

# CITY OF CUPERTINO



## AGENDA

**Televised Special Meeting (6:45)**

**Tuesday, May 14, 2024**

**6:45 PM**

**10350 Torre Avenue, Council Chamber and via Teleconference**

## **City Council**

*SHEILA MOHAN, MAYOR*

*J.R. FRUEN, VICE MAYOR*

*LIANG CHAO, COUNCILMEMBER*

*KITTY MOORE, COUNCILMEMBER*

*HUNG WEI, COUNCILMEMBER*

*IN PERSON AND TELECONFERENCE MEETING*

*For more information:*

*(408) 777-3200 | [www.cupertino.gov](http://www.cupertino.gov)*



## IN-PERSON AND TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION

Members of the public wishing to observe the meeting may do so in one of the following ways:

- 1) Attend in person at Cupertino Community Hall, 10350 Torre Avenue.
- 2) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.
- 3) The meeting will also be streamed live on and online at [www.Cupertino.org/youtube](http://www.Cupertino.org/youtube) and [www.Cupertino.org/webcast](http://www.Cupertino.org/webcast)

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

- 1) Appear in person at Cupertino Community Hall.
- 2) E-mail comments by 4:00 p.m. on Tuesday, May 14 to the Council at [citycouncil@cupertino.org](mailto:citycouncil@cupertino.org). These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting. Members of the public that wish to share a document must email [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org) prior to the meeting.

Members of the public may provide oral public comments during the Special Meeting as follows:

Oral public comments may be made during the public comment period for each agenda item.

Members of the audience who address the City Council must come to the lectern/microphone, and are requested to complete a Speaker Card and identify themselves. Completion of Speaker Cards and identifying yourself is voluntary and not required to attend the meeting or provide comments.

### 3) Teleconferencing Instructions

To address the City Council, click on the link below to register in advance and access the meeting:

#### Online

Register in advance for this webinar:

[https://cityofcupertino.zoom.us/webinar/register/WN\\_dtev1s8LRSi4vyKGI4oD5Q](https://cityofcupertino.zoom.us/webinar/register/WN_dtev1s8LRSi4vyKGI4oD5Q)

**Phone**

Dial: 669-900-6833 and enter Webinar ID: 917 6661 5804 (Type \*9 to raise hand to speak, \*6 to unmute yourself). Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

162.255.36.11 (US East)

Meeting ID: 917 6661 5804

SIP: 91766615804@zoomcrc.com

92415002859@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

Please read the following instructions carefully:

1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.
2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the public. If you wish to make an oral public comment but do not wish to provide your name, you may enter "Cupertino Resident" or similar designation.
3. When the Mayor calls for the item on which you wish to speak, click on "raise hand," or, if you are calling in, press \*9. Speakers will be notified shortly before they are called to speak.
4. When called, please limit your remarks to the time allotted and the specific agenda topic.
5. Members of the public that wish to share a document must email [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org) prior to the meeting. These documents will be posted to the City's website after the meeting.

**NOTICE AND CALL FOR A SPECIAL MEETING OF THE CUPERTINO CITY COUNCIL**

**NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby**

called for Tuesday, May 14, 2024, commencing at 6:45 p.m. in Community Hall Council Chamber, 10350 Torre Avenue, Cupertino, California 95014 and via teleconference. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting."

### SPECIAL MEETING

#### CALL TO ORDER

#### ROLL CALL

#### PUBLIC HEARINGS

*Effective January 1, 2023, Government Code Section 65103.5 (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](mailto:planning@cupertino.org). Plans will also be made available digitally during the hearing to consider the proposal.*

1. **Subject:** 6th Cycle Housing Element and Associated General Plan Amendments  
**Recommended Action:** That the City Council adopt Resolution No. 24-039 (Attachment 1) adopting proposed General Plan Amendments, including but not limited to, the Chapter 3 (Land Use and Community Character Element), Chapter 4 (Housing Element), Chapter 5 (Mobility Element), Appendix A (Land Use Definitions, Appendix B (Housing Element Technical Appendix), and Appendix G (Community Vision 2040 General Plan and Zoning Amendments Environmental Assessment).  
[Staff Report](#)  
[1 - Draft Resolution](#)  
[Exhibit GPA-1 - Ch 3 - Land Use Element amendments](#)  
[Exhibit GPA-2 - Ch 4 - Housing Element - Draft for adoption](#)  
[Exhibit GPA-3 - Ch 5 - Mobility Element](#)  
[Exhibit GPA-4 - App A - Land Use Definitions Amendments](#)  
[Exhibit GPA-5 - App B - HE Technical Report - Draft for adoption](#)  
[Exhibit GPA-6 - App G - Environmental Assessment](#)  
[Exhibit GPA-7 - Draft General Plan Land Use Map](#)  
[2 - Letter from HCD dated 4.10.2024](#)
2. **Subject:** Fiscal Year 2024-25 Fee Schedule (continued from May 7, 2024)  
**Recommended Action:** 1. Adopt Resolution No. 24-040 approving FY 2024-25 Fee Schedules A, B, C, and D. If adopted, new fees will be effective by July 14, 2024.  
2. Adopt Resolution No. 24-041 adopting User Fee Cost Recovery Policy

[Staff Report](#)

[A – FY 2024-25 Proposed Fee Schedule A – General \(Redline\)](#)

[B – FY 2024-25 Proposed Fee Schedule B – Engineering \(Redline\)](#)

[C – FY 2024-25 Proposed Fee Schedule C – Planning \(Redline\)](#)

[D – FY 2024-25 Proposed Fee Schedule D – Building \(Redline\)](#)

[E – FY 2024-25 Proposed Fee Schedule A – General \(Clean\)](#)

[F – FY 2024-25 Proposed Fee Schedule B – Engineering \(Clean\)](#)

[G – FY 2024-25 Proposed Fee Schedule C – Planning \(Clean\)](#)

[H – FY 2024-25 Proposed Fee Schedule D – Building \(Clean\)](#)

[I – Draft Resolution No. 24-040 approving FY 2024-25 Fee Schedules A, B, C, and D](#)

[J – User Fee Study 2023](#)

[K – Cost Allocation Plan and Fee Study Staff Report](#)

[L – User Fee Cost Recovery Policy](#)

[M – Draft Resolution No. 24-041 User Fee Cost Recovery Policy](#)

## CONSENT CALENDAR

*Items appearing on the Consent Calendar are considered routine City business and may be approved by one motion. Typical items may include meeting minutes, awards of contracts, the ratification of accounts payable, and second readings of ordinances. Any member of the Council may request to have an item removed from the Consent Calendar based on the rules set forth in the City Council Procedures Manual. Members of the public may provide input on one or more consent calendar items when the Mayor asks for public comments on the Consent Calendar.*

**3. Subject:** Consider accepting the City's Investment Policy

**Recommended Action:** Adopt Resolution No. 24-042 accepting the City's Investment Policy

[Staff Report](#)

[A - Cupertino Investment Policy \(clean\)](#)

[B - Cupertino Investment Policy \(redline\)](#)

[C - Cupertino Investment Policy Statement Review Memo](#)

[D - Draft Resolution](#)

## ADJOURNMENT

*Lobbyist Registration and Reporting Requirements: Individuals who influence or attempt to influence legislative or administrative action may be required by the City of Cupertino's lobbying ordinance (Cupertino Municipal Code Chapter 2.100) to register and report lobbying activity. Persons whose communications regarding any legislative or administrative are solely limited to appearing at or submitting testimony for any public meeting held by the City are not required to register as lobbyists. For more information about the lobbying ordinance, please contact the City Clerk's Office at 10300 Torre Avenue, Cupertino, CA 95014; telephone (408) 777-3223; email [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org); and website: [www.cupertino.org/lobbyist](http://www.cupertino.org/lobbyist).*

*The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation*

*challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.*

*Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to <http://www.cupertino.org/cityclerk> for a reconsideration petition form.*

*In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.*

*Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, Cupertino, California 95014, during normal business hours; and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.*

**IMPORTANT NOTICE:** *Please be advised that pursuant to Cupertino Municipal Code section 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agenda item. These written communications are accessible to the public through the City's website and kept in packet archives. Do not include any personal or private information in written communications to the City that you do not wish to make public, as written communications are considered public records and will be made publicly available on the City website.*



# CITY OF CUPERTINO

## Agenda Item

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**24-13176**

**Agenda Date: 5/14/2024**  
**Agenda #: 1.**

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Subject: 6<sup>th</sup> Cycle Housing Element and Associated General Plan Amendments

That the City Council adopt Resolution No. 24-039 (Attachment 1) adopting proposed General Plan Amendments, including but not limited to, the Chapter 3 (Land Use and Community Character Element), Chapter 4 (Housing Element), Chapter 5 (Mobility Element), Appendix A (Land Use Definitions, Appendix B (Housing Element Technical Appendix), and Appendix G (Community Vision 2040 General Plan and Zoning Amendments Environmental Assessment).



**COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION**

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333  
CUPERTINO.ORG

**CITY COUNCIL STAFF REPORT**

Meeting: May 14, 2024

**Subject**

6<sup>th</sup> Cycle Housing Element and Associated General Plan Amendments

**Recommended Action**

That the City Council adopt a draft resolution (Attachment 1) adopting proposed General Plan Amendments, including but not limited to, the Chapter 3 (Land Use and Community Character Element), Chapter 4 (Housing Element), Chapter 5 (Mobility Element), Appendix A (Land Use Definitions, Appendix B (Housing Element Technical Appendix), and Appendix G (Community Vision 2040 General Plan and Zoning Amendments Environmental Assessment).

**Background**

The City has been preparing the 6<sup>th</sup> Cycle Housing Element update, which covers the planning period of 2023 to 2031, since April 2021. The Housing Element is one the required elements that makes up the Cupertino's General Plan and identifies the policies and programs necessary to meet the housing needs of the City's current and future residents, at all levels of income. State law requires that every city and county in California update its Housing Element every eight years, unlike other required General Plan elements. The Housing Element must identify adequate sites, with appropriate zoning and development standards, to accommodate the City's share of the regional housing needs for each income level and identify housing policies, which support and encourage the development of housing, particularly affordable housing development, within the City.

In December 2021, the Association of Bay Area Governments (ABAG) adopted the final Regional Housing Needs Allocation (RHNA) for each of the Bay Area's 109 cities and counties. As background, the nine county ABAG region must accommodate approximately 441,000 housing units, of which Santa Clara County must accommodate 129,577 units (~30%). Cupertino must accommodate slightly more than one percent of ABAG region's RHNA (4,588 units). The table on the following page shows Cupertino's 6<sup>th</sup> Cycle RHNA by income category.

Income Group	Units	% of total
Very Low Income (<50% of AMI)	1,193	26.0
Low Income (50%-80% of AMI)	687	15.0
Moderate Income (80%-120% of AMI)	755	16.5
Above Moderate Income (>120% of AMI)	1,953	42.5
<b>Total</b>	<b>4,588</b>	<b>100</b>

The current draft Housing Element was prepared in compliance with state law, including extensive outreach efforts, which are more fully described in the Housing Element (Exhibits GPA-2 & GPA-5), and multiple revisions<sup>1</sup> to the initial Draft Housing Element, based on comments received from the California Department of Housing and Community Development (HCD) and the public. On April 10, 2024, HCD informed the City (See Attachment 2) that the revised third draft of the Housing Element, submitted to HCD on March 28, meets the statutory requirements of state law, subject to rezoning of the sites that are listed in the Housing Element as Priority Housing Sites.

The deadline for ABAG jurisdictions to adopt a Housing Element compliant with state housing law was January 31, 2023, meaning Cupertino's Housing Element has been out of compliance for over one year. Since the City is over one year late in adopting its updated Housing Element, completion of the rezoning is required to be found fully compliant with state law. Therefore, adoption of the Housing Element and completion of rezoning of the sites will bring the City into compliance with state housing law, preventing the City's loss of land use local control, potential exposure to litigation, and other adverse consequences resulting from not having a compliant Housing Element.

### **Discussion:**

The contents of the Housing Element are dictated by state law and include several analyses: specifically, housing needs, housing constraints and fair housing. These analyses result in the development of the two main components of the Housing Element, 1) Priority Housing Sites, and 2) Housing Policies, which have also been of the most interest to the community, as evidenced in the comments received at numerous public meetings and the required public comment periods for each of the Housing Element drafts.

### ***Priority Housing Sites:***

Priority Housing Sites indicate Cupertino's commitment for where housing will most likely be developed to meet the City's fair share of housing for the 6<sup>th</sup> Cycle planning period (Regional Housing Needs Allocation or RHNA). The proposed identification of Priority Housing Sites also considers the "no net loss" provision of State Housing Element Law (SB 166). This provision provides that, at all times during the planning

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<sup>1</sup> Prior iterations of the Draft Housing Element are available online at [www.cupertino.org/housingelement](http://www.cupertino.org/housingelement)



period, the City must have an inventory of Priority Housing sites to accommodate its RHNA *by income level*. If at any time during the planning period, housing does not develop at the income levels, or density, that are projected to be developed on the proposed sites, resulting in a shortfall, the City would be required to identify additional Priority Housing Sites. To avoid such a shortfall, the draft Housing Element includes a buffer of approximately 35%. Accordingly, the draft Housing Element identifies sites to accommodate approximately 6,200 units on 36 sites (62 parcels in total).

Consistent with direction from the Council in July 2023, Priority Housing Sites are located primarily along the arterials and major collectors in the City, such as Stevens Creek and DeAnza Boulevards, with a few sites located within established, predominantly single-family neighborhoods (e.g. the Evulich Ct./Linda Vista and Adriana Ave. sites) in the western portion of the City. The Housing Element process includes the establishment of minimum required densities and building heights on the Priority Housing Sites to ensure that the City can meet the RHNA requirements of the 6<sup>th</sup> Cycle. The list of Priority Housing Sites and relevant data, such as acreage, proposed densities, and zoning, is identified in Appendix B-4 of the General Plan (see Exhibit GPA-5).

About 70% of the 62 parcels that comprise the Housing Priority Sites have a minimum density of 50 units per acre, consistent with the parcels' locations along major transportation corridors and state and regional policies related to linking land use, housing development and transportation. Therefore, the updated Housing Element requires the establishment of four new land use designations for residential densities greater than 35 dwelling units per acre – Residential - High Density (35.01 – 50 dwelling units/acre), Residential - High/Very High Density (50.01 – 65 dwelling units/acre), Residential - Very High Density (65.01 – 80 dwelling units/acre) and Residential - Highest Density (80.01 – 95 dwelling units/acre). It should be noted that because of the new density categories, additional refinements were made for the existing “commercial/residential” land use designation to incorporate some of these higher residential densities. Due to this, some properties, while not designated as Priority Housing Sites, are identified with a different land use designation on the land use map (see Exhibit GPA-7) to ensure internal consistency. However, *these do not* result in any change to development standards or residential density for any of these sites.

Other minor clarifying and conforming edits have been made in the Land Use and Community Character Element (see Exhibit GPA-3) and Appendix A Land Use Definitions (see Exhibit GPA-4).

### ***Housing Policies:***

Upon completion of the analysis related to housing needs within the community over the 2023-2031 planning period and an evaluation of the City's performance on its 5<sup>th</sup> Cycle Housing Element goals and policies, updates have been made to the City's existing 5<sup>th</sup>

Cycle housing policies and new policies have been added to address policy gaps necessary to address state law and/or the needs of the community.

Many of the updates to existing Housing Element policy revolve around compliance with state law on various housing types (e.g. supportive housing and emergency shelters), additional technical support to be provided by City staff to developers and housing services organizations, pursuit of grant funding to support affordable housing, adjusting the Below Market Rate program requirement to apply to for-sale developments with 5 or more new units and the review and update of development standards related to parking and parkland dedication fees. In addition to policies related to furthering housing development, the City must also comply with state law related to taking actions to Affirmatively Further Fair Housing (AFFH).

To that end, upon HCD review and input, a policy (Strategy HE-1.3.6) has been added to *affirmatively* further fair housing by allowing “missing middle” housing typologies within portions of the City’s primarily single-family neighborhoods. As a result, the City is looking to permit duplex development with two accessory dwelling units (ADUs) (for a total of four units) on all corner lots within the R1 zoning district and on all R1 zoned lots that abut property zoned and used for commercial uses. This strategy applies to approximately 1,680 parcels in the R1 zoning district, which would be eligible to develop using R2 – duplex – development standards, with two primary units and two ADUs. It is hoped that properties that have the option to develop, or redevelop, consistent with Strategy HE-1.3.6 will provide housing types with smaller floor areas that are more affordable by design, such as duplexes, triplexes, and fourplexes to allow a gentle increase of density within established neighborhoods with compatible building forms. Strategy HE-1.3.6 will not involve the rezoning of any properties. Only sites identified as Priority Housing Sites will be rezoned to implement the Housing Element’s adoption and comply with state housing law.

It should be noted that recent changes to the City’s ADU ordinance, adopted by the City Council in January 2024, allow the development of one primary unit and up to three ADUs on any parcel zoned R1 and two primary units and two ADUs on any parcel zoned R2. Therefore, in terms of the total number of units, the new policy would continue to allow a maximum of four units (just under slightly more flexible R2 development standards) on these specified lots within the R1 zoning district.

***Mobility Element:***

Updates have been made to the Mobility Element to ensure that the City is compliant with existing state law and locally adopted Vehicles Miles Traveled (VMT) thresholds by implementing policies that support reduced VMT including but not limited to, safety and convenience for alternative modes of travel (see Exhibit GPA-3).

### ***Planning Commission:***

At a special meeting of the Planning Commission held on April 29, 2024, the Commission adopted PC Resolution No. 2024-05 recommending approval of the proposed changes, with a minor edit to remove one site from the Priority Housing Sites list, on a 3-2 vote (Madhhipatla and Scharf: No). The Commission discussed two policies at length – the missing middle strategy related to duplex development on certain R1 lots and the parkland dedication fee study. Both policies were incorporated in the draft Housing Element to address HCD comments related to Affirmatively Furthering Fair Housing and housing constraints. Ultimately, the Commission did not recommend any changes to these policies.

Eight members of the public spoke at the meeting. Comments included concerns about the validity of the RHNA numbers, the missing middle strategy and associated parking impacts, the continued use of Below Market Rate Affordable Housing Funds for residential rehabilitation projects without any specified income level restrictions, ensuring that the policies cover programs for seniors, a request to include prevailing wage requirements for development projects, and questions about environmental review. None of the comments received at the hearing warranted any changes to the draft Housing Element or the associated general plan amendments.

### **Next Steps**

Staff will prepare a final version of the General Plan, which may include amendments to figures in Chapter 2, Planning Areas, for publication on the City's website. In addition, as noted earlier, HCD's April 10 determination that the City's Housing Element is compliant with state law is contingent on the rezoning identified in the Housing Element being completed. This rezoning will be presented to the Planning Commission for its recommendation, and to the City Council for adoption, in order to ensure that the City will be fully compliant with state law, shortly. The zoning changes required to implement the Housing Element are described in the Housing Element policies and include, but are not limited to, the creation of new zoning districts for the higher density uses, regulations for emergency shelters and updating allowed uses in several zoning districts.

### **Sustainability Impact**

None

### **Fiscal Impact**

**None**

### **California Environmental Quality Act**

On February 3, 2023, the California Housing Defense Fund and Yes in My Backyard (YIMBY) Law sued the City for missing the January 31, 2023 deadline for adoption of the 6<sup>th</sup> Cycle Housing Element. In January 2024, the City entered into a stipulated judgment

to settle the lawsuit. As a result, pursuant to Government Code Section 65759(a), any actions that the City takes to adopt a compliant housing element, including rezoning actions to implement the Housing Element, are exempt from the California Environmental Quality Act (CEQA). In lieu of CEQA compliance, Government Code section 65759 requires that an environmental assessment (EA) in the form of a Draft Environmental Impact Report (EIR) be prepared and adopted as part of the City's General Plan. As required, the EA closely resembles a Draft EIR but, unlike a Draft EIR, the City is not required to circulate the document for public comment or prepare responses to comments received, or make corrections/edits to the Draft EIR, leading to the preparation of a Final EIR. The EA will be adopted, in accordance with state law, as Appendix G of the General Plan (see Exhibit GPA-6).

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Prepared by: Piu Ghosh, Planning Manager

Reviewed by: Luke Connolly, Assistant Director of Community Development  
Benjamin Fu, Director of Community Development

Approved for Submission by: Pamela Wu, City Manager

Attachments:

Attachment 1 – Draft City Council Resolution

Exhibit GPA-1 – Chapter 3: Land Use and Community Character Element

Exhibit GPA-2 – Chapter 4: Housing Element

Exhibit GPA-3 – Chapter 5: Mobility Element

Exhibit GPA-4 – Appendix A: Land Use Definitions

Exhibit GPA-5 – Appendix B: Housing Element Technical Appendix (includes appendices B-1 through B-6)

Exhibit GPA-6 – Appendix G: Environmental Assessment

Exhibit GPA-7 – Land Use Map

Attachment 2 – Letter from HCD dated 4.10.2024

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CUPERTINO CITY COUNCIL  
APPROVING AMENDMENTS TO THE GENERAL PLAN, INCLUDING  
ADOPTION OF THE 2023-2031 HOUSING ELEMENT,  
CHANGES TO THE GENERAL PLAN LAND USE MAP, AND OTHER  
AMENDMENTS TO ALLOW IMPLEMENTATION OF THE HOUSING  
ELEMENT AND MEET THE REQUIREMENTS OF STATE LAW

SECTION I: PROJECT DESCRIPTION

Application No: GPA-2022-001  
Applicant: City of Cupertino  
Location: Citywide/Various locations

SECTION II: RECITALS

WHEREAS, state law requires the City to prepare and adopt an updated Housing Element every eight years to accommodate its fair share of housing and identify housing needs, resources and opportunities;

WHEREAS, the City has been notified in December 2022 that the Regional Housing Needs Allocation for Cupertino is 4,588 units; and

WHEREAS, Chapter 4, Appendix A, and Appendix B have been prepared to address adoption of 6<sup>th</sup> Cycle (2023 – 2031) Housing Element; and

WHEREAS, Chapters 3, 5 and the General Plan Land Use Map have been amended to address implementation of the Housing Element; and

WHEREAS, the City entered into a Stipulated Judgement dated January 8, 2024 pursuant to a lawsuit related to adoption of the Housing Element which included requirements for coming into compliance with state housing element law and exempted the City from the California Environmental Quality Act (“CEQA”) pursuant to Government Code section 65759; and

WHEREAS, pursuant to Government Code 65759, the General Plan Amendment to adopt the Housing Element and associated amendments to the General Plan zoning is fully described and analyzed in the Environmental Assessment, which is incorporated into the General Plan as Appendix G; and

WHEREAS, the existing uses on the sites identified in the site inventory to accommodate the lower income RHNA are likely to be discontinued during the planning period, and therefore do not constitute an impediment to additional residential development during the period covered by the housing element based on a variety of factors as described more fully in the Housing Element, including but not limited to property owner interest in

redeveloping the site, age and condition of the structures on the property, vacant store fronts and/or, land to improvement values of the properties, apparent investments in the property.

WHEREAS, on April 29, 2024, the Planning Commission recommended on a 3-2 vote (No: Madhhipatla and Scharf) that the City Council adopt the General Plan Amendment (GPA-2022-001), in substantially similar form to the Resolution presented (Resolution No. 2024-005) with an amendment to eliminate APN: 359 08 029; and

WHEREAS, all necessary public notices having been given as required by the City of Cupertino Municipal Code and the Government Code, on May 14, 2024, the City Council held a public hearing to consider the General Plan Amendment; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Resolution.

### SECTION III: RESOLUTIONS

NOW, THEREFORE, BE IT RESOLVED:

After careful consideration of the maps, facts, exhibits, testimony and other evidence submitted in this matter, and based on the preceding findings, the City Council hereby:

1. Directs staff to make modifications to the draft Housing Element after adoption, but before final submittal to HCD, to eliminate APN: 359 08 029 and all references to it from Draft Appendix B-4 since the site is not counted toward the Regional Housing Needs Allocation (RHNA); and
2. Adopts amendments to the General Plan (Application No. GPA-2022-001), including amendments to Chapter 3 (Land Use and Community Character), Chapter 4 (Housing), and Chapter 5 (Mobility) and Appendices A (Land Use Definitions), and B (Housing Element Technical Report), and adoption of a new Appendix G (General Plan 2040 and Zoning Code Amendments Environmental Assessment) as shown in Exhibits GPA-1 – GPA-6, and as modified by #1 above, which is incorporated herein by reference as part of this resolution; and
3. Adopts changes to the Land Use Map as shown in Exhibit GPA-7, which is incorporated herein by reference as part of this resolution, to reflect the changes to the general plan land use designation, residential density - required minimum and maximum allowable, and allowable maximum heights of the parcels in the table on the following page, necessary to implement the Housing Element and to ensure internal consistency; and
4. Authorizes the staff to make any grammatical, typographical, numbering, and formatting changes in the amended Chapters, and any updates to figures in Chapter 2 (Planning Areas) to ensure internal consistency with the Land Use and Community Character Element, the General Plan Land Use Map, and the Housing Element, necessary to assist in production of the final published General Plan.

APN	Acres	Existing General Plan Designation	Existing Maximum Density (du/acre)	Existing Maximum Height (feet)	New General Plan Designation	Required Minimum Density	Amended Maximum Density (du/acre)	Amended Maximum Height (feet)
316 23 027	0.64	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
369 03 005	0.47	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
326 34 047	1.09	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
359 07 006	0.32	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
375 06 006	1.71	Commercial/Office/Residential	25	45	Residential - Very High Density	65.01	80	70
375 06 007	0.96	Commercial/Office/Residential	25	45	Residential - Very High Density	65.01	80	70
316 21 031	1.81	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
316 23 026	1.78	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
326 32 050	0.83	Commercial/Office/Residential	25	45	Residential - High/Very High Density	50.01	65	70
326 27 053	0.75	Transportation	0	0	Residential - High/Very High Density	50.01	65	70
323 36 018	0.42	Commercial / Residential	35	30	Residential - High/Very High Density	50.01	65	70
316 04 064	0.44	Res Low 1-5	5	30	Residential - Medium Density	10.01	20	No change
326 07 022	1.64	Commercial	15	30	Residential - Very High Density	65.01	80	70
326 07 030	0.92	Commercial	15	30	Residential - Very High Density	65.01	80	70
326 07 031	0.24	Commercial	15	30	Residential - Very High Density	65.01	80	70
326 07 036	1.74	Commercial	15	30	Residential - Very High Density	65.01	80	70
369 37 022	0.39	Medium (10-20 DU/Ac)	20	30	Residential - Very High Density	50.01	65	70
369 37 023	0.22	Medium (10-20 DU/Ac)	20	30	Residential - Medium Density	20.01	35	Multi-family – 60 Townhomes - 30

APN	Acres	Existing General Plan Designation	Existing Maximum Density (du/acre)	Existing Maximum Height (feet)	New General Plan Designation	Required Minimum Density	Amended Maximum Density (du/acre)	Amended Maximum Height (feet)
369 37 024	0.17	Medium (10-20 DU/Ac)	20	30	Residential - Medium Density	20.01	35	Multi-family – 60 Townhomes - 30
369 34 053	0.54	Commercial / Residential	15	30	Residential - Medium Density	20.01	35	Multi-family – 60 Townhomes - 30
359 18 044	0.26	Commercial / Residential	25	30	Residential - High/Very High Density	50.01	65	70
366 10 121	1.34	Commercial / Residential	15	30	Residential - Medium Density	20.01	35	Multi-family – 60 Townhomes – 30
366 10 137	0.92	Commercial / Residential	15	30	Residential - Medium Density	20.01	35	Multi-family – 60 Townhomes – 30
366 19 047	2.33	Commercial / Residential	15	30	Residential - High/Very High Density	50.01	65	70
366 19 078	0.08	Commercial / Residential	15	30	Residential - High/Very High Density	50.01	65	70
359 09 017	1.00	Commercial / Residential	25	30	Residential - High/Very High Density	50.01	65	70
316 20 088	5.16	Reg Shopping	0	60	Residential – High/Very High Density	50.01	65	70
359 13 019	0.99	Res Low 1-5	5	30	Residential - Medium Density	10.01	20	No change
356 06 001	0.73	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	No change
356 06 002	0.69	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	No change
356 06 003	0.25	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	No change
356 06 004	0.87	Res Low 1-5	5	30	Residential – Medium/ High Density	20.01	35	No change
N/A (Evulich Ct)	0.43	Transportation	0	30	Residential – Medium/ High Density	20.01	35	No change
362 31 001	0.25	Res Medium 10-20	20	30	Residential – Medium/ High Density	20.01	35	No change
362 31 030	0.23	Res Medium 10-20	20	30	Residential – Medium/ High Density	20.01	35	No change
326 20 034	1.34	Res Low 1-5	5	30	Residential – Low/ Medium	5.01	10	No change
316 23 093	1.35	Commercial/Office/ Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70
316 23 036	0.24	Commercial/Office/ Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70



APN	Acres	Existing General Plan Designation	Existing Maximum Density (du/acre)	Existing Maximum Height (feet)	New General Plan Designation	Required Minimum Density	Amended Maximum Density (du/acre)	Amended Maximum Height (feet)
369 06 002	0.9	Commercial/Office/Residential	25	45	Commercial/Residential – Very High	65.01	80	70
369 06 003	0.53	Commercial/Office/Residential	25	45	Commercial/Residential – Very High	65.01	80	70
369 06 004	1.29	Commercial/Office/Residential	25	45	Commercial/Residential – Very High	65.01	80	70
359 10 015	1.18	Commercial / Residential	25	30	Commercial/Residential – High/Very High	50.01	65	70
359 10 060	0.98	Commercial / Residential	25	30	Commercial/Residential – High/Very High	50.01	65	70
359 10 044	0.18	Commercial / Residential	25	30	Commercial/Residential – High/Very High	50.01	65	70
359 08 025	0.83	Commercial/Office/Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70
359 08 026	0.45	Commercial/Office/Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70
359 08 027	0.87	Commercial/Office/Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70
359 08 028 <sup>1</sup>	0.85	Commercial/Office/Residential	25	45	Commercial/Residential – High/Very High	50.01	65	70
326 09 052	0.74	Commercial	35	45	Commercial/Residential – Very High	65.01	80	70
326 09 060	2.75	Commercial	35	45	Commercial/Residential – Very High	65.01	80	70
326 09 061	1.12	Commercial	35	45	Commercial/Residential – Very High	65.01	80	70
369 34 052	2.70	Commercial / Residential	15	30	Commercial/Residential – High/Very High	50.01	65	70
369 37 028	0.56	Commercial / Residential	25	30	Commercial/Residential – High/Very High	50.01	65	70
366 19 055	0.40	Commercial / Residential	15	30	Commercial/Residential – Medium/High	20.01	35	Multi-family – 60 Townhomes – 30
366 19 053	0.56	Commercial / Residential	15	30	Commercial/Residential – Medium/High	20.01	35	Multi-family – 60 Townhomes – 30

APN	Acres	Existing General Plan Designation	Existing Maximum Density (du/acre)	Existing Maximum Height (feet)	New General Plan Designation	Required Minimum Density	Amended Maximum Density (du/acre)	Amended Maximum Height (feet)
366 19 054	1.75	Commercial / Residential	15	30	Commercial/Residential – Medium/High	20.01	35	Multi-family – 60 Townhomes – 30
316 05 050	1.02	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
316 05 051	0.62	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
316 05 052	0.73	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
316 05 053	0.92	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
316 05 056	6.94	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
316 05 072	0.54	Commercial / Residential	25	60	Commercial/Residential – Very High	65.01	80	70
359 20 028 <sup>2</sup>	0.75	Quasi-Public	0	30	Commercial/Residential – Medium/High	20.01	35	No change

<sup>1</sup> Land Use designation and residential density changed only for a 178 feet by 208 feet portion of this site on the western portion closest to Stevens Creek Boulevard as shown in Santa Clara County Assessor's Office's records Book 359 Page 8 (Revised 2022-2023).

<sup>2</sup> Land Use designation and residential density changed only for a 180.75 feet by 180.75 feet portion of the northwest corner of the site is rezoned as shown in Santa Clara County Assessor's Office's records Book 359 Page 20 (Revised 2022-2023). rezoned as shown in Santa Clara County Assessor's Office's records Book 359 Page 20 (Revised 2022-2023).

NOW, THEREFORE, BE IT FURTHER RESOLVED:

The foregoing recitals are true and correct and are included herein by reference as findings.

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PASSED AND ADOPTED this 14<sup>th</sup> day of May 2024, at a Special Meeting of the City Council of the City of Cupertino, State of California, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p>  <p>_____</p> <p>Sheila Mohan, Mayor City of Cupertino</p>	<p>_____</p> <p>Date</p>
<p>ATTEST:</p>  <p>_____</p> <p>Kirsten Squarcia City Clerk</p>	<p>_____</p> <p>Date</p>

# Land Use Element

## GOAL LU-1

Create a balanced community with a mix of land uses that supports thriving businesses, all modes of transportation, complete neighborhoods, and a healthy community.

### ~~LU-1.2.1: Planning Area Allocations~~POLICY LU-1.2: NON-RESIDENTIAL DEVELOPMENT ALLOCATION:

The City shall maintain non-residential development allocations, which are assigned for by various Planning Areas. However, some flexibility may be allowed for transferring non-residential allocations among between Planning Areas provided that no significant environmental impacts are identified beyond those already studied in the Environmental Impact Report (EIR) for Community Vision 2040.

### STRATEGIES:

**LU-1.2.1: Planning Area Allocations.** Maintain and update the non-residential development allocation table (Table LU-1) to ensure that the allocations for various land uses adequately meet City goals for economic vitality, financial stability, and placemaking.

**LU-1.2.2: Major Employers.** Reserve an office development allocation for major companies with sales offices 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.

**LU-1.2.3: Unused Non-Residential Development Allocation.** Unused non-residential development allocations may be re-assigned to the citywide allocation table per Planning Area, when development agreements and development permits expire.

**LU-1.2.4: Neighborhood Allocation.** ~~Allocate residential units in neighborhoods through the building permit process unless subdivision or development applications are required.~~

Table LU-1: Citywide <u>Non-Residential</u> Development Allocation Between 2014-2040												
	commercial (s.f.)			office (s.f.)			hotel (rooms)			residential (units)		
	current built (Oct 7,2014)	build out	availa ble	current built (Oct 7,2014)	buildou t	availa ble	current built (Oct 7,2014)	build out	availa ble	current built (Oct 7,2014)	build out	availa ble
Hear t of the	1,351,730	214,500	793,270	2,447,500	2,464,613	17,113	404	526	122	1,336	1,805	469

City												
Vallco Shopping District**	1,207,774	1,207,774	-	-	-	-	148	339	191	-	389	389
Homestead	291,408	291,408	-	69,550	69,550	-	126	281*	155	600	750	150
N. De Anza	56,708	56,708	-	2,081,021	2,081,021	-	126	126	-	49	146	97
N. Vallco	133,147	133,147	-	3,069,676	3,069,676	-	123	308	185	554	1,154	600
S. De Anza	352,283	352,283	-	130,708	130,708	-	315	315	-	6	6	-
Bubb	-	-	-	444,753	444,753	-	-	-	-	-	-	-
Monta Vista Village	94,051	99,698	5,647	443,140	456,735	13,595	-	-	-	828	878	50
Other	144,964	144,964	-	119,896	119,896	-	-	-	-	18,039	18,166	127
Major Employers	-	-	-	109,935	633,053	523,118	-	-	-	-	-	-
Citywide	3,632,065	4,430,982	798,917	8,916,179	9,470,005	553,826	1,116	1,769	653	21,412	23,294	1,882

### POLICY LU-1.3: LAND USE IN ALL CITYWIDE MIXED-USE DISTRICTS

Encourage land uses that support the activity and character of mixed-use districts and economic goals.

#### STRATEGIES:

**LU-1.3.1: Commercial and Residential Uses.** Review the placement of commercial and residential uses based on the following criteria:

1. All mixed-use areas with commercial zoning will require retail as a substantial component. The North De Anza Special Area is an exception.
2. All mixed-use residential projects ~~should be designed on~~ shall comply with the “mixed-use village” concept discussed ~~earlier~~ later in this Element.
3. On sites with a mixed-use residential designation, residential densities are established in Figure LU-2 with specifics in by the land use map, where required, with land use designations defined in Appendix A is a permitted use only on Housing Element sites and in the Monta Vista Village Special Area.
4. ~~Conditional use permits will be required on mixed use Housing Element sites that~~

~~propose units above the allocation in the Housing Element, and on non-Housing Element mixed-use sites. 100% residential development is allowed on mixed-use sites, if at least 40% of the total units are affordable, including at least 20% of the total units affordable to lower income households.~~

## Figure LU-2: Community Form Diagram

*Edits at end of Exhibit GPA-1.1*

### Mixed-Use Urban Villages

Many of the City's Priority Housing Element Sites are located ~~along~~<sup>in</sup> major corridors to reduce traffic and environmental impacts and preserve neighborhoods (Figure LU-2).

Priority Housing Element Sites, which are further identified and defined in the Housing Element, represent the City's priority for residential development. Residential uses on sites with mixed-use zoning ~~shall~~<sup>should be designed on</sup> ~~comply with~~ the "mixed-use village" concept discussed below.

4. Uses. ~~Include a substantial viable, retail component.~~ Uses shall be consistent with the underlying land use district as defined by Land Use Definitions (Appendix A). Retail and active uses such as restaurants, outdoor dining, and features like entries are required along the ground floor of main street frontages, and such uses are optional on the ground floor of residential buildings within the Regional Shopping/Residential designation. Live/work units shall be oriented with active commercial, or office uses along the street frontage with the residential component of the unit located behind or above the commercial or office space. Developments are encouraged to provide a mix of unit types for households of varying income levels and household types, including, but not limited to, young professionals, couples, families, and/or active seniors who like to live to allow housing choices in an active "mixed-use village" environment. Office uses, if allowed, should must provide active uses on the ground floor street frontage, including restaurants, cafes, entries, lobbies, etc.

### Neighborhood Commercial Centers

Neighborhood Commercial Centers serve adjacent neighborhoods and provide shopping and gathering places for residents... ~~Housing Element sites represent the City's priority for residential development. Residential uses should be~~ shall comply with ~~designed on~~ the "mixed-use village" concept discussed in this Element.

### GOAL LU-3

Ensure that project site planning and building design enhance the public realm through a high sense of identity and connectivity.

### POLICY LU-3.3: BUILDING DESIGN

Ensure that building layouts and design are compatible with the surrounding environment and enhance the streetscape and pedestrian activity.

#### STRATEGIES:

~~**Strategy LU-3.3.4: Compatibility.** Ensure that the floor area ratios of multi-family residential developments are compatible with buildings in the surrounding area. Include a mix of unit types and avoid excessively large units.~~

**LU-3.3.45: Building Location.** Encourage building location and entries closer to the street while meeting appropriate landscaping and setback requirements.

**LU-3.3.56: Architecture and Articulation.** Promote high-quality architecture, appropriate building articulation and use of special materials and architectural detailing to enhance visual interest.

**LU-3.3.67: Street Interface.** Ensure that development enhances pedestrian activity by providing active uses within mixed-use areas and appropriate design features within residential areas along a majority of the building frontage facing the street. Mixed-use development should include retail, restaurant, outdoor dining, main entries, etc. Residential development should include main entrances, lobbies, front stoops and porches, open space, and other similar features.

**LU-3.3.78. Drive-up Services.** Allow drive-up service facilities only when adequate circulation, parking, noise control, architectural features, and landscaping are compatible with the expectations of the Planning Area, and when residential areas are visually buffered. Prohibit drive-up services in areas where they conflict with pedestrian oriented activity and design ~~are highly encouraged~~, such as Heart of the City, North De Anza Boulevard, Monta Vista Village, and neighborhood centers.

**LU-3.3.89: Specific and Conceptual Plans.** Maintain and update Specific/-Conceptual plans and design guidelines for Special Areas such as Heart of the City, Crossroads, Homestead Corridor, Vallco Shopping District, North and South De Anza corridors, and Monta Vista Village.

**LU-3.3.910: Entrances.** In multi-family projects where residential uses ~~may~~ front on streets, require pedestrian-scaled elements such as entries, stoops, and porches along the street.

**LU-3.3.101: ~~Multiple-Story Buildings Taller Than 30 Feet and in Residential Districts~~ Neighborhoods.** Allow construction of ~~multiple-story buildings~~ buildings taller than 30 feet in Neighborhoods only if the buildings abut an arterial or major collector or

if allowed by State law, it is found that nearby residential districts will not suffer from privacy intrusion or be overwhelmed by the scale of a building or group of buildings.

#### POLICY LU-3.5: LIGHT POLLUTION

Reduce light pollution and other adverse effects associated with night lighting from streets and urban uses.

#### STRATEGIES:

**LU-3.5.1: Dark Sky Ordinance.** Maintain Glass and Lighting Standards in the City's Municipal Code and require new development and other applicable projects to comply with the adopted ordinance standards, which provide Dark Sky regulations to reduce light pollution.

#### POLICY LU-3.6: BIRD SAFETY

Enhance bird safety and reduce bird mortality from windows, other glass features, and certain lighting elements that are known to increase the risk of bird collisions.

#### STRATEGIES:

**LU-3.6.2: Bird Safe Design Ordinance.** Maintain Glass and Lighting Standards in the City's Municipal Code and require new development and other applicable projects to comply with the adopted ordinance standards, which provide Bird Safe Design regulations to reduce the potential risk of bird collisions.

### GOAL LU-4

Promote the unique character of planning areas and the goals for community character, connectivity, and complete streets in streetscape design.

#### POLICY LU-4.1: STREET AND SIDEWALKS

Ensure that the design of streets, sidewalks, and pedestrian and bicycle amenities are consistent with the vision for each Planning Area and Complete Streets policies.

#### STRATEGIES:

**LU-4.1.1. Streetscape Improvements.** Retain, and require implementation of sidewalk and streetscape design standards established in any approved Specific Plan, Concept Plan, Zoning, or other area plans.

### GOAL LU-8

Maintain a fiscally sustainable city government that preserves and enhances the quality of life for its residents, workers, and visitors.

#### POLICY LU-8.3: INCENTIVES FOR REINVESTMENT

Provide incentives for reinvestment in existing, older commercial areas.



## STRATEGIES:

**LU-8.3.3. Infrastructure and Streetscape Improvements.** ~~Consider~~ Improve infrastructure and streetscape improvements in areas, such as the Crossroads or South Vallco area to encourage redevelopment as a pedestrian-oriented area that meets community design goals.

## GOAL LU-12

Preserve and protect the City's hillside natural habitat and aesthetic values.

## POLICY LU-12.5: DEVELOPMENT IN THE COUNTY JURISDICTION

Development in the County, particularly if located near Cupertino's hillsides and urban fringe area, should consider the goals and policies in Community Vision 2040.

## STRATEGIES:

**LU-12.5.1. County Development.** ~~Require~~ Development in these areas ~~should be compatible to comply~~ with Cupertino's hillside policies of low-intensity residential, agricultural or open space uses, ~~and to preserve.~~ Preservation of the natural environment through clustering development sites to minimize impact and dedication of open space ~~are encouraged.~~ Visual impacts, access, traffic and other impacts, and service demands ~~should~~ shall be assessed in consultation with Cupertino's goals and policies.

## PLANNING AREA GOALS AND POLICIES

As outlined in the Planning Areas chapter, Community Vision 2040 organizes the city into 21 distinct Planning Areas, divided into two categories: (1) Special Areas that are expected to transition over the life of the General Plan and (2) Neighborhoods where future changes are expected to be minimal. The following goals, policies, and strategies are specific to the Planning Areas and provide guidance for future change in accordance with the community vision. Figure LU-2 shows maximum heights and residential densities allowed in each Special Area. Certain sites may be allowed a different maximum height or maximum, and minimum, density as identified in Resolution 24-XXXX.

## GOAL LU-16

Maintain a mixed-use and civic district that will enhance community identity and activity, and support the crossroads subarea.

## POLICY LU-16.1: CITY CENTER NODE.

~~Establish~~ Maintain the City Center Node as a moderately-scaled, ~~medium-density~~ mixed-use office, hotel, retail and residential area, with an integrated network of streets and open space.

## GOAL LU-19

Create a distinct and memorable mixed-use "town center" that is a regional destination and a focal point for the community.

### POLICY LU-19.1: ALLOWED LAND USES

The following uses are allowed in the Vallco Shopping District Special Area (see Figure LU-2 for residential densities and criteria and Figure LU-4 for location of allowable land uses):

1. Residential: Permit residential and ground floor commercial development within the portion of the site designated for Regional Shopping/Residential uses in advance of creating a specific plan, at a maximum density of 35 dwelling units per acre and a minimum density of 29.7 dwelling units per acre by right, with maximum heights as shown in Figure LU-2. Limited ground floor commercial uses are permitted, but not required, in connection with residential development in the Regional Shopping/Residential portion of the Special Area. Residential uses are permitted within the portion of the sites designated for Residential – High/Very High Density uses, at a maximum density of 65 dwelling units per acre and a minimum density of 50.01 dwelling units per acre, with a maximum height of 70 feet.

### Figure LU-4: Vallco Shopping District Allowable Uses

*Edits at end of Exhibit GPA-1.1*

## GOAL LU-20

Support a sustainable campus-like environment that is served by a mix of pedestrian-oriented retail and commercial uses in a walkable and bikeable environment.

### POLICY LU-20.2. STREETScape AND CONNECTIVITY.

Future roadway improvements on Wolfe Road, Homestead Road and Tantau Avenue ~~should~~ shall be coordinated with planned improvements to improve pedestrian, bike and transit connections. Streetscape improvements will enhance the pedestrian environment with street trees, attractive bus shelters and street furniture. The campus site ~~should~~ shall continue to provide an attractive landscaped edge along the street. Future improvements to the Wolfe Road bridge should be coordinated to preserve the vision for this area.

## GOAL LU-25

Retain and enhance Monta Vista Village's ~~small town~~ village-like character as a pedestrian oriented, small scale, mixed-use residential, neighborhood commercial and industrial area.

### POLICY LU- 25.2. LAND USE.

~~Encourage~~ Require the commercial district to serve as a neighborhood commercial center

for Monta Vista Village and its adjoining neighborhoods. Mixed-use with residential is encouraged. The industrial area should be retained to provide small-scale light industrial and service industrial opportunities, while remaining compatible with the surrounding residential and commercial uses. See General Plan Figure LU- 2 for residential densities and criteria.

#### GOAL LU-26

Retain commercial areas adjacent to neighborhoods and retrofit or encourage redevelopment as neighborhood centers in a pedestrian-oriented and bike-friendly environment.

#### POLICY LU-26.2: BUILDING AND SITE DESIGN (FOR OTHER NON-RESIDENTIAL/MIXED-USE SPECIAL AREAS)

~~Encourage~~ Require buildings to be designed in a pedestrian-oriented format. Buildings ~~should~~ shall be located along the street with pedestrian-scale architecture and retail and active uses on the ground floor. Parking ~~should~~ shall be located to the sides or rear of buildings. ~~Buildings may be one to two stories in height. In some instances where taller heights are as allowed, buildings may be three stories in height, unless otherwise specified by Figure LU-2 and/or the Land Use Map, with one to two story heights preferred closest to lower density residential uses.~~

#### GOAL LU-27

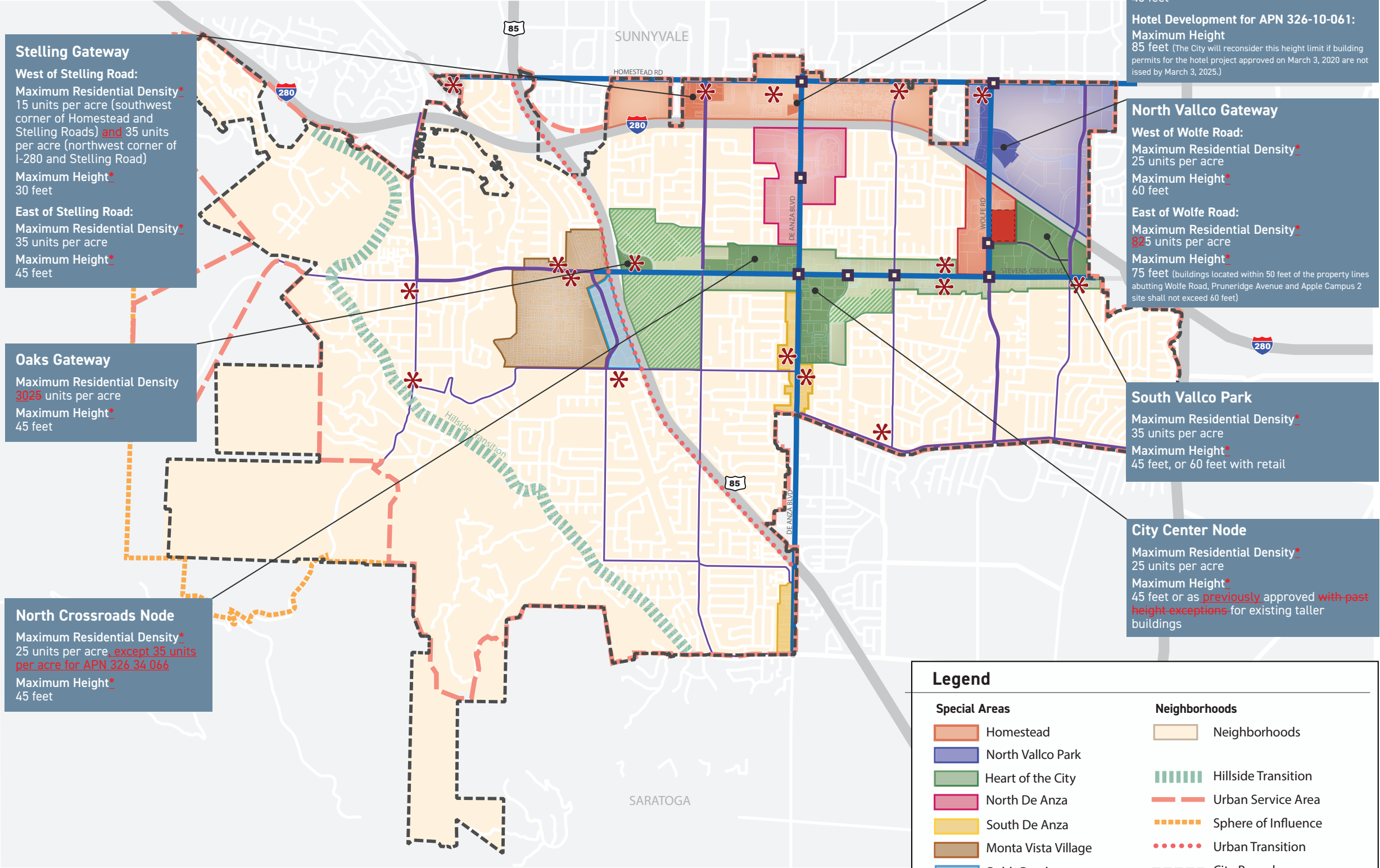
Preserve neighborhood character and enhance connectivity to nearby services to create complete neighborhoods.

#### POLICY LU-27.6: MULTI-FAMILY RESIDENTIAL DESIGN

Maintain an attractive, livable environment for multi-family dwellings.

~~**LU-27.6.2: Ordinance Updates.** Update the Planned Development (residential) and R-3 ordinances to achieve the policies and strategies applicable to multi-family development in neighborhoods.~~

Figure LU-2  
COMMUNITY FORM DIAGRAM



**\*Density and Height:** Unless a different minimum and maximum density and/or height is established through Resolution 24-XXXX, The Vallco Shopping District Special Area shall be subject to the heights and densities shown above, with residential uses permitted in the Regional Shopping/Residential designation and Residential High/Very High Density designation as shown in Figure LU-4.

**Building Planes (does not apply to housing development projects on sites listed in Resolution 24-XXXX):**  
• Maintain the building below a 1:1 slope line drawn from the arterial/boulevard curb line or lines except for the Crossroads Area.  
• For the Crossroads area, see the Crossroads Streetscape Plan.  
• For projects outside of the Vallco Shopping District Special Area that are adjacent to residential areas: Where slope lines or other applicable height and setback limits for projects adjacent to residential areas are not established in a specific plan, conceptual zoning plan or land use plan and in any adopted design guidelines, project review shall be required.  
• For projects within the Vallco Shopping District Special Area that are adjacent to the North Blaney/Portal neighborhood: Maintain the building below a 2:1 slope line drawn from the adjacent residential property line.

• For the North and South Vallco Park areas: Maintain the building below a 1.5:1 (i.e., 1.5 feet of setback for every 1 foot of building height) slope line drawn from the Stevens Creek Blvd. and Homestead Road curb lines and below 1:1 slope line drawn from Wolfe Road and Tantau Avenue curb line.  
• Parcel APN 326-10-061 within the N. De Anza Gateway: For hotel development, maintain the building below the variable slope lines as shown in Figure LU-5. For all other developments, the 1:1 slope line shall be maintained.

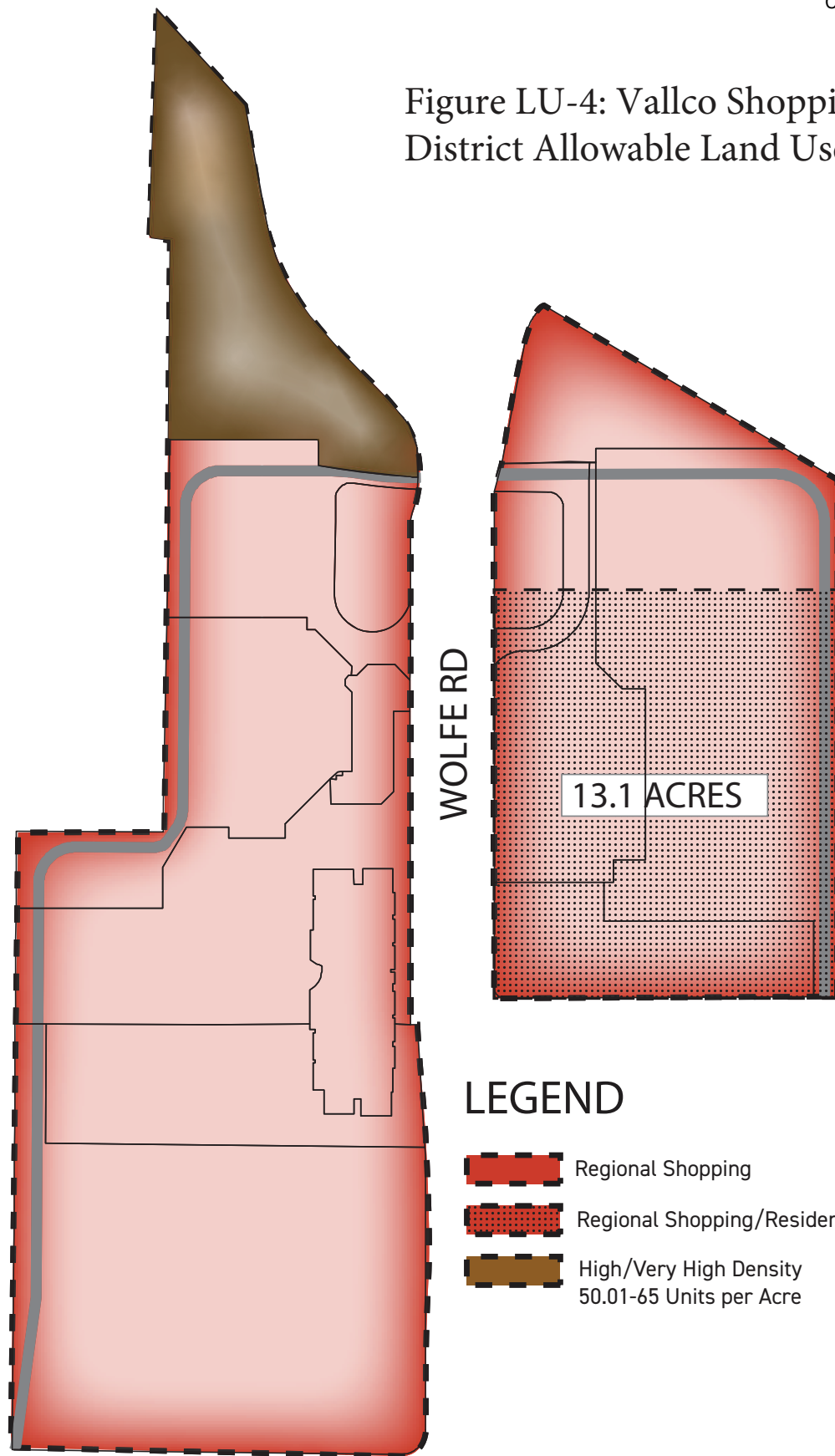
**Rooftop Mechanical Equipment:** Rooftop mechanical equipment and utility structures may exceed stipulated height limitations if they are enclosed, centrally located on the roof and not visible from adjacent streets.

**Priority Housing Sites:** Notwithstanding the heights and densities shown above, the maximum heights and densities for Priority Housing Sites identified in the adopted Housing Element other than the Vallco Shopping District Special Area shall be as reflected in the Housing Element. The Vallco Shopping District Special Area shall be subject to the heights and densities shown above, with residential uses permitted in the Regional Shopping/Residential designation as shown in Figure LU-4.

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Homestead Special Area	
Maximum Residential Density* 15 units per acre (two parcels at southeast corner of Homestead Road and Blaney Avenue) All other areas - Maximum density as indicated in the General Plan Land Use Map or 35 units per acre where none indicated.	Maximum Height* 30 feet, or 45 feet (south side between De Anza and Stelling)
North Vallco Park Special Area	
Maximum Residential Density* 25 units per acre, or as indicated in North Vallco Gateway	Maximum Height* 60 feet
Heart of the City Special Area	
Maximum Residential Density* South Vallco - 35 units per acre All other areas - Maximum density as indicated in each subarea the Heart of the City Land Use Map and, if none indicated, 25 units per acre	Maximum Height* 45 feet, or 30 feet where designated by hatched line
North De Anza Special Area	
Maximum Residential Density* Maximum density is 25 units per acre	Maximum Height* 45 feet
South De Anza Special Area	
Maximum Residential Density* North of Bollinger Rd. - maximum density is 25 units per acre South of HWY 85 - maximum residential is 5-15 units per acre	Maximum Height* 30 feet
Monta Vista Village Special Area	
Maximum Residential Density* Maximum density as indicated in the General Plan Land Use Map, and if none indicated, 15 units per acre	Maximum Height* 30 feet
Bubb Road Special Area	
Maximum Residential Density 20 units per acre	Maximum Height 45 feet
Vallco Shopping District Special Area	
Regional Shopping/Residential Maximum Residential Density 35 units per acre in areas identified in Figure LU-4 Minimum Residential Density 29.7 units per acre in areas identified in Figure LU-4 Maximum Height* Up to 60 feet	Regional Shopping Maximum Residential Density N/A - residential is not a permitted use Maximum Height* Up to 60 feet Residential - High/Very High Maximum Residential Density* 65 units per acre in areas Maximum Height* Up to 70 feet
Neighborhoods	
Maximum Residential Density* Maximum density as indicated in the General Plan Land Use Map; 15 units per acre for Neighborhood Commercial Centers	Maximum Height* 30 feet

Figure LU-4: Vallco Shopping  
District Allowable Land Uses







**DRAFT**

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**City of Cupertino**  
2023-2031 Housing Element  
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# 1. INTRODUCTION

The City of Cupertino (herein after “City”) is a community with a high quality of life, a renowned school system, and a robust high-technology economy. The long-term vitality of the City and the local economy depend upon the availability of all types of housing to meet the community’s diverse housing needs. As Cupertino looks towards the future, increasing the range and diversity of housing options will be integral to the City’s success. Consistent with the goal of being a balanced community, this Housing Element continues the City’s commitment to ensuring new opportunities for residential development, as well as for preserving and enhancing our existing neighborhoods.

This 2023-2031 Housing Element represents the City of Cupertino's intent to plan for the housing needs of the Cupertino community while meeting the State's housing goals as set forth in Article 10.6 of the California Government Code. The California State Legislature has identified the attainment of a decent home and a suitable living environment for every Californian as the State's major housing goal. The Cupertino Housing Element represents a sincere and creative effort to meet local and regional housing needs within the constraints of being a fully established built-out community with limited land availability and extraordinarily high costs of land and housing.

## ROLE AND CONTENT OF THE HOUSING ELEMENT

This Housing Element is a comprehensive eight-year plan to address the housing needs in Cupertino. The Housing Element is the City’s primary policy document regarding the development, rehabilitation, and preservation of housing for all economic segments of the population.

Per State Housing Element law, the document must be periodically updated to:

- Outline the community’s housing production objectives consistent with State and regional growth projections;
- Describe goals, policies and implementation strategies to achieve local housing objectives;
- Examine the local need for housing with a focus on special needs populations;
- Identify adequate sites for the production of housing serving various income levels;
- Analyze potential constraints to new housing production;
- Evaluate the Housing Element for consistency with other General Plan elements; and
- Evaluate Affirmatively Furthering Fair Housing.

This 6th Cycle Housing Element covers an eight-year planning period, from January 31, 2023 through January 31, 2031 and replaces the City's 5th Cycle Housing Element that covered January 31, 2015 through January 31, 2023 planning period.

## CALIFORNIA'S HOUSING CRISIS

The 6<sup>th</sup> Cycle Housing Element update comes at a critical time because California is experiencing a housing crisis, and as is the case for all jurisdictions in California, Cupertino must play its part in meeting the growing demand for housing. In the coming 20-year period, Santa Clara County is projected to add 169,450 jobs,<sup>1</sup> which represents a 15 percent increase. These changes will increase demand for housing across all income levels, and if the region can't identify ways to significantly increase housing production, it risks worsening the burden for existing lower-income households, many of whom don't have the luxury or skill set to move to new a job center but that are nonetheless faced with unsustainable increases in housing cost.

If the region becomes less competitive in attracting high-skilled workers and increasingly unaffordable to lower-income workers and seniors, then social and economic segregation will worsen, only exacerbating historic patterns of housing discrimination, racial bias, and segregation. This potentiality has become so acute in recent years that the California Legislature addressed the issue with new legislation in 2018. SB 686 requires all state and local agencies to explicitly address, combat, and relieve disparities resulting from past patterns of housing segregation to foster more inclusive communities. This is commonly referred to as Affirmative Furthering Fair Housing, or AFFH.

Cupertino has had modest success in meeting its housing needs. During the 2015–2023 planning period, Cupertino added 546 new units to its housing stock, achieving approximately 51 percent of the City's Regional Housing Needs Allocation (RHNA), which called for the construction of 1,064 housing units. Of the units built, approximately 41 percent (225 units) were affordable to lower- and moderate-income households,<sup>2</sup> and 59 percent were affordable to above moderate-income households.

## SUMMARY OF KEY FACTS

Cupertino is renowned as a center of innovation in Silicon Valley that far surpasses its moderate size. Around the world, Cupertino is famous as the home of high-tech giant Apple Inc. In the San Francisco Bay Area, Cupertino is known as one of the founding cities of Silicon Valley and as a city with excellent public schools. Quality schools and closeness to technology jobs make Cupertino a desirable address for a highly educated and culturally diverse population. The following is a summary of key demographic and economic facts about Cupertino:

## POPULATION

- Generally, the population of the Bay Area continues to grow because of natural growth and because the strong economy draws new residents to the region. The population of Cupertino increased by 17.7 percent from 2000 to 2020, which is above the growth rate of the Bay Area, primarily due to annexations of large portions of County unincorporated areas;

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<sup>1</sup> Source: Plan Bay Area, Projections 2040. Association of Bay Area Governments and Metropolitan Transportation Commission, November 2018.

<sup>2</sup> Source: City of Cupertino post construction surveys.

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- Population growth in Cupertino began leveling off in 2014, with the county and regional growth index rates increasing, albeit slowly, while Cupertino's growth has stagnated;
- Cupertino has a higher Asian population compared to the county (68 percent of residents identify as Asian). The City's residents have grown less racially diverse since 2000 with the Asian population increasing by 22 percentage points.

**EMPLOYMENT**

- Cupertino residents most commonly work in the Financial & Professional Services industry. From January 2010 to January 2021, the unemployment rate in Cupertino decreased by 5.0 percentage points. Between 2010 and 2018, the number of jobs located in the jurisdiction increased by 19,322 (59.1 percent).

**HOUSEHOLDS**

- Most households in Cupertino earn more than 100 percent of the regional Area Median Income (AMI), and this is true across most racial and ethnic groups. Hispanic and non-Hispanic White households have the most income diversity.
- Poverty rates highlight the disparity in income and opportunities by race, with the Hispanic (16.7 percent) and Black/African American (16.9 percent) populations experiencing disproportionately higher poverty rates. No other group is above 7 percent.
- The City is home to very high performing schools. According to educational opportunity indices, every census tract in Cupertino scores higher than 0.75—indicating the highest positive educational outcomes.

**HOUSING STOCK**

- Close to 550 residential permits were issued between 2015 and 2022. Jobs have grown significantly since 2004, with nearly all of the growth due to a boost in manufacturing and wholesale jobs (likely technology related jobs), which increased by 19,322 since 2010. At two jobs per household, housing these new workers would have required construction of more than 9,000 housing units. Cupertino's jobs to household ratio is 2.60—higher than Santa Clara County overall (1.71) or the Bay Area (1.47).
- Access to Cupertino is limited by housing pricing and supply. Eighty-three percent (83 percent) of houses in the area are valued over \$1 million. Zillow reports an average market value of \$2.25 million, significantly above the county's and Bay area's market values. Fifty-seven percent (57 percent) of Cupertino's housing units are single family units. The next closest share is multifamily at 21 percent of units, followed by 12 percent attached units and 10 percent du/tri/fourplexes. While owners mostly occupy 3- to 4-bedroom homes (72 percent), 68 percent of renters occupy 1- or 2-bedroom units.
- Renters, who make up 40 percent of all households in the City, are facing the same cost pressures as owners with 87 percent of units renting for more than \$2,000 per month, and 52 percent renting for \$3,000 and more. Just 14 percent of the City's rental units rent for \$2,000

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per month and less. The County has almost three times the proportion of rentals priced under \$2,000 than the City.

- Regionally, mortgage denial rates are modest (14 percent to 17 percent of loans denied) and vary little across races and ethnicities except for Black/African American applicants, who are more frequently denied.

**OVERPAYMENT**

- There are disparities in housing cost burden in Cupertino by race and ethnicity—and minimally by tenure (renters/owners). Hispanic households experience by far the highest rates of cost burden in the City (43.8 percent) followed by Asian households at 28.1 percent, White households at 26.6 percent, and Black/African American households at 11 percent. CHAS data did not report any American Indian and Alaska Native households overpaying for housing.
- Barriers to housing choice are largely related to the City's very high costs of housing and lack of production of sufficient affordable housing. Since 2015, while the City has not denied any housing developments, housing for which building permits have been requested to accommodate growth has largely been priced for above moderate-income households (321 units or 58.8 percent of all units), followed by moderate income households (158 or 28.9 percent). Forty-eight (48) building permit applications were received and issued for low-income units and 19 building permit applications were received and issued for very low-income units, totaling 546 permits.

**SPECIAL NEEDS GROUPS**

- Cupertino has a lower proportion of residents with disabilities than the county. However, unemployment among residents with disabilities is higher relative to those without a disability, with 16 percent of Cupertino residents with a disability unemployed, compared to 3 percent of residents without a disability.

**AFFIRMATIVELY FURTHERING FAIR HOUSING**

In 2018, Assembly Bill 686 (AB 686), signed in 2018, established an independent state mandate to AFFH. AB 686 extends requirements for federal grantees and contractors to “affirmatively further fair housing,” including requirements in the federal Fair Housing Act, to public agencies in California. Affirmatively furthering fair housing is defined specifically as taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity by replacing segregated living patterns with truly integrated and balanced living patterns; transforming racially and ethnically concentrated areas of poverty into areas of opportunity; and fostering and maintaining compliance with civil rights and fair housing laws.

AB 686 requires public agencies to:

- Administer their programs and activities relating to housing and community development in a manner to affirmatively further fair housing;

- Not take any action that is materially inconsistent with the obligation to affirmatively further fair housing;
- Ensure that the program and actions to achieve the goals and objectives of the Housing Element affirmatively further fair housing; and
- Include an assessment of fair housing in the Housing Element.

The AFFH requirement AFFH is derived from The Fair Housing Act of 1968, which prohibited discrimination concerning the sale, rental, and financing of housing based on race, color, religion, national origin, or sex—and was later amended to include familial status and disability. The 2015 U.S. Department of Housing and Urban Development (HUD) Rule to Affirmatively Further Fair Housing and California Assembly Bill 686 (2018) mandate that each jurisdiction takes meaningful action to address significant disparities in housing needs and access to opportunity. AB 686 requires that jurisdictions incorporate AFFH into their Housing Elements, which includes inclusive community participation, an assessment of fair housing, a site inventory reflective of AFFH, and the development of goals, policies, and programs to meaningfully address local fair housing issues.

## REGIONAL HOUSING NEEDS ALLOCATION

Pursuant to California Government Code Section 65584, the State, regional councils of government (in this case, ABAG), and local governments must collectively determine each locality's share of regional housing need allocation (RHNA). In conjunction with the State mandated housing element update cycle that requires Bay Area jurisdictions to update their elements by January 31, 2023, ABAG has determined housing unit production needs for each jurisdiction within the Bay Area. These allocations set housing production goals for the planning period that runs from January 31, 2023 through January 31, 2031 ([Table H-1](#)).

Table H-1 Regional Housing Need Allocation - Cupertino		
Income Group	Unit Allocation	Percent
Very Low Income (<50% of AMI)	1,193	26.0%
Low Income (50%-80% of AMI)	687	15.0%
Moderate Income (80%-120% of AMI)	755	16.5%
Above Mod. Income (>120% of AMI)	1,953	42.6%
<b>Total</b>	<b>4,588</b>	<b>100.0%</b>

SOURCE: California Department of Housing and Community Development, 6th Cycle Regional Housing Needs Allocation, Final Methodology, 2021

\*It is assumed that 50 percent of the very low- income category (596 units) is allocated to the extremely low-income category.

AMI = Area Median Income

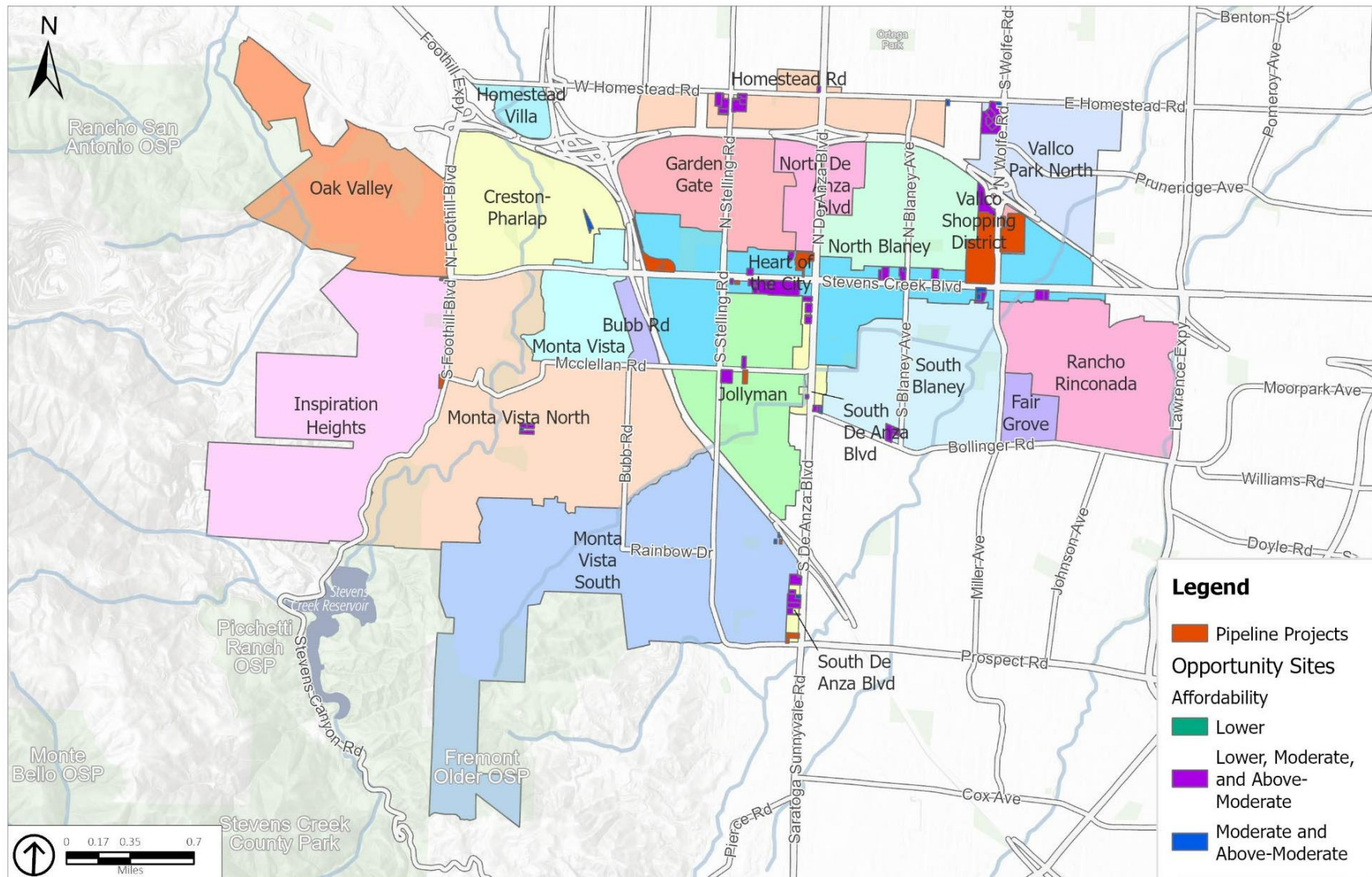
## OVERVIEW OF AVAILABLE SITES FOR HOUSING

The purpose of the adequate sites analysis is to demonstrate that a sufficient supply of land exists in the City to accommodate the fair share of the region's housing needs during the Housing Element planning period (January 31, 2023 – January 31, 2031). The Government Code requires that the Housing Element include an “inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment” ((Section 65583[a][3])). It further requires that the Element analyze zoning and infrastructure on these sites to ensure housing development is feasible during the planning period.

Figure HE-1 indicates the potential opportunity sites to meet the identified regional housing need pursuant. More detailed maps are available in **Appendix B4**.



Figure HE-1 Priority Housing Sites Map



Source: City of Cupertino, 2023

Note: Maps reflect the current parcel boundaries rather than the developable area assumed for redevelopment.



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## 2. GOALS, POLICIES, AND STRATEGIES

The City is responsible for enabling the production of housing by reducing regulatory barriers, providing incentives, and supporting programs that create or preserve housing, especially for vulnerable populations. To enable the construction of quality housing, the City has identified the following goals:

- Goal HE-1: An adequate supply of residential units for all economic segments;
- Goal HE-2: Housing is affordable for a diversity of Cupertino households;
- Goal HE-3: Stable and physically sound residential neighborhoods;
- Goal HE-4: Energy and water conservation;
- Goal HE-5: Special services for lower-income and special-needs households;
- Goal HE-6: Equal access to housing opportunities; and
- Goal HE-7: Coordination with regional organizations, local school districts, and colleges.

## GOAL HE-1      AN ADEQUATE SUPPLY OF RESIDENTIAL UNITS FOR ALL ECONOMIC SEGMENTS

### Policies

- Policy HE-1.1**      **Provision of Adequate Capacity for New Construction Need.** Designate sufficient land at appropriate densities to accommodate Cupertino's Regional Housing Needs Allocation of 4,588 units for the 2023-2031 planning period.
- (Formerly Policy HE-1.1)
- Policy HE-1.2**      **Housing Densities.** Provide a full range of densities for ownership and rental housing.
- (Formerly Policy HE-1.2)
- Policy HE-1.3**      **Mixed-Use Development.** Encourage mixed-use development near transportation facilities and employment centers.
- (Formerly Policy HE-1.3)

## Strategies

**Strategy HE-1.3.1 Land Use Policy and Zoning Provisions.** To accommodate the Regional Housing Needs Allocation (RHNA), the City will continue to:

- Provide adequate capacity through the Land Use Element and Zoning Ordinance to accommodate the RHNA while maintaining a balanced land use plan that offers opportunities for employment growth, commercial/retail activities, services, and amenities.
- Amend development standards for housing as required to provide objective standards that are adequate and appropriate to facilitate a range of housing in the community.
- Monitor the sites inventory and make it available on the City's website.

*Responsibility:* Cupertino Department of Community Development Planning Division

*Timeframe:* Ongoing

*Funding Sources:* None required.

*Objectives:* 4,588 units (596 extremely low-, 597 very low-, 687 low-, 755 moderate-, and 1,953 above moderate-income units). Prioritize projects for lower-income households in areas with high rates of housing cost burden, such as the city's north side, and areas with high risk for displacement, such as the South Blaney neighborhood, and the Garden Gate neighborhood if sites become available. Additionally, target development for lower-income households in high-opportunity areas, such as the Rancho Rinconada and Oak Valley neighborhoods, as well as lower-density neighborhoods, as sites become available. (Formerly HE-1.3.1)

**Strategy HE-1.3.2 Rezoning to Achieve RHNA.** To ensure that the City has sufficient sites zoned appropriately to achieve the City's Regional Housing Needs Allocation (RHNA), rezone sites listed in **Table B4-7** and **B4-9 (Appendix B4)**. The rezoning will include 33.52 acres of residential land that will allow for a realistic capacity of 1,855 units, and 32.67 acres of commercial/residential land that will allow for a realistic capacity of 1,727 units.

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The City will ensure compliance with Government Code Sections 65583 (c)(1) and 65583.2(h) and 65583.2(i), as listed below.

- Permit owner-occupied and rental multifamily uses by right and not require a conditional use permit or other discretionary review or approval for developments in which 20 percent or more of the total units are affordable to lower-income households.
- Ensure that each site can accommodate at least 16 units per site and require that all residential development achieve a minimum density of 20 dwelling units per acre on sites designated for lower income housing.
- Ensure (a) at least 50 percent of the shortfall of low- and very low-income regional housing need can be accommodated on sites designated for exclusively residential uses, or (b) if accommodating more than 50 percent of the low- and very low-income regional housing need on sites designated for mixed uses, all sites designated for mixed uses must allow 100 percent residential use and require residential use to occupy at least 50 percent of the floor area in a mixed-use project.

Ensure sites will be available for development during the planning period where water and sewer can be provided.

*Responsibility:* Cupertino Department of Community Development Planning Division

*Timeframe:* Complete rezoning concurrently with adoption of the Housing Element.

*Funding Sources:* None required.

*Objectives:* Create opportunity for 4,588 units, including 1,880 units for lower-income households that will be within close proximity to services, employment opportunities, frequent transit and other resources in high-opportunity areas, such as in the Heart of the City Special Area.

**Strategy HE-1.3.3 New Residential Zoning Districts and Land Use Designations.** To ensure the City can meet the RHNA, the following actions will be taken:

**Zoning.** Create a new R4 Zoning District that will align with the two new General Plan Land Use designations, High/Very High Density allowing 50.01 to 65 units per acre, and Very High Density allowing 65.01 to 80 units per acre. The City will create development standards that will allow the maximum

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density of this district to be achieved. This will include increased height limits to allow at least three stories, reduced setbacks, reduced lot coverage, and reduced parking requirements.

**General Plan Land Use Designations.** Create two new General Plan Land Use Designations – High/Very High Density, which will allow for 50.01–65 units per acre, and Very High Density, which will allow for 65.01–80 units per acre. The City will also revise the Commercial/Residential designation to identify different densities at which residential development could occur on property zoned for Residential mixed uses for clarity, and allow 100 percent residential on sites with a General Plan Land Use designation of Commercial/Residential, if the project is affordable.

*Responsible Agency: Cupertino Department of Community Development Planning Division*

*Timeframe: Create new R4 Zoning District and General Plan Land Use designations and development standards concurrently with adoption of the Housing Element.*

*Funding Sources: General Fund*

*Quantified Objective: Create opportunity for 600 units, including 300 units for lower-income households that will be within close proximity to services and other resources in high-opportunity areas. Prioritize projects for lower-income households in areas with high rates of housing cost burden, such as the city's north side, and areas with high risk for displacement, such as the South De Anza Special Area, Homestead Special Area, Heart of the City Special Area, and in the South Blaney neighborhood, and, if sites become available, in the Garden Gate and Rancho Rinconada neighborhoods.*

**Strategy HE-1.3.4 Development on Nonvacant Sites.** Establish an outreach and coordination program to connect developers, builders, and owners of nonvacant sites. The program shall:

- a. Emphasize reaching out to owners of nonvacant sites to discuss any interest in redeveloping and available incentives.
- b. Market and advertise these sites to the development community along with any incentives that might be available.

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- c. Establish biennial meetings with developers and builders to discuss development opportunities.

If no projects are proposed on non-vacant sites within the first half of Housing Element planning period, the City will provide additional incentives, which will include, but are not limited to:

- a. Priority project processing
- b. Waive development impact or delay permit fees for affordable units
- c. Flexibility in development standards, such as parking, setbacks, and landscaping requirements
- d. Support grant application requests for funding made by developers for infrastructure upgrades.
- e. Assist developers of 100 percent affordable housing developments with securing additional financing.

*Responsible Agency: Cupertino Department of Community Development Housing Division*

*Timeframe: Initiate by June 2024 and maintain throughout planning period on a biennial basis.*

*Funding Source: None required.*

*Quantified Objective: Engage with three property owners of high-potential nonvacant sites each year. Create opportunity for 500 units, including 300 units for lower-income households that will be within close proximity to services, frequent transit and other resources in high-opportunity areas. Prioritize sites in areas with high rates of housing cost burden, such as the city's north side, and areas with high risk for displacement, such as the South Blaney neighborhood, and, if sites become available, in the Garden Gate and Rancho Rinconada neighborhoods and other lower-density neighborhoods. Additionally, target sites with high unit potential, such as sites in the De Anza Boulevard corridor and the sites with the highest allowable densities. If no projects are proposed on non-vacant sites within the first half of the Housing Element planning period, the City will adopt additional incentives as described above beginning in the third year.*

**Strategy HE-1.3.5 Encourage Mixed-Use Projects and Residential in Commercial Zones.**  
The City will incentivize development of residential units in mixed-use projects that include affordable units (at least 20 percent), by providing incentives, which will include, but are not limited to:

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- Priority project processing
- Delay payment of development impact or permit fees for affordable units
- Flexibility in development standards, such as parking, setbacks, and landscaping requirements
- Support grant application requests for funding made by developers for infrastructure upgrades.
- Assist developers of 100 percent affordable housing developments with securing additional financing.

*Responsible Agency:*      *Cupertino Department of Community Development Planning Division*

*Timeframe:*                      *Annually reach out to developers to inform them of the available incentives and obtain feedback by December 2025 on the provided incentives, review annually and amend as needed. Offer alternative incentives within six months of receiving feedback.*

*Funding Source:*              *None required.*

*Quantified Objective:*      *150 extremely low-income units, 150 very low-income units, and 300 low-income units. Prioritize projects for lower-income households in areas with close proximity to job opportunities, such as the Heart of the City Special area; areas with high rates of housing cost burden, such as the city's north side (in and in the proximity of the Homestead Special Area); and areas with high risk for displacement, such as the South Blaney neighborhood and the Garden Gate neighborhood if sites become available.*

**Strategy HE-1.3.6      Encourage Missing-Middle Housing Developments to Affirmatively Further Fair Housing.** The City will encourage the development of missing-middle housing types that are affordable by design that can provide opportunities for housing that can accommodate the needs, preferences, and financial capabilities of current and future residents in terms of different housing types, tenures, density, sizes, and costs.

Missing middle housing is typically multiple rental units on a single parcel (whether attached or detached) that are compatible in scale and form with traditional single-family homes with one- or two- story forms. Examples include duplexes, triplexes, courtyard apartments. Allowing the development of units in this form will help the incorporation of rental housing within the



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existing, primarily single-family ownership units within neighborhoods. The City will accomplish this by:

- Allowing corner lots in R1 zoning districts to develop as multi-family rental housing using R23 zoning regulations to encourage missing-middle developments.
- Allowing lots zoned for single-family residential uses that abut (either shares a property line or is directly across the street from) property that fronts an arterial or major collector and is zoned and used for commercial or mixed-use development, to develop with rental multi-family housing using R23 zoning regulations to encourage missing middle housing.
- Pursuing the establishment of maximum average unit size as a tool to moderate unit sizes for such developments.

The City will promote the missing middle strategy through City publications and online newsletters, and via the City's website

*Responsibility: Cupertino Department of Community Development Planning Division*

*Timeframe: Complete zoning code changes by December 2025, outreach at least twice in the planning period, and track annual planning applications received.*

*Funding Sources: None required.*

*Objectives: Facilitate the development of 250 lower- and 250 moderate-income households, prioritizing projects in areas with high levels of renter overpayment, including the Creston-Pharlap and South Blaney neighborhoods and lower-density neighborhoods.*

**Strategy HE-1.3.7 Lot Consolidation.** The City will help facilitate lot consolidations to combine small residential lots (lots 0.5 acres or smaller) into larger developable lots. The City will continue the following actions to accomplish this:

- Facilitate and approve lot consolidation when contiguous smaller, underutilized parcels are to be redeveloped.
- Encourage master plans for such sites with coordinated access and circulation.
- Provide technical assistance to property owners of adjacent parcels to facilitate coordinated redevelopment where appropriate.

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- Facilitate intra- and interagency cooperation in working with applicants at no cost prior to application submittal for assistance with preliminary plan review.
- Provide information on the City's website about development opportunities and incentives for lot consolidation to accommodate affordable housing units and discuss these opportunities and incentives with interested developers. As developers/owners interested in lot consolidation and the development of affordable housing projects on small lots approach the City, the City will offer the following incentives:
  - Allow affordable projects to exceed the maximum height limits,
  - Reduce setbacks,
  - Reduce parking requirements, and/or
  - Offset fees (when financially feasible) and offer concurrent/fast tracking of project application reviews to developers who provide 100 percent affordable housing.

*Responsibility: Cupertino Department of Community Development Planning Division*

*Timeframe: Identify incentives by December 2025, offer incentives by June 2026. Ongoing thereafter, as projects are processed through the Planning Department. Annually meet with local developers to discuss development opportunities and incentives for lot consolidation.*

*Funding Sources: None required.*

*Objectives: 27 moderate-income units, and 48 above moderate-income units. Prioritize projects for lower-income households in areas with high rates of housing cost burden, such as the city's north side (in and in proximity of the Homestead Special Area), and areas with high risk for displacement, such as the South Blaney neighborhood and the Garden Gate neighborhood if sites become available. Additionally, target development for lower-income households in high-opportunity areas, such as the Homestead, Heart of the City Special Area, South De Anza Special Area, and North and South Monta Vista Village neighborhoods, as well as other lower-density neighborhoods.*

(Formerly HE-1.3.3)

**Strategy HE-1.3.8 Accessory Dwelling Units.** The City will encourage the construction of accessory dwelling units (ADUs) throughout the city through the following actions, which are aimed at providing an increased supply of units affordable to very low, low, and moderate-income households and therefore provide affordable housing in high opportunity neighborhoods and help reduce displacement risk for low-income households resulting from overpayment:

- Amend the municipal code to be consistent with the latest State legislation related to ADUs, in accordance with California Government Code Sections 65852.2 *et seq.*
- Continue to provide guidance and educational materials for building ADUs on the City's website, including permitting procedures. Additionally, the City will biennially present homeowner associations with information about the community and neighborhood benefits of ADUs, and inform them that covenants, conditions, and restrictions (CC&Rs) prohibiting ADUs are contrary to State law.
- To increase mobility for lower income households, proactively advertise the benefits of ADUs by distributing multilingual informational materials in areas of high opportunity and a limited number of renter households, including the Monta Vista North and Oak Valley neighborhoods, to increase mobility for low-income households by posting flyers in community gathering places and providing information to community groups and homeowners' associations at least annually.
- Continue to offer the pre-approved ADU program and post links to approved plans as available.
- Annually monitor ADU production and affordability as a part of the Annual Progress Report process and adjust or expand the focus of the education and outreach efforts.
- Apply annually, if grants are available, for funding to provide incentives, for homeowners to construct ADUs affordable to very low, low, and moderate-income tenants.
- Permit up to a maximum of three, 800 s.f. attached or detached ADUs, JADUs, or conversion ADUs on all single family zoned properties and a maximum of up to two 800 s.f. attached or detached ADUs, JADUs or conversion ADUs on all duplex zoned properties, which is in excess of the number of ADUs allowed under state law.

