



COMMUNITY DEVELOPMENT DEPARTMENT

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CITY COUNCIL STAFF REPORT

Meeting: April 13, 2023

Subject

Consider the proposed development of a 282,320-square-foot office building with a detached 213,080-square-foot parking structure and removal and replacement of 113 trees subject to a Development Permit, Architectural and Site Approval, and Tree Removal Permit, and exemption from the California Environmental Quality Act. (Application No(s): DP-2021-001, ASA-2021-003, TR-2021-020; Applicant(s): Apple, Inc.; Location: 19191 Vallco Parkway; APN #316-20-117)

Recommended Actions

Recommends that the City Council adopt the Resolutions (Attachments A-C) to:

1. Find the project exempt from CEQA pursuant to Guidelines section 15183;
2. Adopt Resolution No. 23-XXX approving the Development Permit (DP-2021-001) including the adoption of alternative parking standards pursuant to Municipal Code section 19.124.060(C);
3. Adopt Resolution No. 23-XXX approving the Architectural and Site Approval Permit (ASA-2021-003); and
4. Adopt Resolution No. 23-XXX approving the Tree Removal Permit (TR-2021-020).

Reasons for Recommendation

Project Data:

General Plan Land Use Designation	Commercial/Office/Residential
Special Planning Area	Heart of the City Specific Plan (East Stevens Creek Boulevard)/South Vallco Master Plan
Zoning Designation	Planned Industrial Park, General Commercial P(MP, CG)
Net/gross lot area	7.9 acres

	Allowed/Required	Proposed
Height of Structures	<i>Up to 45 feet (Up to 60 feet with ground floor retail)¹</i>	Office Building – 58 feet 6-inches
		Parking Structure – 42 feet 4-inches
Setbacks		
Front	35 feet from the face of curb (min.)	79 feet 8-inches from the face of curb
Interior Side	Minimum One-half (1/2) the height of the Building or ten (10) feet, whichever is greater. (30 feet for Office Building, 21 feet for the parking structure)	Office Building – 131 feet
		Parking Structure – 58 feet 4-inches
Corner Side	35 feet from the face of curb (min.)	Office Building – 126 feet 6-inches
		Parking Structure – 94 feet 4-inches
Rear	N/A	162 feet 6-inches
Slope Line	1:1 line from the face of curb of Tantau	Meets the standard.
Parking		
Office	1 space for every 285 sq. ft. (985 stalls)	904 Stalls ²
Retail	1 space for every 250 sq. ft. (10 stalls)	10 Stalls
Total on-site	995 Stalls	914³ Stalls
Common Open Space		
Office/Commercial	7,058 s.f. (2.5% of gross floor area of buildings ≥ 20,000 sq. ft.)	21,705 sq. ft.
Project Consistency with		
General Plan:	Yes	
Zoning:	Yes	
Environmental Assessment:	Categorically Exempt under CEQA Guidelines section 15183	

¹General Plan Figure LU-2 Community Form Diagram under the South Vallco Park subarea within the Heart of the City Special Area

² Based on implementation of TDM Program. See discussion in the “Parking” section.

³ *Ibid.*

Background:

Proposed Project

The project consists of the demolition of an existing 141,024-square-foot office building and the replacement construction of a four-story, 282,320-square-foot building, of which 280,020 square feet will be office and 2,300 square feet will be commercial. The scope of the project also includes a six-level (two underground, four above ground) detached parking structure and associated site improvements. Part of the scope also includes the removal and replacement of 113 trees.

As the project site is within the South Vallco Park area of the Heart of the City Specific Plan, the General Plan allow additional building heights of up to 60 feet if ground floor retail use is proposed. General Plan Figure LU-2 Community Form Diagram under the South Vallco Park subarea within the Heart of the City Special Area states that the maximum building height would be 45 feet without ground floor retail. The Proposed project has a height of approximately 59 feet including proposed ground floor retail space which complies with this General Plan standard.

