d65402d992a769bf6ac8ef5, accessed March 18, 2025.

[37] Hexagon Transportation Consultants, Inc., September 24, 2025, *Transportation Analysis for the Proposed Residential Development at 10065-10075 East Estates Drive in Cupertino, CA* (see Appendix B, *Transportation Analysis*, of this document).

bus route 23 and Rapid Transit 523. As previously described in Section 3.4.1.1, *Consistency with Circulation System Programs and Plans*, the project site is within a TPA.[38] Under the *Plan Bay Area 2050* strategies, just under half of all Bay Area households would live within one-half mile of frequent transit by 2050, with this share increasing to over 70 percent for households with low incomes. Transportation and environmental strategies that support active and shared modes, combined with a transit-supportive land use pattern, are forecasted to lower the share of Bay Area residents that drive to work alone from over 50 percent in 2015 to 36 percent in 2050. Accordingly, development in a TPA demonstrates a cumulative decline of VMT in the city and region. Pursuant to the City's Project Activity Map, the City is processing multiple applications for housing in the TPA.[39] Therefore, these projects, along with the proposed project, demonstrate a cumulative decline in VMT. As such, the proposed project meets the City's VMT screening criteria of being within 0.25 miles of a major transit stop[40] and declining cumulative VMT.

In addition, the City's 2021 Transportation Study Guidelines provides detailed screening criteria to complete the screening process.[41] The 2021 Transportation Study Guidelines state that residential development projects located within a quarter-mile walkshed around an existing major transit corridor or a major transit stop (i.e., along Stevens Creek Boulevard in Cupertino) may be screened out of further VMT analysis pursuant to the TPA screening criteria. However, TPA screening would not apply if the project meets *any* of the following criteria:

- The project has a Floor Area Ratio (FAR) of 0.75 or less;
- The proposed parking exceeds the minimum required by the Zoning Code or applicable plan;
- The Project is inconsistent with the City's General Plan, applicable Specific Plan, or applicable Sustainable Communities Strategy (as determined by the lead agency, with input from ABAG and MTC);
- The Project removes or reduces the number of existing on-site affordable residential units; or,
- Significant levels of VMT generation are anticipated due to project-specific or location-specific information.

As described, the project site is within a quarter-mile walkshed around an existing major transit corridor due to its northern frontage located along Stevens Creek Boulevard. The proposed project would have a FAR greater than 0.75. The proposed project would replace commercial uses with 55 residential townhomes

[38] Association of Bay Area Governments and Metropolitan Transportation Commission, updated March 22, 2023, Transit Priority Areas (2021), https://www.arcgis.com/apps/mapviewer/index.html?layers=370de9dc4d65402d992a769bf6ac8ef5, accessed March 18, 2025.

[39] City of Cupertino, Major Projects, https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/Major-Projects.

[40] 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 20 minutes or less during the morning and afternoon peak commute periods. Note that Section 21064.3 was amended in 2024 and the change from 15 to 20 minutes went into effect on January 1, 2025; however, the Cupertino Municipal Code Section 17.08.010, *Definitions*, includes the now outdated standard of 15 minutes.

[41] City of Cupertino, May 2021, *City of Cupertino Transportation Study Guidelines*.

and 10 ADUs and is consistent with the City's General Plan. The City's parking requirement for the proposed townhomes is 2.8 parking space per dwelling unit (CMC Table 19.124.040(A)) resulting in 154 spaces and the project parking includes 119 parking spaces. No affordable housing is being removed as a result of the proposed project, and as explained, development in a PDA and TPA is assumed to reduce cumulative VMT. Accordingly, the proposed project qualifies for the TPA screening criteria, and no VMT-related impacts would occur.

3.4.1.3 DESIGN FEATURE OR INCOMPATIBLE USE HAZARDS

The proposed internal roadways will be constructed to be 24 to 39 feet wide and the proposed driveway along East Estates Drive to be approximately 26 feet wide, which is consistent with the CMC roadway standards. Since the increase of the number of vehicle trips resulting from the proposed project will be minor, the proposed driveway is expected to operate acceptably during both peak hours. The speed limit along East Estates Drive is 25 miles per hour (mph), for which the California Department of Transportation recommends a stopping sight distance of 200 feet. Some minor roadway curvature is present along East Estates Drive; however, a clear line of sight is available in both directions for at least 200 feet so that exiting vehicles can see along both directions of East Estates Drive. The proposed project will not include landscaping or signage along the project site frontage and entrances that will interfere with the corner triangles at the proposed driveways. The canopies of trees along East Estates Drive would be maintained so that they are at least 10 feet in height and do not impede the view of exiting drivers. While street parking is permitted along East Estates Drive, the red curb would be striped equal to one car length south of the proposed driveway and all the way to Stevens Creek Boulevard north of the proposed driveway. [42] Therefore, no significant hazards in the area will occur during operation.

During the construction period, the proposed project will result in temporary changes to existing transportation conditions. Temporary traffic will be generated by construction employees and construction activities, including haul trucks. As discussed in Section 2.4.5, *Demolition, Grading, and Construction*, during demolition and construction, vehicle, equipment, and materials will be staged and stored on a portion of the project site. The construction site and staging areas will be clearly marked, and construction fencing will be installed to prevent disturbance and safety hazards. Therefore, no significant hazards in the area will occur during the construction phase.

[42] Hexagon Transportation Consultants, Inc., September 24, 2025, *Transportation Analysis for the Proposed Residential Development at 10065-10075 East Estates Drive in Cupertino, CA* (see Appendix B, *Transportation Analysis*, of this document).

3.4.1.4 EMERGENCY ACCESS

The proposed project will not alter the existing circulation pattern on Stevens Creek Boulevard. The proposed internal roadways will be constructed to 24 to 39 feet wide, consistent with the CMC and Cupertino Fire Department's requirements, and will provide emergency vehicles with sufficient space to access each of the residential units on-site. Therefore, the proposed project will not result in inadequate emergency access.

3.4.2 Noise

The analysis presented in this section is based in part on the *Noise Technical Memorandum* prepared for the proposed project and appended as Appendix C, *Noise Analysis*, to this document.

Pursuant to the CEQA Statute (Public Resources Code) Section 21085, for residential projects, the effects of noise generated by project occupants and their guests on human beings is not a significant effect on the environment. Accordingly, this section evaluates the noise from construction equipment, buildings, and vehicles.

The noise environment in the project vicinity is primarily characterized by vehicular traffic along Stevens Creek Boulevard to the north of the project site. Operations and activities from adjacent commercial, institutional, and residential uses also contribute to the existing noise environment in the project vicinity. The closest existing noise-sensitive receptors to the project site are the adjacent single-family residences to the south of the project site along Richwood Drive.

3.4.2.1 AMBIENT NOISE LEVELS

Construction Impacts

According to CMC Section 10.48.053, *Grading, Construction and Demolition*, construction is allowed during "daytime hours" (7:00 a.m. to 8:00 p.m. Monday through Friday, and 9:00 a.m. to 6:00 p.m. on weekends) and exempt from the City's daytime and nighttime maximum noise level limits, provided that such construction activities do not exceed 80 dBA at the nearest affected property or individual equipment items do not exceed 87 dBA at 25 feet. Only one of these two criteria must be met. In addition, construction is prohibited on holidays and within 750 feet of residential areas on weekends, holidays, and during the nighttime, unless a special exception has been granted, and during nighttime hours unless it meets the nighttime noise level standards. Even with these restrictions, project construction would temporarily increase ambient noise. However, noise levels would subside again after construction is completed.

3. Exemption

Noise generated by on-site construction equipment is based on the type of equipment used, its location relative to sensitive receptors, and the timing and duration of noise-generating activities. Each stage of construction involves different kinds of equipment and has distinct noise characteristics. Noise levels from construction activities are typically dominated by the loudest pieces of equipment. The dominant noise source of construction equipment is typically the engine, although work-piece noise (such as dropping of materials) can also be noticeable.