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- Identify incentives for construction of affordable ADUs with new development, which may include deferring collection of impact fees for the square footage associated with the ADU until issuance of the certificate of occupancy.

*Responsibility:* Cupertino Department of Community Development Planning and Housing Divisions.

*Timeframe:* Amend the municipal code by June 2024 and update ADU materials available by June 2024. Allow ADUs ongoing beyond State law requirements, Present proposed code amendment within six months of Housing Element adoption. Identify incentives by June 2025, and apply annually for funding to support ADU incentives. Evaluate effectiveness of ADU approvals annually, starting April 2024, and identify additional incentives within one year if ADU targets are not being met.

*Funding Sources:* Below Market Rate Affordable Housing Fund

*Objectives:* 60 ADUs to improve housing mobility and improve proximity to services and employment opportunities for lower- and moderate-income households, with targeted outreach in high-opportunity areas with high rates of renter overpayment, such as the Rancho Rinconada neighborhood, and areas in close proximity to jobs, such as the North Blaney and Garden Gate neighborhoods, as well as lower-density neighborhoods. (40 ADUs are assumed to address the displacement risk).

(Formerly HE-1.3.2)

**Strategy HE-1.3.9 Review Development Standards.** The City recognizes the need to encourage a range of housing options in the community. The City will review and revise its zoning code to:

- Review and revise design and development standards (setbacks, height limits, lot coverage, etc.) and guidelines for multifamily housing, specifically in the R4 Zone and the Priority Development Area (PDA) to ensure standards are objective and that maximum densities can be achieved.
- Provide flexibility in development standards to accommodate new models and approaches to providing housing, such as live/work housing to allow housing to adapt to the needs of occupants.

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- Offer flexible residential development standards in planned residential zoning districts, such as smaller lot sizes, lot widths, setbacks, and higher floor-area ratios particularly for higher-density and attached housing developments.
- Consider granting reductions in off-street parking for senior housing. Analyze local parking standards compared to those of neighboring jurisdictions with similar characteristics and reduce parking standards to ensure parking is not a constraint on development. Specifically, reduce parking requirements for studio apartments, senior housing, and single-room occupancy (SRO) units and others as required by the analysis.
- Require implementation of universal design standards for new multifamily development to provide disabled access. These standards would require the adoption of features like at least one “no-step” entry point, interior and exterior doors with 32 inches of clear passage, and one bathroom on the main floor that is able to be maneuvered in a wheelchair. Encourage the implementation of universal design standards for new single-family homes.
- Remove the following bolded text from the major development permit findings. The proposed housing developments 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**.

*Responsibility: Cupertino Department of Community Development Planning Division and Housing Division*

*Timeframe: Analyze parking standards by December 2025 and revise standards by June 2025. Review and revise standards by June 2025; annually review objective design standards and amend as needed.*

*Funding Sources: None required.*

*Objectives: Development of 150 units for lower-income households, 150 units for moderate-income households, and 500 for above-moderate income households by revising development standards.*

(Formerly HE-1.3.4)

**Strategy HE-1.3.10 Innovative and Family-Friendly Housing Options.** Explore innovative and alternative housing options that provide greater flexibility and affordability in the housing stock that would address housing needs for intergenerational households, students, special-needs groups, and lower-income households. The City will implement the following:

- Promote housing designs and unit mix to attract multigenerational households by encouraging housing features and more bedrooms (including four-bedroom units), as well as other on-site amenities, such as usable outdoor open space for multigenerational use to promote place-based revitalization, and multipurpose rooms that can be used for after-school homework clubs, computer, art, or other resident activities. Facilitate at least one partnership with social service organizations to provide programming in community spaces within a 100 percent affordable project during the planning period.
- Research the possibility of a Home Sharing program that would help to match “providers” with a spare room or rooms with “seekers” who are looking for an affordable place to live. This could either be done at a countywide level or the City could consider partnering with De Anza Community College to facilitate a home-sharing program to account for the high number of empty rooms across Cupertino’s single-family home supply. If the program is determined to be feasible, implement within one year of feasibility determination. Priority outreach for program implementation will focus on the city’s lower-density neighborhoods including, but not limited to, Ranchonada, Fair Grove, Monta Vista North, and Inspiration Heights.

The City will use the findings of this program to target development of a variety of housing types in areas of concentrated overpayment to reduce displacement risk as well as promote inclusion and support integration of housing types based on income to facilitate mobility opportunities in high resource areas and areas of high median income.

*Responsibility:* Cupertino Department of Community Development Planning and Housing Divisions

*Timeframe:* Explore innovative and alternative housing options to help further housing production by December 2025, amend the zoning code as needed by October 2024.

*Funding:* None required.

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*Quantified Objective:* 200 lower-income units to improve housing mobility and reduce displacement risk, aiming for at least 50 in close proximity to jobs, transit, open space, and other services and 50 integrated into predominantly single-family, and higher-income areas, and 10 – 4 bedroom units.

**Strategy HE-1.3.11 Replacement Housing.** To facilitate place-based revitalization for households at risk of displacement due to new development, the City will require replacement housing units subject to the requirements of Government Code, Sections 66300.5, 65583.2, and 65915(c)(3), on all sites in the City when any new development (residential, mixed-use, or nonresidential) occurs on a site that has been occupied by or restricted for the use of lower-income households at any time during the previous five years. This requirement applies to nonvacant sites and vacant sites with previous residential uses that have been vacated or demolished.

*Responsible Agency:* Cupertino Department of Community Development Planning Division

*Timeframe:* The replacement requirement will be implemented immediately and applied as applications on identified sites are received and processed.

*Funding Source:* None required.

*Quantified Objective:* Replace any units identified in the sites inventory if: (a) they are planned to be demolished or have been demolished in the past 5 years, and (b) they are "protected units" as defined in the statutes. Ensure that housing development projects create at least as many total units as are planned to be demolished.

**Strategy HE-1.3.12 Track Housing Production.** The City will monitor housing production throughout the planning period and ensure the Pipeline Projects (**Table B4-2**) and sites identified to meet the RHNA (**Tables B4-7** and **B4-9**), maintain sufficient housing capacity to meet the RHNA target by income level. The city will not adopt reductions in allowable residential densities for Pipeline Projects in the Appendix B4 through General Plan update/amendment or rezone or approve development or building permits for sites identified in the inventory with fewer units or affordable to a different income category than identified in the inventory, unless findings are made that the remaining capacity is sufficient

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to accommodate remaining unmet RHNA for each income level. The City will track and report on:

- Pipeline projects (**Table B4-2**) and progress towards completion;
- Unit count and income/affordability assumed on parcels in the sites inventory (**Tables B4-7 and B4-9**);
- Actual number of units permitted and constructed by income/affordability;
- Net change in capacity and summary of remaining capacity by income level in meeting remaining RHNA;

In accordance with No Net Loss law, if project approval results in the remaining sites capacity becoming inadequate to accommodate RHNA by income category, the City will identify or rezone sufficient sites to accommodate the shortfall within 180 days of approval. Further, the City will track progress of pending projects towards completion and if projects are not assumed to be completed in the planning period, the City will evaluate whether there are sufficient sites available to accommodate the RHNA. If sufficient sites are not available, the City will take necessary actions (e.g., rezoning or identify additional sites) to maintain adequate sites within one year. The results of the tracking will be reported in the Housing Element Annual Progress Report reported annually to the City Council and posted online for public review.

*Responsible Agency:*      *Cupertino Department of Community Development Planning Division*

*Timeframe:*      *Ongoing. If projects are approved on inventory sites with fewer units or at a different income level than shown in the Housing Element, make no net loss findings as required by Section 65863. If insufficient sites remain by income category, designate additional sites within 180 days. Complete a mid-term evaluation of the City's pipeline projects to review progress towards completion and if additional actions are necessary, complete additional actions within one year.*

*Funding Source:*      *None required.*

*Quantified Objective:*      *Ensure sufficient capacity is maintained to accommodate the RHNA.*



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**Strategy HE-1.3.13 Housing Element Monitoring and General Plan Consistency.** As required by State law, the City will review the status of Housing Element programs annually. Annual review will cover consistency between the Housing Element and the other General Plan Elements. As portions of the General Plan are amended, the Housing Element will be reviewed and revised to ensure that internal consistency is maintained.

*Responsible Agency:* Cupertino Department of Community Development Planning Division

*Timeframe:* Review and revise as elements are updated.

*Funding Source:* None required.

## GOAL HE-2

## HOUSING IS AFFORDABLE FOR A DIVERSITY OF CUPERTINO HOUSEHOLDS

### Policies

**Policy HE-2.1 Housing Mitigation.** Ensure that all new developments, including market-rate residential developments, help mitigate project-related impacts on affordable housing needs.

(Formerly Policy HE-2.1)

**Policy HE-2.2 Range of Housing Types.** Encourage the development of diverse housing stock that provides a range of housing types (including smaller, moderate-cost housing) and affordability levels. Emphasize the provision of housing for lower- and moderate-income households, including wage earners who provide essential public services (e.g., school district employees, municipal and public safety employees, etc.). (Formerly Policy HE-2.1)

**Policy HE-2.3 Development of Affordable Housing and Housing for Persons with Special Needs.** Make every reasonable effort to disperse affordable units throughout the community but not at the expense of undermining the fundamental goal of providing affordable units. Ensure that the City's development standards accommodate housing needed by persons with special needs.

(Formerly Policy HE-2.1)

## Strategies

**Strategy HE-2.3.1 Support Affordable Housing Development.** Work with housing developers to expand opportunities for affordable lower-income housing for special-needs groups, including persons with physical and developmental disabilities, female-headed households, large families, extremely low-income households, and persons experiencing homelessness by creating partnerships, providing incentives, and pursuing funding opportunities.

- Prioritize projects that are in areas with currently low percentages of renter-occupied households to facilitate housing mobility and integration of ownership and rental units, including the Monta Vista North neighborhood. Additionally, prioritize projects in areas with high rates of housing cost burden, such as the city's north side (in and in proximity of the Homestead Special Area).
- Support affordable housing development and give priority to permit processing for projects providing 100 percent affordable housing for special-needs groups throughout the city, including in areas that are predominantly single-family residential. The target populations include seniors; persons with disabilities, including developmental disabilities; female-headed households; and persons experiencing homelessness to reduce the displacement risk for these residents from their existing homes and communities.
- Promote the use of the density bonus ordinance, application process streamlining, fee deferrals, and consider development fee exemption for projects that are 100 percent affordable to encourage affordable housing, with an emphasis on encouraging affordable housing in high-resource areas and areas with limited rental opportunities currently.
- Facilitate the approval process for land divisions, lot line adjustments, and/or specific plans or master plans resulting in parcel sizes that enable 50 percent (of the total number of units) affordable housing development and process fee deferrals related to the subdivision for 50 percent (of the total number of units) affordable projects.
- Work with public or private sponsors to identify candidate sites for new construction of housing for special needs, including transitional and supportive households, and take all actions necessary to expedite processing of such projects.
- Encourage residential development near transit routes, civic uses, social services, grocery stores, parks, open space, and other health resources.

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- Partner with nonprofit and for-profit affordable housing developers to support their financing applications for State and federal grant programs, tax-exempt bonds, and other programs that become available.
- Pursue federal, State, and private funding for low- and moderate-income housing by applying for State and federal monies for direct support of lower-income housing construction and rehabilitation, specifically for development of housing affordable to extremely low-income households.

*Responsibility: Cupertino Department of Community Development Planning and Housing Divisions*

*Time Frame: Ongoing, as projects are processed by the City. Annually apply for funding and engage with housing developers.*

*Funding: Where feasible, leverage State and federal financing, including Low-Income Housing Tax Credits, CHFA multifamily housing assistance programs, HCD Multifamily Housing Loans, CDBG funds, HOME funds, and other available financing.*

*Quantified Objective: Create opportunity for 450 units for lower-income households that will be within close proximity to services and other resources in high-opportunity areas. Include development of 250 units affordable to special-needs, lower-income households to reduce displacement risk for these populations. Target 100 units in close proximity to services and transit, and 100 in higher-income, predominantly single-family neighborhoods to promote mobility opportunities. Opportunity areas for targeting include the Monta Vista North neighborhood. Additionally, target areas with high rates of housing cost burden, such as the city's north side (in and in proximity of the Homestead Special Area)*

**Strategy HE-2.3.2 Office and Industrial Housing Mitigation Program.** The City will continue to implement the Office and Industrial Housing Mitigation Program. This program requires that developers of office, commercial, and industrial space pay a mitigation fee, which will then be used to support affordable housing in Cupertino. These mitigation fees are collected and deposited in the City's Below Market-Rate Affordable Housing Fund (BMR AHF).

*Responsibility: Cupertino Department of Community Development Planning Division*

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*Timeframe:* Ongoing

*Funding Sources:* BMR AHF

*Objectives:* With limited office and industrial development, facilitate development of 20 units for very low- and low-income households.

(Formerly HE-2.3.1)

### Strategy HE-2.3.3

**Residential Housing Mitigation Program.** The City will continue to implement the Residential Housing Mitigation Program to mitigate the need for affordable housing created by new market-rate residential development. This program applies to new residential development. Mitigation includes either the payment of the “Housing Mitigation” fee or the provision of a Below Market-Rate (BMR) unit or units. Projects of five or more for-sale units must provide on-site BMR units. Projects of four units or fewer for-sale units can either build one BMR unit or pay the Housing Mitigation fee. Developers of market-rate rental units, where the units cannot be sold individually, must pay the Housing Mitigation fee to the BMR AHF. The BMR program specifies the following:

- **Priority.** To the extent permitted by law, priority for occupancy is given to Cupertino residents, Cupertino full-time employees, and Cupertino public service employees, as defined in Cupertino’s Residential Housing Mitigation Manual.
- **For-Sale Residential Developments.** Require 20 percent for-sale BMR units in all residential developments where the units can be sold individually (including single-family homes, common interest developments, and condominium conversions) or allow rental BMR units.
- **Rental Residential Developments.** Require 15 percent 1 very low- and low-income BMR units in all rental residential developments.
- **Rental Alternative.** Allow rental BMR units in for-sale residential developments and allow developers of market-rate rental developments to provide on-site rental BMR units, if the developer: (1) enters into an agreement limiting rents in exchange for a financial contribution or a type of assistance specified in density bonus law (which includes a variety of regulatory relief); and (2) provides very low-income and low-income BMR rental units.

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- **Affordable Prices and Rents.** Continue to implement guidelines for affordable sales prices and affordable rents for new affordable housing and update the guidelines each year as new income guidelines are received.
- **Development of BMR Units Off Site.** Allow developers to meet all or a portion of their BMR or Housing Mitigation fee requirement by making land available for the City or a nonprofit housing developer to construct affordable housing or allow developers to construct the required BMR units off site, in partnership with a nonprofit. The criteria for land donation or off-site BMR units (or combination of the two options) will be identified in the Residential Housing Mitigation Manual.
- **BMR Term.** Require BMR units to remain affordable for a minimum of 99 years; enforce the City's first right of refusal for BMR units and other means to ensure that BMR units remain affordable.
- Monitor the affordable for-sale inventory by requiring BMR homeowners to submit proof of occupancy, such as utility bills, mortgage loan documentation, homeowner's insurance, and property tax bills.

*Responsibility:* Cupertino Department of Community Development Planning Division and Housing Division

*Timeframe:* Annually monitor program to ensure that it is not acting as a constraint on development. Conduct economic feasibility study if it appears to be a constraint and make any required changes within one years.

*Funding Sources:* BHR AHF

*Objectives:* 200 BMR units over eight years in areas with high rates of housing cost burden, such as the city's north side (in and in proximity of the Homestead Special Area), and areas with high risk for displacement, such as the South Blaney neighborhood and Garden Gate neighborhood if sites become available.

(Formerly HE-2.3.2)

**Strategy HE-2.3.4 Below-Market Rate (BMR) Affordable Housing Fund (AHF).** The City's BMR AHF will continue to support affordable housing projects, strategies, and services, including, but not limited to:

- BMR Program Administration
- Substantial rehabilitation
- Land acquisition

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- Acquisition and/or rehabilitation of buildings for permanent affordability
- New construction
- Preserving “at-risk” BMR units
- Rental operating subsidies
- Down payment assistance
- Direct gap financing
- Fair housing

The City will target a portion of the BMR AHF to benefit extremely low-income households and persons with special needs (such as the elderly, victims of domestic violence, and the disabled, including persons with developmental disabilities), to the extent that these target populations are found to be consistent with the needs identified in the nexus study the City prepares to identify the connection, or “nexus” between new developments and the need for affordable housing. Additionally, development of housing for lower-income households will be facilitated citywide, but priority will be given to areas with currently low percentages of renter-occupied households to facilitate housing mobility and integration of ownership and rental units, including the Monta Vista North neighborhood. Additionally, priority will also be given to areas with high rates of cost burden, such as the city’s north side (in and in proximity of the Homestead Special Area).

*Responsibility:*                      *Cupertino Department of Community Development Planning Division and Housing Division*

*Timeframe:*                      *Ongoing/annually publish requests for proposals (RFPs) to solicit projects.*

*Funding Sources:*                      *BMR AHF*

*Objectives:*                      *Facilitate the development of 50 units affordable to very low- and low-income households.*

(Formerly HE-2.3.3)

**Strategy HE-2.3.5      Housing Resources.** Cupertino residents and developers interested in providing affordable housing in the city have access to a variety of resources administered by other agencies. The City will continue to provide information on housing resources and services offered by the County and other outside agencies. These include, but are not limited to:

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- Mortgage Credit Certificate (MCC) – Santa Clara County Housing and Community Development Department.
- First-Time Homebuyer Assistance and Developer Loans for Multifamily Development - Housing Trust Silicon Valley (HTSV).
- Housing Choice Vouchers (Section 8) - Housing Authority of Santa Clara County (HASCC).
- Affordable housing development - Santa Clara County HOME Consortium.

The City will also continue to identify and pursue various affordable housing resources available at the local, regional, state, and federal levels that could be used to address housing needs in the community. Outreach on these programs will be conducted citywide, but extra focus will be given to areas with historically higher areas of income segregation, such as the areas along the Interstate (I-) 280 corridor, in the areas abutting the intersection of Highway 85 and Stevens Creek Boulevard, along N. Foothill Boulevard (western edge of the Creston-Pharlap neighborhood), and along Miller Avenue, north of Creekside Park.

*Responsibility:* Cupertino Department of Community Development Housing Division

*Timeframe:* Annually identify and pursue various housing resources and inform residents and developers on available programs, update website as funding is available.

*Funding Sources:* None required.

*Objectives:* Provide information about available programs to 50 households each year, with targeted outreach to areas with historically higher areas of income segregation, such as the areas along the I-280 corridor, in the areas abutting the intersection of Highway 85 and Stevens Creek Boulevard, along N. Foothill Boulevard (western edge of Creston-Pharlap neighborhood), and along Miller Avenue, north of Creekside Park.

(Formerly HE-2.3.4)



**Strategy HE-2.3.6 Surplus Properties for Housing and Faith-Based Housing.** The City will partner with local developers or organizations to purchase surplus properties, infill lots, and other green fields within the city to use for the development of affordable housing. Encourage mixed-use development (i.e., retail on ground floor with residential on the upper levels) as a pull factor for individuals to live in the new development as follows:

- Work with local public agencies, school districts, and churches to identify surplus properties or underutilized properties that have the potential for residential development.
- Compile and maintain an inventory of vacant properties owned by the City or other public entities. The inventory will include land donated and accepted by the City for donation, and land otherwise acquired by the city. The City will then undertake steps leading to release of RFP to solicit developer interest, which may include declaration of land as ‘surplus’. The City will publicize the inventory, post it on the website, make it available to non-profit developers, and prioritize affordable housing on these sites in accordance with the Surplus Lands Act (Government Code sections 54220-54234). To create housing mobility opportunities for lower-income households, conduct outreach to religious institutions to inform them of their development rights under SB 4 and encourage housing proposals within one year of Housing Element adoption. If no application for housing on a religious institution/faith-based site is received within twelve months after outreach is completed, the City will expand outreach efforts to be conducted annually. This will include direct mailings to faith-based sites highlighting successful affordable housing units on other faith-based sites, as well as available City resources and programs to support such projects if available. Additional outreach focus will be given to religious institutions located in lower-density neighborhoods to promote housing mobility in these areas.
- Encourage long-term land leases of properties from churches, school districts, and corporations for construction of affordable units.
- Evaluate the feasibility of developing special housing for teachers or other employee groups on the surplus properties.
- Research other jurisdictions’ housing programs for teachers for their potential applicability in Cupertino.

*Responsibility: Cupertino Department of Community Development Planning and Housing Divisions*

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*Timeframe:* Ongoing, Reach out to affordable housing developers biennially to discuss opportunities. Review and update City-owned properties list annually. Conduct initial outreach within one year of Housing Element adoption and additional outreach as new legislation is passed. If no applications for housing projects on religious sites are received by December 2025, conduct outreach annually.

*Funding Sources:* BMR AHF

*Objectives:* Facilitate the development of 5 new affordable housing projects on sites owned by religious institutions.

(Formerly HE-2.3.5)

**Strategy HE-2.3.7 Incentives for Affordable Housing Development.** The City will continue to offer a range of incentives to facilitate the development of affordable housing. These include:

- Financial assistance through the City’s Below-Market Rate Affordable Housing Fund (BMR AHF) and Community Development Block Grant (CDBG) funds.
- Partner with CDBG and/or support the funding application of qualified affordable housing developers for regional, state, and federal affordable housing funds, including HOME funds, Low-Income Housing Tax Credits (LIHTC), and mortgage revenue bonds.
- Density bonus incentives (see **Strategy HE-2.3.8**).
- Flexible development standards
- Technical assistance.
- Waiver of park dedication fees and construction tax.
- Parking ordinance waivers.
- Expedited permit processing.

Development of housing for lower-income households will be facilitated citywide, but extra focus will be given to areas with currently low percentages of renter-occupied households to facilitate housing mobility and integration of ownership and rental units, including the Monta Vista North neighborhood. Additionally, focus will be given to areas with high rates of housing cost burden, such as the city’s north side (in and in proximity of the Homestead Special Area).

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*Responsibility:* Cupertino Department of Community Development Planning Division and Housing Division

*Timeframe:* Annually review incentives and include additional incentives as needed to facilitate affordable housing development, annually publish RFPs to solicit projects. If additional incentives are found to be needed and feasible, implement within one year of determination.

*Funding Sources:* BMR AHF, CDBG, HOME, General Fund

*Objectives:* Facilitate development of 400 units available to very low-income households and 250 units affordable to low-income households.

(Formerly HE-2.3.6)

**Strategy HE-2.3.8 Density Bonus Ordinance.** The City will continue to review and revise the Zoning Code to be consistent with State density bonus law. Although most housing developers are familiar with density bonus law and frequently request bonuses, concessions, waivers, and parking reductions, the city will provide available guidelines and other information to developers regarding the statute. The City currently allows a 100% bonus for all affordable housing developments.

*Responsibility:* Cupertino Department of Community Development Planning Division

*Timeframe:* Update ordinance to comply with state law by June 2025. Annually review and revise ordinance as needed to comply with State law. *Funding Sources:* None required.

*Objectives:* Facilitate the development of 200 units of housing affordable to very low-income households and 300 units affordable to low-income households. Ensure density bonus ordinance complies with state law and target citywide. (Formerly HE-2.3.7)

**Strategy HE-2.3.9 Review Impact Fees.** To ensure that impact fees are not a constraint on the development of housing, the City will:

- Review and revise impact fees by researching surrounding jurisdictions to determine other possible fee structures, grant funding opportunities and similar funding sources, review of average persons per unit at higher densities of development and will consider:

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- Alternatives, such as privately owned, publicly accessible (POPA) areas, or allowing parkland credit for pedestrian connections and trails.
- Incorporating priority processing, granting fee waivers or deferrals for 100 percent affordable projects, and modifying development standards,

*Responsibility:* Cupertino Department of Finance; City Manager's Office, Department of Community Development – Housing and Planning Divisions

*Timeframe:* Review current fees by December 2025, revise based on research outcome by June 2026.

*Funding Sources:* None required.

*Objectives:* Through revised fees or fee alternatives, facilitate the development of 500 units affordable to lower-income households, 300 units affordable to moderate-income households, and 500 units affordable to above moderate-income households.

### Strategy HE-2.3.10 Extremely Low-Income Housing

The City will continue to encourage the development of adequate housing to meet the needs of extremely low-income households particularly for seniors, victims of domestic violence, and persons with disabilities (including persons with developmental disabilities), through a variety of actions. The development of housing for extremely low-income households will be facilitated citywide, but priority will be given to areas with currently low percentages of renter-occupied households to facilitate housing mobility and integration of ownership and rental units, including the Monta Vista North neighborhood. Additionally, priority will be given to areas with high rates of housing cost burden, such as the city's north side.

- Provide financing assistance using the Below-Market Rate Affordable Housing Fund (BMR AHF) and Community Development Block Grant (CDBG) funds.
- Review available State and Federal NOFAs on an annual basis and support funding applications for affordable housing projects as funding becomes available.
- Adopt a priority processing procedure for projects with extremely low-income units within one year of Housing Element adoption.

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- Grant reductions in off-street parking as required by density bonus law and other state statutes.
- Expand regulatory incentives for the development of units affordable to extremely low-income households and housing for special-needs groups, including persons with disabilities (including developmental disabilities), and individuals and families in need of emergency/transitional housing. The City will work with developers and evaluate additional proposed development standards reductions for projects that include housing for extremely low-income households, and will present findings and proposed code amendments to the Planning Commission and City Council for adoption within nine months of identified findings.
- Partner with and/or support the funding application of qualified affordable housing developers for regional, state, and federal affordable housing funds, including HOME funds, Low-Income Housing Tax Credits (LIHTC), and mortgage revenue bond.
- Amend the Zoning Code to define single-room occupancy (SRO) units and allow them in the R4 zoning districts with a use permit, in compliance with Government Code Section 65583(c)(1).

*Responsibility:* Cupertino Department of Community Development Planning Division and Housing Division

*Timeframe:* Adopt zoning code amendments within 18 months after Housing Element adoption. Ongoing, as projects are processed by the Planning Division. By June 2025 outreach to organizations that support extremely low-income residents to understand funding needs, and review and prioritize local funding at least twice in the planning period, and support expediting applications as they are submitted. Annually coordinate to address and identify the needs and inform developers of available funding and incentives. Present findings and proposed code amendments for adoption within nine months of identified findings.

*Funding Sources:* BMR AHF, CDBG, HOME, LIHTC.

*Objectives:* Assist 250 extremely low-income households to reduce overpayment and displacement risk for special-needs groups, as identified in the program.

(Formerly HE-2.3.8)

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**Strategy HE-2.3.11 Assistance for Persons with Developmental Disabilities.** To increase housing mobility opportunities and support persons with developmental disabilities, the City will:

- Provide referrals to the San Andreas Regional Center to inform families with persons with developmental disabilities of the resources available to them.
- Continue to support the development of small group homes that serve developmentally disabled adults; adopt a policy to establish priority processing and offer fee waivers or deferrals within one year of Housing Element adoption.
- Work with the nonprofit community to encourage the inclusion of units for persons with developmental disabilities in future affordable housing developments.
- Encourage housing providers to pursue funding sources designated for persons with special needs and disabilities and notify housing providers of available funding opportunities as they become available. Offer technical assistance to project developers on funding applications.
- Encourage housing providers to designate a portion of new affordable housing developments for persons with disabilities, including persons with developmental disabilities, to increase housing mobility opportunities and pursue funding sources designated for persons with special needs and disabilities.

*Responsibility:* Cupertino Department of Community Development Housing Division

*Timeframe:* Ongoing; Meet with disability providers by December 2025 and annually coordinate with regional offices and developers to pursue housing opportunities and help facilitate the development of housing for persons with disabilities. Adopt priority processing and fee deferral/waiver policy within one year of Housing Element adoption.

*Funding Sources:* None required.

*Objectives:* 10 housing units for persons with disabilities to reduce displacement risk. Prioritize areas with high risk for displacement, such as the South Blaney neighborhood, and areas with higher concentrations of residents with disabilities, such as

*the Rancho Rinconada and Fairgrove neighborhoods, as sites become available.*

**Strategy HE-2.3.12 Live/Work Units.** Encourage the development or conversion of affordable live/workspace units to reduce displacement of residents and employees, specifically when replacing older strip mall type developments along busier streets (e.g., S. De Anza Boulevard and Stevens Creek Boulevard) to preserve the more urban and mixed-use character of the street. This would allow the street frontage to remain commercial use while the residential portion of the units would be located towards the rear of the site or in upper floors.

The City will also help to market the Homeownership Assistance Programs offered by Housing Trust Silicon Valley (HTSV) in an effort to expand affordable homeownership options.

*Responsibility: Cupertino Department of Community Development Planning Division and Housing Division*

*Timeframe: Conduct outreach to commercial property owners by June 2025. . Adopt any required zoning amendments by December 2025. Annually monitor applications and modify program if required. Funding Sources: None required.*

*Objectives: 10 live-work units to reduce displacement risk. Prioritize development in areas with high risk for displacement, such as the South Blaney neighborhood.*

## GOAL HE-3 STABLE AND PHYSICALLY SOUND RESIDENTIAL NEIGHBORHOODS

### Policies

**Policy HE-3.1** **Housing Rehabilitation.** Pursue and/or provide funding for the acquisition/rehabilitation of housing that is affordable to very low-, low-, and moderate-income households. Actively support and assist nonprofit and for-profit developers in producing affordable units.

(Formerly Policy HE-3.1)

**Policy HE-3.2** **Maintenance and Repair.** Assist lower-income homeowners and rental property owners in maintaining and repairing their housing units.

(Formerly Policy HE-3.2)

**Policy HE-3.3** **Conservation of Housing Stock.** The City's existing multifamily units provide opportunities for households of varied income levels. Preserve existing multifamily housing stock, including existing duplexes, triplexes, and fourplexes, by preventing the net loss of multifamily housing units upon remodeling, with new development and the existing inventory of affordable housing units that are at risk of converting to market-rate housing.

(Formerly Policy HE-3.3)

### Strategies

**Strategy HE-3.3.1** **Residential Rehabilitation.** The City will continue to:

- Use its Below-Market Rate Affordable Housing Fund (BMR AHF) and Community Development Block Grant (CDBG) funds to support residential rehabilitation efforts in the community. These include:
  - Acquisition/rehabilitation of rental housing.
  - Rehabilitation of owner-occupied housing.
- Provide assistance for home safety repairs and mobility/accessibility improvements to income-qualified owner-occupants using CDBG funds. The focus of this strategy is on the correction of safety hazards.
- Partner with and/or support the funding application of qualified affordable housing developers for regional, state, and federal affordable housing funds, including HOME funds, Low-Income Housing Tax Credits (LIHTC), and mortgage revenue bonds.



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<i>Responsibility:</i>	<i>Cupertino Department of Community Development Housing Division</i>
<i>Timeframe:</i>	<i>Ongoing/annually publish RFPs to solicit projects. Provide information on the City's website as funding is available.</i>
<i>Funding Sources:</i>	<i>BMR AHF, CDBG, HOME, LIHTC</i>
<i>Objectives:</i>	<i>100 households assisted with home safety repairs and mobility/accessibility improvements. Target outreach in areas with higher rates of older housing stock, including the South Blaney neighborhood, as well as higher rates of households with disabilities, such as the Fair Grove neighborhood.</i>

(Formerly HE-3.3.1)

**Strategy HE-3.3.2 Preservation of At-Risk Housing Units.** Beardon Drive (8 units), WVCS Transitional Housing (4 units), and Sunny View West (100 units), as well as several below-market rate (BMR) units are considered at risk of converting to market-rate housing in the next 10 years. For units at risk of converting to market rate, the City shall:

- Contact property owners of units at risk of converting to market-rate housing three years before affordability expiration to discuss the City's commitment to preserve these units as affordable housing.
- Coordinate with owners of expiring subsidies to ensure the required notices to tenants and to affordable housing developers are sent out at 3 years, 12 months, and 6 months or otherwise as required by state law.
- Reach out to agencies and to nonprofit housing developers interested in purchasing or otherwise preserving at-risk units.
- Work with tenants and other organizations to reduce displacement and refer residents to an agency that can assist in providing alternative housing, if preservation is not possible. Ensure that tenants have received all required notices and other information regarding conversion procedures.
- The City will further monitor its affordable for-sale inventory by ordering title company lot books, reviewing property profile reports, and updating its public database annually.
- The City will monitor its affordable rental inventory by verifying proof of occupancy and performing annual rental income certifications for each BMR tenant. To help further preserve the City's affordable housing stock,

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the City may consider providing assistance to rehabilitate and upgrade the affordable units as well.

*Responsibility:* *Cupertino Department of Community Development Housing Division*

*Timeframe:* *Annually monitor status of affordable projects to ensure noticing is provided as required per California law. In addition, contact property owners and tenants of at-risk project, at least three years in advance of potential conversion date to provide time for conservation. and to avoid displacement of current tenants.*  
*Funding Sources:* *BMR AHF, CDBG, HOME*

*Objectives:* *Preserve existing affordable housing units in the City's BMR inventory and attempt to preserve rental units at risk of loss. (Formerly HE-3.3.2)*

**Strategy HE-3.3.3 Condominium Conversion.** The existing Condominium Conversion Ordinance regulates the conversion of rental units in multifamily housing development to preserve the rental housing stock. Condominium conversions are not allowed if the rental vacancy rate in Cupertino and certain adjacent areas is less than 5 percent at the time of the application for conversion and has averaged 5 percent over the past six months. The City will continue to monitor the effectiveness of this ordinance in providing opportunities for homeownership while preserving a balanced housing stock with rental housing.

*Responsibility:* *Cupertino Department of Community Development Planning Division*

*Timeframe:* *Monitor annually and as projects come forward.*

*Funding Sources:* *None required*

*Objectives:* *N/A*

(Formerly HE-3.3.3)

**Strategy HE-3.3.4 Multifamily Housing Preservation Program.** When a proposed development or redevelopment of a site would cause a loss of multifamily housing, the City will grant approval only if:

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- The project will comply with the City's Below Market Rate Housing Mitigation Program Procedural Manual;
- The number of units provided on the site is at least equal to the number of existing units;
- Adverse impacts on displaced tenants, in developments with four or more units, are mitigated; and
- The project replaces existing units at the same or deeper affordability, with the same number of bedrooms and bathrooms, and comparable square footage to the units demolished and provides displaced tenants with right of first refusal to rent new comparable units at the same rent as demolished units.

The City will review the program biannually and revise as needed; if revisions are needed, they will be adopted within one year of determination of need. In addition, indirect displacement may be caused by factors such as increased market rents as areas become more desirable. The City will participate, as appropriate, in studies of regional housing need and displacement, and consider policies or programs to address the indirect displacement of lower-income residents as appropriate.

*Responsibility: Cupertino Department of Community Development Planning Division and Housing Division*

*Timeframe: Ongoing, as projects come forward. Review program biannually; if revisions are needed, adopt revisions within one year of determination of need.*

*Funding Sources: None required.*

*Objectives: Prevent displacement of 50 households during the Housing Element period.*

(Formerly HE-3.3.4)

**Strategy HE-3.3.5 Park Land Ordinance** The City will review and revise its Park Land Ordinance to reduce any potential constraints on residential development while maintaining access to quality open space. The City will review requirements for higher-density projects and evaluate the possibility of open space credits.

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*Responsibility:* *Cupertino Department of Community Development and Cupertino Department of Public Works, Development Services Division*

*Timeframe:* *Review by December 2025, revise by June 2026.*

*Funding Sources:* *General Fund*

*Objectives:* *Facilitate the development of 350 units of housing affordable to lower-income households and 100 units affordable to moderate-income households by removing constraints, as needed.*

**Strategy HE-3.3.6 Tenant Protections.** Study rent stabilization and tenant protection ordinances in California and displacement in Cupertino due to rising rents and evictions. Work with relevant stakeholders to establish tenant protection and/or a rent stabilization to ensure protection for renters, as appropriate based on findings.

*Responsibility:* *Cupertino Department of Community Development Housing Division*

*Timeframe:* *Complete a study by December 2025; present implementing ordinance to Council by June 2026.*

*Funding Sources:* *General Fund*

*Objectives:* *Present an implementation plan for a rent stabilization or tenant protection ordinances to City Council. Prevent displacement of 100 households during the Housing Element period and work with relevant stakeholders to establish tenant protection and/or a rent stabilization to ensure protection for renters, as appropriate based on findings.*

**Strategy HE-3.3.7 Monitor Nongovernmental Constraints Impeding Residential Development.** The City will monitor residential developments that have been approved by the City and where building permits or final maps have not been obtained, the City will make diligent efforts to contact applicants to discover why units have not been constructed within two years after approval. If due to nongovernmental constraints, such as rapid increases in construction costs, shortages of labor or materials, or rising interest rates, to the extent appropriate and legally possible, the City will seek to identify actions that may help to reduce or remove these constraints. Additionally, the City will proactively work

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with stakeholders to identify nongovernmental constraints or other considerations that may impede the construction of housing in Cupertino and work collaboratively to find strategies and actions that can eliminate or reduce identified constraints.

*Responsibility:*                      *Cupertino Department of Community Development*

*Timeframe:*                      *Monitor two years after project approval, implement as needed.*

*Funding Sources:*              *General Fund*

## GOAL HE-4 ENERGY AND WATER CONSERVATION

### Policies

**Policy HE-4.1**      **Energy and Water Conservation.** Encourage energy and water conservation in all existing and new residential development.

(Formerly Policy HE-4.1)

### Strategies

**Strategy HE-4.1.1**      **Enforcement of Title 24.** The City will continue to enforce Title 24 requirements for energy conservation and will evaluate using some of the other suggestions as identified in the Environmental Resources/Sustainability Element.

*Responsibility:*                      *Cupertino Department of Community Development Building Division*

*Timeframe:*                          *Ongoing, as projects come forward.*

*Funding Sources:*                *None required.*

(Formerly HE-4.1.1)

**Strategy HE-4.1.2**      **Sustainable Practices.** The City will continue to implement the Landscape Ordinance for water conservation and the Green Building Ordinance (adopted in 2013) that applies primarily to new residential and nonresidential development, additions, renovations, and tenant improvements of 10 or more units. To further the objectives of the Green Building Ordinance, the City will evaluate the potential to provide incentives, such as waiving or reducing fees, for energy conservation improvements at affordable housing projects (existing or new) with fewer than 10 units to exceed the minimum requirements of the California Green Building Code. The City will also implement the policies in its climate action plan to achieve residential-focused greenhouse gas emission reductions and further these community energy and water conservation goals.

*Responsibility:*                      *Cupertino Department of Community Development Planning Division and Building Division*

*Timeframe:*                          *Ongoing; consider further incentives in Fiscal Year 2024-25 to encourage green building practices in smaller developments*

*Funding Sources:*                *None required.*

(Formerly HE-4.1.2)

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**Strategy HE-4.1.3 Sustainable, Energy-Efficient Housing.** The City will work with and support housing developers to develop sustainable, energy-efficient housing. Such development should include solar panels, green roofs, energy-efficient lighting, and other features that aim toward carbon-neutral impacts while lowering energy costs.

*Responsibility:* Cupertino Department of Community Development Planning Division and Building Division

*Timeframe:* Ongoing

*Funding Sources:* None required, as projects come forward.

*Objectives:* Facilitate the development of energy-efficient measures in all projects, approximately 2,000 units over the Housing Element period.

**Strategy HE-4.1.4 Water and Wastewater Priority.** Consistent with the provisions of Government Code Section 65589.7 (Senate Bill 1087), the City will immediately forward its adopted Housing Element to its water and wastewater providers so they can grant priority for service allocations to proposed developments that include units affordable to lower-income households.

*Responsibility:* Cupertino Department of Community Development Planning Division and Building Division

*Timeframe:* Forward the Housing Element following adoption.

*Funding Sources:* None required.

## GOAL HE-5

## SPECIAL SERVICES FOR LOWER-INCOME AND SPECIAL-NEEDS HOUSEHOLDS

### Policies

#### Policy HE-5.1

**Lower-Income and Special-Needs Households.** Support organizations that provide services to lower-income and special-need households in the city, such as persons experiencing homelessness, extremely low-income households, seniors, large households, persons with disabilities, and single-parent households.

(Formerly Policy HE-4.1)

### Strategies

#### Strategy HE-5.1.1

**Emergency Shelters.** The City commits to complying with the requirements of AB 2339 regarding emergency shelters. As part of this compliance, the City will:

- Continue to facilitate housing opportunities for special-needs persons by allowing emergency shelters as a permitted use, without discretionary review in the R4 zoning district and continuing to permit emergency shelters in the Quasi Public (BQ) zoning district.
- Amend the definition of emergency shelters to include other interim interventions, including but not limited to, navigation centers, bridge housing, and respite or recuperative care.
- Amend the Zoning Code to allow emergency shelters as a permitted use, without discretionary review, in the new R4 zoning district.
- Review and revise managerial standards, consistent with State law.

*Responsibility:* Cupertino Department of Community Development Planning Division

*Timeframe:* Ongoing; amend the Zoning Code by December 2024. Review and revise standards by June 2025 and amend the Zoning Code as needed.

*Funding Sources:* None required

(Formerly HE-5.1.1)



**Strategy HE-5.1.2 Supportive Services for Lower-Income Households and Persons with Special Needs.** The City will continue to use its Below-Market Rate Affordable Housing Fund (BMR AHF), Community Development Block Grant (CDBG) funds, and General Fund Human Service Grants (HSG) funds to provide for a range of supportive services for lower-income households and persons with special needs.

*Responsibility:* Cupertino Department of Community Development Housing Division

*Timeframe:* Through the annual Notice of Funding Availability (NOFA) process, allocate CDBG, BMR AHF, and HSG funding to organizations that cater to the needs of lower-income and special-needs households.

*Funding Sources:* BMR AHF, CDBG, HSG.

*Objectives:* Facilitate the provision of supportive services to 1,500 residents over the Housing Element period. Funding will be used to facilitate services citywide, but extra focus will be given to areas with historically higher areas of income segregation, such as the areas along the Interstate 280 corridor, in the areas abutting the intersection of Highway 85 and Stevens Creek Boulevard, along N. Foothill Boulevard (western edge of Creston-Pharlap neighborhood), and along Miller Avenue north of Creekside Park.

(Formerly HE-5.1.2)

**Strategy HE-5.1.3 Rotating Safe Car Park.** The City will continue to support the operation of a Rotating Safe Car Park program in collaboration with local nonprofit service providers, such as West Valley Community Services.

*Responsibility:* Cupertino Department of Community Development Housing Division

*Timeframe:* Ongoing

*Funding Sources:* None required.

*Objectives:* Support the operation of a rotating safe car park program to serve at least 100 unboxed community members who are living in their vehicles.

(Formerly HE-5.1.3)

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**Strategy HE-5.1.4 Low-Barrier Navigation Center and Supportive Housing.** The City will amend the Zoning Ordinance to allow supportive housing and low-barrier navigation centers for the homeless by right in mixed-use and nonresidential zoning districts where multifamily uses are permitted, per Government Code Sections 65650 et seq. and 65660 et seq.

*Responsibility:* Cupertino Department of Community Development Planning Division

*Timeframe:* Amend the Zoning Code by June 2025.

*Funding Sources:* None required.

**Strategy HE-5.1.5 Residential Care Facilities.** The Zoning Ordinance now allows residential care facilities for six clients or fewer to be treated as a single-family use consistent with California Health and Safety Code (HSC) Sections . The City will amend the Zoning Ordinance to allow larger residential care facilities that operate as a single housekeeping unit in all zones that permit residential uses, with objective standards similar to those applied to other residential uses permitted in that zoning district.

*Responsibility:* Cupertino Department of Community Development Planning Division

*Timeframe:* Amend the Zoning Code by June 2025.

*Funding Sources:* None required.

**Strategy HE-5.1.6 Manufactured Homes.** The City will amend the Zoning Code to permit manufactured homes, as defined in Government Code Section 65852.3, in the same manner and in the same zoning districts as conventional or stick-built structures are permitted.

*Responsibility:* Cupertino Department of Community Development Planning Division

*Timeframe:* Amend the Zoning Code by June 2025.

*Funding Sources:* None required.

## GOAL HE-6

### Policies

#### Policy HE-6.1

**Housing Discrimination.** The City will work to eliminate on a citywide basis all unlawful discrimination in housing with respect to age, race, sex, sexual orientation, marital or familial status, ethnic background, medical condition, or other arbitrary factors, so that all persons can obtain decent housing.

(Formerly Policy HE-6.1)

#### Policy HE-6.2

**Housing Equity Education.** The City will work to create opportunities for public education around the issue of housing equity and education about the history of racial segregation to build community and raise awareness. This should include more opportunities for community dialogue and shared experiences. Outreach about these programs will be conducted citywide, but extra focus will be given to areas where long-term patterns income segregation may be more prevalent, such as the areas along the Interstate 280 corridor, areas abutting the intersection of Highway 85 and Stevens Creek Boulevard, along N. Foothill Boulevard (the western edge of Creston-Pharlap neighborhood), and along Miller Avenue north of Creekside Park.

### Strategies

#### Strategy HE-6.1.1

Fair Housing Services. The City will continue to:

- Partner with a local fair housing service provider, such as Project Sentinel, to provide fair housing services, which include outreach, education, counseling, and investigation of fair housing complaints.
- Partner with a local fair housing service provider, such as Project Sentinel, to provide direct services for residents, landlords, and other housing professionals. Among other things, this should address issues related to the use of HUD-VASH vouchers, so that veterans may use such vouchers without discrimination.
- Partner with a local fair housing service provider, such as Project Sentinel, to assist individuals with housing problems such as discrimination and rental issues including repairs, and provide information and counseling regarding rights and responsibilities under California tenant landlord law. Additionally, provide annual training to landlords on fair housing rights and responsibilities with the intent of reducing, or eliminating, discrimination.

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- Coordinate with efforts of the Santa Clara County Fair Housing Consortium to affirmatively further fair housing.
- Distribute fair housing materials produced by various organizations at public counters and public events.

*Responsibility:*                      *Cupertino Department of Community Development Housing Division*

*Timeframe:*                      *Continue to partner with a local fair housing service provider, such as Project Sentinel, to provide fair housing services on an ongoing basis, and conduct citywide outreach at least twice during the Housing Element cycle. Provide annual fair housing trainings for landlords.*

*Funding Sources:*                      *BMR AHF; CDBG*

*Objectives:*                      *Distribute fair housing materials at two community events per year. Assist five households per year in obtaining fair housing counseling services. Fair housing outreach will be conducted citywide, but extra focus will be given to areas with higher potential for income segregation due to zoning patterns, such as the areas along the Interstate 280 corridor, in the areas abutting the intersection of Highway 85 and Stevens Creek Boulevard, along N. Foothill Boulevard (in the western edge of the Creston-Pharlap neighborhood), and along Miller Avenue north of Creekside Park.*

(Formerly HE-6.1.1)

**Strategy HE-6.1.2 Affirmative Marketing.** The City will work with affordable housing developers to ensure that affordable housing is affirmatively marketed to households with disproportionate housing needs, including Hispanic and Black households who work in and live outside of Cupertino (e.g., materials in Spanish and English, distributed through employers).

*Responsibility:*                      *Cupertino Department of Community Development Housing Division*

*Timeframe:*                      *Ongoing*

*Funding Sources:*                      *None required*

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*Objectives:* *Housing staff will identify at least 50 local employers, in collaboration with Economic Development staff, to develop a distribution list for marketing materials. Outreach will be conducted citywide, but extra marketing efforts will be requested of developers working in or around areas with historically higher areas of potential income segregation, such as the areas along the Interstate 280 corridor, in the areas abutting the intersection of Highway 85 and Stevens Creek Boulevard, along N. Foothill Boulevard (in the western edge of the Creston-Pharlap neighborhood), and along Miller Avenue north of Creekside Park.*

**Strategy HE-6.1.3 Housing Mobility.** Work with a local fair housing service provider, such as Project Sentinel, to contact rental property owners and managers of multifamily apartment complexes to provide fair housing information and assistance. This outreach will include promoting the Housing Choice Voucher (Section 8) program to landlords that have not previously participated in the program and will target use of multi-lingual materials. Target additional outreach to higher-income neighborhoods, including, but not limited to, the Monta Vista and Height of the City neighborhoods.

*Responsibility:* *Cupertino Department of Community Development Housing Division*

*Timeframe:* *At least twice during the planning period.*

*Funding Sources:* *BMR AHF; CDBG*

*Objectives:* *Promote housing mobility and expanded opportunity for 100 lower income households.*

**Strategy HE-6.1.4 Housing Project Coordinator.** To support the implementation of the multiple new and expanded housing programs and policies identified in the Housing Element, assign a member of City staff as the housing project coordinator. This position would assist with developing outreach programs, writing and pursuing grant applications, ongoing monitoring of affordable housing production, preservation and rehabilitation, coordination between affordable housing developers, the City, and partner agencies and tracking progress on the many initiatives identified in this Housing Element.

*Responsibility:* *Cupertino Department of Community Development Housing Division*

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*Timeframe:* By 2025

*Funding Sources:* General Fund

## GOAL HE-7

## COORDINATION WITH REGIONAL ORGANIZATIONS, LOCAL SCHOOL DISTRICTS, AND COLLEGES

### Policies

#### Policy HE-7.1

**Coordination with Local School Districts.** The Cupertino community places a high value on the excellent quality of education provided by the three public school districts that serve residents. To ensure the long-term sustainability of the schools, teachers, and faculty, in tandem with the preservation and development of vibrant residential areas, the City will continue to coordinate with the Cupertino Union School District (CUSD), Fremont Union High School District (FUHSD), and Santa Clara Unified School District (SCUSD).

(Formerly Policy HE-7.1)

#### Policy HE-7.2

**Coordination Regional Efforts to Address Housing-Related Issues.** Coordinate efforts with regional organizations, including Association of Bay Area Governments (ABAG) and the Bay Area Air Quality Management District (BAAQMD), as well as neighboring jurisdictions, to address housing and related quality of life issues (such as air quality and transportation).

(Formerly Policy HE-7.2)

#### Policy HE-7.3

**Public-Private Partnerships.** Promote public-private partnerships to address housing needs in the community, especially housing for the workforce.

(Formerly Policy HE-7.3)

### Strategies

#### Strategy HE-7.3.1

**Coordinate with Outside Agencies and Organizations.** The City recognizes the importance of partnering with outside agencies and organizations in addressing local and regional housing issues. These may include, but are not limited to, the following:

- School districts
- De Anza College
- Housing providers
- Neighboring jurisdictions
- Association of Bay Area Governments (ABAG)
- Air Quality Management District

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- Housing Trust Silicon Valley
- Santa Clara County Fair Housing Consortium
- Santa Clara County HOME Consortium
- Santa Clara County Continuum of Care (COC)
- Housing Authority of Santa Clara County (HASCC)
- Valley Transportation Authority (VTA)

Specifically, the City will meet with these agencies/organizations periodically to discuss the changing needs, development trends, alternative approaches, and partnering opportunities.

*Responsibility:* Cupertino Department of Community Development Planning Division and Housing Division

*Timeframe:* Ongoing

*Funding Sources:* None required.

(Formerly HE-7.3.)

### Strategy HE-7.3.2

**Coordination with Local School Districts.** To ensure the long-term sustainability of public schools, teachers, and faculty, in tandem with the preservation and development of vibrant residential areas, the City will coordinate biennially with the local school districts and colleges to identify housing needs and concerns. The City will discuss potential partnerships for affordable housing developments for school district employees and college students, including on school district properties, on a biannual basis. Depending on the outcome of these discussions with school districts and college leadership, the City will notify districts and partner developers about relevant funding opportunities as they become available, coordinate technical assistance on grant applications and offer other incentives listed in **Strategy HE-1.3.11**.

*Responsibility:* Cupertino Department of Community Development Planning Division and Housing Division

*Timeframe:* Biennially meet with school districts. Provide information about funding opportunities as they become available, coordinate technical assistance and incentives as needed.

*Funding Sources:* None required.



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*Assist with the development of 25 teacher/school district employee housing units to improve housing mobility opportunities for district staff and promote place-based revitalization. Focus will be given to areas with lower rates of renter households, such as the Monta Vista North neighborhood.*

## QUANTIFIED OBJECTIVES

Quantified objectives estimate the number of units likely to be constructed, rehabilitated, or conserved/preserved by income level during the planning period based on optimal implementation of each program. The quantified objectives do not set a ceiling on development; rather, they set a target goal for the jurisdiction to achieve based on needs, resources, and constraints. Each quantified objective is detailed by income level, as shown in [Table H-2, Quantified Objectives Summary](#).

Table H-2 Quantified Objectives Summary						
Strategy	Income Category					Total
	Extremely Low	Very Low	Low	Moderate	Above Moderate	
<b>New Construction</b>						
HE-1.3.1: Land Use Policy and Zoning Provisions	596	597	687	755	1,953	4,588
HE-1.3.2: Rezoning to Achieve RHNA	596	597	687	755	1,953	4,588
HE-1.3.3: New Residential Zoning Districts and Land Use Designations	75	75	150	200	100	600
HE-1.3.4: Development on Non-Vacant Sites	100	100	100	100	100	500
Strategy HE-1.3.5: Encourage Mixed-Use Projects and Residential in Commercial Zones	150	150	300			600
Strategy HE-1.3.6: Encourage Missing-Middle Housing Developments to Affirmatively Further Fair Housing	50	75	125	250		500
Strategy HE-1.3.7: Lot Consolidation		10	17		48	75
Strategy HE-1.3.8: Accessory Dwelling Units	5	10	25	10	10	60
Strategy HE-1.3.9: Review Development Standards	25	25	125	150	500	825
Strategy HE-1.3.10: Innovative and Family-Friendly Housing Options	50	50	100			200
Strategy HE-1.3.12: Support Affordable Housing Development	100	100	250			450
Strategy HE-2.3.1: Office and Industrial Housing Mitigation Program		20	20			40
Strategy HE-2.3.2: Residential Housing Mitigation Program	50	50	150			250
Strategy HE-2.3.3: Below Market-Rate (BMR) Affordable Housing Fund (AHF)		25	25			50
Strategy HE-2.3.4: Housing Resources	10	10	30			50
Strategy HE-2.3.6: Incentives for Affordable Housing Development		400	250			650
Strategy HE-2.3.7: Density Bonus Ordinance		200	300			500

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Table H-2 Quantified Objectives Summary						
Strategy	Income Category					Total
	Extremely Low	Very Low	Low	Moderate	Above Moderate	
Strategy HE-2.3.8: Review Impact Fees	75	100	325	300	500	1,300
Strategy HE-2.3.9: Review Parking Standards	250					250
<b>Rehabilitation</b>						
Strategy HE-3.3.1: Residential Rehabilitation			150	50		200
Strategy HE-3.3.5: Park Land Ordinance	50	50	250	100		450
<b>Preservation</b>						
Strategy HE-2.3.10: Assistance for Persons with Developmental Disabilities		5	5			10
Strategy HE-2.3.11: Live/Work Units				10		10
Strategy HE-3.3.2: Preservation of At-Risk Housing Units			209			209
Strategy HE-3.3.6: Rent Control Ordinance		25	25	25	25	100
Strategy HE-4.1.3: Sustainable, Energy-Efficient Housing	100	100	300	500	1000	2000
Strategy HE-5.1.2: Supportive Services for Lower-Income Households and Persons with Special Needs	200	300	600	400		1500
Strategy HE-5.1.3: Rotating Safe Car Park	100					
Strategy HE-6.1.1: Fair Housing Services			3	2		
Strategy HE-6.1.2: Affirmative Marketing			25	25		
Strategy HE-6.1.3: Housing Mobility	20	30	50			
Strategy HE-7.3.2: Coordination with Local School Districts				25		

Source: City of Cupertino, September 2023





mobility

5





# Introduction

Cupertino's transportation system is multi-faceted. It integrates walkways, sidewalks, bicycle routes, bus transit facilities, local streets, major roadways and freeways into a single, integrated system that supports the city's high quality of life. At the local level, this includes facilities that connect neighborhoods with pedestrian, bicycle and automobile routes. Longer distance connections include links to major boulevards, expressways, commuter rail and the regional freeway system.

This Element includes goals, policies and strategies that the City will use in making decisions regarding transportation network improvements needed to accommodate Cupertino's anticipated growth. The purpose for this Element is to implement strategies that make alternative modes of transportation attractive choices. This will help reduce strain on the automobile network and improve health and quality of life for Cupertino residents and businesses.

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## CONTEXT

Cupertino's circulation system was developed mostly in a suburban and auto-oriented pattern during the 1950s and 1960s. Over the years, the City has enhanced its roadway infrastructure with a system of bike lanes, trails, bridges, better sidewalks and publicly accessible connections in new development. Cupertino is also served by many important regional transportation facilities such as Highway 85, Interstate 280, Lawrence Expressway, and bus transit service provided by the Santa Clara Valley Transportation Authority (VTA).

The community anticipates reductions in auto traffic impacts, enhancements to the walking and biking environment, improvements to existing transit service, and connections to key transit nodes including Caltrain. As such, the goals in this Element respond to current conditions and present policies to adequately address future change.

## REGIONAL TRANSPORTATION PLANNING

Cupertino's local transportation infrastructure is supplemented by regional facilities and services through agencies such as the VTA, the local congestion-management agency, the Metropolitan Transportation Commission (MTC), the Bay Area's regional transportation authority, and Caltrans, the State Department of Transportation. Each agency has a long-term plan consisting of policies and projects which are connected to the operational success of Cupertino's local transportation network. Key projects for these agencies include:

- Interchange Improvements at Interstate 280/Highway 85 (MTC—Plan Bay Area)
- Stevens Creek Bus Rapid Transit (MTC—Plan Bay Area)

Regional transit service primarily includes bus lines operated by VTA that run along the city's major corridors, including Stevens Creek Boulevard, De Anza Boulevard and Wolfe Road, and portions of Homestead Road, Stelling Road and Tantau Avenue. Regional facilities include a bus transit station at De Anza College and within the Vallco Shopping District. As new development projects are proposed, the City will continue to identify opportunities for improvements to bus stop facilities, such as the new Apple Campus 2 area at Wolfe Road, Homestead Road and Tantau Avenue and the Main Street project at Tantau Avenue and Stevens Creek Boulevard.

A relatively new trend in regional commute transportation is the implementation of private bus and shuttle services to connect workers and major employers throughout the Bay Area. While currently this activity is not regulated or organized among these employers, it is beneficial in the regional effort to reduce the reliance on Single Occupancy Vehicles (SOVs).

The One Bay Area Grant Program is a new funding approach that better integrates the region's federal transportation program with California's landmark climate change law (Assembly Bill 32, 2006) and Sustainable Communities Strategy program (Senate Bill 375, 2008). Funding distribution to the counties considers progress toward achieving local land use and housing policies by:

- Supporting the Sustainable Communities Strategy for the Bay Area by promoting transportation investments in Priority Development Areas (PDAs); and
- Providing a higher proportion of funding to local agencies and additional investment flexibility to invest in bicycle and pedestrian improvements, local streets and roadway preservation and planning activities, while also providing specific funding opportunities for Safe Routes to School (SR2S) and Priority Conservation Areas.

The goals and policies included in this Element and the Land Use and Community Design Element seek to take advantage of regional planning and funding efforts. They implement strategies that encourage the location of future growth in Cupertino's Priority Development Areas along Stevens Creek Boulevard and portions of De Anza Boulevard, and by advocating for improved service and improvements to regional infrastructure.

## LINK BETWEEN LAND USE AND TRANSPORTATION

In order to maintain and enhance the quality of life for Cupertino residents and businesses, it is important to ensure that future growth does not overwhelm the transportation network, identify ways to limit greenhouse gas emissions, and improve the health of our community. Land use and mobility policies included in the General Plan seek to do so by working together to focus future growth along major mixed-use corridors and within PDAs. Mobility policies also seek to improve the walking/biking environment and enhance transit to ensure that the transportation network is accessible to people of all ages and abilities, including

school children, the disabled and the elderly. These policies also promote connectivity between neighborhoods and services, and between key nodes in order to reduce reliance on the automobile as the sole mode of transportation.

## COMPLETE STREETS

The California Complete Streets Act (2008) places the planning, designing and building of “Complete Streets” into the larger planning framework of the General Plan by requiring jurisdictions to plan for multi-modal transportation networks. Complete Streets are designed and operated to enable safe access for all users including pedestrians, bicyclists, the disabled, motorists, seniors, users of public transportation and movers of commercial goods. These networks allow people to effectively travel to key destinations within their community and the larger region. In addition, all transportation projects should be evaluated as to their ability to improve safety, access and mobility for all travelers and recognize pedestrian, bicycle and transit modes as integral elements of their transportation system.

Cupertino has already begun the work of reviewing the existing street network and looking for new opportunities to improve alternative modes of transportation through the construction of sidewalks, walking paths, bike lanes, trails and bridges across pedestrian barriers, such as the Don Burnett Bridge at Mary Avenue. The goals and policies in this Element seek to continue the work of making enhancements to the transportation network to encourage all modes of transportation.

## GREENHOUSE GASES AND TRANSPORTATION

A major challenge of today is meeting the energy needs of a growing population while also protecting air quality and natural resources. The majority of greenhouse gas emissions can be attributed to carbon dioxide emissions from the transportation sector. A 2010 inventory of Cupertino’s community-wide emissions shows that transportation accounts for almost 41 percent of community-wide emissions. Therefore, reducing the number of automobile trips, particularly from single-occupancy vehicles, can provide the greatest benefit in reducing greenhouse gas emissions in Cupertino.

The goals and policies in this Element work in tandem with other General Plan policies to address issues of sustainability, health and air quality by taking

advantage of opportunities to reduce greenhouse gas emissions. Low-carbon fuels, new and improved vehicle technologies, and land use strategies and infrastructure improvements to reduce the number of vehicle miles traveled can reduce transportation-related emissions significantly.

## PEDESTRIANS AND BICYCLISTS

Cupertino has made considerable strides improving walkability and bikeability with new or improved bike lanes, sidewalks and pedestrian connections. However, many older commercial areas and neighborhoods continue to lack a pedestrian and bike-friendly environment where students can safely walk and bike to school, and families can walk or bike to parks and nearby community facilities and shopping. This was a consistent theme expressed by participants during public workshops conducted as part of the General Plan Amendment.

Areas are generally considered walkable if people can safely walk to schools, parks and services within a half mile (less than 10-14 minutes) distance. A bike-friendly city provides a network of streets and paths where people can bike safely and conveniently to community facilities, employment and shopping. The goals and policies of this Element, along with the City's Bicycle Transportation Plan and Pedestrian Plan, seek to further improve and enhance the walking and biking environment through capital improvement projects, development review, and retrofitting existing facilities within older commercial areas and neighborhoods. **Figure M-1** identifies existing and planned improvements to bicycle and pedestrian facilities in the city.

## PERFORMANCE MEASUREMENT

Senate Bill 743 (2013) created a process to change the way that transportation impacts are analyzed under the California Environmental Quality Act (CEQA). The process helps achieve the State's goals for reducing greenhouse gas emissions and traffic-related air pollution, promotes the development of a multi-modal transportation system, and provides clean, efficient access to major destinations. Specifically, the law requires an alternative to automobile level of service (LOS) for evaluating transportation impacts. Particularly within areas served by transit, alternative criteria are required to promote the reduction of greenhouse gas emissions, the development of multi-modal transportation networks, and a diversity of land uses.



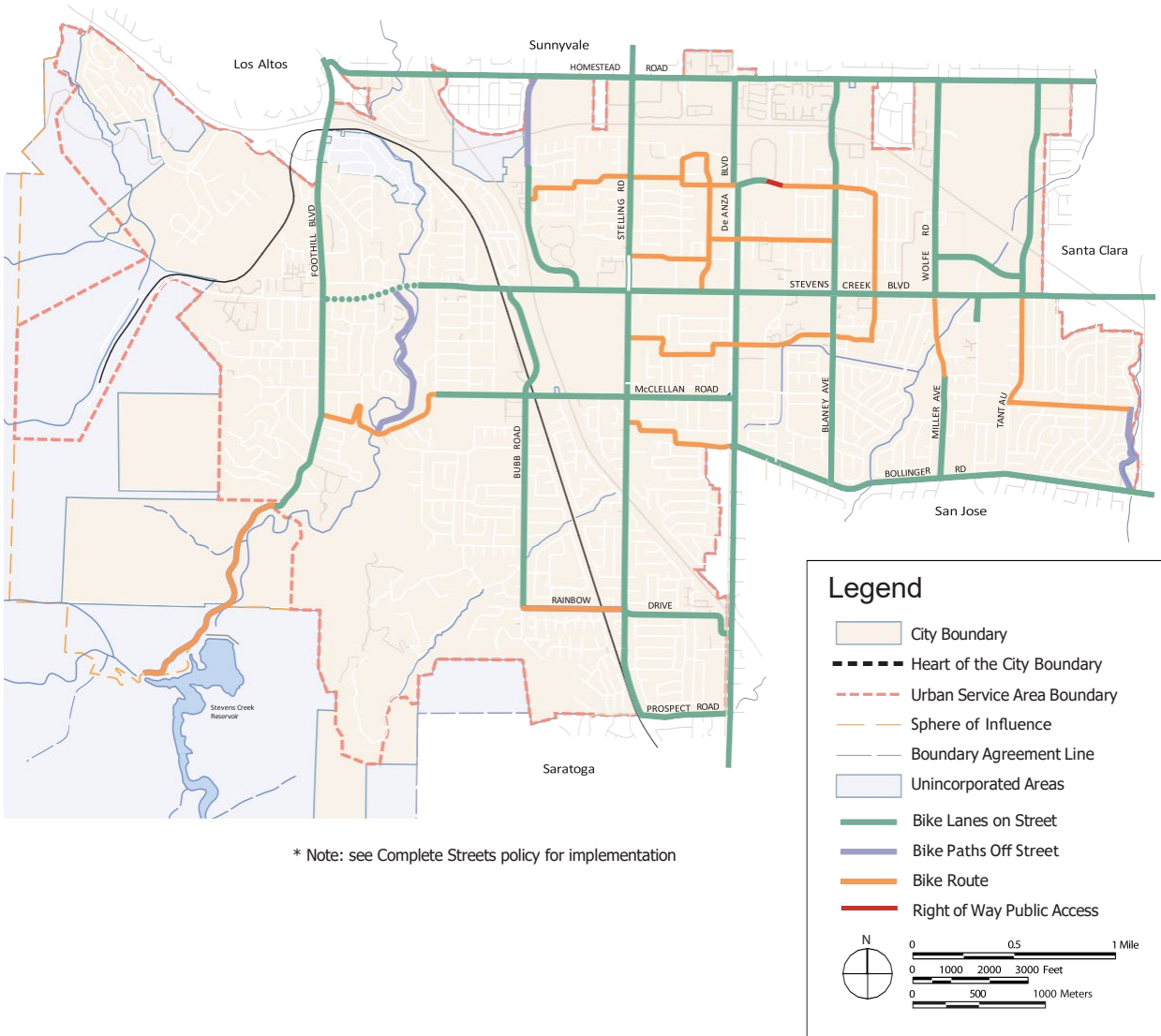
Like many cities, Cupertino has used LOS as a performance measure to evaluate traffic impacts. Historically, this has led cities to focus entirely on improvements to auto infrastructure, often to the detriment of other modes of transportation. Consistent with State law, this Element seeks to look at performance measures that balance the needs of all modes of transportation, including automobile, walking, biking and transit. Such new measures can range from looking at vehicle miles traveled (VMT) as a measure of balancing land uses to reviewing seconds of delay for all travel modes as a measure of impacts to traffic. This will allow the City to develop and maintain a Transportation Improvement Plan that includes pedestrian, bicycle, transit and automobile network enhancements, and Transportation Systems Management (TSM) and Travel Demand Management (TDM) measures to improve efficiency of the network.

## TRANSPORTATION NETWORK

Cupertino's transportation network consists of a variety of street types and pathways. The network determines not only how various land uses are connected but also the modes of transportation used by people to access them. **Table M-1** defines the various street types and paths in terms of their character, adjoining current and future land uses, modes of travel that they currently support, and improvements needed to enhance access for all modes of transportation.

Close alignment of the City's Capital Improvement Program with Community Vision 2040 priorities will allow the City to strategically plan and direct resources to develop this multi-modal transportation infrastructure. **Figure M-2** shows the geographical locations of the major roadways.

FIGURE M-1  
CURRENT (2014) AND PROPOSED  
BICYCLE NETWORK



## **TRANSPORTATION SYSTEMS MANAGEMENT (TSM)**

TSM is an approach to congestion mitigation that identifies improvements to enhance the capacity of existing roadways through better operations. These techniques help improve traffic flow, air quality and movement of vehicles and goods, as well as enhance system accessibility and safety. TSM strategies are low-cost and effective, and typically include: intersection and signal improvements; data collection to monitor system performance; and/or special events management strategies.

## **TRANSPORTATION DEMAND MANAGEMENT (TDM)**

TDM seeks to reduce travel demand (specifically that of single-occupancy car) by encouraging other modes of travel through requirements and/or incentives. TDM strategies typically include: commute trip reduction programs; parking policies; and/or incentives to take transit or other modes of transportation.

Table M-1: Street Typology


























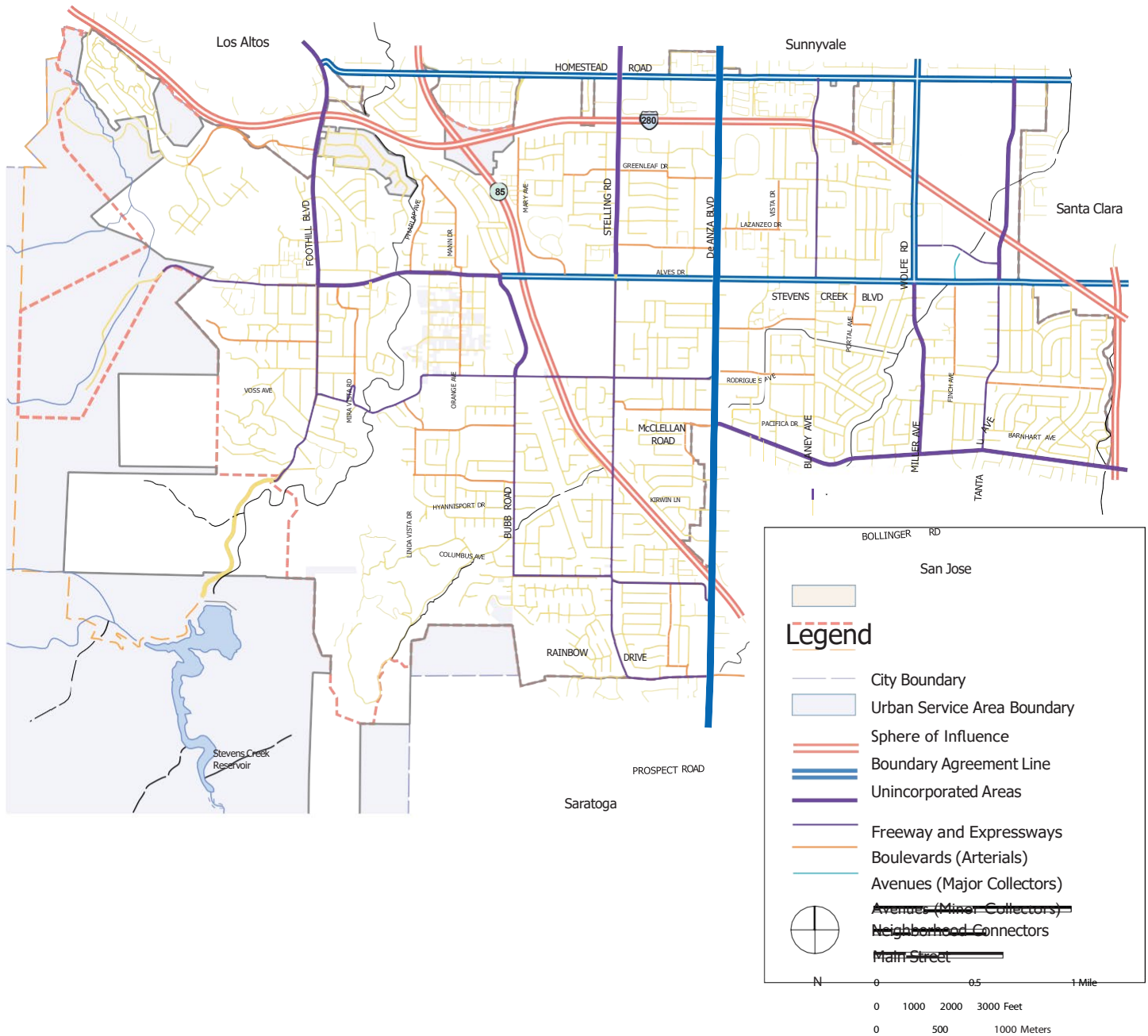
Type	Mode(s) of Transportation	Guidelines
Freeway		Limited access, part of a regional and/or State network subject to State design standards.
Expressway	 	Limited access, regional and part of a county network subject to County design standards.
Boulevard (Arterial)	   	Access and safe crossing for all modes of travel along a regional transportation corridor. May include medians to separate directional travel. City or multi-jurisdictional design standards apply.
Main Street	   	Balances all modes of transportation, includes on-street parking and connects to highly pedestrian-oriented uses. Vehicular performance measures may be lowered to prioritize walking and biking.
Avenue (Major and Minor Collector)	   	Connector that distributes trips to commercial and residential areas from boulevards, and provides balanced levels of service for auto, bikes and pedestrians.
Neighborhood Connector	  	Primarily serves and connects neighborhoods and neighborhood services, and facilitates safe walking and biking. May contain elements of Avenues including landscaped median or bus service.
Residential Street	  	Provides access to low-intensity residential uses, prioritizes walking and biking, and are typically good candidates for traffic calming.
Regional Pedestrian/ Bike Pathway	 	Part of regional network providing high quality pedestrian and bike paths to connect to other regional destinations.
Local Pedestrian/Bike Pathway	 	Connects to regional network but part of local infrastructure, provides quality pedestrian and bike paths connecting local destinations.

FIGURE M-2  
CIRCULATION NETWORK



## LOOKING FORWARD

Maintaining Cupertino's great quality of life – including convenient access, clean air, and reduced traffic – requires careful management of growth. The City will identify ways to locate appropriate land uses along major mixed-use corridors, improving overall access and connectivity, enhancing the attractiveness of non-vehicular transportation modes, and reducing demand on the roadway network. The following are ways the City will address key challenges and opportunities facing Cupertino:

**1****BETTER LINKAGES BETWEEN LAND USE AND TRANSPORTATION.**

How we use our land directly impacts our transportation facilities, modes of travel and vice versa. A primary cornerstone of Community Vision 2040 is to focus growth on major mixed-use corridors; support alternate modes of transportation including walking, biking and transit; and encourage a mix of compatible and complementary uses on key sites. These strategies will allow the City to manage growth with reduced traffic, air quality and greenhouse gas impacts.

**2****IMPROVED REGIONAL COORDINATION.**

The City should continue to participate in regional projects and infrastructure planning to ensure consistency with local planning, and pursue funding for City transportation projects.

**3****ENHANCED CONNECTIVITY.**

A key objective of the City is to improve connections through streetscape and pathway improvements to ensure that the community enjoys easy walking and biking access to services including parks, schools and shopping. Other strategies seek to supplement existing modes of transportation such as community shuttles through partnerships and agreements and providing links between key transportation nodes.

**4****REDUCED DEMAND.**

The strategies in this Element seek to reduce demand on the City's roadway infrastructure through careful land use planning, encourage alternative modes of transportation and utilize best practices in Transportation Demand Management (TDM) and Transportation Systems Management (TSM).



## GOAL M-1

Actively participate in regional planning processes to coordinate local planning and to advocate for decisions that meet and complement the needs of Cupertino

### REGIONAL COORDINATION

Regional transportation and land use decisions affect the operation of the transportation network in Cupertino. A key consideration of the General Plan is for the City to participate in regional planning initiatives in order to coordinate local improvements with regional initiatives, advocate for Cupertino's needs, and take advantage of programs that can support Cupertino's transportation infrastructure.

#### POLICY M-1.1: REGIONAL TRANSPORTATION PLANNING

Participate in regional transportation planning processes to develop programs consistent with the goals and policies of Cupertino's General Plan and to minimize adverse impacts on the City's circulation system. Work with neighboring cities to address regional transportation and land use issues of mutual interest.

#### POLICY M-1.2: TRANSPORTATION IMPACT ANALYSIS

Evaluate new development and redevelopment projects pursuant to the City's adopted Transportation Study Guidelines evaluation criteria.

#### STRATEGIES:

##### M-1.2.1: VMT Thresholds

New development and redevelopment projects shall meet the VMT thresholds and reduction strategies described in the Cupertino Municipal Code.

##### M-1.2.2: Citywide VMT Reduction

Establish a framework for reducing VMT at the citywide scale. These measures may include, but are not limited to:

- Working with Valley Transit Authority to increase bus frequency and speed throughout Cupertino.
- Unbundling parking costs from property costs.
- Developing a fair-share cost program for Silicon Valley Hopper or car share initiatives for development projects.
- Implementing market pricing for parking spaces throughout the city.
- Limiting parking supply.
- Discouraging single occupancy vehicle travel.
- Implementing a citywide bikeshare program.



### **M-1.2.3: Project-Level VMT Reduction**

Develop a framework of project-level VMT reduction measures for new development and redevelopment projects in the city that exceed the City's adopted VMT threshold. These VMT reduction measures may include, but are not limited to:

- Requiring the preparation and implementation of a TDM program appropriate to the project's scale.
- Requiring contributions to a fair-share cost program for transit, shuttle, or car share programs.
- Requiring a Behavioral Intervention Program to provide individualized transportation information for project occupants.
- Requiring an on-site car share program.

### **M-1.2.4: VMT Mitigation Banking Fee Program**

Establish a VMT Mitigation Banking Fee Program. This program shall fund the construction of facilities throughout Cupertino that support the reduction of VMT per service population impacts from new development and redevelopment projects.

~~Participate in the development of new multi-modal analysis methods and impact thresholds as required by Senate Bill 743. However, until such impact thresholds are developed, continue to optimize mobility for all modes of transportation while striving to maintain the following intersection Levels of Service (LOS) at a.m. and p.m. peak traffic hours:~~

- ~~• Major intersections: LOS D~~
- ~~• Stevens Creek Boulevard and De Anza Boulevard: LOS E+~~
- ~~• Stevens Creek Boulevard and Stelling Road: LOS E+~~
- ~~• De Anza Boulevard and Bollinger Road: LOS E+~~

### **POLICY M-1.3: REGIONAL TRAIL DEVELOPMENT**

Continue to plan and provide for a comprehensive system of trails and pathways consistent with regional systems, including the Bay Trail, Stevens Creek Corridor and Ridge Trail.





## GOAL M-2

Promote improvements to city streets that safely accommodate all transportation modes and persons of all abilities

### COMPLETE STREETS

Complete Streets policies encourage the design of streets that respond to the needs of all members of the community, balance different modes of transportation, promote the health and well-being of the community, and support environmental sustainability.

#### POLICY M-2.1: STREET DESIGN

Adopt and maintain street design standards to optimize mobility for all transportation modes including automobiles, walking, bicycling and transit.

#### POLICY M-2.2: ADJACENT LAND USE

Design roadway alignments, lane widths, medians, parking and bicycle lanes, crosswalks and sidewalks to complement adjacent land uses in keeping with the vision of the Planning Area. Strive to minimize adverse impacts and expand alternative transportation options for all Planning Areas (Special Areas and Neighborhoods). Improvement standards shall also consider the urban, suburban and rural environments found within the city.

#### STRATEGIES:

##### M-2.2.1: Rural Road Improvement Standards.

Consider candidate rural roads and develop specific street improvement standards that preserve the rural character of these streets. Rural roads would typically feature natural landscaping, no sidewalks and narrow unpaved shoulders.

##### M-2.2.2: Semi-Rural Road Improvement Standards.

Consider candidate semi-rural roads where curb and gutter improvements, and no sidewalks, are appropriate.

### **M-2.2.3: Urban Road Improvement Standards.**

Develop urban improvement standards for arterials such as Stevens Creek and De Anza Boulevards. In these areas, standards may include wide sidewalks, tree wells, seating, bike racks and appropriate street furniture.

### **M-2.2.4: Suburban Road Improvement Standards.**

Develop suburban road improvement standards for all streets not designated as rural, semi-rural or in the Crossroads Area.

### **POLICY M-2.3: CONNECTIVITY**

Promote pedestrian and bicycle improvements that improve connectivity between planning areas, neighborhoods and services, and foster a sense of community.

### **STRATEGIES:**

#### **M-2.3.1: Inter Block Connectivity.**

Require new development and redevelopment to provide inter-block connectivity to allow improved access to all sites on the block from secondary streets, access to the street network via controlled intersections, minimize conflicts with pedestrian and bicycle traffic on primary streets, and convenient access for service vehicles.

### **POLICY M-2.4: COMMUNITY IMPACTS**

Reduce traffic impacts and support alternative modes of transportation rather than constructing barriers to mobility. Do not close streets

unless there is a demonstrated safety or over-whelming through traffic problem and there are no acceptable alternatives since street closures move the problem from one street to another.

### **POLICY M-2.5: PUBLIC ACCESSIBILITY**

Ensure all new public and private streets are publicly accessible to improve walkability and reduce impacts on existing streets.

### **POLICY M-2.6: TRAFFIC CALMING**

Consider the implementation of best practices on streets to reduce speeds and make them user-friendly for alternative modes of transportation, including pedestrians and bicyclists.



## GOAL M-3

Support a safe pedestrian and bicycle street network for people of all ages and abilities

### WALKABILITY AND BIKEABILITY

Walkability and bikeability policies encourage a livable, healthy, sustainable and connected city with a safe and comfortable pedestrian network among its various neighborhoods, parks, trails, employment centers, community facilities, neighborhood centers and commercial centers.

#### **POLICY M-3.1: BICYCLE AND PEDESTRIAN MASTER PLAN**

Adopt and maintain a Bicycle and Pedestrian master plan, which outlines policies and improvements to streets, extension of trails, and pathways to create a safe way for people of all ages to bike and walk on a daily basis, and as shown in **Figure M-1**.

#### **POLICY M-3.2: DEVELOPMENT**

Require new development and redevelopment to increase connectivity through direct and safe pedestrian connections to public amenities, neighborhoods, shopping and employment destinations throughout the city.

#### **POLICY M-3.3: PEDESTRIAN AND BICYCLE CROSSINGS**

Enhance pedestrian and bicycle crossings and pathways at key locations across physical barriers such as creeks, highways and road barriers.

#### **POLICY M-3.4: STREET WIDTHS**

Preserve and enhance citywide pedestrian and bike connectivity by limiting street widening purely for automobiles as a means of improving traffic flow.

#### **POLICY M-3.5: CURB CUTS**

Minimize the number and the width of driveway openings.

**STRATEGIES:**

**M-3.5.1: Shared Driveway Access.**

~~Encourage~~ Require property owners to use shared driveway access and interconnected roads within blocks, where feasible. Require driveway access closures, consolidations or both when a site is remodeled or redeveloped.

**M-3.5.2: Direct Access from Secondary Streets.**

~~Encourage~~ Require properties with frontages on major and secondary streets to provide direct pedestrian and vehicular access to driveways from the secondary street.

**POLICY M-3.6: SAFE SPACES FOR PEDESTRIANS**

Require parking lots to include clearly defined paths for pedestrians to provide a safe path to building entrances.

**POLICY M-3.7: CAPITAL IMPROVEMENT PROGRAM**

Plan for improvements to pedestrian and bicycle facilities and eliminate gaps along the pedestrian and bicycle network as part of the City's Capital Improvement Program.

**POLICY M-3.8: BICYCLE PARKING**

Require new development and redevelopment to provide public and private bicycle parking.

**POLICY M-3.9: OUTREACH**

Actively engage the community in promoting walking and bicycling through education, encouragement and outreach on improvement projects and programs.

**POLICY M-3.10: PROACTIVE ENFORCEMENT**

Prioritize enforcement of traffic speeds and regulations on all streets with bike lanes, bike routes, and around schools.



## GOAL M-4

Promote local and regional transit that is efficient, frequent and convenient and reduces traffic impacts

### TRANSIT

Transit policies encourage planning and coordination of regional and local transit services, both public and private, to accommodate diverse community needs and to make transit a safe, comfortable and efficient option

#### **POLICY M-4.1: TRANSIT AGENCIES**

Coordinate with VTA to improve transportation service, infrastructure and access in the city, and to connect to transportation facilities such as Caltrain and VTA light rail stations.

#### **POLICY M-4.2: LOCAL TRANSPORTATION SERVICES**

Create or partner with transit providers, employers, educational institutions, and major commercial entities to minimize gaps within local transportation services.

#### **POLICY M-4.3: CONNECTING SPECIAL AREAS**

Identify and implement new or enhanced transit services to connect all Special Areas as identified in **Figure PA-1** (Chapter 2: Planning Areas).

#### **POLICY M-4.4: TRANSIT FACILITIES WITH NEW DEVELOPMENT**

Work with VTA and/or major developments to ensure all new development projects include amenities to support public transit including bus stop shelters, space for transit vehicles as appropriate and attractive amenities such as trash receptacles, signage, seating and lighting.

#### **POLICY M-4.5: ACCESS TO TRANSIT SERVICES**

Support right-of-way design and amenities consistent with local transit goals to improve transit as a viable alternative to driving.

#### **POLICY M-4.6: BUS AND SHUTTLE PROGRAMS**

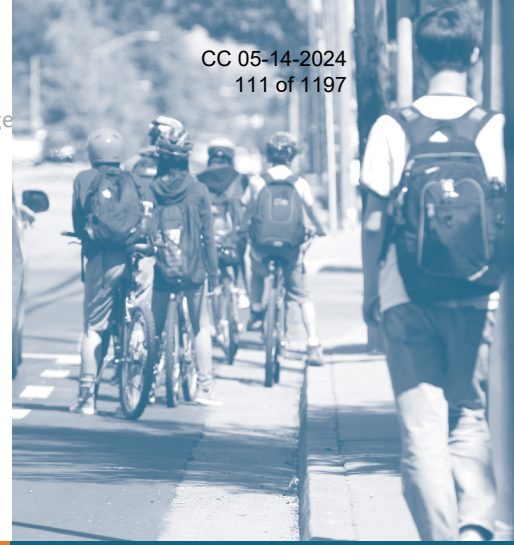
Work with large regional employers and private commuter bus/shuttle programs to provide safe pick-up, drop-off, and park and rides in order to reduce single occupancy vehicle trips.

#### **POLICY M-4.7: VALLCO SHOPPING DISTRICT TRANSFER STATION**

Work with VTA and/or other transportation service organizations to study and develop a transit transfer station that incorporates a hub for alternative transportation services such as, car sharing, bike sharing and/or other services.

#### **POLICY M-4.8: MICRO-TRANSIT**

Continue to support a local micro-transit option, such as the Silicon Valley Hopper or similar service.



## GOAL M-5

Ensure safe and efficient pedestrian and bicycle access to schools while working to reduce school-related congestion

### SAFE ROUTES TO SCHOOL

Safe routes to schools policies protect the safety of school children and promote health, environmental sustainability and social interaction. They leverage local, regional and national Safe Routes to Schools Program resources to support increased walking and bicycling to schools.

#### POLICY M-5.1: SAFE ROUTES TO SCHOOLS

Promote Safe Routes to Schools programs for all schools serving the city.

##### STRATEGIES:

##### M-5.1.1. Coordination with School Districts.

Coordinate with the School Districts to develop plans and programs that encourage car/van-pooling, stagger hours of adjacent schools, establish drop-off locations, and encourage walking and bicycling to school.

##### M-5.1.2. Teen Commission.

Encourage the Teen Commission to work with schools to encourage year-round programs to incentivize walking and biking to school.