Site and Location Description

The proposed Vallco Parkway 1 (VP1) Apple Office project (proposed project) is located on a 7.96-acre site that is proposed for redevelopment by Apple Inc. The project site is located at 19191 Vallco Parkway at the intersection of Vallco Parkway and North Tantau Avenue. The project site is surrounded by Interstate 280 and office uses to the north across Interstate 280; office uses to the east across North Tantau Avenue; commercial, office, residential, and hotel uses to the south across Vallco Parkway (Main Street); and office uses to the west across Calabazas Creek (Apple). The project site is currently developed

with an office building built between 1980 and 1982 and operated by the project applicant, with associated surface parking and landscaping.



Figure 1 Existing office building (left) and proposed (right).

Planning Commission Recommendation

The Planning Commission conducted a public hearing on March 28, 2023, in which they recommended (3-0, Fung & Lindskog recusing) that City Council Find the project exempt from CEQA pursuant to Guidelines section 15183 and adopt resolutions approving the project. The motion to approve included the following modifications to the Development Permit resolution (see Attachment D):

BIRD SAFE FENESTRATION

Consistent with CMC 19.102.030, the development shall implement the bird safe fenestration and glass requirements. The applicant, prior to issuance of Building Permits, may submit for an Alternative Compliance Method in which the property owners/applicants may propose an alternate compliance method recommended by a qualified biologist to meet the requirements and intent of CMC 19.102.030. The alternate compliance method shall be peer-reviewed by a third-party consultant, paid for by the applicant, and subject to the approval of the Director of Community Development.

Analysis:

General Plan Compliance

A. *Development*

The proposed use is consistent with the General Plan Land Use Designation of Commercial/Office/Residential. The City's General Plan uses a development allocation system when evaluating development projects and allows the City flexibility in developing project- and site-specific mitigation measures when reviewing projects. The City of Cupertino's *General Plan: Community Vision 2015 – 2040* (General Plan) establishes heights and setbacks for development on sites within each of the Special Areas through its Community Form Diagram (Chapter 3, Figure LU-1). The proposed development is in the Heart of the City Special Area (South Vallco Park), which has a height limit of 45 feet (60 feet with retail) and a 1:1 slope line setback from the curb line of Tantau Avenue.

The applicant is proposing this development height at 59 feet since the building includes 2,300 square feet of retail space on the ground floor. There are no minimum ground floor retail square footage requirements for development projects in the Heart of the City Special Area (South Vallco Park).

Staff and the Planning Commission have evaluated the project's consistency with the General Plan and recommend that Council find the project conforms with the General Plan Land Use designation for the site and as such is categorically exempt under CEQA (further discussed in detail in the

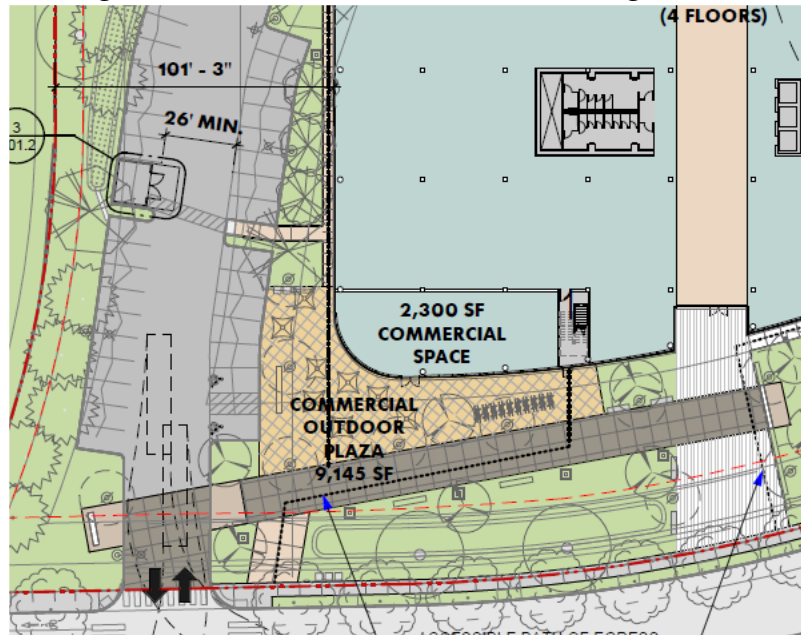


Figure 2 Site plan demonstrating location of commercial space.