The noise produced at each construction stage is determined by combining the contributions from each piece of equipment used at a given time, while accounting for the on-going time-variations of noise emissions (commonly referred to as the usage factor) to determine the L_{eq} noise levels. Heavy equipment, such as a bulldozer, can have maximum, short-duration noise levels of up to 85 dBA at 50 feet. However, overall noise emissions vary considerably, depending on what specific activity is being performed at any given moment. Noise attenuation due to distance, the number and type of equipment, and the load and power requirements to accomplish tasks at each construction phase would result in different noise levels from construction activities at a given receptor. Since noise from construction equipment is intermittent and diminishes at a rate of at least 6 dBA per doubling of distance (conservatively ignoring other attenuation effects from air absorption, ground effects, and/or shielding/scattering effects), the average noise levels at noise-sensitive receptors could vary considerably, because mobile construction equipment would move around the site with different loads and power requirements. Noise levels from project-related construction activities were calculated from the simultaneous use of all applicable construction equipment at spatially averaged distances (i.e., from the acoustical center of the general construction site or phase) to the property line of the nearest receptors. Although construction may occur across the entire phase area, the center of construction activities best represents the potential construction-related noise levels from multiple pieces of equipment at the various sensitive receptors. This is represented by the center of the entire construction site for activities such as paving, demolition, site preparation, and grading, which are expected to take place across the entire site. Other activities, such as building construction and architectural coating are expected to occur in a focused area of the construction site. Distances for these activities were measured from the nearest sensitive receptor to the nearest phase of potential focused construction activity. The expected construction equipment mix was estimated and categorized by construction activity and the three loudest equipment per activity phase using the Federal Highway Administration Roadway Construction Noise Model (RCNM). The associated, aggregate noise levels, grouped by construction activity, are summarized in Table 3-1, *Project-Related Construction Noise, dBA L_{eq} Noise Levels*. As shown in Table 3-1, construction noise levels would not exceed 80 dBA L_{eq} at nearby sensitive receptor locations, therefore complying with the City's construction noise limit.

TABLE 3-1 PROJECT-RELATED CONSTRUCTION NOISE, DBA L_{EQ} NOISE LEVELS

Construction Activity	Reference Noise Level	Residential/Daycare Receptor to the West	Residential Receptor to the South	Residential Receptor to the Southwest
Distance	**50 feet**	**250 feet**	**280 feet**	**180 feet**
Demolition	84	73	69	73
Site Prep	84	73	69	73
Grading	83	72	68	72
Paving	79	67	64	68
Building Construction	79	77	74	77
Architectural Coating	74	72	69	72
Maximum dBA Leq		**77**	**74**	**77**
Exceeds 80 dBA Leq Threshold?		**No**	**No**	**No**

Note: Distances were measured using Google Earth (2025).
Source: Federal Highway Administration's Roadway Construction Noise Model software.

CMC Chapter 17.04, *Standard Environmental Protection Requirements*, identifies standard environmental protection requirements that all construction projects must meet. Specifically, the project applicant will be required to comply with CMC Sections 17.04.050(G)(1) and 17.04.050(G)(2) listed here, which will minimize impacts related to construction noise:

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

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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 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.

Pursuant to CMC Section 17.04.050(G)(2), the proposed project would be required to prepare and implement a noise control plan to ensure compliance with daytime and nighttime decibel limits in the CMC. Therefore, the proposed project will not increase ambient noise levels in the vicinity of the project in excess of standards established in the CMC during the construction phase.

Operational Impact

Stationary-Source Noise

Noise from sources such as people talking and using outdoor common areas or property maintenance may contribute to the total noise environment within the direct vicinity of the proposed project site. However, these types of noise are commonly associated with uses that already exist on the project site and surrounding uses. CMC Section 10.48.040, *Daytime and Nighttime Maximum Noise Levels*, sets the maximum noise level at the site of a receiving residential property to be 60 dBA during the daytime and 50 dBA during the nighttime and 65 dBA during the daytime and 55 dBA during the nighttime at the site of a receiving nonresidential property. Noise associated with landscape maintenance activities is exempt from

the provisions of the CMC, provided said activities take place between the hours of 7:00 a.m. to 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends and holidays.

The project's common space area is in the center of the proposed project, approximately 170 feet north of the nearest residence on Richwood Drive. A typical conversation between two people 3 feet apart is 60 dBA.[43] At a distance of 170 feet, noise levels would attenuate to approximately 25 dBA. Therefore, noise from typical use of the open space area would result in noise levels less than the CMC Section 10.48.040 nighttime 50 dBA limit for residential uses.

The proposed townhomes are anticipated to have mechanical heating, ventilation, and air conditioning (HVAC) equipment on the ground next to units or on the on the rooftop. The exterior mechanical and HVAC equipment associated with the proposed townhomes are expected to be similar to the existing commercial uses on the site or quieter. Because mechanical specifications for these proposed units are not yet available, it is conservatively assumed that noise from these units would be up to 72 dBA L_{eq} at a distance of 3 feet and that they could be located within approximately 45 feet from the nearest residential property lines to the west. At this distance, the sound pressure level associated with a common HVAC unit would be approximately 48 dBA at the nearest noise sensitive receptor. Therefore, the noise level associated with HVAC in the backyards of the future residential units would not exceed the CMC Section 10.48.040 standards, which limit nighttime noise to 50 dBA at nearby residential uses.

Traffic Noise

The proposed project would generate an increase of 100 net new trips per day with 15 new AM peak hour trips compared to existing daily trips attributed to the existing shopping center at the project site. A project will normally have a significant effect on the environment related to traffic noise if it substantially increases the ambient noise levels for adjoining areas. Most people can detect changes in sound levels of approximately 3 dBA under normal, quiet conditions, and changes of 1 to 3 dBA under quiet, controlled conditions. Changes of less than 1 dBA are usually indiscernible. A change of 5 dBA is readily discernible to most people in an outdoor environment. Noise levels above 65 dBA CNEL are normally unacceptable at sensitive receptor locations such as residences, schools, and noise environments in these areas would be considered degraded. Based on this, a significant impact would occur if traffic noise increases by 3 dBA.

Traffic noise increases were calculated using a version of the Federal Highway Administration RD-77-108 Traffic Noise Prediction Model. The traffic noise prediction model takes into account the following inputs: average daily traffic volumes; vehicle mix; speeds; number of lanes; and day, evening, and night traffic splits. Existing traffic noise estimates are based on the City of Cupertino's baseline roadway volumes modeled for

[43] Engineering ToolBox, 2005, Voice Level at Distance, https://www.engineeringtoolbox.com/voice-level-d_938.html, accessed June 6, 2025.

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the General Plan 2040 and Zoning Code Amendments Environmental Assessment in April 2024.[44] Project trips were provided by Hexagon Transportation Consultants Inc.[45] Traffic noise modeling does not account for existing masonry walls at adjacent residential property lines. Table 3-2, *Project-Related Increases in Traffic Noise, dBA CNEL at 50 Feet,* shows that the addition of proposed project trips would result in an increase of less than 1 dBA over existing conditions. Therefore, project traffic would not result in a significant noise impact.

TABLE 3-2 PROJECT-RELATED INCREASES IN TRAFFIC NOISE, DBA CNEL AT 50 FEET

	Segment		Traffic Noise Increase		
Roadway	From	To	Existing No Project	Existing with Proposed Project	Difference
Stevens Creek Boulevard	Tantau Avenue	Portal Avenue	70	70	<1
Wolfe Road	I-280 Overpass	Stevens Creek Boulevard	72	72	<1
Miller Avenue	Stevens Creek Boulevard	Mitty Way	69	69	<1

Sources: Hexagon Transportation Consultants, Inc., September 24, 2025, *Transportation Analysis for the Proposed Residential Development at 10065-10075 East Estates Drive in Cupertino, CA* (see Appendix B, *Transportation Analysis*, of this document); City of Cupertino, April 2024, *General Plan 2040 and Zoning Code Amendments Environmental Assessment*, Table 4.11-6, *Baseline Roadway Noise Levels*, https://www.cupertino.gov/files/assets/city/v/2/departments/documents/community-development/planning/general-plan/current-gp-documents/cupgp_appendix_g_2024update_9-30-2024_reduced_size.pdf.

3.4.2.2 GROUNDBORNE VIBRATION

Potential vibration impacts associated with construction projects are usually related to the use of heavy construction equipment during the demolition phase of construction. Construction can generate varying degrees of ground vibration depending on the construction procedures and equipment. Construction equipment generates vibration that spreads through the ground and diminishes with distance from the source. The effect on buildings in the vicinity of the construction site varies depending on soil type, ground strata, and receptor-building construction. The effects from vibration can range from no perceptible effects at the lowest vibration levels, to low rumbling sounds and perceptible vibrations at moderate levels, to slight structural damage at the highest levels. Vibration from construction activities rarely reaches the levels that can damage structures. Table 3-3, *Vibration Levels at Nearby Structures,* summarizes vibration levels for typical construction equipment at the nearest structures to the project site. As noted in Table 3-3, the vibratory roller, which would be used during paving activities on project streets, would produce the highest levels of vibration. Therefore, the distances shown in Table 3-3 reflect the distance from the nearest off-site buildings to the nearest paved street area shown on the proposed site plan.

[44] City of Cupertino, April 2024, *General Plan 2040 and Zoning Code Amendments Environmental Assessment*, Table 4.11-6, *Baseline Roadway Noise Levels*, https://www.cupertino.gov/files/assets/city/v/2/departments/documents/community-development/planning/general-plan/current-gp-documents/cupgp_appendix_g_2024update_9-30-2024_reduced_size.pdf.

[45] Hexagon Transportation Consultants, Inc., September 24, 2025, *Transportation Analysis for the Proposed Residential Development at 10065-10075 East Estates Drive in Cupertino, CA* (see Appendix B, *Transportation Analysis*, of this document).