#### POLICY M-5.2: PRIORITIZING PROJECTS

Ensure that bicycle and pedestrian safety improvements include projects to enhance safe accessibility to schools.

#### POLICY M-5.3: CONNECTIONS TO TRAILS

Connect schools to the citywide trail system.

#### POLICY M-5.4: EDUCATION

Support education programs that promote safe walking and bicycling to schools.



(community vision 2015 - 2040)



## GOAL M-6

Promote innovative strategies to provide efficient and adequate vehicle parking

### VEHICLE PARKING

Vehicle parking policies encourage efficient and adequate parking, avoid negative effects on the pedestrian environment or surrounding neighborhoods, and support the City's goals for Complete Streets, walkability, bikeability and effective transit.

#### **POLICY M-6.1: PARKING CODES**

Maintain efficient and updated parking standards to ensure that development provides adequate parking, both on-~~street~~ and off-street depending on the characteristics of the development, while also reducing reliance on the automobile.

#### **POLICY M-6.2: OFF-STREET PARKING**

Ensure new off-street parking is properly designed and efficiently used.

#### **POLICY M-6.3: UNBUNDLED PARKING**

Where required by State law, require residential, commercial, and office uses to unbundle parking. Encourage commercial and office uses to unbundle parking.





## GOAL M-7

Review and update TIA policies and guidelines that allow for adequate consideration for all modes of transportation including automobiles, walking, bicycles and transit

### TRANSPORTATION IMPACT ANALYSIS

Transportation Impact Analysis policies enable effective, informed transportation planning by using a more balanced system of indicators, data and monitoring to evaluate the city's multi-modal transportation system and optimize travel by all transportation modes.

#### **POLICY M-7.1: MULTI-MODAL TRANSPORTATION IMPACT ANALYSIS**

Follow guidelines set by the VTA related to transportation impact analyses, while conforming to State goals for multi-modal performance targets.

Priority Development Areas (PDAs) and other areas where non-vehicular transportation is a key consideration, such as, near shopping districts, schools, parks and senior citizen developments.

#### **POLICY M-7.2: PROTECTED INTERSECTIONS**

Consider adopting a Protected Intersection policy, which would identify intersections where improvements would not be considered, which would degrade levels of service for non-vehicular modes of transportation. Potential locations include intersections in

(community vision 2015 - 2040)



## GOAL M-8

Promote policies to help achieve state, regional and local air quality and greenhouse gas emission reduction targets

### GREENHOUSE GAS EMISSIONS AND AIR QUALITY

Greenhouse gas emissions and air quality policies in this Element work in tandem with other General Plan policies to reduce municipal and community-wide greenhouse gas emissions and improve air quality throughout Cupertino.

#### **POLICY M-8.1: GREENHOUSE GAS EMISSIONS TRANSPORTATION**

Promote transportation policies that help to reduce greenhouse gas emissions.

##### **STRATEGIES:**

##### **M-8.1.1. TSM Strategies.**

Employ TSM strategies to improve efficiency of the transportation infrastructure including strategic right-of-way improvements, intelligent transportation systems and optimization of signal timing to coordinate traffic flow.

##### **M-8.1.2. Major and Large Employers.**

Require major and large employers, including colleges and schools, to develop and maintain TDM programs to reduce vehicle trips generated by their employees and students and develop a tracking method to monitor results.

##### **M-8.1.3. TDM Ordinance.**

Develop and adopt a TDM ordinance to reduce vehicle trips with specific implementation actions for all development projects and a monitoring and reporting program to ensure implementation.

#### **POLICY M-8.2: LAND USE**

Support development and transportation improvements that help reduce greenhouse gas emissions by reducing per service population capita Vehicle Miles Traveled (VMT), reducing impacts on the City's transportation network and maintaining the desired levels of service for all modes of transportation.

##### **STRATEGIES:**

##### **M-8.2.1. Design of New Development.**

Require new development to include

shared amenities that encourage the use of transit, bicycling, or walking as alternative modes of transportation.

**M-8.2.2. Pedestrian Activity.**

Require new development to provide pedestrian pathways to entrances, and orient buildings and entrances to the street, to encourage pedestrian activity.

**M-8.2.3. Commercial Development.**

Require new commercial developments to provide shared office facilities, cafeterias, daycare facilities, lunchrooms, showers, bicycle parking, home offices, shuttle buses to transit facilities and other amenities that encourage the use of transit, bicycling or walking as commute modes to work.

**M-8.2.4. Residential and Mixed-Use Development.**

Require new residential or mixed-use developments to provide shared bicycle parking and bike repair stations at locations close to entrances.

**POLICY M-8.36: ALTERNATIVE FUEL CHARGING STATIONS**

Develop a city-wide strategy to encourage the construction of a network of public and private alternative fuel vehicle charging/fueling stations.

**~~POLICY M-8.3: TRANSPORTATION SYSTEMS MANAGEMENT (TSM) PROGRAMS~~**

~~Employ TSM strategies to improve efficiency of the transportation infrastructure including strategic right-of-way improvements, intelligent transportation systems and optimization of signal timing to coordinate traffic flow.~~

**~~POLICY M-8.4: TRANSPORTATION DEMAND MANAGEMENT (TDM) PROGRAMS~~**

~~Require large employers, including colleges and schools, to develop and maintain TDM programs to reduce vehicle trips generated by their employees and students and develop a tracking method to monitor results.~~

**~~POLICY M-8.5: DESIGN OF NEW  
DEVELOPMENTS~~**

~~Encourage new commercial developments to provide shared office facilities, cafeterias, daycare facilities, lunchrooms, showers, bicycle parking, home offices, shuttle buses to transit facilities and other amenities that encourage the use of transit, bicycling or walking as commute modes to work. Provide pedestrian pathways and orient buildings to the street to encourage pedestrian activity.~~



## GOAL M-9

Promote effective and efficient use of the city's transportation network and services

### ROADWAY SYSTEM EFFICIENCY

Roadway system efficiency policies make effective use of roadway capacity by encouraging strategic roadway improvements and complementary policies promoting transit, walking, bicycling and complete streets.

#### **POLICY M-9.1: EFFICIENT AUTOMOBILE INFRASTRUCTURE**

Strive to maximize the efficiency of existing infrastructure by locating appropriate land uses along roadways and retrofitting streets to be accessible for all modes of transportation.

#### **POLICY M-9.2: REDUCED TRAVEL DEMAND**

Promote effective TDM programs for existing and new development.

#### **POLICY M-9.3: STREET WIDTH**

Except as required by environmental review for new developments, limit widening of streets as a means of improving traffic efficiency and focus instead on operational improvements to preserve community character.

#### **STRATEGIES:**

**M-9.3.1. Wolfe Road Overcrossing.** Consider alternate designs for the Wolfe Road/I-280 Interchange (e.g., from partial cloverleaf design to diamond design) when evaluating the need to widen the freeway overcrossing.

**M-9.3.2. Streetscape Design.** When reviewing the widening of an existing street, consider aesthetically pleasing enhancements and amenities to improve the safe movement of pedestrians and bicyclists in keeping with the vision of the Planning Area.



## GOAL M-10

Ensure that the City's transportation infrastructure is well-maintained for all modes of transportation and that projects are prioritized on their ability to meet the City's mobilities goals

### TRANSPORTATION INFRASTRUCTURE

Transportation infrastructure policies promote safe, attractive and well-maintained facilities for walking, bicycling, transit and automobiles.

#### **POLICY M-10.1: TRANSPORTATION IMPROVEMENT PLAN**

Develop and implement an updated citywide transportation improvement plan necessary to accommodate vehicular, pedestrian and bicycle transportation improvements to meet the City's needs.

#### **POLICY M-10.2: TRANSPORTATION IMPACT FEE**

Ensure sustainable funding levels for the Transportation Improvement Plan by enacting a transportation impact fee for new development.

#### **POLICY M-10.3: MULTI-MODAL IMPROVEMENTS**

Integrate the financing, design and construction of pedestrian and bicycle facilities with street projects. Build

pedestrian and bicycle improvements at the same time as improvements for vehicular circulation to enable travelers to transition from one mode of transportation to another (e.g., bicycle to bus).

#### **POLICY M-10.4: ROADWAY MAINTENANCE FUNDING**

Identify and secure new funding sources to fund the on-going routine maintenance of roadways.

## Appendix A: Land Use Definitions

### LAND USE CATEGORIES

Patterns and symbols, defined on the map legend, are used on the Land Use Map to identify land use categories, the road system, major land features and significant public and private facilities. The following is a description of each land use category:

#### RESIDENTIAL

This designation identifies Areas suitable for residential dwellings, and is divided into five- nine sub-categories based on dwelling unit density, which is and expressed as the number of dwellings permitted on each acre. Maximum residential yield is calculated by multiplying the maximum dwelling unit density by the size of the lot in acres, excluding any public rights-of-way, in fee or as an easement, other access easements, and easements for creeks and other waterways, or lot area as further defined in the Municipal Code. Accessory dwelling units continue to be permitted as required by State and local laws.

Community Vision 2040 does not define whether the dwellings are to be owned or rented by their inhabitants or whether they are to be attached or detached.

**Very Low Density:** Intensity is based on applying one of four slope-density formulas— Foothill Modified, Foothill Modified 1/2 Acre, Semi-Rural 5 acre, or Foothill 5-20 acre - for each site. This classification is intended to protect environmentally sensitive areas from extensive development and to protect human life from hazards related to flood, fire and unstable terrain.

**Low Density:** Sites have an established maximum density between 1-5 and or 1-6 units (Rancho Rinconada) on each acre and may have a required minimum density. This category is intended to promote a suburban lifestyle of detached single-family homes. Planned residential communities can be incorporated into this category if the development form is compatible with adjoining residential development. Duplexes with accessory dwelling units (up to a maximum of four total units) may be permitted per the City's Housing Element and Municipal Code regulations to support "missing middle" housing types.

**Low/Medium Density:** Sites have an established density between 5.01-10 units per acre and may have a required minimum density. This category accommodates more intensive forms of residential development while still being compatible with the predominant single-family detached residential neighborhood. This development can be successfully incorporated into a single-family environment.



**Medium Density:** Sites have an established maximum density between 10.01-20 units per acre and may have a required minimum density. This category is intended for smaller-scale provides greater opportunity for multiple-family residential developments, including duplexes, and townhome/rowhouse development in a planned environment. In addition to high-demand housing types, such as townhomes, this density range provides opportunities for the development of “missing middle” housing types and allows for a gradual transition from existing usually results in traffic volumes and buildings that are not compatible with single-family residential neighborhoods uses to higher-density development. These developments should be located on the edges of single-family residential communities where utility services and street networks are adequate to serve the increased densities of this category.

**Medium/High Density:** Sites have an established maximum density between 20.01-35 units per acre and may have a required minimum density. This category promotes a wide range of housing choices including triplexes/fourplexes, or other multiple-family dwellings residential and townhome development, or a mix thereof. The zoning for the site specifies whether townhomes are permitted to develop with townhomes, with the TH combining district established in the Municipal Code. The intensity requires that the category be used in corridors with access to services and transit. The development may result in structures with three or four levels and underground parking. This category offers opportunity for housing choice, especially for people who want a more urban environment.

**High Density:** ~~Greater than~~ Sites have an established maximum density between 35.01-50 units per acre and may have a required minimum density. This category is intended for primarily; promotes a wide range of housing choices in multiple-family dwellings residential development, with some sites, zoning permitting, having the ability to also develop with a small townhome component to allow varied housing choices. The zoning for the site specifies whether townhomes are permitted, with the TH combining district established in the Municipal Code. The intensity requires that the category be used only at locations with adequate utility services or transit or both. The development may result in structures with three or four levels and underground parking. This category offers maximum-wide opportunity for housing choice, especially for people who want a more urban environment.

**High/Very High Density:** Sites have an established maximum density between 50.01-65 units per acre and may have a required minimum density. This category promotes a wide range of housing choices in primarily multiple-family or mixed-use residential developments in urban environments. In some cases, zoning may permit a small component of townhome development to provide varied housing choices with the TH



combining district established in the Municipal Code. The category is used only at locations with adequate utility services, transit, or both.

**Very High Density:** Sites have an established maximum density between 65.01-80 units per acre and may have a required minimum density. This category offers extensive opportunity for housing choice, especially for people who want a more urban environment. The category is used only at locations with adequate utility services, transit, or both.

**Highest Density:** Sites have an established maximum density between 80.01-95 units per acre and may have a required minimum density. This category offers maximum opportunity for housing choice, including workforce housing. The category is used only at locations with adequate utility services located adjacent to an office campus environment.

## **COMMERCIAL/RESIDENTIAL**

This designation allows ~~primarily commercial uses and secondarily residential uses or a compatible combination of the two.~~ Commercial use means retail sales or service establishments with direct contact with customers and a sales floor/serving area, businesses, and limited professional offices, and service establishments with direct contact with customers. This applies to commercial activities ranging from neighborhood convenience stores to regionally oriented specialty stores. Retail stores that would be a nuisance for adjoining neighborhoods or harmful to the community identity would be regulated by the commercial zoning ordinance and use permit procedure. Retail stores do not include businesses that function as a warehouse, provide only pick-up and drop-off services, and/or do not offer direct services or sale of goods.

Smaller commercial parcels in existing residential areas may be needed to provide local neighborhood serving retail; otherwise, they may be redeveloped at residential densities ~~compatible with the surroundings~~ identified in the land use map.

The residential density for each sub-category is identified below. 100% residential development is allowed on sites with a General Plan land use designation of Commercial/Residential, if at least 40% of the total units are affordable, with at least 20% of the total units affordable to lower income households. Residential development is subject to the numerical caps and other policies described in the development priorities tables Figure LU-2 and the land use map. In the event of a conflict between Figure LU-2 and the land use map, the residential density would be the greater of the two.

**Commercial/Residential Low/Medium Density:** This category allows mixed-use development with commercial uses and an established maximum residential density

between 5.01-10 units per acre by site, in addition to possibly having a required minimum residential density. Development in this category promotes low to medium intensity residential development within walking distance to local/neighborhood serving commercial uses.

**Commercial/Residential Medium Density:** This category allows mixed-use development with commercial uses, and an established maximum residential density between 10.01-20 units per acre by site, in addition to possibly having a required minimum residential density. Development in this category should promote housing choices for “missing-middle” housing and smaller-scale multiple-family residential, combined with commercial development. The intensity allows for a gradual transition from existing single-family residential uses to higher-density development.

**Commercial/Residential Medium/High Density:** This category allows mixed-use development with commercial uses and an established maximum residential density between 20.01-35 units per acre by site, in addition to possibly having a required minimum residential density. Development in this category promotes commercial development combined with a range of housing choices for people who want a more urban environment, with either multiple-family residential or townhome development, or a mix thereof. In some cases, zoning may permit a small component of townhome development to provide varied housing choices with the TH combining district established in the Municipal Code. The intensity requires that the category generally be used in corridors with access to services and transit.

**Commercial/Residential High Density:** This category allows mixed-use development with commercial uses, and an established maximum residential density between 35.01-50 units per acre by site, in addition to possibly having a required minimum residential density. Development in this category is intended primarily for multiple-family residential. In some cases, zoning may permit a component of townhome development to provide varied housing choices with the TH combining district established in the Municipal Code. The intensity requires that the category be used only at locations with adequate utility services or transit or both. This category offers a wide opportunity for housing choice, especially for people who want to live in an urban environment.

**Commercial/Residential High/Very High Density:** This category allows mixed-use development with commercial uses, and an established maximum residential density between 50.01-65 units per acre by site, in addition to possibly having a required minimum residential density. Development in this category promotes commercial development with a wide range of housing choices in primarily multiple-family residential development. In some cases, zoning may permit a small component of townhome development to provide varied housing choices with the TH combining

district established in the Municipal Code. The intensity requires that the category be used only at locations with adequate utility services, transit, or both.

**Commercial/Residential Very High Density:** This category allows mixed-use development with commercial uses, and an established maximum residential density between 65.01-80 units per acre by site, in addition to possibly having a required minimum residential density. Development in this category offers maximum opportunity for housing choice, especially for people who want a distinctly urban environment. The intensity requires that the category be used only at locations with adequate utility services, high-quality, transit, or both.

#### NEIGHBORHOOD COMMERCIAL/RESIDENTIAL

Neighborhood Commercial is a subset of the Commercial land use designation. This category includes retail activities, personal services, and limited commercial offices that serve primarily the residents of adjacent neighborhoods. Residential living units ~~may~~ shall only be allowed as upper floor uses or behind the permitted non-residential component of live/work units.

#### MONTA VISTA NEIGHBORHOOD LAND USE DESIGNATION

Residential: The Monta Vista neighborhood has ~~three~~ four density ranges, which allow flexibility in allowing single family, duplex and/or multi-family housing types. The four density ranges establish the maximum residential density for sites located in each of the designations and are identified on the General Plan Land Use map.

**DRAFT**

# Housing Element Technical Report

**B**

APPENDIX



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# 1. INTRODUCTION

The City of Cupertino is a community with a high quality of life, a renowned school system, and a robust high-technology economy. The long-term vitality of Cupertino and the local economy depend on the availability of all types of housing to meet the community's diverse housing needs. As Cupertino looks towards the future, increasing the range and diversity of housing options will be integral to the city's success. Consistent with the goal of being a balanced community, this Housing Element continues the City's commitment to ensuring new opportunities for residential development, as well as for preserving and enhancing our existing neighborhoods.

This 2023-2031 Housing Element represents the City of Cupertino's intent to plan for the housing needs of the Cupertino community while meeting the State's housing goals, as set forth in Article 10.6 of the California Government Code. The California State Legislature has identified the attainment of a decent home and a suitable living environment for every Californian as the State's major housing goal. The Cupertino Housing Element represents a sincere and creative effort to meet local and regional housing needs within the constraints of a fully established built-out community, limited land availability, and extraordinarily high costs of land and housing.

## 1.1 ROLE AND CONTENT OF THE HOUSING ELEMENT

This Housing Element is a comprehensive eight-year plan to address the housing needs in Cupertino. The Housing Element is the City's primary policy document regarding the development, rehabilitation, and preservation of housing for all economic segments of the population.

Per State Housing Element law, the document must be periodically updated to:

- Outline the community's housing production objectives consistent with State and regional growth projections;
- Describe goals, policies, and implementation strategies to achieve local housing objectives;
- Examine the local need for housing with a focus on special-needs populations;
- Identify adequate sites for the production of housing serving various income levels;
- Analyze potential constraints to new housing production;
- Evaluate the Housing Element for consistency with other General Plan elements; and
- Evaluate Affirmatively Furthering Fair Housing.

This 6th Cycle Housing Element covers an eight-year planning period, from January 31, 2023, through January 31, 2031, and replaces the City's 5th Cycle Housing Element that covered the January 31, 2015, through January 31, 2023, planning period.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

## 1.2 HOUSING ELEMENT TECHNICAL REPORT ORGANIZATION

The Housing Element Technical Report, Appendix B, includes the following sections:

**Appendix B1 – Public Participation:** This section summarizes public outreach and engagement efforts, including stakeholder interviews; Housing Element advisory committee meetings; housing commission, planning commission, and City Council workshops and study sessions; community workshops; public hearings; community input received; and noticing of the draft Housing Element.

**Appendix B2 – Housing Needs Assessment:** This section focuses on demographic information, including population trends, ethnicity, age, household composition, income, employment, housing characteristics, housing needs by income, and housing needs for special segments of the population.

**Appendix B3 – Fair Housing Assessment:** Includes a Fair Housing Assessment that aims to combat discrimination, overcome patterns of segregation, and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics.

**Appendix B4 – Housing Resources and Opportunities:** This section describes Cupertino's housing resources as well as the city's existing housing stock and the potential areas for future housing development.

**Appendix B5 – Housing Constraints:** This section analyzes potential governmental and nongovernmental constraints to housing development. This includes the City's planning, zoning, and building standards that directly affect residential development patterns as well as influence housing availability and affordability. Potential nongovernmental constraints include the availability and cost of financing housing development, the price of land, and the materials for building homes. This section also discusses opportunities for energy conservation, which can reduce costs to homeowners and infrastructure costs to the City.

**Appendix B6 – Review of Previous Housing Element:** This section contains an evaluation of the prior Housing Element and its accomplishments and analyzes differences between what was projected and what was achieved.

## 1.3 CONSISTENCY WITH THE GENERAL PLAN

The City's 2040 General Plan was adopted in 2014, and the Housing Element has been reviewed for consistency with other General Plan elements. The policies and programs in this Housing Element are consistent with the policy direction contained in other parts of the General Plan. The City will continue to review and revise the Housing Element throughout the planning period, as necessary for consistency, when amendments are made to the General Plan (**Strategy HE-1.3.13**).

Per Assembly Bill (AB) 162 (Government Code Section 65302.g.3), upon the next revision of the Housing Element on or after January 1, 2014, the Safety Element shall be reviewed and updated as necessary to address the risk of fire for land classified as state responsibility areas, as defined in Section 4102 of the Public Resources Code, and land classified as Very High Fire Hazard Severity Zones, as

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

defined in Section 51177. Senate Bill (SB) 379 (Government Code Section 65302.g.4) requires that the Safety Element be reviewed and updated as necessary to address climate change adaptation and applicable resiliency strategies. SB 1035 (Government Code Section 65302.g.6) requires that the Safety Element be reviewed and updated as needed upon each revision of the Housing Element or local hazard mitigation plan, but not less than once every eight years. SB 99 (Government Code Section 65302.g.5) requires that on or after January 1, 2020, the Safety Element includes information to identify residential developments in hazard areas that do not have at least two evacuation routes.

As of January 2023, the City is currently working to review and update the existing Safety Element, incorporating all State law changes, including applicable laws and any additional requirements and General Plan guidelines from the State of California Governor's Office of Planning and Research (OPR).

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

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## Public Participation

# B.1

APPENDIX



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

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## B1 PUBLIC PARTICIPATION

This section describes the effort made by the City of Cupertino to engage all economic segments of the community (including residents and/or their representatives) in the development and update of the Housing Element. This public participation effort also includes formal consultation, pursuant to Government Code Section 65352.3, with representatives from nine Native American tribes that are present and active in Santa Clara County. It is also responsive to Assembly Bill (AB) 686 (Affirmatively Furthering Fair Housing), which requires local jurisdictions, as they update their housing elements, to conduct public outreach to equitably include all stakeholders in the Housing Element public participation program.

The 6th cycle Regional Housing Needs Assessment allocation (RHNA) numbers are a sea change for all California communities, and the success of the update process hinged in part on a community outreach and engagement program that was robust, inclusive, and meaningful. COVID-19 has complicated community outreach efforts, but the pandemic has also catalyzed the development of new digital tools that have brought interactive engagement to a new level. One such tool is an all-in-one digital community engagement platform called Engagement HQ or Bang the Table (<https://www.bangthetable.com/>).

### B1.1 BANG THE TABLE

The City of Cupertino partnered with Bang the Table as a cornerstone of its community outreach and engagement program. Using this platform, the update team developed an interactive engagement plan that allowed community members to engage on their own time. Components of the interactive engagement plan included:

- **Website.** Engage Cupertino at <https://engagecupertino.org/hub-page/housing-element> is a dedicated website that provides a portal to all of the Housing Element-related public engagement activities that are available to members of the public. The page provides translation from English into four languages, including Chinese, Spanish, Russian, and Vietnamese. This website includes information on Housing Element basics, site surveys, a Senate Bill 9 survey, and materials from community workshops.
- **Places.** The update team gathered feedback from an interactive mapping program called Balancing Act, through the Sites Inventory process.
- **Stories.** The engagement process helped Cupertino better understand, empathize with, and relate to all who contributed to the many Housing Element discussions through video interaction and reflection opportunities.
- **Surveys.** The process encouraged Cupertino community members to voice their opinions in a convenient way that also helped City staff understand what areas need more encouragement to participate. Aggregate data also helped the City understand generally who is participating with the outreach tools.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

## B1.2 COMMUNITY WORKSHOPS

The following community workshops were held to connect with stakeholders and Cupertino residents and gather valuable insights that would contribute to the Housing Element update process.

- **October 13, 2021: West Valley Community Services (WVCS's) Envisioning an Inclusive Cupertino: Housing Element Town Hall.** This event was an opportunity for the Cupertino community to learn about the Housing Element through an informative presentation, and a panel featuring Assemblymember Evan Low, Bianca Neumann from EAH Housing, Nadia Aziz from the Silicon Valley Law Foundation, Matthew Reed from SV@Home, and Mair Dundon, affordable housing resident, and community advocate.
- **December 9, 2021: Housing Element Update Community Workshop.** The workshop was advertised to the public through a variety of efforts. The workshop, held at the height of COVID-19 restrictions, allowed attendees via Zoom. The workshop was live streamed to both the City of Cupertino's YouTube channel and the Granicus TV channel.
- **January 24, 2022: Senior Advisory Committee.** Staff attended this Committee meeting via Zoom to inform this senior-focused group about the Housing Element update and the community engagement opportunities that would be coming throughout the 2022 calendar year, and to encourage community participation in the update to the maximum extent possible.
- **April 23, 2022: Earth Day and Arbor Day Festival.** City staff attended this day-long event to update and inform the public about the importance of the Housing Element update and the ways the public can participate in the process.
- **May 23, 2022: Community Meeting for Inclusive Housing.** This workshop was hosted by WVCS. It focused on community dialogue and included a panel of individuals with a variety of backgrounds and life experiences, including former military veterans adjusting to civilian life, individuals on the edge of homelessness, and residents with physical and intellectual disabilities. Breakout rooms enabled participants to discuss their experiences and how to be engaged with the policy-making process. The workshop was advertised to the public through various efforts, including the City's e-notification list of over 2,000 individuals and organizations. There were Zoom attendees and in-person attendees, with over 100 attendees in total. The meeting was also livestreamed to the City of Cupertino's YouTube channel and the Granicus TV channel.
- **July 20, 2022: Community Meeting to Focus on Needs for Students and Older Adults.** This workshop was also hosted by WVCS and featured a panel of younger and older adults, all of whom deal directly with high housing costs throughout the region, and more breakout room time than in previous meetings. It took place remotely on Zoom. The workshop was advertised to the public through various efforts, again including the City's e-notification list. The meeting was also live streamed to the City of Cupertino's YouTube channel and the Granicus TV channel.

- **September 26, 2022: Community Meeting to Better Understand Low-Income Homeowners.** This workshop was hosted by WVCS and focused on those who own a home in Cupertino but are otherwise low income, and those who work in Cupertino but cannot afford to live in the city and thus face long daily commutes to and from work. The workshop was advertised to the public through various efforts, again including the City’s e-notification list. The meeting was also live streamed to the City of Cupertino’s YouTube channel and the Granicus TV channel.

Cupertino’s community engagement program included an initial presentation to City Council, five community meetings, and online/virtual participation opportunities made possible through Bang the Table (described previously).

### B1.3 CITY PUBLICATIONS, LISTSERVS, NEWSLETTERS, AND OTHER SOCIAL MEDIA OUTREACH

The City released several newsletters to ensure the public was well informed of the Housing Element efforts. This included:

- City newsletters went out initially to 685 email subscribers for the October and December 2021 community workshops. By late 2022, the list had grown to over 2,000 subscribers. E-notifications have been sent to list subscribers for every public meeting.
- Newsletters were sent to 1,856 subscribers on February 2, 2022 (Cupertino General News, Housing, or Housing Commission Meetings lists), with a 58 percent open rate and a 5 percent click rate.
- Since early 2022, the City has provided regular, generally monthly, updates on the Housing Element on its two electronic newsletters, *Items of Interest* and *The Scene* (also in print).
- Social media outreach included Cupertino Facebook, Twitter, NextDoor, and eNotification. This outreach is summarized in [Table B1-1, Social Media Outreach](#).

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B1-1 Social Media Outreach

	Facebook	NextDoor	Twitter	eNotification
Post 1 – Housing Element Community Workshop (11/30/21)	Reach: 453 Engagement: 10	Reach: 1,013 Engagement: 1	Reach: 783 Engagement: 1	Reach: 15,010 Engagement: 594
Post 2 – Workshop Reminder (12/6/21)	Reach: 303 Engagement: 1	Reach: 656 Engagement: 1	Reach: 1,096 Engagement: 16	Reach: 1,444 Engagement: 118

Source: EMC Planning Group 2022

## B1.4 MAILED OUTREACH

*January Postcard:* Mailed to every residence in the city the week of January 10, 2022, to 23,351 addresses. This was a city-wide effort to notify all residents of the Housing Element update.

*The Cupertino Scene Newsletter:* [The Cupertino Scene](#), the City’s official newsletter, is one method the City uses to communicate with residents to ensure the public has access to useful and important information. The Scene is printed every month, except in January and August. A printed version of the newsletter is mailed to more than 20,000 households with extra copies available at City Hall, Cupertino Library, Quinlan Community Center, Senior Center, among other spots across Cupertino. The Scene went out to 23,351 addresses on December 1, 2021, and February 2, 2022. Additional updates were also provided throughout 2022.

The City also sent direct mail to all property owners with sites larger than one half acre and up to 10 acres, consistent with California Department of Housing and Community Development (HCD) guidelines regarding potentially eligible housing sites.

## B1.5 DEDICATED AFFH OUTREACH

The Cupertino public participation program was very responsive to affirmatively furthering fair housing (AFFH), which requires local jurisdictions to conduct public outreach to equitably include all stakeholders in the Housing Element public participation program.

- **Flyer and Survey Distribution at West Valley Community Services (WVCS) Events.** Flyers promoting the Engage Cupertino Housing Element website and a survey were distributed to WVCS clients at several WVCS-sponsored events, including the December 11th Gift of Hope event and a handful of the weekly mobile market events between January and March of 2022. The flyers and surveys were available in English, Spanish, Russian, Vietnamese, and Simplified Chinese. A total of [38 surveys](#) were received.
- **October 13, 2021:** WVCS’s Envisioning an Inclusive Cupertino: Housing Element Town Hall.

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- **May 23, 2022:** Community Meeting for Inclusive Housing.
- **July 20, 2022:** Community Meeting to Focus on Needs for Students and Older Adults.
- **September 26, 2022:** Community Meeting to Better Understand Low-Income Homeowners.
- **Additional Focus Group Meetings** focused on housing for people with disabilities and opportunities for faith-based organizations to contribute to affordable housing.

## B1.6 TRIBAL CONSULTATION

This public participation effort includes formal consultation, pursuant to Government Code Section 65352.3, with representatives from nine Native American tribes that are present and active in Santa Clara County. All tribal groups have received mailed notices regarding the Housing Element update and the California Environmental Quality Act (CEQA) process associated with it.

## B1.7 ADDITIONAL OUTREACH

Through the month of August 2023, the following outreach has been done for the Housing Element update. The following list includes public meetings for which notice was provided before the City's Commissions and Councils, as well as community meetings:

- Mid-January 2022, postcards were mailed to all Cupertino households (to over 23,000 addresses) to inform residents about the Housing Element update and to introduce them to the [engagecupertino.org](http://engagecupertino.org) website and the range of information located there.
- January 19, 2022: To gauge property owner interest, letters of interest were sent by City staff to over 400 Cupertino property owners whose properties could potentially be viable housing sites per HCD criteria. An online owner interest form was created by the City's consultant, EMC Planning, and placed on the website. At present, there have been 59 property owners who have requested inclusion of their properties on the sites inventory. Staff did a focused, second mailing in early June to property owners who did not originally respond.
- Since December 2021, regular monthly updates on the Housing Element update's status and next steps have been provided on the City's *Items of Interest* and *The Scene* newsletters.
- Social media platforms, such as Facebook, Twitter, and NextDoor have been regularly used to inform residents about upcoming Housing Element update meetings.
- At present, over 3,700 individuals receive e-notifications from the City for Housing Element-related public meetings.
- Staff attended the January 24, 2022, Senior Advisory Committee and the March 9, 2022, Block Leaders meetings to provide an overview of the Housing Element update process and to inform meeting attendees about sources of information regarding the update.

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- Staff attended the April 23, 2022, Earth and Arbor Day event at Library Park to inform residents and attendees about the Housing Element update and to let residents know that their input is valuable and necessary.
- May 23, 2022: A hybrid community meeting allowing for both virtual and in-person attendance was held at Community Hall. The meeting was coordinated by City staff, EMC Planning and West Valley Community Services (WVCS) and featured four panelists with lived-experience and/or special needs, including development disabilities, prior homelessness, housing insecurity, and adjustments to civilian life following military service. Over 100 people registered to attend the meeting, with approximately 70 participating; three-quarters attended virtually. This meeting was the first of three focus group community meetings, the second meeting was held on July 25, described below.
- July 25, 2022: Community Meeting focusing on housing-related issues germane to seniors and students. Similar to the May community meeting, approximately 100 people registered for the meeting, which was virtual-only. An upcoming community meeting is scheduled for September 26, focusing on the experiences of Cupertino workers who are priced out of the local housing market and Cupertino homeowners who are lower income despite homeownership.
- Community Engagement Plan-Strategic Advisory Committee meetings: an ad hoc committee approved by the City Council on March 8 to focus on community engagement and AFFH issues, met on March 30, April 7 and 25, May 16, June 6, July 25, September 16, and October 28, 2022. E-Notifications were sent out for all eight meetings of the committee.
- City Council Study Sessions: Initial study sessions providing a big picture overview of the Housing Element update were held September 28 and November 16, 2021. Council subsequently held meetings on the formation of a Stakeholders Group on March 1 and March 8, 2022, leading to the establishment of the Strategic Advisory Committee. City Council meetings were held on the Sites inventory: August 16, 29, and 30, 2022.
- December 9, 2021: a morning Housing Commission study session and evening Community Meeting were held.
- Planning Commission: Study sessions providing an overview of the Housing Element update and, more specifically, on the Sites Inventory, were held on January 25, February 22, April 26, and May 24, 2022. Joint meetings with the Housing Commission were held on June 28 and July 5, 2022, at the conclusion of which both the Planning and Housing Commissions provided recommendations to the City Council on which sites to include on the Housing Sites Inventory.
- June 8, 2022: A meeting with Project Sentinel Executive Director, Carole Conn, and Fair Housing director, Molly Current, was held to discuss fair housing and rental housing issues in Cupertino and countywide.



**APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT**

- July 25, 2023: Study session with City Council on the progress on the Housing Element to date. In addition, the Council was updated on site selection and policy areas. The Council affirmed the site selection strategy outlined by staff and identified policy areas of interest by a motion that passed on a 4-0-1 vote.

**B1.8 STUDY SESSIONS: SITES INVENTORY**

City staff held numerous meetings related to the Housing Element update. During the 2022 calendar year, the Planning Commission held four public meetings on January 25, February 22, April 26, and May 24, 2022. Each of these meetings focused on a citywide discussion to select sites at specified densities for a potential housing sites inventory.

At the January 2022 and February 2022 Planning Commission study sessions, staff provided overviews of the housing sites selection process and identified nearly 400 properties citywide that could potentially be placed on the City's housing sites inventory. The sites inventory is the list of City Council-approved properties that identifies where housing will be developed during the 2023-2031 planning period. The majority of these properties fell within the property size range, 0.5-10 acres, recommended by HCD. The City's Planning Commission had the following recommendations:

- 1) That the housing sites should be dispersed throughout the city and strive for a balance between the City's eastern and western areas;
- 2) New housing sites should avoid or minimize displacement of existing uses, particularly existing residential uses that would necessitate the relocation of residents;
- 3) The Housing Element should avoid significantly "up-zoning" sites to the extent feasible; and
- 4) The Housing Element should include new housing sites that could support the City's public schools and help counteract declining enrollment trends that are occurring city- and countywide.

Based on the Planning Commission's recommendation, City staff revised the site inventory and presented a reduced, more focused list of potential housing sites at the April 26 Planning Commission meeting. In the revised inventory, potential sites were grouped by neighborhood and special area to better illustrate the locations of the properties. Extensive comments were received at the April 26, 2022, Planning Commission meeting, where in the Planning Commission reiterated its previously stated principles and goals for housing site selection and also directed staff to focus on the potential inclusion of several "key" sites along South DeAnza and Stevens Creek Boulevards.

On June 28 and July 5, 2022, the Planning and Housing Commissions held a special joint meeting (the meeting was continued from June 28 to July 5) to finalize their housing sites inventory recommendation to the City Council. The Planning Commission's sites inventory recommendation largely coincided with the staff's June 28 recommendation to the Planning and Housing Commissions, but it also includes key changes, notably increasing housing densities to areas on the city's west side, such as the South DeAnza Boulevard and Bubb Road special areas, as well as the North and South Monta Vista neighborhoods. Other recommendations also included that the development standards

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be established that allow for more intensive development along the street frontage portions of the DeAnza and Stevens Creek Boulevard corridors but that development of the properties along these corridors adjacent to single-family neighborhoods be limited in scale to preserve the existing neighborhood character.

### B1.9 FOCUS GROUP MEETINGS: REZONING

On August 16, 2023, the City held two focus group meetings related to rezoning for the Housing Element update. Over 75 local and national affordable and market-rate housing developers were invited to join the focus group meeting. Nearly 35 service providers, housing organizations, and local agencies were invited to join the focus group meeting for housing advocates and partner agencies.

**Focus Group 1:** Five housing developers attended, which included representatives from Charities Housing and Bay Area Housing Corporation/local affordable housing developers, Sand Hill Property Company, and Toll Brothers/local and national for-profit developers. The discussion with housing developers focused on housing densities and common obstacles, and potential solutions to building medium- to very high-density residential developments in Cupertino. Participants shared that there are two primary forms of development and densities that are feasible in today's market – townhome development with a density of approximately 18 to 25 dwelling units per acre and podium development with a density of at least 80 dwelling units per acre. Market-rate developer participants noted that unless a jurisdiction has a large enough site of at least three to four acres that would allow for a mix of densities, it can be difficult to finance and build at the densities found between townhome and podium development. Additional participant suggestions to reduce barriers to development included expediting the permitting process, creating certainty and consistency for review, and allowing more flexibility in project design.

**Focus Group 2:** Four participants attended, which included representatives from Cupertino Union School District and Fremont Union High School District/local school districts, Silicon Valley Leadership Group/a local housing advocate, and West Valley Community Services/a local social services provider. Participants were asked to provide input on what type of housing or amenities they believe are currently lacking in Cupertino. School district representatives noted that they have been struggling to attract and retain employees and highlighted the need for workforce housing in the area. They also discussed student generation as it affects current enrollment, pointing out that higher-density development typically generates fewer students per household than single-family residential or townhome development. The service provider and housing advocate representatives emphasized the need for more affordable units and higher-density development, particularly along transit corridors. Participants were also asked to identify which amenities, services, or infrastructure they would like to see in new development projects. Participants encouraged the provision of community gathering areas, open space, and on-site social, childcare, youth, and senior services, as well as more mixed-use development and a mix of housing types in each project.

## B1.10 COMMUNITY OPEN HOUSE: REZONING

In September 2023 the City hosted two community open house events on rezoning. An in-person open house was held on Saturday September 9, from 1:00pm to 3:00pm at the Quinlan Community Center. The second open house was held virtually through Zoom on Thursday, September 14 from 6:00pm to 8:00pm. Both open houses consisted of the same agenda, material, and approach. Approximately 40 in-person participants and 25 virtual participants attended the open house meetings.

The objectives of the open houses were to educate community members about Housing Element sites and densities; collect feedback about amenities, placemaking features, and development form; and address community questions. Each open house consisted of a presentation on the Housing Element Update, Regional Housing Needs Allocation (RHNA), and rezoning, followed by a question-and-answer session. Participants had the remainder of the meeting time to share their input and ideas at each of the three open house stations on: (1) Context and amenities, (2) Development types and forms for 25 dwelling units per acre, 50 dwelling units per acre, and 75 dwelling units per acre, and (3) Development standards for proposed density ranges of 25-50 dwelling units per acre and 50-75 dwelling units per acre. Participant feedback from the open house stations is summarized below.

Participants were asked to provide input through a visual preference survey regarding building amenities and placemaking features for new development.

### *Building Amenities*

In-Person and virtual open house participants expressed support for community open spaces and courtyards in new developments. The in-person participants also showed support for retail uses and bicycle storage, and virtual participants supported community space, daycare, and bicycle storage. Additional ideas from both groups included: aging in place amenities such as community gathering space and medical services; social services; barbecue and picnic areas; recreational space for sports, such as basketball, skateboarding, yoga, martial arts, and roller hockey; space for gardening, dog parks; laundry and storage facilities for residents; and air conditioning.

### *Placemaking*

Participants from the in-person workshop showed strong support for landscape and green infrastructure, followed by active street frontages. In the virtual open house, participants showed the most support for active street frontages and public plazas, followed by equal support of public art, landscaping and green infrastructure, and lighting. Additional ideas from both groups included: amenities like entertainment, grocery stores, and other social gathering places nearby; bike paths; and efforts to reduce greenhouse gas emissions through less parking and sidewalk enhancements, including outdoor dining.

### *25 Dwelling Units per Acre*

Participants favored mixed-use development, followed by townhomes and multi-family projects. Some participants suggested that mixed-use development should incorporate inviting ground floor design with shops and bistros. Regarding townhome development, participants pointed out that developers are building very similar projects, which can lead to bland designs. They would prefer to see variation in roof lines, building step-backs, vertical articulation on the façade, and vegetation.

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Others pointed out concerns about adequate residential parking and townhome design not being senior-friendly or incorporating aging-in-place design techniques.

### *50 Dwelling Units per Acre*

Participants noted preferences for mixed-use and multi-family development for developments, citing mixed-use as tending to be both cost-effective and pleasant. However, one participant noted a preference for a combination of mixed-use and 100% residential projects when in close proximity to one another. Participants also preferred multi-family development design that incorporated variation in colors, materials, and roof lines, plus private and community open space such as balconies and landscaped areas. General comments about development at this density included: concerns that higher density development look “cookie cutter” and should incorporate “personality,”; and that density at this level is too high for Cupertino.

### *75 Dwelling Units per Acre*

The in-person group showed a strong preference for mixed-use development over multi-family. The virtual group had a slight preference for multifamily. Comments from both groups related to mixed-use development included: direct lighting downward and toward building walls to minimize light pollution; require variation in height, rooflines, and color; and provide larger square footage for ground floor tenant spaces; and vegetation. Comments related to multi-family development included: trees along street frontages; balconies; and variation in height, rooflines, and color. General comments received for development at this density included: concerns that mixed-use can be noisy, so some developments should be designed as residential only; concerns that all higher density developments would look “cookie cutter” and should incorporate “personality”; preference for the highest density possible, even if it means taller buildings, for developments to have lower impact on greenhouse gas emissions and lower vehicle miles traveled through bike and walking amenities as well as less parking; and a note that density at this level is too high for Cupertino.

## B1.11 PUBLIC REVIEW AND COMMENTS FOR DRAFT AND FINAL HOUSING ELEMENT

The City received comments from the public, Cupertino residents, Silicon Valley Young Democrats, Cupertino for All, and Silicon Valley at Home, South Bay YIMBY, and comments received at Cupertino City Council Meetings. Public comments included, but were not limited to, the following topics:

- Include housing strategies to develop more missing-middle housing for the area’s workforce.
- Develop incentives including transitional housing on properties owned by public entities.
- Consider development of work/live units when replacing strip malls along major transportation corridors.
- Hire a housing program manager to assist with implementing housing programs.
- Address fair housing needs to affirmatively further fair housing.

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- Ensure sufficient capacity to meet the RHNA that is distributed throughout the city.
- Explore increasing housing for the developmentally disabled population and reducing barriers to accessing below-market rate units.
- Reduce constraints to housing development, including parking reductions, reduced building setbacks, reducing park dedication fees, expanding single-family home floor-area ratio (FAR) requirements, and restructuring impact fees.
- Initiate policies and programs focusing on the development of extremely low-income, emergency interim, permanent supportive and transitional housing, housing for De Anza students, and focus on teacher housing for teachers of all academic levels.
- Add Tier 2 sites and Assembly Bill (AB) 2011 sites.
- Remove AB 2011 Retail Centers or any additional retail centers.
- Partner with local school districts and use underutilized land on school sites.
- Include reasonable renter protections, community land trusts, and rental tenant relocation and assistance.
- Approve housing projects that are transit oriented.
- Ensure multifamily housing is encouraged in high opportunity areas.

All comments received were considered and used to inform the revised sites analysis and the assessment of fair housing. Goals, policies, and strategies were included and/or revised to incorporate the feedback received.

Revisions included new and revised strategies to strengthen the city's commitment to meeting the RHNA, through assistance with the development of non-vacant sites, mixed-use sites, lot consolidation, modifying development standards to ensure maximum densities can be achieved, and creating a new R-4 zoning district and new General Plan Land Use Designation to allow for higher densities than what currently exist in both the City's General Plan and Zoning Ordinance. Several revisions were made to the Fair Housing Assessment, including looking at RHNA distribution throughout the city, as well as modifying programs to assist residents with mobility constraints, displacement risk, offering a range of housing types, focusing efforts in high opportunity areas and areas of higher incomes, and to complete a study to determine if a rent control ordinance should be adopted by the City. Specific strategies were also modified to ensure compliance with State law. The City revised the sites inventory to remove sites that were not viable based on their existing uses, and included additional information regarding their redevelopment potential, based on City knowledge and conversations with property owners.

The Draft Element, as revised, remained available on the City's website during the second submittal to HCD (for 60 days). At this point, comments were received from two members of the public in December 2023 related to revisions made to the initial public draft. One expressed disagreement with the ACS data that was used in the housing needs assessment and felt that it did not match their lived experience as a resident, particularly around the availability of employment opportunities in the city and the number of households earning at or above 100 percent of the AMI, and expressed a desire

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for more housing resources to be made available, particularly to combat housing discrimination. The other community member expressed concerns about the availability of power infrastructure and potential traffic conditions and graffiti that the community member feels may result from increased housing development. These comments were considered during subsequent revisions.

In February 2024, prior to submitting the draft to HCD for a third round of review, the City received comments from Cupertino residents, and a member of the City Council. All comments received were considered and responses to the themes are summarized below. The City continues to make a diligent effort to achieve public participation of all economic segments through direct emails, and posting of the draft on the City's website.

- Release of the draft Housing Element was not consistent with State Law.
  - Similar to all other draft releases, consistent with AB 215, the City posted the draft revision on the website and emailed a link to all individuals and organizations that previously requested notices relating to the Housing Element or requested general City news.
- Request for additional public outreach.
  - There will be at least one meeting with the Housing and Planning Commissions in April 2024 followed by meetings with the City Council in May/June 2024. There will be several community meetings in the spring and summer to discuss rezoning, General Plan and objective design standards in relation to the Housing Element.
- Partner with school districts and other organizations to provide downpayment assistance or equity share program to help public agency employees, including the employees of the City of Cupertino, to become homeowners in our community.
  - Strategy HE-7.3.2 states that the City will coordinate with local school districts and colleges to identify housing needs and concerns. The City will discuss potential partnerships for affordable housing developments for school district employees and college students, including on school district properties. This ongoing implementation of this program will help to strategize on how to expand housing opportunities for teachers and public employees.
- Remove housing opportunities on school sites.
  - Allowing for housing on school sites provides additional housing options for employees. The City would determine the need based on the implementation of Strategy HE-7.3.2.



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- Address the job-housing imbalance and discourage worsening the imbalance by not allowing incentives or waiver of standards or waiver of fees for projects that worsen the job-housing balance.
  - The Housing Element identifies over 60 priority housing sites, many at minimum densities of 50 units/acre, to provide much needed housing, particularly affordable units, to address the jobs-housing imbalance that exists in Cupertino and the job-rich northwestern portion of Santa Clara County.
- Prioritize smaller starter for-sale homes to incentivize housing for the Missing Middle.
  - The missing middle strategies would provide a higher proportion of rental units and townhome densities would allow for starter homes both allowing a product that is more affordable relative to the single family detached housing that makes up the majority of the City's current housing stock.
- Strategy HE-1.3.6 should be changed from R3 to R2 (duplexes) to create a better transition for neighborhoods. Allowing R3 zoning allows for the use of density bonus law to eliminate the height, setbacks and parking requirements.
  - The R3 zoning standards discussed in the missing middle housing strategy (HE-1.3.6) would not allow more than 4 units on any R1 zoned lot, thus State density bonus law would not be applicable. At present, R1 and R2 lots throughout the City are able to have up to four units, the missing middle strategy would provide an opportunity for housing types, such as triplexes or fourplexes to be developed at neighborhood scale.
- Remove the option to waive park dedication fees and construction taxes.
  - This is a long standing policy and offers a way to remove constraints to the development of affordable housing.

In March 2024 the City revised the third draft of the Housing Element and released it for a 7-day review period prior to submitting revisions to HCD. During the 7-day review period, comments were received from Cupertino Voice and a Cupertino resident. Comments are summarized on the following page.

- 1- Survey results from 140 residents was provided where most respondents identified the following:
  - a. The City should hold more public meetings to obtain public input regarding rezoning, specifically considering height, setbacks, parking, and other standards.
  - i. As mentioned previously in B1.10, Community Open House: Rezoning, in September 2023 the City hosted two community open house events on rezoning. The objectives of the open houses were to educate community members about Housing Element sites and densities; collect feedback about



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amenities, placemaking features, and development form; and address community questions.

- b. The City should not allow corner lots to become multifamily housing.
    - i. In an effort to address the needs of all segments of the community, and to affirmatively further fair housing, City staff created Strategy HE-1.3.6 to address the needs of the missing middle. Additionally, at present, R1 and R2 lots throughout the City are able to have up to four units, the missing middle strategy would provide an opportunity for housing types, such as triplexes or fourplexes to be developed at neighborhood scale.
  - c. The City should not allow developers to pay a fee or reduce traditional types of parkland requirements.
    - i. It has been long standing policy in the City to offer a fee waiver for affordable units and developments in a bid to remove constraints to such development. This updated strategy would allow the City to study the parkland needs for new, denser development types and create requirements and appropriate fees for this kind of development.
  - d. The City should not allow high density housing on school sites.
    - i. Allowing for housing on school sites provides additional housing options for employees. The City would determine the need based on the implementation of Strategy HE-7.3.2.
- 2- It was also expressed that outreach should be done prior to adopting the housing element, the City should not allow parkland credit for pedestrian connections and trails, and that Strategy HE-1.3.6, Encourage Missing Middle, is excessive and should be revised.
- a. See responses under item number 1.

As additional revisions are made to respond to HCD comments, this information will be posted on the City's website to ensure all members of the public and any interested parties have current information. This process will continue through adoption of the Housing Element.

### B1.12 NOTICING OF THE DRAFT HOUSING ELEMENT

Per California Government Code Section 65585, the draft Housing Element was made available for public comment for 30 days, from November 18, 2022, to December 23, 2022. Public comment was received, and an additional 10 business days was allowed to consider and incorporate public comments into the draft revision before submitting to HCD on February 3, 2023. The draft was made available on the City's website.

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The City received a findings letter from HCD on May 4, 2023, and revised the draft Housing Element to address the identified findings. The revised draft Housing Element was posted on the City's website on October 6, 2023 and interested participants were notified of the availability, consistent with State law. The City resubmitted the revised Housing Element to HCD on October 16, 2023.

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## Housing Needs Assessment

# B.2

APPENDIX



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## B2 HOUSING NEEDS ASSESSMENT

This section of the Housing Element Technical Report describes existing housing needs and conditions in the City of Cupertino. The analysis in this section primarily uses data compiled by Association of Bay Area Governments (ABAG) in the “Housing Needs Data Report: Cupertino” (ABAG/MTC, Baird + Driskell Community Planning, April 2, 2021). This data packet was approved by the California Department of Housing and Community Development (HCD).

### B2.1 OVERVIEW OF BAY AREA HOUSING

The Bay Area is beginning to see a decrease in population and jobs. In the past, population was increasing and housing production was stalled. With the decrease in population drawn to the Bay Area, there may be a decrease in the need for housing units, although the need for affordable housing is higher than ever. For example, in many cities increasing housing costs coupled with the lack of affordable housing options has resulted in residents being priced out, increased traffic congestion caused by longer commutes, and fewer people across incomes being able to purchase homes or meet surging rents.

The 2023-2031 Housing Element Update provides a roadmap for how to meet our growth and housing challenges. Required by the State of California (State), the Housing Element identifies what the existing housing conditions and community needs are, reiterates goals, and creates a plan to ensure there are housing options for all segments of the community. The Housing Element is an integral part of the General Plan, which guides the policies of Cupertino.

### B2.2 POPULATION, EMPLOYMENT, AND HOUSEHOLD CHARACTERISTICS

#### POPULATION GROWTH

The Bay Area is the fifth-largest metropolitan area in the nation and has seen a steady increase in population since 1990, except for a dip during the Great Recession. Many cities in the region have experienced significant growth in jobs and population. While these trends have led to a corresponding increase in demand for housing across the region, the regional production of housing has largely not kept pace with job and population growth.

According to the data, the population of Cupertino was estimated to be 59,549 in 2020. The population of Cupertino makes up about 3.0 percent of Santa Clara County.<sup>1</sup> Cupertino has seen a decrease in population of 1 percent over the past five years, from 2015 to 2020, and an additional 1 percent over the past three years, from 2020 to 2023. While Santa Clara County and the Bay Area saw an increase from 2015 to 2020, there was a significant decrease from 2020 to 2023, at 4 percent and 3

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<sup>1</sup> To compare the rate of growth across various geographic scales, Figure B2-1 shows population for the jurisdiction, county, and region indexed to the population in the year 1990. This means that the data points represent the population growth (i.e., percentage change) in each of these geographies relative to their populations in 1990.

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percent, respectively. [Table B2-1, Population Growth Trends](#), shows population growth trends for Cupertino, Santa Clara County, and the Bay Area as a whole.

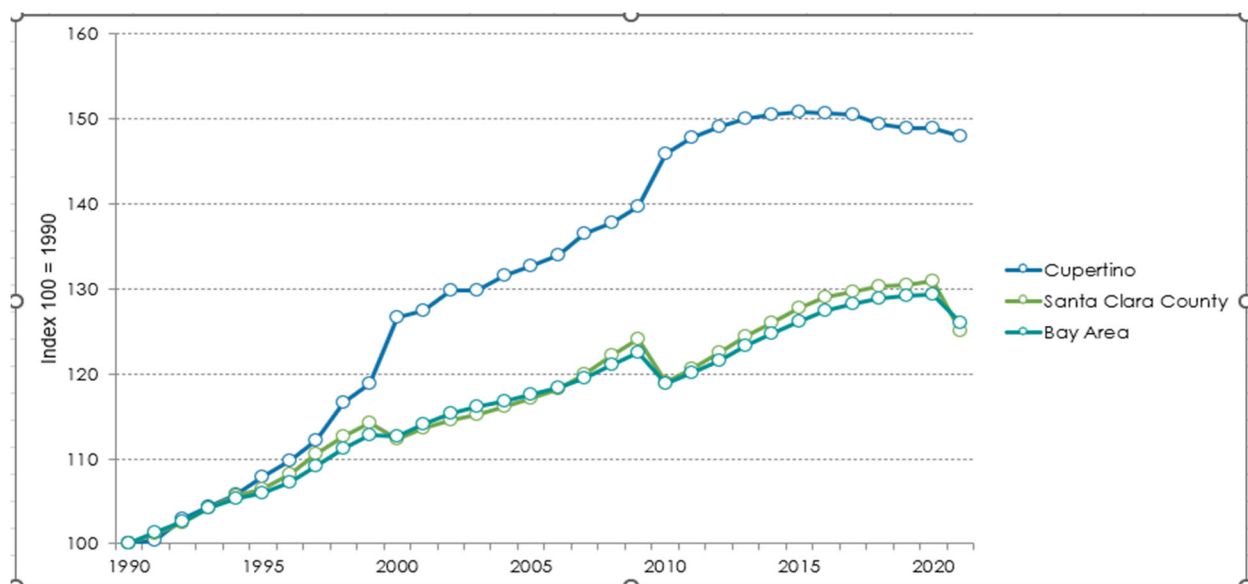
Table B2-1 Population Growth Trends								
Geography	1990	1995	2000	2005	2010	2015	2020	2023
Cupertino	39,967	43,142	50,602	53,012	58,302 <sup>1</sup>	60,260	59,549	59,154
Percentage Change	--	8%	17%	5%	10%	3%	-1%	-1%
Santa Clara County	1,497,577	1,594,818	1,682,585	1,752,696	1,781,642	1,912,180	1,961,969	1,886,079
Percentage Change	--	6%	6%	4%	2%	7%	3%	-4%
Bay Area	6,020,147	6,381,961	6,784,348	7,073,912	7,150,739	7,595,694	7,790,537	7,548,792
Percentage Change	--	6%	6%	4%	1%	6%	3%	-3%

Source: California Department of Finance, E-5 series

NOTE: For more years of data, please refer to the Data Packet Workbook, Table POPEMP-01.

<sup>1</sup>Removing the population increase from the Cupertino annexation, total population is 56,702.

The city's population increased by 15 percent between 2000 and 2010, exceeding the growth rate of Santa Clara County and the San Francisco Bay Area. During this period, Cupertino grew from 50,602 to 58,302 residents. A portion of this population growth can be attributed to the annexation of 168 acres of land between 2000 and 2008. The annexation of Garden Gate, Monta Vista, and scattered county "islands" added 1,600 new residents. After removing the population increases from these annexations, Cupertino experienced a 12 percent increase in its population during the previous decade. In the most recent decade, the population increased by 2 percent; however, predictions show a decrease in population growth throughout the state. [Figure B2-1, Population Growth Trends Chart](#), shows population growth trends in percentages.

**Figure B2-1 Population Growth Trends Chart**

Source: California Department of Finance, E-5 series

## AGE

The distribution of age groups in a city shapes what types of housing the community may need in the near future. An increase in the older population may mean there is a developing need for more senior housing options, while higher numbers of children and young families can point to the need for more family housing options and related services. There has also been a move by many to age-in-place or downsize to stay within their communities, which can mean more multifamily and accessible units are also needed.

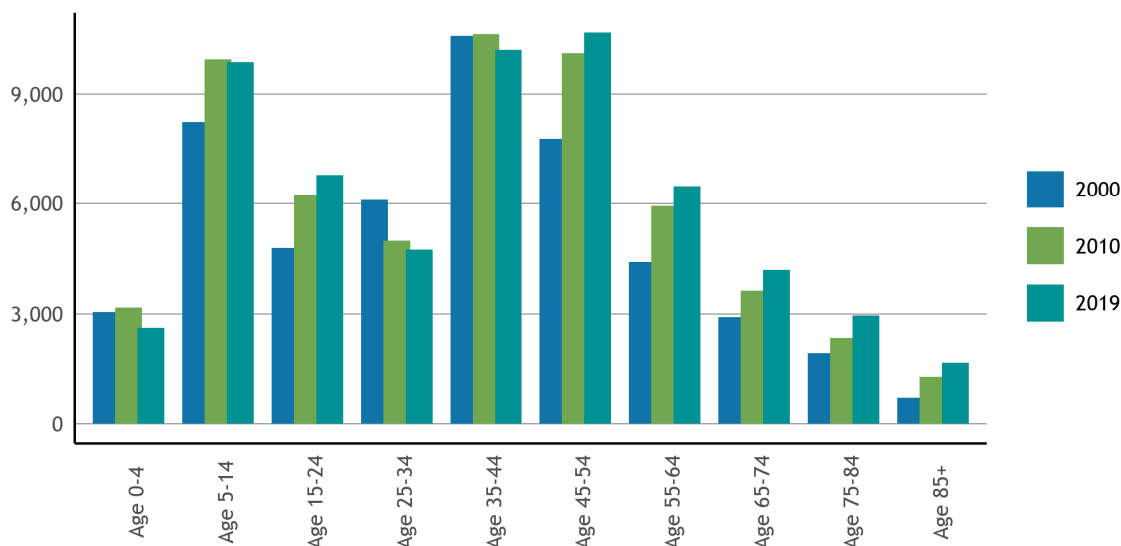
In Cupertino, the median age in 2000 was approximately 38 years. By 2019, the median age increased to approximately 40 years. The population of those under 14 has decreased since 2010, while the 65-and-over population has increased. [Figure B2-2, Population by Age, 2000-2019](#), shows population by age for the years 2000, 2010, and 2019.

Looking at the senior and youth population by race can add an additional layer of understanding, as families and seniors of color are even more likely to experience challenges finding affordable housing. People of color<sup>2</sup> make up 43.5 percent of seniors and 84.1 percent of youth under age 18. [Figure B2-3, Population Age by Race](#), shows population age by race.

<sup>2</sup> Here, all non-white racial groups are counted.

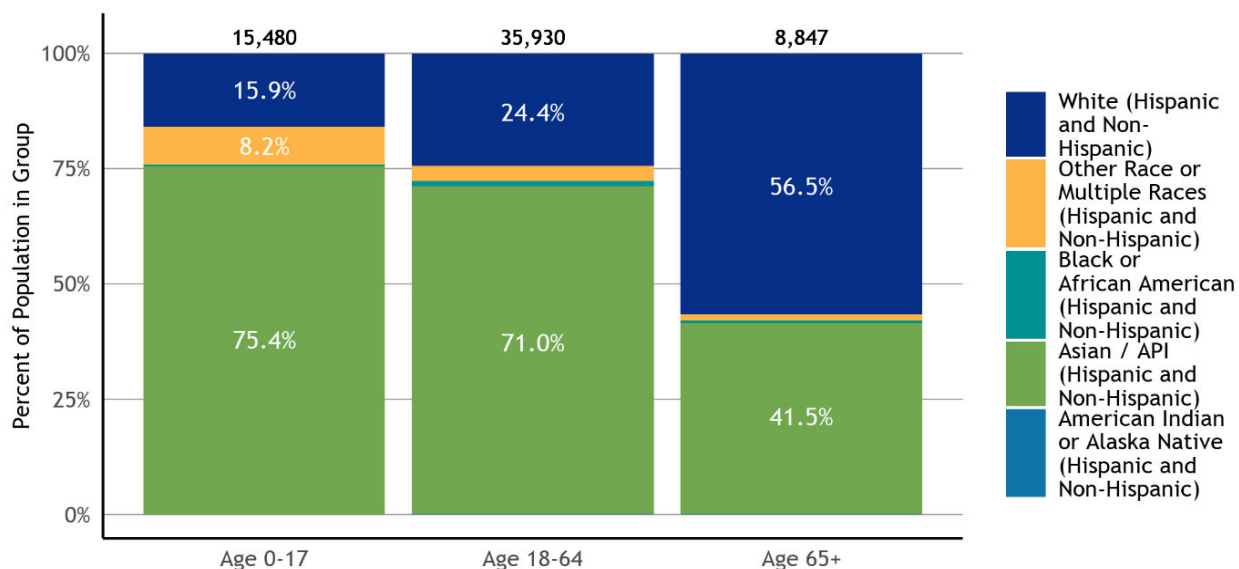
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Figure B2-2 Population by Age, 2000-2019



Sources: U.S. Census Bureau, Census 2000 SF1, Table P12; U.S. Census Bureau, Census 2010 SF1, Table P12; U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B01001. For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-04.

Figure B2-3 Population Age by Race



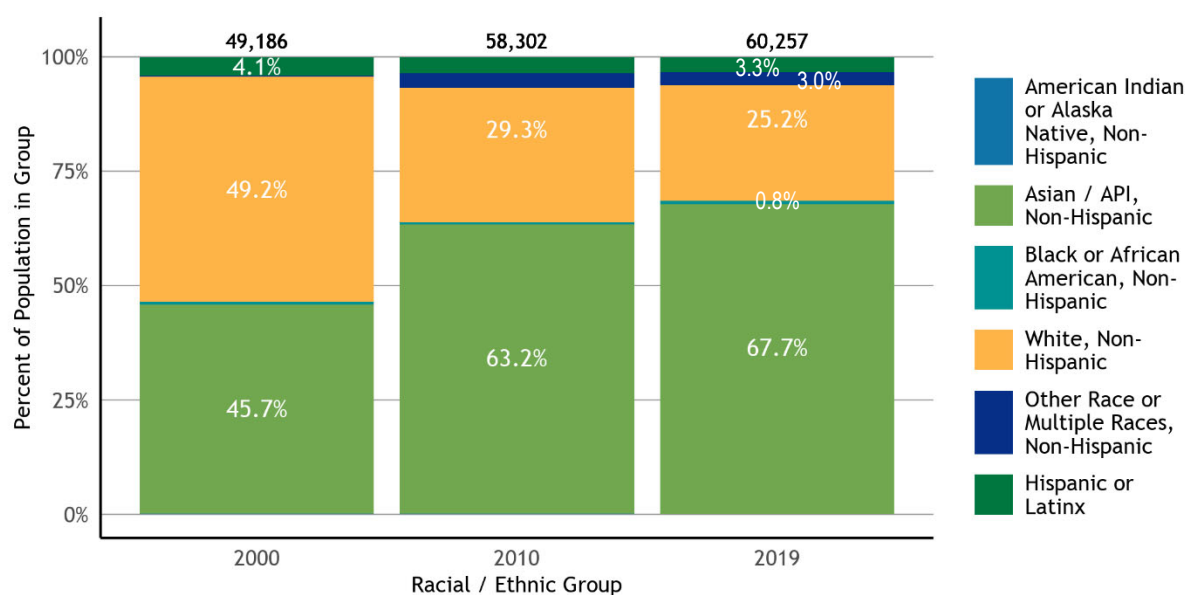
Sources: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B01001(A-G). For the data table behind this figure, please refer to the Data Packet Workbook, Table SEN-02.

## RACE AND ETHNICITY

Understanding the racial makeup of a city and region is important for designing and implementing effective housing policies and programs. These patterns are shaped by both market factors and government actions, such as exclusionary zoning, discriminatory lending practices, and displacement that has occurred over time and continues to impact communities of color today.<sup>3</sup>

Since 2000, the percentage of residents in Cupertino identifying as *White, Non-Hispanic*, has decreased by 24.0 percentage points, with this 2019 population standing at 15,168. By the same token, the percentage of residents of all *Other Race of Multiple Races, Non-Hispanic*, has increased. In absolute terms, the *Asian/ API, Non-Hispanic* population increased the most while the *White, Non-Hispanic* population decreased the most. [Figure B2-4, Population by Race, 2000-2019](#), shows population by race for 2000, 2010, and 2019.

**Figure B2-4 Population by Race, 2000-2019**



Sources: U.S. Census Bureau, Census 2000, Table P004; U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B03002. For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-02.

<sup>3</sup> See, for example, Rothstein, R. (2017). *The color of law: a forgotten history of how our government segregated America*. New York, NY & London, UK: Liveright Publishing.

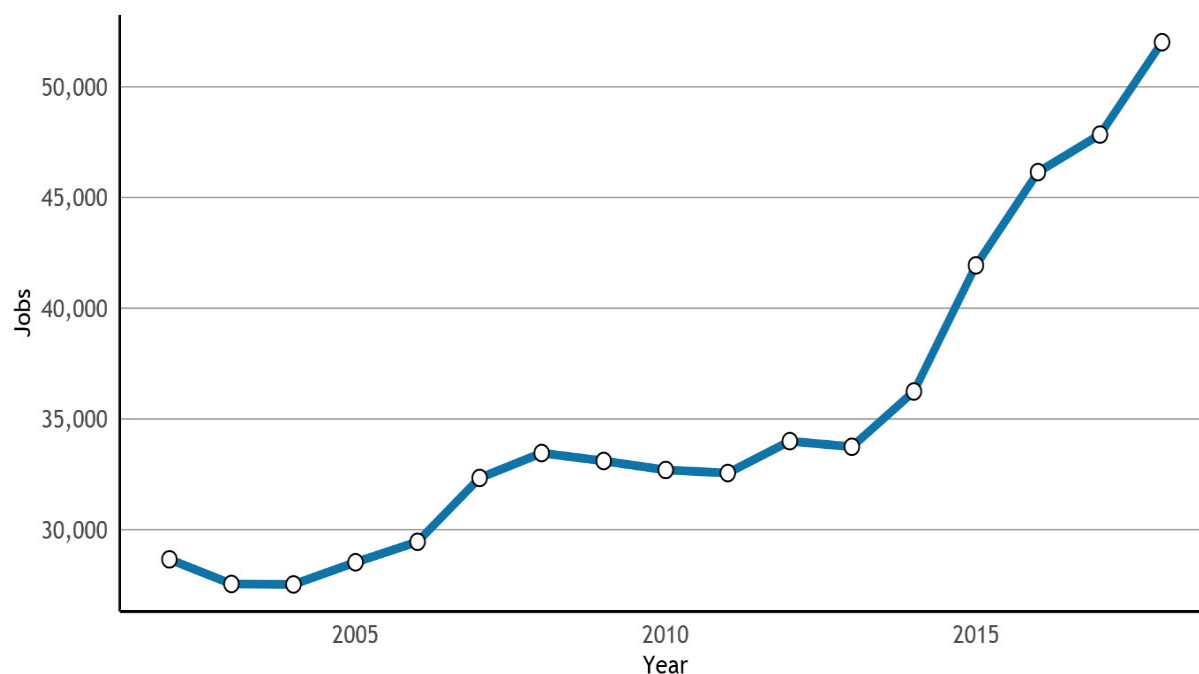
## EMPLOYMENT TRENDS

### BALANCE OF JOBS AND WORKERS

A city houses employed residents who either work in the community where they live or work elsewhere in the region. Conversely, a city may have job sites that employ residents from the same city but more often employ workers commuting from outside of it. Smaller cities typically will have more employed residents than jobs and export workers, while larger cities tend to have a surplus of jobs and import workers. To some extent, the regional transportation system is set up for this flow of workers to the region's core job centers. At the same time, as the housing affordability crisis has illustrated, local imbalances may be severe, where local jobs and worker populations are out of sync at a sub-regional scale.

One measure of this is the relationship between workers and jobs. A city with a surplus of workers “exports” workers to other parts of the region, while a city with a surplus of jobs must conversely “import” them. Between 2010 and 2018, the number of jobs in Cupertino increased by 59.1 percent. [Figure B2-5, Jobs in a Jurisdiction](#), shows jobs in Cupertino between 2002 and 2018.

**Figure B2-5 Jobs in a Jurisdiction**

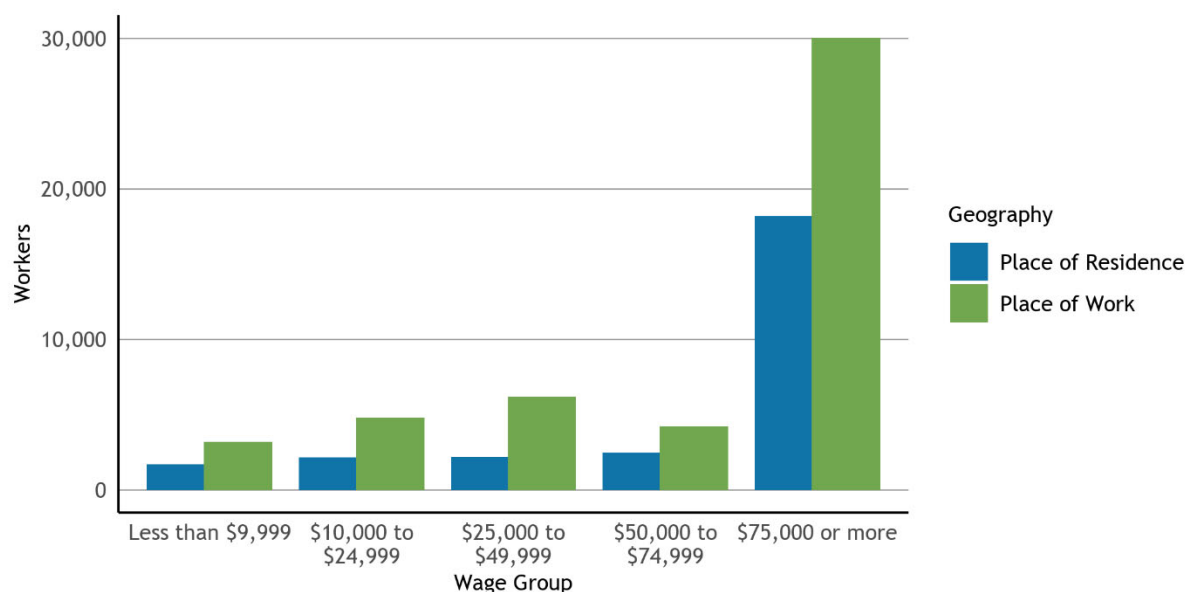


Sources: U.S. Census Bureau, Longitudinal Employer-Household Dynamics, Workplace Area Characteristics (WAC) files, 200B2-2018. For the data table behind this figure, please refer to the Data Packet Workbook, Table POEMP-11.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Figure B2-6, *Workers by Earnings, by Jurisdiction as Place of Work and Place of Residence*, shows the balance when comparing jobs to workers, broken down by different wage groups, offering additional insight into local dynamics. A community may offer employment for relatively low-income workers but have relatively few housing options for those workers. Conversely, it may house residents who are low-wage workers but offer few employment opportunities for them. Such relationships may cast extra light on potentially pent-up demand for housing in particular price categories. A relative surplus of jobs relative to residents in a given wage category suggests the need to import those workers, while conversely, surpluses of workers mean the community will export those workers to other jurisdictions. Such flows are not inherently bad, though over time, sub-regional imbalances may appear.

**Figure B2-6 Workers by Earnings, by Jurisdiction as Place of Work and Place of Residence**



Sources: U.S. Census Bureau, American Community Survey 5-Year Data 2015-2019, B08119, B08519. For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-10.

Cupertino has more low-wage jobs than low-wage residents (where low-wage refers to jobs paying less than \$25,000). At the medium to high end of the wage spectrum on Figure B2-6, *Workers by Earnings, by Jurisdiction as Place of Work and Place of Residence* (i.e., wages over \$75,000 per year), the City has more high-wage jobs than high-wage residents.

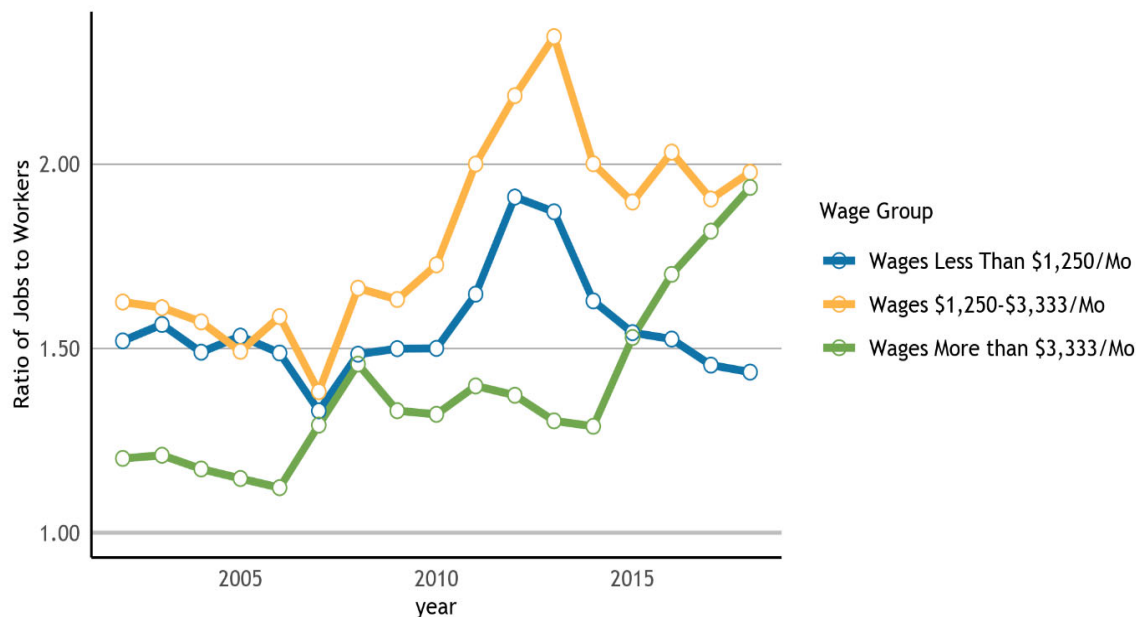
Figure B2-7, *Jobs-Worker Ratios, By Wage Group*, shows the ratio of jobs to workers by wage group. A value of 1.00 means that a city has the same number of jobs in a wage group as it has resident workers, in principle, a balance. Values above 1.00 indicate a jurisdiction will need to import workers for jobs in a given wage group. Cupertino's ratio of low-wage jobs to workers is 1.44, while the ratio of high-wage jobs to workers is 1.94.



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Such balances between jobs and workers may directly influence the housing demand in a community. New jobs may draw new residents, and when there is high demand for housing relative to supply, many workers may be unable to afford to live where they work, particularly where job growth has been in relatively lower-wage jobs. This dynamic not only means many workers will need to prepare for long commutes and time spent on the road, but in the aggregate, it contributes to traffic congestion and time lost for all road users.

**Figure B2-7 Jobs-Worker Ratios, By Wage Group**

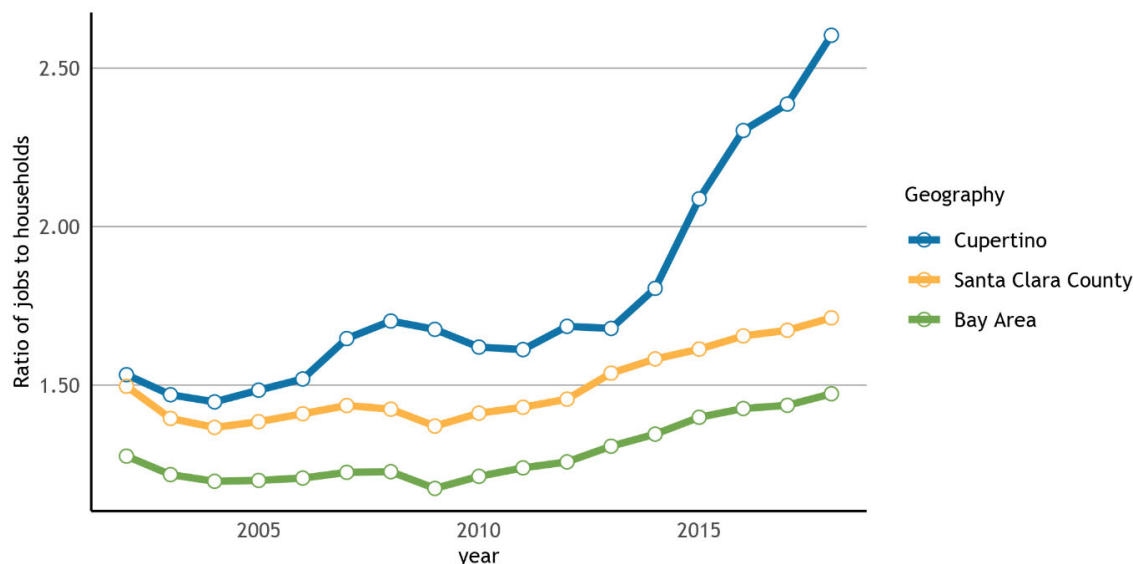


Sources: U.S. Census Bureau, Longitudinal Employer-Household Dynamics, Workplace Area Characteristics (WAC) files (Jobs); Residence Area Characteristics (RAC) files (Employed Residents), 2010-2018. For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-14.

If there are more jobs than employed residents, it means a city is relatively jobs-rich, typically also with a high jobs-to-household ratio. Thus, bringing housing into the measure, the jobs-household ratio in Cupertino has increased from 1.53 in 2002 to 2.60 jobs per household in 2018, with the steepest growth in jobs occurring in the period between 2015 and 2018. In short, Cupertino is a net importer of workers. [Figure B2-8, Jobs-Household Ratio](#), shows Cupertino's jobs-household ratio.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B2-8 Jobs-Household Ratio**

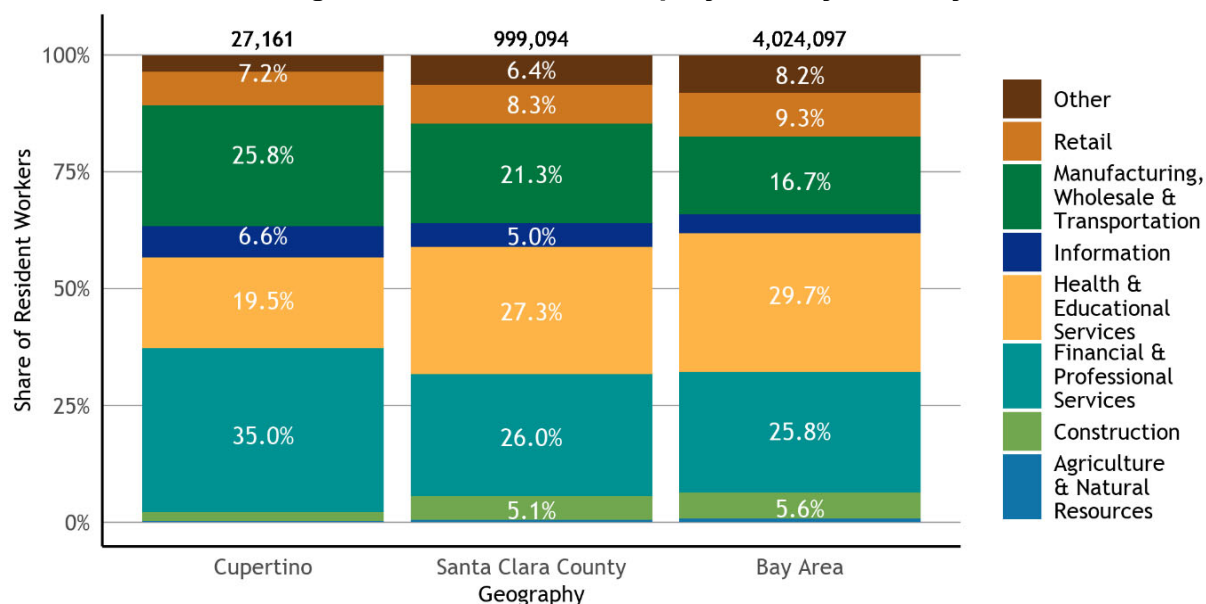


Sources: U.S. Census Bureau, Longitudinal Employer-Household Dynamics, Workplace Area Characteristics (WAC) files (Jobs), 200B2-2018; California Department of Finance, E-5 (Households). For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-13.

## SECTOR COMPOSITION

In terms of sectoral composition, the largest industry in which Cupertino residents work is *Financial & Professional Services*, and the largest sector in which Santa Clara residents work is *Health & Educational Services*. For the Bay Area as a whole, the *Health & Educational Services* industry employs the most workers. [Figure B2-9, Resident Employment by Industry](#), shows resident employment by industry.

**Figure B2-9 Resident Employment by Industry**

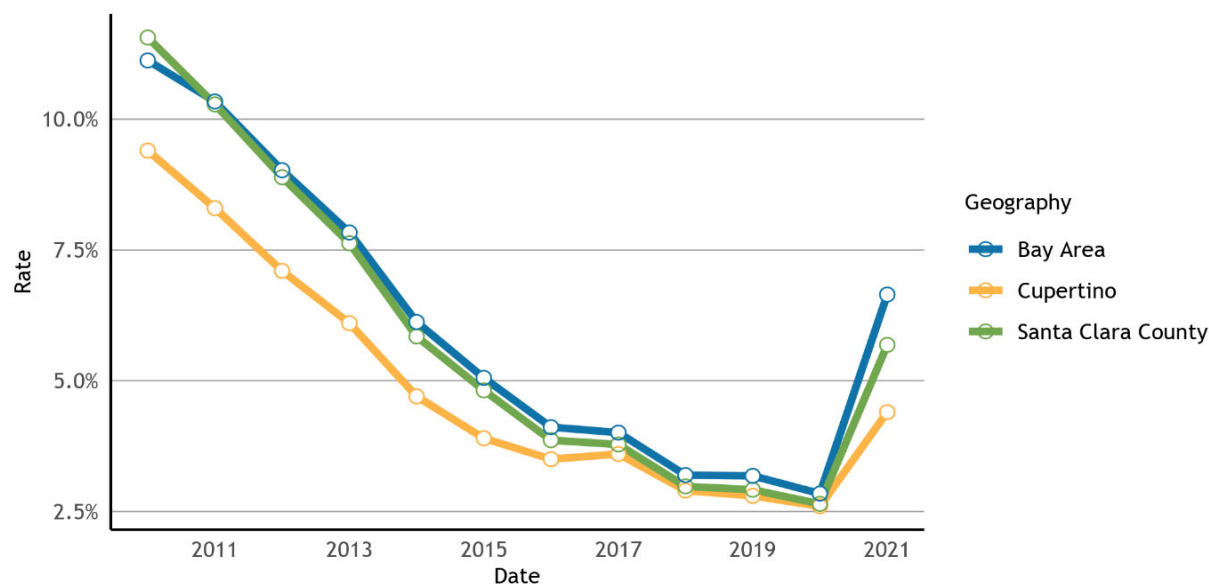


Sources: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table C24030. For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-06.

## UNEMPLOYMENT

In Cupertino, there was a 5.0 percentage point decrease (9.4 percent to 4.4 percent) in the unemployment rate between January 2010 and January 2021. Santa Clara County and the Bay Area also experienced a similar decrease between January 2010 and January 2021 (11.6 percent to 5.7 percent) and (11.1 percent to 6.6 percent). Jurisdictions throughout the region experienced a sharp rise in unemployment in 2020 due to impacts related to the COVID-19 pandemic, though with a general improvement and recovery in the later months of 2020. [Figure B2-10, Unemployment Rate](#), shows the unemployment rates over the last decade for Cupertino, Santa Clara County, and the Bay Area as a whole.

**Figure B2-10 Unemployment Rate**



Sources: California Employment Development Department, Local Area Unemployment Statistics (LAUS), Sub-county areas monthly updates, 2010-2021. For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-15.

## EXTREMELY LOW-INCOME HOUSEHOLDS

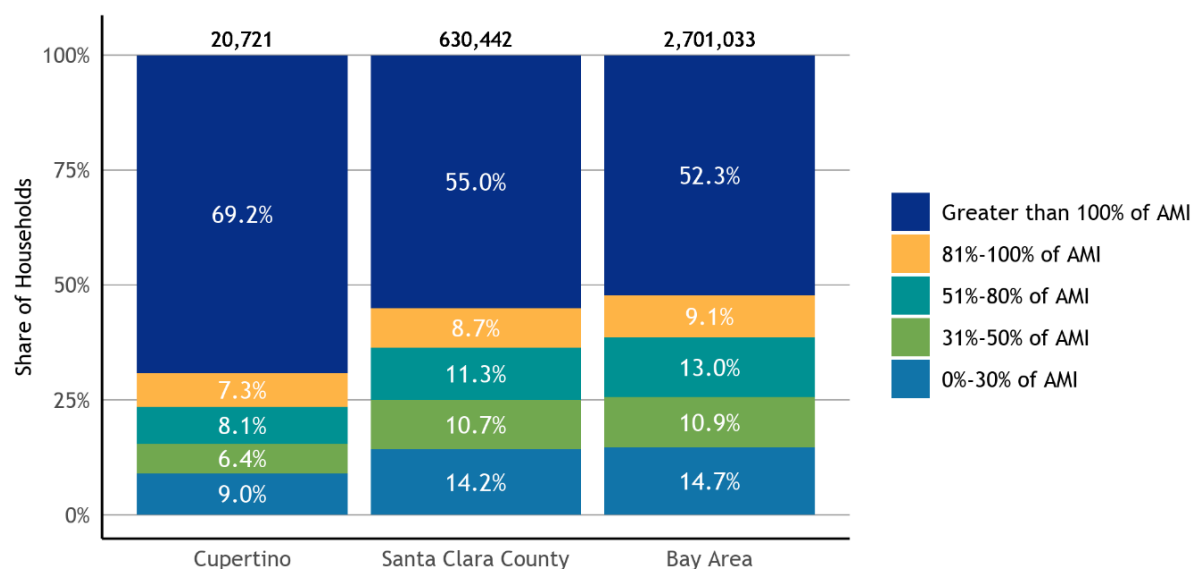
Despite the economic and job growth experienced throughout the region since 1990, the income gap has continued to widen. California is one of the most economically unequal states in the nation, and the Bay Area has the highest income inequality between high- and low-income households in the state.<sup>4</sup>

<sup>4</sup> Bohn, S. et al. 2020. Income Inequality and Economic Opportunity in California. *Public Policy Institute of California*.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

In Cupertino, 69.2 percent of households make more than 100 percent of the Area Median Income (AMI),<sup>5</sup> compared to 9.0 percent making less than 30 percent of AMI, which is considered extremely low-income. Countywide, more than half (55 percent) of all households make more than 100 percent AMI, while 14.2 percent make less than 30 percent AMI and when looking at the Bay Area as a whole, 52 percent of households made more than 100 of the AMI, which 14.8 percent making less than 30 percent of the AMI. In Santa Clara County, 30 percent AMI is the equivalent to the annual income of \$39,900 for a family of four. Many households with multiple wage earners, including food service workers, students, teachers, farmworkers, and healthcare professionals, can fall into lower AMI categories due to relatively stagnant wages in many industries. Seniors relying on social security also tend to fall into the extremely low-income category. [Figure B2-11, Households by Household Income Level](#), shows households by income level.