Environmental Review section of this Staff Report). Additionally, the proposed project supports several of the City's other General Plan goals including:

- **Strategy LU-1.2.2: Major Employers** - Reserve a development allocation for major companies with sales office and corporate headquarters in Cupertino. Prioritize expansion of office space for existing major companies. New office development must demonstrate that the development positively contributes to the fiscal well-being of the city.

Table LU-1: Citywide Development Allocation Between 2014-2040 in the General Plan allocates 553,826 thousand square feet of office square footage for Major Employers. As Apple meets the definition of a Major Employer, square footage in this land use category will be allocated for this redevelopment of an existing office parcel, bringing further employment to the community while also solidifying the presence of a major employer in the community.

- **Policy LU-1.3: Land Use in All City-wide Mixed-Use Districts** - Encourage land uses that support the activity and character of mixed-use districts and economic goals.

The development is located within the Commercial/Office/Residential General Plan Land Use district. The development is compatible with the neighboring office parks, as well as supporting the neighboring retail uses along Vallco Parkway. The project includes a 2,300

square-foot retail space within the building along the Vallco Parkway frontage, activating the street and encouraging pedestrian activity directly on the right-of-way.

- **Policy LU-13.6: Building Form** - Buildings should be high-quality, with pedestrian-oriented and active uses along the street.

The building is designed in similar style as the Apple offices along Tantau Avenue, as well as Apple Park. The mixed-use building meets the design qualities of a Modern design development. The architectural style is consistent throughout the development. Further, the planting plan is consistent with the intent of the Heart of the City Specific Plan guidelines. Unsightly uses such as loading, and trash pickup have been placed within the buildings away from view of neighboring uses. Utility installation has been designed to be screened by landscaping and or incorporated into the building design.

- **Strategy LU-18.2.1: Uses** - Encourage a mix of retail, commercial, office, residential and hotel uses. Provide active retail uses on the ground floor facing the street or outdoor pedestrian corridor with connections to adjacent development. Office sites to the north of Vallco Parkway are encouraged to provide retail uses. However, if retail is not provided, office sites should provide entries and active uses along the street frontage.

As an Office development on the northern side of Vallco Parkway mixed with ground floor retail, it is consistent with this strategy specific to the South Vallco area of the Heart of the City Special Area. The retail portion of the building, as well as the front entrance to the office portion of the development, is along Vallco Parkway, therefore activating the right-of-way.

Should the proposed project be approved, 139,796 square feet would be allocated to this project from the Major Employers⁴ office allocation, while 2,300 square feet will be allocated from the Heart of the City Special Area commercial allocation. The remaining balance in the Major Employer allocation would be 383,322 square feet, while the remaining balance in the Heart of the City allocation will be reduced to 790,970 square feet.

	Heart of City Commercial (s.f.)	Major Employer Office (s.f.)
Current Allocation Available	793,270	523,118

⁴ Major employers are defined as major companies with sales office and corporate headquarters in Cupertino.

Net project square footage⁵	2,300	139,796
Remaining Allocation Balance	790,270	383,322

Figure 3 Allocation chart relative to this development consistent with Table LU-1: Citywide Development Allocation Between 2014-2040 of the General Plan.

Required Findings:

The Cupertino Municipal Code includes findings for approval of the various permits necessary to approve the proposed project. These provide a framework for making decisions and facilitating an orderly analysis of the review of a project. Listed below are the findings for the three permits sought by the applicant that the City must make in rendering a decision on this project.