TABLE 3-3 VIBRATION LEVELS AT NEARBY STRUCTURES

Equipment	Inches/Second Peak Particle Velocity		
	Residential/Daycare Receptor to the West (80 Feet)	Residential Receptor to the South (130 Feet)	Commercial Uses to the West (145 Feet)
Vibratory Roller	0.037	0.018	0.015
Hoe Ram	0.016	0.008	0.006
Large Bulldozer	0.016	0.008	0.006
Caisson Drilling	0.016	0.008	0.006
Loaded Trucks	0.013	0.006	0.005
Small Bulldozer	0.006	0.003	0.003
Jackhammer	0.001	0.000	0.000

Note: As measured from the center of the nearest street on the project site to the nearest off-site building.
Source: Federal Transit Administration, September 2018, *Transit Noise and Vibration Impact Assessment Manual*, https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/research-innovation/118131/transit-noise-and-vibration-impact-assessment-manual-fta-report-no-0123_0.pdf.

The nearest structure to the site's construction activities, the residential/daycare building to the southwest, is approximately 80 feet from the nearest proposed project construction activities. At this distance, construction vibration would attenuate to 0.037 inches per second peak particle velocity (in/sec PPV) or less. Vibration levels at the other nearby residence 130 feet south of the project site and the commercial uses to the west would also attenuate to 0.018 in/sec PPV or less. Therefore, proposed construction activities would not exceed the City's vibration standard of 0.2 in/sec PPV or 0.12 in/sec PPV (for historic structures) at nearby off-site structures.

CMC Chapter 17.04, *Standard Environmental Protection Requirements*, identifies standard environmental protection requirements that all construction projects must meet. Specifically, the project applicant will be required to comply with CMC Section 17.04.050(G)(3), which will minimize impacts related to construction vibration:

> CMC Section 17.04.050(G)(3), ***Manage Vibrations During Construction.*** In the event pile driving is required, the project applicant shall:
>
> a. Notify all vibration-sensitive receptors within 300 feet of the project site of the schedule 10 days prior to its commencement and include the contact information for the person responsible for responding to complaints on site.
>
> b. The project applicant shall retain a qualified acoustical consultant or structural engineer, to prepare and implement a Construction Vibration Monitoring Plan, which is subject to third-party peer review under the direction of the City at the applicant's cost, for areas within 100 feet for pile driving, 25 feet for vibratory roller, or 15 feet for other heavy equipment (e.g., bulldozer); and for historical structures: within 135 feet for pile driving, 40 feet for vibratory roller, or 20 feet for other

heavy equipment. The plan shall include surveying the condition of existing structures; and determining the number, type, and location of vibration sensors and establish a vibration velocity limit (as determined based on a detailed review of the proposed building), method (including locations and instrumentation) for monitoring vibrations during construction, location of notices displaying the contact information for on-site coordination and complaints on site, and method for alerting responsible persons who have the authority to halt construction should limits be exceeded or damaged observed.

c. Submit final monitoring reports to the City upon completion of vibration related construction activities.

d. Conduct a post-survey on any structure where either monitoring has indicated high vibration levels or complaints that damage has occurred are received.

e. The project applicant shall be responsible for appropriate repairs as determined by the qualified acoustical consultant or structural engineer where damage has occurred as a result of construction activities.

Should the proposed project require the use of the construction equipment listed in CMC Section 17.04.050(G)(3)(b) within the specified distances to receptors, it will be required to prepare a Construction and Vibration Monitoring Plan by a qualified acoustical consultant to ensure that no damage due to vibration from construction equipment would occur. Therefore, the proposed project will not result in an increase in excessive ground-borne vibration.

3.4.2.3 AIRPORT NOISE

Because the project site is not within two miles of a private or public use airport, which is the standard for assessing noise impacts under CEQA, the proposed project will 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.

3.4.3 Air Quality

The analysis presented in this section is based in part on the *Air Quality Technical Memorandum* and *Health Risk Assessment* prepared for the proposed project and appended as Appendix D, *Air Quality Analysis*, to this document.

The analysis of the proposed project's air quality impacts follows the guidance and methodologies recommended in the Bay Area Air District (Air District)[46] *2022 CEQA Air Quality Guidelines*. CEQA allows the significance criteria established by the applicable air quality management or air pollution control district to be used to assess impacts of a project on air quality. The guidelines provide recommended procedures for

[46] Formerly known as the Bay Area Air Quality Management District (BAAQMD)

evaluating potential air impacts during the environmental review process, consistent with CEQA requirements, and include recommended thresholds of significance, mitigation measures, and background air quality information.

Attainment Status of the Air Basin

The proposed project is in the San Francisco Bay Area Air Basin (Air Basin) under the jurisdiction of the Air District, which regulates air quality in the San Francisco Bay Area. Within the Air Basin, ambient air quality standards for ozone, carbon monoxide (CO), nitrogen dioxide (NO_2), sulfur dioxide (SO_2), particulate matter (PM_{10}, $PM_{2.5}$), 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 Air Basin is under State nonattainment status for ozone and particulate matter (both PM_{10} and $PM_{2.5}$) standards. The Air Basin is classified as nonattainment for the federal ozone 8-hour standard and nonattainment for the federal 24-hour standard for $PM_{2.5}$.[47]

Air Quality Plans

The Air District is directly responsible for reducing emissions from area, stationary, and mobile sources in the Air Basin to achieve national and California Ambient Air Quality Standards (AAQS). The Air District's *2017 Clean Air Plan* is a regional and multiagency effort to reduce air pollution in the Air Basin.[48] A consistency determination with the air quality management plan plays an important role in local agency project review by linking local planning and individual projects to the *2017 Clean Air Plan*. It fulfills the CEQA goal of informing decision makers of the environmental efforts of the project under consideration early enough to ensure that air quality concerns are fully addressed. It also provides the local agency with ongoing information as to whether they are contributing to the clean air goals in the *2017 Clean Air Plan*.

Regional Significance Thresholds

As described previously, the Air Basin is currently designated a nonattainment area for California and National O_3, California and National $PM_{2.5}$, and California PM_{10} 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 Air Basin), a project is cumulatively significant when project-related emissions exceed the Air District's emissions thresholds.

[47] Bay Area Air District, 2025, Air Quality Standards and Attainment Status, https://www.baaqmd.gov/about-air-quality/research-and-data/air-quality-standards-and-attainment-status, accessed February 12, 2025.

[48] Bay Area Air District. April 19, 2017, Final 2017 Clean Air Plan, https://www.baaqmd.gov/~/media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf.

3. Exemption

The Air District has identified thresholds of significance for criteria pollutant emissions and criteria air pollutant precursors, including reactive organic gas (ROG), NO_X, PM_{10}, 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.

CO Hotspots

Congested intersections have the potential to create elevated concentrations of CO, referred to as CO hotspots. The significance criteria for CO hotspots are based on the California AAQS for CO, which are 9.0 ppm (8-hour average) and 20.0 ppm (1-hour average). With the turnover of older vehicles, introduction of cleaner fuels, and implementation of control technology, the SFBAAB is in attainment of the California and national AAQS, and CO concentrations in the SFBAAB have steadily declined. Because CO concentrations have improved, the Air District does not require a CO hotspot analysis if the following criteria are met:

- The project is consistent with an applicable congestion management program established by the County Congestion Management Agency for designated roads or highways, the regional transportation plan, and local congestion management agency plans.
- The project 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 intersection 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).

Health Risk

The Air District's significance thresholds for local community risk and hazard impacts apply to both the siting of a new source and to the siting of a new receptor. Local community risk and hazard impacts are associated with TACs and $PM_{2.5}$ because emissions of these pollutants can have significant health impacts at the local level. The proposed project would generate TACs and $PM_{2.5}$ during construction activities that could elevate concentrations of air pollutants at the nearby receptors. The thresholds for construction-related local community risk and hazard impacts are the same as for project operations. The Air District has adopted screening tables for air toxics evaluation during construction. Construction-related TAC and $PM_{2.5}$ impacts are addressed on a case-by-case basis, taking into consideration the specific construction-related characteristics of each project and proximity to off-site and on-site receptors, as applicable.