**Figure B2-11 Households by Household Income Level**



Sources: U.S. Department of Housing and Urban Development (HUD), Comprehensive Housing Affordability Strategy (CHAS) ACS tabulation, 20182-2017 release. For the data table behind this figure, please refer to the Data Packet Workbook, Table ELI-01.

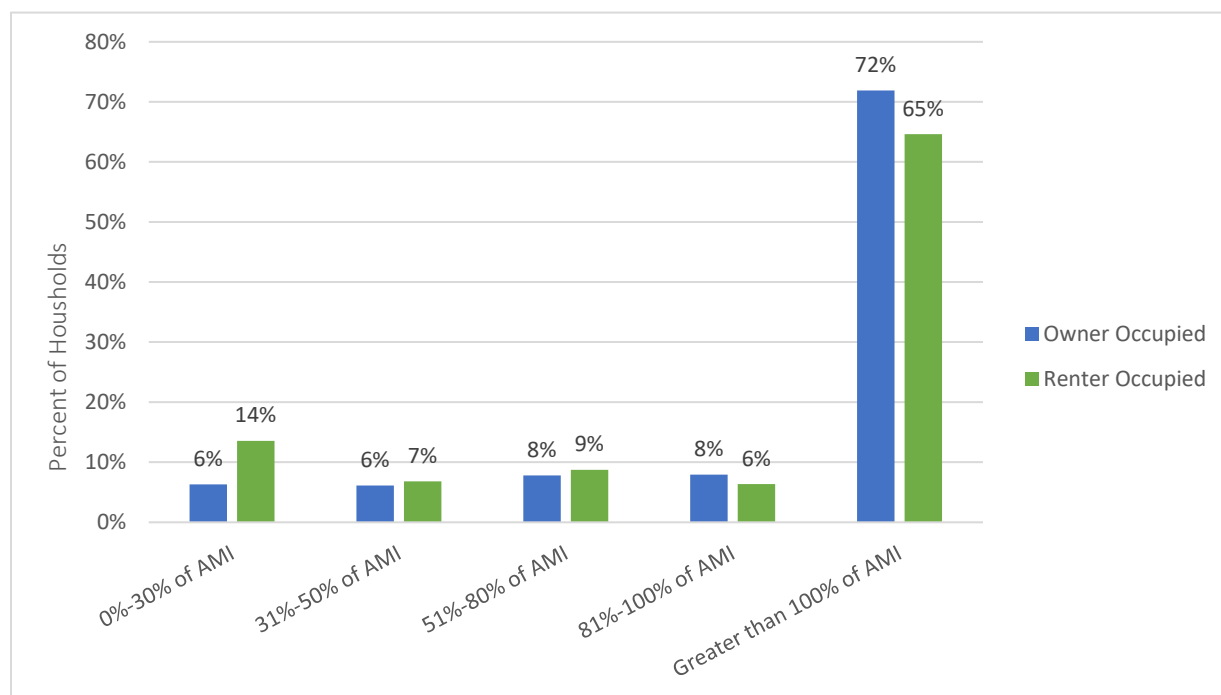
Throughout the region, there are disparities between the incomes of homeowners and renters. Typically, the number of low-income renters greatly outpaces the amount of housing available that is affordable for these households.

<sup>5</sup> Income groups are based on HUD calculations for Area Median Income (AMI). HUD calculates the AMI for different metropolitan areas, and the nine-county Bay Area includes the following metropolitan areas: Napa Metro Area (Napa County), Oakland-Fremont Metro Area (Alameda and Contra Costa Counties), San Francisco Metro Area (Marin, San Francisco, and San Mateo Counties), San Jose-Sunnyvale-Santa Clara Metro Area (Santa Clara County), Santa Rosa Metro Area (Sonoma County), and Vallejo-Fairfield Metro Area (Solano County). The AMI levels in this chart are based on the HUD metro area where this jurisdiction is located. Households making between 80 and 120 percent of the AMI are moderate-income, those making 50 to 80 percent are low-income, those making 30 to 50 percent are very low-income, and those making less than 30 percent are extremely low-income. This is then adjusted for household size.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

In Cupertino, the largest proportion of both renters and homeowners fall in the *Greater than 100 percent of AMI* group (72 percent homeowners and 65 percent renters). Comparatively, 14 percent of extremely low-income households are renter-occupied, while 6 percent are owner-occupied. Very low-income households have a more similar tenure, with just a 1 percent difference between very low-income renters and owners (7 percent versus 6 percent). Similarly, there are slightly more low-income renters (9 percent) in Cupertino compared to owners (8 percent). [Figure B2-12, Household Income Level by Tenure](#), shows household income by tenure.

**Figure B2-12 Household Income Level by Tenure**



Sources: U.S. Department of Housing and Urban Development (HUD), Comprehensive Housing Affordability Strategy (CHAS) ACS tabulation, 20182-2017 release. For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-21.

Currently, people of color are more likely to experience poverty and financial instability as a result of federal and local housing policies that have historically excluded them from the same opportunities extended to White residents.<sup>6</sup> These economic disparities also leave communities of color at higher risk for housing insecurity, displacement, or homelessness.

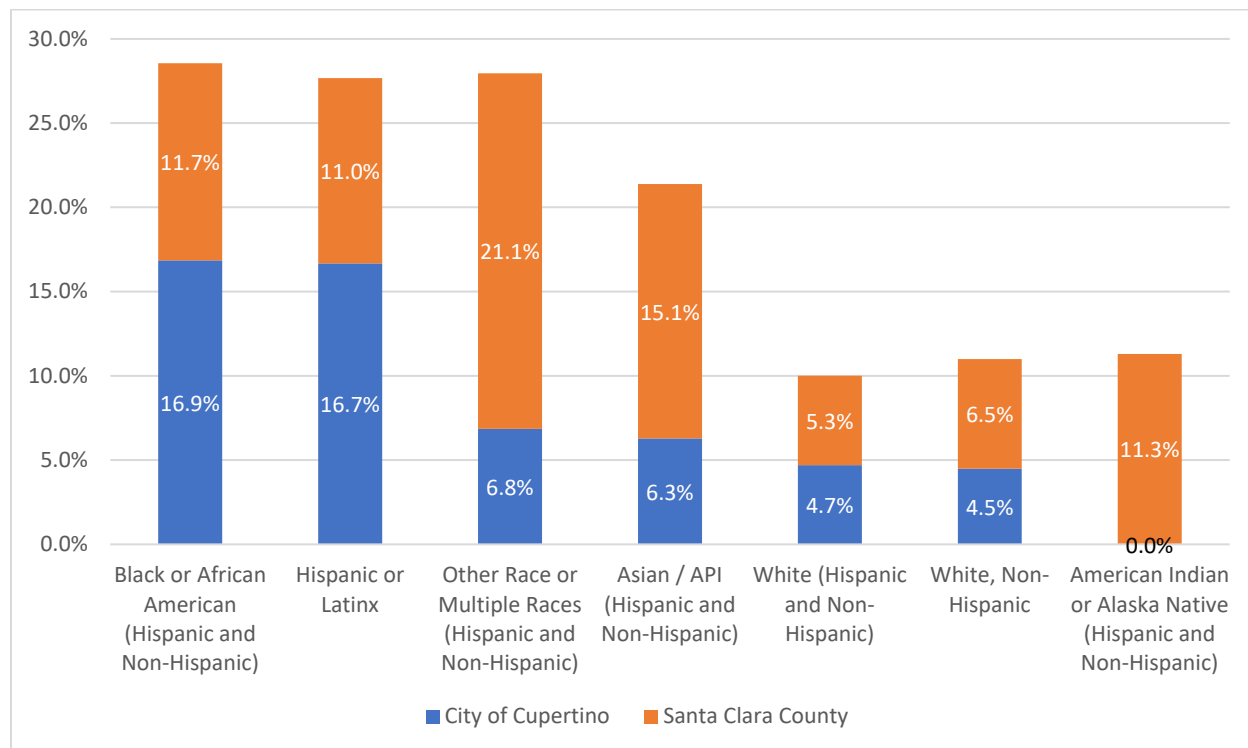
In Cupertino, Black or African American residents (16.9 percent) experience the highest rates of poverty, followed by Other Race or Multiple Races residents (6.8 percent). The Hispanic population also experienced a high rate of poverty, at 16.7 percent. In Santa Clara County, residents of Other Race or Multiple Races experienced the highest rate of poverty (21.1 percent), followed by Asian/API (15.1 percent), and Black or African American (11.7 percent). However, it is worth noting that there

<sup>6</sup> Moore, E., Montojo, N. and Mauri, N., 2019. Roots, Race & Place: A History of Racially Exclusionary Housing the San Francisco Bay Area. *Hass Institute*.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

is a smaller number of Black/African American households in Cupertino. [Figure B2-13, Poverty Status by Race](#), shows poverty status by race.

**Figure B2-13 Poverty Status by Race**

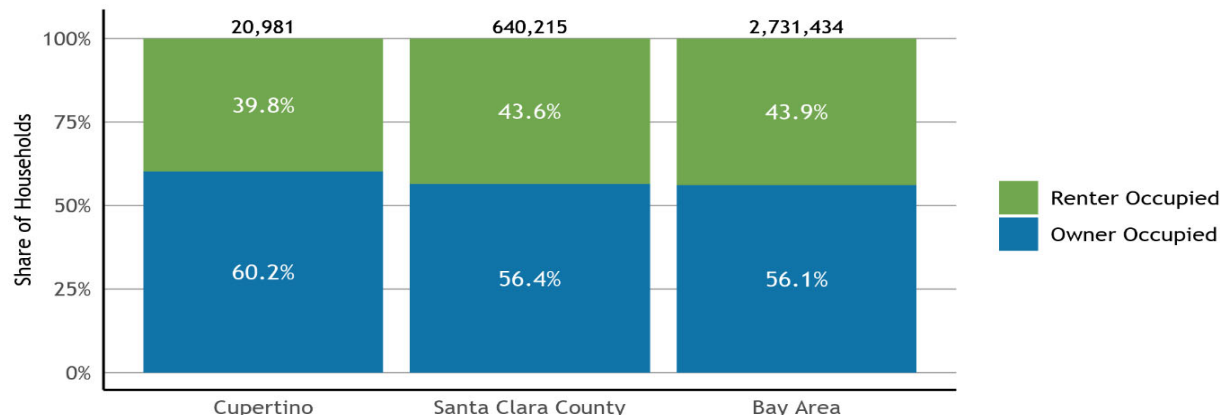


Sources: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B17001 (A-I). For the data table behind this figure, please refer to the Data Packet Workbook, Table ELI-03.

## TENURE

The number of residents who own their homes compared to those who rent their homes can help identify the level of housing insecurity (i.e., ability for individuals to stay in their homes) in a city and region. Generally, renters may be displaced more quickly if prices increase.

According to the 2015-2019 American Community Survey (ACS), there were a total of 20,981 housing units in Cupertino. Looking at tenure, fewer Cupertino residents rent than own their homes: 39.8 percent versus 60.2 percent. By comparison, 43.6 percent of households in Santa Clara County and 43.9 percent of households throughout the Bay Area are renters, which is slightly higher than Cupertino's rate. [Figure B2-14, Housing Tenure](#), shows housing tenure for Cupertino, Santa Clara County, and the Bay Area as a whole.

**Figure B2-14 Housing Tenure**

Sources: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25003. For the data table behind this figure, please refer to the Data Packet Workbook, Table POEMP-16.

Homeownership rates often vary considerably across race/ethnicity in the Bay Area and throughout the country. These disparities not only reflect differences in income and wealth but also stem from federal, State, and local policies that limited access to homeownership for communities of color while facilitating homebuying for white residents. While many of these policies, such as redlining, have been formally disbanded, the impacts of race-based policy are still evident across Bay Area communities.<sup>7</sup>

The Census Bureau defines Hispanic/Latinx ethnicity separate from other racial categories. For the purposes of this graph, the “Hispanic or Latinx” racial/ethnic group represents those who identify as having Hispanic/Latinx ethnicity and may also be members of any racial group. All other racial categories on this graph represent those who identify with that racial category and do not identify with Hispanic/Latinx ethnicity.

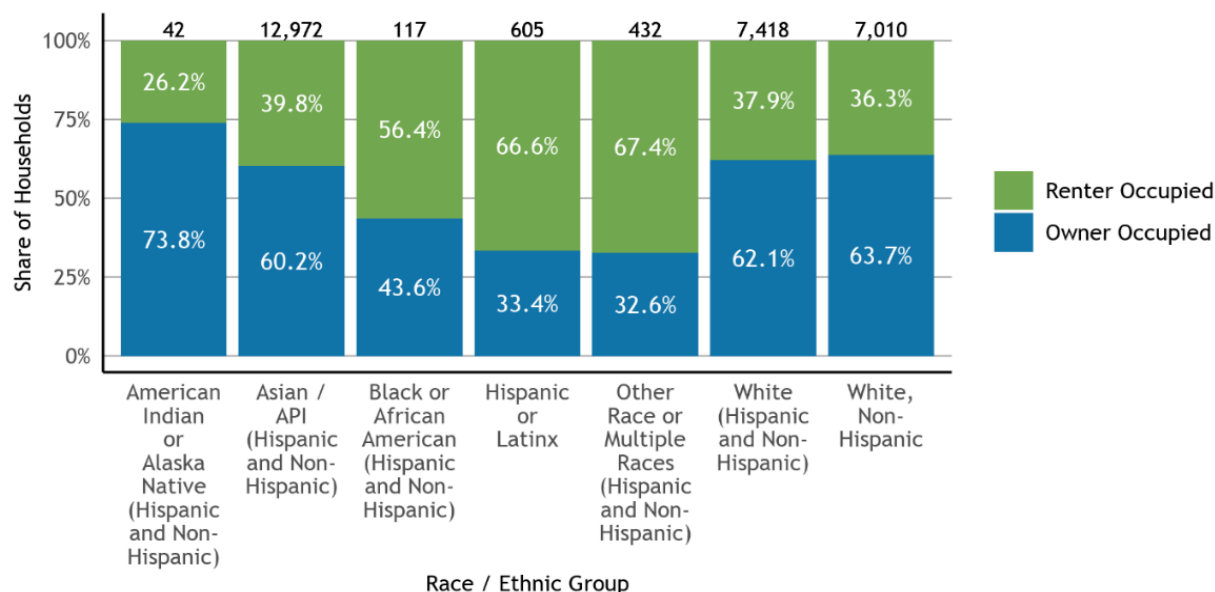
In Cupertino, Asian households, followed by White households, had the highest rate of homeownership and Black or African American and American Indian and Alaska Native households had the lowest rate of homeownership. When looking at specific race categories, 43.6 percent of Black or African American households owned their homes, while homeownership rates were 60.2 percent for Asian households, 33.4 percent for Hispanic or Latinx households, and 62.1 percent for White households. Similarly, when looking at Santa Clara County, White households followed by Asian households had the highest rate of homeownership and American Indian and Alaska Native and Black households had the lowest rate of homeownership. (see **Table B2-2**, Housing Tenure by Race of Householder). Notably, recent changes to State law require local jurisdictions to examine these dynamics and other fair housing issues when updating their Housing Elements.

<sup>7</sup> See, for example, Rothstein, R. (2017). *The color of law: a forgotten history of how our government segregated America*. New York, NY & London, UK: Liveright Publishing.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Figure B2-15, [Housing Tenure by Race of Householder](#), shows housing tenure by the race of the householder. [Table B2-2, Housing Tenure by Race of Householder for the City and County](#), shows the same data in tabular format and shows the city and county for comparison purposes.

**Figure B2-15 Housing Tenure by Race of Householder**



Sources: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25003(A-I). For the data table behind this figure, please refer to the Data Packet Workbook, Table POEMP-20.

Table B2-2 Housing Tenure by Race of Householder for the City and County				
Racial / Ethnic Group	City of Cupertino		Santa Clara County	
	Owner-Occupied Percentage	Renter-Occupied Percentage	Owner-Occupied Percentage	Renter-Occupied Percentage
White alone (Non-Hispanic)	30.9%	30.4%	42.8%	37.3%
Black or African American (Non-Hispanic)	0.7%	0.9%	2.1%	3.2%
American Indian and Alaska Native (Non-Hispanic)	0.3%	0.6%	0.4%	0.5%
Asian/API (Non-Hispanic)	62.1%	59.2%	30.0%	26.3%
Other Race or Multiple Races (Non-Hispanic)	3.1%	4.0%	8.9%	12.0%
Hispanic or Latinx	2.9%	4.8%	15.8%	20.8%
<b>Total</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>	<b>100.0%</b>

Sources: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25003(A-I) and Table S2502. For the data table behind this figure, please refer to the Data Packet Workbook, Table POEMP-20.

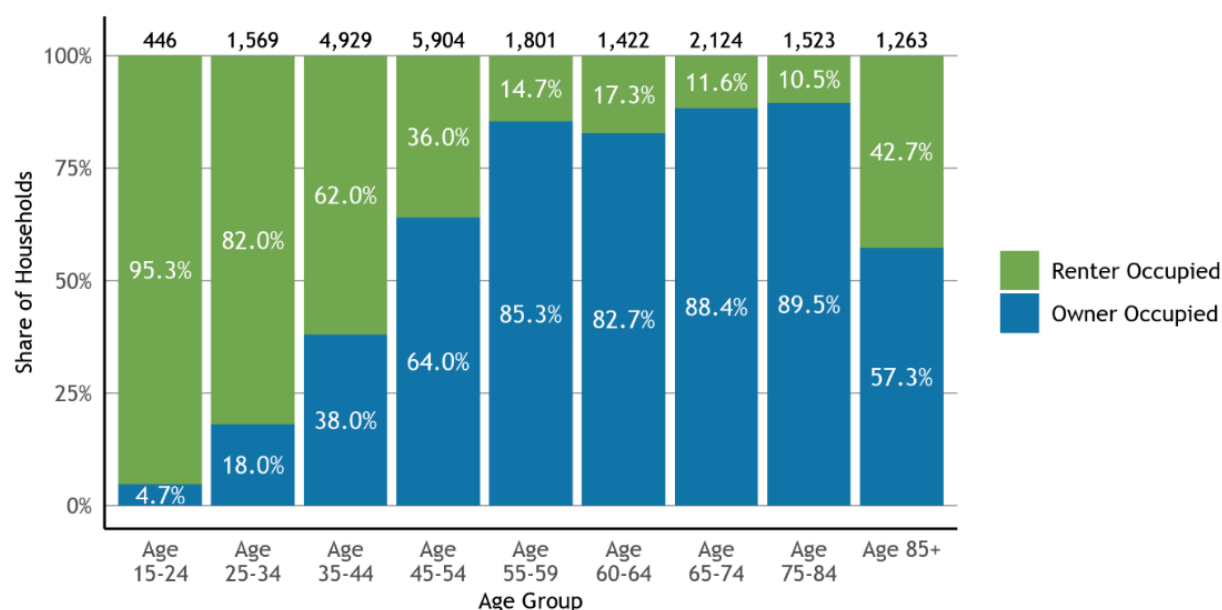


## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

The age of residents who rent or own their home can also signal the housing challenges a community is experiencing. Younger households tend to rent and may struggle to buy a first home in the Bay Area due to high housing costs. At the same time, senior homeowners seeking to downsize may have limited options in an expensive housing market.

In Cupertino, 95.3 percent of householders between the ages of 15 and 24 are renters, 82.0 percent of householders ages 25 through 34 are renters, and 42.7 percent of householders over age 85 are renters. Homeownership increases between the ages of 34 and 85 and then reduces beyond that, presumably since homeownership may be a burden for senior households. [Figure B2-16, Housing Tenure by Age](#), shows housing tenure by age categories.

**Figure B2-16 Housing Tenure by Age**



Sources: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25007. For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-18.

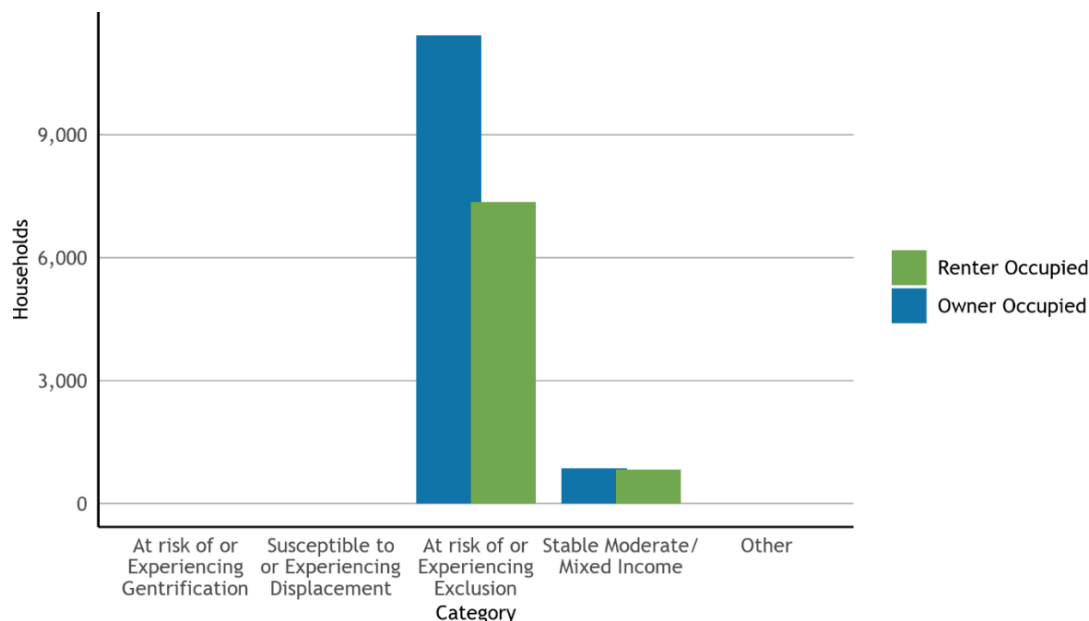
## DISPLACEMENT

Because of increasing housing prices, displacement is a major concern in the Bay Area. Displacement has the most severe impacts on low- and moderate-income residents. When individuals or families are forced to leave their homes and communities, they also lose their support network.

The University of California (UC), Berkeley, has mapped all neighborhoods in the Bay Area, identifying their risk for gentrification. They find that in Cupertino, there are no households that live in neighborhoods that are susceptible to or experiencing displacement and none live in neighborhoods at risk of or undergoing gentrification. Equally important, some neighborhoods in the Bay Area do not have housing appropriate for a broad section of the workforce. UC Berkeley estimates that 91.8 percent of households in Cupertino live in neighborhoods where low-income households are likely to

be excluded due to prohibitive housing costs.<sup>8</sup> Figure B2-17, *Households by Displacement Risk and Tenure*, shows household displacement risk and tenure.

**Figure B2-17 Households by Displacement Risk and Tenure**



Sources: Urban Displacement Project for classification, American Community Survey 5-Year Data (2015-2019), Table B25003 for tenure. For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-25.

## B2.3 HOUSING STOCK CHARACTERISTICS HOUSING TYPES, YEAR BUILT, VACANCY, AND PERMITS

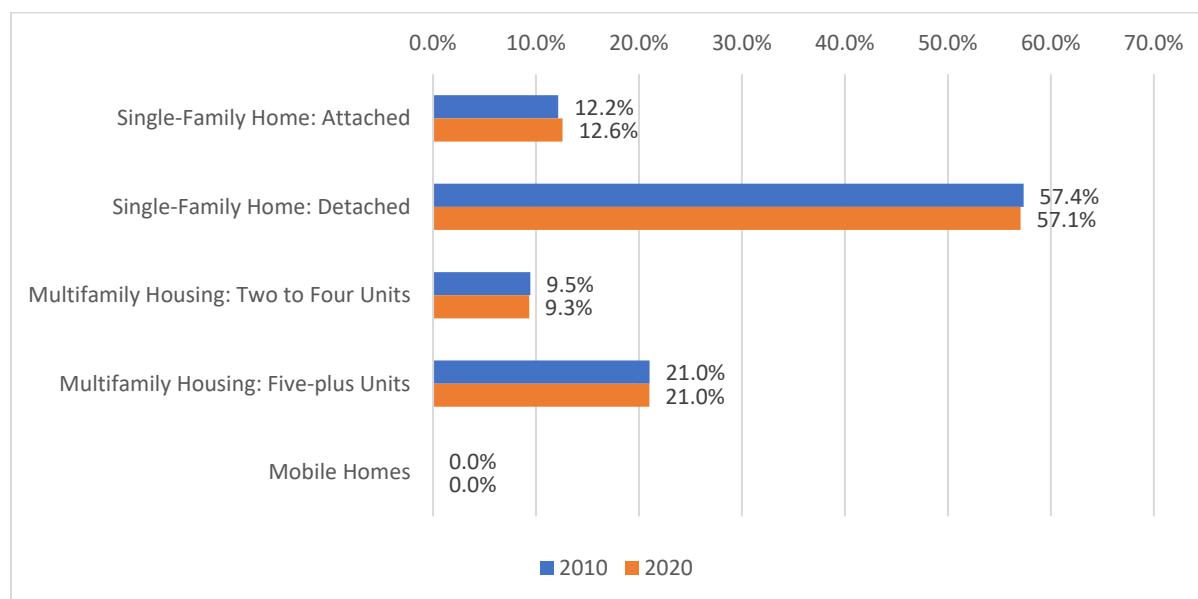
In recent years, most housing produced across the state consisted of single-family homes and larger multi-unit buildings. However, households are increasingly interested in “missing middle housing,” including duplexes, triplexes, townhomes, cottage clusters, and accessory dwelling units. These housing types may open up more options across incomes and tenure, from young households seeking homeownership options to seniors looking to downsize and age-in-place.

<sup>8</sup> More information about this gentrification and displacement data is available at the Urban Displacement Project’s webpage: <https://www.urbandisplacement.org/>. Specifically, one can learn more about the different gentrification/displacement typologies shown in Figure 18 at this link: [https://www.urbandisplacement.org/sites/default/files/typology\\_sheet\\_2018\\_0.png](https://www.urbandisplacement.org/sites/default/files/typology_sheet_2018_0.png). Additionally, one can view maps that show which typologies correspond to which parts of a jurisdiction here: <https://www.urbandisplacement.org/san-francisco/sf-bay-area-gentrification-and-displacement>

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

According to estimates from the California Department of Finance, the City of Cupertino had 21,701 housing units in April 2020, up 3.2 percent (674 units) from the 21,027 units that existed in 2010<sup>9</sup>. The 2020 housing stock was made up of 69.6 percent single-family homes. Of those, 57.1 percent were detached single-family homes and 12.6 percent were single-family attached homes. Multifamily housing made up 30.4 percent of the housing stock, with 21.0 percent having 5 or more units. Overall, the housing stock in Cupertino has shifted from 2010 to 2020 to include a slightly greater percentage of attached single-family homes as a percentage of the whole also increasing the number of housing units in each type. [Figure B2-18, Housing Type Trends](#), shows housing type trends in Cupertino for 2010 and 2020.

**Figure B2-18 Housing Type Trends**



Source: California Department of Finance, E-5 series, April 2010 and April 2020.

Production has not kept up with housing demand for several decades in the Bay Area, as the total number of units built and available has not yet come close to meeting the population and job growth experienced throughout the region. In Cupertino, the largest proportion of the housing stock was built 1960 to 1979, with an increase of 10,462 units during this period. The majority of this growth can be attributed to annexations, where already developed neighborhoods were added to the Cupertino housing stock. [Figure B2-19, Housing Units by Year Structure Built](#), shows housing units by the year built.

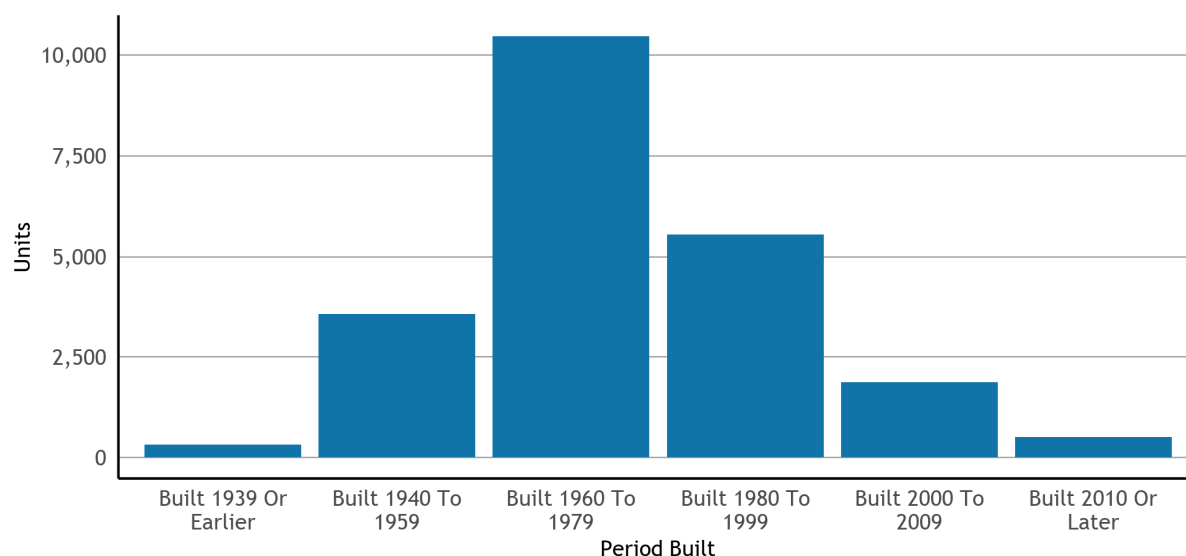
Throughout the Bay Area, vacancies make up 2.6 percent of the total housing units, with homes listed for rent; units used for Recreational or Occasional Use, and units not otherwise classified (Other Vacant) making up the majority of vacancies. The Census Bureau classifies a unit as vacant if no one

<sup>9</sup> Some past housing estimates by the Department of Finance have included a reporting error that has caused the city's total housing stock to be underreported. The City's records indicate that 534 units of housing were built between 2010 and the end of 2019, and that an additional 20 were built in 2020.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

is occupying it when census interviewers are conducting the American Community Survey or Decennial Census. Vacant units classified as For Recreational or Occasional Use are those that are held for short-term periods of use throughout the year. Accordingly, vacation rentals and short-term rentals, like AirBnB, are likely to fall in this category. The Census Bureau classifies units as Other Vacant if they are vacant due to foreclosure, personal/family reasons, legal proceedings, repairs/renovations, abandonment, preparation for being rented or sold, or vacant for an extended period for reasons such as a work assignment, military duty, or incarceration.<sup>10</sup> In a region with a thriving economy and housing market like the Bay Area, units being renovated/repared and prepared for rental or sale are likely to represent a large portion of the Other Vacant category. Additionally, the need for seismic retrofitting in older housing stock could also influence the proportion of Other Vacant units in some jurisdictions.<sup>11</sup>

**Figure B2-19 Housing Units by Year Structure Built**



Sources: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25034. For the data table behind this figure, please refer to the Data Packet Workbook, Table HSG-04.

Vacant units make up 5.8 percent of the overall housing stock in Cupertino. The rental vacancy stands at 6.7 percent, while the ownership vacancy rate is 2.0 percent. Of the vacant units in Cupertino, the most common type of vacancy is For Rent, which represents a little more than a third of all vacant rental units.<sup>12</sup> Figure B2-20, *Vacant Units by Type*, shows vacant units by type.

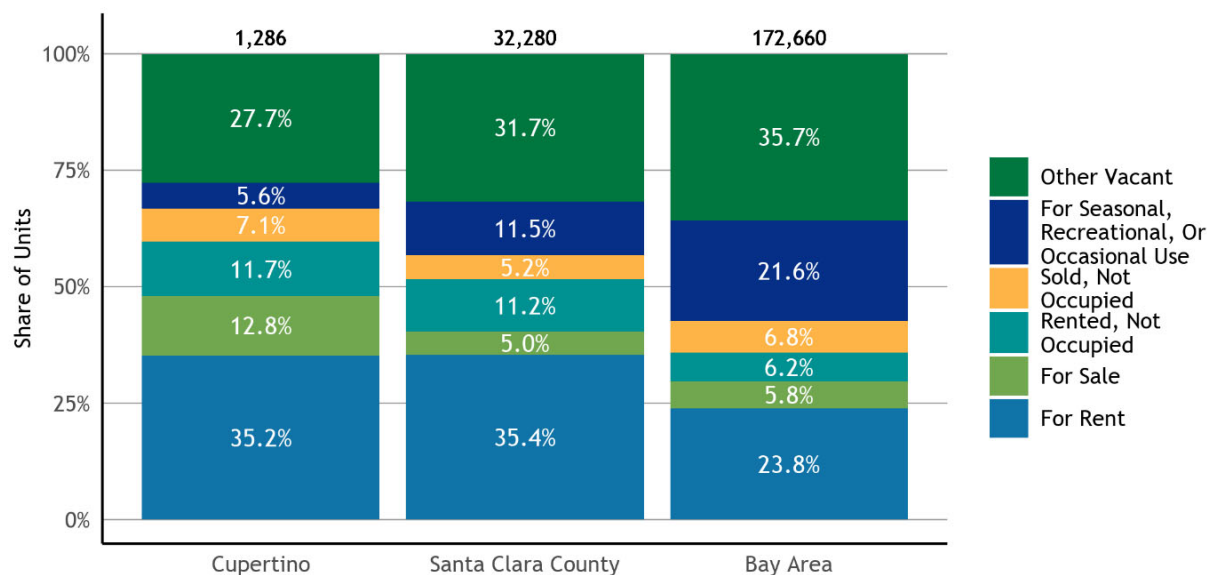
<sup>10</sup> For more information, see pages 3 through 6 of this list of definitions prepared by the Census Bureau: <https://www.census.gov/housing/hvs/definitions.pdf>.

<sup>11</sup> See Dow, P. 2018. *Unpacking the Growth in San Francisco's Vacant Housing Stock: Client Report for the San Francisco Planning Department*. University of California, Berkeley.

<sup>12</sup> The vacancy-rates-by-tenure is for a smaller universe than the total vacancy rate first reported, which in principle includes the full stock (7.5 percent). The vacancy by tenure counts are rates relative to the rental stock (occupied and vacant) and ownership stock (occupied and vacant) but exclude a significant number of vacancy categories, including the numerically significant *other vacant*.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Figure B2-20 Vacant Units by Type



Sources: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25004. For the data table behind this figure, please refer to the Data Packet Workbook, Table HSG-03.

NOTE: Universe: Vacant housing units

Between 2015 and 2022, 546 housing units were issued permits in Cupertino. Of those, 58.8 percent were for above moderate-income housing, 28.9 percent were for moderate-income housing, and 12.3 percent were for low- or very low-income housing. [Table B2-3, Housing Permits by Income Group, 2015 to 2022](#), shows housing permits issued by the City of Cupertino by income group.

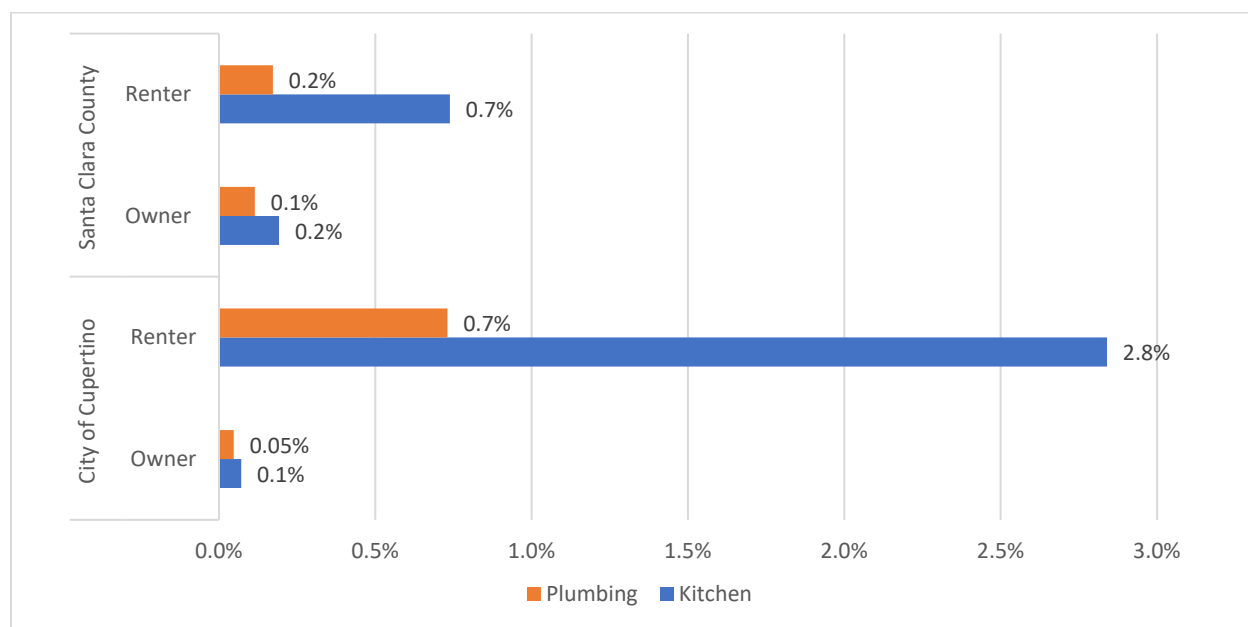
Table B2-3 Housing Permits by Income Group, 2015 to 2022		
Income Group	Number	Percentage
Very Low-Income Permits	48	8.8%
Low-Income Permits	19	3.5%
Moderate-Income Permits	158	28.9%
Above Moderate-Income Permits	321	58.8%
<b>Total</b>	<b>546</b>	<b>100.0%</b>

Source: California Department of Housing and Community Development (HCD), 5th Cycle Annual Progress Report Permit Summary (2022).

## HOUSING IN NEED OF REHABILITATION

Housing costs in the region are among the highest in the country, which could result in households, particularly renters, having to live in substandard conditions to afford housing. Generally, there is limited data on the extent of housing rehabilitation needs in the community. However, the Census Bureau data included in the graph in [Figure B2-21](#) gives a sense of some of the substandard conditions that may be present in Cupertino. For example, 2.8 percent of renters in Cupertino reported lacking a kitchen and 0.7 percent of renters lack plumbing, compared to 0.1 percent of owners who lack a kitchen and 0.05 percent who lack plumbing. In Santa Clara County, 0.7 percent of renter-occupied households reported lacking a kitchen and 0.2 percent of owners lacked a kitchen. Approximately 0.2 percent of renters and 0.1 percent of owners reported lacking plumbing in Santa Clara County. [Figure B2-21, Substandard Housing Issues](#), shows substandard housing issues in Cupertino. According to the 2015-2019 ACS, 77.0 percent of the homes in Cupertino were built in 1989 or earlier, which suggests that they are at the age where they may need minor repairs up to major rehabilitation such as new roofs, siding repair, paint, replacing cracked or inoperable windows, or plumbing systems. However, based on a visual assessment of Cupertino housing, the City estimates that fewer than five percent of units in the city may be in need of rehabilitation, and that only one to two homes in the city may have such severe need for rehabilitation as to be unsafe for habitation.

**Figure B2-21 Substandard Housing Issues**



Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25053, Table B25043, Table B25049.  
For the data table behind this figure, please refer to the Data Packet Workbook, Table HSG-06.

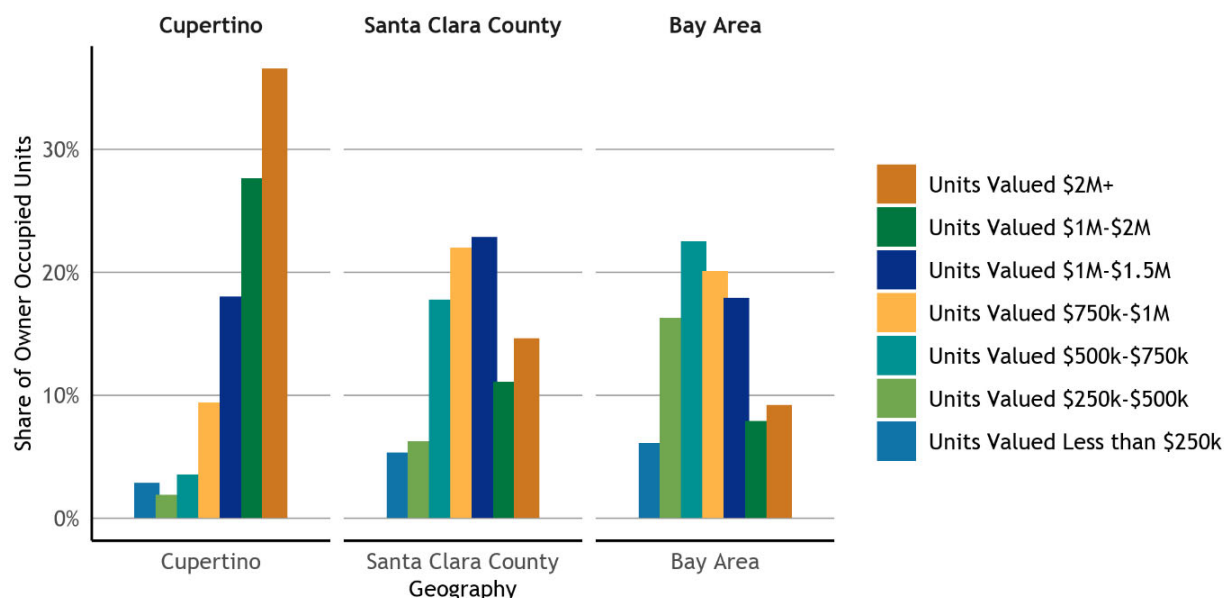
## HOME AND RENT VALUES

Home prices reflect a complex mix of supply and demand factors, including an area's demographic profile, labor market, prevailing wages, and job outlook, coupled with land and construction costs. In the Bay Area, the costs of housing have long been among the highest in the nation.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

The typical home value in Cupertino was estimated at \$2,275,730 by December 2020, per data from Zillow. The largest proportion of homes were valued at \$2M+. By comparison, the typical home value is \$1,290,970 in Santa Clara County and \$1,077,230 in the Bay Area, with the largest share of units valued at \$1M to \$1.5M (county) and \$500K to \$750K (region). The high home values are most likely exacerbated by the high proportion of single-family homes. [Figure B2-22, Home Values of Owner-Occupied Units](#), shows home values of owner-occupied housing units in Cupertino.

**Figure B2-22 Home Values of Owner-Occupied Units**

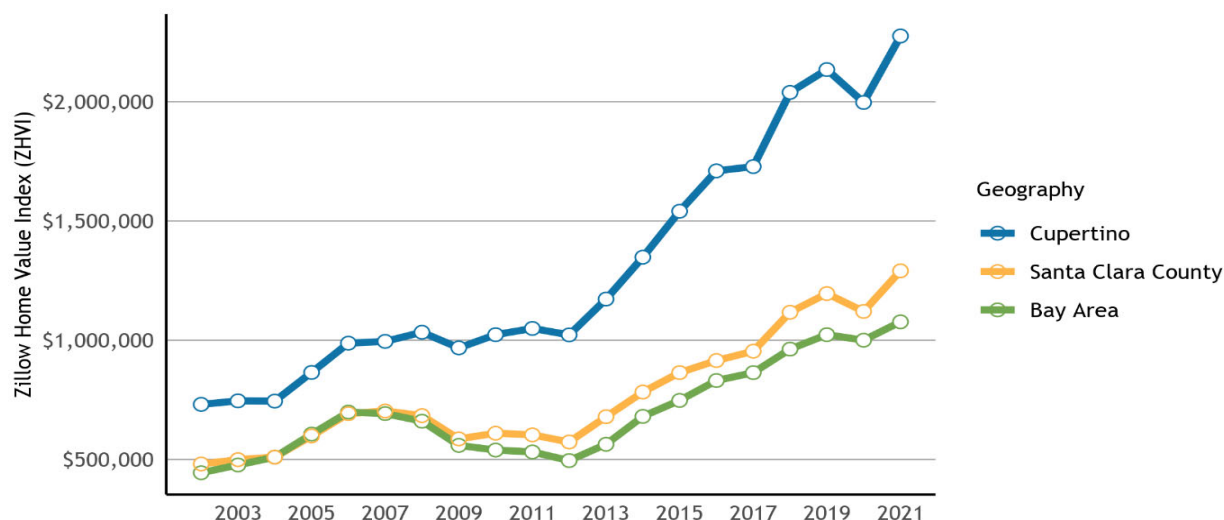


Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25075. For the data table behind this figure, please refer to the Data Packet Workbook, Table HSG-07.

The region's home values have increased steadily since 2000, besides a decrease during the Great Recession. In Cupertino, the rise in home prices has been especially steep since 2010, with the typical home value increasing 116.8 percent from \$1,049,544 to \$2,275,739. This change is considerably greater than the change in Santa Clara County and for the region as a whole. [Figure B2-23, Zillow Home Value Index \(ZHVI\)](#), shows the Zillow home value index for Cupertino.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B2-23 Zillow Home Value Index (ZHVI)**

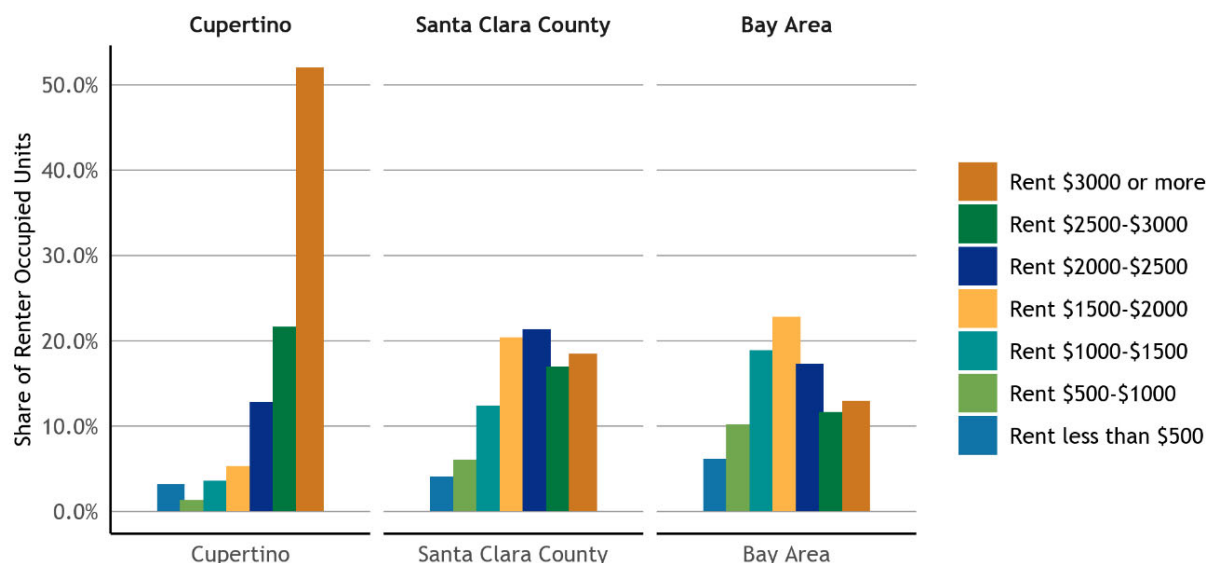


Source: Zillow, Zillow Home Value Index (ZHVI). For the data table behind this figure, please refer to the Data Packet Workbook, Table HSG-08.

Similar to home values, rents have also increased dramatically across the Bay Area in recent years. Many renters have been priced out, evicted, or displaced, particularly communities of color. Residents finding themselves in one of these situations may have had to choose between commuting long distances to their jobs and schools or moving out of the region, and sometimes, out of the state.

In Cupertino, the largest proportion of rental units rented in the *Rent \$3,000 or more* category, totaling 52.0 percent, followed by 21.7 percent of units renting in the *Rent \$2,500-\$3,000* category. Looking beyond the city, the largest share of units is in the *\$2,000-\$2,500* category (county) compared to the *\$1,500-\$2,000* category for the region as a whole. [Figure B2-24, Contract Rents for Renter-Occupied Units](#), shows contract rents for renter-occupied units in Cupertino, Santa Clara County, and the Bay Area as a whole.



**Figure B2-24 Contract Rents for Renter-Occupied Units**

Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25056. For the data table behind this figure, please refer to the Data Packet Workbook, Table HSG-09.

Since 2009, the median rent has increased by 52.0 percent in Cupertino, from \$2,000 to \$3,040 per month. In Santa Clara County, the median rent has increased 39.6 percent, from \$1,540 to \$2,150. The median rent in the region has increased significantly during this time from \$1,200 to \$1,850, a 54.2 percent increase.<sup>13</sup> [Figure B2-25, Median Contract Rent](#), shows median contract rent in Cupertino, Santa Clara County, and the Bay Area as a whole.

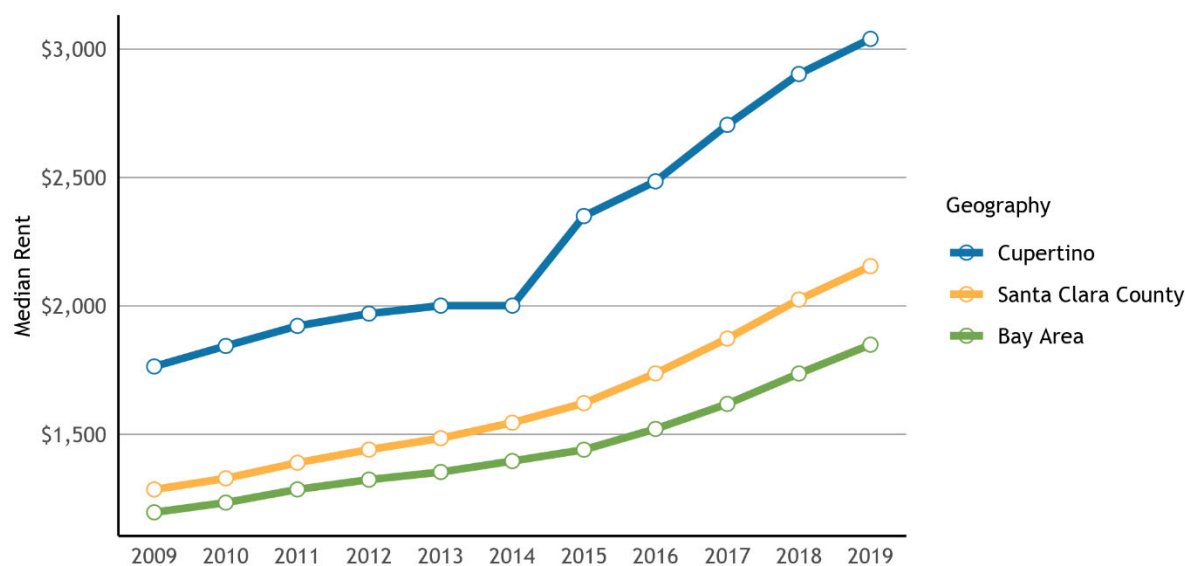
## OVERPAYMENT AND OVERCROWDING

A household is considered “cost-burdened” if it spends more than 30 percent of its monthly income on housing costs, while those who spend more than 50 percent of their income on housing costs are considered “severely cost-burdened.” Low-income residents are the most impacted by high housing costs and experience the highest rates of cost burden. Spending such large portions of their income on housing puts low-income households at higher risk of displacement, eviction, or homelessness. While the housing market has resulted in home prices increasing dramatically, homeowners often have mortgages with fixed rates, whereas renters are more likely to be impacted by market increases.

<sup>13</sup> While the data on home values shown in Figure B2-24 comes from Zillow, Zillow does not have data on rent prices available for most Bay Area jurisdictions. To have a more comprehensive dataset on rental data for the region, the rent data in this document comes from the U.S. Census Bureau’s American Community Survey, which may not fully reflect current rents. Local jurisdiction staff may want to supplement the data on rents with local realtor data or other sources for rent data that are more current than Census Bureau data.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Figure B2-25 Median Contract Rent



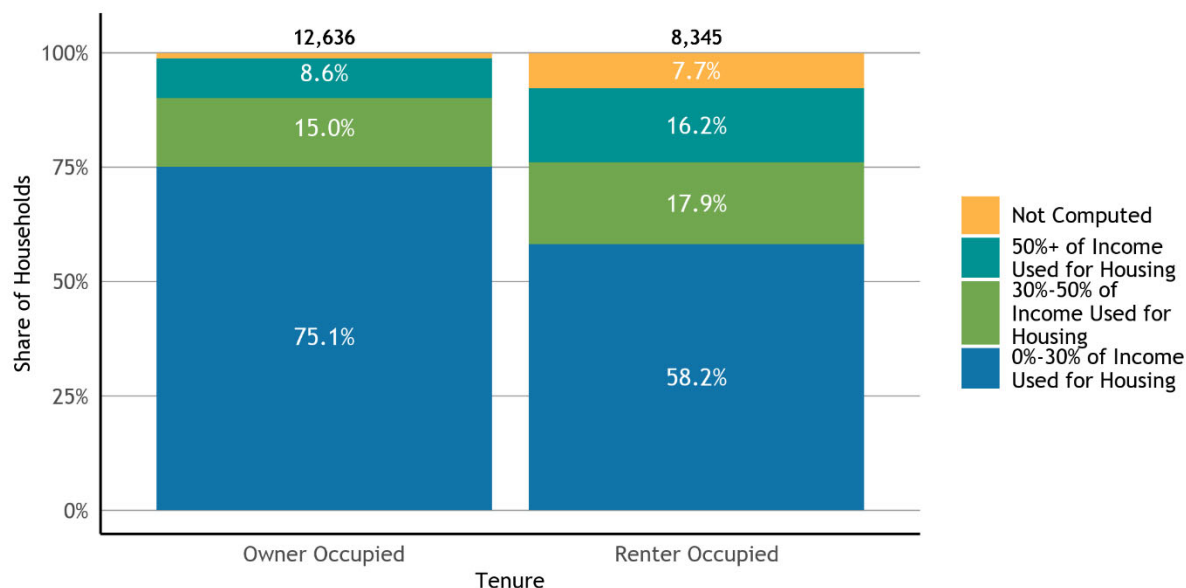
Source: U.S. Census Bureau, American Community Survey 5-Year Data releases, starting with 2005-2009 through 2015-2019, B25058, B25056 (for unincorporated areas). County and regional counts are weighted averages of jurisdiction median using B25003 rental unit counts from the relevant year. For the data table behind this figure, please refer to the Data Packet Workbook, Table HSG-10.

When looking at the cost burden across tenure in Cupertino, 17.9 percent of renters spend 30 to 50 percent of their income on housing compared to 15.0 percent of those that own. Additionally, 16.2 percent of renters spend 50 percent or more of their income on housing, while 8.6 percent of owners are severely cost-burdened. [Figure B2-26, Cost Burden by Tenure](#), shows cost burden by tenure.

When one looks at both renters and owners together in Cupertino, 13.1 percent of households spend 50 percent or more of their income on housing, while 15.3 percent spend 30 to 50 percent. However, these rates vary greatly across income categories. For example, 75.1 percent of Cupertino households making less than 30 percent of AMI spend the majority of their income on housing. For Cupertino residents making more than 100 percent of AMI, just 1.4 percent are severely cost-burdened, and 86.5 percent of those making more than 100 percent of AMI spend less than 30 percent of their income on housing. [Figure B2-27, Cost Burden by Income Level](#), shows cost burden by income level.

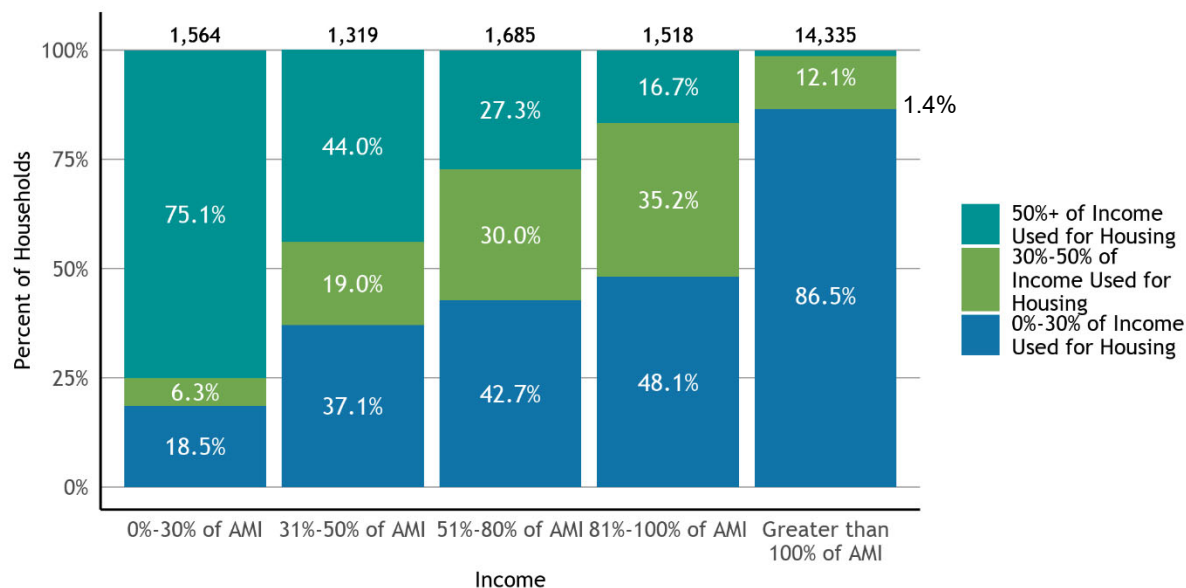
## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

### Figure B2-26 Cost Burden by Tenure



Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25070, B25091. For the data table behind this figure, please refer to the Data Packet Workbook, Table OVER-06.

### Figure B2-27 Cost Burden by Income Level



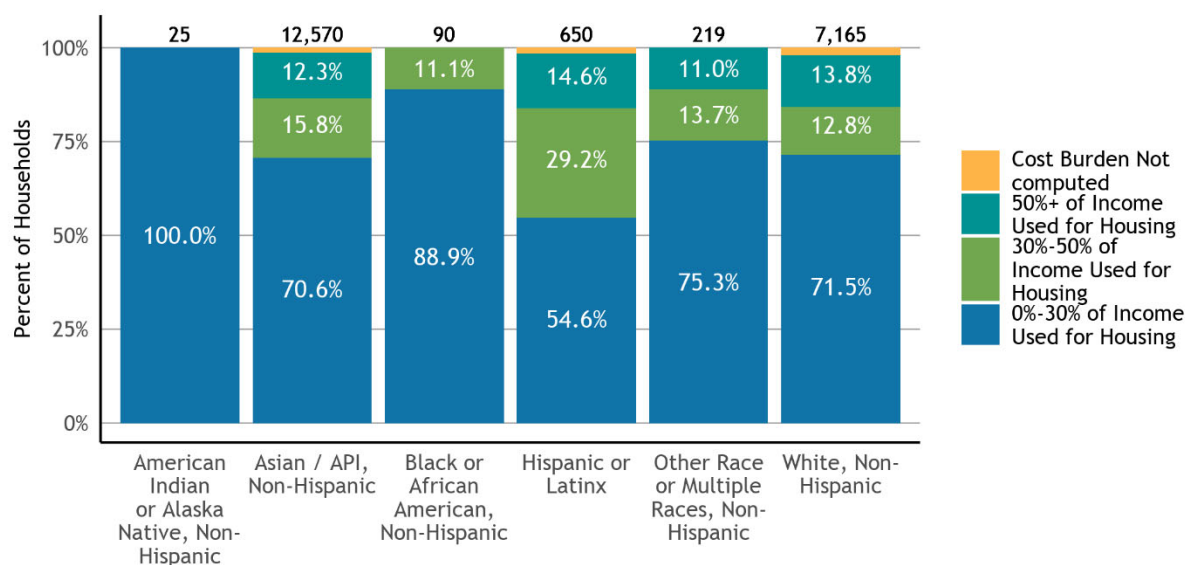
Source: U.S. Department of Housing and Urban Development (HUD), Comprehensive Housing Affordability Strategy (CHAS) ACS tabulation, 20182-2017 release. For the data table behind this figure, please refer to the Data Packet Workbook, Table OVER-05.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Currently, people of color<sup>14</sup> are more likely to experience poverty and financial instability as a result of federal and local housing policies that have historically excluded them from the same opportunities extended to White residents. As a result, they often pay a greater percentage of their income on housing, and in turn, are at a greater risk of housing insecurity.

Hispanic or Latinx residents are the most severely cost burdened, with 14.6 percent spending more than 50 percent of their income on housing. Black or African American (Non-Hispanic) residents are least cost burdened in Cupertino. [Figure B2-28, Cost Burden by Race and Ethnicity](#), shows cost burden by race and ethnicity.

**Figure B2-28 Cost Burden by Race and Ethnicity**



Source: U.S. Department of Housing and Urban Development (HUD), Comprehensive Housing Affordability Strategy (CHAS) ACS tabulation, 20182-2017 release. For the data table behind this figure, please refer to the Data Packet Workbook, Table OVER-08.

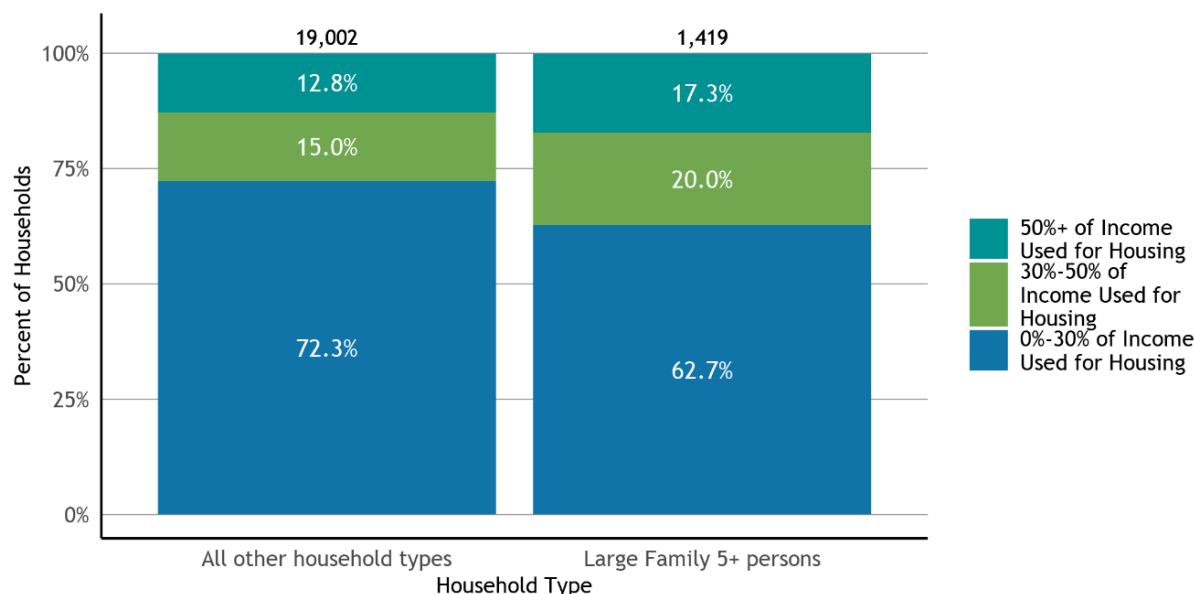
Large family households often have special housing needs due to a lack of adequately sized affordable housing available. The higher costs required for homes with multiple bedrooms can result in larger families experiencing a disproportionate cost burden than the rest of the population and can increase the risk of housing insecurity.

In Cupertino, 20 percent of large family households experience a cost burden of 30 to 50 percent, while 17.3 percent of households spend more than half of their income on housing. Some 15.0 percent of all other households have a cost burden of 30 to 50 percent, with 12.8 percent of households spending more than 50 percent of their income on housing. [Figure B2-29, Cost Burden by Household Size](#), shows cost burden by household size.

<sup>14</sup> This category as it is used here includes all non-White persons.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B2-29 Cost Burden by Household Size**



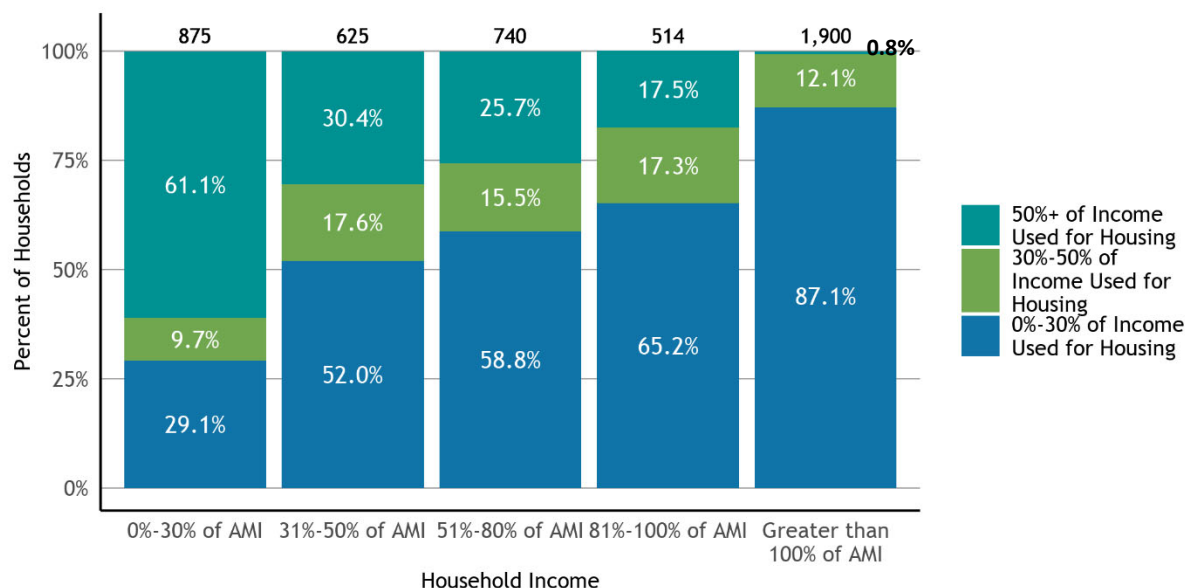
Source: U.S. Department of Housing and Urban Development (HUD), Comprehensive Housing Affordability Strategy (CHAS) ACS tabulation, 20182-2017 release. For the data table behind this figure, please refer to the Data Packet Workbook, Table OVER-09.

When cost-burdened seniors are no longer able to make house payments or pay rents, displacement from their homes can occur, putting further stress on the local rental market or forcing residents out of the community they call home. Understanding how seniors might be cost-burdened is of particular importance due to their special housing needs, particularly for low-income seniors.

In Cupertino, 61.1 percent of seniors making less than 30 percent of AMI are spending the majority of their income (more than 50 percent) on housing. For seniors making more than 100 percent of AMI, only 0.8 percent are spending the majority of their income on housing. [Figure B2-30, Cost-Burdened Senior Households by Income Level](#), shows cost-burdened households by income level.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B2-30 Cost-Burdened Senior Households by Income Level**



Source: U.S. Department of Housing and Urban Development (HUD), Comprehensive Housing Affordability Strategy (CHAS) ACS tabulation, 2012-2017 release. For the data table behind this figure, please refer to the Data Packet Workbook, Table SEN-03.

Overcrowding occurs when the number of people living in a household is greater than the home was designed to hold.<sup>15</sup> The Census Bureau considers units with more than 1.5 occupants per room to be severely overcrowded. Overcrowding is often related to the cost of housing and can occur when demand in a city or region is high. In many cities, overcrowding is seen more amongst those that are renting, with multiple households sharing a unit to make it possible to stay in their communities.

In Cupertino, 3.8 percent of households that rent are severely overcrowded (i.e., more than 1.5 occupants per room), compared to 0.5 percent of households that own. [Figure B2-31, Overcrowding by Tenure and Severity](#), shows overcrowding by tenure and severity.

<sup>15</sup> There are several different standards for defining overcrowding, but this report uses the Census Bureau definition, which is more than one occupant per room (not including bathrooms or kitchens).

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

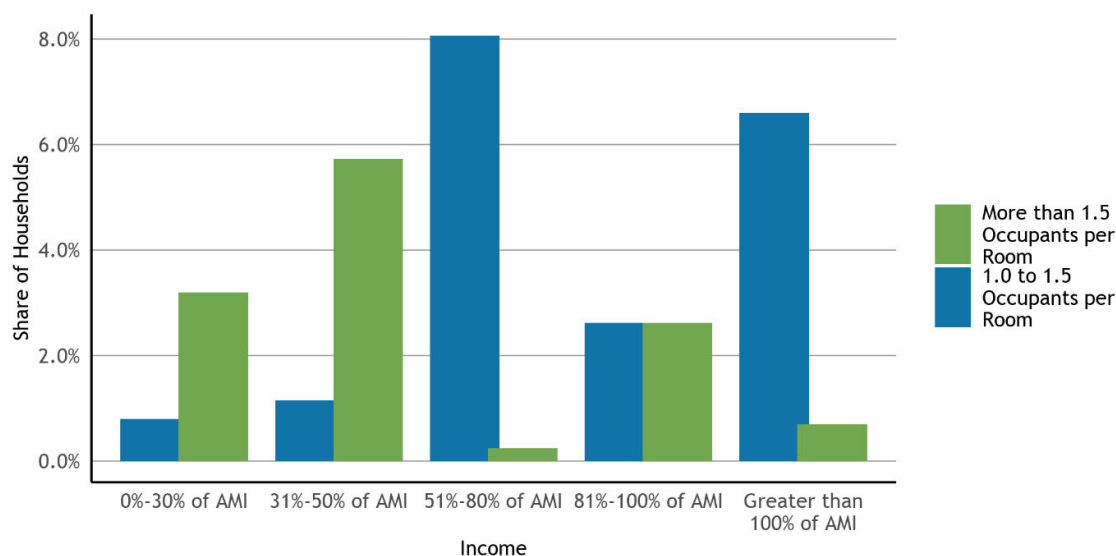
**Figure B2-31 Overcrowding by Tenure and Severity**



Source: U.S. Department of Housing and Urban Development (HUD), Comprehensive Housing Affordability Strategy (CHAS) ACS tabulation, 2018-2019 release. For the data table behind this figure, please refer to the Data Packet Workbook, Table OVER-01.

Overcrowding often disproportionately impacts low-income households. In Cupertino, 3.2 percent of extremely low-income households (below 30 percent AMI) experience severe overcrowding, while only 0.7 percent of households above 100 percent AMI experience this level of overcrowding. [Figure B2-32, Overcrowding by Income Level and Severity](#), shows overcrowding by income level and severity.

**Figure B2-32 Overcrowding by Income Level and Severity**

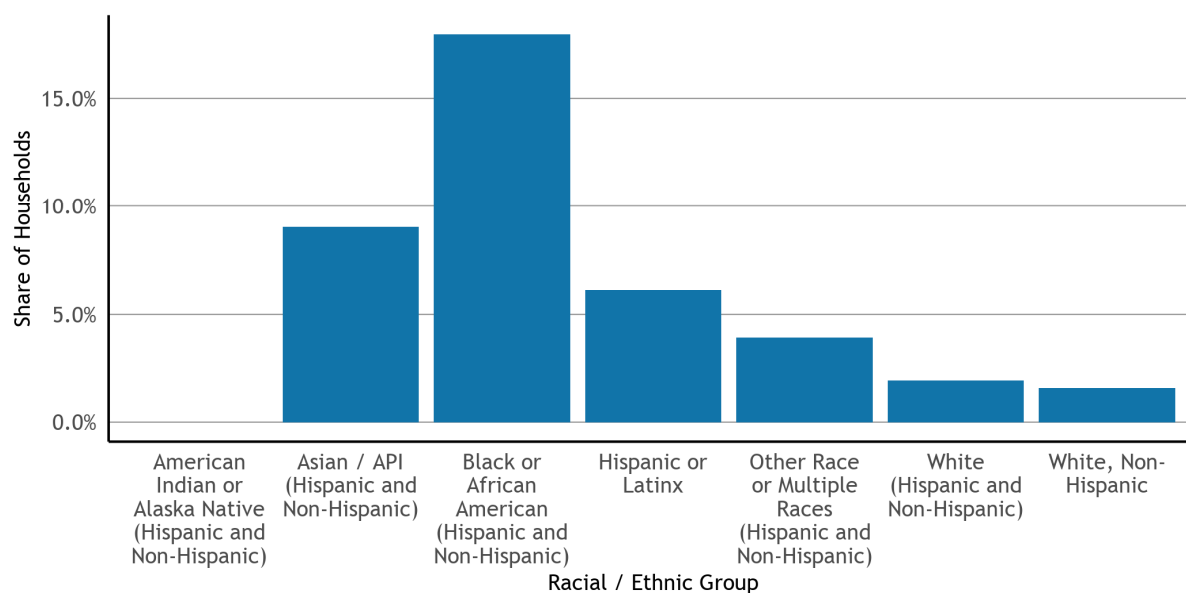


Source: U.S. Department of Housing and Urban Development (HUD), Comprehensive Housing Affordability Strategy (CHAS) ACS tabulation, 2018-2019 release. For the data table behind this figure, please refer to the Data Packet Workbook, Table OVER-04.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Communities of color are more likely to experience overcrowding just as they are more likely to experience poverty, financial instability, and housing insecurity. People of color tend to experience overcrowding at higher rates than White residents. In Cupertino, the racial group with the largest overcrowding rate is Black or African American (Hispanic and Non-Hispanic). [Figure B2-33, Overcrowding by Race](#), graphically represents overcrowding data by race in Cupertino.

**Figure B2-33 Overcrowding by Race**



Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25014. For the data table behind this figure, please refer to the Data Packet Workbook, Table OVER-03.

## ASSISTED HOUSING DEVELOPMENTS “AT RISK” OF CONVERSION

As required by California Government Code Section 65583, the Housing Element must analyze the extent to which below-market rate units are at risk of converting to market-rate housing. If there are at-risk units, the element should include programs to encourage preservation of these units or to replace any that are converted to market rate. The units to be considered are any units that were constructed using federal assistance programs, State or local mortgage revenue bonds, redevelopment tax increments, in-lieu fees or an inclusionary housing ordinance, or density bonuses. Housing is considered to be “at risk” if it is eligible to be converted to non-low-income housing due to: (1) the termination of a rental subsidy contract, (2) mortgage prepayment, or (3) the expiration of affordability restrictions. The time period applicable in making this determination is the 10-year period following the last mandated update of the Housing Element, which, in the case of all Santa Clara County jurisdictions, is January 31, 2033.

While there is an immense need to produce new affordable housing units, ensuring that the existing affordable housing stock remains affordable is equally important. Additionally, it is typically faster and less expensive to preserve currently affordable units that are at risk of converting to market rate than it is to build new affordable housing.



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

The data in the following table comes from the California Housing Partnership Corporation (CHPC) and from the City's inventory of affordable units. As of July 2023, according to CHPC, there were 184 assisted units affordable to lower-income households in Cupertino, of which, 112 units are at risk of converting to market rate in the next 10 years (by 2033), denoted in bold. When considering the inventory of BMR units, there was an additional 259 units affordable to moderate- and lower-income households; however, 97 units are at risk of converting to market rate within the next 10 years. [Table B2-4, Inventory of Affordable Units](#), summarizes assisted units at risk in Cupertino.

Table B2-4 Inventory of Affordable Housing Units					
Development	Number of Affordable Units	Household Income		Funding Source	Earliest Termination Date
		Lower	Moderate		
Affordable Developments					
Sunny View West 22449 Cupertino Rd.	100	100	0	HUD 202/811	3/31/2031
Stevens Creek Village 19140 Stevens Creek Blvd.	40	8	0	CHFA, HUD & HOME	5/1/2037
Le Beaulieu Apartments 10092 Bianchi Way	27	27	0	CalFHA/CDBG	9/30/2038
WVCS Transitional Housing 10311-10321 Greenwood Ct.	4	4	0	CDBG	7/14/2026
Beardon Drive 1019B2-10194 Beardon Dr.	8	8	0	CDBG	12/21/2024
Senior Housing Solutions 19935 Price Avenue	1	1	0	CDBG	6/24/2066
Maitri Transitional Housing Undisclosed Location	4	4	0	CDBG	3/16/2064
The Veranda 19160 Stevens Creek Blvd.	19	18	0	LIHTC	2071
Westport Cupertino 21267 Stevens Creek Boulevard	48	47	0	LIHTC	2075
Total Units	184	184	0		
Total Units At-Risk	112	112	0		

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B2-4 Inventory of Affordable Housing Units					
Development	Number of Affordable Units	Household Income		Funding Source	Earliest Termination Date
		Lower	Moderate		
BMR Rental Units					
Biltmore Apartments 10159 South Blaney Ave.	2	2	0	BMR	6/30/2029
Park Center Apartments 20380 Stevens Creek Blvd.	4	4	0	BMR	7/8/2026
The Hamptons 19500 Pruneridge Ave.	34	34	0	BMR	10/20/2027
Arioso Apartments 19608 Pruneridge Ave.	20	20	0	BMR	1/29/2028
Forge-Homestead Apartments 20691 Forge Way	15	15	0	BMR	1/16/2027
Aviare Apartments 20415 Via Pavisio	20 2	20 2	0 0	BMR BMR	7/8/2026 2038
The Markham Apartments 20800 Homestead Road	17	17	0	BMR	2039
Lake Biltmore 19500 Pruneridge Ave.	2	2	0	BMR	2029
Vista Village 101144 Vista Drive	24	24	0	BMR	11/29/2056
Greenwood Court	4	4	0	BMR	2116
10311-10321 Greenwood Court					
Total BMR Rental Units	144	144			
BMR For-Sale Units					
Total BMR For-Sale Units*	119	0	119	BMR	Varies
Total BMR Units At-Risk	97	97	0		

Sources: California Housing Partnership, Preservation Database (2023); City of Cupertino, 2023.

Note:

\* Property addresses of for-sale BMR units are not listed to protect the privacy of homeowners. \*\* Projects denoted in bold are at-risk of converting in 10 years.

## PRESERVATION AND REPLACEMENT OPTIONS

The following analysis examines the cost of preserving the at-risk units and the cost of producing replacement rental housing comparable in size and rent levels to the units that might convert to market-rate prices. In addition, this analysis will compare the costs of preservation and replacement.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

*Acquisition and Rehabilitation*

The factors used to determine the cost of preserving low-income housing include property acquisition, rehabilitation, and financing. Actual acquisition costs depend on several variables, such as condition, size, location, existing financing, and availability of financing (governmental and market). Looking at multifamily buildings throughout Santa Clara County in July 2023, acquisition prices ranged from \$187,500 to \$324,545 per unit for an 11-unit complex in San Jose and 12-unit complex in Mountain View. To acquire the 100-unit Sunny View West at a comparable per-unit cost, the total cost would likely be between \$21,000,000 and \$36,349,091. Additionally, if the property needs significant rehabilitation or if financing is difficult to obtain, the overall cost to preserve the affordable units may increase.

*Replacement*

Another alternative to preserve the overall number of affordable housing units in the county is to construct new units to replace other affordable housing stock that has been converted to market-rate housing. Multifamily replacements would be constructed with the same number of units, with the same number of bedrooms and amenities as the development removed from the affordable housing stock.

The cost of developing new housing depends on a variety of factors, such as density, size of units, location and related land costs, and type of construction. Land costs in the Bay Area are among the highest in the nation. The cost to replace 112 at-risk units in Sunny View West has been estimated using 21 Elements and Baird+ Driskell's San Mateo and Santa Clara Counties Development Counties Development Costs. The per-unit replacement cost is estimated to be \$732,500 based on a 10-unit project and \$786,500 per unit for a 100-unit project. Consequently, the replacement cost for the 112-unit Sunny View West Apartments would range from \$82 million to \$88 million.

*Rent Subsidy*

Housing affordability can also be preserved by seeking alternative means of subsidizing rents, such as Tenant Protection Vouchers, which are a subset of the Housing Choice Vouchers (HCV) program. Under HCVs, HUD pays the difference between what tenants can pay (defined as 30 percent of household income) and what HUD estimates as the fair-market rent on the unit. Based on HUD's 2023 fair-market rents and income limits, the subsidy needed to preserve a unit at an affordable rent for a four-person, very low-income household would be an estimated \$1,682 per month for a three-bedroom unit, or \$20,184 per year. For 30 years, the subsidy would be approximately \$605,520 and subsidizing all 112 units at risk of converting to market rate at very low-income rents would cost approximately \$67,818,240 for 30 years, assuming no changes in the rent.

The subsidy needed to preserve a unit at an affordable rent for a low-income household would be an estimated \$485 per month, or \$5,814 per year. For 30 years, the subsidy would be about \$174,420 for a four-person household. Subsidizing 112 units at a low-income rent for 30 years would cost an estimated \$19.5 million, assuming no changes in rent.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

*Preservation Resources*

Once the City becomes aware of an impending conversion, staff will begin exploring the availability of funding from various sources. In many cases, the City will find it advantageous to collaborate with private affordable housing developers or managers to develop and implement a viable plan to preserve affordable housing units. Private developers can often bring additional expertise and access to funding, such as tax credits. HCD maintains a list of qualified entities to assist with the preservation of affordable units.

These organizations include:

- Cambrian Center, Inc.
- Charities Housing Development Corp.
- Palo Alto Senior Housing Project, Inc.
- Mid-Peninsula Housing Coalition
- Affordable Housing Foundation
- Palo Alto Housing Corp.
- South County Housing, Inc.
- Satellite Housing, Inc.
- ROEM Development Corporation
- Silicon Valley at Home
- L + M Fund Management LLC

*Programs for Preservation and Construction of Affordable Housing*

The following is a summary of the current programs that the City is aware of and, if applicable, will seek to use to meet the City's goal of preserving and expanding affordable housing stock. Further, a list of funding sources the City will attempt to use to meet its affordable housing goals is provided in [Table B2-5, Financial Resources](#).

- **Project Development:** The City's Community Development Department will continue to provide technical assistance and administrative support for housing developments that expand affordable housing options for city residents.
- **Nonprofit Support:** The City will continue its cooperative relationships with qualified nonprofit groups, which may play a role in assisting in the preservation and expansion of affordable housing in the community.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

- **Policy and Ordinance Review:** Current policies and ordinances will be continually reviewed to ascertain the realistic impact on retaining or expanding affordable housing in the city. When necessary, changes or additions to the City's guiding policies and ordinances should be adopted.
- **Housing Referral Service:** The City will continue to refine a listing of programs and a methodology for disseminating pertinent information about the types of subsidized housing and the various providers of housing-related services.
- **Housing Rehabilitation:** The City of Cupertino will continue to use its Below Market-Rate Affordable Housing Fund (BMR AHF) and Community Development Block Grant (CDBG) funds to support residential rehabilitation efforts in the community. These include acquisition and rehabilitation of rental housing and rehabilitation of owner-occupied housing.
- **City Programs:** The City understands the importance of preserving affordable housing units and has included **Strategies HE 2.3.2, 2.3.3, and 3.3.2** to assist with preserving units that are at risk of converting to market rate.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

*Financial Resources*

The programs in **Table B2-5** are available to assist the City in meeting its affordable housing goals.

Table B2-5 Financial Resources		
Program Name	Description of Program	Eligible Activities
Federal Programs		
Community Block Grant Program (CDBG)	Funding for this program has increased over the last couple of years. This program provides annual grants on a formula basis to entitled cities and counties to develop viable urban communities. .	<ul style="list-style-type: none"> <li>Single-family housing rehabilitation,</li> <li>homebuyer assistance,</li> <li>infrastructure in support of housing,</li> <li>multifamily housing rehabilitation.</li> </ul>
Home Investment Partnership Program (HOME)	Funding for this program has increased over the last couple of years. HCD administers an annual NOFA to competitively award these federal funds across the state in alignment with its HUD Consolidated Plan.	<ul style="list-style-type: none"> <li>New rental affordable housing,</li> <li>rehabilitation of existing rental affordable housing,</li> <li>programs to promote home ownership,</li> <li>owner-occupied housing rehabilitation,</li> <li>tenant-based rental assistance to prevent homelessness.</li> </ul>
Home Investment Partnership Program– American Rescue Plan (HOME-ARP)	This one-time funding with HOME-ARP funds is available for expenditure until September 2030.	<ul style="list-style-type: none"> <li>vulnerable populations, including homeless,</li> <li>at risk of homelessness, and</li> <li>fleeing or attempting to flee domestic and related forms of violence (including human trafficking).</li> <li>production of affordable housing,</li> <li>tenant-based rental assistance,</li> <li>homeless prevention services, and</li> <li>purchase or development of non-congregate shelter for individuals and families experiencing homelessness.</li> </ul>

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B2-5 Financial Resources		
Program Name	Description of Program	Eligible Activities
Housing Choice Voucher Program	Local and County housing authorities receive funding for HCV (Section 8 of the United States Housing Act of 1937) from the federal government. Funding for the program has increased over the last couple of years.	Rental assistance for low-income households.
Project-Based Section 8 Vouchers	Local and County Housing authorities may dedicate a portion of their Housing Choice Vouchers as project-based vouchers. Funding for the program has increased over the last couple of years.	Rental assistance for low-income households tied to units that can be underwritten by loans that finance housing projects.
HUD Veterans Affairs Supportive Housing (VASH) Vouchers	This federally funded program is managed through a partnership between housing authorities and the U.S. Dept. of Veterans Affairs (VA). Homeless veterans receive a rental subsidy from the housing authority and case management from the VA. Funding for this program has been increasing in recent years with strong bipartisan support in Washington D.C.	Rental assistance and supportive services for homeless veterans.
Continuum of Care (CoC) Programs	The NorCal CoC is currently accessing State resources (Emergency Solutions Grant, Homeless Housing Assistance and Prevention, Homeless Emergency Aid Program, etc.) and federal CoC funding through HUD. Funds are passed through to service providers at the county level.	<ul style="list-style-type: none"> <li>▪ Rental subsidies,</li> <li>▪ rapid rehousing,</li> <li>▪ emergency shelter,</li> <li>▪ homeless prevention.</li> </ul>

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B2-5 Financial Resources		
Program Name	Description of Program	Eligible Activities
State Programs		
Permanent Local Housing Allocation (PLHA Formula Funds)	Ongoing funding provided through Senate Bill 2 Building Homes and Jobs Act. Funding will fluctuate based on revenues taken in by the State and are administered through regional planning agencies and local housing authorities.	<p>A wide range, which includes but is not limited to:</p> <ul style="list-style-type: none"> <li>• affordable rental housing for households below 80% AMI; affordable rental and ownership housing, including accessory dwelling units (ADUs), for households earning up to 120% of AMI; or</li> <li>• capital costs for navigation centers and emergency shelters,</li> <li>• permanent and transitional housing for people experiencing homelessness.</li> </ul>
Affordable Housing and Sustainable Communities Program (AHSC)	State program funded by greenhouse gas cap-and-trade program. Recent revisions to regulations encourage greater participation from rural communities.	Grants for infill low-income affordable housing and infrastructure that encourages reductions in vehicle trips and greenhouse gas emissions.
Infill Infrastructure Grant Program (IIG)	This is funding from Proposition 1, the Veterans and Affordable Housing Bond Act. Therefore, this funding will sunset when all bond proceeds are disbursed. The State generally issues one NOFA each year	Gap funding for infrastructure improvements necessary for specific residential or mixed-use infill projects.