A. Development Permit (CMC 19.156.040)

1. The proposed development and/or use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

The project is consistent with the land use designations in the General Plan and Zoning Ordinance and has been designed to be compatible with and respectful of adjoining land uses, including but not limited to wide setbacks from Calabazas creek, Vallco Parkway, and Tantau Avenue, as well as providing landscaping along the building frontages to help mitigate any massing impacts. Further, the City’s environmental consultant, Placeworks, completed the VP1 Apple Office Project CEQA Guidelines Section 15183 Checklist to analyze whether the project would create any significant impacts beyond what was analyzed in the City’s General Plan EIR. The result was that the proposed project would also not result in potentially significant cumulative impacts which were not evaluated in the General Plan EIR, as would be expected for a project that is within the General Plan buildout and consistent with the General Plan land use designations and policies. Therefore, the project will not be detrimental or injurious to properties or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience.

2. The proposed development and/or use will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan, underlying zoning

⁵ Net square footage is calculation the difference between the existing square footage onsite and the proposed square footage. Example: Proposed office square footage (280,020) – existing office square footage (141,024) = Net Square footage (139,796).

regulations, and the purpose of this title and complies with the California Environmental Quality Act (CEQA).

The General Plan land use designation for the property is Commercial/Office/Residential. The proposed use is consistent with the General Plan in terms of use, height, slope line setback, as well as allocation for Major Employers. Further, the development fits within many of land use strategies and policies for the South Vallco Park portion of the Heart of the City Special Area such as consistent mix of uses as well as activation of Vallco Parkway. The proposed development has met the applicable development standards of the Heart of the City Specific Plan including outdoor open space and setbacks. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15183 as it is consistent with development density established by the existing zoning, community plan, and general plan policies for which the General Plan's Environmental Impact Report (EIR) was certified.

B. Architectural and Site Approval Permit (CMC 19.168.030)

1. The proposed development, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

The project is consistent with the land use designations in the General Plan and Zoning Ordinance and has been designed to be compatible with and respectful of adjoining land uses, including but not limited to wide setbacks from Calabazas creek, Vallco Parkway, and Tantau Avenue, as well as providing landscaping along the building frontages to help mitigate any massing impacts. Further, the City's environmental consultant Placeworks completed the VP1 Apple Office Project CEQA Guidelines Section 15183 Checklist to analyze whether the project would create any significant impacts beyond what was analyzed in the City's General Plan EIR. The result was that the proposed project would also not result in potentially significant cumulative impacts which were not evaluated in the General Plan EIR, as would be expected for a project that is within the General Plan buildout and consistent with the General Plan land use designations and policies. Therefore, the project will not be detrimental or injurious to properties or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience.

2. The proposed development is consistent with the purposes of this chapter, the General Plan, any specific plan, zoning ordinances, applicable planned development permit, conditional use permits, variances, subdivision maps or other entitlements which regulate the subject property including, but not limited to, adherence to the following specific criteria:

- a. Abrupt changes in building scale should be avoided. A gradual transition related to height and bulk should be achieved between new and existing buildings.

The proposed project is a redevelopment of an existing single story Apple office building with a new four-story office building and six-level (two underground, four above ground) detached parking structure. The development is surrounded by multi-storied structures with the Apple Offices to the north across Highway 280, Main Street adjacent to the south across Vallco Parkway, Apple Offices to both east (across Tantau Avenue) and west (across Calabazas Creek). The multi-storied 19800 Mixed Use development is around 300 feet west of the development along Vallco Parkway. There is landscaping proposed at the perimeter which will help mask some of the bulk of the proposed buildings.

- b. In order to preserve design harmony between new and existing buildings and in order to preserve and enhance property values, the materials, textures and colors of new buildings should harmonize with adjacent development by being consistent or compatible with design and color schemes, and with the future character of the neighborhood and purposes of the zone in which they are situated. The location, height and materials of walls, fencing, hedges and screen planting should harmonize with adjacent development. Unsightly storage areas, utility installations and unsightly elements of parking lots should be concealed. The planting of ground cover or various types of pavements should be used to prevent dust and erosion, and the unnecessary destruction of existing healthy trees should be avoided. Lighting for development should be adequate to meet safety requirements as specified by the engineering and building departments, and provide shielding to prevent spill-over light to adjoining property owners.