Project-level emissions of TACs or $PM_{2.5}$ from individual sources that exceed any of the thresholds listed below are considered a potentially significant community health risk in the absence of a qualified community risk reduction plan:

- An excess (i.e., increased) cancer risk level of more than 10 in one million
- Noncancer (i.e., chronic or acute) hazard index greater than 1.0
- An incremental increase of greater than 0.3 micrograms per cubic meter (µg/m^3) annual average $PM_{2.5}$

Cumulative sources represent the combined total risk values of each of the individual sources within the 1,000-foot evaluation zone. A project would have a cumulatively considerable impact if the aggregate total of all past, present, and foreseeable future sources within a 1,000-foot radius from the fence line of a source or location of a receptor, plus the contribution from the project, exceeds any of the following in the absence of a qualified community risk reduction plan:

- An excess cancer risk level of more than 100 in one million (from all sources)
- Chronic noncancer hazard index (from all local sources) greater than 10.0
- 0.8 µg/m^3 annual average $PM_{2.5}$ (from all local sources)

3.4.3.2 CONSISTENCY WITH APPLICABLE AIR QUALITY PLANS

The regional emissions inventory for the Air Basin is compiled by the Air District. Regional population, housing, and employment projections developed by the Association of Bay Area Governments (ABAG) are based, in part, on cities' general plan land use designations. These projections form the foundation for the emissions inventory of the *2017 Clean Air Plan*. These demographic trends are incorporated into *Plan Bay Area 2050*, compiled by ABAG and the Metropolitan Transportation Commission (MTC) to determine priority transportation projects and vehicle miles traveled in the Bay Area. The *2017 Clean Air Plan* strategy is based on projections from local general plans. Projects that are consistent with the local general plan are considered consistent with the air quality-related regional plan. Large projects that exceed regional employment, population, and housing planning projections have the potential to be inconsistent with the regional inventory compiled as part of the *2017 Clean Air Plan*.

The proposed residential uses would be consistent with the Commercial/Residential land use designation of the General Plan. Additionally, under CEQA Guidelines Section 15206,[49] the proposed project is not considered a regionally significant project that would affect regional vehicle miles traveled and warrant intergovernmental review by ABAG and MTC. Additionally, the proposed project would serve the existing community and not induce substantial unplanned population growth. Lastly, as shown in Table 3-5, the proposed project would not generate operational emissions that would exceed the Air District's emissions thresholds. These thresholds are established to identify projects that have the potential to generate a substantial amount of criteria air pollutants. Because the proposed project would not exceed these thresholds, the proposed project would not be considered by the Air District to be a substantial emitter of

[49] Pursuant to CEQA Guidelines Section 15206(b)(2)(A), a proposed residential development of more than 500 dwelling units would be considered a project of statewide, regional, or areawide significance.

criteria air pollutants. Therefore, the proposed project would not conflict with or obstruct implementation of the *2017 Clean Air Plan*.

3.4.3.3 CUMULATIVELY CONSIDERABLE NET INCREASE CRITERIA POLLUTANT

Construction Impacts

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 course fugitive dust (PM_{10}) and fine fugitive dust ($PM_{2.5}$) from demolition and soil-disturbing activities, such as grading and excavation. Air pollutant emissions from construction activities on-site will vary daily as construction activity levels change. Construction activities associated with the proposed project will result in emissions of ROG, NO_X, PM_{10}, and $PM_{2.5}$.

CMC Chapter 17.04, *Standard Environmental Protection Requirements*, identifies standard environmental protection requirements that all construction projects must meet. Specifically, the project applicant will be required to comply with CMC Sections 17.04.050(A)(1), 17.04.050(A)(3), and 17.04.050(A)(4) as listed here, which will minimize impacts from construction:

CMC Section 17.04.050(A)(1), *Control Fugitive Dust During Construction*. Projects shall implement the Bay Area Air Quality Management District Basic Control Measures included in the latest version of BAAQMD's CEQA Air Quality Guidelines, as subsequently revised, supplemented, or replaced, to control fugitive dust (i.e., particulate matter, $PM_{2.5}$ and PM_{10}) during demolition, ground-disturbing activities, and/or construction. The project applicant shall include these measures in the applicable construction documents, prior to issuance of the first permit.

CMC Section 17.04.050(A)(3), *Control Construction Exhaust*. Projects that disturb more than one-acre and are more than two months in duration, shall implement the following measures and the project applicant shall include them in the applicable construction document, prior to issuance of the first permit:

a. Utilize off-road diesel-powered construction equipment that is rated by the U.S. Environmental Protection Agency (EPA) as Tier 4 or higher for equipment more than 25 horsepower. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by a Tier 4 interim emissions standard for a similarly sized engine, as defined by the California Air Resources Board's (CARB) regulations. Applicable construction documents shall clearly show the selected emission reduction strategy for construction equipment over 25 horsepower.

b. Ensure that the construction contractor shall maintain a list of all operating equipment in use on the project site for verification by the City. The construction equipment list shall state the makes, models, and number of construction equipment on-site.

c. Ensure that all equipment shall be properly serviced and maintained in accordance with the manufacturer's recommendations.

CMC Section 17.04.050(A)(4), *Control Volatile Organic Compound Emissions from Paint.* Project shall use low VOC-paint (i.e., 50 grams per [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.

In reference to CMC Section 17.04.050(A)(1), the Air District considers all impacts related to fugitive dust emissions from construction to be less than significant with implementation of the Air District's best management practices. 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.
- 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). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with the 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.

3. Exemption

Construction is anticipated to occur from Summer 2026 to 2028. For the purposes of this analysis, a 21-month construction schedule was utilized, with construction starting in August 2026 and lasting until May 2028. Based on information provided by the applicant, construction activities are expected to occur 11 hours a day Monday through Friday and 9 hours a day on Saturdays.

Construction emissions were estimated using CalEEMod version 2022.1. Table 3-4, *Construction Criteria Air Pollutant Emissions*, shows the average daily construction emissions of ROG, NO_X, PM_{10} exhaust, and $PM_{2.5}$ exhaust during construction of the proposed project. As indicated in Table 3-4, average project construction emissions will not exceed the Air District's significance thresholds. Therefore, the proposed project will not result in a cumulatively considerable net increase of criteria air pollutants during the construction phase.

TABLE 3-4 CONSTRUCTION CRITERIA AIR POLLUTANT EMISSIONS

	ROG	NO_X	Exhaust PM_{10}	Fugitive PM_{10}	Exhaust $PM_{2.5}$	Fugitive $PM_{2.5}$
Criteria Air Pollutants (tons/year)						
2026	<1	<1	<1	<1	<1	<1
2027	<1	1	<1	<1	<1	<1
2028	<1	<1	<1	<1	<1	<1
Total	<1	1	<1	1	<1	<1
Criteria Air Pollutants (average lbs/day) [a]						
Average Daily Emissions	**2**	**5**	**<1**	**2**	**<1**	**<1**
Air District Average Daily Threshold	*54*	*54*	*BMPs*	*82*	*BMPs*	*54*
Exceeds Threshold?	**No**	**No**	**No**	**No**	**No**	**No**

Notes: Modeling assumes compliance with Cupertino Municipal Code (CMC) Sections 17.04.050(A)(1), 17.04.050(A)(3), and 17.04.050(A)(4). Specific to CMC Section 17.04.050(A)(3), modeling for the proposed project assumes that all equipment over 25 horsepower used during construction activities will meet Tier 4 Interim standards as a conservative analysis.
a. Average daily emissions are based on the total construction emissions divided by the total number of active construction days. The total number of construction days is estimated to be about 548 days.
Source: CalEEMod Version 2022.1, Air District, 2023 (see Appendix D, *Air Quality Analysis*, of this document)

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. As described in Section 2.4.4, *Utilities and Public Service Providers*, the proposed project will be designed as 100 percent electric, which will also be a condition of approval, and will not include stationary sources that emit toxic air contaminants or generate a significant amount of heavy-duty truck trips (a source of diesel particulate matter).

Table 3-5, *Operational Criteria Air Pollutant Emissions*, shows average daily emissions of ROG, NO_X, total PM_{10}, and total $PM_{2.5}$ during operation of the project. As indicated in Table 3-5, operational emissions will not exceed the Air District's significance thresholds. Therefore, the proposed project will not result in cumulatively considerable net increase of criteria air pollutants during operation.

TABLE 3-5 OPERATIONAL CRITERIA AIR POLLUTANT EMISSIONS

	ROG	NO_X	PM_{10} Exhaust	$PM_{2.5}$ Exhaust
Criteria Air Pollutants (tons/year)				
Total	**1**	**<1**	**<1**	**<1**
Air District Thresholds (tons/year)	*10*	*10*	*15*	*10*
Exceeds Threshold?	**No**	**No**	**No**	**No**
Criteria Air Pollutants (average lbs/day)[a]				
Area	3	<1	<1	<1
Energy	<1	<1	<1	<1
On Road Mobile	<1	<1	<1	<1
Total	**4**	**<1**	**<1**	**<1**
Air District Thresholds (pounds/day)	*54*	*54*	*82*	*54*
Exceeds Threshold?	**No**	**No**	**No**	**No**

Note: Emissions may not total to 100 percent due to rounding.
a. Average daily emissions are based on the annual operational emissions divided by 365 days.
Source: See Appendix D, *Air Quality Analysis*, of this document.