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B2-5 Financial Resources		
Program Name	Description of Program	Eligible Activities
California Housing Finance Agency (Cal HFA) Residential Development Loan Program	Low-interest, short-term loans to local governments for affordable infill, owner-occupied housing developments. Links with CalHFA's Down Payment Assistance Program to provide subordinate loans to first-time buyers. Two funding rounds per year.	<ul style="list-style-type: none"> <li>• New construction,</li> <li>• rehabilitation,</li> <li>• acquisition.</li> </ul>
California Housing Finance Agency (Cal HFA) Homebuyer's Down Payment Assistance Program	CalHFA makes below-market loans to first-time homebuyers of up to 3% of sales price. Program operates through participating lenders who originate loans for CalHFA. Funds available on request to qualified borrowers.	Homebuyer assistance.
California Housing Finance Agency (Cal HFA) Forgivable Equity Builder Loan	The Forgivable Equity Builder Loan gives first-time homebuyers a head start with immediate equity in their homes via a loan of up to 10% of the purchase price of the home. The loan is forgivable if the borrower continuously occupies the home as their primary residence for five years.	Homeowner assistance
HOME Investment Partnership Program	The State provides grants to local governments and nonprofit agencies for many homeowner and renter needs.	<ul style="list-style-type: none"> <li>• Homebuyer assistance rehabilitation;</li> <li>• new construction rental assistance</li> </ul>
Building Equity and Growth in Neighborhoods (BEGIN)	A State-funded program administered by HCD that provides low- and moderate-income households up to \$30,000 for a down payment.	Homebuyer assistance.
CalHome	Grants awarded to jurisdictions for owner-occupied housing rehabilitation and first-time homebuyer assistance by the California Department of Housing and Community Development (HCD).	<ul style="list-style-type: none"> <li>• Homebuyer assistance;</li> <li>• rehabilitation.</li> </ul>

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B2-5 Financial Resources		
Program Name	Description of Program	Eligible Activities
Low-Income Housing Tax Credits (LIHTC)	A 4% annual tax credit that helps owners of rental units develop affordable housing.	New construction.
	The LIHTC can be used to construct new or renovate existing rental buildings. The LIHTC is designed to subsidize either 30 or 70 percent of the low-income unit costs in a project. The 70% subsidy, or 9 percent tax credit, supports new construction without any additional federal subsidies.	
HUD Emergency Shelter Grants (administered through the State)	Competitive grants to help local governments and nonprofits finance emergency shelters, transitional housing, and other supportive services.	<ul style="list-style-type: none"> <li>• New construction,</li> <li>• rehabilitation,</li> <li>• homeless assistance,</li> <li>• public services.</li> </ul>
Tax-Exempt Housing Revenue Bond	Supports low-income housing development by issuing housing tax-exempt bonds requiring the developer to lease a fixed percentage of the units to low-income families at specified rental rates.	<ul style="list-style-type: none"> <li>• New construction,</li> <li>• rehabilitation,</li> <li>• acquisition.</li> </ul>
Private Resources/Financing Programs		
California Community Reinvestment Corporation (CCRC)	Nonprofit mortgage banking consortium designed to provide long-term debt financing for affordable multifamily rental housing. Nonprofit and for-profit developers contact member banks.	<ul style="list-style-type: none"> <li>• New construction,</li> <li>• rehabilitation,</li> <li>• acquisition.</li> </ul>

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B2-5 Financial Resources		
Program Name	Description of Program	Eligible Activities
Federal National Mortgage Association (Fannie Mae)	Fixed-rate mortgages issued by private mortgage insurers.	Homebuyer assistance.
	Mortgages that fund the purchase or rehabilitation of a home.	<ul style="list-style-type: none"> <li>Homebuyer assistance;</li> <li>rehabilitation.</li> </ul>
	Low down payment mortgages for single-family homes in underserved low-income and minority cities.	Homebuyer assistance.
Freddie Mac Home Works	Provides first and second mortgages that include rehabilitation loans. Jurisdiction provides gap financing for rehabilitation components. Households earning up to 80% AMI qualify.	Homebuyer assistance.
Affordable Housing Program (Federal Home Loan Bank [FHLB])	Loans (and some grants) to public agencies and private entities for a wide variety of housing projects and programs. Participation is by FHLB-participating lenders.	<ul style="list-style-type: none"> <li>New construction,</li> <li>homebuyer assistance,</li> <li>rehabilitation,</li> <li>housing supportive services.</li> </ul>
Northern California Community Loan Fund (NCCLF)	Offers low-interest loans for the revitalization of low-income communities and affordable housing development.	<ul style="list-style-type: none"> <li>Acquisition,</li> <li>rehabilitation,</li> <li>new construction.</li> </ul>
Low-Income Investment Fund (LIHF)	Provides below-market loan financing for all phases of affordable housing development and/or rehabilitation.	<ul style="list-style-type: none"> <li>Acquisition,</li> <li>rehabilitation,</li> <li>new construction.</li> </ul>

Source: Local Housing Solutions, July 2023.

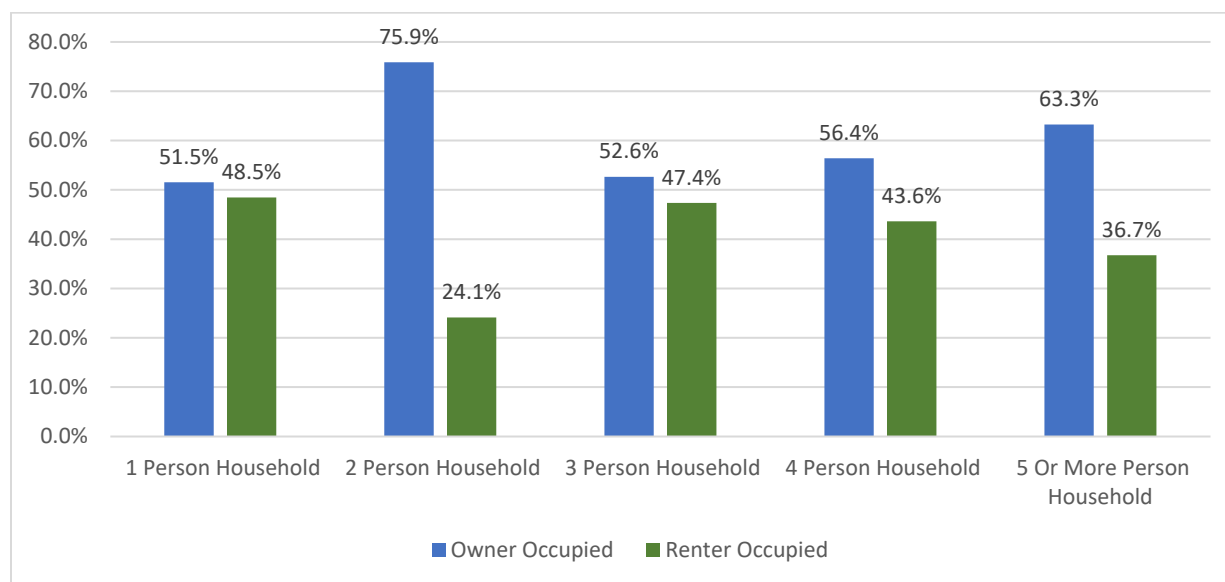
## B2.4 SPECIAL HOUSING NEEDS

### LARGE HOUSEHOLDS

Large households often have different housing needs than smaller households. If a city's rental housing stock does not include larger apartments, large households who rent could end up living in overcrowded conditions.

In Cupertino, 6.7 percent of all households are considered large households with five or more people. Larger households typically need larger housing units with three or more bedrooms. When looking at tenure, 63.3 percent of large households were owner-occupied households and 36.7 percent were renter-occupied households. [Figure B2-34, Household Size by Tenure](#), shows household size by tenure.

**Figure B2-34 Household Size by Tenure**



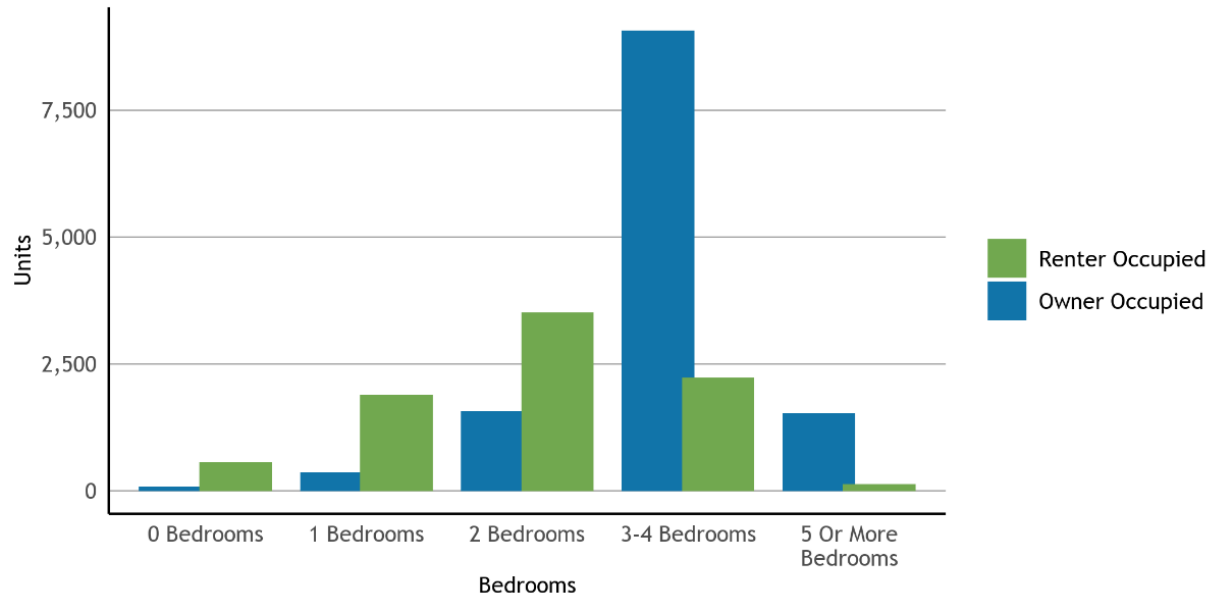
Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25009. For the data table behind this figure, please refer to the Data Packet Workbook, Table LGFEM-01.

The unit sizes available in a community affect the household sizes that can access that community. Large families are generally served by housing units with three or more bedrooms. Cupertino has 12,979 units (61.9 percent) with three or more bedrooms. Among these large units, 81.8 percent are owner-occupied units and 18.2 percent are renter-occupied units; therefore, there is a lack of large rental units. The City does have resources available to large households such as general housing programs and services offered like the BMR Program and housing rehabilitation programs. Other programs include Mortgage Credit Certificates and HCVs administered by the County, and homebuyer assistance offered by the Housing Trust Silicon Valley.

Figure B2-35 summarizes housing units by the number of bedrooms.

APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Figure B2-35 Housing Units by Number of Bedrooms



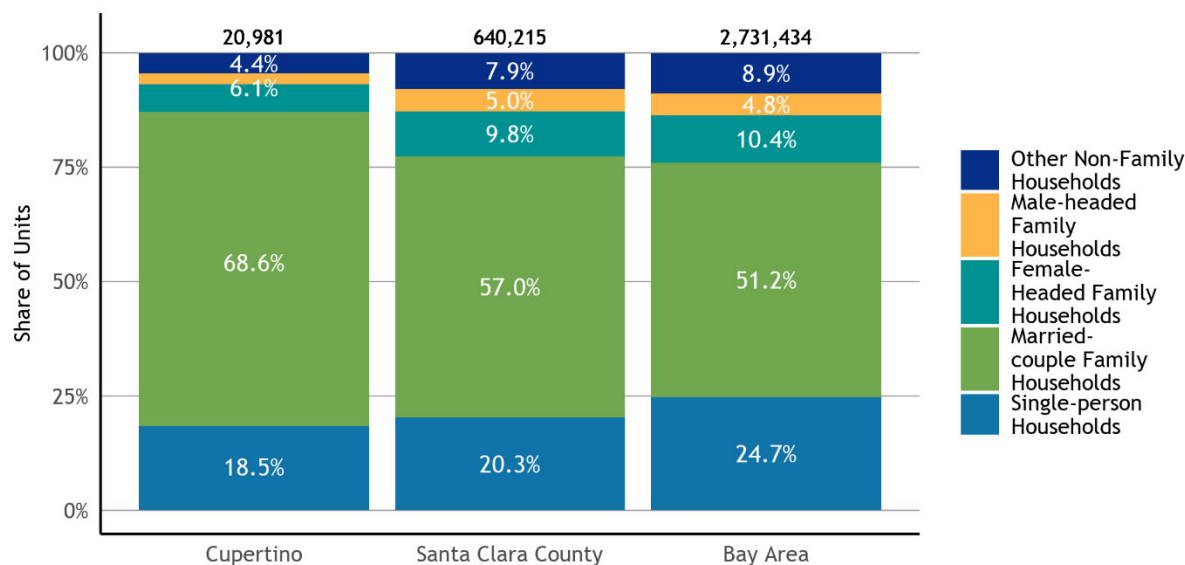
Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B25042. For the data table behind this figure, please refer to the Data Packet Workbook, Table HSG-05.

## FEMALE-HEADED HOUSEHOLDS

Households headed by one person are often at greater risk of housing insecurity, particularly female-headed households, who may be supporting children or a family with only one income.

In Cupertino, the largest proportion of households is Married-Couple Family Households at 68.6 percent of the total, while Female-Headed Family Households make up 6.1 percent of all households. Figure B2-36, *Household Type*, provides information on household type in Cupertino.

**Figure B2-36 Household Type**

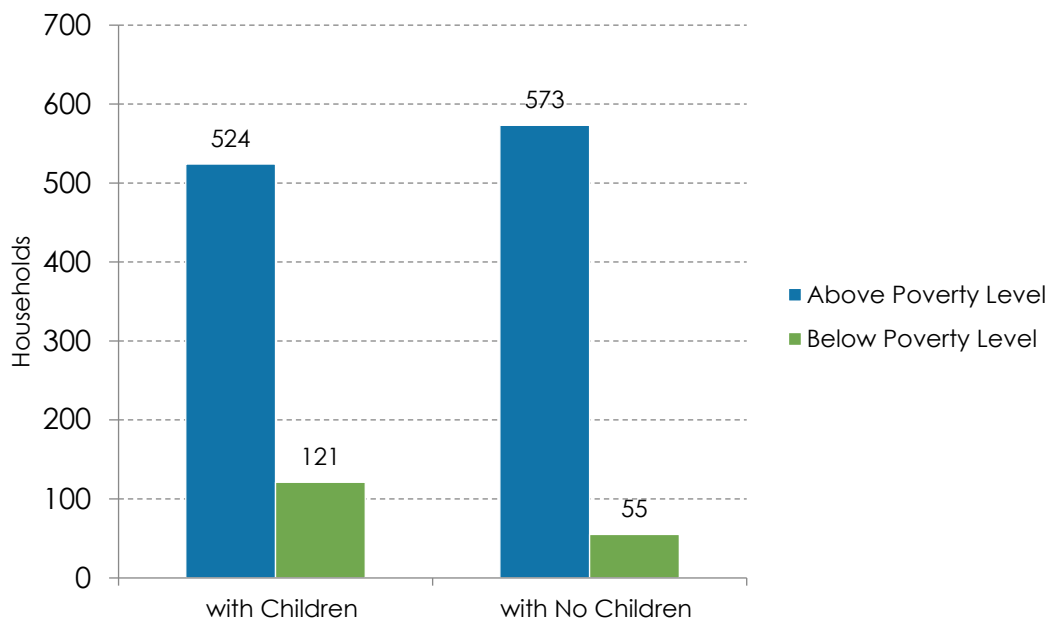


Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B11001. For the data table behind this figure, please refer to the Data Packet Workbook, Table POPEMP-23.

Female-headed households with or without children may face particular housing challenges. This could be due to pervasive gender inequality resulting in lower wages for women or could be due to a single income.

In Cupertino, 121 female-headed households with children (18.8 percent) were in the Below Poverty Level category, while 55 female-headed households without children (8.8 percent) were in the Below Poverty Level category. Figure B2-37 shows female-headed households by poverty status.

Persons living with incomes below the poverty level can benefit from City programs and services that assist lower-income households in general, such as BMR, CDBG, and HSG programs. Households with incomes below the poverty level can also benefit from supportive services available to county residents through various organizations, including Catholic Charities of Santa Clara County, Choices for Children, InnVision Shelter Network, Second Harvest Food Bank, and West Valley Community Services, among others.

**Figure B2-37 Female-Headed Households by Poverty Status**

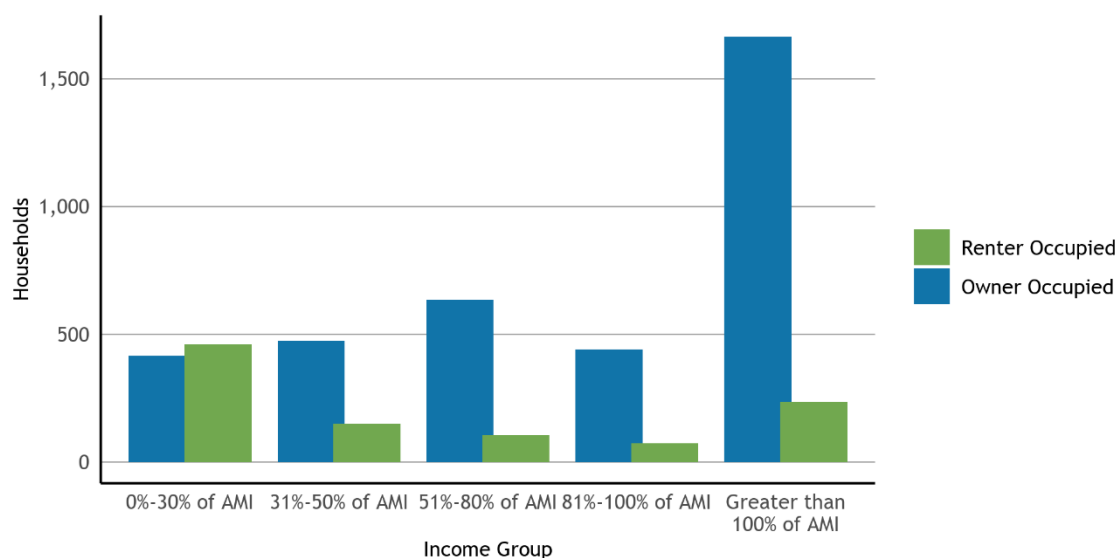
Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B17012. For the data table behind this figure, please refer to the Data Packet Workbook, Table LGFEM-05.

Single-parent households in Cupertino can benefit from City programs and services that assist lower-income households in general, such as the BMR, CDBG, and HSG Programs. Single-parent households can also benefit from supportive and childcare services available to county residents through various organizations, including Catholic Charities of Santa Clara County, Choices for Children, Grail Family Services, InnVision Shelter Network, Second Harvest Food Bank, and West Valley Community Services.

## SENIORS

Senior households often experience a combination of factors that can make accessing or keeping affordable housing a challenge. For example, seniors have unique housing needs due to fixed incomes, a high chance of having some type of disability, chronic health conditions, and/or reduced mobility. Therefore, seniors can require greater levels of affordability along with the need for supportive or assisted living services and/or accessible housing. Seniors who rent may be at even greater risk for housing challenges than those who own, due to income differences between these groups.

In Cupertino, seniors made up 14.7 percent of the population (8,847 individuals). The largest proportion of senior households who rent, make 0 to 30 percent of AMI, while the largest proportion of senior households who are homeowners falls into the income group Greater than 100 percent of AMI. This shows a potential need for affordable housing options for seniors. Figure B2-38 shows senior households by income and tenure.

**Figure B2-38 Senior Households by Income and Tenure**

Source: U.S. Department of Housing and Urban Development (HUD), Comprehensive Housing Affordability Strategy (CHAS) ACS tabulation, 20182-2017 release. For the data table behind this figure, please refer to the Data Packet Workbook, Table SEN-01.

Cupertino offers a number of resources for seniors. As shown in **Table B2-6**, there are five residential care facilities for the elderly and three skilled nursing facilities in the city. Residential care facilities for the elderly (RCFEs), also known as “assisted living” or “board and care” facilities, provide assistance with some activities of daily living while still allowing residents to be more independent than in most nursing homes. Skilled nursing facilities—also known as nursing homes—offer a higher level of care, with registered nurses on staff 24 hours a day.

In addition to assisted living facilities, there are two subsidized independent senior housing developments in the city providing 100 units. Demand for these subsidized units is high. Staff at Sunny View estimate that over 700 people are on the waiting list, and the turnover rate for available units is about 10 to 15 per year.

The Cupertino Senior Center also serves as an excellent resource for seniors. The many different services at the center help seniors to obtain resources in the community that will assist them to continue to remain independent and safe in their own homes. Available programs include various social and recreation activities, special events, travel programs, transportation discounts, drop-in consultation, case management, medical, and social services.



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B2-6 Housing Resources for Seniors		
Residential Care Facilities for the Elderly	Location	Capacity
The Forum at Rancho San Antonio	23500 Cristo Rey Drive	741
Paradise Manor 4	19161 Muriel Lane	6
Pleasant Manor of Cupertino	10718 Nathanson Avenue	6
Purglen of Cupertino	10366 Miller Avenue	12
Sunny View Manor (a)	22445 Cupertino Road	190
<b>Total</b>		<b>955</b>
<b>Skilled Nursing Facilities</b>		
Health Care Center at Forum at Rancho San Antonio	23600 Via Esplendor	48
Cupertino Healthcare & Wellness Center	22590 Voss Avenue	170
Sunny View Manor	22445 Cupertino Road	48
<b>Total</b>		<b>266</b>
<b>Subsidized Independent Senior Rental Housing</b>		
Sunny View West	22449 Cupertino Road	99
Senior Housing Solutions	19935 Price Avenue	1
<b>Total</b>		<b>100</b>
<b>Adult Day Care</b>		
Live Oak Adult Day Services	20920 McClellan Road	30
Cupertino Senior Center	21251 Stevens Creek	N/A

Sources: California Department of Social Services, Community Care Licensing Division Facility Search Form, 2023; California Department of Public Health, Health Facilities Search, 2023.

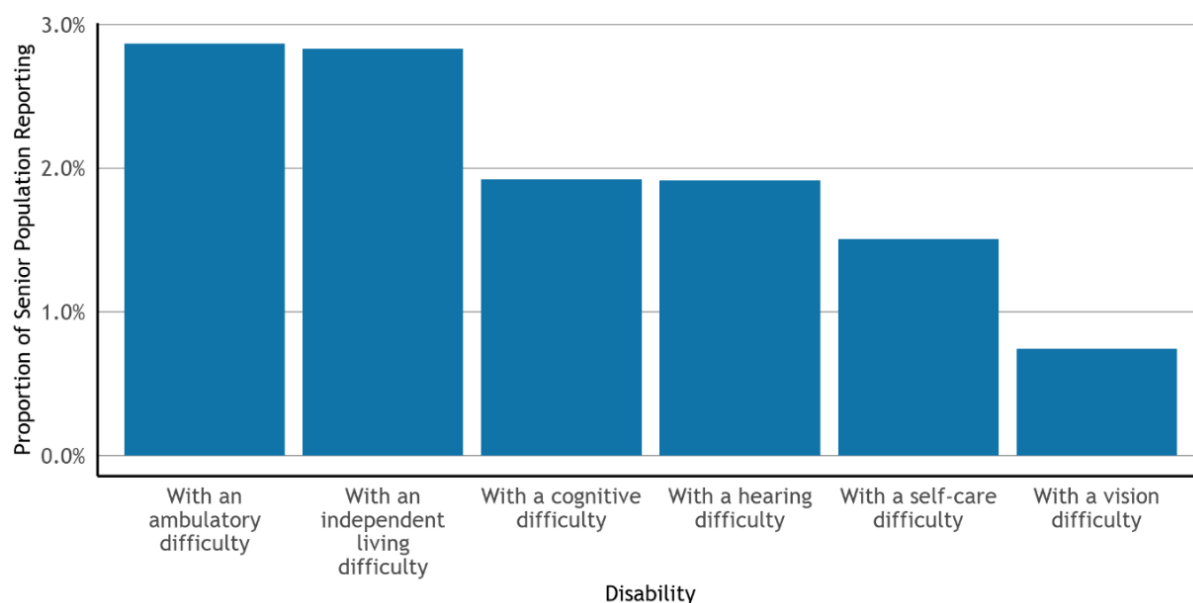
Note: (a) Sunny View Manor has 115 units for independent and assisted (RCFE) living. All 115 units are licensed as RCFE units, but residents may choose between independent and assisted living options. The distribution of independent and assisted living units varies over time.

## PEOPLE WITH DISABILITIES

People with disabilities face additional housing challenges. Encompassing a broad group of individuals living with a variety of physical, cognitive, and sensory impairments, many people with disabilities live on fixed incomes and need specialized care. Due to the high cost of such specialized care, individuals with disabilities often must rely on family members for assistance. When it comes to housing, people with disabilities are not only in need of affordable housing but accessibly designed housing, which offers greater mobility and opportunity for independence. Unfortunately, the need typically outweighs what is available, particularly in a housing market with such high demand. People with disabilities are at a high risk for housing insecurity, homelessness, and institutionalization, particularly when they lose aging caregivers.

Overall, 5.7 percent of people in Cupertino have a disability of some kind.<sup>16</sup> [Figure B2-39, Disability by Type](#), shows the rates at which different disabilities are present among residents of Cupertino.

**Figure B2-39 Disability by Type**



Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B18102, Table B18103, Table B18104, Table B18105, Table B18106, Table B18107. For the data table behind this figure, please refer to the Data Packet Workbook, Table DISAB-01.

<sup>16</sup> These disabilities are counted separately and are not mutually exclusive, as an individual may report more than one disability. These counts should not be summed.

## PERSONS WITH DEVELOPMENTAL DISABILITIES

According to Section 4512 of the Welfare and Institutions Code, “developmental disability” means a disability that originates before an individual attains 18 years of age, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. It includes intellectual disabilities, cerebral palsy, epilepsy, and autism. This term also includes disabling conditions found to be closely related to intellectual disability or to require treatment similar to that required for individuals with intellectual disabilities but does not include other conditions that are solely physical in nature. Many developmentally disabled persons can live and work independently within a conventional housing environment. More severely disabled individuals require a group living environment where supervision is provided. The most severely affected individuals may require an institutional environment where medical attention and physical therapy are provided. Because developmental disabilities exist before adulthood, the first issue in supportive housing for the developmentally disabled is the transition from the person’s living situation as a child to an appropriate level of independence as an adult.

The California Department of Developmental Services provides community-based services to approximately 360,000 persons with developmental disabilities and their families through a statewide system of regional centers, developmental centers, and community-based facilities. The San Andreas Regional Center is one of 21 regional centers in California that provides point-of-entry services for people with developmental disabilities. The center is a private, nonprofit community agency that contracts with local businesses to offer a wide range of services to individuals with developmental disabilities and their families.

The San Andreas Regional Center, located in north San Jose, provides services to developmentally disabled persons throughout Monterey, San Benito, Santa Clara, and Santa Cruz Counties and acts as a coordinating agency for multiple service providers in the region. They provide a resource to those needing counseling, day care, equipment and supplies, behavior intervention, independent living services, mobility training, nursing, residential care facilities, supportive living services, transportation, vocational training, and other services.

Several housing types are appropriate for people living with a developmental disability: rent-subsidized homes, residential care facilities, Section 8 vouchers, special programs for home purchase, HUD housing, and Senate Bill (SB) 962 homes (these are adult residential homes for persons with specialized health care needs). Supportive housing and group living opportunities for persons with developmental disabilities can be an important resource for those individuals who can transition from the home of a parent or guardian to independent living.

The design of housing-accessibility modifications, the proximity to services and transit, and the availability of group living opportunities represent some of the types of considerations that are important in serving this need group. Incorporating barrier-free design in all new multifamily housing (as required by California and federal fair housing laws) is especially important to provide the widest range of choices for disabled residents. Special consideration should also be given to the affordability of housing, as people with disabilities may be living on a fixed income.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

In Cupertino, there are 154 children under the age of 18 with a developmental disability (51.2 percent), while there are 147 adults with a developmental disability (48.8 percent). **Table B2-7** shows the number of persons in Cupertino with developmental disabilities by age.

Table B2-7 Population with Developmental Disabilities by Age	
Age Group	Number
Age Under 18	154
Age 18+	147
<b>Total</b>	<b>301</b>

Source: California Department of Developmental Services, Consumer Count by California ZIP Code and Age Group (2020). This table is included in the Data Packet Workbook as Table DISAB-04.

The most common living arrangement for individuals with disabilities in Cupertino is the home of a parent, family, or guardian. **Table B2-8** shows the Cupertino population with developmental disabilities by residence.

Table B2-8 Population with Developmental Disabilities by Residence	
Residence Type	Number
Home of Parent/Family/Guardian	257
Foster/Family Home	11
Independent/Supported Living	5
Other	5
Community Care Facility	23
Intermediate Care Facility	0

Source: California Department of Developmental Services, Consumer Count by California ZIP Code and Residence Type (2020). This table is included in the Data Packet Workbook as Table DISAB-05.

**Table B2-9** lists the community care facilities in Cupertino available to those with developmental disabilities.

Table B2-9 Community Care Facilities in Cupertino, 2023		
Adult Residential Facilities	Location	Capacity
Paradise Manor 2	19133 Muriel Lane	6
Paradise Manor 4	19161 Muriel Lane	6
<b>Total</b>		<b>12</b>

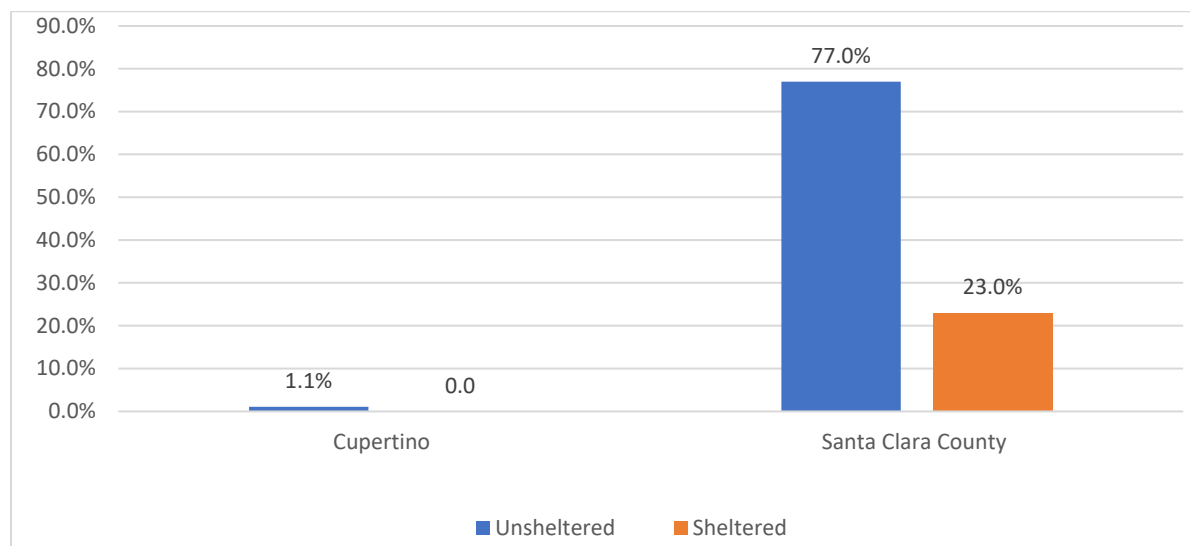
Source: California Department of Social Services, Community Care Licensing Division Facility Search Form, 2023

## HOMELESSNESS

Homelessness remains an urgent challenge in many communities across the state, reflecting a range of social, economic, and psychological factors. Rising housing costs result in increased risks of community members experiencing homelessness. Far too many residents who have found themselves housing-insecure have ended up homeless in recent years, either temporarily or longer term. Addressing the specific housing needs for the unhoused population remains a priority throughout the region, particularly since homelessness is disproportionately experienced by people of color, people with disabilities, those struggling with addiction, and those dealing with traumatic life circumstances. The very nature of homelessness makes it difficult to count persons with no permanent shelter. The Santa Clara County Continuum of Care oversees the County's assessment of homeless persons and conducts point-in-time homeless counts as required by HUD. The 2022 point-in-time count, conducted in February 2022, identified 102 homeless persons in Cupertino. All of the persons experiencing homelessness were unsheltered. For Santa Clara County, there were 9,684 homeless persons identified, of which, 77 percent were unsheltered and 23 percent were sheltered. When comparing the 2022 point-in-time numbers to 2019 data, Cupertino had a decrease in persons experiencing homelessness, going from 159 individuals in 2019 to 102 in 2022. Santa Clara County on the other hand had a slight increase, from 9,706 to 9,864 individuals. [Figure B2-40](#) provides sheltered and unsheltered percentages for the homeless population in Cupertino and Santa Clara County as of 2022. Data by race or disability status is not collected at the individual jurisdiction level through the Point in Time Count. However, the countywide Point in Time Count results indicated an over-representation of Hispanic/Latinx, Black or African American, Native Hawaiian or Pacific Islander, Multi-Racial, and American Indian or Alaska Native community members within the county's homeless community as compared to these populations in the county as a whole. Additionally, it is estimated that community members with disabilities may be over-represented in the city's homeless population due to the existing challenges Bay Area residents with physical or mental disabilities face in accessing affordable housing.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B2-40 City of Cupertino Homeless Population**

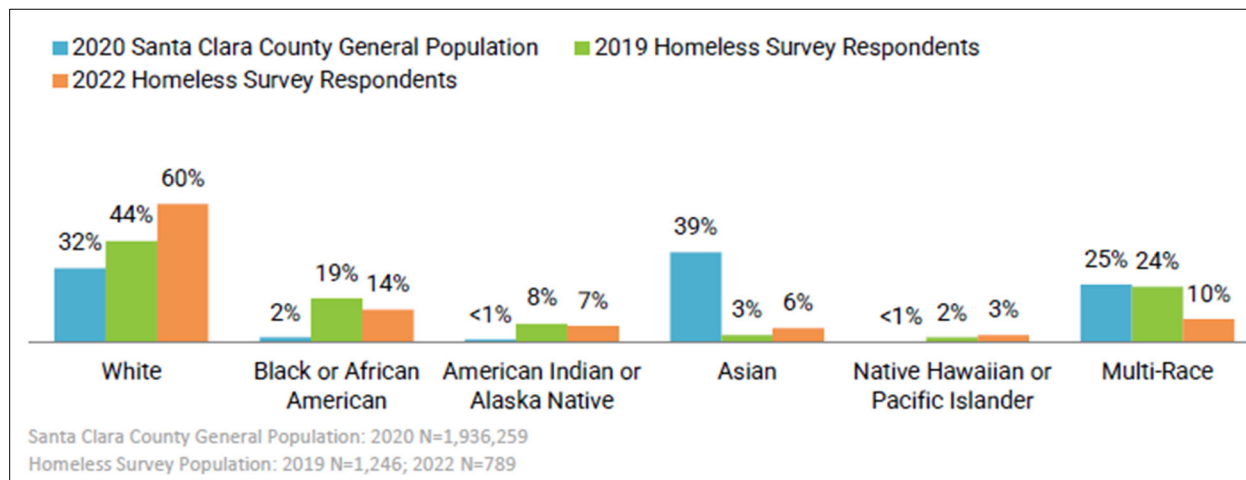


Source: 2022 Santa Clara County Homeless Census and Survey

When looking at race and homelessness, people of color are more likely to experience poverty and financial instability as a result of federal and local housing policies that have historically excluded them from the same opportunities extended to White residents. Consequently, people of color are often disproportionately impacted by homelessness, particularly Black residents of the Bay Area.

In Santa Clara County, White residents represented the largest proportion of residents experiencing homelessness and account for 44 percent of the homeless population, while making up 44.5 percent of the overall population. [Figure B2-41](#) shows the racial group share of the county's homeless population.

**Figure B2-41 Homeless Populations by Race, Santa Clara County**



Source: 2022 Santa Clara County Homeless Census and Survey.

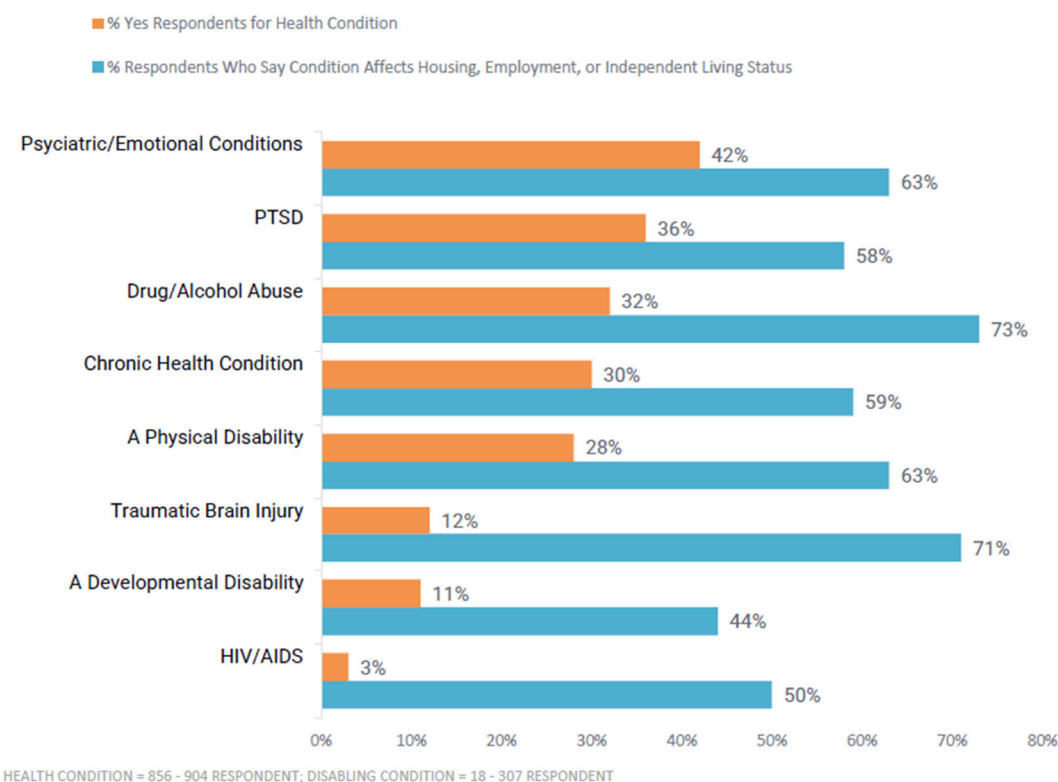
## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

In 2022 in Santa Clara County, Hispanic and Latinx residents represented 47 percent of the population experiencing homelessness, while Hispanic and Latinx residents comprise 25.8 percent of the general population. [Figure B2-42](#) shows the Hispanic and Latinx share of the homeless population in Santa Clara County. Latinx Share of General and Homeless Populations, Santa Clara County, 2022

Many of those experiencing homelessness are dealing with severe issues, including mental illness, substance abuse, and domestic violence, which are potentially life threatening and require additional assistance. As a result, to ensure that they are stably housed, individuals experiencing homelessness require not only affordable housing, but also housing accompanied by an array of transitional and supportive services, including counseling, mental health services, job training, and employment assistance. Therefore, emergency shelters with a full range of supportive services and transitional housing and supportive housing are best equipped to meet the needs of this special-needs population.

In Santa Clara County, similar to other jurisdictions, homeless individuals are commonly challenged by severe mental illness, along with other health concerns. [Figure B2-43](#) shows selected characteristics of the homeless population in Santa Clara County in 2022.

**Figure B2-42 Characteristics for the Population Experiencing Homelessness, Santa Clara County, 2022**



Source: 2022 Santa Clara County Homeless Census and Survey

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

In Cupertino, there were no reported students experiencing homelessness in the 2019-2020 school year. In fact, the reported number of students experiencing homelessness dropped after the 2016-2017 school year to zero in the City of Cupertino. By comparison, Santa Clara County has seen a 3.5 percent increase in the population of students experiencing homelessness since the 2016-2017 school year, while the Bay Area population of students experiencing homelessness decreased by 8.5 percent. Despite the recent regional decrease, during the 2019-2020 school year, there were still 13,718 students experiencing homelessness throughout the Bay Area, adding undue burdens on learning and thriving, with the potential for longer-term negative effects. **Table B2-10** summarizes students in public schools experiencing homelessness.

Table B2-10 Students in Local Public Schools Experiencing Homelessness			
Academic Year	Cupertino	Santa Clara County	Bay Area
2016-17	17	2,219	14,990
2017-18	0	2,189	15,142
2018-19	0	2,405	15,427
2019-20	0	2,297	13,718

Source: California Department of Education, California Longitudinal Pupil Achievement Data System (CALPADS), Cumulative Enrollment Data (Academic Years 2016-2017, 2017-2018, 2018-2019, 2019-2020). This table is included in the Data Packet Workbook as Table HOMEELS-05.

## EMERGENCY SHELTERS AND TRANSITIONAL HOUSING

Santa Clara County has approximately 23 emergency shelters, providing close to 800 beds year-round, with an additional 300 beds available during the winter months (November through March). There are also over 1,100 transitional housing beds throughout the county that offer a combination of stable housing and intensive, targeted support services for the mentally ill, those with chronic substance abuse, developmental disabilities, and other factors that prevent the homeless from returning to permanent housing situations. Transitional housing includes both single-site and “scattered-site” programs. **Table B2-11** provides a summary of emergency shelters and transitional housing that are near the City of Cupertino and available to residents.



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B2-11 Homeless Facilities Near Cupertino			
Facility	Beds	Target Population	Location
<b>Emergency Shelters</b>			
Asian Americans for Community Involvement	12	Women with Children	San Jose
City Team Rescue Mission	52	Single men	San Jose
Hospitality House, Salvation Army	24	Single men	San Jose
Our House Youth Services HomeFirst	10	Homeless and run-away youth	San Jose
San Jose Family Shelter	143	Families	San Jose
Support Network for Battered Women	18	Domestic violence shelter for women and children	San Jose
Maitri	8	Transitional housing to victims of domestic violence	Cupertino
<b>Emergency Shelter/Transitional Housing</b>			
InnVision	178	Working men, women & children, mentally ill men & women	San Jose
James Boccardo Reception Center	370	Families and single adults	San Jose
<b>Transitional Housing</b>			
Next Door- Women with Children	19	Domestic Violence Shelter for women and children	San Jose
St. Josephs Cathedral	45	Worker housing for men, women, and children	San Jose
YWCA- Villa Nueva	126	Women and children	San Jose

Source: Santa Clara County Consolidated Plan, 2010-2015

## FARMWORKERS

Across the state, housing for farmworkers has been recognized as an important and unique concern. Farmworkers generally receive wages that are considerably lower than other jobs and may have temporary housing needs. Accordingly, finding decent affordable housing can be challenging, particularly in the current housing market.

In Cupertino, there were no reported students of migrant workers in the 2019-20 school year and the city and surrounding area lack viable agricultural land to employ migrant workers. The trend for the region for the past few years has been a decline of 2.4 percent in the number of migrant worker students since the 2016-17 school year. at the county level, there has been a 49.7 percent decrease in the number of migrant worker students since the 2016-17 school year. **Table B2-12** summarizes the migrant worker student population in Cupertino, Santa Clara County, and Bay Area as a whole.

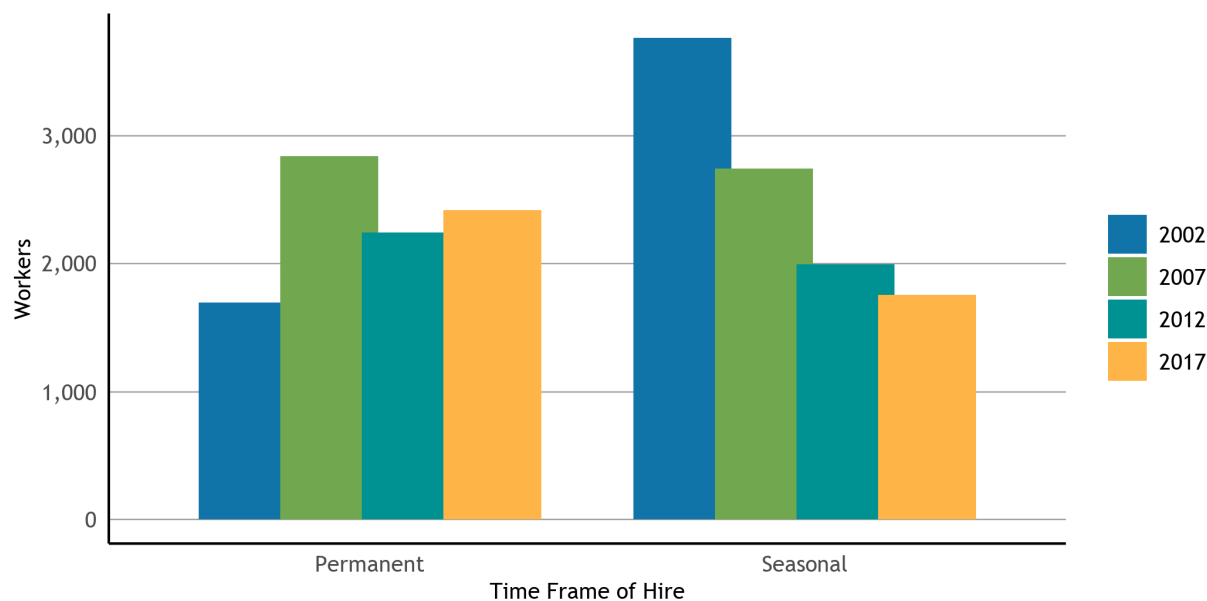
## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B2-12 Migrant Worker Student Population			
Academic Year	Cupertino	Santa Clara County	Bay Area
2016-17	0	978	4,630
2017-18	0	732	4,607
2018-19	0	645	4,075
2019-20	0	492	3,976

Source: California Department of Education, California Longitudinal Pupil Achievement Data System (CALPADS), Cumulative Enrollment Data (Academic Years 2016-2017, 2017-2018, 2018-2019, 2019-2020). This table is included in the Data Packet Workbook as Table FARM-01.

According to the U.S. Department of Agriculture Census of Farmworkers, the number of permanent farmworkers in Santa Clara County has increased since 2002, totaling 2,418 in 2017, while the number of seasonal farmworkers has decreased, totaling 1,757 in 2017. This can be attributed to the types of crops grown in south Santa Clara County that require regular maintenance, or simply the nature of the farms/ranches. [Figure B2-44](#) shows farm operations and labor in Santa Clara County.

**Figure B2-43 Farm Operations and Farm Labor, Santa Clara County**



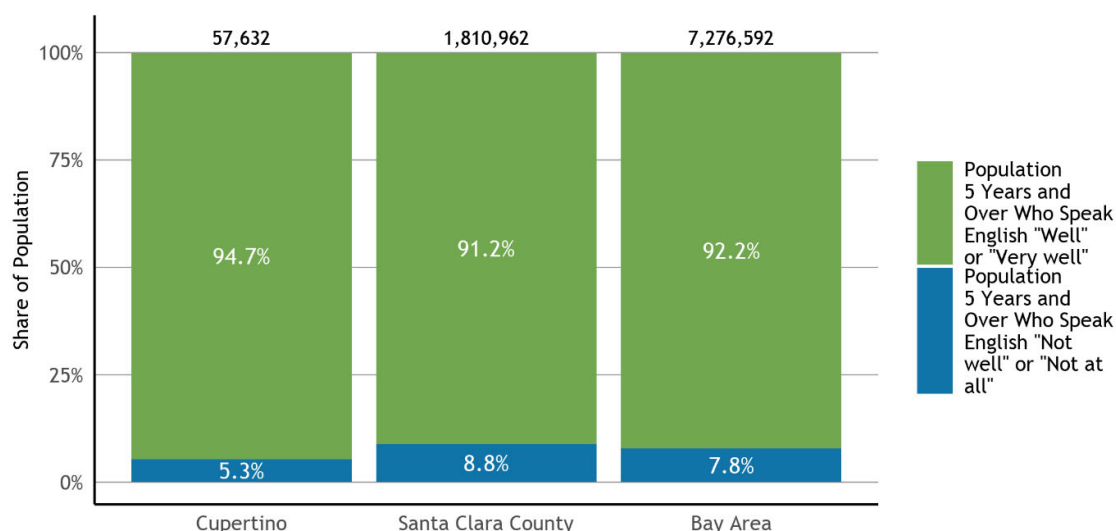
Source: U.S. Department of Agriculture, Census of Farmworkers (2002, 2007, 2012, 2017), Table 7: Hired Farm Labor. For the data table behind this figure, please refer to the Data Packet Workbook, Table FARM-02.

## NON-ENGLISH SPEAKERS

California has long been an immigration gateway to the United States, which means that many languages are spoken throughout the Bay Area. Since learning a new language is universally challenging, it is not uncommon for residents who have immigrated to the United States to have limited English proficiency. This limitation can lead to additional disparities if there is a disruption in housing, such as an eviction, because residents might not be aware of their civil and housing rights, or they might be wary to engage or ask questions due to their immigration status concerns. The unique housing needs for non-English speakers include having access to Fair Housing resources in multiple languages as needed.

In Cupertino, 5.3 percent of residents five years and older identified as speaking English not well or not at all, which was below the proportion for Santa Clara County (8.8 percent). Throughout the Bay Area, the proportion of residents five years and older with limited English proficiency was 7.8 percent. [Figure B2-45](#) shows the population with limited English proficiency in Cupertino, Santa Clara County, and the Bay Area as a whole.

**Figure B2-44 Population with Limited English Proficiency**



Source: U.S. Census Bureau, American Community Survey 5-Year Data (2015-2019), Table B16005. For the data table behind this figure, please refer to the Data Packet Workbook, Table AFFH-03.

NOTE: Universe: Population 5 years and over.

To the extent that farmworkers may want to live in Cupertino, their need for affordable housing would be similar to that of other lower-income persons, and their housing needs can be addressed through general affordable housing programs for lower-income households, such as BMR, CDBG, and HSG programs.

## Affirmatively Furthering Fair Housing

# B.3

APPENDIX



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

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## B3 CUPERTINO FAIR HOUSING ASSESSMENT

In 2018, Governor Brown signed Assembly Bill (AB) 686 requiring all public agencies in the state to affirmatively further fair housing (AFFH) beginning January 1, 2019.<sup>1</sup> The new requirements went into effect on January 1, 2019, and required all public agencies to “administer programs and activities relating to housing and community development in a manner that affirmatively furthers fair housing, and take no action inconsistent with this obligation.”<sup>2</sup> AB 686 also made changes to Housing Element law to incorporate requirements to AFFH as part of the housing element and general plan to include an analysis of fair housing outreach and capacity, integration and segregation, access to opportunity, disparate housing needs, and current fair housing practices.

The following report was prepared by Root Policy Research (Denver, Colorado) and is based on and expands previous work commissioned by the Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC). The ABAG/MTC report was prepared in collaboration with the University of California (UC) Merced Urban Policy Lab and was entitled, *AFFH Segregation Report: Cupertino*.

### Affirmatively Furthering Fair Housing

**Affirmatively furthering fair housing** means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws. The duty to affirmatively further fair housing extends to all of a public agency’s activities and programs relating to housing and community development. (Government Code, Section 8899.50, subd. (a)(1).)

Source: California Department of Housing and Community Development Guidance, 2021, page 14.

<sup>1</sup> Public agencies receiving funding from the U.S. Department of Housing and Urban Development (HUD) are also required to demonstrate their commitment to AFFH. The federal obligation stems from the fair housing component of the federal Civil Rights Act mandating federal fund recipients to take “meaningful actions” to address segregation and related barriers to fair housing choice.

<sup>2</sup> California Department of Housing and Community Development Guidance, 2021, page 9.

## B3.1 HISTORY OF SEGREGATION IN THE REGION

The United States' oldest cities have a history of mandating segregated living patterns—and Northern California cities are no exception. ABAG, in its recent Fair Housing Equity Assessment, attributes segregation in the Bay Area to historically discriminatory practices—highlighting redlining and discriminatory mortgage approvals—as well as “structural inequities” in society, and “self-segregation” (i.e., preferences to live near similar people).

Researcher Richard Rothstein's 2017 book, *The Color of Law: A Forgotten History of How Our Government Segregated America*, chronicles how the public sector contributed to the segregation that exists today. Rothstein highlights several significant developments in the Bay Area that played a large role in where the region's non-White residents settled.

In 1955, builders began developing workforce housing for the Ford Corporation's plant in the Santa Clara County region. Initially, the units were segregated as no one would sell to the local black workers. The American Friends Service Committee (AFSC) worked to find builders who would build integrated subdivisions. Unfortunately, after four purchased plots were subsequently rezoned to prevent integrated housing, the original builder quit. After multiple additional iterations, African American workers had “become so discouraged about finding housing opportunities” that they began carpooling from outside cities such as Richmond.<sup>3</sup>

A 2018 Berkeley publication titled, *Racial Segregation in the San Francisco Bay Area*, attempted to illustrate segregation in the Bay Area communities. In their study, they found that Santa Clara County contains “no truly integrated city.”<sup>4</sup> The study also delved into the history of segregation, highlighting 1960s-era laws and practices connected to urban renewal projects that were displacing communities of color. The building of transportation infrastructure created a reduction of affordable housing due to a lack of one-for-one replacement in the area.

In addition to historical discriminatory practices that embedded segregation into living patterns throughout the Bay Area, it is also necessary to recognize the historical impacts of colonization and genocide on Indigenous populations and how the effects of those atrocities are still being felt today. The original inhabitants of present-day San Mateo County are the Ramaytush Ohlone, who have

**This history of segregation in the region is important not only to understand how residential settlement patterns came about—but, more importantly, to explain differences in housing opportunity among residents today. In sum, not all residents had the ability to build housing wealth or achieve economic opportunity. This historically unequal playing field in part determines why residents have different housing needs today.**

<sup>3</sup> Rothstein, Richard. 2017. *The Color of Law: A Forgotten History of How Our Government Segregated America*, p 121. New York, NY: Liveright Publishing Corporation.

<sup>4</sup> [Racial Segregation in the San Francisco Bay area, Part 1 | Othering & Belonging Institute \(berkeley.edu\)](#)

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

“...lived on the San Francisco Peninsula for thousands of years and continue to live here as respectful stewards of the land.”<sup>5</sup> However, “[d]ue to the devastating policies and practices of a succession of explorers, missionaries, settlers, and various levels of government over the centuries since European expansion, the Ramaytush Ohlone lost the vast majority of their population as well as their land.”<sup>6</sup> The lasting influence of these policies and practices have contributed directly to the disparate housing and economic outcomes collectively experienced by Native American populations today.<sup>7</sup>

The timeline of major federal acts and court decisions related to fair housing choice and zoning and land use appears in **Figure B3-1**.

As shown in the timeline in **Figure B3-1**, exclusive zoning practices were common in the early 1900s. Courts struck down only the most discriminatory and allowed those that would be considered today to have a “disparate impact” on classes protected by the Fair Housing Act. For example, the 1926 case *Village of Euclid v. Amber Realty Co.* (272 U.S. 365) supported the segregation of residential, business, and industrial uses, justifying separation by characterizing apartment buildings as “mere parasite(s)” with the potential to “utterly destroy” the character and desirability of neighborhoods. At that time, multifamily apartments were the only housing options for immigrants and people of color.

The Federal Fair Housing Act was not enacted until nearly 60 years after the first racial zoning ordinances appeared in U.S. cities. This coincided with a shift away from federal control over low-income housing toward locally tailored approaches (block grants) and market-oriented choice (Section 8 subsidies)—the latter of which is only effective when adequate affordable rental units are available.

Figure B3-1, *Major Public and Legal Actions that Influence Fair Access to Housing*, shows a timeline for major public and legal actions related to fair housing access.

## INFLUENCE OF LAND USE AND ZONING PRACTICES

While exclusive and discriminatory zoning is no longer legal, current land use and zoning patterns continue to influence neighborhood demographics, access to housing opportunities, and other housing outcomes.

The Othering & Belonging Institute, a UC Berkeley research center, published a report in 2020 analyzing the characteristics of communities in the Bay Area in relation to the degree of single-family zoning. The research findings identified that in Santa Clara County, and across the Bay Area regionally, cities with high levels of single-family zoning see greater access to resources resulting in positive life outcomes. Predominance of single-family zoning aligned with higher median incomes, home values, proficient schools, and other factors that are similarly associated with the highest-resource designation in the TCAC/HCD opportunity maps. The increased home values and scarcity of housing in these

<sup>5</sup> <https://www.smcoe.org/for-communities/indigenous-people-of-san-mateo-county.html>

<sup>6</sup> <https://www.smcoe.org/for-communities/indigenous-people-of-san-mateo-county.html>

<sup>7</sup> <https://www.americanprogress.org/article/systemic-inequality-displacement-exclusion-segregation/>

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areas due to their lower density can make housing and other resources in the area unaffordable to lower-income households. Single-family zoning predominates residential areas in the Bay Area; the average proportion of residential land zoned exclusively for single-family housing in Bay Area jurisdictions was found to be 85 percent. Only in two jurisdictions of the 101 surveyed (Benicia and Suisun City) did single-family zoning make up less than 40.0 percent of the jurisdiction's land area. However, access to higher-quality resources was greatest in jurisdictions with at least 90.0 percent of the land area designated to single-family zoning.

During the study, it was determined that 91 percent of residentially zoned land in Cupertino was zoned exclusively for single-family housing<sup>8</sup>, putting the City in the 75th percentile when compared to other jurisdictions in the Bay Area based on percentage of exclusively single-family land. All jurisdictions that had 90 to 100 percent of their land designated for single-family housing were considered to be “highly” exclusive. However, the City's estimate of land designated for single-family uses indicates a lower percentage of land with this designation (approximately 42 percent). In 2020, approximately 69.6 percent of Cupertino's housing stock was made up of single-family homes, with the remaining 30.4 percent being multifamily units. While single-family zoning can create highly desirable places to live, higher entry costs associated with this housing type can pose a barrier to access for low- and moderate-income households, restricting access to economic, educational, and other opportunities that are available in higher-resource communities.

In Cupertino, the R-2, R-3, and Planned Development zoning districts with residential uses allowed, permit multifamily housing, are primarily along the Interstate 280 corridor, at the intersection of Highway 85 and Stevens Creek Boulevard, along N. Foothill Boulevard, sprinkled along Miller Avenue, along sections of Bollinger Road, along major corridors in the city such as Stevens Creek Boulevard in the City's Heart of the City Special Area, De Anza Boulevard, Homestead Road, and N. Wolfe Road. As discussed in this assessment, neighborhoods that have multifamily land are also typically those with lower median incomes, higher rates of overcrowding and overpayment, and other indicators of fair housing issues. While multifamily offers valuable housing opportunities for lower- and moderate-income households, the limited, and concentrated, supply of suitably zoned land may result in patterns of income segregation. To combat this potential fair housing issue, the City has identified **Strategies HE-1.3.2, HE-2.3.2, HE-2.3.5, and HE-3.3.3** to promote accessory dwelling units (ADUs), require affordable units in all rental residential developments, facilitate infill development with affordable housing, and prevent condominium conversion when there is a shortage of rental units.

Feedback provided by community members in response to the Public Review draft of the Housing Element included input from local organizations such as Cupertino for All. Representatives from Cupertino for All expressed support for policies that permitted increased density, such as the introduction of R-4 zoning and the “corner lot” policy which permits multifamily development at R-

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<sup>8</sup> <https://belonging.berkeley.edu/report-single-family-zoning-dominates-bay-area-housing-presenting-barrier-integration>

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3-style densities on corners within R-1 zones. The group also encouraged increased height limits and future removal of parking requirements. Cupertino for All also indicated that they believe that recent historical trends have been to develop large single-family homes, which tend not to be affordable for lower-income households.

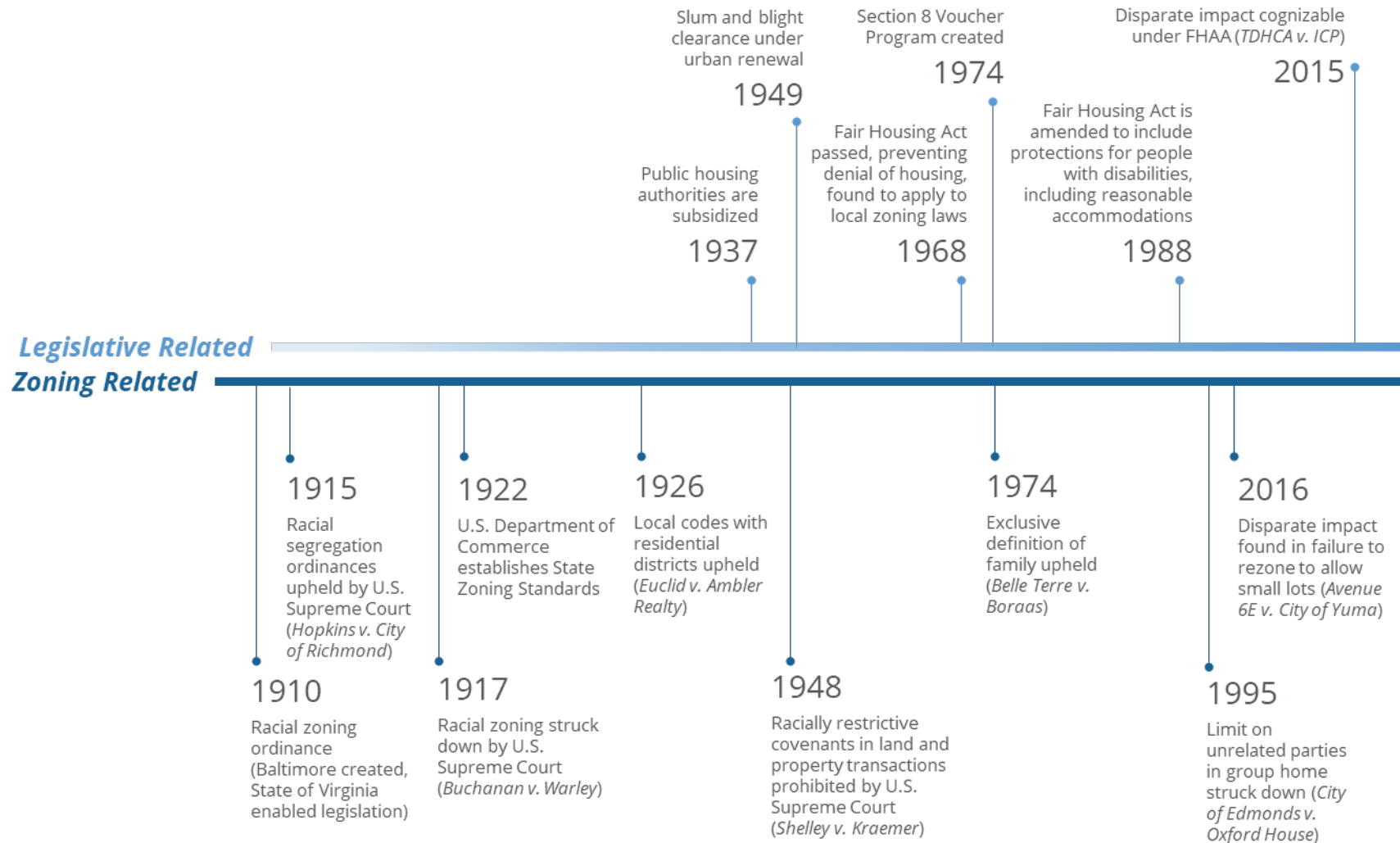
### B3.2 REPORT CONTENT AND ORGANIZATION

This Fair Housing Assessment follows the April 2021 State of California Guidance for AFFH and is organized into the following sections.

- Fair Housing Enforcement Capacity reviews lawsuits/enforcement actions/complaints against the jurisdiction, and compliance with State fair housing laws and regulations.
- Ongoing Outreach Capacity describes jurisdictional capacity to conduct fair housing outreach and education.
- Compliance with State Law summarizes key State laws and regulations related to mitigating housing discrimination and expanding housing choice.
- Integration and Segregation identifies areas of concentrated segregation, degrees of segregation, and the groups that experience the highest levels of segregation.
- Access to Opportunity examines differences in access to education, transportation, economic development, and healthy environments.
- Disproportionate Housing Needs identifies which groups have disproportionate housing needs, including displacement risk.
- Sites Analysis of the distribution of the City's sites inventory by income category compared to citywide patterns, in the context of the fair housing issues.
- Fair Housing Resources and Maps, including fair housing organizations in Santa Clara County, states the mission, services, and contact information for these organizations.

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**Figure B3-1 Major Public and Legal Actions that Influence Fair Access to Housing**





## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**B3.3 PRIMARY FINDINGS, CONTRIBUTING FACTORS, AND FAIR HOUSING ACTIONS**

This section summarizes the primary findings from the Fair Housing Assessment for Cupertino, including the following sections: fair housing enforcement and outreach capacity, integration and segregation, access to opportunity, disparate housing needs, and contributing factors and the City's fair housing action plan.

- Cupertino's population has a moderate level of diversity for the region and a higher Asian population compared to the county (68 percent of residents identify as Asian), with the Asian population increasing by 22 percentage points since 2000;
- Population growth in Cupertino began leveling off in 2014, with the county and regional growth index rates increasing, albeit slowly, while Cupertino's growth has stagnated;
- Most households in Cupertino earn more than 100 percent of the regional Area Median Income (AMI), and this is true across most racial and ethnic groups. Hispanic and non-Hispanic White households have the most income diversity;
- Poverty rates highlight the disparity in income and opportunities by race, with the Hispanic (16.7 percent) and Black/African American (16.9 percent) populations experiencing disproportionately higher poverty rates. No other group is above 7 percent;
- There were 546 residential permits issued between 2015 and 2022;
- Cupertino's jobs to household ratio is 2.60—higher than Santa Clara County overall (1.71) or the Bay Area (1.47), based on data from the California Department of Finance and the US Census Bureau's Longitudinal Employer-Household Dynamics survey, but lower than those of Palo Alto, Mountain View, or the City of Santa Clara;
- Access to Cupertino is limited by housing pricing and supply. Eighty-three percent of houses in the area are valued over \$1 million. In 2020, Zillow reported the average market value at \$2.25 million, significantly above the county's and Bay Area's market values. Fifty-seven percent of Cupertino's housing units are detached single-family units. The next-closest share is multifamily at 21 percent of units, followed by 12 percent apartment units and 10 percent du-/tri-/fourplexes. While owners mostly occupy three- and four-bedroom homes (72 percent), 68 percent of renters occupy one- or two-bedroom units;
  - Renters, who make up 40 percent of all households, are facing the same cost pressures as owners with 87 percent of units renting for more than \$2,000, and 52 percent renting for \$3,000 and more. Of the city's rental units, 14 percent rent for \$2,000 and less. The county has almost three times the proportion of rentals priced under \$2,000 than the city.



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- There are disparities in housing cost burden in Cupertino by race and ethnicity—and minimally by tenure (renters/owners). Hispanic households experience by far the highest rates of cost burden in the city (45 percent). Asian (28 percent), non-Hispanic White (27 percent), and Black/African American (11 percent) households experience the lowest rates of cost burden; however, it is worth noting that there are a small number of Black/African American households in the city.
- Barriers to housing choice are largely related to the city’s very high costs of housing and lack of affordable production. Since 2015, the housing that has received permits to accommodate growth has largely been priced for above moderate-income households (321 units or 59 percent of all units), followed by moderate-income households (158 or 29 percent). There were 19 permits issued for low-income units and 48 permits were issued for very low-income units.
- Cupertino has a lower proportion of residents with disabilities than the county. Unemployment among residents with disabilities is relatively high, with 16 percent of Cupertino residents with a disability unemployed, compared to 3 percent without a disability.
- Mortgage denial rates in the Census Tracts that include Cupertino are modest (14 to 17 percent of loans denied) and vary little across races and ethnicities except for Black/African American applicants.
- According to educational opportunity indices, every census tract in Cupertino scores higher than 0.75—indicating the highest positive educational outcomes. The City is home to very high performing schools.

**FAIR HOUSING ISSUES AND CONTRIBUTING FACTORS**

Cupertino’s low production of affordable housing limits housing choices of all low-income households and has a disproportionate impact on Asian and Hispanic households who face disproportionate levels of cost burden.

*Contributing factors:*

- Of the 546 residential permits issued in Cupertino since 2015, approximately 12 percent were for very low- and low-income households.
- Nearly 44 percent of Hispanic households and 28 percent of Asian households in Cupertino are cost burdened compared to 26 percent of non-Hispanic White households, and almost 25 percent of households of other or multiple races.

Cupertino’s low production of housing limits the choices of lower- and moderate-income households.

**APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT***Contributing factors:*

- While Cupertino has approved more units than required in its 5th cycle RHNA, it has not received building permits to begin construction. In the long term, Cupertino has failed to permit enough housing to accommodate job growth and respond to supply shortages.

The housing that has been built in the city recently has largely been priced for above moderate-income households and moderate-income households. The community is sharply divided on issues surrounding development of new housing, with a vocal minority that consistently opposes higher-density development in the city. Lower-income households in the county and region are disproportionately likely to be Black or African American and Hispanic residents. As a result, it is possible that Black or African American and Hispanic residents with lower incomes are priced out from living in Cupertino.

*Contributing factors:*

- Historical employment discrimination and lack of access to quality educational environments for Black/African and Hispanic residents have resulted in their working lower-wage jobs, which do not support the city's housing costs.

Concentration of lower- and moderate-income households in the northern Homestead Special Area neighborhood result in a potential concentration of poverty.

*Contributing factors:*

- Concentration of rental units that are typically more affordable;
- Shortage of workforce housing units
- Lack of affordable housing
- Older housing stock; and
- High rates of overcrowding;

In response to these high priority factors, the City has included the strategies identified in **Table B3-1** to promote housing mobility and place-based revitalization, and to prevent displacement:

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B3-1 Housing Element Strategies to Address Fair Housing Issues			
Housing Element Strategy	Housing Mobility	Place-Based Revitalization	Displacement Prevention
HE-1.3.1: Land Use Policy and Zoning Provisions			X
HE-1.3.3: New Residential Zoning Districts and Land Use Designations			X
HE-1.3.4: Development on Nonvacant Sites			X
HE-1.3.5: Encourage Mixed-Use Projects and Residential in Commercial Zones			X
HE-1.3.7: Lot Consolidation			X
HE-1.3.8: Accessory Dwelling Units	X		X
HE-1.3.10: Innovative and Family-Friendly Housing Options	X		
HE-2.3.1: Support Affordable Housing Development	X		
HE-2.3.4: Below- Market Rate Affordable Housing Fund	X		
HE-2.3.7: Incentives for Affordable Housing Development	X		
HE-2.3.8: Density Bonus Ordinance	X		
HE-2.3.10: Extremely Low-Income Housing	X	X	X
HE-2.3.11: Assistance for Persons with Developmental Disabilities	X	X	
HE-2.3.12: Live/Work Units			X
HE-3.3.2: Preservation of At-Risk Housing Units			X
HE-3.3.4: Housing Preservation Program			X
HE-3.3.6: Rent-Control Ordinance			X
HE-6.1.3: Housing Mobility	X		
HE-7.3.2: Coordination with Local School Districts	X	X	

Source: City of Cupertino, 2023

The City has also included a range of programs to address other, lower-priority, contributing factors and patterns noted throughout this analysis.

## B3.4 FAIR HOUSING ENFORCEMENT CAPACITY

This section discusses fair housing legal cases and inquiries, fair housing protections and enforcement, and outreach capacity.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**FAIR HOUSING LEGAL CASES AND INQUIRIES**

California fair housing law extends beyond the protections in the federal Fair Housing Act (FHA). In addition to the FHA protected classes—race, color, ancestry/national origin, religion, disability, sex, and familial status—California law offers protections for age, sexual orientation, gender identity or expression, genetic information, marital status, military or veteran status, and source of income (including federal housing assistance vouchers).

The California Civil Rights Department (CRD, formerly the Department of Fair Employment and Housing or DFEH) was established in 1980 and is now the largest civil rights agency in the United States. According to their website, the CRD’s mission is, “to protect the people of California from unlawful discrimination in employment, housing and public accommodations (businesses) and from hate violence and human trafficking in accordance with the Fair Employment and Housing Act (FEHA), Unruh Civil Rights Act, Disabled Persons Act, and Ralph Civil Rights Act.”<sup>9</sup>

CRD receives, evaluates, and investigates fair housing complaints. CRD plays a particularly significant role in investigating fair housing complaints against protected classes that are not included in federal legislation and therefore not investigated by the United States Department of Housing and Urban Development (HUD). CRD’s website provides detailed instructions for filing a complaint, the complaint process, appealing a decision, and other frequently asked questions.<sup>10</sup> Fair housing complaints can also be submitted to HUD for investigation.

Additionally, Santa Clara County has a number of local resource and enforcement organizations:

- Project Sentinel: Assists with housing discrimination, mortgage foreclosures, rental issues, and more;
- Housing and Economic Rights Advocates (HERA): Legal and advocacy organization for vulnerable Californians facing discrimination and economic abuses related to households;
- Bay Area Legal Aid: Broad advocacy focused on helping low-income Bay Area residents lead stable lives, including housing stability; and
- Law Foundation of Silicon Valley: Legal advocacy for social change with a focus on finding stable homes for low-income residents.

From 2013 to 2021, 391 fair housing complaints in Santa Clara County were filed with the U.S. Department of Housing and Urban Development (HUD) or Fair Housing Advocates of Northern California (FHANC). Most of the county’s valid complaints cited disability status as the bias. Of these complaints, 69 percent were considered valid and proceeded to actionable responses. HUD also reported that five cases were filed by residents of the City of Cupertino between January 2013 and

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<sup>9</sup> <https://calcivilrights.ca.gov/>

<sup>10</sup> <https://calcivilrights.ca.gov/complaintprocess/>

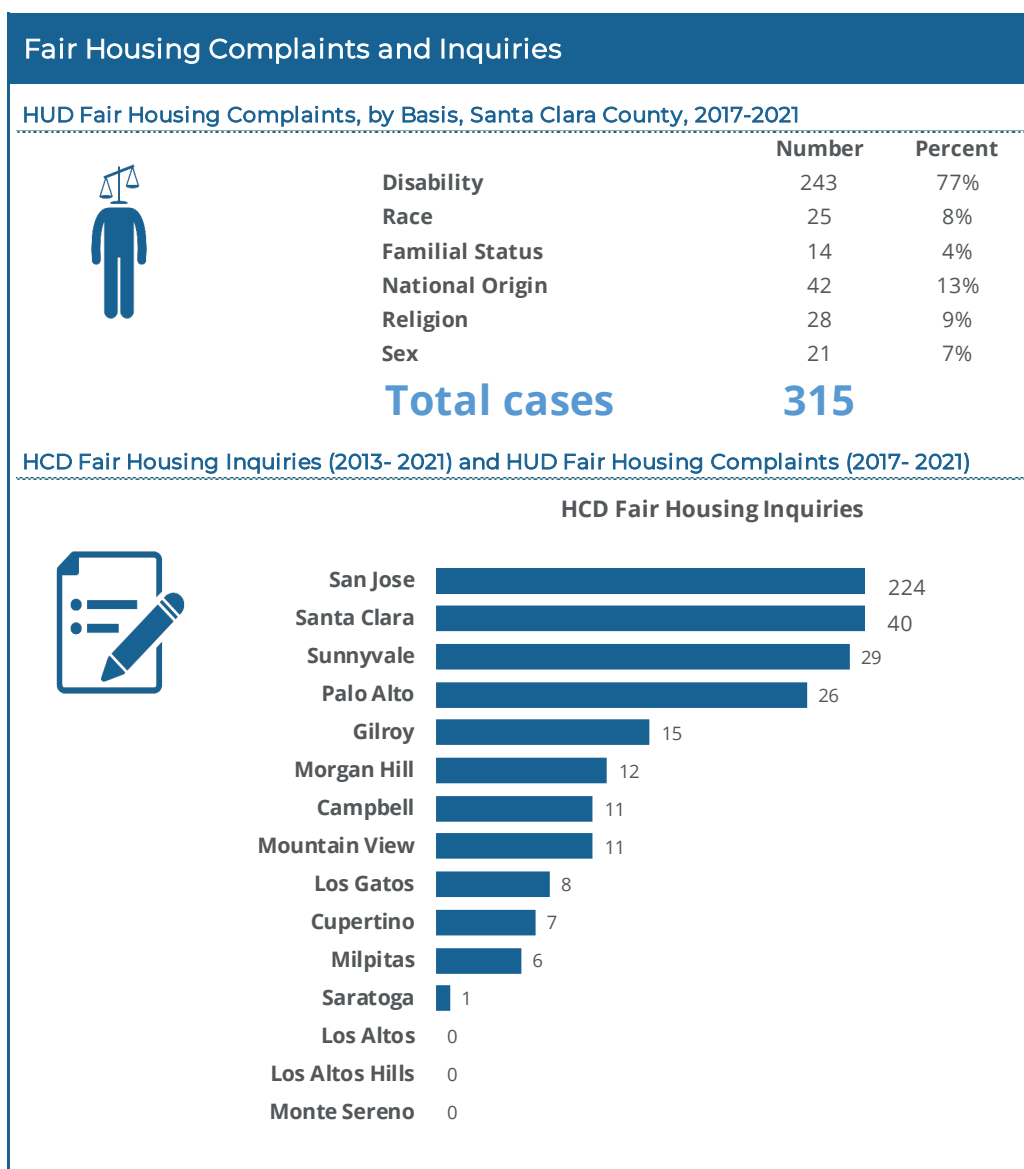
## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

April 2021. However, one of these cases was closed when it was withdrawn by the complainant, and the other four were closed for no-cause determinations. Three of the cases alleged discriminatory retaliation, two alleged discrimination on the basis of religion, two on the basis of disability, and one on the basis of national origin; some cases were made on more than one basis. There was no determined validity of the four cases where a determination was made. In addition to formal complaints, seven inquiries were made during the same time. Four were determined to have no valid issues or basis, two claimants failed to respond to follow-up by HUD staff, and one claimant decided not to pursue a case. There have been no fair housing lawsuits or inquiries against the City.

While the cases filed during this period did not have cause, that does not necessarily mean there is no discrimination occurring. Therefore, the City has identified **Strategy HE-6.1.1 (Fair Housing Services)** to continue to ensure residents and housing providers are aware of fair housing laws, rights, and requirements, as well as resources available to residents should they experience discrimination. Further, the City will work with local and regional fair housing providers to facilitate a training for housing providers to prevent discriminatory actions and behaviors on an annual basis. **Strategy HE-6.1.1 (Fair Housing Services)** also commits the City to partner with a fair housing service provider, such as Project Sentinel, to provide direct services, including investigating complaints, obtaining remedies, and conducting fair housing testing when funding is available, and the need is present.

Figure B3-2, [Fair Housing Complaints and Inquiries](#), illustrates fair housing complaints and inquiries.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-2 Fair Housing Complaints and Inquiries****B3.5 ONGOING OUTREACH ON FAIR HOUSING ISSUES**

The City of Cupertino's website contains many resources for learning more about or acquiring affordable purchase and rental units. For example:

- Rebuilding Together Silicon Valley helps locals update their homes;
- Housing Trust Silicon Valley programs;
  - Homebuyer Empowerment Loan Program (HELP) assists middle-income first-time homebuyers with down payment assistance.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

- Empower Homebuyers Santa Clara County assists low- to moderate-income people with down payment assistance.
- Small Homes, Big Impact Accessory Dwelling Unit (ADU) Program helps residents add ADUs to their property.
- The HOME Program provides grants for families moving to permanent sustainable housing.
- Santa Clara Mortgage Credit Certificate Program provides tax credits for federal income taxes to first-time homebuyers;
- Habitat for Humanity Silicon Valley works with those earning between 30 and 80 percent of AMI to attain homeownership;
- City of Cupertino Housing Program for De Anza Students supports college housing assistance; and
- The City's website also lists resources available for renters through Project Sentinel and the Housing Authority of the County of Santa Clara; however, there is no specific mention of fair housing.

In the event that a resident needs fair housing services, the following resources are available locally and regionally:

- **Project Sentinel:** Provides assistance and counseling regarding housing discrimination, tenant-landlord dispute resolution, and other housing counseling programs. Project Sentinel has received Public Service Grants from the City of Cupertino to continue to serve the community in the 2020/2021, 2021/2022, and 2022/2023 Fiscal Years.
- **ECHO Housing:** Provides education and assistance in obtaining and maintaining housing, as well as fair housing counseling, investigation, mediation, and enforcement.

Should a resident come to the City seeking counsel, staff connects them with these organizations, as well as state and federal resources.

The City provides translation for public meetings and materials by request, as there typically is little to no demand for translation services. However, to engage residents in the Housing Element update process, the City's Housing Element website offers information in English, Chinese, Spanish, Vietnamese, and Russian, though usage data indicates that there has been very little usage other than in English.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**B3.6 COMPLIANCE WITH STATE LAW**

The following State laws were reviewed for Cupertino's compliance:

- **Density Bonus Law (Government Code Section 65915).** The City has included **Strategy HE-2.3.7** to amend the density bonus ordinance as necessary to respond to any changes in State law.
- **No-Net-Loss (Government Code Section 65863).** The City has identified a surplus of sites available to meet the Regional Housing Needs Assessment allocation (RHNA). In total, the City's surplus unit capacity is 1,683, which is made up of 316 lower-income units, 154 moderate-income units, and 1,213 above moderate-income units. While the City has included ADU capacity in **Appendix B4**, the City does not need to rely on ADUs to accommodate the RHNA.
- **Housing Accountability Act (HAA) (Government Code Section 65589.5).** The City does not condition the approval of housing development projects for very low-, low-, or moderate-income households or emergency shelters unless specific written findings are made. Further, the City currently allows emergency shelters by-right, without limitations, in the BQ zoning district. **Strategy HE-5.1.1** has been included to allow emergency shelters in the R4 zoning district and review and revise managerial standards to ensure compliance with State law.
- **Senate Bill 35 (Government Code Section 65913.4).** The City of Cupertino enacted this authority in the Vallco Fashion Mall redevelopment to approve the development via ministerial approval and has adopted an established written policy/procedure to streamline the approval process and standards for other eligible projects.
- **Senate Bill 330 (Government Code Section 65589.5).** The City complies with SB 330, relying on regulations set forth in the law for processing preliminary applications for housing development projects, conducting no more than five hearings for housing projects that comply with objective general plan and development standards, and making a decision on a residential project within 90 days after certification of an environmental impact report (EIR) or 60 days after adoption of a mitigated negative declaration (MND) or an environmental report for an affordable housing project. The City has an established written procedure that is available on the City's website and at public counters.
- **California Fair Employment and Housing Act (FEHA) and Federal Fair Housing Act (FHA).** The City provides protections to residents through referrals to legal assistance organizations, such as Fair Housing Advocates of Northern California (FHANC) and has included **Strategy HE-6.1.1** to meet with local fair housing and legal aid organizations to develop materials or annual training for landlords on fair housing rights and responsibilities with the intent of reducing or eliminating discrimination.



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

- **Review Processes (Government Code Section 65008).** The City reviews affordable development projects in the same manner as market-rate developments, except in cases where affordable housing projects are eligible for preferential treatment, including, but not limited to, on residential sites subject to AB 1397.
- **Assembly Bill 686 (Government Code Section 8899.50).** The City has completed this AFH and identified programs to address identified fair housing issues in Section B3.3 of this assessment.
- **Equal Access (Government Code Section 11135 et seq.).** The City offers translation services for all public meetings and offers accessibility accommodations to ensure equal access to all programs and activities operated, administered, or funded with financial assistance from the State, regardless of membership or perceived membership in a protected class.
- **Below-Market Rate (BMR) program.** Cupertino's current Residential Housing Mitigation Program sets BMR requirements, which currently require a 15 percent affordable set aside for rental housing and a 20 percent affordable set aside for for-sale housing in projects that propose seven or more units. A proposed change to this program would lower the threshold for for-sale projects to five units. The program requires units restricted by income – 9 percent of the units to very low-income levels (up to 50 percent of AMI), 6 percent of the units to low-income levels (50 to 80 percent of AMI) for rental developments, 10 percent of the units for median-income levels (80 to 100 percent of AMI), and 10 percent of the units at moderate-income levels (100 to 120 percent of AMI) for for-sale developments. Fee-in-lieu mitigation payments are required for developments with six or fewer units. The fees are modest and range from \$19.28 per square foot for detached single-family homes to \$21.21 per square foot for small lot homes, \$25.71 per square foot for attached homes, and \$32.14 per square foot for higher-density multifamily developments.
- **Housing Conversions.** Cupertino regulates conversion of apartments and other forms of rental units to condominiums by requiring that comparable replacement housing exists within the housing market area to accommodate displaced residents.

### B3.7 INTEGRATION AND SEGREGATION

This section discusses integration and segregation of the population by protected classes, including race and ethnicity, disability status, familial status, and income status. The section concludes with an analysis of racially and ethnically concentrated areas of poverty and affluence.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

## Integration and Segregation

**“Integration** generally means a condition in which there is not a high concentration of persons of a particular race, color, religion, sex, familial status, national origin, or having a disability or a particular type of disability when compared to a broader geographic area.

**Segregation** generally means a condition in which there is a high concentration of persons of a particular race, color, religion, sex, familial status, national origin, or having a disability or a type of disability in a particular geographic area when compared to a broader geographic area.”

Source: California Department of Housing and Community Development Guidance, 2021, page 31.

## RACE AND ETHNICITY

Cupertino differs from the county and Bay Area overall for its majority proportion of residents identifying as Asian (68 percent in Cupertino compared to 37 percent in Santa Clara County). On the other hand, the city has a disproportionately low Hispanic population (3 percent in Cupertino and 25 percent in the county). Cupertino’s proportion of Black/African American and Other and mixed-race residents is similar to the county, in that it reports less than 4 percent for both groups.

The City’s Asian population has grown by 22 percentage points since 2000, resulting in a smaller share of non-Hispanic White residents (49 percent in 2000 compared to 25 percent in 2020). The proportion of residents that identify as American Indian, Alaska Native, and Black or African American has remained relatively stable across this time period, with these residents accounting for 0.8 percent of the population in 2000 compared to 0.9 percent in 2020. The Hispanic population decreased slightly from 4.1 to 3.3 percent of the population. Almost all areas in Cupertino are now predominantly Asian, the only exception being the Oak Valley neighborhood, much of which is also occupied by the Fremont Older Open Space and the Gate of Heaven Cemetery. While this neighborhood is in a tract that is predominantly White, the portion within Cupertino is relatively sparsely populated with some single family homes and a large continuum of care facility (The Forum – with a skilled nursing facility, a memory care unit, assisted living units and a few independent living units), with the bulk of the population in the City of Los Altos’ city limits.

Younger residents are less racially diverse than other age groups, with 75 percent of the population under 18 years identifying as Asian compared to 41 percent of those aged 65 or older. There is a slight increase in the number of residents identifying as Other or Multiple Races in the younger age group, but the main shift is the declining share of White (both Hispanic and non-Hispanic) residents. There are 57 percent of residents 65 and over that identify as White but only 16 percent of residents under 18 were White.

**APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT**

The racial and ethnic composition of Cupertino is similar to that found in communities to the north, such as Sunnyvale, San Jose, Milpitas, and Fremont, where the population is predominantly Asian. Cupertino differs from most of the communities close to it (i.e., Los Gatos, Los Altos, etc.), where White residents are in the majority. However, the diversity index in Cupertino is reflective of neighboring cities. It may also be the case that immigrant populations in the city may choose to live in higher-cost areas to be close to other community members with similar cultural backgrounds or higher-performing schools, despite the cost burden that may come with this choice.

Poverty rates are below the county rate, except for residents identifying as Hispanic or Black. The highest poverty rate by race and ethnicity in Cupertino is for Black/African American residents at 16.9 percent and Hispanic residents at 16.7 percent. This compares to a poverty rate of 6.3 percent for Asian residents and 4.5 percent for non-Hispanic, White residents. However, there is a large margin of error on this data which could over or underrepresent the percentages.

## **DISSIMILARITY AND ISOLATION INDICES**

ABAG created a 2021 report on segregation in Cupertino measuring racial and income segregation within the community. This report analyzes two common indices that measure segregation: the isolation index and the dissimilarity index.

The Dissimilarity Index, or DI, is a common tool that measures segregation in a community. The DI is an index that measures the degree to which two distinct groups are evenly distributed across a geographic area. The DI represents the percentage of a group's population that would have to move for each area in the county to have the same percentage of that group as the county overall.

DI values range from 0 to 100—where 0 is perfect integration and 100 is complete segregation. DI values between 0 and 39 generally indicate low segregation, values between 40 and 54 generally indicate moderate segregation, and values between 55 and 100 generally indicate a high level of segregation.