The design quality of the development is consistent with the high-quality standards encouraged by City Staff. The mixed-use building meet the design qualities of a Modern design development. The architectural style is consistent throughout the development. Further, the planting plan is consistent with the intent of the Heart of the City Specific Plan guidelines. Unsightly uses such as loading and trash pickup have been placed within the buildings away from view of neighboring uses. Utility installation has been designed to be screened by landscaping and or incorporated into the building design. The final lighting for the development will be reviewed as part of the review of the project construction documents to ensure that they meet safety requirements while avoiding spill-over light to adjacent properties. The windows have been proposed to be consistent with the City's bird safe ordinance as well.

- c. The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures shall minimize traffic hazards and shall positively affect the general appearance of the neighborhood and harmonize with adjacent development.

Signage approval is not included in this application.

- d. With respect to new projects within existing residential neighborhoods, new development should be designed to protect residents from noise, traffic, light and visually intrusive effects by use of buffering, setbacks, landscaping, walls and other appropriate design measures.

The project does not abut any existing residential development. The multi-family development to the south-west (The Loft Apartments at Main Street) of the project site, across Vallco Parkway, will be buffered from any impacts because the project has been designed to plant further street trees along the frontage and has been designed with adequate parking on-site. The buildings have been designed with setbacks from the curb line as required by the General Plan and Heart of the City Specific Plan.

C. Tree Removal Permit (CMC 14.18.180)

The approval authority shall approve a tree removal permit only after making **at least one** of the following findings:

1. That the tree or trees are irreversibly diseased, are in danger of falling, can cause potential damage to existing or proposed essential structures, or interferes with private on-site utility services and cannot be controlled or remedied through reasonable relocation or modification of the structure or utility services;
Not applicable.
2. That the location of the trees restricts the economic enjoyment of the property by severely limiting the use of property in a manner not typically experienced by owners of similarly zoned and situated property, and the applicant has demonstrated to the satisfaction of the approval authority that there are no reasonable alternatives to preserve the tree(s).

In order to accommodate for the new development's office and parking structures, walkways and internal street network to public open spaces, the existing trees cannot be preserved in their locations. The applicant proposes replacement trees throughout the site in conformance with the Municipal Code Ordinance requirements and proposes to locate

the replacements where tree coverage is needed, while preserving virtually all of the trees that are not within the development area of the project site.

3. That the protected tree(s) are a detriment to the subject property and cannot be adequately supported according to good urban forestry practices due to the overplanting or overcrowding of trees on the subject property.

Not applicable.

4. That the mature specimen trees with single trunk between twelve inches DBH and twenty-four inches DBH, or multi-trunk between twenty-four inches DBH and forty-eight inches DBH in R1, A1, A, RHS, and R2 zones will be replaced by planting a replacement tree and/or by contribution to the City's Tree Fund.

Not applicable.

B. *Site Planning and Architectural Design*

Site Design

The proposed development sits between Vallco Parkway, Tantau Avenue, Calabazas Creek, and Highway 280. It has frontages on both Tantau Avenue and Vallco Parkway, with two driveways leading onto Vallco Parkway. Surface parking is mostly hidden from public view and located along the side and rear of the proposed office building. Of the 914 parking spaces provided on-site, 600 of them will be within the 213,080-square-foot, six-level (two underground, four above ground) parking garage behind the office building.

Open Space

The common open space areas have been designed to foster gathering at various points in the development while distinguishing the publicly accessible commercial common open space from the common open space for the employees on-site. Please refer to Sheet A01.2 of Attachment H⁶.

Ground Floor Retail

The 2,300-square-foot commercial space is located closest to Vallco Parkway on the ground floor with an outdoor plaza, as well as landscaped walkways that connect the site to surrounding commercial uses and the nearby future regional bike and pedestrian trailheads.