Carbon Monoxide Hotspots

Areas of vehicle congestion have the potential to create pockets of CO, called hotspots. These pockets have the potential to exceed the State's 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. The proposed project will result in 100 net new daily vehicle trips (15 AM peak hour trips).[50] Thus, the proposed project will 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.[51] The proposed project will not have the potential to substantially increase CO hotspots at intersections in the project vicinity. Therefore, the proposed project will not increase CO concentration at intersections.

[50] Hexagon Transportation Consultants, Inc., September 24, 2025, *Transportation Analysis for the Proposed Residential Development at 10065-10075 East Estates Drive in Cupertino, CA* (see Appendix B, *Transportation Analysis*, of this document).

[51] Bay Area Air District, 2022, *California Environmental Quality Act Air Quality Guidelines.*

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3.4.3.4 SENSITIVE RECEPTORS

Project impacts related to increased health risk can occur by generating emissions of TACs and air pollutants. Construction activity under the proposed project will generate dust and equipment exhaust that can affect nearby sensitive receptors. The proposed project will include a stationary source of air pollutants and TACs in the form of an emergency generator and will also generate some traffic consisting of mostly light-duty gasoline-powered vehicles, which will produce TAC and air pollutant emissions.

The closest existing sensitive receptors to the project site are at the adjacent single-family residences and daycare to the south and southwest, respectively. The nearest school receptor is a private academy (Fusion Academy Cupertino) located in the shopping mall adjacent to the project site, approximately 450 feet to the west.

Health risk impacts were addressed by predicting increased cancer risk, the increase in annual $PM_{2.5}$ concentrations, and by computing the Hazard Index for noncancer health risks. The project's maximally exposed receptor (MER) is identified as the sensitive receptor that is most impacted by the project's construction and operation. The cancer risk MER is at the residence/daycare southwest of the project site and the annual $PM_{2.5}$ MER is at the shopping center approximately 80 feet west of the project site.

Table 3-6, *Construction Risk Summary*, summarizes the maximum cancer risks, $PM_{2.5}$ concentrations, and health Hazard Index for construction-related activities. As shown in Table 3-6, for non-carcinogenic effects, the chronic hazard index identified for each toxicological endpoint equaled less than one for each identified receptor, which is within acceptable limits. Cancer risk for the worker, daycare, and K-12 student receptors were each calculated to be less than 1 in one million, which would not exceed the 10 in one million significance threshold. However, with the use of Tier 4 Interim equipment, cancer risk for the residential MER from project-related construction emissions was calculated to be approximately 18 in one million, which would exceed the 10 in one million significance threshold. Similarly, with the use of Tier 4 Interim equipment, the annual average $PM_{2.5}$ concentration at the worker MER would reach 0.303 $\mu g/m^3$, which would exceed the Air District's significance threshold of 0.3 $\mu g/m^3$. However, as discussed in Section 2.4.5, *Demolition, Grading, and Construction*, in compliance with CMC Section 17.04.050(A)(3), the project applicant has voluntarily committed to the use of Tier 4 Final equipment, which will also be a condition of approval. With the use of Tier 4 Final equipment, cancer risk for the residential MER from project-related construction emissions would be 6.45 in one million, under the Air District's significance threshold. Similarly, the annual average $PM_{2.5}$ concentration at the worker MER would reach 0.27 $\mu g/m^3$, which is also under the Air District's significance threshold.

TABLE 3-6 CONSTRUCTION RISK SUMMARY

	Cancer Risk (per million)	Chronic Hazards	$PM_{2.5}$ ($\mu g/m^3$)
Use of Tier 4 Interim Equipment			
MER – K-12 Student[1]	<1	<0.1	0.02
MER – Daycare	7.98	<0.1	0.12
MER – Resident	**17.96**	<0.1	0.28
MER – Worker	<1	<0.1	**0.303**
Air District Threshold	*10*	*1.0*	*0.30*
Exceeds Threshold?	**Yes**	**No**	**Yes**
Use of Tier 4 Final Equipment			
MER – Resident	6.45	<0.1	0.25
MER – Worker	<1	<0.1	0.27
Air District Threshold	*10*	*1.0*	*0.30*
Exceeds Threshold?	**No**	**No**	**No**

Note: Cancer risk calculated using 2015 California Office of Environmental Health Hazard Assessment's Health Risk Assessment Guidance Manual.
1. While risks were calculated for each type of student receptor separately (including preschool, elementary school, middle school, and high school), these results report the highest risk among all student receptor types, the middle school student receptors at Fusion Academy Cupertino.

In addition to a project-level health risk assessment, the Air District recommends assessing the potential cumulative impacts from sources of TACs within 1,000 feet of a project. The existing TACs that the Air District recommends a cumulative analysis include permitted stationary sources, marine sources, roadway sources, rail sources, and highway sources. Risks from permitted stationary sources within 1,000 feet of the project site can be identified using the Air District's Stationary Source Screening Map.[52] The residential MER was utilized in the cumulative community risk assessment as it represents the greatest impact to nearby receptors during project construction. No marine or rail risks are shown in the cumulative health risk assessment as no marine or rail activities occur within 1,000 feet of the project site.

Table 3-7, *Cumulative Community Risk Summary*, summarizes the existing TAC source risks at the residential MER from mitigated project construction emissions in combination with existing TAC sources within 1,000 feet of the project site. As shown therein, the proposed project's construction emissions with Tier 4 Final equipment combined with existing TAC emissions within 1,000 feet do not exceed the Air District's cumulative community health risk significance thresholds at the residential MER location.

[52] Bay Area Air District, updated August 1, 2024, Stationary Source Screening Map, https://baaqmd.maps.arcgis.com/apps/webappviewer/index.html?id=845658c19eae4594b9f4b805fb9d89a3.

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TABLE 3-7 CUMULATIVE COMMUNITY RISK SUMMARY

Source	Source Type	Distance to MER[1]	Cancer Risk (per million)	Chronic Hazards	$PM_{2.5}$ ($\mu g/m^3$)
Project Impacts					
Project Construction[2]	Diesel Construction Equipment	-	6.45	<0.1	0.25
Permitted Stationary Source Impacts					
Boyett Petroleum Boyett Site #18 (Facility ID 112405-1)	Gas Dispensing Facility	158	2.08	0.01	0.00
Roadway & Highway Impacts					
Air District-Provided Roadway Values[3]	Vehicles	-	11.70	<0.1	0.41
Cumulative Health Impacts					
Cumulative Project Health Impacts			20.23	<0.1	0.66
		Air District Threshold	*100*	*10.0*	*0.80*
		Exceeds Threshold?	**No**	**No**	**No**

Notes: MER = Maximally Exposed Receptor
1. Values expressed in feet. Residential MER is a residence adjacent to the southwestern project boundary.
2. Includes use of Tier 4 Final equipment.
3. Air District-provided values correspond with risks experienced at the residential MER.

3.4.3.5 ODORS

Construction activities could also generate odors from construction equipment, such as diesel exhaust, and VOCs from architectural coatings and paving activities. However, these odors will be temporary and limited to the construction period. By the time such emissions reach any sensitive receptor sites, they would be diluted well below any level of air quality concern.

The type of facilities that are typically considered to have objectionable odors include wastewater treatments plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating operations (e.g., auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical manufacturing, and food manufacturing facilities.[53] The proposed project consists of residential development, which is not considered a type of land use typically associated in generating objectionable odors that would affect a substantial number of people. Therefore, the proposed project will not create objectionable odors affecting a substantial number of people.

[53] Bay Area Air District, 2022. *California Environmental Quality Act Air Quality Guidelines.*

3.4.3.6 GREENHOUSE GAS EMISSIONS

A project does not generate enough greenhouse gas (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 will contribute to climate change through direct and indirect GHG emissions from the construction activities needed to implement the proposed project, which will generate a short-term increase in GHG emissions.

Construction Impacts

The Air District does not have thresholds of significance for construction-related GHG emissions, which are one-time, short-term emissions and therefore will not significantly contribute to the long-term cumulative GHG emissions impacts of the proposed project. Implementation of the Air District's basic construction best management practices required pursuant to CMC Section 17.04.050(A)(1) will 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 will be reduced to the extent feasible, as required by the Air District.

Operational Impacts

The proposed project will generate a net increase of 209 daily weekday trips compared to existing on-site land uses. Because transportation emissions will generate the majority of GHG emissions associated with the proposed project, this net increase in daily trips will not substantially increase GHG emissions in the city. Additionally, the new buildings will be more energy efficient than the existing structures and will be built to achieve the latest Title 24 Building and Energy-Efficiency Standards.

The Air District has the following thresholds for land use projects in analyzing GHG emissions impacts; projects must include conditions listed under either Criterion 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 Land Use and Climate Innovation'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 will meet the conditions listed under Criterion B, for being consistent with a locally adopted GHG reduction strategy. In addition, it will not include natural gas appliances or plumbing, or result in any wasteful, inefficient, or unnecessary energy usage, as previously explained. Other applicable plans adopted for the purpose of reducing GHG emissions include the California Air Resources Board's (CARB) *Climate Change Scoping Plan* (Scoping Plan) and *Plan Bay Area 2050*. A consistency analysis with these plans is also presented herein.