The Isolation Index is interpreted as the probability that a randomly drawn minority resident shares an area with a member of the same minority, it ranges from 0 to 100 and higher values of isolation tend to indicate higher levels of segregation.

Overall, Cupertino has moderate diversity, and is more diverse than the nearby cities of Saratoga, Monte Sereno, and Los Gatos. The most segregated population is Asian residents, and this segregation has increased since 2000. Asian residents live in neighborhoods where they are less likely to come into contact with other racial groups. Segregation can also be seen when looking at the population through the lens of income. Due to the homogeneity of incomes within neighborhoods, above moderate-income residents in Cupertino are less likely to encounter residents of other income groups.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

As measured by the DI, segregation in Cupertino is similar to the Bay Area overall. Geospatially, in Cupertino, all but one census tract has a predominant Asian population; however, as noted, this tract includes the unpopulated Fremont Older Open Space area and much of that tract is also located within the adjacent City of Los Altos. Each tract also has a high segregation of the Asian population.

ABAG's assessed measures of segregation above highlighted Asian residents as the most segregated compared to other groups, and Asian residents in the city are becoming more isolated over time. Overall, since 2010, Cupertino's racial segregation scores have remained steady or declined, as has income segregation between moderate-income residents and other groups.

### DISABILITY STATUS

Persons with disabilities typically have special housing needs due to physical or developmental capabilities, fixed or limited incomes, and higher health costs. Seniors typically experience disabilities at higher rates. The share of the population living with at least one disability is 6 percent in Cupertino, compared to 8 percent in Santa Clara County. According to the 2015-2019 American Communities Survey (ACS), Cupertino has two census tracts where the population of persons with disabilities is between 10 and 15 percent with the remainder less than 10 percent. In the Oak Valley neighborhood in northwest Cupertino, approximately 11.6 percent of the population has a disability, and in the Rancho Rinconada neighborhood, approximately 12.1 percent of the population has a disability. In these neighborhoods, the percentage of seniors is 34.8 percent and 12.9 percent, respectively. It should be noted that within the portion of the tract in Cupertino, a Continuum of Care facility, The Forum operates with a skilled nursing facility, assisted living units, memory care units and some independent living units. The area with the highest disability rate (12.1 percent) has among the lowest proportions of seniors in the city, suggesting that the rate of disability is not necessarily linked to age in that Tract/neighborhood. Further, senior retirement and assisted living facilities are located in the Creston-Pharlap neighborhood, where the disability rate is 8.2 percent. While the incidence of disability has increased from 7.7 percent in 2014 in the Rancho Rinconada neighborhood and from 7.5 percent in the Oak Valley neighborhood, this could be due to the Verandas senior housing project opening in 2019. This could have influenced the slightly higher rates of disability. Therefore, these patterns have not been identified as fair housing concerns.

Compared to neighboring cities, Cupertino residents experience disabilities at a similar rate, with less than 10 percent of residents experiencing a disability in most tracts. On the other hand, Cupertino residents experience disabilities at a lower rate than residents in higher-density areas, such as South San Francisco, San Jose, Oakland, and San Francisco. In public comments to City Council, community members expressed a need for the City to explore ways to increase housing opportunities for the developmentally disabled population and reducing barriers to accessing below-market rate units. As part of **Strategy HE-5.1.2**, the City will continue to use its Below-Market-Rate Affordable Housing Fund (BMR AHF), Community Development Block Grant (CDBG) funds, and General Fund Human Service Grants (HSG) funds to provide for a range of supportive services for lower-income

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

households and persons with special needs. Through **Strategy HE-2.3.1**, the City will also work with housing developers to expand opportunities for affordable lower-income housing for special-needs groups, including persons with physical and developmental disabilities by directly pursuing federal, state, and private funding for low- and moderate-income housing, partnering with nonprofit and for-profit developers to support their financing applications for affordable housing funding programs, and promoting the use of the density bonus ordinance. To meet the needs of residents with disabilities throughout the city, group homes are permitted per State law, there is one licensed adult residential care facility (Paradise Manor 3) with capacity for six residents, and four elderly assisted living facilities (Blended Family Care Home, Lotus of Cupertino Care Home, Paradise Manor 4, and Paradise Manor II), with a combined capacity for 36 residents. An additional assisted living facility is currently under construction in San Jose, but because of its close proximity to Cupertino, the facility will likely serve the needs of seniors from Cupertino. The Valley Transportation Authority (VTA) ACCESS Paratransit service is also available to residents and visitors in Cupertino and throughout its South Bay Area service area. VTA ACCESS is available to riders who cannot use conventional accessible bus and light rail transit services due to physical, visual, or cognitive disabilities. However, all VTA buses and light rail services are also accessible for persons using wheelchairs and include announcements of key destinations for persons with visual disabilities. Via-Cupertino, a local app-based ride-share program with fares subsidized by grant funds, also offers wheelchair-accessible vans for riders throughout the city.

## FAMILIAL STATUS

Familial status can indicate specific housing needs and preferences. A larger number of nonfamily or single person households indicates a higher share of seniors living alone, young adults living alone or with roommates, and unmarried partners. Higher shares of nonfamily households indicate an increased need for one- and two-bedroom units.

Cupertino's households are mostly made up of three- and four-person households (49 percent) and two-person households (26 percent). Married-couple households make up a majority of Cupertino households (69 percent), while less than half of all households have at least one child under the age of 18 (47 percent).

Compared to the county, Cupertino has slightly fewer one-person households (18 percent compared to 20 percent in the county) and five-person households (7 percent compared to 12 percent in the county). The city has about as many adults living alone (18 percent) as in the county (20 percent). The city also has a lower percentage of single male-headed households compared to the county (2.4 percent in the city compared to 5.0 percent in the county) and single-person households (2.0 percent in the city compared to 2.3 percent in the county).

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Geographically, there are no concentrations of single-parent, female-headed households or adults living alone. This may indicate an even distribution of housing opportunities for these household types, though more likely is reflective of the dominance of married-couple families in Cupertino. The City has included **Strategy HE-2.2** to encourage development of housing in a range of sizes and affordability to facilitate housing mobility for all household types.

Cupertino's married couples overwhelmingly own housing: married couples make up 75 percent of the homeowners in Cupertino (**Figure B3-35**). Homeowners, unsurprisingly, reside in three- and four-bedroom homes more than any other housing type (**Figure B3-32**).

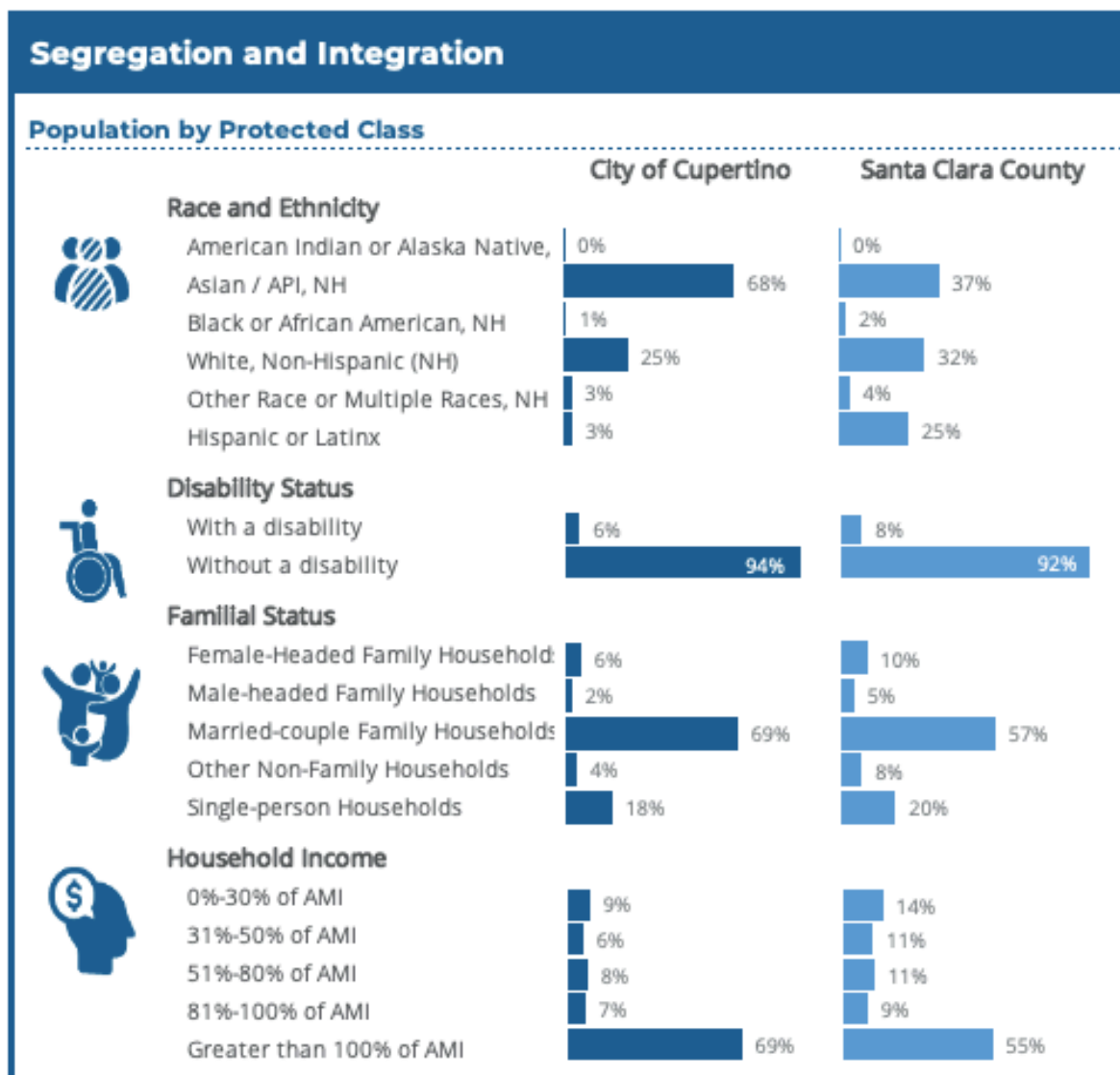
Almost as many renters and owners live alone in Cupertino (1,881 and 2,000 respectively). This represents 22.5 percent of renter households and 15.8 percent of owner households.

Cupertino's age distribution has shifted older, all categories of age above 45 have increased since 2000.

### HOUSEHOLD INCOME

Cupertino's households are higher-income than the county and Bay Area overall: 69 percent of the city's households earn more than 100 percent of the AMI, compared to 55 percent for the county and 52 percent for the Bay Area (refer to [Figure B3-3, Segregation and Integration](#)). As shown in **Figure B3-36**, almost all census tracts in the city have a median income exceeding \$125,000. The census block groups abutting the east side of N. Foothill Boulevard north of Stevens Creek and surrounding the Homestead Square Shopping Center have slightly lower median incomes, at \$107,059 and \$107,538, respectively. The Markham Apartments, Aviare Apartments, the NorthPoint town home community, and other small lot, medium- to high-density residential units are around Homestead Square Shopping Center. While rents and home prices in Cupertino are high throughout the city, these slightly dated, in some cases deed-restricted, higher-density products may be marginally more affordable and attractive to households earning slightly lower incomes, thus resulting in a slightly lower median income. Similarly, as noted, the Foothill Heights Apartments, Sunny View Retirement Community, which includes 100 deed-restricted affordable units, and an assortment of smaller tri-plex and four-plexes, may contribute to the slightly lower income near Alpine Drive east of N. Foothill Boulevard. In both cases, the slightly lower income does not appear to reflect disparities in access by income, as apartment complexes are in other neighborhoods throughout the city. This may also be reflective of the investment apartment owners are making in their property to command higher rents.



**Figure B3-3 Segregation and Integration**

In 2014, the lowest median income in the city (\$98,422) was in the census tract covering the Rancho Rinconada neighborhood in eastern Cupertino. In 2019, the median income in the two block groups in this neighborhood has increased to \$128,576 and \$200,227. The area near Homestead Square Shopping Center's median income decreased slightly from \$122,905 and the area near Alpine Drive, east of N. Foothill's median income decreased from \$135,581. However, it is important to note that the available data in 2014 was at the tract level, while data in 2019 was at the block group level. The block group level provides a more granular level of detail and reflects a smaller area, while tract-level data includes areas that extend beyond the neighborhood boundaries identified for these areas. Considering these changes in data, the relatively small changes in median income in each of these notable neighborhoods do not appear to reflect exclusionary income patterns over time.

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The poverty rate in the city is approximately 7.7 percent, compared to 6.1 percent in Santa Clara County. As shown in **Figure B3-38**, the highest rate of poverty (13.7 percent) is in the tract encompassing the interchange of Interstate 280 and Highway 85 north of Stevens Creek Boulevard between Mary Avenue and the railroad, along with the area near Homestead Square Shopping Center. In 2014, this area had a poverty rate of 6.6 percent. In contrast to the rising rates of poverty in the area, the median income in this area increased from \$122,905 in 2014 to approximately \$136,759 in 2019. This may suggest growing income discrepancies in this area of the city as the median income increases. It is also important to note that ACS data in this census tract in the city has a high (50%) margin of error.

## RACIALLY OR ETHNICALLY CONCENTRATED AREAS OF POVERTY AND AFFLUENCE

Racially Concentrated Area of Poverty or an Ethnically Concentrated Area of Poverty (R/ECAP) and Racially Concentrated Areas of Affluence (RCAAs) represent opposing ends of the segregation spectrum from racially or ethnically segregated areas with high poverty rates to affluent predominantly White neighborhoods. Historically, HUD has paid particular attention to R/ECAPs as a focus of policy and obligations to AFFH. Recent research out of the University of Minnesota Humphrey School of Public Affairs argues for the inclusion of RCAAs to acknowledge current and past policies that created and perpetuate these areas of high opportunity and exclusion.<sup>11</sup>

It is important to note that R/ECAPs and RCAAs are not areas of focus because of racial and ethnic concentrations alone. This study recognizes that racial and ethnic clusters can be a part of fair housing choice, if they occur in a non-discriminatory market. Rather, R/ECAPs are meant to identify areas where residents may have historically faced discrimination and continue to be challenged by limited economic opportunity, and conversely, RCAAs are meant to identify areas of particular advantage and exclusion.

### R/ECAPs

HCD and HUD's definition of a Racially/Ethnically Concentrated Area of Poverty is:

A census tract that has a non-White population of 50 percent or more (majority-minority) or, for non-urban areas, 20 percent, AND a poverty rate of 40 percent or more; OR a census tract that has a non-White population of 50 percent or more (majority-minority) AND the poverty rate is three times the average tract poverty rate for the county, whichever is lower.

Source: California Department of Housing and Community Development Guidance, 2021.

<sup>11</sup> Goetz, E. G., Damiano, A., & Williams, R. A. 2019. "Racially Concentrated Areas of Affluence: A Preliminary Investigation." *Cityscape: A Journal of Policy Development and Research*, 21(1), 99–124



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For this study, the poverty threshold used to qualify a tract as a R/ECAP was three times the average census tract poverty rate countywide—or 21.6 percent.

According to HCD, there were 11 census tracts in the county that qualify as R/ECAPs (19.4 percent poverty rate). All were located in San Jose. None of the R/ECAPs were in Cupertino.

However, there is a concentration of poverty (13.7 percent) in the northern Homestead neighborhood and along Highway 85. While this area does not also have a comparatively high proportion of non-White residents, it does have a lower median income and higher rates of overcrowding, renter overpayment, and homeowner overpayment when compared to most other neighborhoods in the city. Therefore, while this area does not meet the definition of a R/ECAP, or potential R/ECAP, it is a notable area of disproportionate need.

**RCAAs**

HCD's definition of a Racially or Ethnically Concentrated Area of Affluence is:

A census tract that has a percentage of total White population that is 1.25 times higher than the average percentage of total White population in the given Council of Government (COG) region, and a median income that was two times higher than the COG AMI.

Source: California Department of Housing and Community, 2022.

RCAAs are generally understood to be neighborhoods in which there are both high concentrations of non-Hispanic White households and high household income rates. Similar to the importance of identifying R/ECAP areas, which helps to identify areas that are segregated by race/ethnicity and poverty, it is also necessary to identify racially concentrated areas of wealth to further compare these patterns.

Using ACS 2015-2019 data, HCD developed a mapping tool that demonstrates the “location quotient” (LQ) for each California census tract; this quotient represents the percentage of total White population for each census tract compared to that of the average percentage of the Council of Government (COG) region. To determine the RCAAs, HCD takes the census tracts with an LQ of more than 1.25 and a median income that is 1.5 times higher than the COG region (or 1.5 times the State AMI, whichever is lower). Those tracts that meet these criteria are then assigned a numeric score of 1, which indicates that those tracts have an accumulation of high incomes and a White population, i.e., an RCAA. RCAAs are the inverse of R/ECAPs in that they illustrate where self-segregated and/or exclusive wealthy White neighborhoods are potentially located.

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The tract northwest and west of Cupertino, which spans portions of Cupertino and Los Altos, is considered an RCAA (LQ of 1.63). The portion of the city within this tract includes part of the Oak Valley neighborhood. This area identified as an RCAA in the HCD mapping tool encompasses a lot of open spaces, such as Fremont Older, Rancho San Antonio, all the way to Foothills Park (in Palo Alto). The area also includes large areas of property in Los Altos, Los Altos Hills, and Palo Alto, which are majority White, unlike Cupertino. In this area, 66.9 percent of the population identifies as White, the median income is \$169,896, and 27.3 percent of renters and 37.7 percent of owners are overpaying for housing. These overpayment rates are notably lower than those found in tracts to the east. However, as described in the analysis of household income, the median income throughout Cupertino is relatively high, ranging from \$107,059 in the western part of the Creston-Pharlap neighborhood to \$236,719 in the Garden Gate neighborhood. While there is only one potential RCAA by definition, the very high median income in the city indicates a concentration of affluence that likely reflects the availability of higher-income tech jobs and high home costs.

These conditions in Cupertino are reflective of most jurisdictions in the southern portion of the Bay Area, particularly in Santa Clara and San Mateo Counties. Neighboring RCAAs are present in Los Altos, Woodside, Stanford, Palo Alto, Mountain View, Menlo Park, Redwood City, San Carlos, San Mateo, Hillsborough, Burlingame, Millbrae, Half Moon Bay, Pacifica, Saratoga, Campbell, and Los Gatos, among others in the region. Typically, in the Bay Area, the median income is highest in lower- and medium-density, primarily single-family areas that are removed from the bay but are within a short commute distance of concentrations of jobs along the bay. While Cupertino has characteristics that suggest a concentration of affluence, the concentration is not isolated to the city, and instead exists in most similarly situated communities in the Bay Area.

The concentration of affluence in Cupertino appears to be primarily driven by housing demand and proximity to high-paying jobs, as is found in most neighboring communities. While sites that are zoned R-3, P(Res) and P(Res/CG), which allow high-density residential development, are dispersed throughout the city and located in most neighborhoods, the largest concentration of R-3 land is in the northern portion of the city, where the median income is comparatively low, when compared to the rest of the city, though still exceeding \$100,000 annually. This slightly lower-income area is likely a result of a higher concentration of older stock, multifamily units, which are typically more affordable than single-family units. However, all deed-restricted affordable units are in other areas of the city, thus providing housing mobility opportunities for lower-income households throughout more neighborhoods and areas (see [Table B2-3, Assisted Units at Risk of Conversion](#), in **Appendix B2**). By ensuring that land for multifamily development at higher densities is available in most neighborhoods, and deed-restricted units are dispersed throughout the city, the City ensures that lower- and moderate-income households have housing options citywide, combating patterns of affluence. In comments received during City Council meetings, community members expressed a desire to see multifamily housing developed in areas of high opportunity. It is estimated that many of the Housing Element's programs, including HE-1.3.4, HE-1.3.5, and HE-2.3.1, will encourage that

development, and that on a regional scale multifamily housing developed in Cupertino will put this development in a higher-opportunity area. Therefore, the concentration of affluence in Cupertino is driven by regional economic conditions rather than local practices. However, to provide additional opportunities and combat displacement risk that increases as local and regional housing prices rise, the City has included **Strategies HE-1.3.1, HE-1.3.4, HE-1.3.7, HE-1.3.8, HE-1.3.10, HE-1.3.11, HE-2.3.1, HE-2.3.3, HE-2.3.9, HE-2.3.11, HE-2.3.12, HE-3.3.2, HE-3.3.4, and HE-3.3.6.**

## B3.8 ACCESS TO OPPORTUNITY

This section discusses disparities in access to opportunity among protected classes, including access to quality education, employment, transportation, and environment. The California Tax Credit Allocation Committee (TCAC), in collaboration with HCD, developed a series of opportunity maps that help to identify areas of the community with good or poor access to opportunity for residents. These maps were developed to align funding allocations with the goal of improving outcomes for low-income residents, particularly children.

### Access to Opportunity

**“Access to opportunity** is a concept to approximate place-based characteristics linked to critical life outcomes. Access to opportunity oftentimes means both improving the quality of life for residents of low-income communities, as well as supporting mobility and access to ‘high resource’ neighborhoods. This encompasses education, employment, economic development, safe and decent housing, low rates of violent crime, transportation, and other opportunities, including recreation, food, and healthy environment (air, water, safe neighborhood, safety from environmental hazards, social services, and cultural institutions).”

Source: California Department of Housing and Community Development Guidance, 2021, page 34.

The opportunity maps highlight areas of highest resource, high resource, moderate resource, moderate resource (rapidly changing), low resource, and high segregation and poverty. TCAC provides opportunity maps for access to opportunity in quality education, employment, transportation, and environment. Opportunity scores are presented on a scale from zero to one and the higher the number, the more positive the outcomes.

## TRANSIT

Transit mobility refers to an individual’s ability to navigate the city and region on a daily basis to access services, employment, schools, and other resources. Indicators of transit mobility include the extent of transit routes, proximity of transit stops to affordable housing, and frequency of transit.

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Residents of Cupertino are served by the Santa Clara Valley Transportation Authority (VTA) buses and Via-Cupertino (Silicon Valley Hopper), an app-based ride-share transportation services, both of which provide connections to a variety of local resources and services, as well as to regional connections.

Fares for VTA range from \$2.50 for a single ride to \$990 for an annual pass, with options for day and monthly passes as well. Discounted rates are available for seniors, disabled riders, Medicare riders, and youth up to age 18. Children under age five ride free. Frequent VTA buses run along Stevens Creek Boulevard while local bus routes operate along major thoroughfares (Wolfe, Miller, Bollinger, De Anza and Homestead). Together, these routes offer intra- and inter-city connections to Downtown San Jose, the Mineta San Jose International Airport, job centers and services throughout the South Bay area, and regional transit centers to connect to additional transportation options. The frequent bus (Route 23) runs from De Anza College to Alum Rock Station 7 days per week with 15- to 30-minute headways. Local bus Route 51 operates on weekdays with 50- to 60-minute headways, running from West Valley College to the Ames Research Center, with stops in Cupertino. Local buses Routes 55 and 56 operate 7 days per week with approximately 30-minute headways, running from the Santa Clara Convention Center to De Anza College (Route 55) and Lockheed Martin Transit Center to Tamien Station in San Jose (Route 56) with stops in Cupertino.

Via-Cupertino, recently rebranded as Silicon Valley Hopper, is an on-demand ride-share program in the city. The program is supported in large part through a grant from the State and is currently anticipated to run for four years before funding for the program must be considered again. Riders can request transportation via the app, or by calling a number on the city's website. Vans offer bike racks, and two vans are also wheelchair accessible. Fares are \$3.50 per ride or \$25 for a weekly pass, and \$1 for each additional rider. Discounted fares (50 percent and no additional rider fees) are available for seniors, students, low-income residents, and persons with disabilities. The service provides door-to-door transportation within city limits, to the Sunnyvale and Mountain View Caltrain Stations, and to El Camino Hospital in Mountain View. Service is anticipated to expand into the City of Santa Clara sometime during 2023.

AllTransit is a transit and connectivity analytic tool developed by the Center for Neighborhood Technology for the advancement of equitable communities and urban sustainability. The tool analyzes the transit frequency, routes, and access to determine an overall transit score at the city, county, and regional levels. AllTransit scores geographic regions (e.g., cities, counties, Metropolitan Statistical Areas) on a scale of 0 to 10, with 10 being complete transit connectivity. Transit in the City of Cupertino has a score of 5.4, reflecting moderate accessibility to jobs and services via transit. However, this score is slightly lower than surrounding cities. For example, Santa Clara scores 7.0, Sunnyvale scores 7.2, Campbell scores 7.3, and Mountain View scores 7.7. Jurisdictions with lower scores than Cupertino include Los Altos (4.8) and Saratoga (3.6). Not surprisingly, transit scores typically go up in higher-intensity urban areas, in areas with proximity to fixed-rail transit (e.g.,

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Caltrans/BART/VTa Light Rail) and closer to San Jose. Overall, Santa Clara County scores 6.5, demonstrating that Cupertino has more limited access than the county on average.

## EDUCATION

TCAC's education score is based on math proficiency, reading proficiency, high school graduation rates, and the student poverty rate. According to TCAC's educational opportunity map, every census tract in Cupertino scores higher than 0.75—indicating the highest positive educational outcomes. Opportunity scores are presented on a scale from zero to one and the higher the number, the more positive the outcomes.

Cupertino is served by Cupertino Union School District for K-8 (25 different schools), which is the largest elementary school district in Northern California. Children living in a northeast section of the city are served by the Santa Clara Unified School District.

The Cupertino Union School District had a 2019 enrollment of 17,363 students, with a declining enrollment, as evidenced in data for much of the county and state. Student demographics included 73.1 percent Asian, 5.1 percent Hispanic, and 14.5 percent White. As of this point in time, the district had in its student body 4 homeless students, 1,050 socioeconomically disadvantaged students, and 1,192 students with disabilities. Socioeconomically disadvantaged students are defined as students who are eligible for free or reduced-priced meals; or have parents/guardians who did not receive a high school diploma. The highest proportion of socioeconomically disadvantaged students at schools within the Cupertino Union School District attend Manuel De Vargas Elementary (18.7 percent) and Warren E. Hyde Middle (12.5 percent). Hyde Middle serves the S. Blaney, Fairgrove, and Rancho Rinconada neighborhoods, both of which have lower median incomes, higher rates of overpayment and overcrowding, and other indicators of potential fair housing issues, likely stemming from a concentration of relatively affordable housing options. However, students at Manuel De Vargas Elementary generally do not live within Cupertino, as the district serves several surrounding jurisdictions, and the school itself is not within Cupertino. To ensure all students have access to equal educational opportunities, the City has included **Strategy HE-1.3.2** to promote construction of ADUs and other infill strategies to increase the supply of affordable housing options in areas with higher access to resources, including areas with higher incomes and jobs proximity index scores. Graduation rates were not available through the California Department of Education dashboard for 2019, 2020, or 2021. Fremont Union (the high school district that students in the City attend) had 11,022 students enrolled in 2019, with 60 percent Asian, 14 percent Hispanic, and 17 percent White populations. The district serves all residents of the City of Cupertino, a large part of the City of Sunnyvale, some portions of the cities of Los Altos, Santa Clara, San Jose, and Saratoga. At this time, the district had in its student body 15 homeless students, 1,634 socioeconomically disadvantaged students, and 1,053 students with disabilities. Unfortunately, students with a disability and homeless students each graduated at much lower rates, with homeless students graduating at 28 percentage points lower rate than the state. It is, however, hard to determine whether these students were

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residents of Cupertino or not. The overall graduation rate (95.5 percent) was almost 10 percentage points higher than the state average.

All schools in Cupertino are highly rated according to the California School Dashboard, with little variance in proficiency among schools. Monta Vista High has a slightly better record in English Language Learner progress than Cupertino High and ranks higher in above-standard mathematics and English Language Arts proficiency, although Homestead High (in Fremont Union) also performs well on these measures. Regionally, students in Cupertino are expected to have similar or better educational opportunities when compared to other communities in the county and greater Bay Area.

In a focus group of school district leaders and other community services organizations, district staff indicated that a lack of affordable housing has caused challenges in teacher hiring and retention, and that higher-density development tends to generate fewer students per household than lower-density or single-family development. As part of **Strategy HE-2.3.6**, the City will evaluate the feasibility of developing special housing for teachers or other employee groups on City-owned surplus properties and will research other jurisdictions' housing programs for teachers for their potential applicability in Cupertino. Additionally, rezoning efforts in **Strategy HE-1.3.2** will encourage higher-density housing development, which will not only encourage more affordable housing but will do so in a way that has the potential to put less pressure on school enrollment.

### EMPLOYMENT

Cupertino's job market is heavily influenced by Apple, whose headquarters are in the city. The city's job proximity index shows the city to have better employment opportunities than any immediately surrounding area. Six block groups score above an 80, indicating very close proximity to jobs, due in large part to their proximity to Apple campuses. However, it is unclear how many of the residents of the block groups work at Apple. Regionally, communities in the southern portion of the Bay Area typically have the highest scores for proximity to jobs, likely due to the concentration of large campus employment opportunities. However, many of these communities are more densely developed than Cupertino. Cupertino has among the highest jobs proximity index scores among similarly situated, predominantly single-family communities in the South Bay.

In 2014, the jobs-to-household ratio for Cupertino began to diverge significantly from the county and Bay Area. As of 2018, Cupertino's jobs-to-household ratio exceeded 2.5, indicating the City has strong job opportunities for residents within Cupertino and from surrounding communities. The high ratio is also an indicator of the lack of workforce housing opportunities within the city and the need for Apple and other employers to draw heavily on workers living in other cities.

The job opportunities, especially with the proximity of Apple, likely contribute to the fact that most block groups in Cupertino have a median household income of \$125,000 or more. The City has only four small sections with higher than the minimum poverty concentration of low-income households



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and minor areas of concentrated poverty in a Census Tract which straddles both Cupertino and Sunnyvale.

Between 2015 and 2018, Manufacturing & Wholesale jobs have grown in the city. In this time period, jobs in this industry have increased by 43 percent, or 9,331 jobs. However, because the specific businesses included in the Census Bureau's Longitudinal Employer-Household Dynamics Workplace Area Characteristics (WAC) are not available, it is difficult to determine which businesses or positions may have been included in this category. However, it should be noted that there are no mid-size or large manufacturing or wholesale operations located in Cupertino. The population of Cupertino, comparatively, decreased by 551 during the same period, while 546 residential units were developed between 2015 and 2022. Given the City's slow pace of development relative to job growth, it is safe to assume that many of these employees reside outside city limits.

Unemployment in Cupertino spiked in 2020 but is less than the county and region overall. This is an expected, COVID-19 pandemic-related trend; however, the unemployment rate has not yet reached pre-pandemic levels. Overall, the unemployment rate in Cupertino (4.4 percent) is lower than the county as a whole (5.7 percent) and the larger Bay Area (6.6 percent), indicating a return to regular employment opportunities more quickly than other areas of the region.

TCAC's economic opportunity score consists of poverty, adult educational attainment, employment, job proximity, and median home value. All but two census tracts in Cupertino have high economic opportunity ( $> 0.75$ ). The remaining two, in the Rancho Rinconada and Fairgrove neighborhoods, are still moderate opportunity areas, with scores between 0.50 and 0.75.

## ENVIRONMENT

TCAC's opportunity areas environmental scores are based on the CalEnviroScreen 3.0 indicators, which identify areas disproportionately vulnerable to pollution sources, such as ozone, fine particulate matter ( $PM_{2.5}$ ), diesel particulate matter (PM), pesticides, toxic releases, traffic, cleanup sites, groundwater threats, hazardous waste, impaired water bodies, and solid waste sites.

Most census tracts in Cupertino have scores associated with positive environmental outcomes based on CalEnviroScreen indicators, with no census tracts in the city scoring over 0.5 out of 1 (Figures B3-51). Cupertino scores even better on the California Healthy Places Index (HPI) developed by the Public Health Alliance of Southern California (PHASC) (Figure B3-52). It is not clear which is more reflective of the area's environmental health. The HPI includes 25 community characteristics in eight categories, including economic, social, education, transportation, neighborhood, housing, clean environment, and healthcare.

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A disadvantaged community or environmental justice community (EJ Community) is identified by the California Environmental Protection Agency (CalEPA) as “areas [sic] that is disproportionately affected by environmental pollution and other hazards that can lead to negative health effects, exposure, or environmental degradation,” and may or may not have a concentration of low-income households, high unemployment rates, low homeownership rates, overpayment for housing, or other indicators of disproportionate housing need.<sup>12</sup> In February 2021, the California Office for Environmental Health Hazard Assessment (COEHHA) released the fourth version of CalEnviroScreen, a tool that uses environmental, health, and socioeconomic indicators to map and compare a community’s environmental scores. In the CalEnviroScreen tool, communities that have a cumulative score in the 75th percentile or above (25 percent highest score census tracts) are those that have been designated as disadvantaged communities under Senate Bill (SB) 535.<sup>13</sup> The cumulative score for each census tract includes an exposure score, with a low score being a positive outcome, for each of the following:

- Ozone concentrations
- PM<sub>2.5</sub> concentrations
- Diesel particulate matter emissions
- Drinking water contaminants
- Children’s lead risk from housing for children
- Use of certain high-hazard, high-volatility pesticides
- Toxic releases from facilities
- Traffic impacts<sup>14</sup>

Communities that are identified as disadvantaged communities based on their cumulative pollution exposure score are targeted for investment through the State cap-and-trade program. However, the condition of these communities poses fair housing concerns due to disproportionate exposure to unhealthy living conditions. In the City of Cupertino, the cumulative scores of all census tracts are below the 30th percentile, with most below the 20th percentile, indicating that there are no areas that meet the criteria of a disadvantaged community and are not disproportionately exposed to high levels of pollutants compared to other census tracts in the state. These scores reflect extremely positive environmental conditions for residents of Cupertino.

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<sup>12</sup> California Health and Safety Code, Section 39711

<sup>13</sup> California Office of Environmental Health Hazard Assessment. June 2017. *SB 535 Disadvantaged Communities*. <https://oehha.ca.gov/calenviroscreen/sb535>

<sup>14</sup> California Environmental Protection Agency, California Office of Environmental Health Hazard Assessments. February 2021. *Update to the California Communities Environmental Health Screening Tool: CalEnviroScreen 4.0 Public Review Draft*. <https://oehha.ca.gov/media/downloads/calenviroscreen/document/calenviroscreen40reportd12021.pdf>.



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However, Interstate 280 runs east to west along the northern portion of the city and Highway 85 runs north to south through the western portion of the city. The confluence of these freeways is adjacent to the Monta Vista Village and Garden Gate neighborhoods, where poverty rates are highest (13.7 percent of the population), though the median income is still \$142,969. The locations of these freeways, however, may pose a potential environmental concern for adjacent residential areas, who may face increased exposure to traffic emissions and particulate matter. CalEnviroScreen reports that the pollution burden for diesel particulate matter and traffic in this area are in the 88th and 83rd percentiles, respectively. However, Highway 85 has limited truck traffic because semi-trucks are prohibited south of Stevens Creek Boulevard.

In Santa Clara County, cumulative pollution exposure scores are relatively consistent among similarly situated, suburban and urban communities. Scores increase in higher-intensity areas, such as in San Jose.

In a community workshop, participants expressed a desire for developments to have lower impact on greenhouse gas emissions and lower vehicle miles traveled, and for buildings to have private and community open space such as balconies and landscaped areas, while avoiding privacy impacts to adjacent lower density residential developments. Through **Strategy HE-7.3.1**, the City will coordinate with the Valley Transportation Authority to ensure adequate transit access for new developments, which can encourage residents to reduce their vehicle miles traveled and may reduce traffic emissions. The City will also continue to implement its General Plan policies in the Mobility Element by developing programs to help improve the transportation network and impacts to the environment. The City implements environmental requirements including those related to Air Quality, Biological and Cultural Resources through its Municipal Code. Additionally, through **Strategies HE-4.1.2** and **4.1.3**, the City will continue to implement the Landscape Ordinance, which will require water-efficient landscaping in new residential projects throughout the city, and provide incentives for energy conservation improvements at small affordable housing projects to exceed the requirements of the California Green Building Code.

## DISPARITIES IN ACCESS TO OPPORTUNITY

Because Cupertino offers high opportunity neighborhoods throughout, all residents live in highly resourced areas, regardless of race or ethnicity.

The Social Vulnerability Index (SVI) provided by the Center for Disease Control (CDC)—ranks census tracts based on their ability to respond to a disaster—includes four themes of socioeconomic status, household composition, race or ethnicity, and housing and transportation. Cupertino scores well on the SVI; no neighborhoods are ill equipped to respond to disasters.

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Cupertino does not have any disadvantaged communities as defined under SB 535 as “the top 25 percent scoring areas from CalEnviroScreen along with other areas with high amounts of pollution and low populations.”<sup>15</sup>

## DISPARITIES SPECIFIC TO THE POPULATION LIVING WITH A DISABILITY

Of the population in Cupertino, 7 percent is living with at least one disability, compared to 8 percent in the county. The most common disabilities in the city are ambulatory (3.9 percent), self-care (3.6 percent), and independent living difficulty (3.0 percent). For the population 65 and over, the share of the population with ambulatory difficulties increases to 11.4 percent while hearing difficulty becomes a top-three issue at 9.4 percent. As is shown in Figure B3-4, *Access to Opportunity*, 16 percent of Cupertino residents with a disability are not employed, compared to 3 percent of residents without a disability. Unemployment rates for Cupertino residents with disabilities are higher than the rate countywide (10 percent).

### Disability

“**Disability types** include hearing difficulty, vision difficulty, cognitive difficulty, ambulatory difficulty, self-care difficulty, and independent living difficulty.”

Source: California Department of Housing and Community Development Guidance, 2021, page 36.

## B3.9 DISPROPORTIONATE HOUSING NEEDS

This section discusses disparate housing needs for protected classes, including cost burden and severe cost burden, overcrowding, substandard housing conditions, homelessness, displacement, and other considerations.

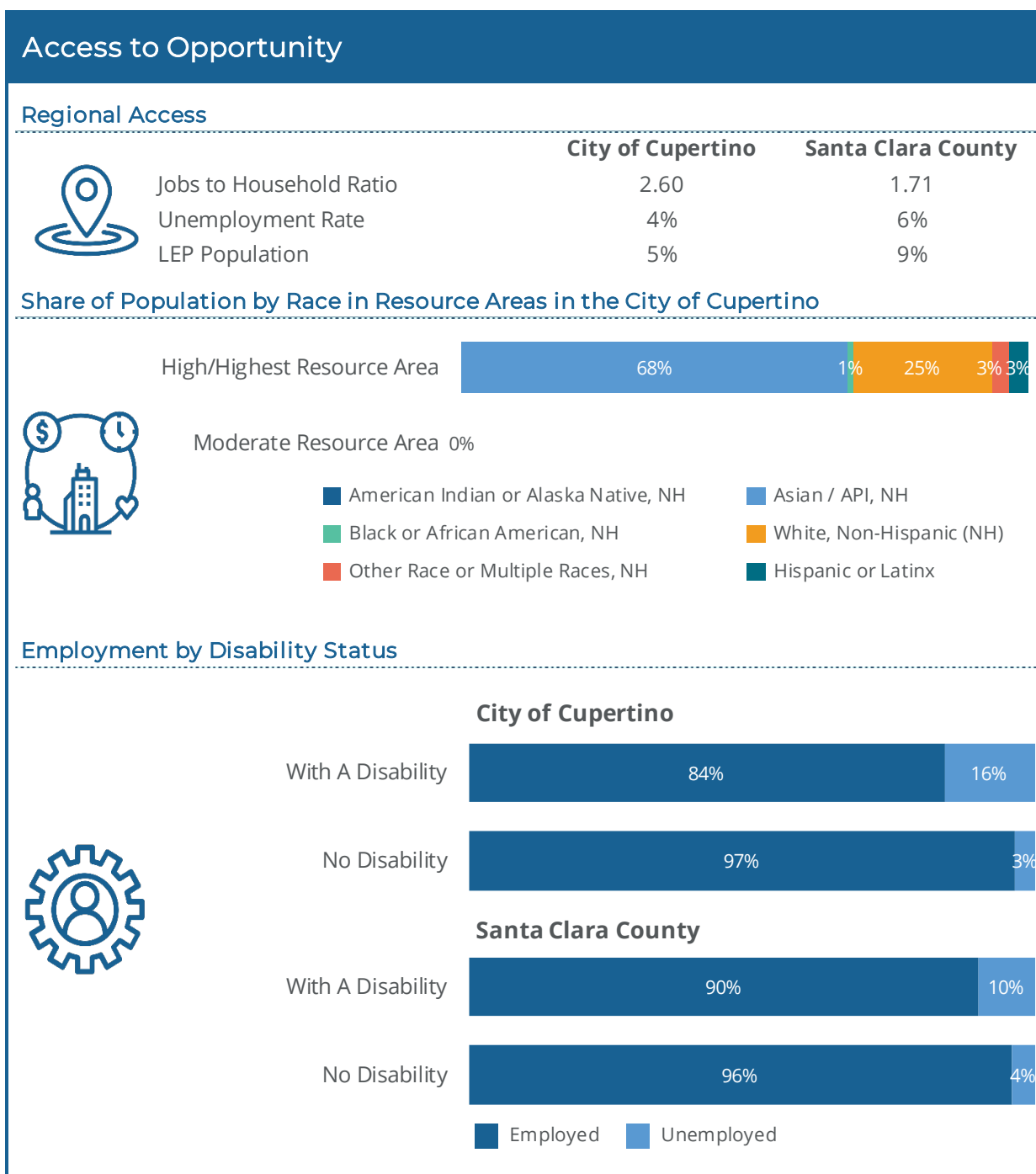
### Disproportionate Housing Needs

“**Disproportionate housing needs** generally refers to a condition in which there are significant disparities in the proportion of members of a protected class experiencing a category of housing need when compared to the proportion of members of any other relevant groups, or the total population experiencing that category of housing need in the applicable geographic area. For purposes of this definition, categories of housing need are based on such factors as cost burden and severe cost burden, overcrowding, homelessness, and substandard housing conditions.”

Source: California Department of Housing and Community Development Guidance, 2021, page 39.

<sup>15</sup> CalEPA. 2022. SB 525 Disadvantaged Communities (2022 Update). <https://oehha.ca.gov/calenviroscreen/sb535>

**Figure B3-4 Access to Opportunity**



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## HOUSING NEEDS

Population growth in Cupertino accelerated in 1994, outpacing the county trends; however, the rate of growth has leveled off since 2018. A portion of this population growth can be attributed to the City's annexation of 168 acres of land between 2000 and 2008. Cupertino's annexation of Garden Gate, Monta Vista, and scattered county "islands" added 1,600 new residents.

As discussed earlier, residential development in Cupertino has lagged behind job growth significantly. Almost three quarters of the city's homes were built between 1960 and 1999. After this period, housing production slowed dramatically, with only 502 houses built since 2010. However, as with the population growth discussed previously, housing units were also added to the city through the annexation of 168 acres of land between 2000 and 2008.

Since 2015, the housing that has received permits to accommodate growth has largely been for higher-income builds, with 321 units for above moderate-income households, 19 for low-income households, 48 for very low-income households and 158 for moderate-income units have been permitted, for a total of 546 units.

According to 2020 estimates by the California Department of Finance, 57 percent of Cupertino's housing units are single-family detached units. The next closest share is multifamily at 21 percent of units, followed by 12 percent single-family attached units and 10 percent du-/tri-/fourplexes. As of the 2015-2019 ACS, owners in Cupertino mostly occupied four or more-bedroom homes (50.7 percent), while 60.8 percent of renters occupy two or three-bedroom units. Countywide during the same time period, 55.7 percent each of owners and renters occupied two or three-bedroom units.

Ownership in Cupertino comes at a steep price. Of owner-occupied homes in the city, 83 percent are valued over \$1 million, with 37 percent valued above \$2 million. This compares to 48 percent for the county and 35 percent for the Bay Area overall of homes over \$1 million. According to the Zillow Home Value Index, between 2001 and 2020, Cupertino's home values have been consistently higher than those of the county and Bay Area overall, and are now roughly double the home values in the county and Bay Area overall.

Rentals are very expensive in Cupertino, with 52.0 percent of units renting for \$3,000 per month and 86.5 percent renting above \$2,000 per month. Both categories are considerably higher than in the county (56.9 percent above \$2,000 and 18.5 percent above \$3,000) and Bay Area overall (42.0 percent above \$2,000 and 13.0 percent above \$3,000). Only 4 percent of all renters pay less than \$1,000 per month in Cupertino, compared to 10.2 percent in the county and 16.3 percent in the Bay Area. While the rates in Cupertino are higher than the county's rates, the trends are similar.

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According to HCD's AFFH Data Viewer (HCD data viewer), Cupertino does not have any public housing buildings. Additionally, none of the census tracts in the city show data for Housing Choice Voucher usage. However, HUD and California Housing Finance Authority (CalHFA) have funded a total of 127 units of subsidized housing in Cupertino. Additionally, during the 5th cycle planning period, the City's Below Market Rate Affordable Housing Fund (BMR AHF) funded the conversion of three units into BMR rental housing, and as part of the City's BMR ownership program, 99 households were assisted in buying affordable units.

## COST BURDEN AND SEVERE COST BURDEN

Despite Cupertino's high housing costs, cost burden, which occurs when households spend more than 30 percent of their gross income on housing costs, is slightly better than the county and Bay Area. This outcome is likely due to the lack of low-income households living in the city, as lower-income households are much more likely to face cost burden. Cost burden is much higher for the city's lowest-income households, 75 percent of whom pay more than 50 percent of their gross household incomes in housing costs.

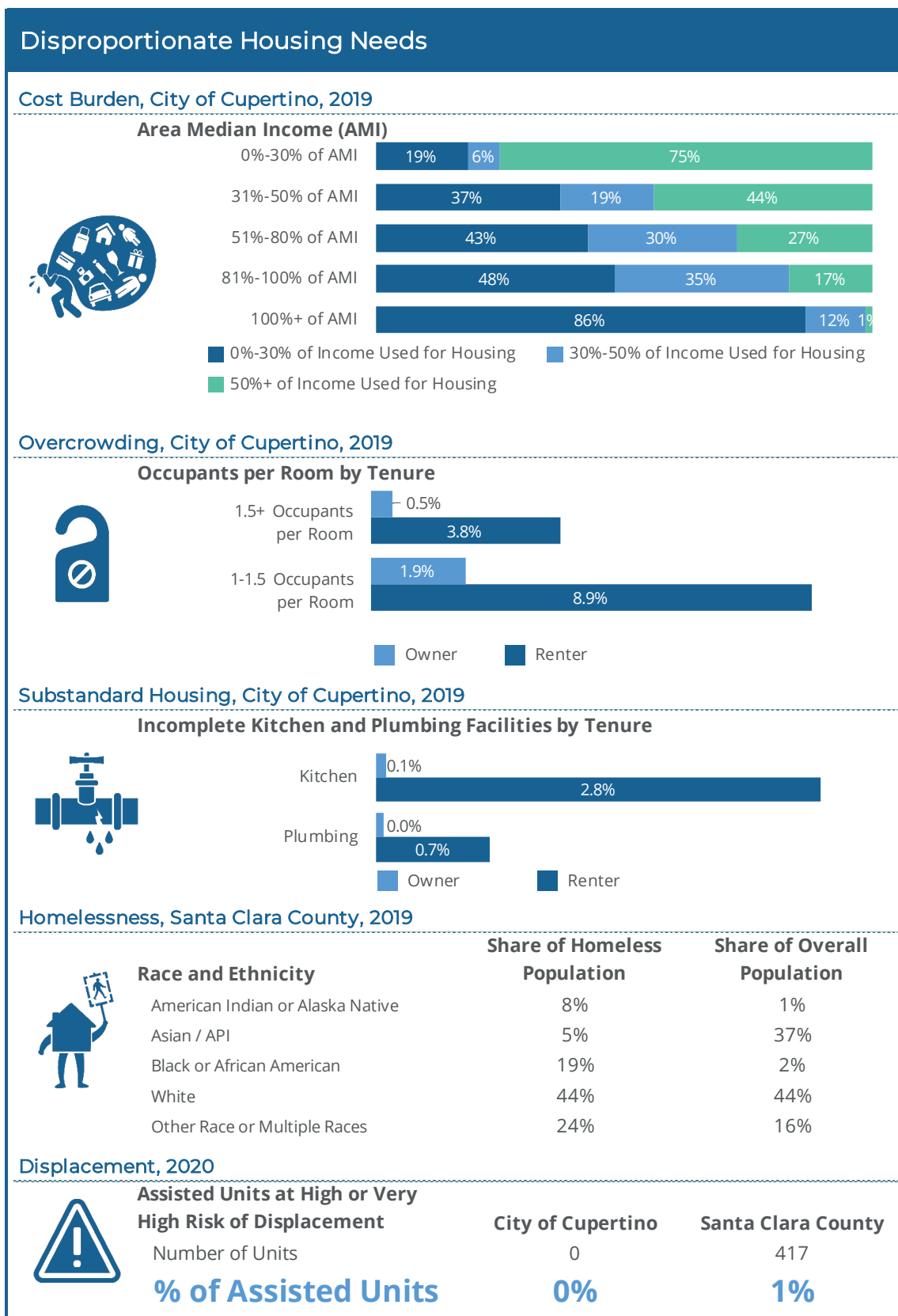
Cost burden does vary by tenure (rentership or ownership) in Cupertino with renters (37 percent burdened) more likely to experience burden than owners (24 percent). As seen in [Figure B3-74, Overpayment \(Cost Burden\) for Renter Households by Census Tract, 2019](#), renter overpayment is highest in the area around Homestead Square Shopping Center, Jollyman/Faria, S. Blaney, S. Vallco Park, and Rancho Rinconada neighborhoods. In these areas, the rate of renter overpayment ranges narrowly from 40.2 percent of renters in the S. Vallco Park neighborhood to 43.5 percent of renters in each of the Rancho Rinconada and the census tracts that include parts of the Creston-Pharlap, Monte Vista Village, Bubba Road, Heart of the City, and Jollyman neighborhoods. Many of these neighborhoods tend to have a higher proportion of renters in general, likely due to the placement of multifamily housing near major thoroughfares, commercial centers, and the college. The greatest concentrations of owner overpayment, in contrast, range from 43.1 percent in the Rancho Rinconada area to 43.5 percent in the area including parts of the Garden Gate Neighborhood and areas west of the Homestead Square Shopping Center. In parts of each of the neighborhoods with rates of homeowner overpayment exceeding 40 percent, nearly 30 percent of households are lower-to-moderate income, which likely contributes to the higher rates of overpayment.

There are also disparities in housing cost burden in Cupertino by race and ethnicity. Hispanic households experience by far the highest rates of cost burden in the city (45 percent). Asian (28 percent), non-Hispanic White (27 percent), and Black/African American (11 percent) households are least likely to be cost burdened, with Black/African American residents reporting zero cost burden.

**Figure B3-5** summarizes disproportionate housing needs in Cupertino.

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**Figure B3-5 Disproportionate Housing Needs**



## OVERCROWDING

The vast majority of households (94 percent) in Cupertino do not live in overcrowded conditions, indicated by more than one occupant per bedroom. However, renter households are more likely to be overcrowded, with 12.7 percent of renter households overcrowded, compared to 2.4 percent of owner households. One factor in this difference may be the practice of landlords renting shared units on a “by the bed” basis rather than as full units, increasing the density of residents in each apartment. Furthermore, Black/African American households are significantly more likely to be living in overcrowded conditions (17.9 percent) than the rest of the City’s residents, though the sample size of Black/African American households is smaller than that of other populations.

As shown in **Figure B3-74**, overcrowding is highest in the Garden Gate neighborhood (10.2 percent), Jollyman/Faria (11.1 percent), the tract including parts of the Creston-Pharlap, Garden Gate, Homestead Villa and Homestead Road areas (12.3 percent), and the Rancho Rinconada neighborhood (14.0 percent).

In the Rancho Rinconada neighborhood, there is likely a higher concentration of families with children due in part to housing turnover and redevelopment within the past 10 to 15 years, as well as the proximity to early childhood, elementary, middle, and high schools, as well as other resources for children such as parks and soccer fields. At other points in the city’s history, overcrowding has concentrated in other areas in close proximity to different schools as housing turnover occurred in those areas (e.g. around Lincoln, Kennedy and Monta Vista High). Children up to age 18 comprise approximately 28.8 percent of the population, and the average household size is 3.1, compared to a citywide average household size of 2.8. Though a marginal difference, the slightly larger household sizes in this neighborhood paired with higher overcrowding rates may reflect children sharing rooms and/or smaller home sizes. The Rancho Rinconada neighborhood was developed in the unincorporated part of western Santa Clara County as workforce housing in the 1950s. The typical home size was 800 square feet on 4,700 to 5,100-square-foot lots. While the neighborhood has been going through a rapid transition in the last 20 years, many of the homes continue to be smaller with fewer rooms. These smaller homes may be more affordable due to their size and age but may not suit growing families or one- or two-person households.

As mentioned previously, the areas near the Homestead Square Shopping Center have a higher proportion of townhomes and other multifamily housing units that are typically more affordable. In these instances, households may be living in units that are smaller than is needed for their family or may be sharing with roommates or other households to afford housing costs. Overcrowding in this neighborhood, as well as the Garden Gate and Jollyman/Faria neighborhoods, may reflect a need for more affordable, larger housing options or more units affordable to single-person or small households.



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### SUBSTANDARD HOUSING

Data on housing condition are very limited, with the most consistent data available across jurisdictions found in the American Community Survey (ACS)—which captures units in substandard condition as self-reported in census surveys. Only 0.1 percent of owner households in Cupertino report living in substandard housing, all of which arose out of a lack of complete kitchens. About 2.8 percent of renter households lack complete kitchens and 0.7 percent lack complete plumbing. In the City of Cupertino, the median home value in December 2020 was \$2,275,730, and the median income was estimated at approximately \$182,857 in 2020. The median income is too low for existing residents to afford a new home at the median sales price, but it is assumed that current property owners are most likely completing ongoing maintenance and repairs to maintain the values of their homes. Therefore, while the 2015-2019 ACS reported that 77.0 percent of the homes in Cupertino are at the age where they may need minor repairs up to major rehabilitation (built in 1989 or earlier) such as new roofs, siding repair, paint, replacing cracked or inoperable windows, or plumbing systems, based on visual reconnaissance of Cupertino neighborhoods, the City estimates that fewer than five percent of units in the city may be in need of rehabilitation, and that only one to two homes in the city may have such severe need for rehabilitation as to be unsafe for habitation.

The City estimates that, based in part on housing stock age, the greatest need for rehabilitation is likely in the Monta Vista Village area and parts of the S. Blaney neighborhood. Until recently, Rancho Rinconada had the greatest rehabilitation need. However, over the last 20 years, there has been a significant amount of rehabilitation as homes have been replaced, thereby reducing rehabilitation need in this area. Older neighborhoods that still have smaller, older homes likely need greater rehabilitation investment due to the age of the housing stock, as was the case in Rancho Rinconada. Rehabilitation might be most necessary for housing occupied by seniors on fixed incomes, where such turnover has not occurred.

### HOMELESSNESS

In May 2022, Santa Clara County published its 2022 Point-in-Time Report on Homelessness (PIT), which estimated 10,028 persons experiencing homelessness in Santa Clara County. Of that number, 2,320 persons were sheltered homeless and 7,922 were unsheltered homeless. Of this population, 102 individuals were counted in the City of Cupertino, all of whom were unsheltered. This was a decrease of approximately 36 percent, from 159 homeless persons in Cupertino in 2019.

The PIT provides the demographic composition of the homeless population at the county level, but not at the local level. Therefore, [Table B3-2, Demographic Composition of the Homeless Population, 2022](#), identifies the proportion of each of these protected characteristics from the 2022 PIT compared to the proportion of total population in Cupertino to identify whether any protected classes are disproportionately represented as part of the homeless population. It is worth noting that, given the small proportion of the homeless population that was counted in Cupertino, it is unlikely that all protected characteristics are represented in the homeless populations of these jurisdictions. However,



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without data available at the local level, it is assumed that the percentages of each protected class apply to the local homeless population.

Table B3-2 Demographic Composition of the Homeless Population, 2022		
Characteristic	Percentage of Santa Clara County Homeless Population	Percentage of City of Cupertino Population
Female	37.1%	50.2%
Male	60.8%	<b>49.8%</b>
Transgender	<0.1%	No data
Gender Nonconforming	<0.1%	No data
Hispanic/Latinx	47.0%	<b>3.3%</b>
White	60.0%	<b>25.2%</b>
Black or African American	14.0%	<b>0.8%</b>
American Indian or Alaska Native	7.0%	<b>0.1%</b>
Asian	6.0%	67.7%
Native Hawaiian or Pacific Islander	3.0%	<b>&lt;0.1%</b>
Multi-race or Other	10.0%	<b>3.0%</b>
Under 18 Years	<1.0%	<b>20.7%</b>
Senior	16.0%	14.7%

Source: Santa Clara County 2022 Point in Time; American Community Survey 2015-2019.

As seen in **Table B3-1**, all groups except females, seniors, and Asian-identifying residents were overrepresented in the Santa Clara County homeless population, compared to the City of Cupertino population. Bolded figures in **Table B3-1** represent over-represented demographic groups. Though data by race is not collected at the individual jurisdiction level through the Point in Time Count, it is estimated that the over-representation of Hispanic/Latinx, Black or African American, Native Hawaiian or Pacific Islander, Multi-Racial, and American Indian or Alaska Native community members that is seen in the countywide count may also be true of the homeless community within the city at any given time. Additionally, though data on the number of homeless community members in the city who have one or more disabilities is not counted at the city level, it is estimated that they may be over-represented due to the existing challenges Bay Area residents with physical and mental disabilities face in accessing affordable housing. To address the needs of these groups, the City will support homeless services providers, support new affordable housing development and prioritize projects targeting special needs groups such as those experiencing homelessness, and revise the Zoning Code to facilitate the development of emergency shelters and low-barrier navigation centers

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through **Policy HE-5.1** and **Strategies HE-2.3.1, HE-5.1.1, and HE-5.1.4**. Approximately 34.0 percent of homeless individuals that responded to the survey reported that they believe rent or mortgage assistance would have prevented homelessness for them, 28.0 percent believed that employment assistance would have prevented homelessness, 28.0 percent reported alcohol and drug counseling as a prevention tool, 26.0 percent reported mental health services, and 23.0 percent reported general assistance accessing benefits. The primary barriers to obtaining housing were the ability to afford rent (69 percent of respondents), lack of a job and income (55 percent), lack of available housing (32 percent), shortage of money to afford moving costs (28 percent), and challenges of navigating the housing process (18 percent).

Homeless residents typically congregate to camp in the Lawrence Mitty Park area in east Cupertino on a property that the City acquired with the intention of developing it as a park along the Lawrence Expressway. While encampments are frequent in this area, it is not near transit or homeless services. Additional areas where homeless residents camp include along most freeway on- and off-ramps, embankments off roadways and overpasses, and parks. Most areas are out of sight from the roadway. One particular area, in addition to Lawrence Mitty, is at the south embankment at Tantau Avenue and I-280 (on the south side of 280), in the Caltrans right-of-way. This location is not close to transit or services and the individuals there are either chronically homeless/jobless with no evidence that they are using public transit, or those individuals that have their own personal vehicles.

Additionally, many transient unhoused residents sleep in parks and vehicles overnight then pack up and leave during the day. In particular, Alves Drive, Civic Center, and Memorial Park are examples of areas where unhoused residents frequently spend the night and leave the areas during the daytime. The City has a permitted rotating car park facility used by unhoused residents that have their own vehicles that they park overnight at the facility. The facility is closer to transit but the individuals using the facility have personal vehicles.

The City participates in, and offers, several countywide and local homelessness resources to meet the needs of this population. Programs that are available regionally and locally include the following.

- Countywide Resources and Services:
  - Sacred Heart Community Service provides several homelessness prevention programs, including emergency rent and deposit financial assistance.
  - Here4You Hotline is a centralized referral system to connect residents with temporary housing programs, rental assistance, and referrals to other community services.
  - Emergency Assistance Network provides emergency financial assistance and other services to prevent homelessness, utility disconnections, and hunger. Services include one-time rent and mortgage payment assistance, move-in costs for rental deposits, one-time utility assistance, on-site information and referrals, food pantries, and more.

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- Santa Clara County Homeless Prevention System assists low-income families or individuals at risk of losing their housing through temporary financial assistance, legal support, and case management.
- Law Foundation of Silicon Valley has a legal aid program providing housing discrimination and eviction prevention representation.
- Local Resources and Services:
  - West Valley Community Services (10104 Vista Drive) provides rental and utility assistance, case management services, information, referrals, food pantry, and transitional housing for single adults and women with children under age six.
  - De Anza College Housing Assistance Grants Program provides funds to eligible students to prevent eviction, assist with move-in costs, or to maintain secure housing to be able to continue their education. The City of Cupertino has contributed \$50,000 to the program, eligible students may receive up to \$2,000 in assistance.
  - West Valley Rotating Safe Car Park Program is a partnership between the City of Cupertino, faith-based communities, and service organizations and consists of volunteer sites that host overnight guests for up to two months on an annual rotating basis, allowing for temporary overnight parking. The program also connects homeless individuals and families with case management and hospitality services.

## DISPLACEMENT

The shortage of housing in Cupertino, particularly in relation to the number of jobs in the city, creates a market where households do not move regularly. Owners move very infrequently: 22.1 percent of homeowners moved into their current residence in or before 1989, and 73.9 percent moved into their current residence in 2009 or earlier. In contrast, 45.9 percent of renters have moved to their current residence since 2015.

Another indicator of displacement is the potential of assisted units converted to market-rate properties. Cupertino reports 153 units at a low risk of conversion, with no other units at risk. According to the Sensitive Communities map of vulnerable communities, five of the City's census tracts are vulnerable to displacement, which is similar to surrounding areas.

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## Displacement Sensitive Communities

“According to the Urban Displacement Project, communities were designated sensitive if they met the following criteria:

- They currently have populations vulnerable to displacement in the event of increased redevelopment and drastic shifts in housing cost. Vulnerability is defined as:
  - Share of very low-income residents is above 20 percent, 2017

AND

- The tract meets two of the following criteria:
  - Share of renters is above 40 percent, 2017
  - Share of people of color is above 50 percent, 2017
  - Share of very low-income households (50 percent AMI or below) that are severely rent burdened households is above the county median, 2017
  - They or areas in close proximity have been experiencing displacement pressures. Displacement pressure is defined as:
    - ♦ Percent change in rent above county median for rent increases, 2012-2017

OR

- ♦ Difference between tract median rent and median rent for surrounding tracts above median for all tracts in county (rent gap), 2017”

Source: <https://www.UrbanDisplacement.org/>.

A combination of factors can result in increased displacement risk, particularly for lower-income households. These factors include overpayment, overcrowding, and housing condition, as well as vacancy rates, availability of a variety of housing options, and increasing housing prices compared to wage increases. The Urban Displacement Project analyzes income patterns and housing availability to determine the gentrification displacement risk at the census tract level. Seven displacement typologies exist in Santa Clara County:

- **Low-Income/Susceptible to Displacement:** These tracts are predominantly low- or mixed-income, susceptible to changes if housing prices increase.
- **Ongoing Displacement:** These tracts were previously low income, before seeing a significant loss of low-income households between 2000 and 2018.

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- **At Risk of Gentrification:** These are low- or mixed-income tracts with housing affordable to lower-income households; however, the tract has seen increases in housing costs or rent values at a greater rate than regional increases or resulting in a larger rent gap locally than regionally.
- **Stable Moderate/Mixed Income:** These tracts are predominantly occupied by moderate-, mixed-moderate, mixed-high, or high-income households.
- **At Risk of Becoming Exclusive:** These tracts are also predominantly occupied by moderate-, mixed-, or high-income households, with housing affordable to middle- to high-income households but ongoing increases in prices.
- **Stable/Advanced Exclusive:** These are high-income tracts with housing only affordable to high-income households, and marginal or rapid increases in housing costs.
- **High Student Population:** These are areas excluded from the classification spectrum due to their high concentration of student residents.

All of Cupertino, with the exception of the Rancho Rinconada neighborhood, is considered Stable/Advanced Exclusive. Rancho Rinconada is considered Stable Moderate/Mixed Income. Dramatic increases in home and rental prices have impacted residents throughout Cupertino and the greater Bay Area, though renters are typically disproportionately burdened by housing market increases in annual rate increases, compared to homeowners who have fixed-rate mortgages. However, the Urban Displacement Project has not identified any areas of Cupertino that have a greater risk of displacement for lower- and moderate-income renters compared to the rest of the state.

According to the Zillow Home Value Index (ZHVI), the average home value in Cupertino has increased by nearly 60 percent between February 2015 and February 2023, from \$1,602,012 to \$2,562,110, for an average increase of approximately 7.5 percent annually. Despite this rapid increase, housing prices in Cupertino have increased at a slower rate than most other incorporated jurisdictions in Santa Clara County, with the exception of the Cities of Palo Alto (5.2 percent) and Los Altos Hills (6.2 percent). While the prices have increased more slowly in these cities, the median home value in both exceeds that of Cupertino, with a median value of \$3,125,678 in Palo Alto and \$5,340,078 in Los Altos Hills. However, the median home price in Cupertino is still only affordable to above moderate-income households. Rent prices in Cupertino have increased at a significantly slower rate than home values, but still present a barrier for lower-income households. Between February 2015 and 2023, the average rent for a two-bedroom unit, for example, increased from \$3,414 to \$3,899 according to a survey of online rent tracking platforms, resulting in an annual average increase of 1.8 percent. The median rent in February 2023 was affordable to moderate-income households.

While the rate of increase in wages has kept up with increases in rent in Cupertino, they have not matched increases in home values. The median income in Cupertino has increased approximately 4.8 percent annually, from \$120,201 in 2010 to \$171,917 in 2019, according to the ACS. The difference

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in these trends indicates growing unaffordability of housing in the city. To address affordability challenges, the City will encourage and incentivize development of affordable housing units, particularly in areas in close proximity to resources and will identify funding for financial assistance for first-time homebuyers. (**Strategies HE-2.3.1** and **HE-2.3.5**).

**Strategy HE-1.3.2** to rezone sites to accommodate higher density housing;

**Strategy HE-1.3.9** to lower fees for all multifamily development and parking requirements for studio apartments and single-room occupancy units to encourage development of these housing types;

**Strategy HE-2.3.4** to target Below-Market Rate Affordable Housing Fund to benefit populations with the greatest need;

**Strategy HE-2.3.6** to facilitate development of housing by partnering with developers to purchase surplus properties for development; and

**Strategy HE-2.3.7** to incentivize development of affordable housing.

Displacement risk increases when a household is paying more for housing than their income can support, their housing condition is unstable or unsafe, and when the household is overcrowded. Each of these present barriers to stable housing for the occupants. As discussed in Section B3.7, Integration and Segregation, the rate of poverty in Cupertino is approximately 7.7 percent, with the highest rate in the northern portion of the city. The City has included several programs to increase the supply of affordable housing by providing assistance with acquisition, rehabilitation, and construction; providing technical assistance, streamlining, and other incentives; and working with affordable housing providers to preserve units. Public comment received during City Council meetings also expressed a desire to see reasonable renter protections; **Strategy HE-3.3.6** proposes to study rent stabilization and tenant protection ordinances in California and displacement in Cupertino due to rising rents and evictions. Work with relevant stakeholders to establish tenant protection and/or a rent stabilization to ensure protection for renters, as appropriate based on findings.

## ACCESS TO MORTGAGE LOANS

In many communities, disparities by race and ethnicity are prevalent for home mortgage applications, particularly in denial rates. This is true in the Census Tracts that include Cupertino, but primarily only for Black/African American applicants. Mortgage denial rates are consistent by race, ranging from 18 to 20 percent, with the exception of Black/African American applicants (33 percent). It should be noted that only six Black/African American applicants were received out of 2,214 total applications in 2018 and 2019, so these findings may not represent a larger, more general pattern in the region. [Figure B3-5, Disproportionate Housing Needs](#), summarizes information on disproportionate housing needs in the city.

## B3.10 SITES ANALYSIS

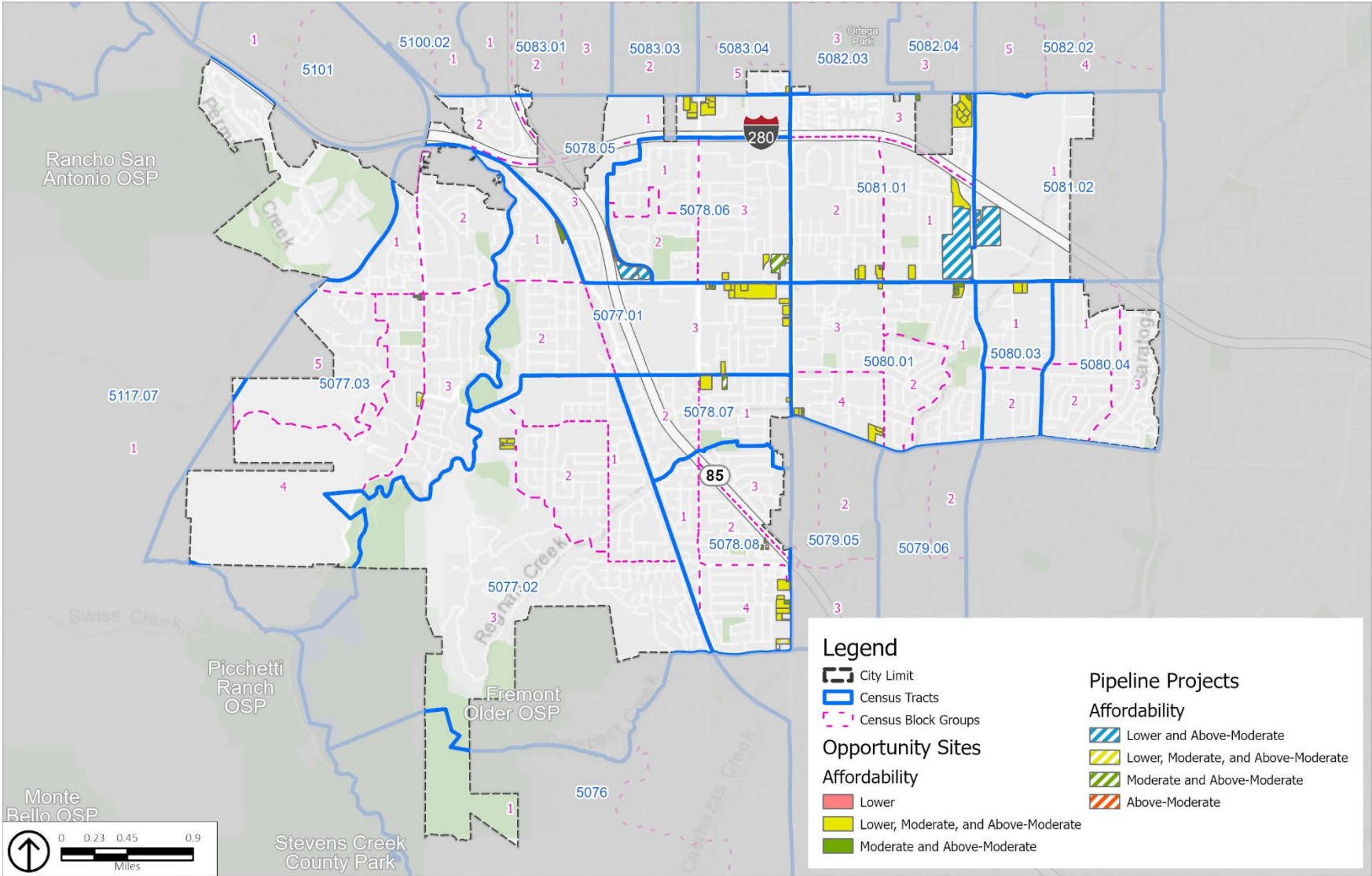
The location of housing in relation to resources and opportunities is integral to addressing disparities in housing needs and opportunity and to fostering inclusive communities where all residents have access to opportunity. This is particularly important for lower-income households. Assembly Bill (AB) 686 added a new requirement for housing elements to analyze the location of lower-income sites in relation to fair housing factors to determine whether the sites inventory further entrenches existing fair housing issues. When patterns of fair housing issues do overlap with sites identified in the inventory (parcels with pipeline projects, parcels that are vacant, and parcels that are considered underutilized), the City is obligated to establish strategies to mitigate and improve conditions contributing to fair housing issues. What follows is an analysis of the distribution of the City's sites inventory by income category compared to citywide patterns, in the context of the fair housing issues discussed earlier in the Fair Housing Assessment.

### OVERALL SUMMARY

For the purposes of this analysis, the location of the sites within the city will be described by their associated census tracts and census block groups. **Figure B3-6** illustrates the distribution of the sites inventory by affordability along with the boundaries of the city's census tracts and block groups. **Table B3-3** summarizes the conditions in areas of the city with RHNA sites or projects, organized by census tract and block group, with the percentage of units in a given income category that are in this block group. Please note, **Figure B3-5** shows tract boundaries prior to the 2020 Census update to match ACS data used in the analysis.



Figure B3-6 RHNA Sites by Affordability with Census Tract and Block Group Boundaries



Source: City of Cupertino, 2023; US Census Bureau, 2023; ESRI, 2023; PlaceWorks, 2023



Table B3-3 Fair Housing Factors and Percentage of RHNA Units

Tract and Block Group	RHNA Inventory, by Affordability Category						TCAC Opportunity Area, 2021	TCAC Education Score	Jobs Index	In a Racially Concentrated Area of Affluence?	CalEnviro-Screen 4.0 Percentile	Median Household Income	Households with Income Under the Poverty Line (%)	Househol ds with a Disability (%)	Children in Female-Headed House-holds (%)	Non-White (%)	Households Experiencing Overcrowding (%)	Renters Overpaying for Housing (%)	Homeowners Overpaying for Housing (%)	Community Vulnerable to Dis-placement?
	VLI & LI Units	VLI & LI Units (%)	Mod. Income Units	Mod. Income Units (%)	Above-Mod Income Units	Above Mod Income Units (%)														
Census Tract 5077.01, Block Group 1	0	0.0%	2	0.2%	11	0.3%	Highest Resource	0.999	61	No	11.5	\$160,491	4.7%	7.5%	3.4%	62.0%	0.9%	43.5%	36.6%	No
Census Tract 5077.01, Block Group 3	162	7.8%	70	8.2%	181	5.7%			82			\$183,750				77.5%				
Census Tract 5077.02, Block Group 3	31	1.5%	18	2.1%	35	1.1%	Highest Resource	0.999	45	No	2.3	\$205,804	4.4%	5.9%	0%	73.9%	1.3%	16.3%	33.3%	No
Census Tract 5077.03, Block Group 4	1	0.0%	5	0.6%	22	0.7%	Highest Resource	0.966	51	No	5.8	Data Not Available	5.3%	8.2%	4.9%	66.0%	3.6%	32.2%	24.9%	No
Census Tract 5078.05, Block Group 1	254	12.2%	99	11.6%	268	8.5%	Highest Resource	0.959	71	No	19.2	\$107,538	13.7%	5.2%	10.7%	79.6%	12.3%	42.1%	43.5%	No
Census Tract 5078.05, Block Group 3	88	4.2%	0	0.0%	211	6.7%			68			\$142,969				77.7%				
Census Tract 5078.06, Block Group 3	48	2.3%	55	6.5%	221	7.0%	Highest Resource	0.996	81	No	17.9	\$144,239	7.9%	3.7%	9.2%	92.6%	10.2%	28.2%	42.4%	Yes
Census Tract 5078.07, Block Group 1	15	0.7%	12	1.4%	21	0.7%	Highest Resource	1	72	No	No	14.2	\$178,750	1.8	6.2	7.7	83.1	11.12	27.8	31.2
Census Tract 5078.08, Block Group 2	0	0.0%	2	0.2%	18	0.6%	Highest Resource	0.997	52	No	1.5	\$197,625	2.5%	2.8%	2.1%	85.4%	2.9%	19.4%	21.7%	No
Census Tract 5078.08, Block Group 4	118	5.7%	53	6.6%	160	5.1%			43			\$211,111				82.2%				

Table B3-3 Fair Housing Factors and Percentage of RHNA Units																				
Tract and Block Group	RHNA Inventory, by Affordability Category						TCAC Opportunity Area, 2021	TCAC Education Score	Jobs Index	In a Racially Concentrated Area of Affluence?	CalEnviro-Screen 4.0 Percentile	Median Household Income	Households with Income Under the Poverty Line (%)	Households with a Disability (%)	Children in Female-Headed Households (%)	Non-White (%)	Households Experiencing Overcrowding (%)	Renters Overpaying for Housing (%)	Homeowners Overpaying for Housing (%)	Community Vulnerable to Displacement?
	VLI & LI Units	VLI & LI Units (%)	Mod. Income Units	Mod. Income Units (%)	Above-Mod Income Units	Above Mod Income Units (%)														
Census Tract 5080.01, Block Group 1	0	0.0%	93	10.9%	70	2.2%	Highest Resource	0.998	80	No	18.3	\$171,351	4.6%	5.7%	1.5%	77.1%	4.57%	40.4%	32.3%	Yes
Census Tract 5080.01, Block Group 3	12	0.6%	5	0.6%	12	0.4%			81			\$128,250				78.4%				
Census Tract 5080.01, Block Group 4	82	3.9%	34	4.0%	98	3.1%			78			\$221,563				69.6%				
Census Tract 5080.03, Block Group 1	83	4.0%	33	3.9%	87	2.8%	Highest Resource	0.964	72	No	17.1	\$158,971	7.8%	12.1%	0.8%	79.2%	14.0%	41.3%	43.1%	Yes
Census Tract 5081.01, Block Group 1	253	12.2%	130	15.3%	48	1.5%	Highest Resource	0.973	81	No	18.3	\$224,438	1.4%	3%	2.7%	77.7%	7.3%	20.5%	24.2%	No
Census Tract 5081.01, Block Group 2	89	4.3%	126	14.8%	62	2.0%			80			\$201,563				78.2%				
Census Tract 5081.01, Block Group 3	252	12.1%	111	13.0%	290	9.2%			79			\$174,929				79.3%				
Census Tract 5081.02, Block Group 1	581	28.6%	0	0.0%	1,321	39.9%	Highest Resource	0.905	69	No	18.1	\$171,324	4.8%	2.9%	4.5%	76.5%	4.7%	40.2%	13.5%	No
Census Tract 5083.04, Block Group 5	11	0.5%	4	0.5%	11	0.3%	Highest Resource	0.903	76	No	11.8	\$90,515	9.2%	4.7%	14.6%	81.5%	13.8%	47.0%	25.3%	Yes

Source: American Communities Survey (2015-2019); US Department of Housing and Urban Development (2014-2017); ESRI, 2018; California Tax Credit Allocation Committee (TCAC) 2021 and 2023; OEHHA, 2022; UC Berkeley Urban Displacement Project, 2018.

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## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

### *Analysis of Fair Housing Factors Relating to RHNA Site and Project Placement Similarities*

As shown in **Table B1-1**, many of the areas in the city that include RHNA sites have similar conditions to each other, and therefore are not expected to reinforce existing patterns of segregation or poverty by disproportionately concentrating housing sites of a particular income level in areas with high or low levels of poverty or segregation. All of the city's units to meet RHNA are within areas that were designated Highest Resource under the California Tax Credit Allocation Committee's (TCAC) opportunity areas classification system in 2021. In 2023, when the opportunity areas methodology was shifted to evaluating each census tract in comparison to other cities in the Council of Governments area, none of the census tracts in the city were identified as an Area of High Segregation and Poverty. TCAC's evaluation of education outcomes in the area scored all of the census tracts with inventory sites or projects in Cupertino within the 90th percentile or better.

In all of the census tracts with sites or pending projects in the inventory, rates of poverty are below 15 percent, which is similar to the overall rates of poverty citywide. None of the sites are in RCAAs, as defined and identified by HCD.

None of the census tracts in Cupertino are considered a disadvantaged community under SB 535, which refers to a census tract with a CalEnviroScreen 4.0 score in the 75th percentile or higher. None of the parts of Cupertino where RHNA sites or projects are located has a CalEnviroScreen 4.0 score higher than the 20th percentile. Though not identified in **Table B1-1**, nearly all of Cupertino, including all areas where RHNA inventory sites or projects are located, was ranked in the 80th percentile or better on the Public Health Alliance of Southern California (PHASC) Healthy Places Index in 2021.

Additionally, because the zones to which many of the inventory sites will be rezoned have maximum permitted densities of 65 dwelling units per acre, the City has estimated that sites larger than 0.5 acres will develop with affordability levels that can accommodate a mix of lower-, moderate-, and above moderate-income households. This can help to avoid any overconcentration of housing to accommodate a particular income level in any one part of the city.

## AREAS OF DIFFERENCE

The remaining analysis will focus on fair housing factors that meaningfully differ between some parts of the city and others as it relates to the proportion of sites in each part of the city and the affordability level of housing that is estimated may develop on the site.

### *Access to Employment*

Cupertino is known regionally as a jobs center, so fittingly many of the census block groups with sites in the inventory or pending projects have high scores on HUD's Jobs Proximity Index, indicating that residents of those census block groups live within close proximity to jobs. However, because much of the city's employment is centered in the Stevens Creek Boulevard corridor, at De Anza College, and near the Apple campus, residents of areas on the outskirts of the city may have a higher

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transportation cost to access employment opportunities. Additionally, because not all workers in these areas live within Cupertino and not all Cupertino residents work in these areas, city residents may have longer distances to travel to work despite living in areas close to office and commercial uses. It is important to note that the decision regarding where to reside is not solely dependent on the location of one's job; other factors such as access to schools, preferred social and cultural amenities and experiences, and demography also influence this decision. Most of the block groups with RHNA sites or projects have a Jobs Proximity Index score of at least 68, indicating a moderate to close proximity to employment areas. Four block groups with RHNA sites or projects have scores lower than 60.

In Block Group 3 of Tract 5077.02, which is south and west of the De Anza College area, the Jobs Index score is 45, among the lowest in the city. Just 1.5 percent of the lower-income units, 2.1 percent of moderate units and 1.1 percent of above-moderate units are estimated to develop in this block group. This will not reinforce any historic patterns of siting more affordable housing far from employment centers. Additionally, sites in the inventory that are within this block group are located in the part of the block group that is closest to commercial areas in central Cupertino, which may help to mitigate the distance of the block group overall.

In Block Group 4 of Tract 5077.03, which is due west of De Anza College, the Jobs Proximity Index score was 51. This block group is predominantly a lower-density residential area near several large park areas. Two pending projects are identified within this area. One, the Canyon Crossing project, is planned to be predominantly market-rate housing with a small number of moderate- and lower-income units. The other, currently called the "Bateh Brothers/Alan Row" project, will only include moderate- and above moderate-income units. Combined, these project units represent less than 0.1 percent of the lower-income units, 0.6 percent of moderate-income units, and 0.7 percent of above moderate-income units in the combined sites inventory and projects. Accordingly, placement of these projects is not expected to significantly establish or reinforce patterns of affordable housing units being placed far from job centers.

Block Groups 2 and 4 of Tract 5078.08 are due south of central Cupertino and just west of the I-85 and De Anza Boulevard corridors and have Jobs Proximity Index scores of 52 and 43, respectively. It is estimated that 5.7 percent of lower-income units, 6.4 percent of moderate-income units, and 5.7 percent of above moderate-income units are expected to develop in the two block groups combined. This area has one transit route along De Anza Boulevard with 30-minute transit frequency, which can help to mitigate the cost associated with accessing employment from farther away. Additionally, several of the sites in this area (including sites 54, 55, and 56) are already allowed to develop at 60 dwelling units per acre under AB2011 and SB6, and are being targeted for rezoning by the City to mixed-use zones, which can help to promote the development of additional employment opportunities in close proximity to new housing.

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*Disability*

The city as a whole has low rates of households with any members who have disabilities, and none of the census tracts in the city has a rate of more than 20 percent of households with members who have disabilities. Only one census tract has a rate of disability between 10 and 20 percent, Tract 5080.03. In this census tract, 12.1 percent of households report having a member with a disability. This tract also includes a non-profit-run housing project for adults with disabilities, Adults Toward Independent Living. Sites 5 and 6 are within this census tract, and together represent 4.0 percent of the lower-income units, 3.9 percent of moderate-income units, and 2.8 of above moderate-income units of the sites and projects counted towards RHNA. By identifying sites in this area with a high level of density, it is estimated that more affordable units may develop here, which can help to prevent displacement for households with disabled members.

*Race*As a whole, the population of Cupertino is majority non-white, with no census block groups in the city having a majority of White residents. The most common non-white racial group that Cupertino residents identify with is Asian, and Asian community members are the predominant group in the Garden Gate and Jollyman/Faria neighborhoods. Census tracts in southern and eastern Cupertino also have sizeable Asian populations, though with a lower “predominance gap.” No other non-white racial groups are predominant in any other part of Cupertino, and only a small portion of the far northwest corner of the city is predominantly White. This area is the neighborhood surrounding Rancho San Antonio County Park and a large portion of this tract is located in Los Altos, which has a majority White demographic.

Citywide, the lowest rate of minority residents is 59.0 percent non-white; among census block groups with sites or projects in the RHNA inventory, the lowest rate is 62.0 percent of residents identifying as non-white (Block Group 1 of Tract 5077.01). This tract had a median household income of \$160,491 as of the 2015-2019 ACS. Few of the RHNA inventory sites or projects are in this block group, including no lower-income units, 0.2 percent of moderate-income units, and 0.3 percent of above moderate-income units are estimated to develop in this block group. This block group is on the far west side of the city in a predominantly low-density residential area. Because of the low number of units expected to develop in this area, it is unlikely that their development would establish or reinforce any existing fair housing concerns in this area.

The block group with one of the highest rates of non-white residents is Block Group 3 of Tract 5078.06. Of the total population in this block group, 92.6 percent identify as non-white. Of the RHNA units in the sites inventory and project list, it is estimated that 2.3 percent of lower-income units, 6.5 percent of moderate-income units, and 7.0 percent of above moderate-income units will develop in this area. The median household income here is \$144,239, which is high compared to the state as a whole but on the mid- to lower-end of median incomes in Cupertino. The development of moderate-income housing in this area may allow for existing community members who are experiencing housing cost burden to find more affordable options without leaving established community networks.

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*Household Income, Housing Affordability, Familial Status, and Overcrowding*

The median income for all block groups in the city in 2019 is higher than the 2020 state median income of \$87,100, and for many of the block groups in the city, the median income is greater than \$125,000. Two block groups with RHNA units have median incomes below \$125,000: Block Group 1 of Tract 5078.05 has a median income of \$107,538, and Block Group 5 of Tract 5083.04 has a median income of \$90,515. Though these levels of income are relatively high compared to the state as a whole, the high cost of housing in this area means that high-earning households may still experience a meaningful cost burden or may experience overcrowding. Additionally, a high level of households with single female households can be correlated with lower median incomes and higher housing cost burden. Much of Block Group 5 of Tract 5083.04 extends into areas of Sunnyvale with older stock, multifamily housing, which may contribute to a relatively median lower income.

Block Group 5 of Tract 5083.04, which was mentioned as having the lowest median income in the city, also has the highest percentage of cost-burdened renter households of any of the block groups with inventory sites or pending projects (47.0 percent of renter households). Though it does not have a high rate of homeowners experiencing cost burden, it does have the second-highest rate of household overcrowding of any tract in the city with sites or projects in the RHNA inventory (13.8 percent of households). This tract also includes the highest rate of families with children and single-female heads of household at 14.6 percent of households. This tract is on the north side of the city and extends beyond the city borders into Sunnyvale, with only a small piece of Block Group 5 included in Cupertino's boundary. Inventory sites in this area represent only 0.5 percent of lower-income units, 0.5 percent of moderate-income units, and 0.3 percent of above moderate-income units. Therefore, it is not expected that development of sites in the inventory will exacerbate any overconcentration of lower-income households that may exist in this census tract.