⁶ Due to limitations of state law ((Government Code § 65103.5 (SB 1214)), the distribution of copyrighted material associated with the review of development projects is limited. Plans have been emailed under separate cover to allow the Commissioners to review the proposed plans. Commissioners and Councilmembers cannot share plans with outside parties, including community members. The public is able to make an appointment with the Planning Division to view these plans at City Hall.

Building Architectural Design

The proposed building is a modern structure similar in design to the surrounding office architecture along Tantau Avenue north of Highway 280. Consistent features include deep overhangs and an open window design that avoids large expanses of solid walls. The massing and height of the building are proportionately scaled to fit the context of the neighborhood.



Figure 4 Rendering of the proposed Building (left) looking west along Vallco Parkway.

The south elevation curvature softens the building edge by responding to the curving Vallco Parkway. A four-story atrium oriented north-to-south bisects the building and draws light into its core. The project landscape design enhances the surrounding natural environment. The development adds trees along the project frontages, providing a natural buffer between the building and public right of way, and incorporates a variety of trees and plantings that provide foliage and shading for a more comfortable site experience. A Calabazas Creek overlook along the western edge of the property also offers additional open space onsite. Please refer to Attachment H, Site Plans and Renderings for architectural/site design and massing of the proposed development.

The design of the buildings and the layout of the site comply with the setback, height, and open space standards stipulated in the General Plan, the Heart of the City Specific Plan and Cupertino Municipal Code Section 19.124 *Parking*.

Parking Analysis

The project site is within a Planned Development Zone (P(MP, CG)). In accordance with CMC Table 19.124.040(F) *Regulations for Off-Street Parking*, parking requirements contained within this chapter function as guidelines for projects in planned development

zoning districts. Under the CMC, a project like this would typically require 995 stalls. However, Municipal Code section 19.124.060(C) allows for the use of alternative parking standards if the following findings are made:

1. The literal enforcement of this chapter will result in restrictions inconsistent with the spirit and intent of this chapter.

CMC Table 19.124.040(F) Regulations for Off-Street Parking allows for parking requirements within that chapter to function as guidelines for projects in planned development zoning districts. As the project site is within the P(MP, CG), the project site may apply alternate parking standards. The planned development (P) zoning district is intended to provide 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 further intended to encourage creative approaches in land development; to provide a means of reducing the amount of improvements required in development through better design and land planning, to conserve natural features, to facilitate a more aesthetic and efficient use of open spaces, and to encourage the creation of public or private common open space by establishing a process to consider and approve conceptual and definitive plans that provide development standards and regulations to advance these goals. The alternate parking standards are set to encourage use of alternate modes of transportation while decreasing the reliance of single occupancy vehicles. Reducing the amount of parking also preserves the amount of open space on site as well as maintaining needed setbacks from Calabazas Creek, both of which are standards within parking lot design within CMC 19.124.

2. The granting of the exception will not be injurious to property or improvements in the area nor be detrimental to the public safety, health and welfare.

The alternate parking standards and the applicant's Traffic Demand Management (TDM) program have been evaluated by the City's environmental consultant, Placeworks, in their VP1 Apple Office Project CEQA Guidelines Section 15183 Checklist which concluded that the project would create any significant impacts beyond what was analyzed in the City's General Plan EIR.

3. The exception to be granted is one that will require the least modification and the minimum variance to accomplish the purpose.

The reduction to the required parking required through the standard Office requirement compared to what is proposed is approximately a 9 percent reduction in spaces. The overall goal of the project's TDM program is to achieve an alternate mode share of 34 percent, consistent with the programming on the Apple Campus 2 project.

4. The proposed exception will not result in significant impacts to neighboring properties.

The project site is adjacent to similar Office type uses, including the majority being either owned by Apple, or leased by Apple. The Project is Conditioned in this resolution to ensure parking overflow can be prevented under the risk of monitoring by a third party selected by the City to be paid for by the applicant.

5. The applicant submits a detailed parking study which demonstrates that the proposed use is compatible with the proposed parking supply. Adjacent on-street parking may be included in the parking supply.