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 in 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 3-8, *Cupertino Climate Action Plan Consistency Matrix*.

TABLE 3-8 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.** As described in Chapter 2, *Project Description*, the proposed project will 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.** As described in Chapter 2, *Project Description*, the proposed project will be fully electric.

TABLE 3-8 CUPERTINO CLIMATE ACTION PLAN CONSISTENCY MATRIX

Measure	Consistency
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 described in Chapter 2, *Project Description*, while the proposed project does not propose any new bicycle lanes or routes, the site is accessible from the existing Enhanced Bike Lane on Stevens Creek Boulevard. As such, the proposed project will not conflict with the City's 2016 *Bicycle Transportation Plan*. Pedestrians will 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 will promote and will 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 party responsible for this measure. The closest bus stop to the project site is approximately 0.02 miles (115 feet) away, on the north side of Stevens Creek Boulevard. The nearest transit stop is located 0.05 miles (280 feet) away, on the west side of Miller Avenue, which provides stops with a bus frequency of service interval of 15 to 20 minutes during the peak weekday commute periods along VTA bus route 23 and Rapid Transit 523.
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 will 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, 25, 51, 55, and Rapid Transit 523. To encourage transition to electric vehicles (EVs), the proposed project will be required to install EV charging stations pursuant to the City's code. The proposed project will be conditioned by the City to install six Level 2 EV Ready Circuits and six Level 1 EV Ready Circuits, one of each in each of the townhome units, and therefore will 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 the Air District.
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 party responsible for implementing this measure. As described in Chapter 2, *Project Description*, the proposed project will include compost and green waste disposal services through the City's contracts with Recology South Bay. The proposed project will 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 party responsible for implementing this measure. As described in Chapter 2, *Project Description*, the proposed project will include compost and green waste disposal services through the City's contracts with Recology South Bay. The proposed project will not conflict with implementation of this measure.

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TABLE 3-8 CUPERTINO CLIMATE ACTION PLAN CONSISTENCY MATRIX

Measure	Consistency
Measure W-3 Meet or exceed the SB 1383 recycled organics products procurement requirements and sequester or avoid at least 0.018 MT CO_2e per person by through 2045.	**Consistent.** The City is the party responsible for implementing this measure. As described in Chapter 2, *Project Description*, the proposed project will include compost and green waste disposal services through the City's contracts with Recology South Bay. The proposed project will not conflict with implementation of this measure.
Measure WW-2 Reduce per capita water consumption 15 percent compared to 2019 levels by 2030 and maintain through 2040	**Consistent.** The proposed project will 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 will implement best management practices for water conservation to achieve the City's water conservation goals. As described in Chapter 2, *Project Description*, the project incorporates low water-use groundcovers, shrubs, and trees throughout the project site. All landscape zones will be irrigated as required by the Cupertino Landscape Ordinance, and water uses will 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 will not conflict with implementation of this measure.
Measure CS-1 Increase carbon sequestration through tree planting by developing and implementing an Urban Forest Management Plan.	**Consistent.** The City is the party responsible for this measure. As described in Chapter 2, *Project Description*, the proposed project will increase landscaping on-site. This will increase tree canopy over the buildings and hardscaped areas, reducing energy needed to cool the buildings. The proposed project will include 3,720 square feet of on-site bioretention facilities that will 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, *Stormwater Pollution Prevention and Watershed Protection*, to ensure ongoing compliance with the City's municipal stormwater and urban runoff requirements. The proposed project will not conflict with implementation of this measure.

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 (CO_2), and therefore, is not directly applicable to the project.
Source: City of Cupertino, August 2022, *City of Cupertino Climate Action Plan 2.0.*

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 will 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*, identifies standard environmental protection requirements that all construction projects must meet. Specifically, the project applicant will be required to comply with CMC Section 17.04.050(C), which will minimize stormwater runoff:

> CMC Section 17.04.050(C), *Reduce Greenhouse Gas Emissions (GHG) and Energy Use*. The project applicant shall complete the City of Cupertino Climate Action Plan – Development Project Consistency Checklist, for review and 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, in order to reduce greenhouse gas emissions and conserve energy.

Therefore, the proposed project will be consistent with Cupertino CAP 2.0.

CARB's Scoping Plan

CARB's Scoping Plan outlines the State's strategies to reduce GHG emissions in accordance with the targets established under SB 32, Assembly Bill (AB) 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 SB 32, AB 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 will ensure the proposed project complies with the CARB Scoping Plan. The project's GHG emissions will be reduced

from compliance with statewide measures that have been adopted since SB 32, AB 32, and EO B-55-18 were adopted.

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 MTC/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 PDAs. 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, VMT, and associated GHG emissions reductions. The project site is in a Santa Clara VTA City Cores, Corridors, and Station Areas PDA and the proposed project is an infill development project that will 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 will be consistent with *Plan Bay Area 2050*.

3.4.4 Water Quality

3.4.4.1 WATER QUALITY STANDARDS

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.

Construction Impacts

Because the proposed project is greater than one acre, it will be required to comply with the General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activity (Construction General Permit). The proposed project will also be required to comply with the Regional Water Board Municipal Regional Permit (MRP), because it will create more than 10,000 square feet of impervious surfaces. 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. Compliance with applicable regulations will ensure that the proposed project will not result in adverse impacts to water quality during the construction period.

Operational Impacts

As stated previously, the proposed project will be required to comply with the MRP. Furthermore, stormwater from implementation of the proposed project will be directed to the existing stormwater system, in addition to being filtered through the 3,720 square feet of on-site bioretention areas as described in Section 2.4.4.3, *Stormwater Management*. Therefore, the proposed project will continue to minimize pollutant runoff from the project site and will not result in adverse water quality impacts during operation.

3.4.4.2 GROUNDWATER

The proposed project will connect to the existing water lines on-site and will not use groundwater at the site. Additionally, as described in Section 2.4.4.3, *Stormwater Management*, the proposed project will include 3,720 square feet of on-site bioretention areas, which will allow water to percolate into the groundwater basin below the project site. Therefore, the proposed project will not deplete groundwater supplies or interfere substantially with groundwater recharge.

3.4.4.3 DRAINAGE PATTERNS

Stormwater runoff from the project site is channeled into a storm drain under Stevens Creek Boulevard. Stormwater from Cupertino is eventually discharged into San Francisco Bay. As described in Section 2.4.4.3, *Stormwater Management*, the proposed project includes 3,720 square feet of on-site bioretention areas and will result in a decrease of approximately 26,200 square feet of impervious surfaces. The proposed project will be 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.

Additionally, CMC Chapter 17.04, *Standard Environmental Protection Requirements*, identifies standard environmental protection requirements that all construction projects must meet. Specifically, the project applicant will be required to comply with CMC Section 17.04.050(F), which will minimize stormwater runoff:

> CMC Section 17.04.050(F), *Control Stormwater Runoff Contamination*. The project applicant shall demonstrate compliance with Chapter 9.18 (Stormwater Pollution Prevention and Watershed Protection) of the Cupertino Municipal Code, to the satisfaction of the City of Cupertino. All identified stormwater runoff control measures shall be included in the applicable construction documents.

CMC Chapter 9.18 is intended to provide regulations and give legal effect to certain requirements of the NPDES permit, which requires erosion and siltation-control measures, issued to the City. Therefore, compliance with the CMC and Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 requirements will ensure that the proposed project will not substantially alter the existing drainage pattern of the site or area.

3.4.4.4 INUNDATION

The project site is not in 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 in an area subject to tsunami, seiche, or dam failure inundation. Therefore, the proposed project will not risk release of pollutants due to project inundation.

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

The project site is served by existing stormwater sewer systems, and the proposed project will not require additional or modified stormwater sewer systems. As described in Section 2.4.4.3, *Stormwater Management*, the proposed project will also implement 3,720 square feet of on-site bioretention areas to reduce or slow stormwater runoff and will result in a decrease of approximately 26,200 square feet of impervious surfaces. Therefore, the proposed project will reduce demand to stormwater infrastructure when compared to existing conditions and will not result in significant impacts to stormwater utilities.