Block Group 1 of Tract 5078.05 has the city's second-lowest median income and is part of the census tract with the highest rate of homeowner cost burden and second-highest rate of renter cost burden of any tract in the city with sites or projects in the RHNA inventory (with 43.5 percent of homeowners and 42.1 percent of renters experiencing cost burden). This tract also has the third-highest rate of households experiencing overcrowding of any with sites or projects in the inventory, at 12.3 percent, and the second-highest rate of children in female-headed households (10.7 percent). Of the units counted in the sites inventory and pending projects, 12.2 percent of lower-income units, 11.6 percent of moderate-income units, and 8.5 percent of above moderate-income units are in this block group. An additional 4.2 percent of lower-income units and 6.7 percent of above moderate-income units are estimated to develop in Block Group 3 of the same census tract. This tract is also on the north side of the city and the tract also includes two small areas within Sunnyvale. The mix of income levels estimated to develop on many of these sites is expected to increase the overall number of affordable units in this census tract without creating an overconcentration of lower-income units.



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As mentioned previously, some areas with higher median incomes also experience the negative effects of an overall high cost of housing. For example, Census Tract 5080.03 has the highest rate of households experiencing overcrowding (14.0 percent) of any tract in the city where RHNA sites inventory or project units are located. It also has the second-highest rate of homeowner cost burden (43.1 percent) and the third-highest rate of renter housing burden (40.4 percent) of any tract in the city with RHNA sites inventory or project units. Block Group 1 of this census tract has a median income of \$158,971. Though not among the highest median income levels in the city, this is also not among the lowest. This census tract is on the city's east side and has a low overall number of households, as a large percentage of the land area of the tract is made up of Cupertino High School, DJ Sedgwick Elementary School, Hyde Middle School, and a few large church properties.

Census Tract 5078.06 has the city's third-highest rate of homeowner cost burden, at 42.4 percent, though renters in this area do not experience the same high rate of housing cost burden (28.2 percent). This tract also has one of the higher rates of household overcrowding (10.2 percent). While the single-family homes that are present in this tract are relatively large, the tract contains a significant number of multifamily units. Block Group 3 is the block group in this census tract where several RHNA inventory sites and pending projects are located. Located on the city's north side, this block group has a median household income of \$144,239. Of the units in the RHNA sites inventory and pending projects, 2.3 percent of lower-income units, 6.5 percent of moderate-income units, and 7.0 percent of above moderate-income units are expected to develop in this area. It is expected that including units in this area that can accommodate higher-income households may provide more housing opportunities for moderate- or higher-income households that may be looking to move out of the housing where they have been experiencing cost burden without having to leave their current neighborhood.

### *Vulnerability to Displacement*

Four census tracts in the city were identified by UC Berkeley's Urban Displacement Project as being communities that are vulnerable to displacement. Three of the four have been discussed previously in this analysis in discussions of the fair housing factors that likely contribute to residents in these areas experiencing a heightened vulnerability to displacement. Below is a summary of the vulnerability factors that exist in these three tracts:

- Tract 5078.06 has the city's third-highest rate of homeowner cost burden, at 42.4 percent. It also has a moderately high rate of households experiencing overcrowding (10.2 percent) and one of the city's largest non-white populations, at 92.6 percent.
- Tract 5080.03 has the highest rate of households experiencing overcrowding (14.0 percent) of any tract in the city where RHNA sites inventory or project units are located. It also has the second-highest rate of homeowner households experiencing housing cost burden (43.1 percent) and the third-highest rate of renter households experiencing housing cost burden



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

(41.3 percent). It also has the highest rate of residents with disabilities in the city (12.1 percent). This tract contains a significant number of smaller multifamily units, which may contribute to overcrowding; however, its proximity to schools may make it a more attractive neighborhood for families with children.

- Tract 5083.04 contains a block group with the lowest median income and a comparatively high level of renter households experiencing cost burden. Among census tracts with RHNA inventory sites or projects, it is also the tract with the second-highest rate of households experiencing overcrowding (13.8 percent) and the highest rate of children in female-headed households (14.6). However, the majority of this census tract is not within Cupertino city limits.

One additional tract, Tract 5080.01, was not previously discussed in this analysis but was given a designation of being a community vulnerable to displacement. Of the sites in the RHNA inventory and project list, 4.5 percent of lower-income units, 115.5 percent of moderate-income units, and 5.7 percent of above moderate-income units are estimated to develop in this census tract. The tract has relatively high rates of renters and homeowners experiencing cost burden (40.4 percent of renters and 32.3 percent of homeowners), but neither of these rates is among the highest levels citywide. Though each of these individual factors is not among the highest rates in the city, the combination of each of these factors can make residents in this area vulnerable to displacement.

### B3.11 FAIR HOUSING RESOURCES AND MAPS

This section provides information on fair housing resources available in Santa Clara County and supporting maps.

### FAIR HOUSING ENFORCEMENT AND OUTREACH CAPACITY

Fair housing assistance organizations in Santa Clara County are listed in **Figure B3-7**. Data regarding fair housing inquiries is depicted on **Figures B3-8 through B3-10**. **Figure B3-11** shows the location of the county's public housing buildings. **Figure B3-12** shows HCVs by census tract.

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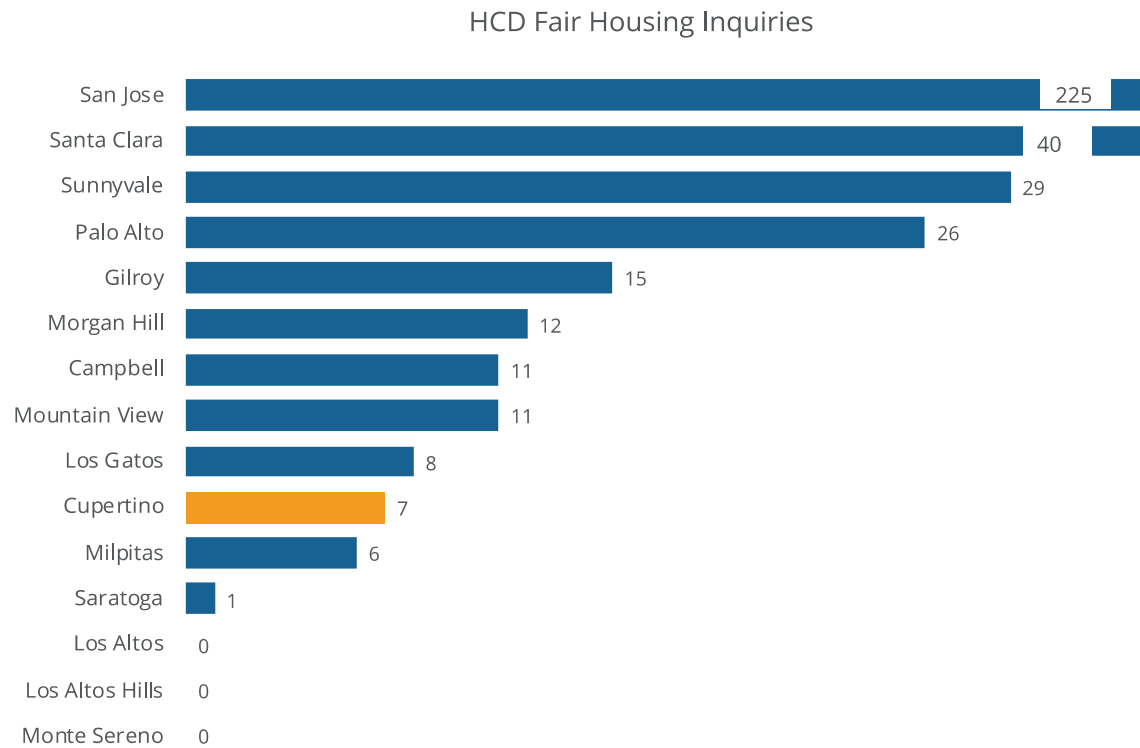
**Figure B3-7 Fair Housing Assistance Organizations, Santa Clara County**

Name	Service Area	Address	Phone	Website
<b>Project Sentinel</b>	Northern California	1490 El Camino Real, Santa Clara, CA 95050	(800) 339-6043	<a href="https://www.housing.org/">https://www.housing.org/</a>
<b>Housing and Economic Rights Advocates</b>	State of California	1814 Franklin St. Ste. 1040 Oakland, CA 94612	(510) 271-8443	<a href="https://www.heraca.org">https://www.heraca.org</a>
<b>Bay Area Legal Aid</b>	Parts of Santa Clara County	1735 Telegraph Ave. Oakland, CA 94612	(510) 663-4755	<a href="https://www.baylegal.org">https://www.baylegal.org</a>
<b>California Department of Fair Employment and Housing</b>	State of California	2218 Kausen Dr. Ste. 100 Elk Grove, CA 95758	(916) 478-7251	<a href="https://www.dfeh.ca.gov">https://www.dfeh.ca.gov</a>
<b>Law Foundation of Silicon Valley</b>	Greater Silicon Valley, Santa Clara County	152 N. 3rd St. #3 San Jose, CA 95112	(408) 293-4790	<a href="https://lawfoundation.org">https://lawfoundation.org</a>

Source: Organization Websites

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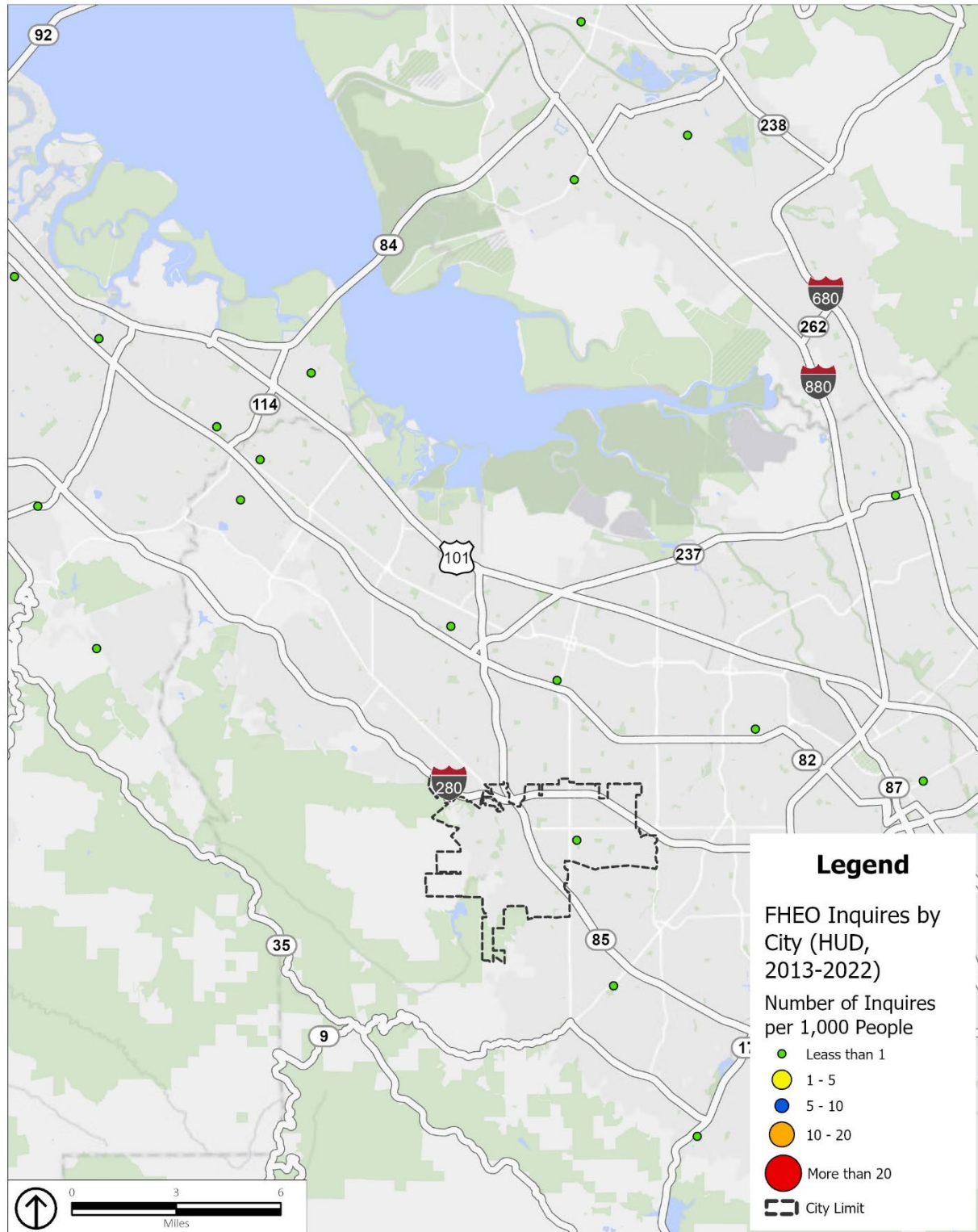
**Figure B3-8 HCD Fair Housing Inquiries, 2013-2021**



Source: Organization Websites

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**Figure B3-9 FHEO Inquiries by City to HCD, Santa Clara County, 2013-2022**



Source: California Department of Housing and Community Development AFFH Data Viewer

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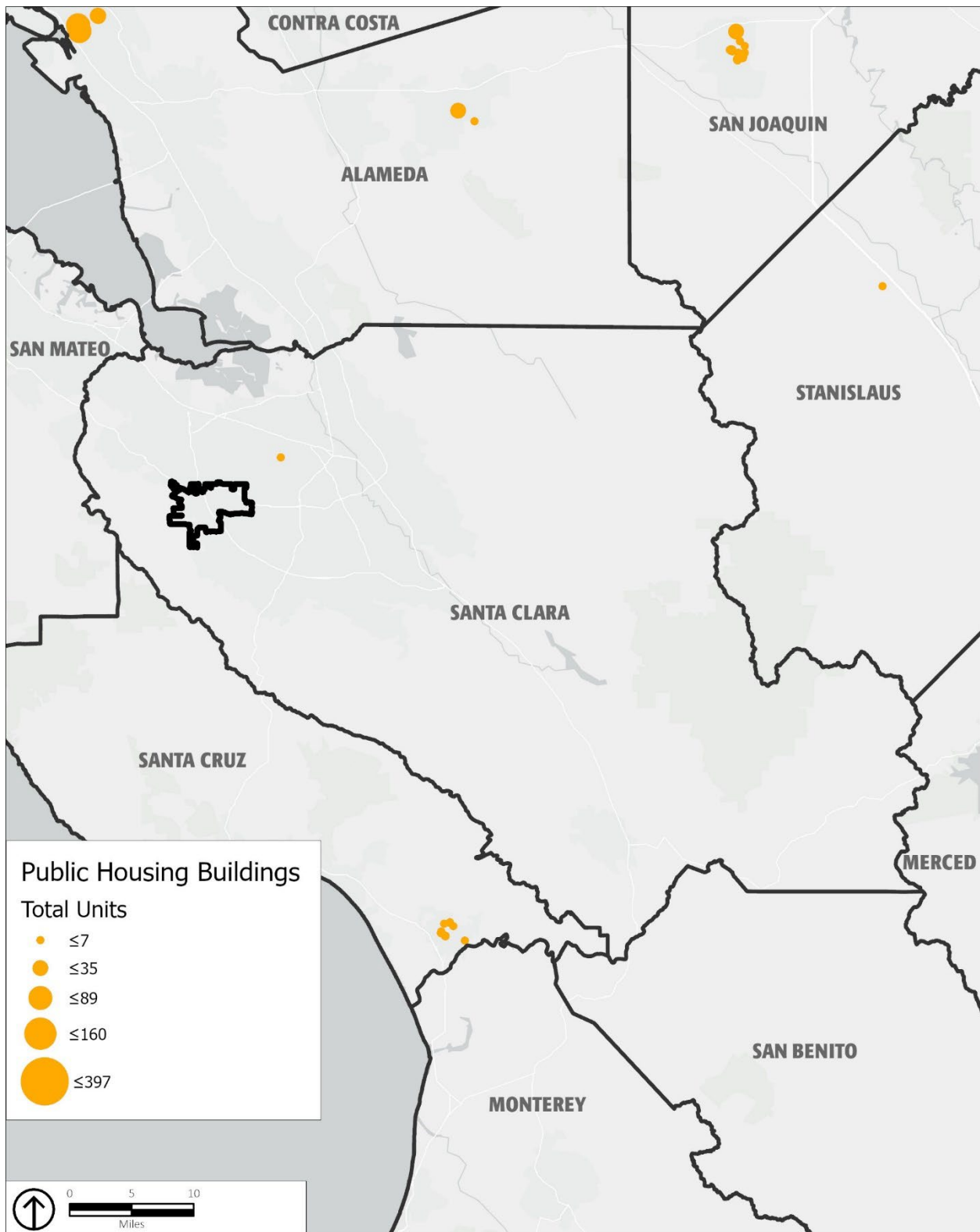
**Figure B3-10 HCD Fair Housing Inquiries by Bias, January 2013-March 2021**

Jurisdiction	Disability	Race	Familial Status	National Origin	Religion	Sex	Color	None Cited	Decision Not To Persue	Failure to Respond	Total
San Jose	39	9	9	8	0	3	0	146	9	111	225
Santa Clara	2	2	4	4	0	0	0	26	1	12	40
Sunnyvale	7	1	3	0	0	0	0	17	1	16	29
Palo Alto	3	1	3	0	0	1	0	18	1	9	26
Gilroy	3	1	0	0	0	0	0	11	1	4	15
Morgan Hill	3	2	1	0	0	0	0	6	0	6	12
Campbell	3	1	0	0	0	0	0	7	0	5	11
Mountain View	1	0	1	0	0	0	0	9	0	6	11
Los Gatos	0	0	2	0	0	0	0	6	1	5	8
Cupertino	2	1	0	0	0	0	0	4	1	2	7
Milpitas	0	0	0	0	0	0	0	6	0	2	6
Saratoga	0	0	0	0	0	0	0	1	0	0	1
Los Altos	0	0	0	0	0	0	0	0	0	0	0
Los Altos Hills	0	0	0	0	0	0	0	0	0	0	0
Monte Sereno	0	0	0	0	0	0	0	0	0	0	0

Source: California Department of Housing and Community Development AFFH Data Viewer

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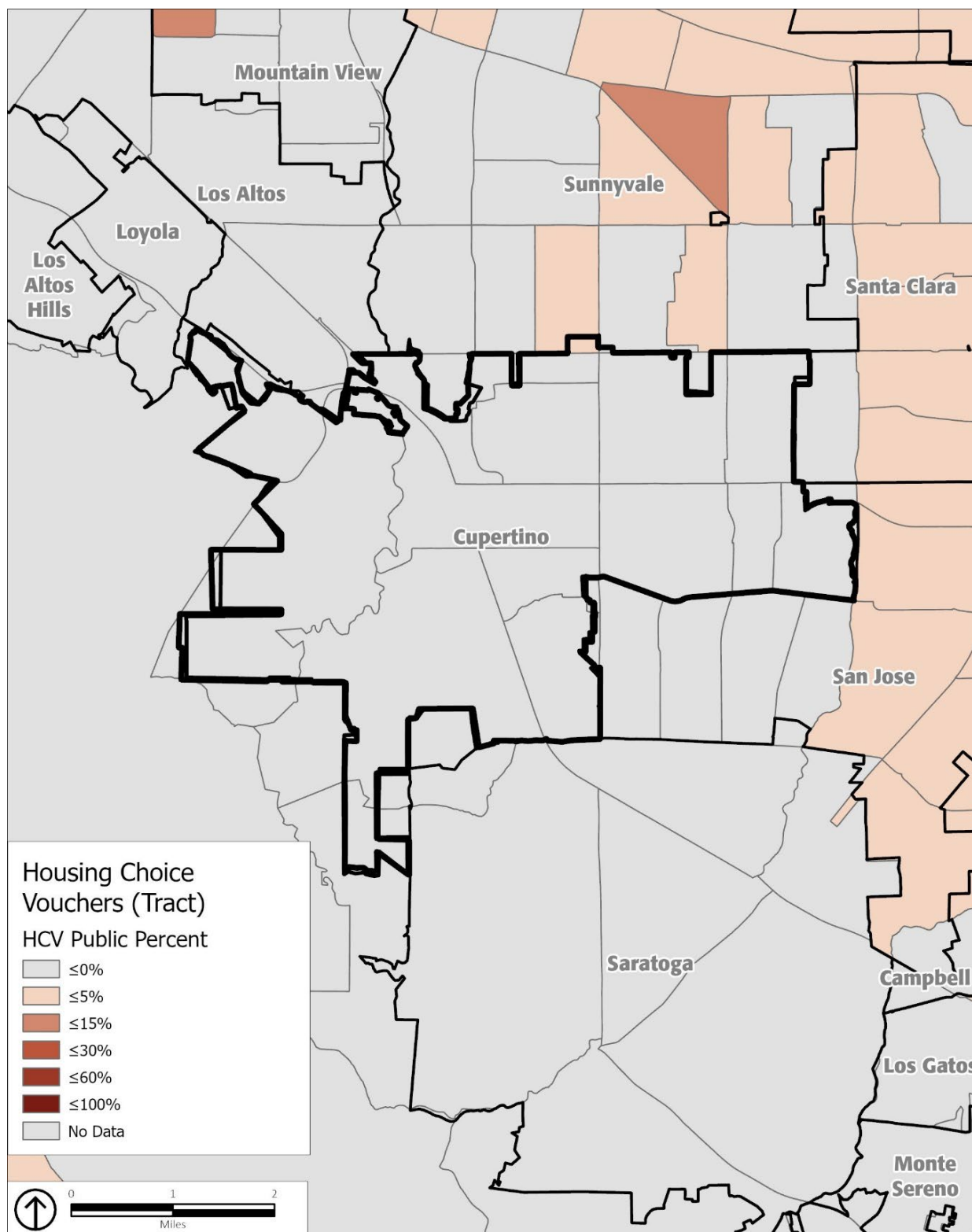
Figure B3-11 Public Housing Buildings, Santa Clara County



Source: California Department of Housing and Community Development AFFH Data Viewer

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Figure B3-12 Housing Choice Vouchers by Census Tract



Source: California Department of Housing and Community Development AFFH Data Viewer



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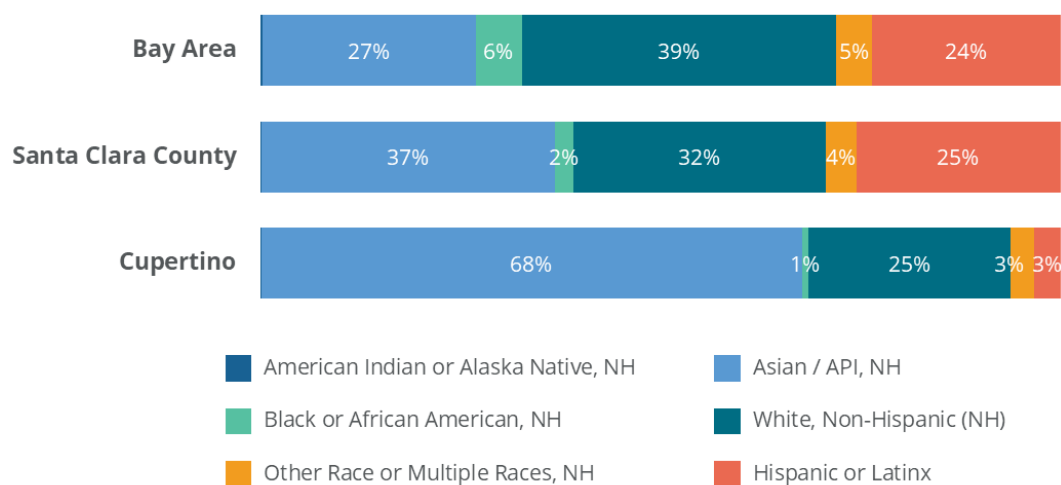
## INTEGRATION AND SEGREGATION

This section provides information on factors such as race, ethnicity, diversity, segregation, and disability status in Cupertino, along with supporting maps.

## RACE AND ETHNICITY

**Figures B3-13** and **B3-14** show population by race and ethnicity in Cupertino. **Figure B3-15** shows senior and youth population by race. **Figures B3-16** and **B3-17** show AMI and poverty rate by race and ethnicity. **Figure B3-18** shows the percentage non-white population by census block groups. **Figures B3-19** through **B3-21** show census tracts by racial majority. **Figure B3-22** shows neighborhood segregation by census tract. **Figures B3-23** and **B3-24** show the diversity index by block group. **Figure B3-25** shows the share of population in Cupertino by disability status and **Figure B3-26** shows population with a disability by census tract. **Figure B3-27** shows age distribution in Cupertino. **Figures B3-28** through **B3-31** show share of households by size, type, presence of children, and tenure. **Figure B3-32** shows housing units by number of bedrooms and tenure. **Figure B3-33** through **B3-36** show household data by census tract.

**Figure B3-13 Population by Race and Ethnicity, Cupertino, 2019**

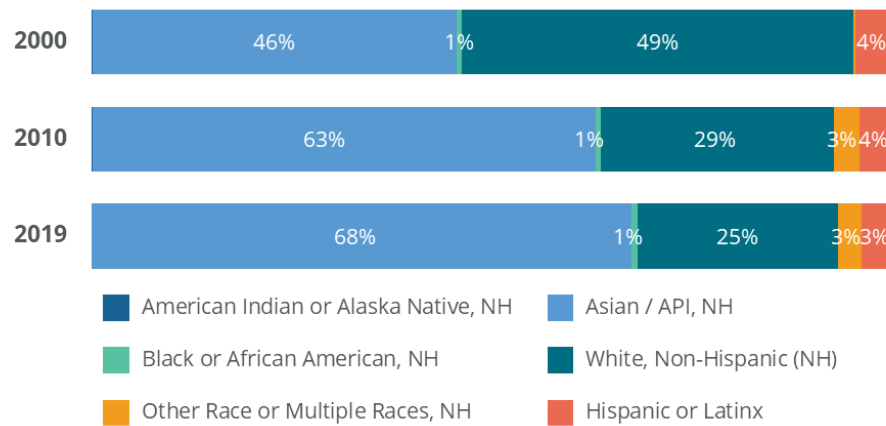


Source: ABAG Housing Needs Data Workbook



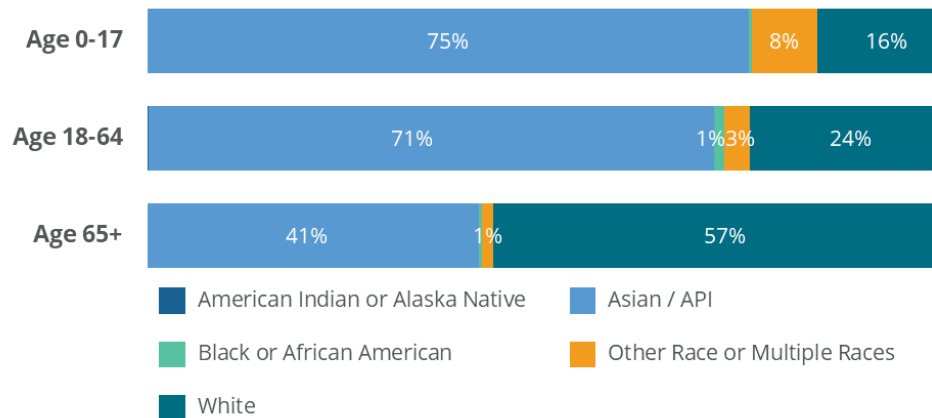
## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-14 Population by Race and Ethnicity, Cupertino, 2000-2019**



Source: ABAG Housing Needs Data Workbook

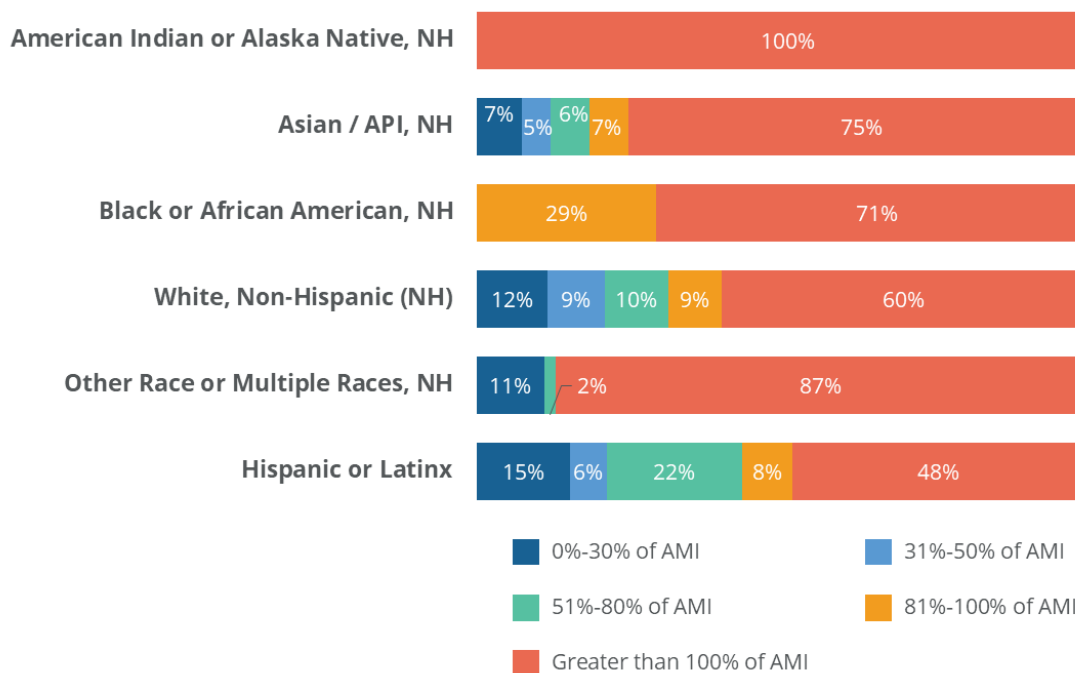
**Figure B3-15 Senior and Youth Population by Race, Cupertino, 2000-2019**



Source: ABAG Housing Needs Data Workbook

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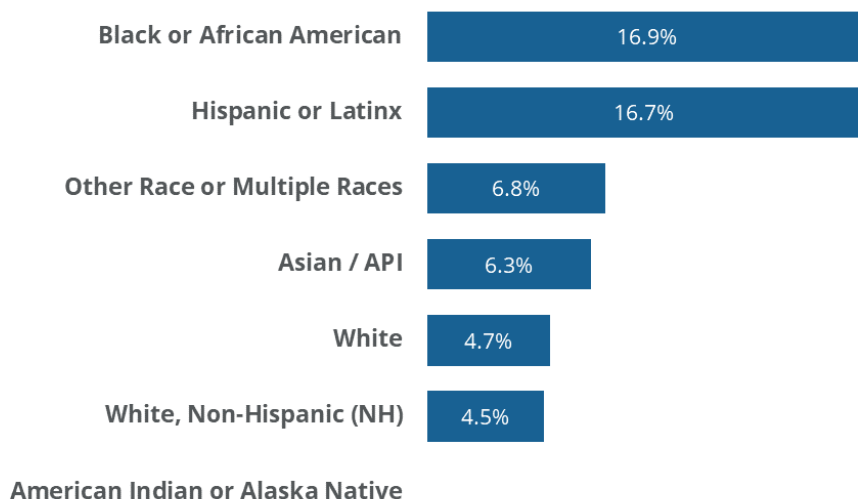
**Figure B3-16**  
**Area Median Income by Race and Ethnicity, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

NOTE: Black or African American Area Median Income comes from ABAG, but it does not align with Figure B3-17's poverty rate.

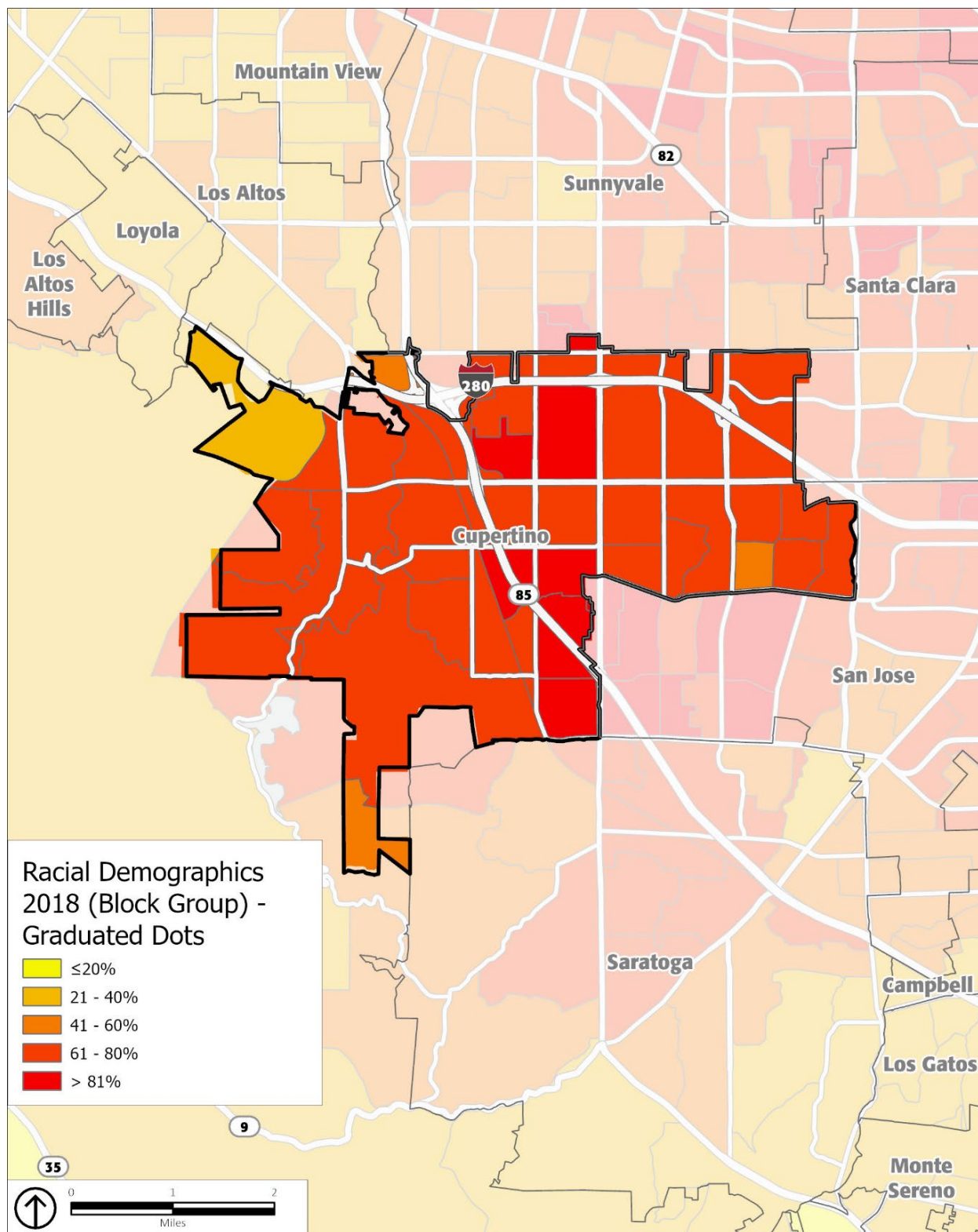
**Figure B3-17** **Poverty Rate by Race and Ethnicity, Cupertino 2019**



Source: ABAG Housing Needs Data Workbook

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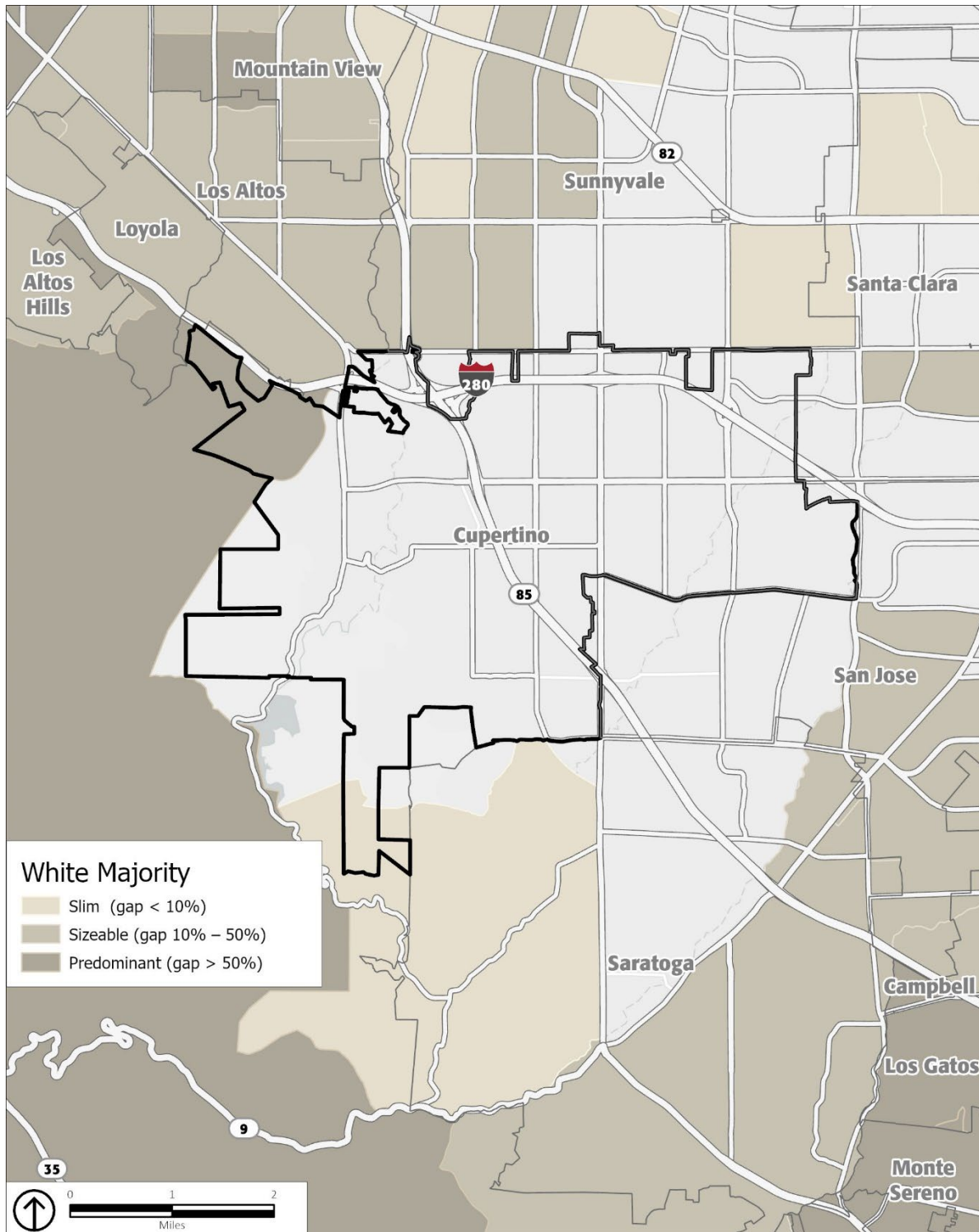
Figure B3-18 Percentage Non-White Population by Census Block Groups, 2018



Source: California Department of Housing and Community Development AFFH Data Viewer

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Figure B3-19 White Majority Census Tracts

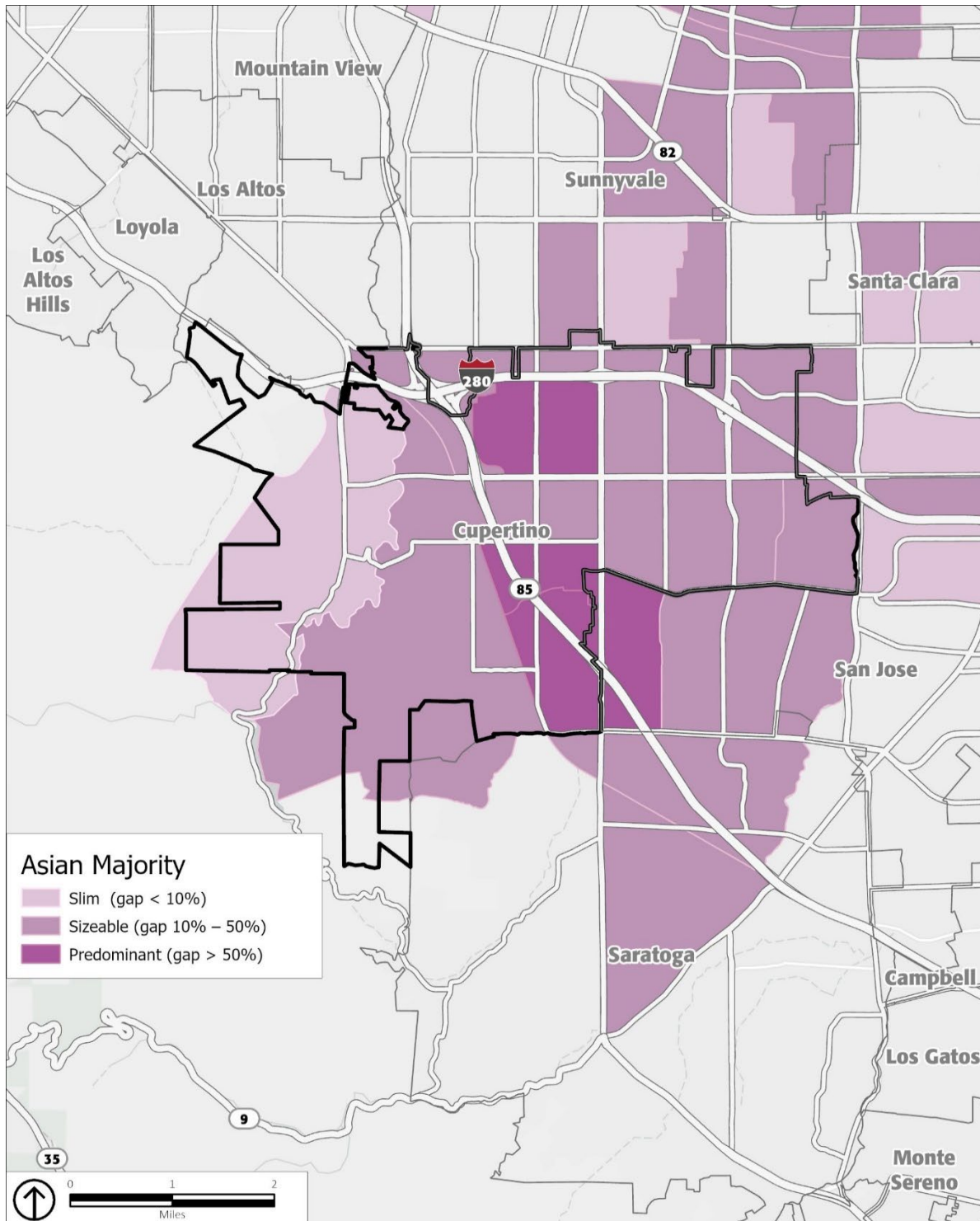


Source: California Department of Housing and Community Development AFFH Data Viewer



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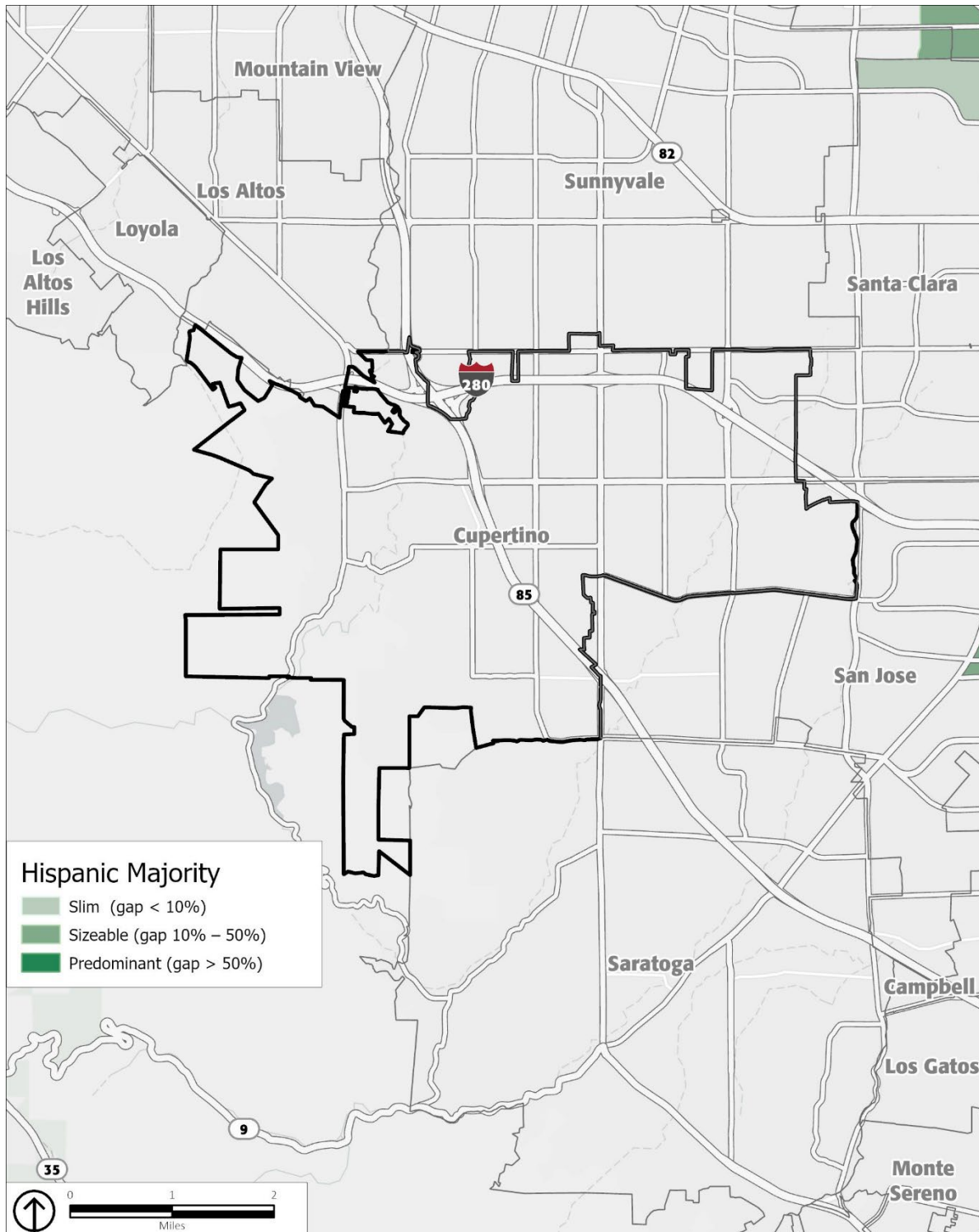
Figure B3-20 Asian Majority Census Tracts



Source: California Department of Housing and Community Development AFFH Data Viewer

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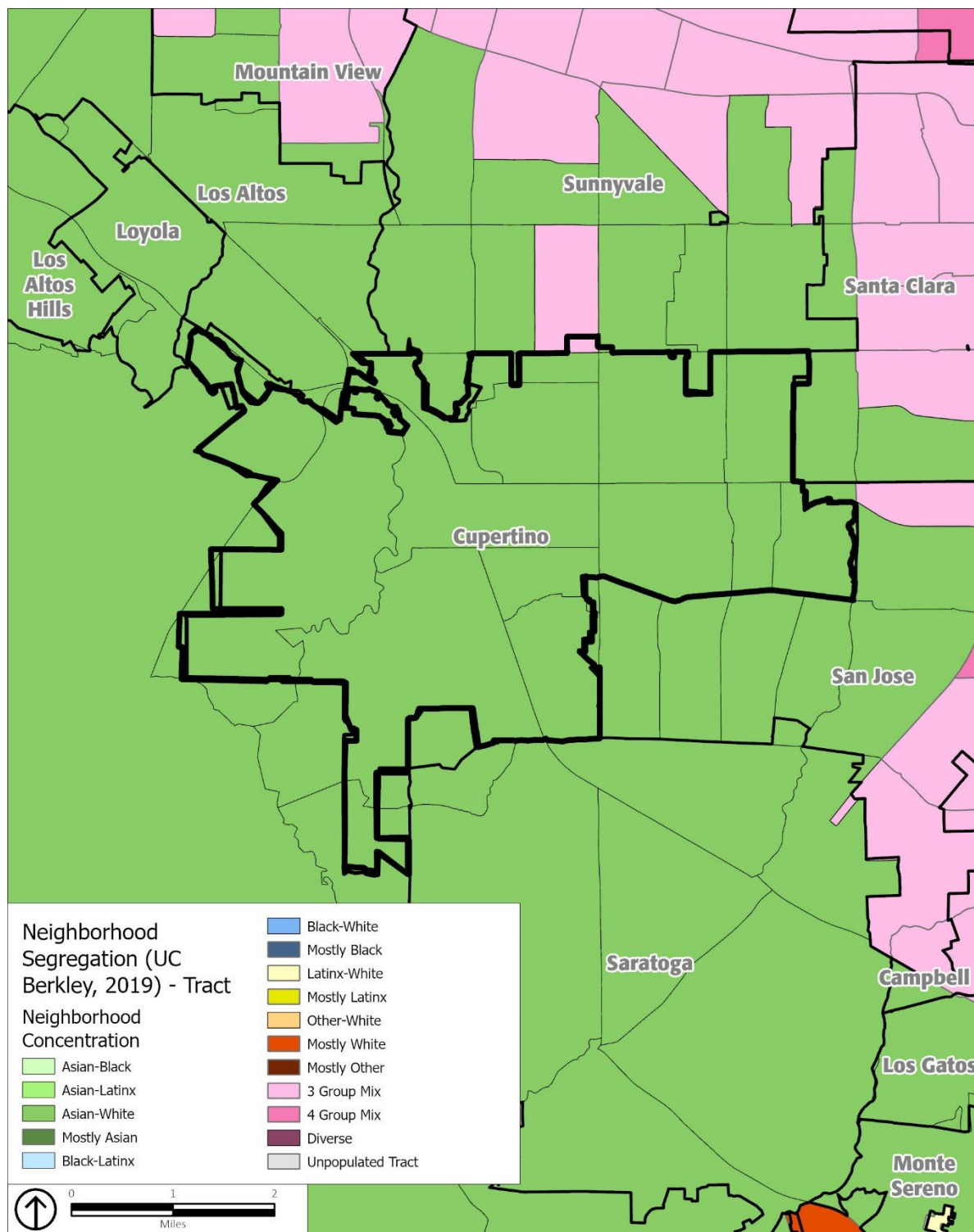
**Figure B3-21 Hispanic Majority Census Tracts**



Source: California Department of Housing and Community Development AFFH Data Viewer

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Figure B3-22 Neighborhood Segregation by Census Tract, 2019

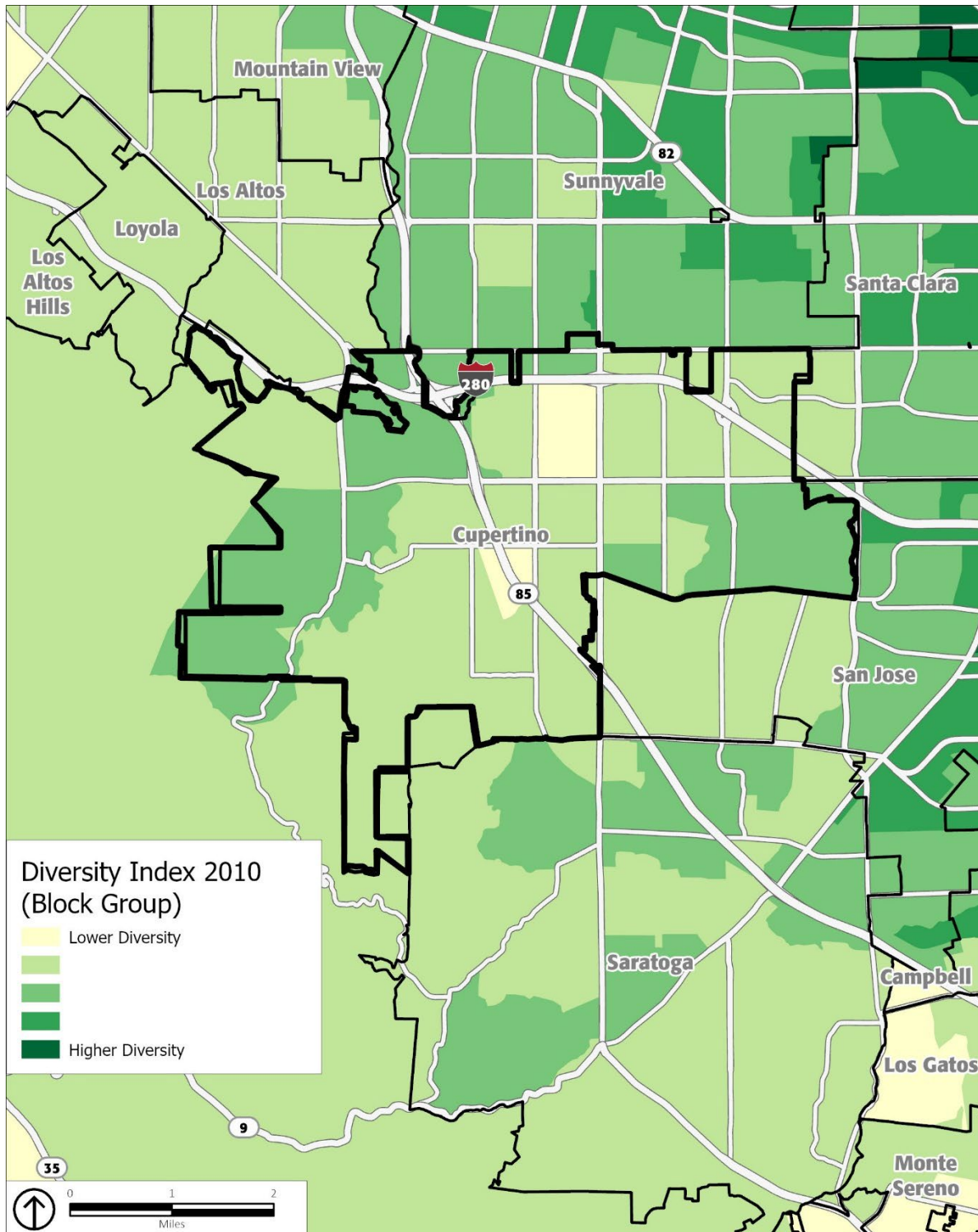


Source: California Department of Housing and Community Development AFFH Data Viewer



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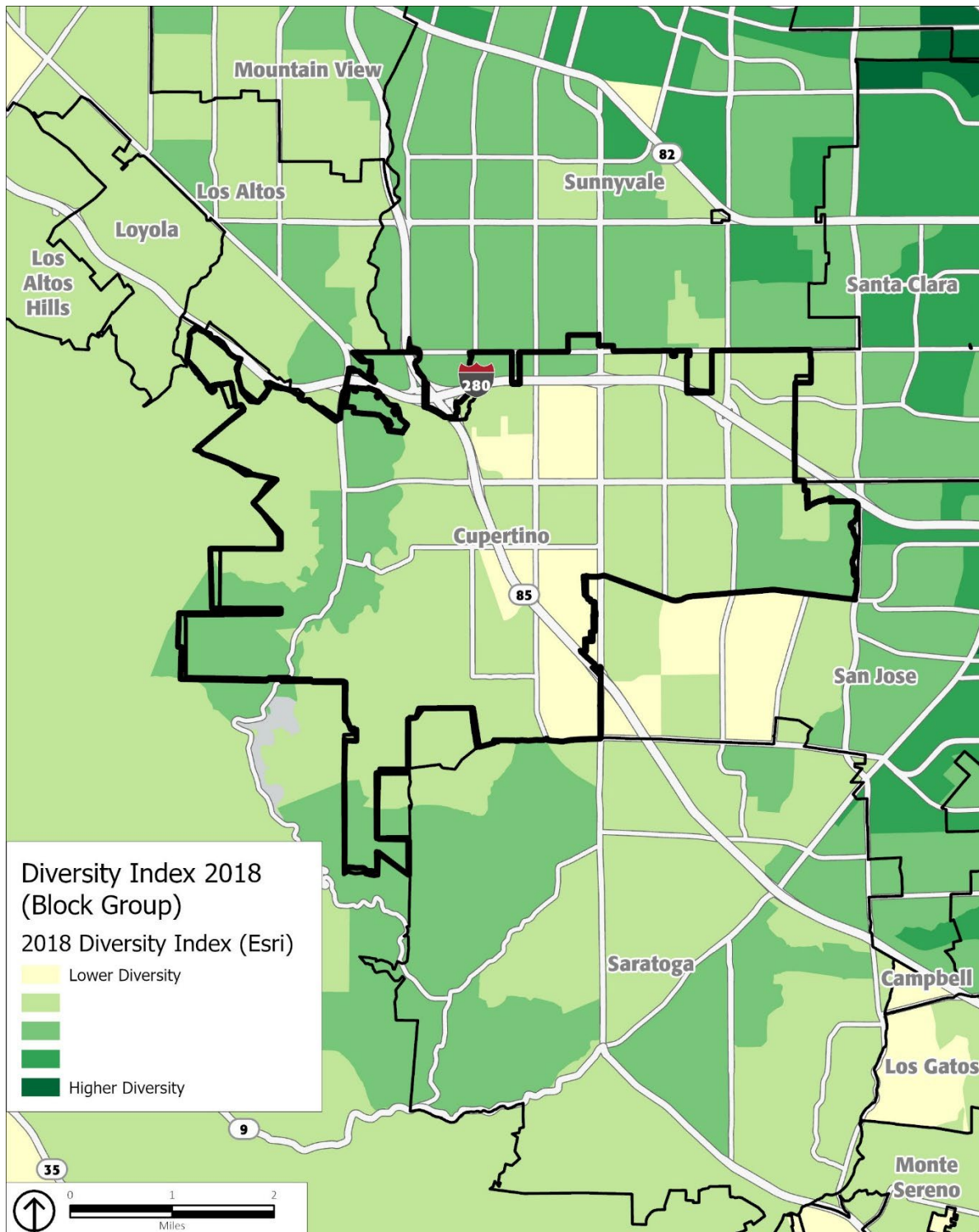
Figure B3-23 Diversity Index by Block Group, 2010



Source: California Department of Housing and Community Development AFFH Data Viewer



Figure B3-24 Diversity Index by Block Group, 2018

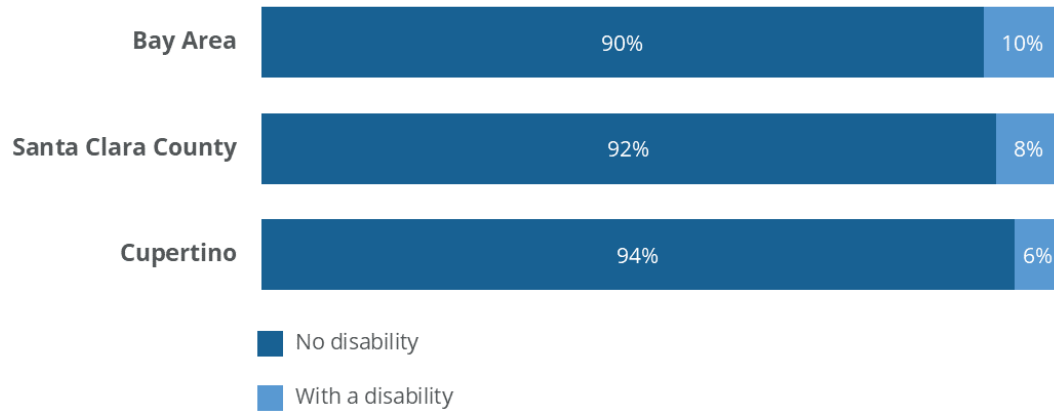


Source: California Department of Housing and Community Development AFFH Data Viewer

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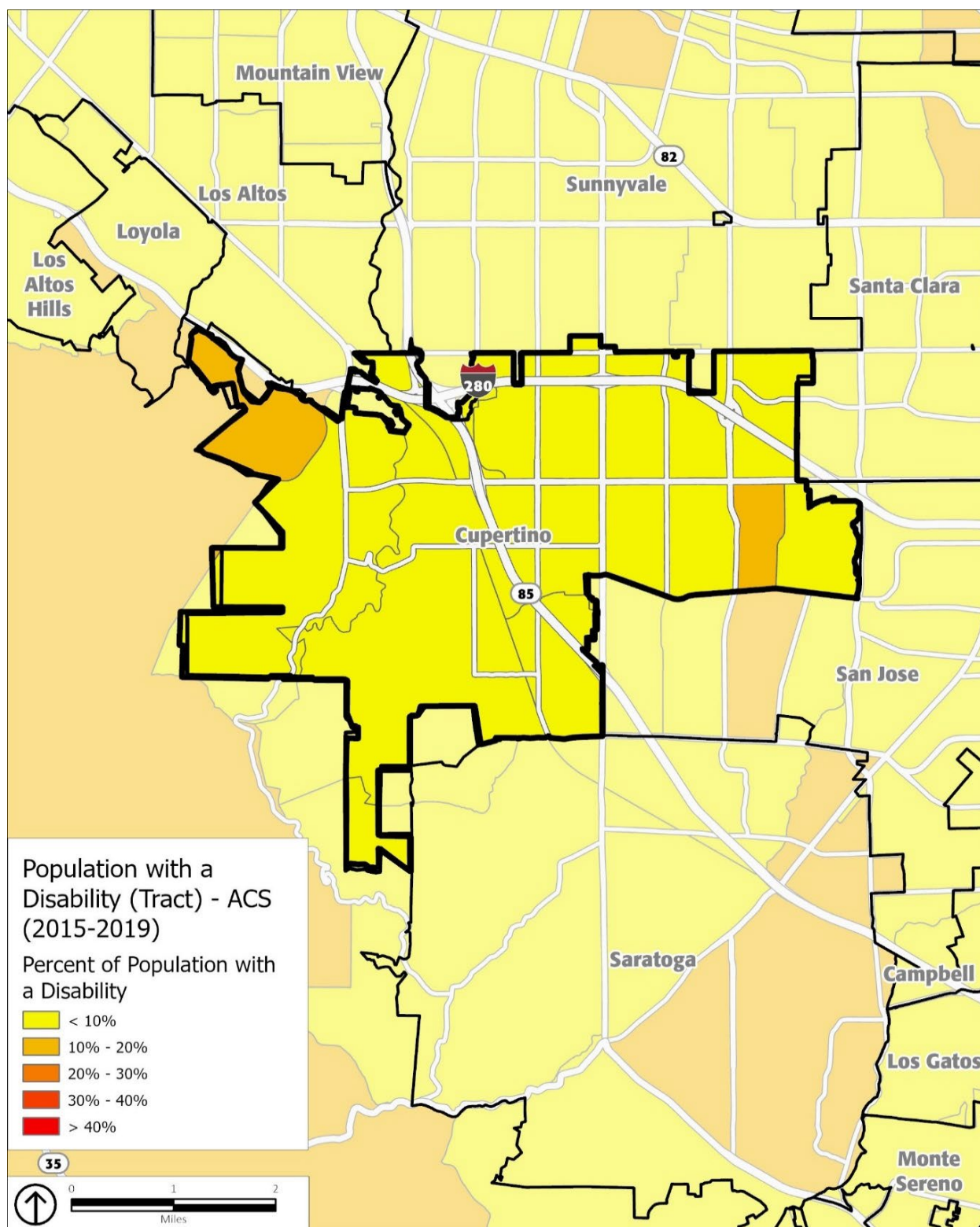
DISABILITY STATUS.

**Figure B3-25 Share of Population by Disability Status, 2019**



Source: ABAG Housing Needs Data Workbook

**Figure B3-26 Percentage of Population with a Disability by Census Tract, 2019**

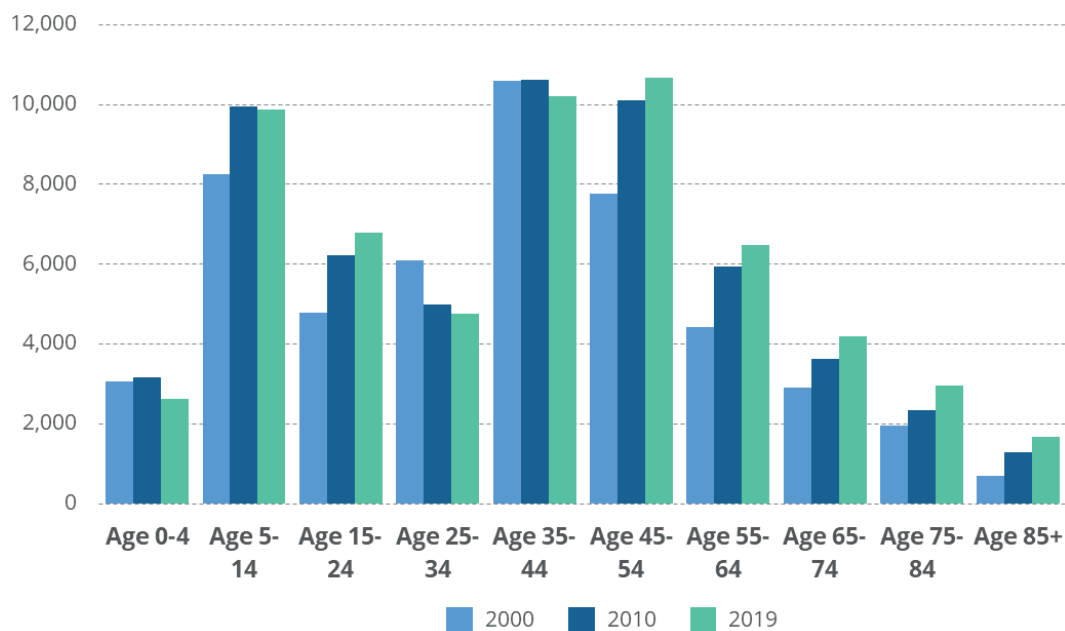


Source: California Department of Housing and Community Development AFFH Data Viewer

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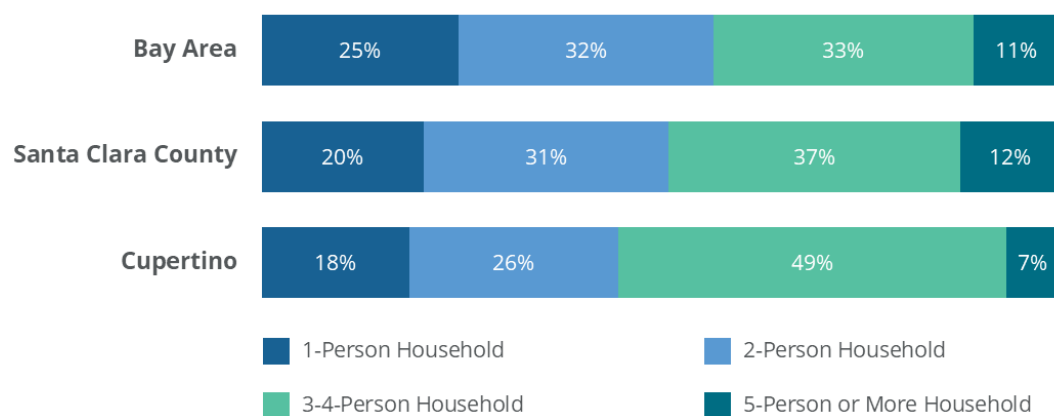
### FAMILIAL STATUS.

**Figure B3-27 Age Distribution, Cupertino, 2000-2019**



Source: ABAG Housing Needs Data Workbook

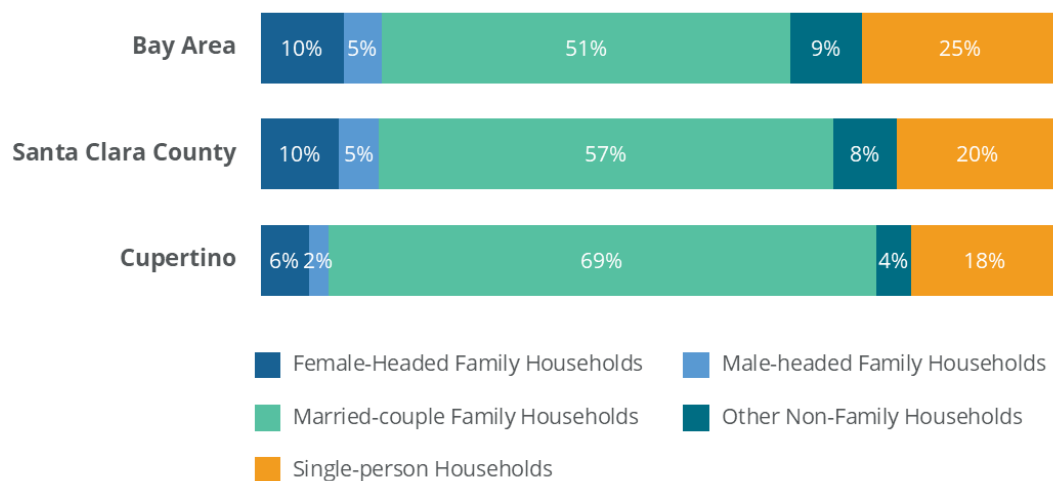
**Figure B3-28 Share of Households by Size, 2019**



Source: ABAG Housing Needs Data Workbook

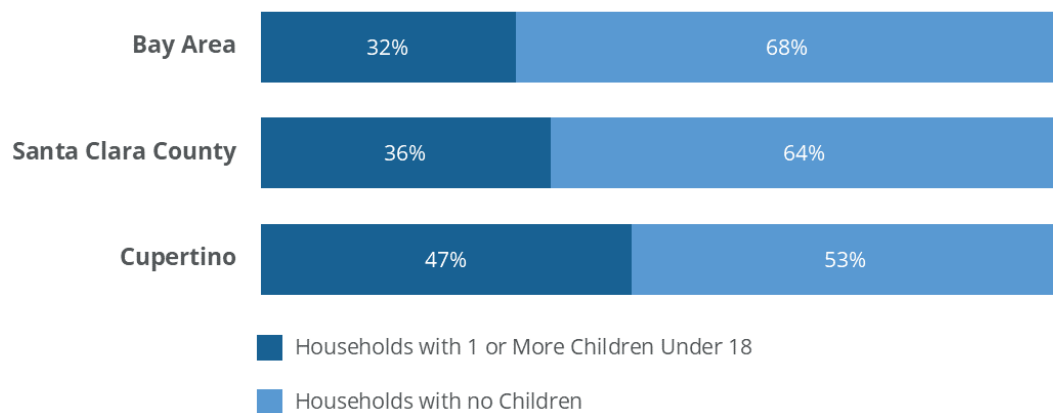
## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-29 Share of Households by Type, 2019**



Source: ABAG Housing Needs Data Workbook

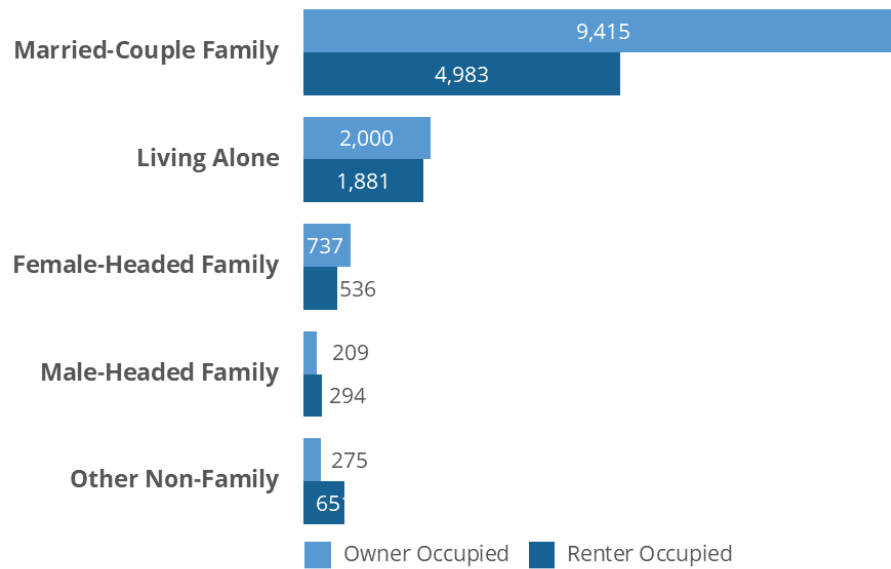
**Figure B3-30 Share of Households by Presence of Children (Less than 18 years old), 2019**



Source: ABAG Housing Needs Data Workbook

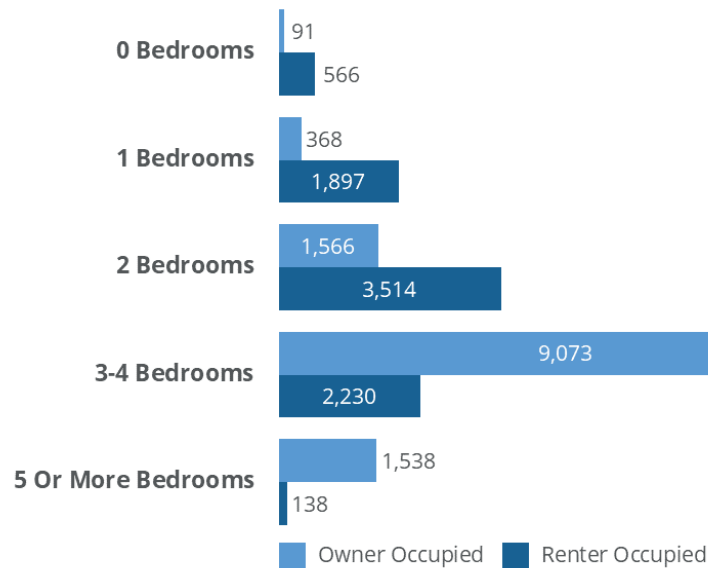
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**Figure B3-31 Housing Type by Tenure, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

**Figure B3-32 Housing Units by Number of Bedrooms and Tenure, Cupertino, 2019**

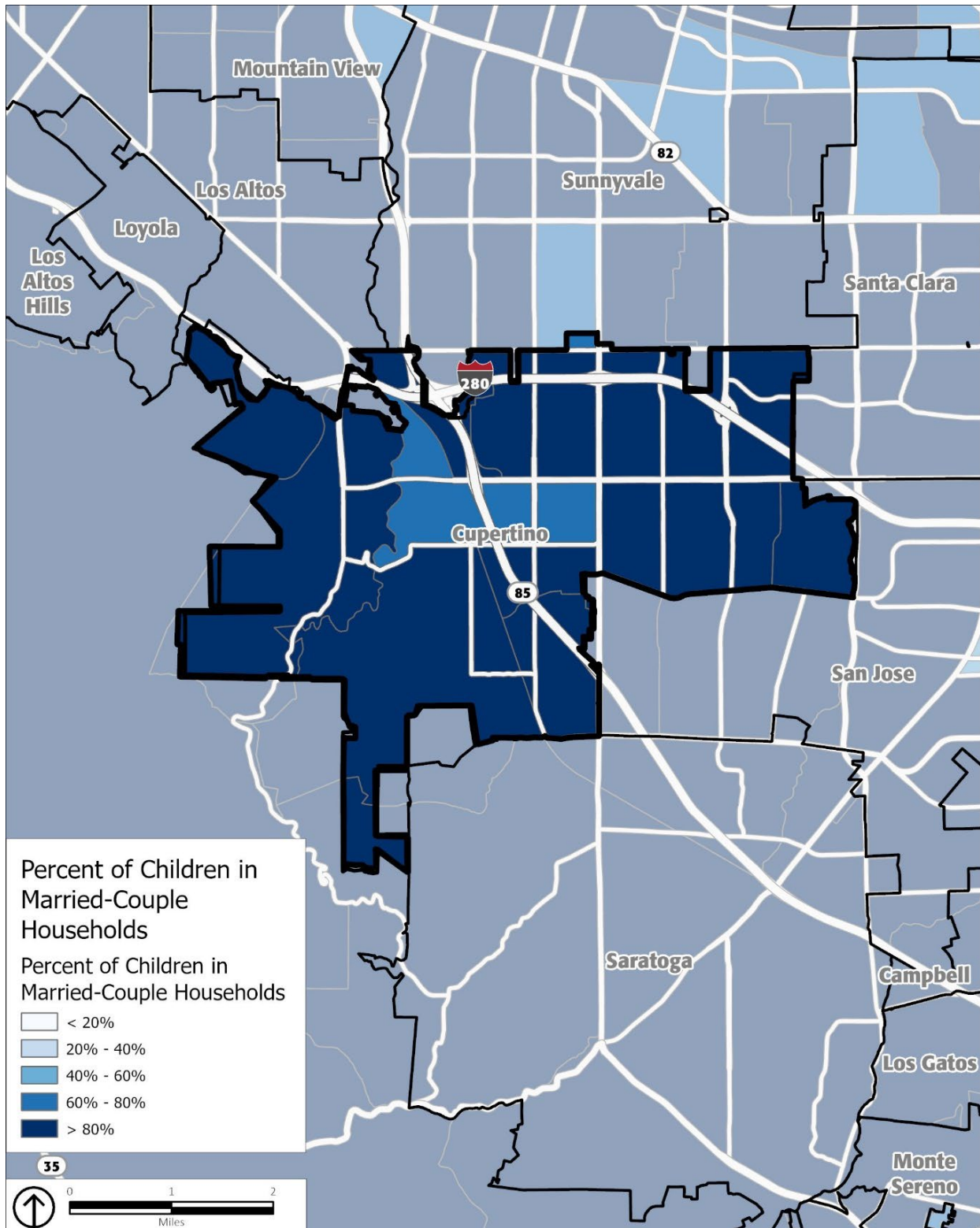


Source: ABAG Housing Needs Data Workbook



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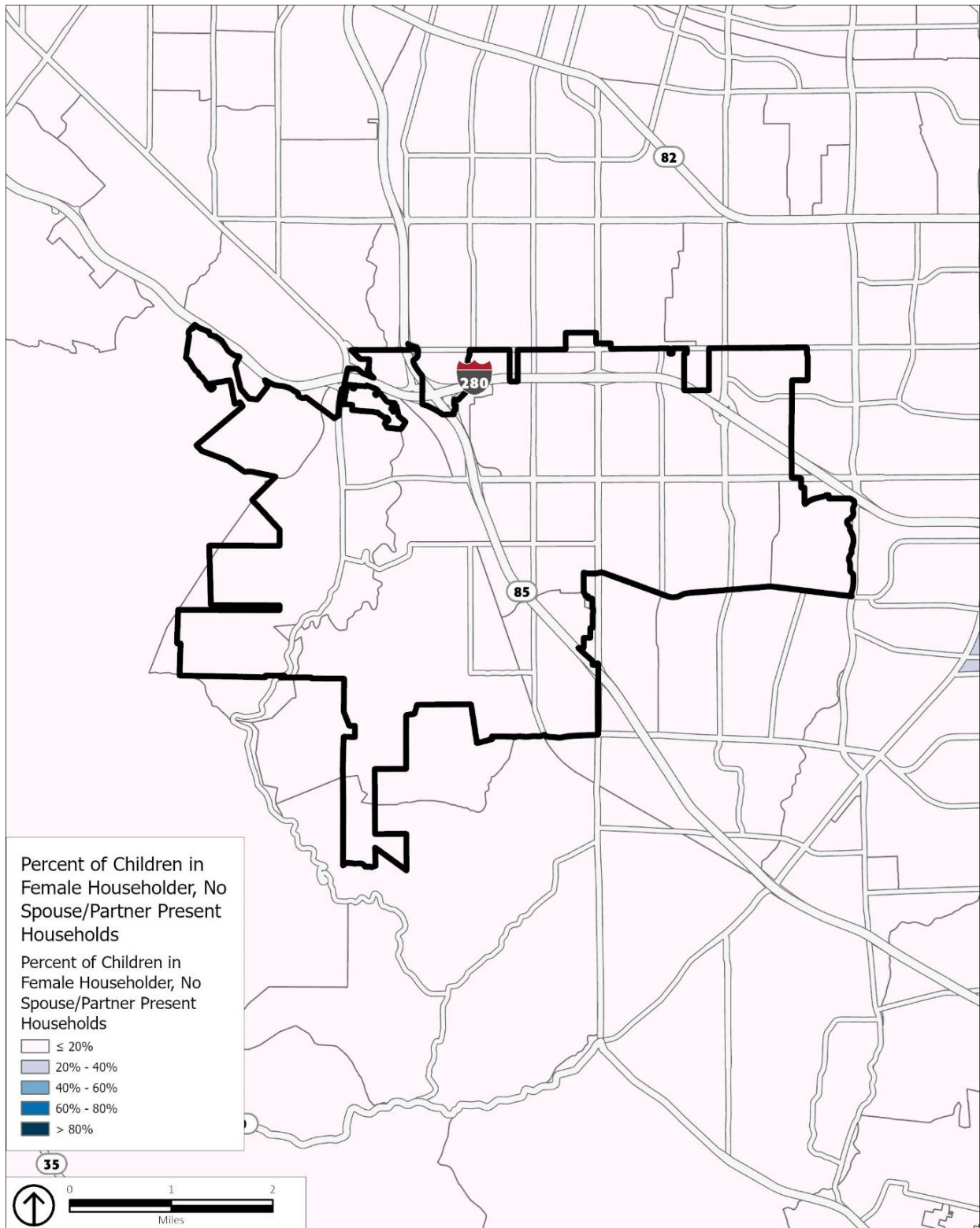
**Figure B3-33 Percentage of Children in Married-Couple Households by Census Tract, 2019**



Source: California Department of Housing and Community Development AFFH Data Viewer

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**Figure B3-34 Percent Households with Single Female with Children by Census Tract, 2019**

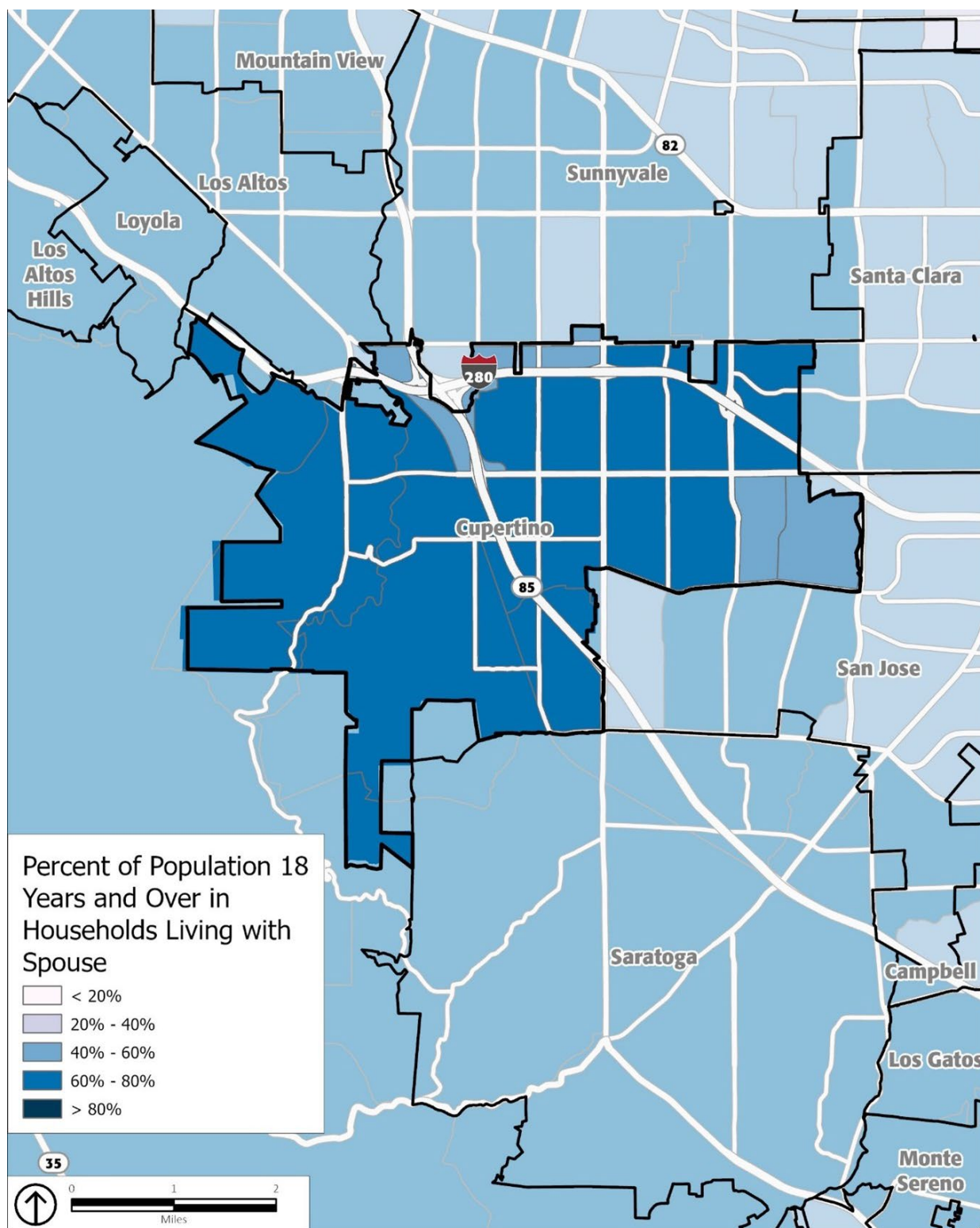


Source: California Department of Housing and Community Development AFFH Data Viewer



APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

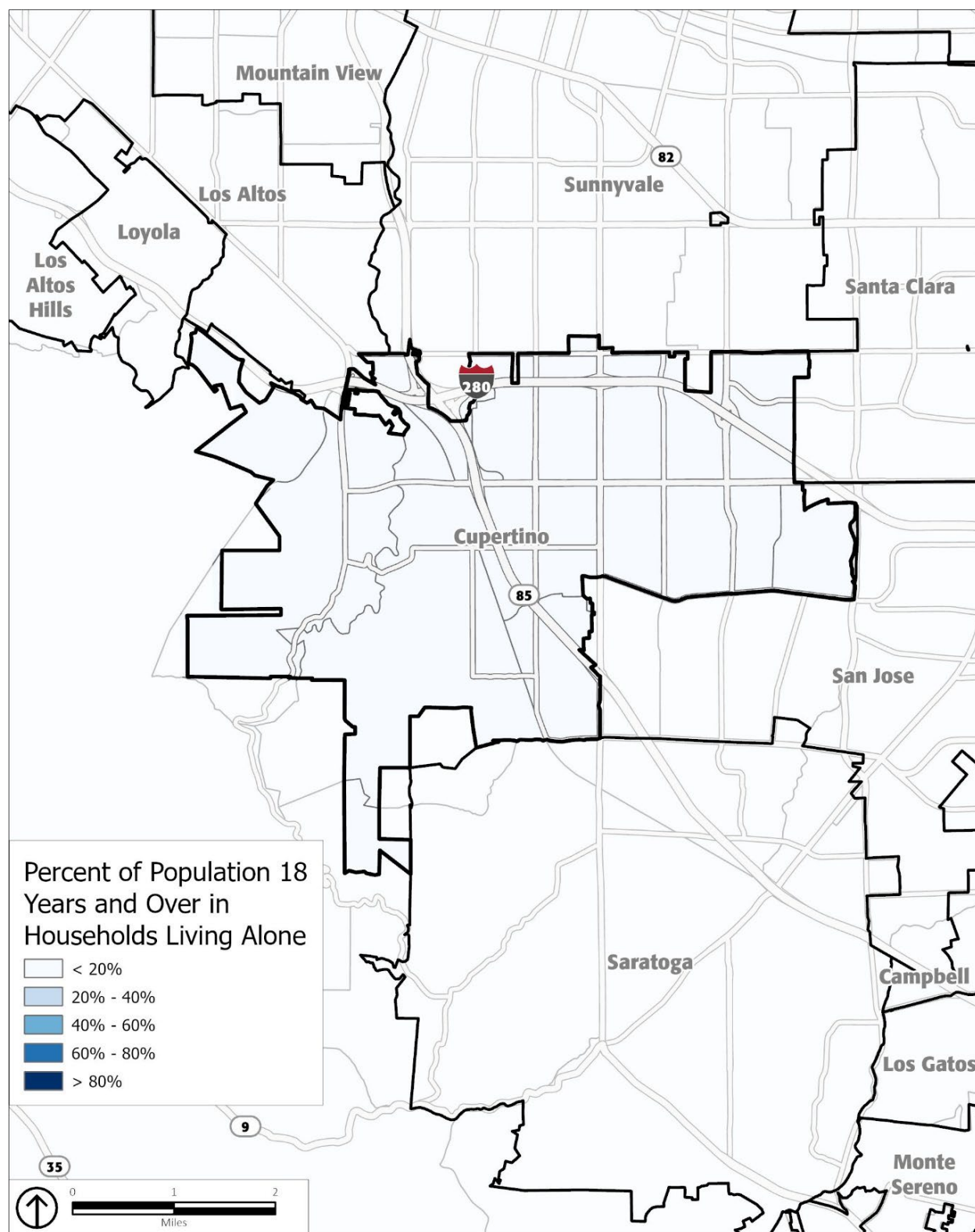
Figure B3-35 Percentage of Married Couple Households by Census Tract, 2019



Source: California Department of Housing and Community Development AFFH Data Viewer

APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-36 Percentage of Adults Living Alone by Census Tract, 2019**

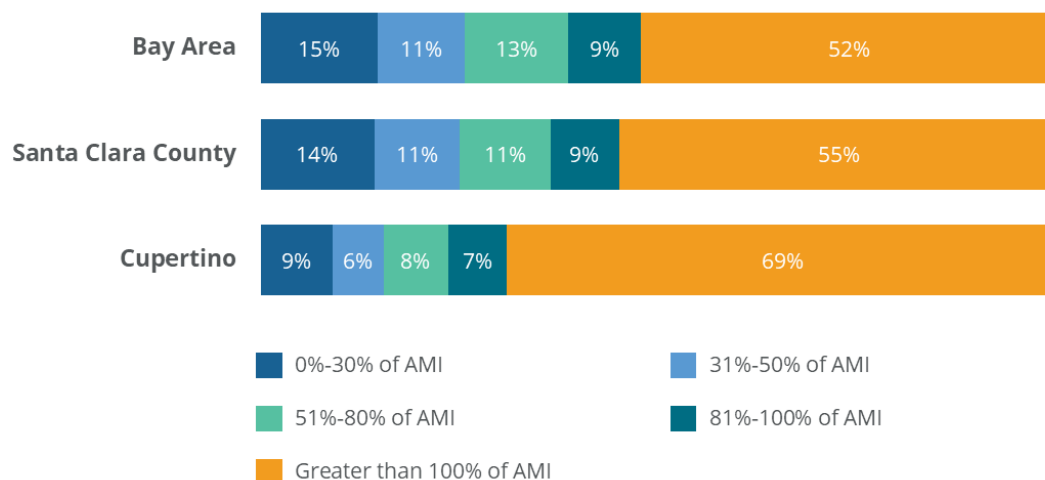


Source: California Department of Housing and Community Development AFFH Data Viewer

## HOUSEHOLD INCOME

Figure B3-37 through B3-41 depict data on housing income in Cupertino.