The City's traffic consultant, Fehr & Peers, has evaluated the traffic demands of the proposed development in their report VP1 Apple Office Project Local Transportation Analysis, as well as Apple's Project Description. The applicant proposes to implement an existing Traffic Demand Management (TDM) program that is currently in place for several of their office sites within the City, such as the Apple Campus 2 site.

6. The project is owned or managed by a single entity.

The project site is owned and occupied by Apple.

7. If adjacent properties are used to share parking, they are in close proximity to each other, and reciprocal parking and access easements and maintenance agreements are recorded on the applicable properties to run with the land.

No reciprocal parking and/or access easements are proposed between adjacent properties.

The City's traffic consultant, Fehr & Peers, has evaluated the traffic demands of the proposed development in their report *VP1 Apple Office Project Local Transportation Analysis* (refer to Appendix E of Attachment G), as well as Apple's Project Description (Attachment I). The applicant proposes to implement an existing Traffic Demand Management (TDM) program that is currently in place for several of their office sites within the City, such as the Apple Campus 2 site. Specifically, the applicant is proposing a reduced parking standard which matches that utilized at the Apple Campus 2 of one space for every 311.5 sq. ft. since they are implementing the enhanced TDM program at this site. The proposed TDM measures include the provision of commute coaches, ridesharing, bicycling, walking, public transit, transit subsidies, and bike share with the goal of achieving an alternative commute mode share of 34%. Since this project is proposing to use the same parking standard as the Apple Campus 2, the basis of this approval is that the TDM implemented at this site will achieve the alternative mode share of 34% as well. At the proposed alternative parking standard, the office portion of the project must provide 899 parking stalls. The applicant proposes to provide 904 spaces for

the office portion of the project, which is more than the minimum required per the proposed alternative standard.

In addition, the project proposes 10 parking spaces for the retail portion of the project, as required by the Municipal Code standard of one space for every 250 sq. ft. In total, this project will provide 914 stalls.

The proposed conditions of approval require implementation of Apple’s TDM program. Based on the imposition of that condition, the findings for permitting alternative parking standards can be made.

C. Tree Removal and Replacement

The development proposes to remove and replace 113 protected development trees out of the existing 208 trees that are currently on the site. There are 19 Chinese Pistache with trunk diameters ranging between 4-6 inches, as well as 16 Willow Oak with trunk diameters ranging between 2-6 inches. 95 trees will remain onsite.

Trees Removed	Sizes	Required	Replacements	
			24-inch box	36-inch box
100	Up to 12 inches	One 24" box tree	100	-
13	Over 12 inches and up to 36 inches	Two 24" box trees or One 36" box tree	26	-
Totals			126	0

Figure 5 Tree replacement in accordance with CMC 14.18.160 Tree Replacement

The applicant is proposing to replace the removed trees with 126 trees. Of those trees, 27 will be 24” Urbanite Ash and another 27 will be 24” box Oklahoma Redbud. Beyond the required planting, the applicant will plant a further 57 trees, bringing the total trees onsite to 278. The proposed replacement plan is consistent with the CMC 14.18.160 *Tree Replacement*.

Signage

Signage details are not included in this permit application. Staff will review the signage proposal with the property owner at the time the applicant applies for a sign permit through the Building Division. However, at this time, Apple has indicated that no signage on the Office and Parking structures will be proposed.

Other Department/Agency Review

The City’s Building Division, Public Works Department, Environmental Services Division, Santa Clara County Sheriff’s Office, Cupertino Sanitary District and the Santa

Clara County Fire Department have reviewed the project and have included sufficient proposed conditions of approval to ensure compliance.

Noticing

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

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none">▪ Site Signage (<i>14 days prior to the hearing, March 14, 2023</i>)▪ Legal ad placed in newspaper (<i>at least 10 days prior to the hearing, April 3, 2023</i>)▪ Public hearing notices were mailed to property owners within 300-feet of the parcel (<i>10 days prior to the hearing, March 29, 2023</i>)	<ul style="list-style-type: none">▪ Posted on the City’s official notice bulletin board (<i>one week prior to the hearing, March 24, 2023</i>)▪ Posted on the City of Cupertino’s website (<i>one week prior to the hearing, March 24, 2023</i>)

Public Comment

Members of the public have commented to staff at the time of this staff report being published. Please refer to Attachment J.