3.5.2 Water

The project site is in the CWS service area. Water service to the project site will be provided by the existing water lines on Stevens Creek Boulevard and East Estates Drive. No new connections will be needed and are not proposed as part of the proposed project. As shown in the water supply evaluation included in Appendix G, *Environmental Assessment,* of the Cupertino General Plan, which evaluated the project site being developed at a greater density (80 dwelling units per acre) than what is proposed (25 dwelling units per acre), CWS predicts that there will be sufficient water supplies to meet citywide demand through year 2040 during normal, single-dry, and multiple-dry years.[54] Furthermore, the project applicant will be required to comply with CMC Chapter 17.04, *Standard Environmental Protection Requirements*. Specifically, the project

[54] City of Cupertino, April 2024, *Cupertino General Plan Community Vision 2015-2040,* Appendix G*, General Plan 2040 and Zoning Code Amendments Environmental Assessment*, Table 4.15-3, *Cal Water PAS Supply and Demand Comparison: 2025 to 2040 (AFY)*, https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/General-Plan/General-Plan-Community-Vision, accessed March 18, 2025.

applicant will be required to comply with CMC Section 17.04.050(I)(2), which will ensure adequate water supply and infrastructure:

> CMC Section 17.04.050(I)(2), *Ensure Adequate Water Supply and Infrastructure*. The project applicant shall 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.

This will ensure that the existing system can support the proposed project. Therefore, the proposed project will not result in significant impacts to water utilities.

3.5.3 Wastewater

The project site is in the CSD service area, and wastewater will be treated at SJ/SCWPCP. Wastewater generated by the proposed project will be collected by the existing sanitary sewer main along Stevens Creek Boulevard. As shown in the wastewater evaluation included in Appendix G, *Environmental Assessment,* of the Cupertino General Plan, which evaluated the project site being developed at a greater density (80 dwelling units per acre) than what is proposed (25 dwelling units per acre), CSD has sufficient capacity for buildout of the General Plan. As shown, the increase in wastewater demand due to future potential development from the General Plan is estimated to be approximately 0.41 million gallons per day (mgd). As of 2020, the SJ/SCWPCP is treating 110 mgd with a permitted capacity of 167 mgd. Therefore, the wastewater treatment facility has a residual capacity of 57 mgd and the addition of 0.41 mgd from implementation of the General Plan buildout is only 0.7 percent of the residual capacity.[55]

The project applicant will be required to comply with CMC Chapter 17.04, *Standard Environmental Protection Requirements*. Specifically, the project applicant will be required to comply with CMC Section 17.04.050(I)(1), which will minimize potential impacts to the sewer system:

> CMC Section 17.04.050(I)(1), *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

[55] City of Cupertino, April 2024, *Cupertino General Plan Community Vision 2015-2040,* Appendix G*, General Plan 2040 and Zoning Code Amendments Environmental Assessment*, Table 4.15-6, *Increase in Wastewater Demand with Proposed Modified Project,* https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/General-Plan/General-Plan-Community-Vision, accessed March 18, 2025.

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.

b. 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.

c. 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 will ensure that the existing system can support the proposed project. Therefore, the proposed project will not result in significant impacts to wastewater utilities.

3.5.4 Solid Waste

The City contracts with Recology to provide solid waste collection services to residents in the city. Solid waste is collected by Recology and deposited at the Newby Island Sanitary Landfill in Milpitas. The proposed project site is already served by solid waste services and will continue to be served by Recology under the proposed project. As shown in the solid waste evaluation included in Appendix G, *Environmental Assessment,* of the Cupertino General Plan, which evaluated the project site being developed at a greater density (80 dwelling units per acre) than what is proposed (25 dwelling units per acre), the Newby Island Sanitary Landfill has sufficient capacity for buildout of the General Plan. As shown, an increase of 8.8 tons per day from implementation of the General Plan buildout would be 0.4 percent of the current residual capacity of Newby Island Sanitary Landfill. [56] The proposed project will not result in an excess of solid waste that will not be able to be accommodated under existing services.

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 will have a significant environmental impact if it exceeds the

[56] City of Cupertino, April 2024, *Cupertino General Plan Community Vision 2015-2040,* Appendix G*, General Plan 2040 and Zoning Code Amendments Environmental Assessment*, Table 4.15-7, *Increase in Solid Waste Generation with Proposed Modified Project,* https://www.cupertino.gov/Your-City/Departments/Community-Development/Planning/General-Plan/General-Plan-Community-Vision, accessed March 18, 2025.

ability of public service providers to adequately serve residents, thereby requiring construction of new facilities or modification of existing facilities.

The proposed project is in an area already served by public service providers. Through developer impact fees, development of the proposed project will support the City's public services funds that are used, in part, to maintain City services. Likewise, and pursuant to SB 50,[57] the project applicant will be required to pay the school impact fees required for residential development to offset impacts to the school district. As shown in the public services evaluation included in Appendix G, *Environmental Assessment,* of the Cupertino General Plan, which evaluated the project site being developed at a greater density (80 dwelling units per acre) than what is proposed (25 dwelling units per acre), impacts to public service providers (fire protection, police, schools, libraries, and parks) were found to be less than significant at General Plan buildout. Therefore, the proposed project will not result in an increase in demand that will prevent public service providers from adequately serving residents.

[57] 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.

3. Exemption

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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 in an urban developed area and is not in a sensitive environment. In addition, the proposed project will 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 project site is in a developed 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 will not result in significant impacts pertaining to traffic, noise, air quality, or water quality. Any construction effects will be temporary, confined to the project vicinity, and reduced to the extent feasible through compliance with the CMC and applicable regulations. 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.

Neither the CEQA Statute nor the State CEQA Guidelines provide a definition of "unusual circumstances." However, the courts have provided guidance in determining what constitutes unusual circumstances. In *Berkeley Hillside Preservation et al v. City of Berkeley et al. (2015)*, the California Supreme Court stated, "A party invoking the [Section 15300.2(c)] exception may establish an unusual circumstance without evidence of an environmental effect, by showing that *the project has some feature that distinguishes it from others in the exempt class, such as its size or location* [emphasis added]." This Supreme Court decision established a two-pronged test for determining whether the Section 15300.2(c) exception applies. Under this test, the lead agency must first determine whether an unusual circumstance exists and then, if an unusual circumstance does exist, must apply the fair argument standard to determine whether there is a reasonable possibility that the proposed project would produce a significant effect due to that circumstance.

There are no known unusual circumstances applicable to the project that could result in a significant effect on the environment. The proposed project consists of the demolition of the existing commercial building on the project site and the construction of 55 new residential townhome units and 10 ADUs on a 2.72-acre project site at 10065 East Estates Drive in the central region of the city near the intersection of Stevens Creek Boulevard and Wolfe Road. The proposed project will not result in a change in the existing land use or zoning designations or introduce a new activity to the area that could result in a significant effect on the environment. Therefore, neither the size nor the location of the project site is unusual.

With respect to the existing conditions, as discussed in Section 2.2, *Existing Conditions*, One Hour Dry Cleaners operated a dry-cleaning business at 10045 East Estates Drive using PCE as a dry-cleaning solvent between the 1960s and 2010. Due to the presence of PCE, believed to be associated with the former dry-cleaning operations, in soil and soil gas, the project site is listed as an open cleanup program site under the oversight of SCCDEH and is listed on the State Water Quality Control Board's GeoTracker website. However, the City recognizes that sites subject to redevelopment may contain hazardous materials or contaminated soils are not unusual and, as described in Section 1.2, *Standard Environmental Protection Requirements*, updated the CMC to include Chapter 17.04, that set forth a uniform set of standards that apply to every project in Cupertino to address hazardous materials, further supporting that the One Hour Dry Cleaners is not an unusual circumstance. The project applicant will be required to comply with CMC Chapter 17.04 Specifically, the project applicant will be required to comply with CMC Section 17.05.050(B) listed below, which will require soil remediation:

CMC Section 17.04.050(B), *Hazardous Materials Permit Requirements*.

Soil Remediation Required. If a Focused or other Phase II ESA, as required pursuant to Section 17.04.040(B)(1), identifies an unacceptable or a potentially unacceptable health risk, the project applicant shall, depending on the contaminant, contact either the Environmental Protection Agency (EPA), Department of Toxic Substances Control (DTSC), Regional Water Quality Control Board (RWQCB) or local Certified Unified Program Agency (CUPA). The project applicant shall enter into a regulatory agency oversight program with an appropriate regulatory agency, or an established voluntary oversight program alternative with an appropriate regulatory agency, as determined by the City, and follow the regulatory agency's recommended response actions until the agency reaches a no further action determination, prior to issuance of any permit for a project that allows ground disturbing activity.

With mandatory compliance with CMC Section 17.04.050(B), the proposed project would obtain written clearance from the SCCDEH prior to the issuance of any building permits confirming that the project site has been adequately investigated and remediated for contamination associated with the former dry-cleaning operations and would not have a significant effect on the environment due to site contamination. 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 environmental impact report (EIR).

The proposed project will 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. The nearest eligible State Scenic Highway, I-280, is approximately 0.5 miles northeast of the project site, with urban development between.[58] The project site is not visible from I-280. Additionally, the project site and surrounding area are already developed. Therefore, no scenic resources within view of a State Scenic Highway will be altered as part of the project.

[58] California Department of Transportation, 2025, California State Scenic Highway System Map, https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aacaa, accessed May 8, 2025.

4. Exceptions

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.

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.[59] 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) online EnviroStor database and the State Water Resources Control Board's (SWRCB) 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.

The project site is listed as an open cleanup program site on the State Water Quality Control Board's GeoTracker website.[60] However, the project site is not included on the Hazardous Waste and Substances Site List (Cortese) pursuant to Government Code Section 65962.5 as of November 2025.[61] Additionally, the project site is not listed on any of the following CalEPA's Cortese List Data Resources:[62]

- List of Hazardous Waste and Substances sites from DTSC EnviroStor database[63]
- List of Leaking Underground Storage Tank Sites from SWRCB's GeoTracker[64]

[59] California Public Resources Code Section 21092.6.

[60] State Water Resources Control Board, 2024, GeoTracker, https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000021095, accessed November 11, 2025.

[61] 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, accessed November 11, 2025.

[62] California Environmental Protection Agency, 2025, Cortese List Data Resources, https://calepa.ca.gov/SiteCleanup/CorteseList/, accessed November 11, 2025.

[63] 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, accessed November 11, 2025.

[64] State Water Resources Control Board, 2025, GeoTracker, https://geotracker.waterboards.ca.gov/search?CMD=search&case_number=&business_name=&main_street_name=&city=&zip=&county=&SITE_TYPE=LUFT&oilfield=&STATUS=&BRANCH=&MASTER_BASE=&Search=Search, accessed November 11, 2025.

- List of solid waste disposal sites identified by SWRCB with waste constituents above hazardous waste levels outside the waste management unit[65]
- List of "active" Cease and Desist Orders and Cleanup and Abatement Orders from SWRCB[66]
- List of hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code, identified by DTSC[67]

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 will 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 will 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. Additionally, CMC Chapter 17.04, *Standard Environmental Protection Requirements*, identifies standard environmental protection requirements that all construction projects must meet. Specifically, the project applicant will be required to comply with CMC Sections 17.04.050(E)(1), 17.04.050(E)(2), and 17.04.050(H), which will minimize impacts to archaeological resources, tribal cultural resources, and paleontological resources:

> CMC Section 17.04.050(E)(1), *Protect Archaeological Resources and Tribal Cultural Resources*. For all projects requiring ground-disturbing activities on land with no known archaeological or tribal cultural resources that has not been previously disturbed and/or where ground-disturbing activities would occur at a greater depth or affect a greater area than previously disturbed, the following shall be required:

[65] California Environmental Protection Agency, 2025, Sites Identified with Waste Constituents Above Hazardous waste Levels Outside the Waste Management Unit, https://calepa.ca.gov/wp-content/uploads/2016/10/SiteCleanup-CorteseList-CurrentList.pdf, accessed November 11, 2025.

[66] California Environmental Protection Agency, 2025, List of "active" CDO and CAO from Water Board, https://calepa.ca.gov/wp-content/uploads/2016/10/SiteCleanup-CorteseList-CDOCAOList.xlsx, accessed November 11, 2025.

[67] California Environmental Protection Agency, 2025, Cortese List: Section 65962.5(a), https://calepa.ca.gov/sitecleanup/corteselist/section-65962-5a/, accessed November 11, 2025.

4. Exceptions

a. Areas with No Known Cultural Resources. For all projects within areas where there are no known cultural resources, prior to soil disturbance, the project applicant shall provide written verification, including the materials provided to contractors and construction crews, to the City confirming that contractors and construction crews have been notified of basic archaeological site indicators, the potential for discovery of archaeological resources, laws pertaining to these resources, and procedures for protecting these resources as follows:

   i. Basic archaeological site indicators that may include, but are not limited to, darker than surrounding soils of a friable nature; evidence of fires (ash, charcoal, fire affected rock or earth); concentrations of stone, bone, or shellfish; artifacts of stone, bone, or shellfish; evidence of living surfaces (e.g., floors); and burials, either human or animal.

   ii. The potential for undiscovered archaeological resources or tribal cultural resources on site.

   iii. The laws protecting these resources and associated penalties, including, but not limited to, the Native American Graves Protection and Repatriation Act of 1990, Public Resources Code Section 5097, and California Health and Safety Code Section 7050 and Section 7052.

   iv. The protection procedures to follow should construction crews discover cultural resources during project-related earthwork, include the following:

      1. All soil disturbing work within 25 feet of the find shall cease.

      2. The project applicant shall retain a qualified archaeologist to provide and implement a plan for survey, subsurface investigation, as needed, to define the deposit, and assessment of the remainder of the site within the project area to determine whether the resource is significant and would be affected by the project.

      3. Any potential archaeological or tribal cultural resources found during construction activities shall be recorded on appropriate California Department of Parks and Recreation forms by a qualified archaeologist. If the resource is a tribal cultural resource, the consulting archaeologist shall consult with the appropriate tribe, as determined by the Native American Heritage Commission, to evaluate the significance of the resource and to recommend appropriate and feasible avoidance, testing, preservation or mitigation measures, in light of factors such as the significance of the find, proposed project design, costs, and other considerations. The archeologist shall perform this evaluation in consultation with the tribe.

b. Areas with Known Cultural Resources. For all projects within areas of known cultural resources as documented in the 2015 General Plan EIR Table 4.4-2, Cultural Resources in the Project Study Area and Vicinity, as subsequently revised, supplemented, or replaced by the City, and the archaeological or tribal cultural resources cannot be avoided, in addition to the requirements in Section E.1.a for all construction projects with ground-disturbing activities, the following additional actions shall be implemented prior to ground disturbance:

i. The project applicant shall retain a qualified archaeologist to conduct a subsurface investigation of the project site, and to ascertain the extent of the deposit of any buried archaeological materials relative to the project's area of potential effects, in consultation with a tribal representative as applicable. The archaeologist shall prepare a site record and file it with the California Historical Resource Information System and the City of Cupertino.

ii. If the resource extends into the project's area of potential effects as determined by the archaeologist, the resource shall be evaluated by a qualified archaeologist to determine if the resource is eligible for listing on the California Register of Historical Resources. If the qualified archaeologist determines that the resource is not eligible, no further action is required unless there is a discovery of additional resources during construction (as required above for all construction projects with ground-disturbing activities). If the qualified archaeologist determines that the resource is eligible, the qualified archaeologist shall identify ways to minimize the effect which the project applicant shall implement. A written report of the results of investigations and mitigations shall be prepared by the qualified archaeologist and filed with the California Historic Resources Information System Northwest Information Center and the City of Cupertino.

CMC Section 17.04.050(E)(2), *Protect Human Remains and Native American Burials*. The project applicant shall comply with California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98.

a. In the event of discovering human remains during construction activities, there shall be no further excavation or disturbance of the site within a 100-foot radius of the remains, or any nearby area reasonably suspected to overlie adjacent remains.

b. The Santa Clara County Coroner shall be notified immediately and shall make a determination as to whether the remains are Native American.

c. If the Santa Clara County Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission (NAHC) within 24 hours.

d. The NAHC shall attempt to identify descendants (Most Likely Descendant) of the deceased Native American.

e. The Most Likely Descendant has 48 hours following access to the project site to make recommendations or preferences regarding the disposition of the remains. If the Most Likely Descendant does not make recommendations within 48 hours after being allowed access to the project site, the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance and provide documentation about this determination and the location of the remains to the NAHC and the City of Cupertino. Alternatively, if the owner does not accept the Most Likely Descendant's recommendations, the owner or the descendent may request mediation by the NAHC. Construction shall halt until the mediation has concluded.

4. Exceptions

CMC Section 17.04.050(H), *Protect Paleontological Resources During Construction.* If paleontological resources are encountered during ground disturbing and/or other construction activities, all construction shall be temporarily halted or redirected to allow a qualified paleontologist, which shall be retained by the project applicant, to assess the find for significance. If paleontological resources are found to be significant, the paleontological monitor shall determine appropriate actions, in coordination with a qualified paleontologist, City staff, and property owner. Appropriate actions may include, but are not limited to, a mitigation plan formulated pursuant to guidelines developed by the Society of Vertebrate Paleontology and implemented to appropriately protect the significance of the resource by preservation, documentation, and/or removal, prior to recommencing activities. Measures may include, but are not limited to, salvage of unearthed fossil remains and/or traces (e.g., tracks, trails, burrows); screen washing to recover small specimens; preparation of salvaged fossils to a point of being ready for curation (e.g., removal of enclosing matrix, stabilization and repair of specimens, and construction of reinforced support cradles); and identification, cataloging, curation, and provision for repository storage of prepared fossil specimens.

With mandatory compliance with CMC Sections 17.04.050(E)(1), 17.04.050(E)(2), and 17.04.050(H), the proposed project will not result in significant impacts to unknown archaeological, tribal cultural, or paleontological resources. Therefore, the exception under CEQA Guidelines Section 15003.2(f) does not apply to the proposed project.

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 will 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.

5. Conclusion

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