Fiscal Impacts

The project will most likely generate a renewed source of property tax increases as well as required mitigation fees for below market rate housing and traffic impact fees.

Sustainability Impacts

The proposed project has been reviewed by the City’s Sustainability Division and would be consistent with the overall intent of the City’s Climate Action Plan (CAP) to support reductions in GHG emissions and the proposed project would not conflict any goals or measures to reduce GHG emissions in the CAP.

California Environmental Quality Act

In 2014, a General Plan Environmental Impact Report (EIR) was prepared and certified. A project may be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15183 if it is consistent with development density established by existing zoning, community plan, or general plan policies for which an EIR was certified and would not require additional environmental review, except as might be necessary to examine whether there are project-specific significant effects which are peculiar to the project or its site. Cal. Code Regs., tit. 14, § 15183 (“CEQA Guidelines” § 15183). A categorical exemption

memorandum, *VP1 Apple Office Project CEQA Guidelines Section 15183 Checklist*, has been prepared that further details how the project qualifies for the streamline exemption (see Attachment G).

Pursuant to CEQA Guidelines Section 15183, if an impact is not peculiar to the parcel or to the project, has been addressed as a significant effect in the prior EIR⁷, or can be substantially mitigated by the imposition of uniformly applied policies or standards, then an additional EIR need not be prepared for the project solely based on that impact.

The CEQA Guidelines Section 15183 Checklist indicates whether the proposed project would result in an impact that: (1) is peculiar to the project or the project site; (2) is substantially mitigated by uniformly applicable development standards; (3) is a previously identified significant effect that was adequately address in the General Plan EIR; or (4) is a new less than significant impact not addressed in the General Plan EIR. CEQA Guidelines Section 15183(f), states that an effect of a project on the environment shall not be considered peculiar to the project or the parcel for the purposes of this section if uniformly applied development policies or standards have been previously adopted by the city or county with a finding that the development policies or standards will substantially mitigate that environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect. As the checklist indicates, the analysis concludes that the project qualifies for a categorical exemption because the proposed project would not result in potentially significant off-site impacts as off-site improvements are not proposed or required within a previously undisturbed area. The proposed project would also not result in potentially significant cumulative impacts which were not evaluated in the General Plan EIR, as would be expected for a project that is within the General Plan buildout and consistent with the General Plan land use designations and policies. This is demonstrated in the analysis contained within this 15183 Checklist.

⁷ The Cupertino City Council certified the General Plan Amendment, Housing Element Update, and associated Rezoning Project Environmental Impact Report (EIR) in December 2014 and with a final addendum that were approved by the City Council in October 2015, August 2019, December 2019, December 2019, and October 2021. The evaluation in the General Plan EIR assumed a total of 4,040,231 square feet of office in the city, and 2,700,000 square feet of office space for the Heart of the City Special Area and a maximum height of 90 feet within the South Vallco Park area. The cumulative impacts of past, present, and probable future development, in conjunction with overall General Plan buildout, including redevelopment of the project site, were evaluated in the General Plan EIR. The project (2,300 square feet of commercial and 280,020 net new square feet of office uses) when combined with the other reasonably foreseeable projects in Cupertino (VALLCO, Westport, Marina Plaza, etc.) would not exceed the maximum buildout potential evaluated in the General Plan EIR.

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ATTACHMENTS:

- A. Draft Resolution for DP-2021-001
- B. Draft Resolution for ASA-2021-003
- C. Draft Resolution for TR-2021-020
- D. Planning Commission Resolution 2023-03
- E. Planning Commission Resolution 2023-04
- F. Planning Commission Resolution 2023-04
- G. VP1 Apple Office Project CEQA Guidelines Section 15183 Checklist
- H. Site Plans and Renderings
- I. Project Description
- J. Public Comment