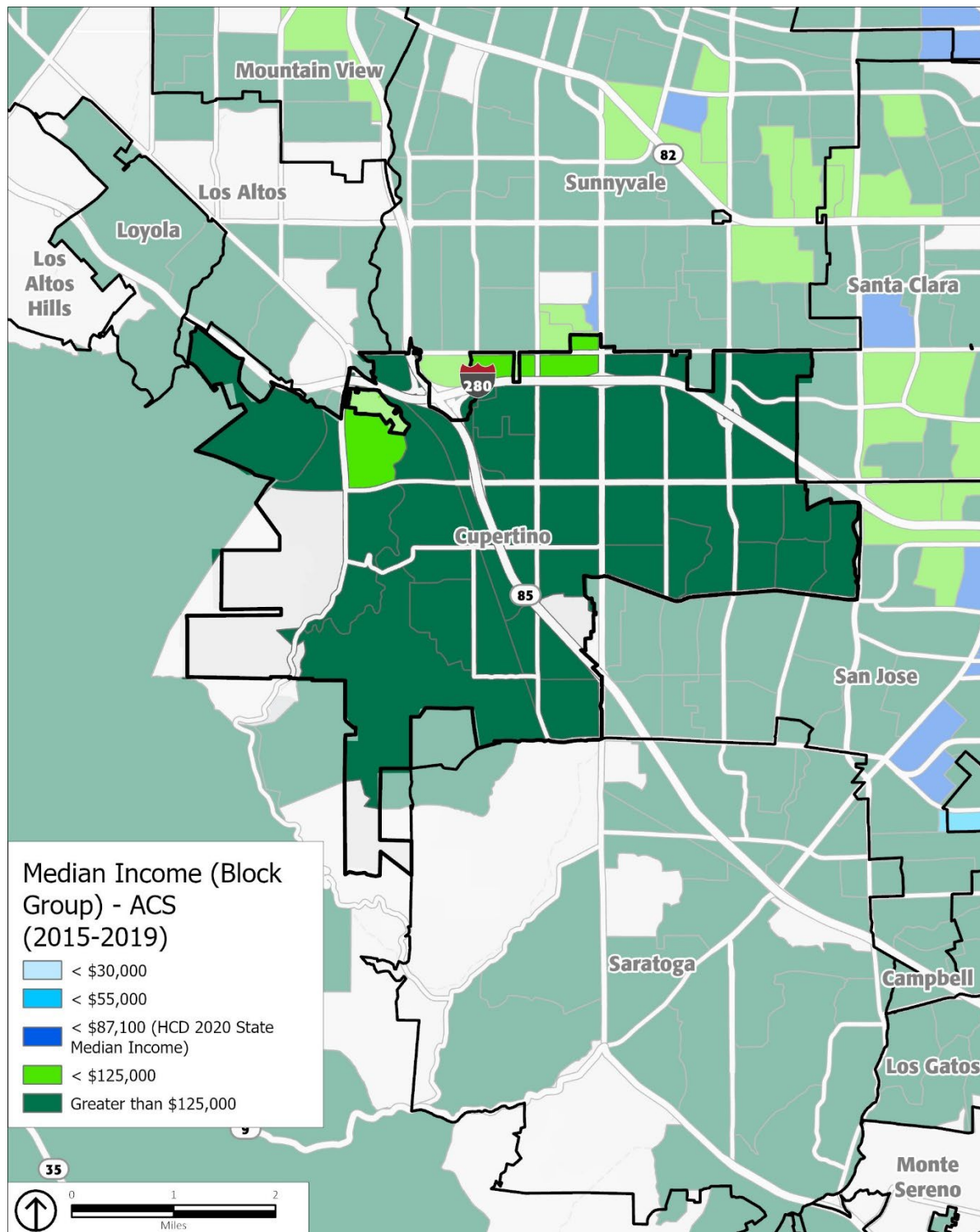
**Figure B3-37 Share of Households by Area Median Income (AMI), 2019**



Source: ABAG Housing Needs Data Workbook

APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Figure B3-38 Median Household Income by Block Group, 2019

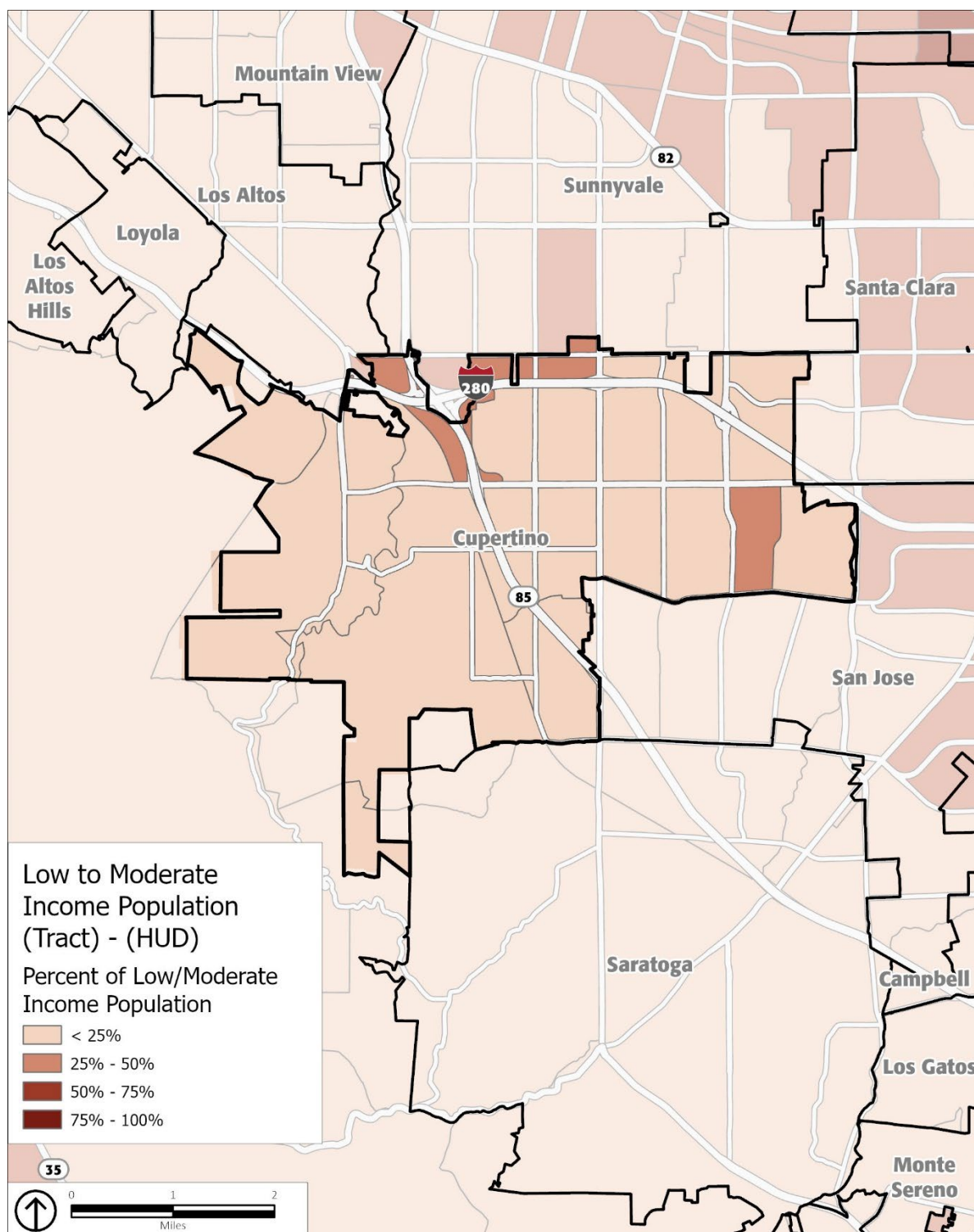


Source: California Department of Housing and Community Development AFFH Data Viewer



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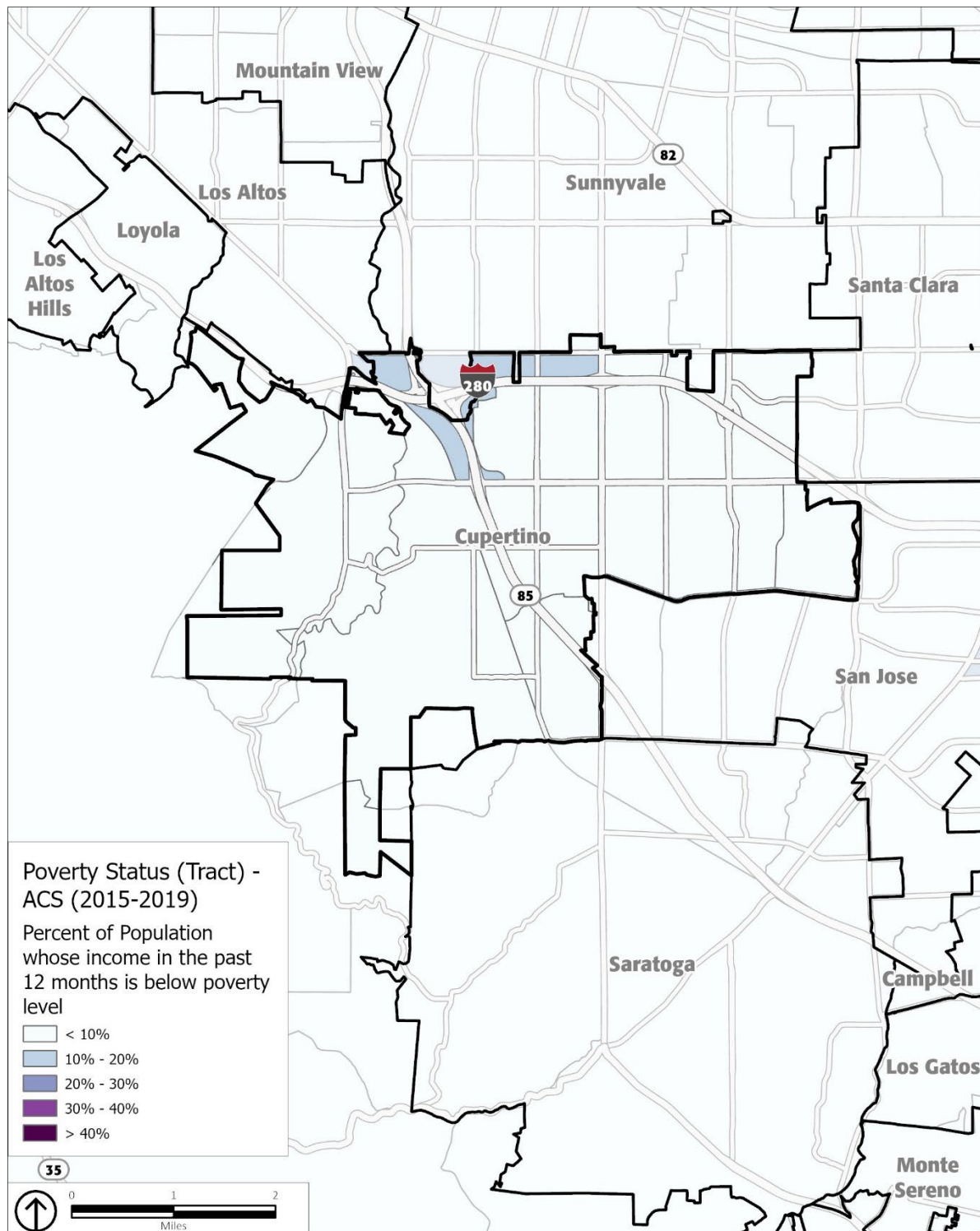
**Figure B3-39 Low to Moderate Income Population by Block Group**



Source: California Department of Housing and Community Development AFFH Data Viewer

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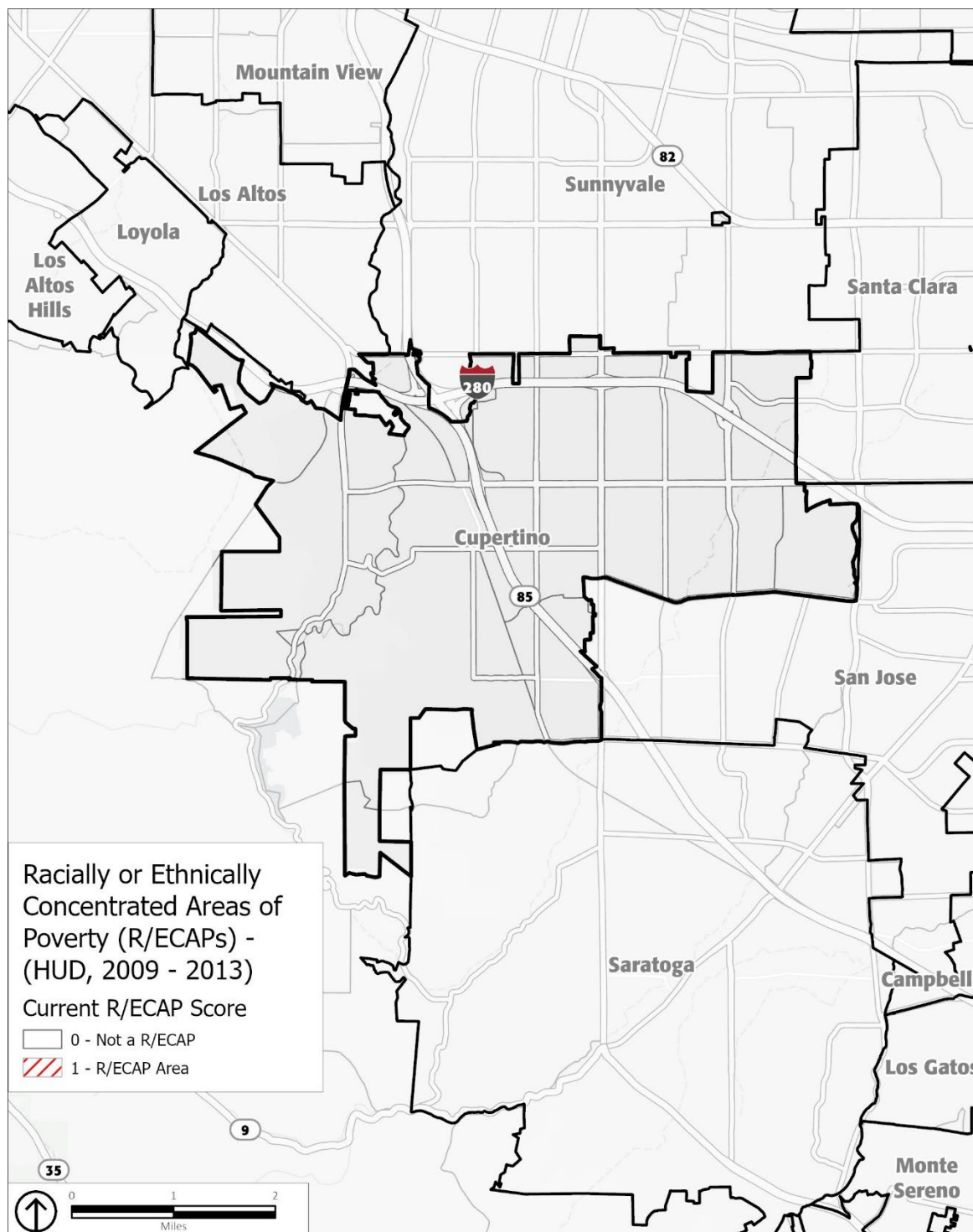
Figure B3-40 Poverty Status by Census Tract, 2019



Source: California Department of Housing and Community Development AFFH Data Viewer

# APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-41 R/ECAPs, 2013**



Source: California Department of Housing and Community Development AFFH Data Viewer

Note: R/ECAPs are census tracts that have a non-white population of 50% or more (majority-minority) AND the poverty rate is three times the average tract poverty rate for the County (19.4% in 2010). Edge R/ECAPs are census tracts that have a non-white population of 50 percent or more (majority-minority) AND the poverty rate is two times the average tract poverty rate for the County (13% in 2010).

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

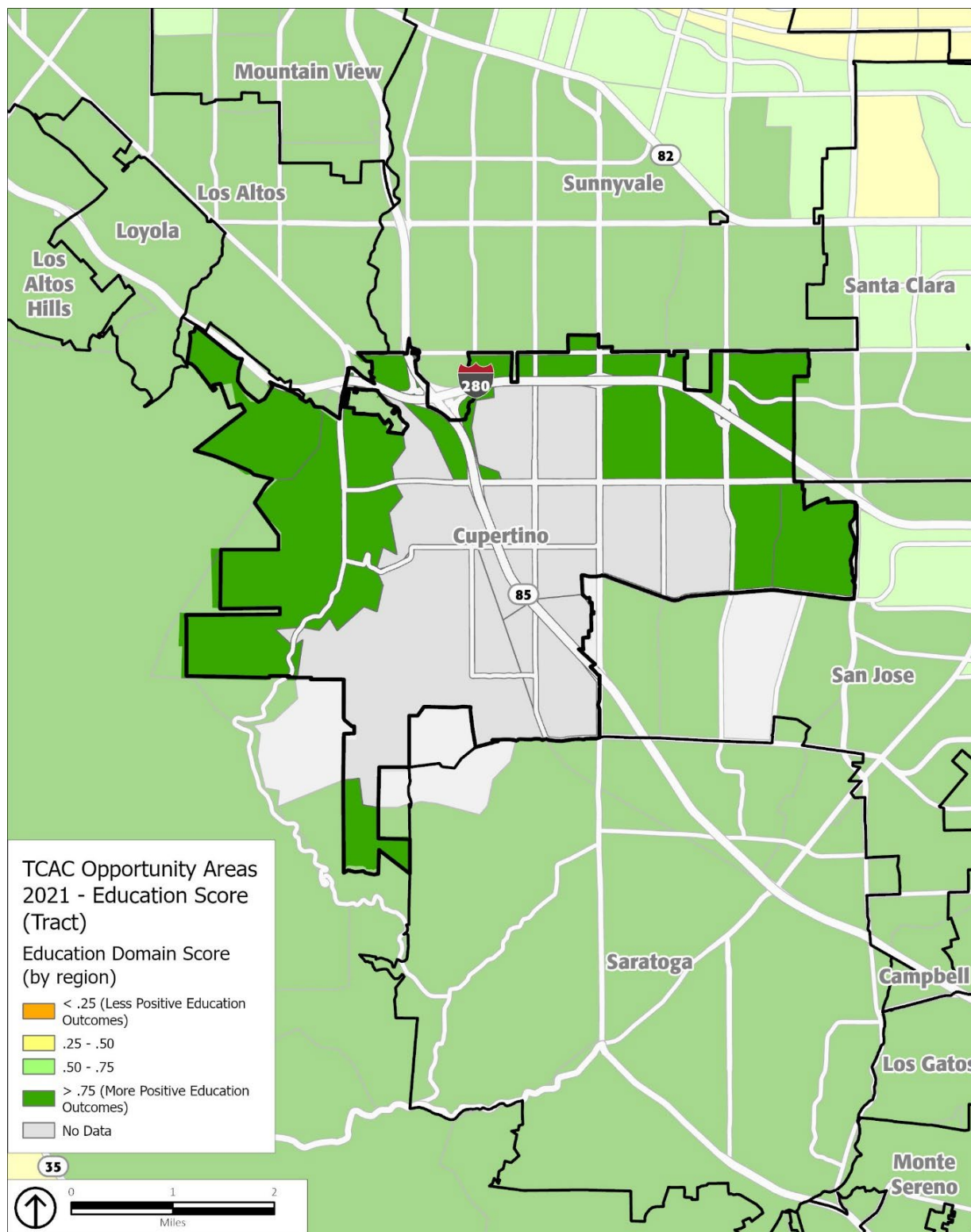
### ACCESS TO OPPORTUNITY EDUCATION

**Figure B3-42** shows TCAC opportunity areas educational score by census tract.



APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Figure B3-42 TCAC Opportunity Areas Education Score by Census Tract, 2021



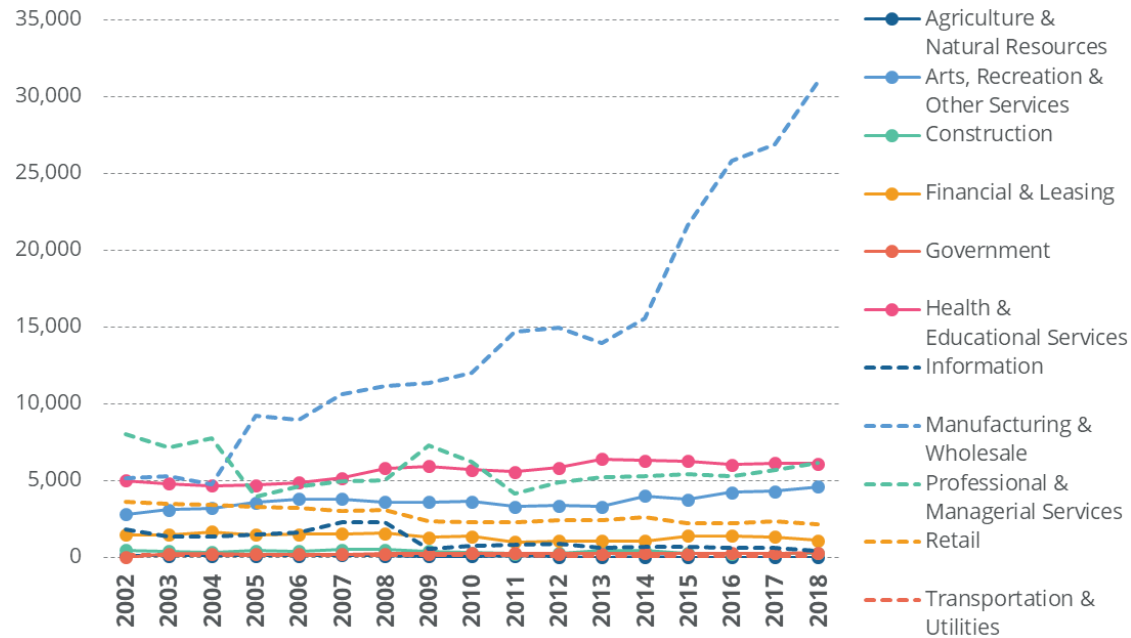
Source: California Department of Housing and Community Development AFFH Data Viewer

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

### EMPLOYMENT

**Figure B3-43** shows jobs by industry in Cupertino for 2002 through 2018. **Figure B3-44** shows job holders by industry. **Figure B3-45** shows jobs to household ratio and **Figure B3-46** shows jobs to worker ratio by wage. **Figure B3-47** depicts the unemployment rate from 2010 through 2021. **Figure B3-48** shows TCAC opportunity areas economic score by census tract. **Figure B3-49** shows jobs proximity index by block group.

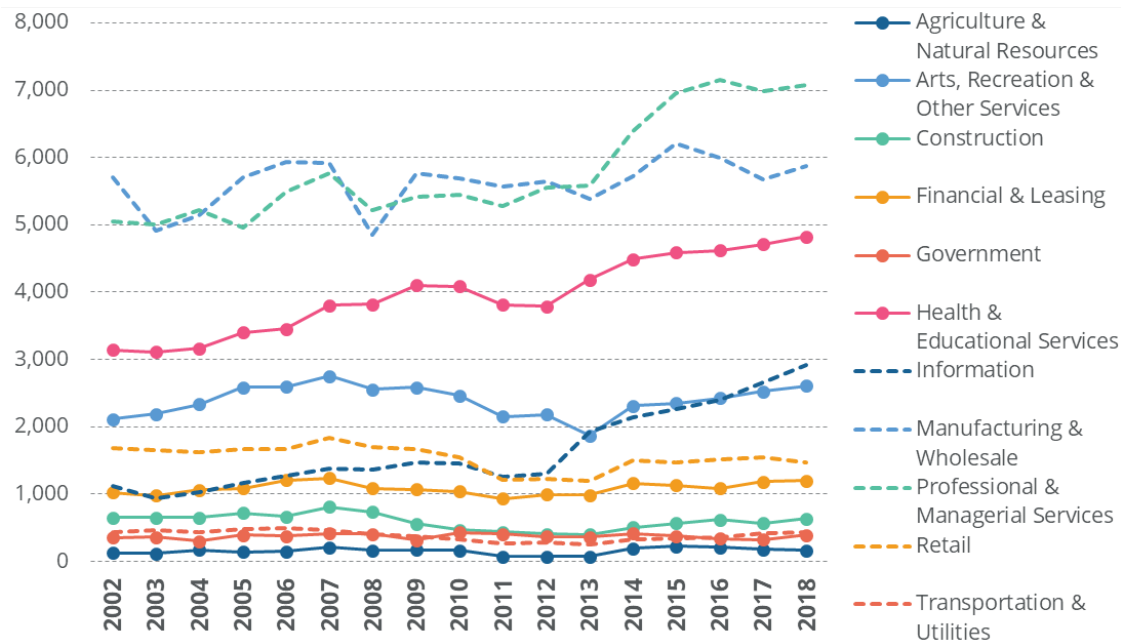
**Figure B3-43 Jobs by Industry, Cupertino, 2002-2018**



Source: ABAG Housing Needs Data Workbook

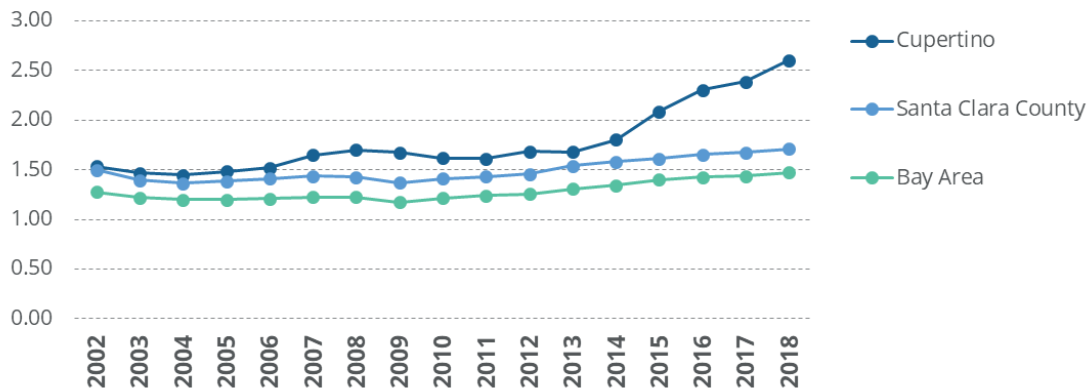
APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-44 Job Holders by Industry, Cupertino, 2002-2018**



Source: ABAG Housing Needs Data Workbook

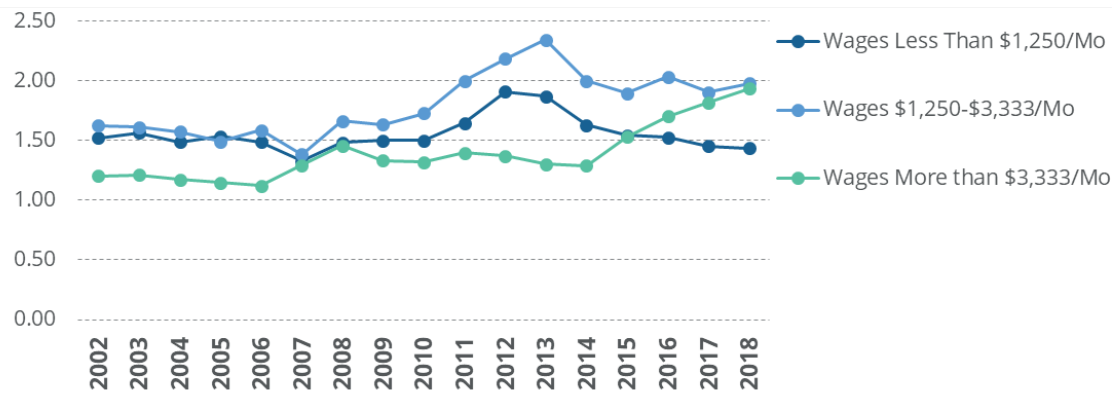
**Figure B3-45 Jobs to Household Ratio, Cupertino, 2002-2018**



Source: ABAG Housing Needs Data Workbook

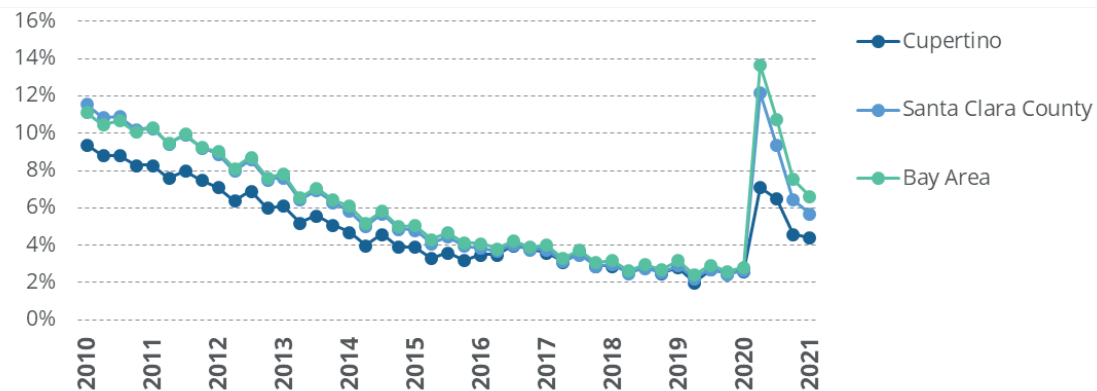
APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-46 Jobs to Worker Ratio by Wage, Cupertino, 2002-2018**



Source: ABAG Housing Needs Data Workbook

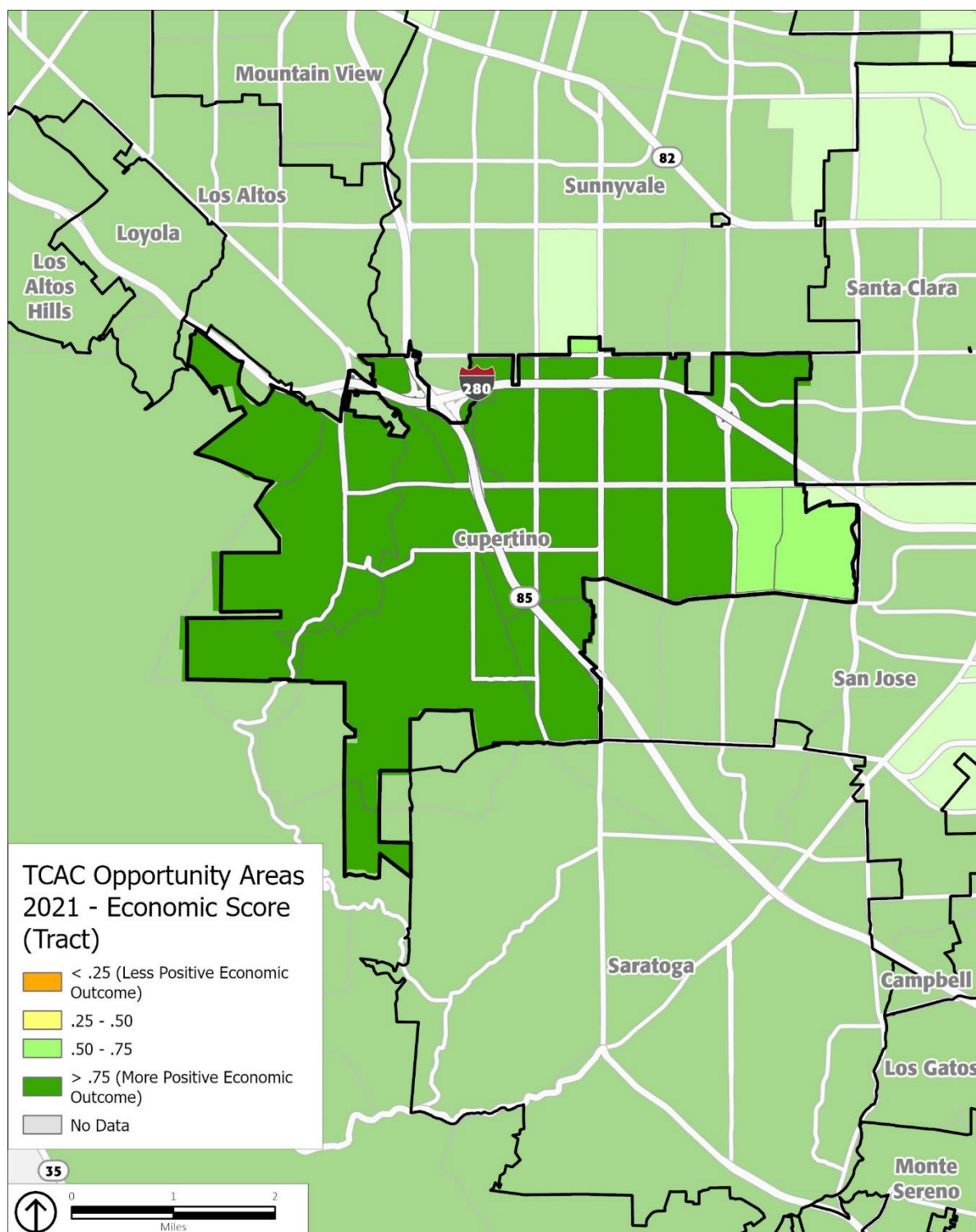
**Figure B3-47 Unemployment Rate, 2010-2021**



Source: ABAG Housing Needs Data Workbook

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Figure B3-48 TCAC Opportunity Areas Economic Score by Census Tract, 2021

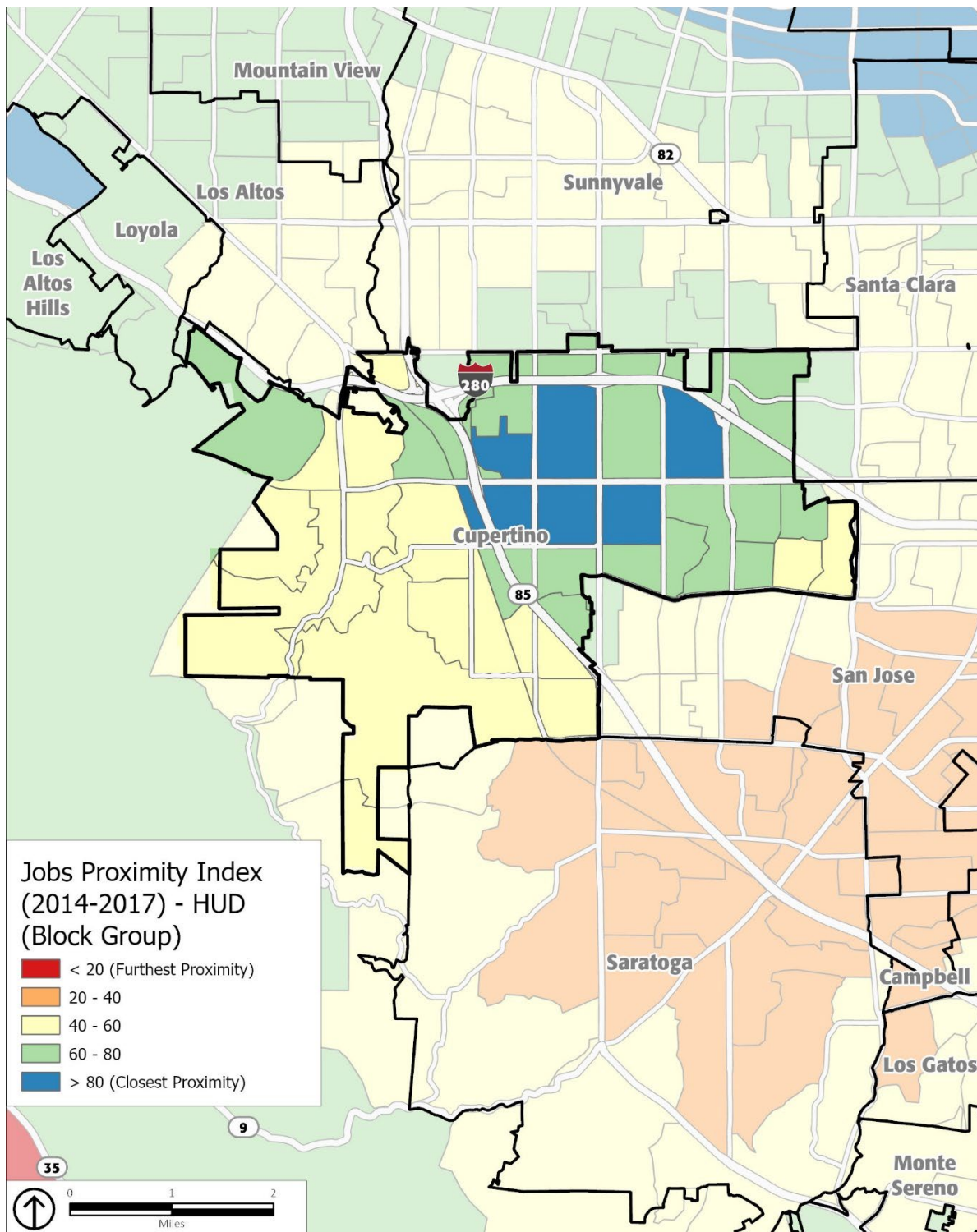


Source: California Department of Housing and Community Development AFFH Data Viewer



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Figure B3-49 Jobs Proximity Index by Block Group, 2017



Source: California Department of Housing and Community Development AFFH Data Viewer

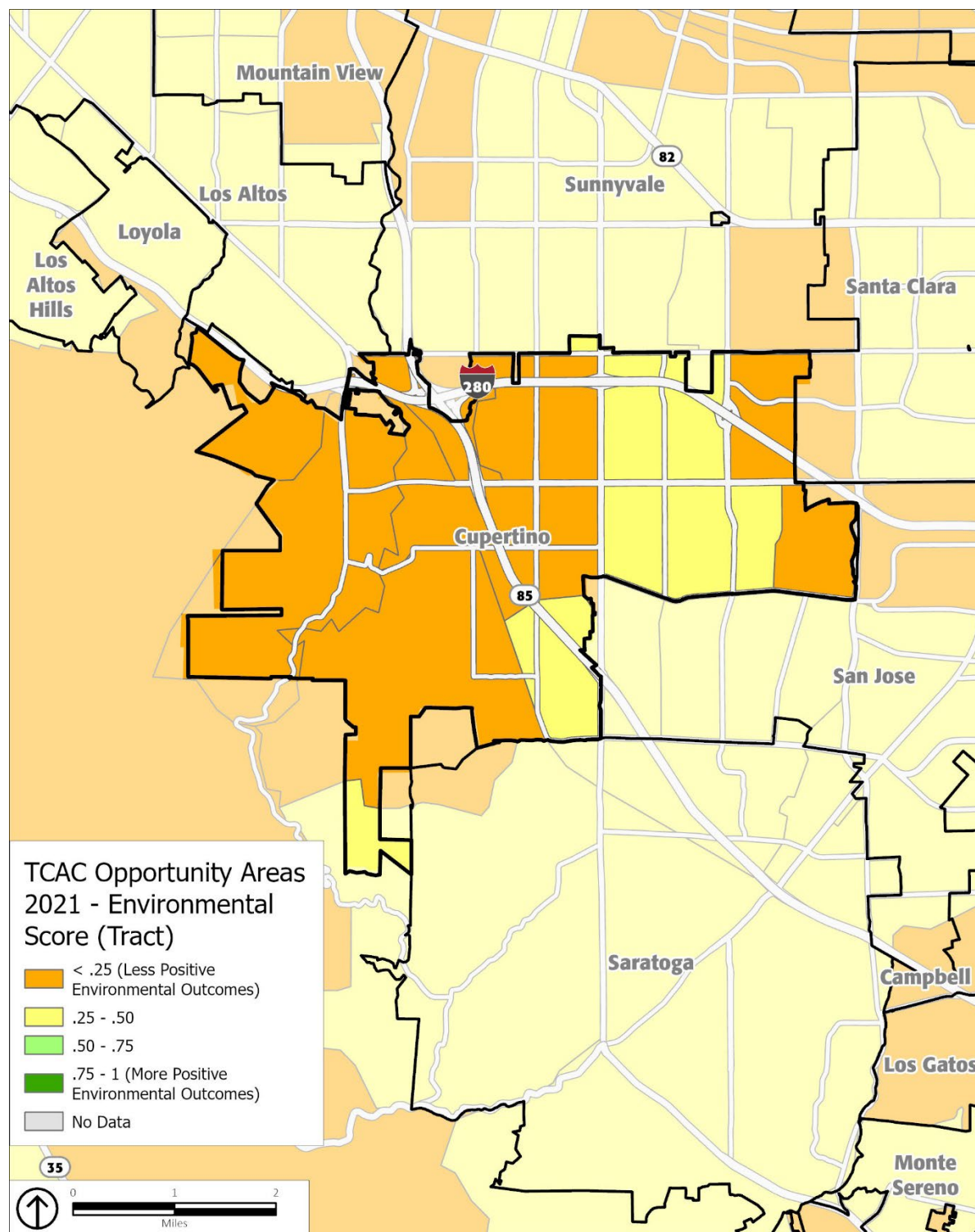
## ENVIRONMENT

**Figure B3-50** shows TCAC opportunity areas environmental score by census tract. **Figure B3-51** shows the CalEnviroScreen by census tract. **Figure B3-52** shows the healthy places index by census tract.



APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

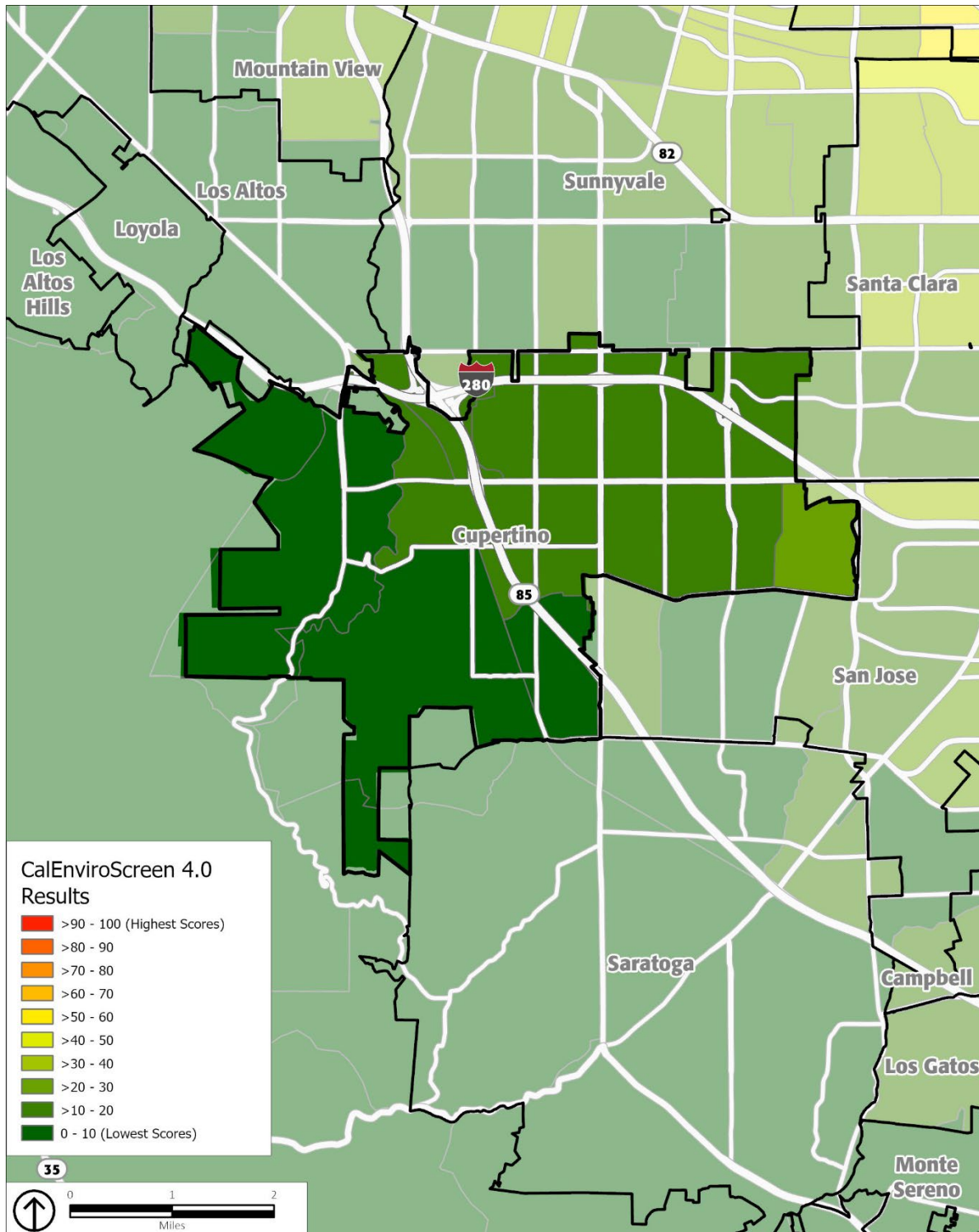
**Figure B3-50 TCAC Opportunity Areas Environmental Score by Census Tract, 2021**



Source: California Department of Housing and Community Development AFFH Data Viewer

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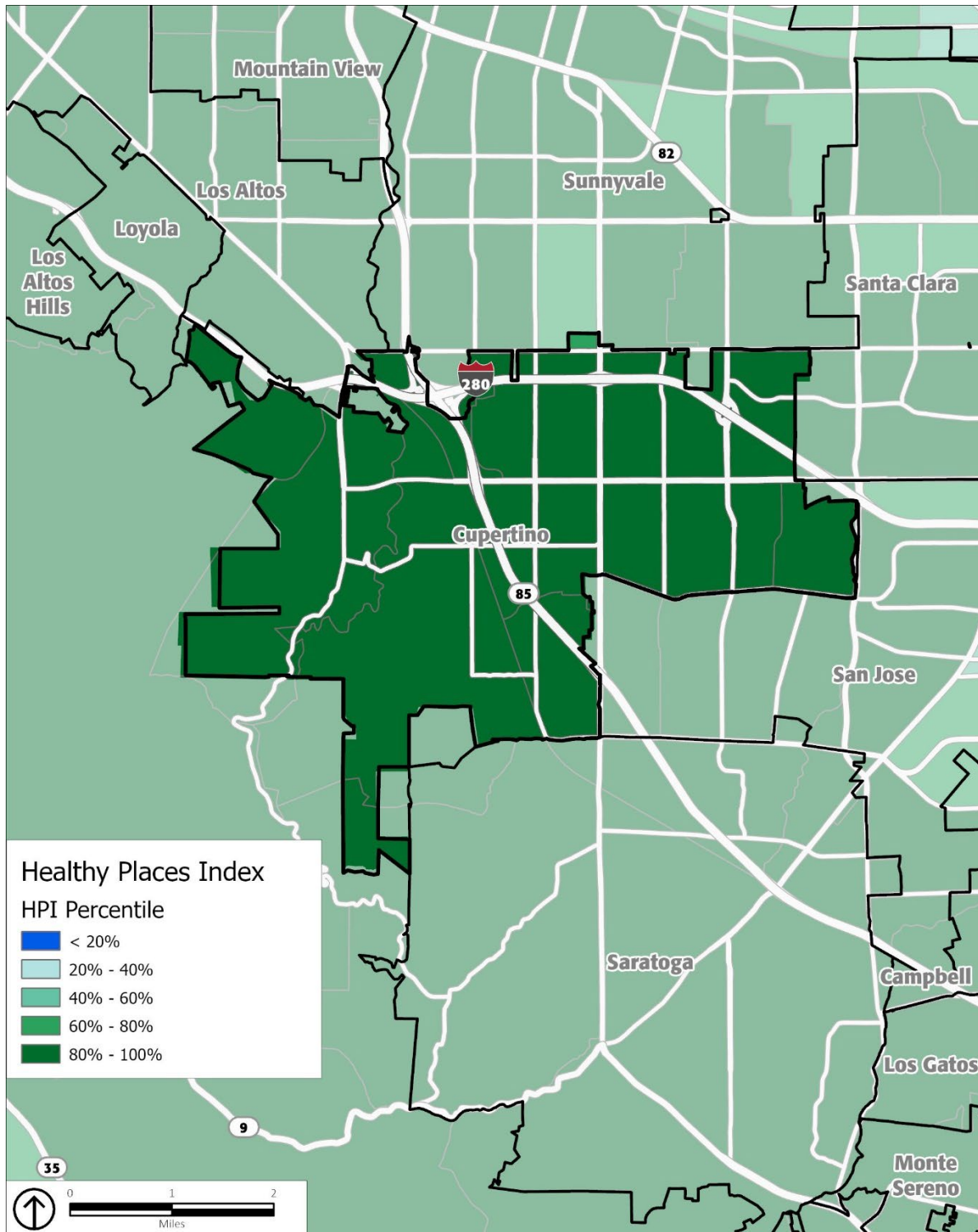
Figure B3-51 CalEnviroScreen by Census Tract, 2021



Source: California Department of Housing and Community Development AFFH Data Viewer

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Figure B3-52 Healthy Places Index by Census Tract, 2021

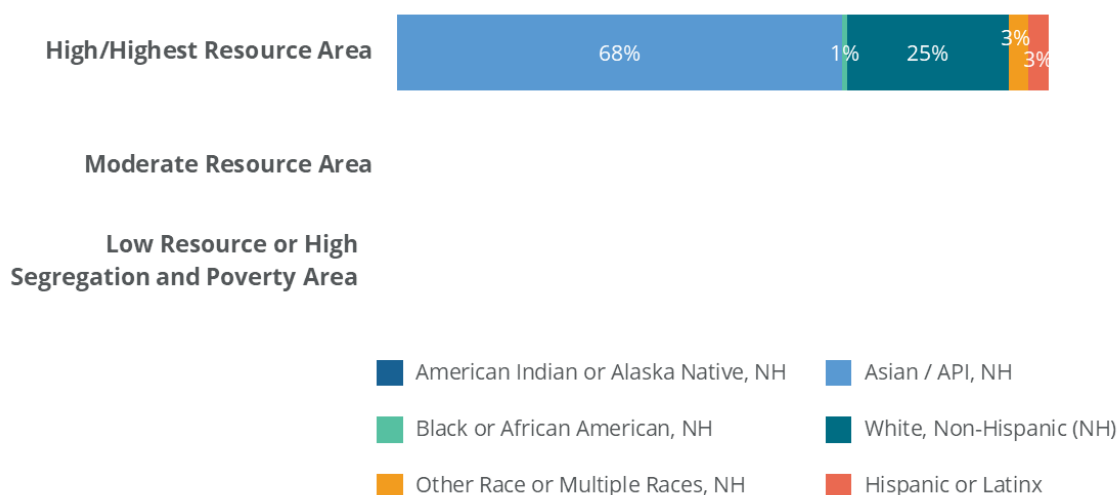


Source: California Department of Housing and Community Development AFFH Data Viewer

## PATTERNS IN DISPARITIES IN ACCESS TO OPPORTUNITY

**Figures B3-53** and **B3-54** depict data on race and ethnicity and populations with limited English proficiency. **Figure B3-55** shows TCAC opportunity areas composite score by census tract. **Figure B3-56** depicts the social vulnerability index by census tract. **Figure B3-57** shows SB 535 disadvantaged communities.

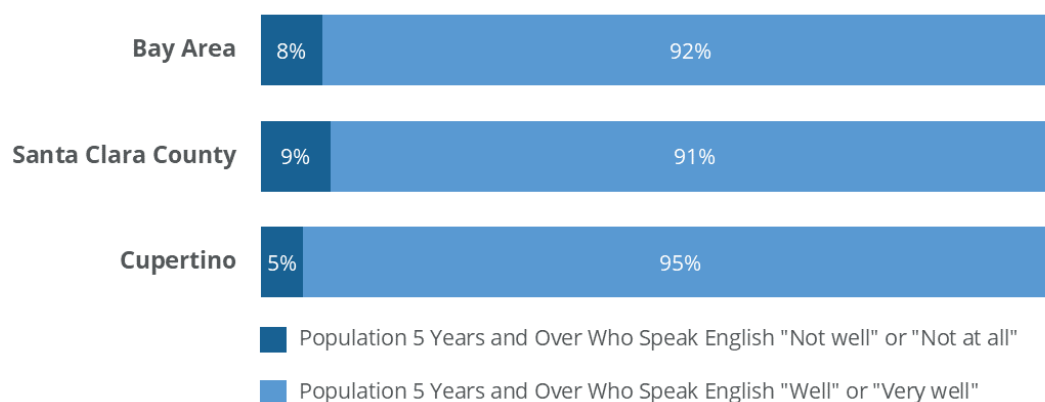
**Figure B3-53 Population Living in Moderate and High Resource Ares by Race and Ethnicity, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

NOTE: There are no moderate or low resource areas in the city.

**Figure B3-54 Population with Limited English Proficiency, Cupertino, 2019**

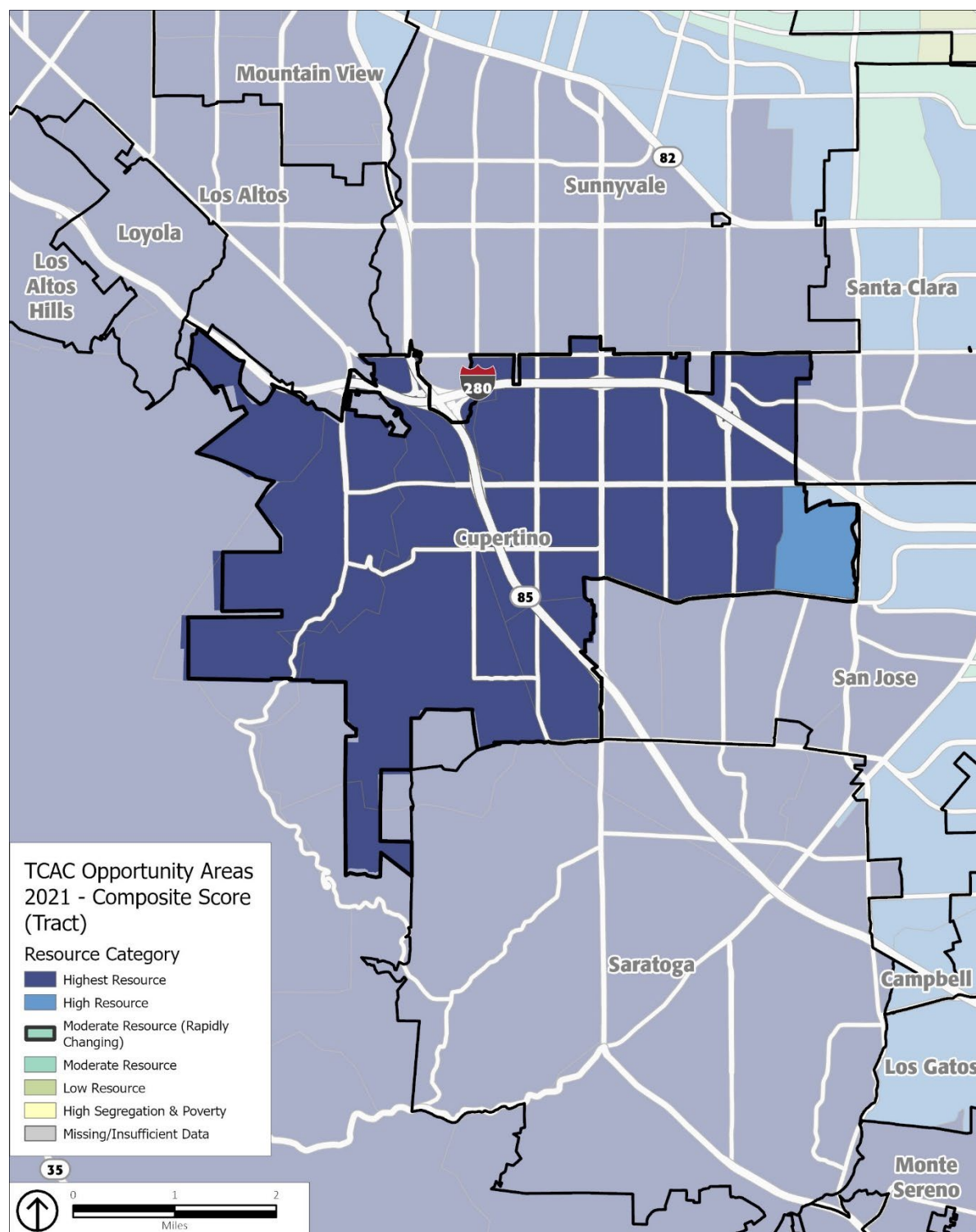


Source: ABAG Housing Needs Data Workbook



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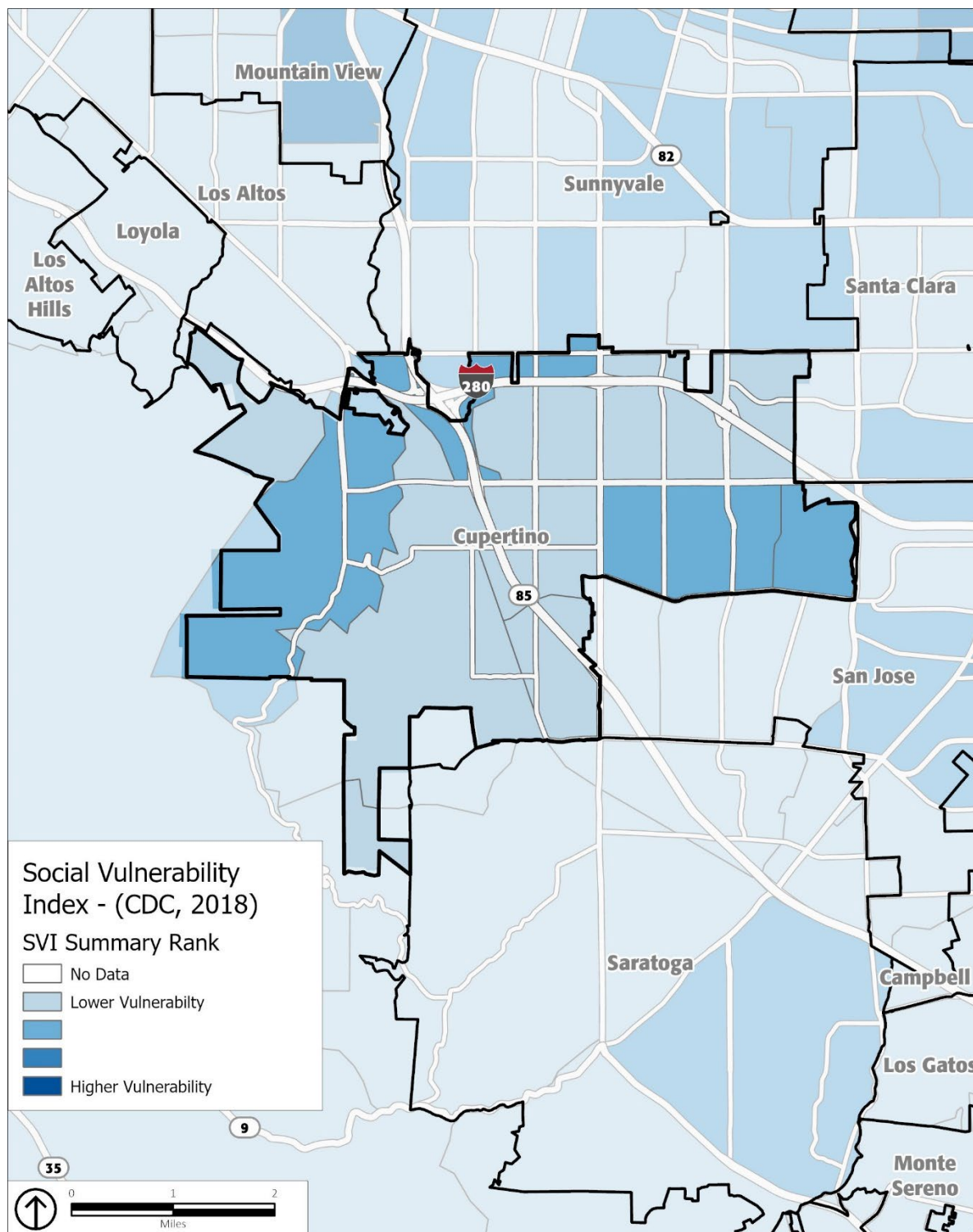
**Figure B3-55 TCAC Opportunity Areas Composite Score by Census Tract, 2021**



Source: California Department of Housing and Community Development AFFH Data Viewer

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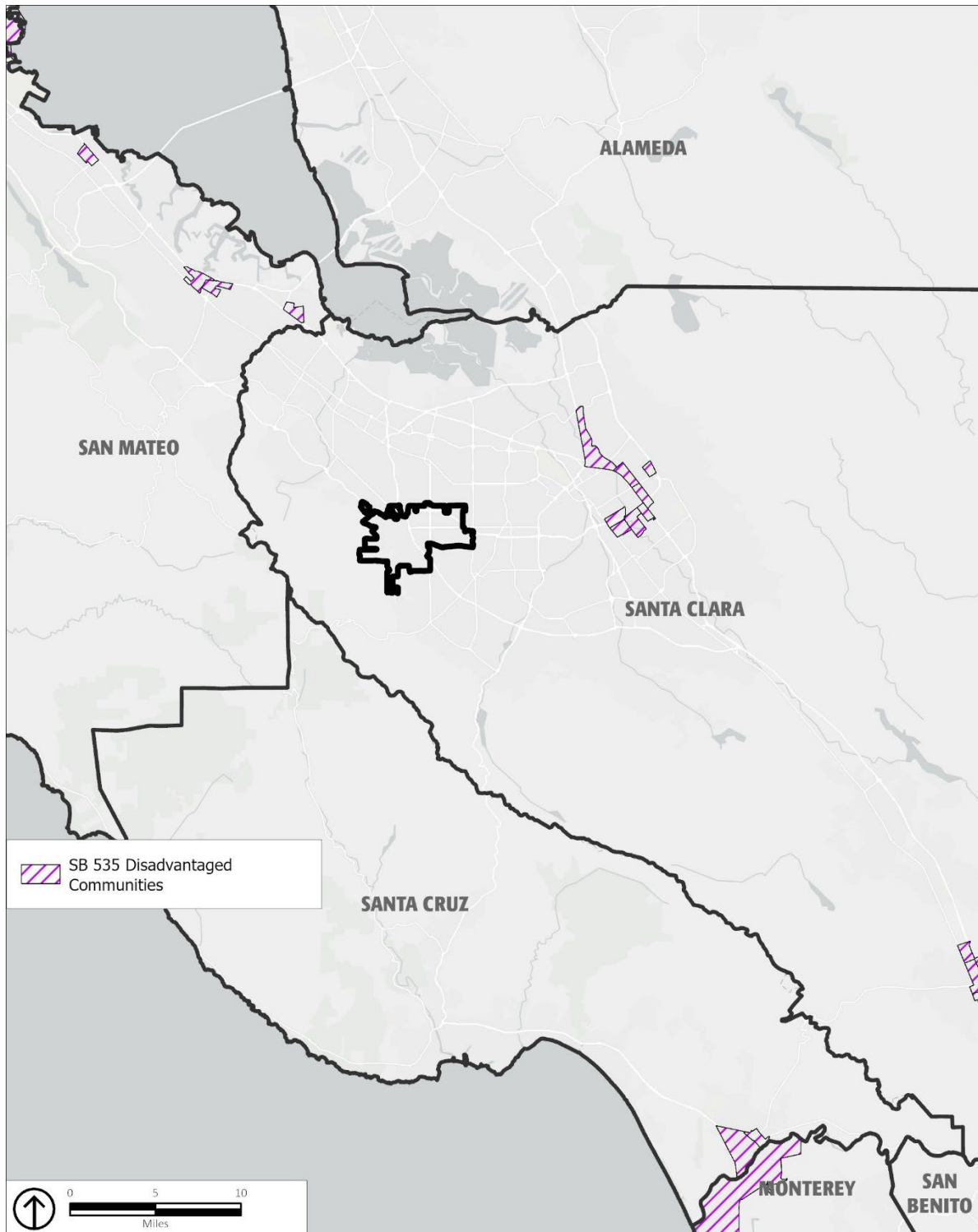
Figure B3-56 Social Vulnerability Index by Census Tract, 2018



Source: California Department of Housing and Community Development AFFH Data Viewer

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Figure B3-57 SB 535 Disadvantaged Communities



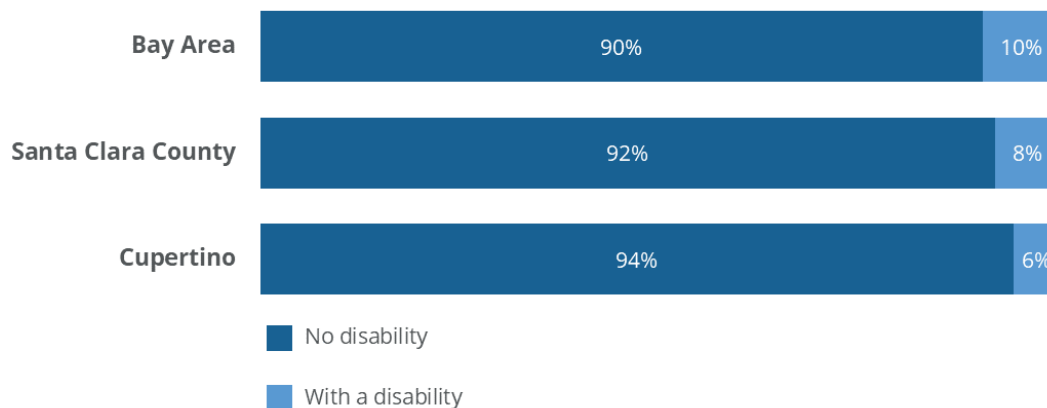
Source: California Department of Housing and Community Development AFFH Data Viewer



## DISPARITIES IN ACCESS TO OPPORTUNITY FOR PERSONS WITH DISABILITIES

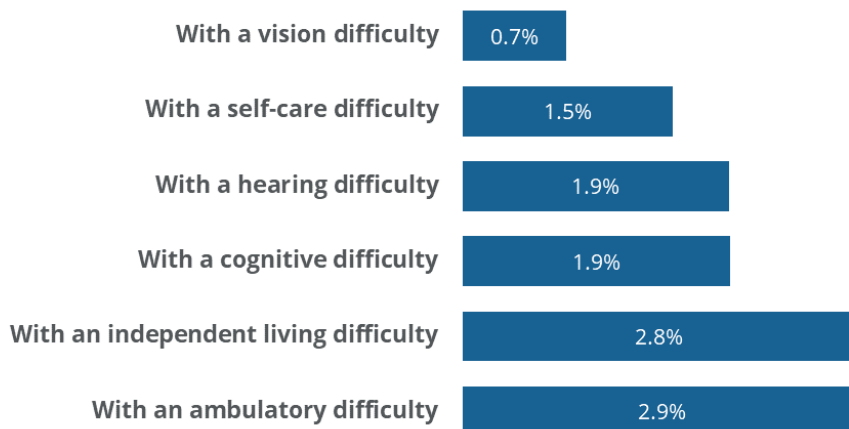
**Figure B3-58** depicts population by disability status and **Figure B3-59** shows data by disability type. **Figure B3-60** shows data by disability for seniors. **Figure B3-61** shows employment by disability status. **Figure B3-62** depicts the share of population with a disability by census tract.

**Figure B3-58 Population by Disability Status, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

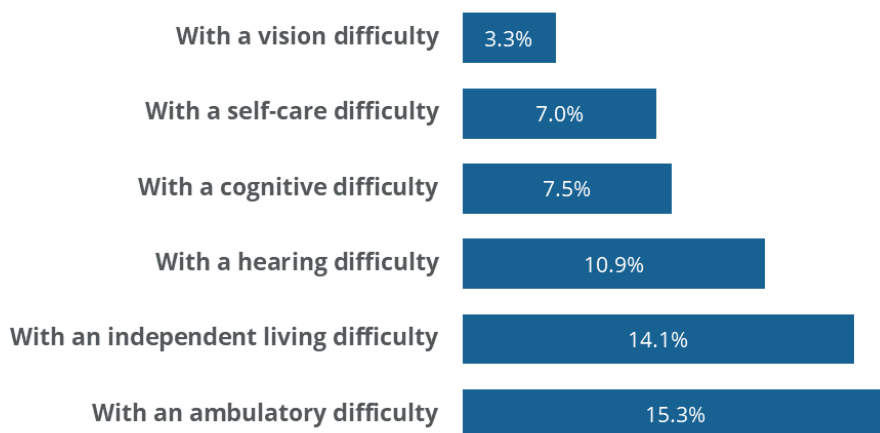
**Figure B3-59 Disability by Type for the Non-Institutionalized Population 18 Years and Over, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

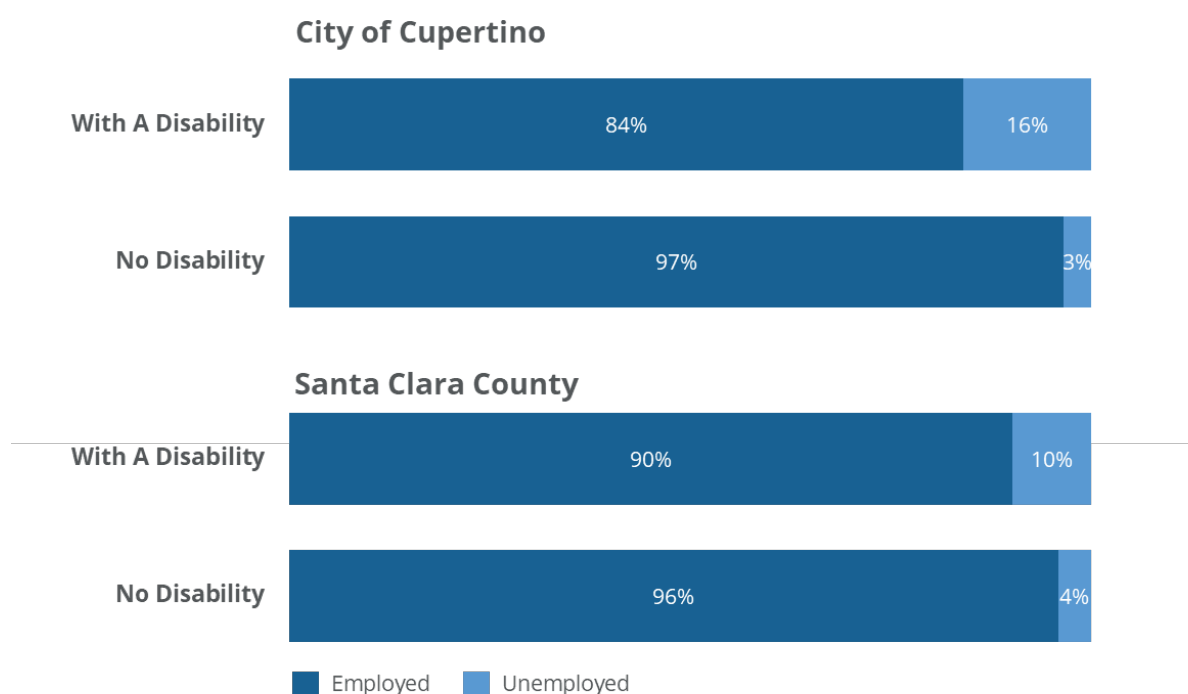
APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-60 Disability by Type for Seniors (65 years and over), Cupertino, 2019**



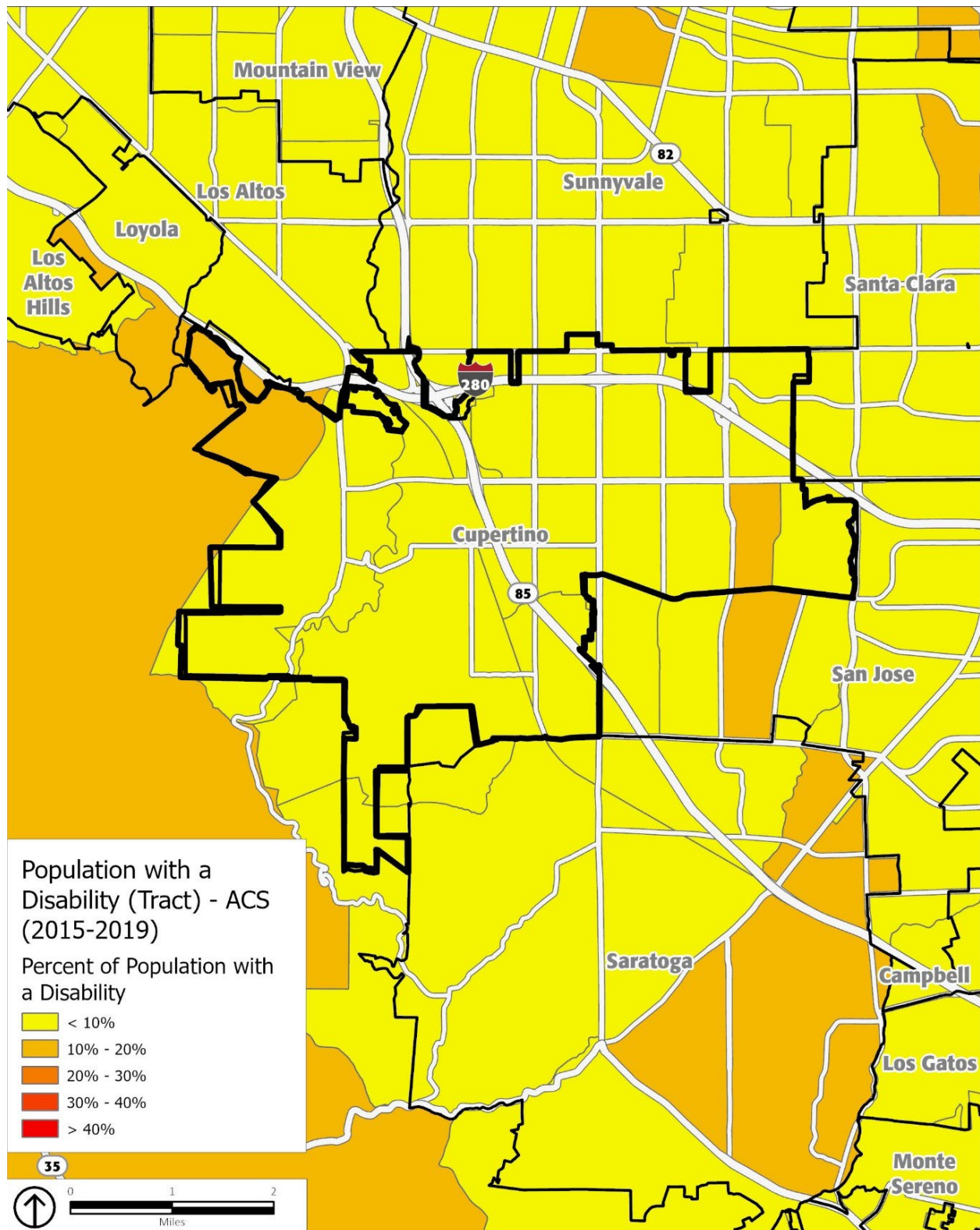
Source: ABAG Housing Needs Data Workbook

**Figure B3-61 Employment by Disability Status, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

**Figure B3-62 Share of Population with a Disability by Census Tract, 2019**



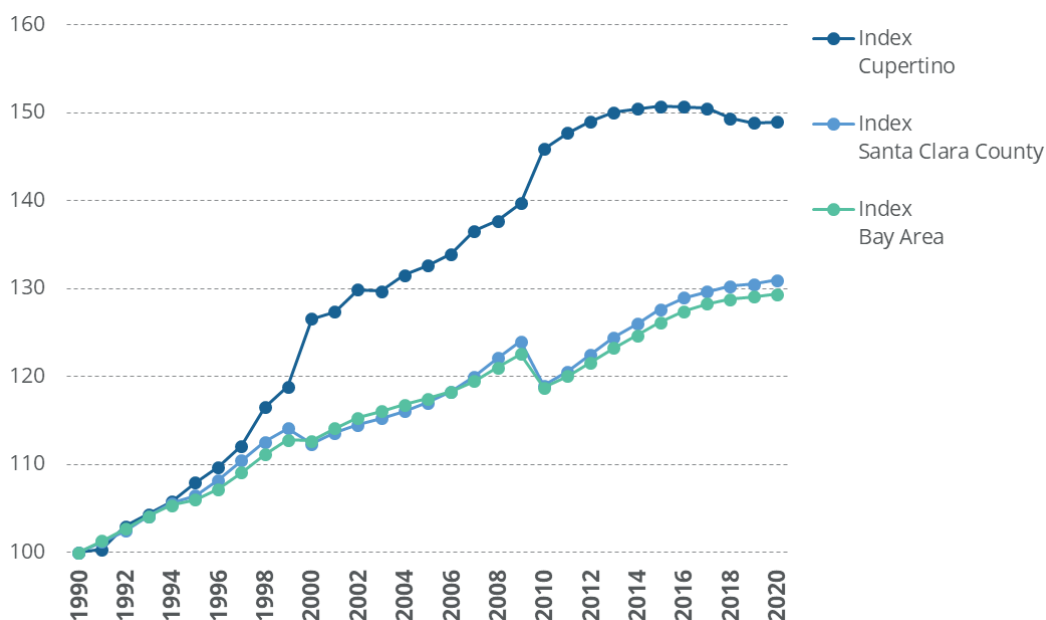
Source: California Department of Housing and Community Development AFFH Data Viewer

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

### DISPROPORTIONATE HOUSING NEEDS HOUSING NEEDS

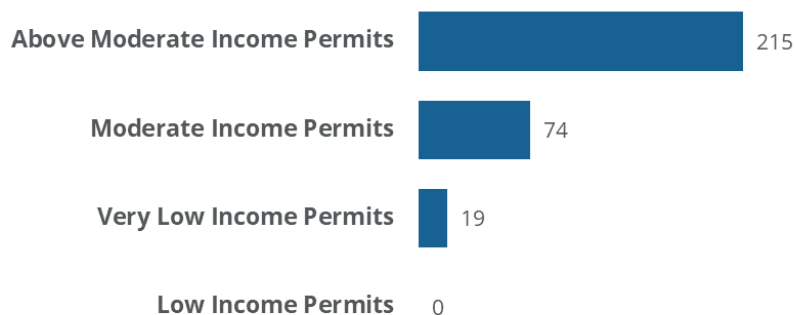
**Figure B3-63** shows the population of Cupertino indexed from 1990 through 2020. **Figure B3-64** depicts housing permits issued by income group and **Figure B3-65** shows housing units by year built. **Figure B3-66** depicts distribution of home value for owner-occupied units for 2019. **Figure B3-67** shows the Zillow home value index for 2011 through 2020. **Figure B3-68** shows the distribution of contract rents for renter-occupied units. **Figure B3-69** shows the median contract rent for 2009 through 2019.

**Figure B3-63 Population Indexed from 1990**



Source: ABAG Housing Needs Data Workbook

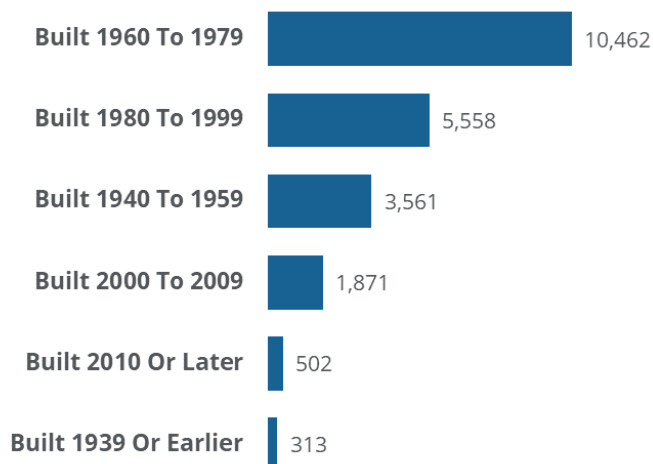
**Figure B3-64  
Housing Permits Issued by Income Group, Cupertino, 2015-2019**



Source: ABAG Housing Needs Data Workbook

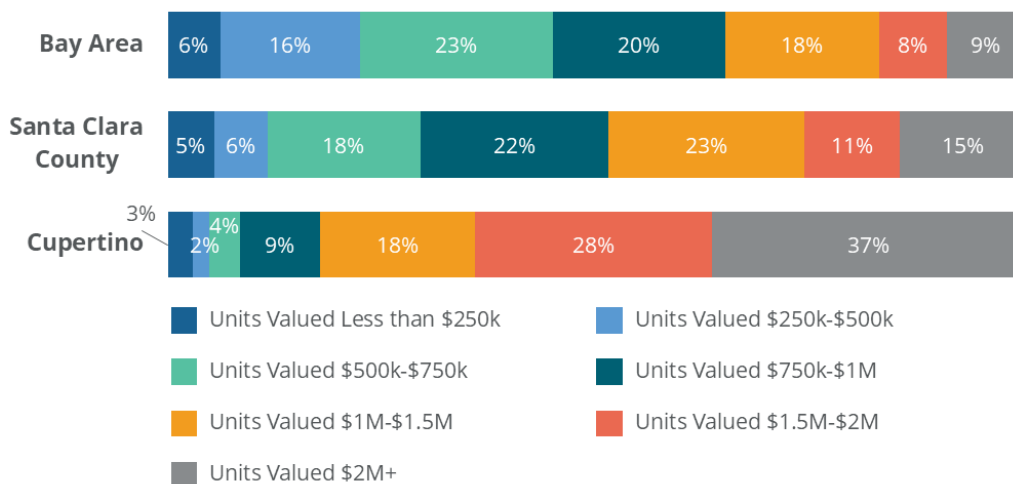
## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-65 Housing Units by Year Built, Cupertino**



Source: ABAG Housing Needs Data Workbook

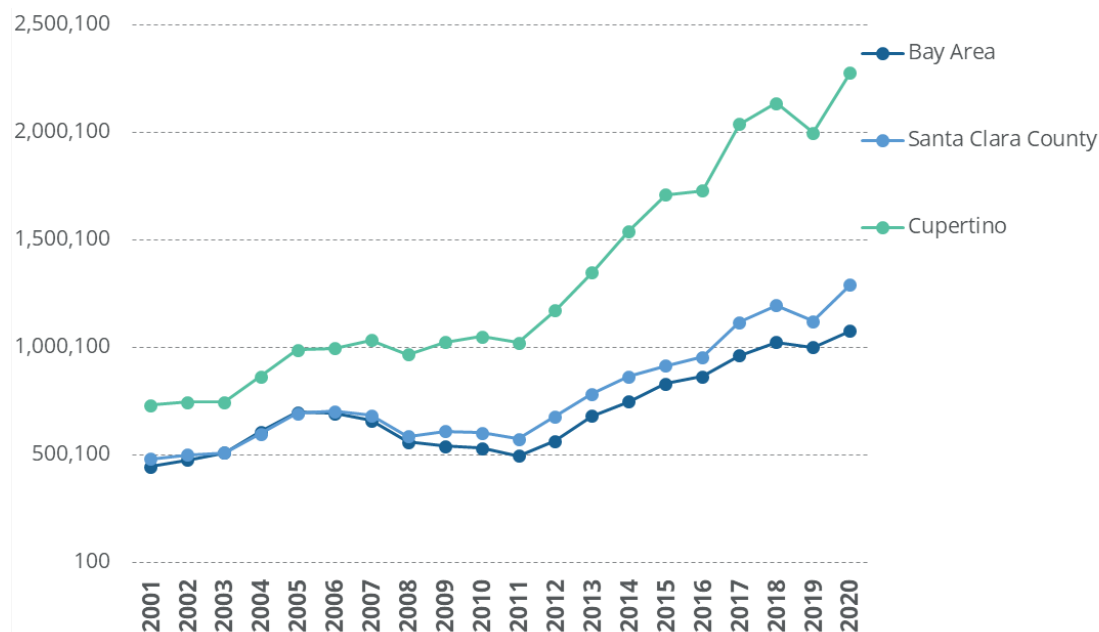
**Figure B3-66 Distribution of Home Value for Owner Occupied Units, 2019**



Source: ABAG Housing Needs Data Workbook

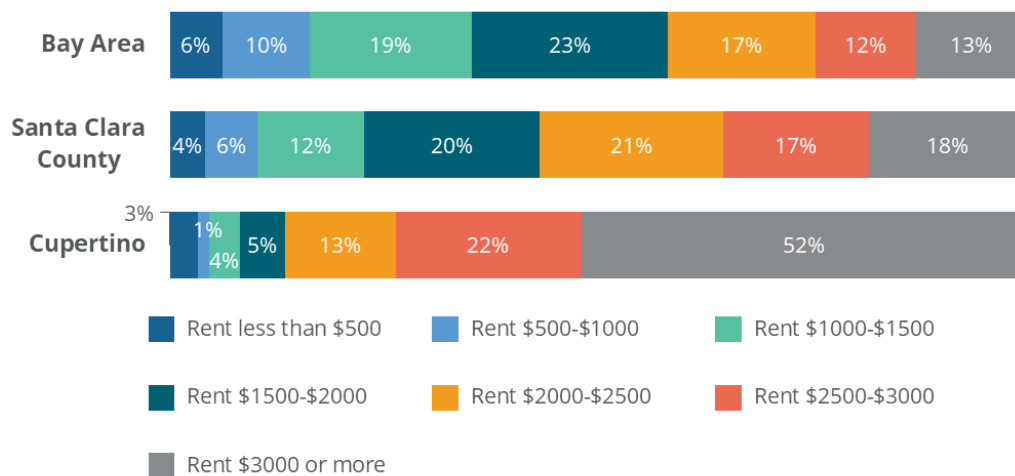
APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-67 Zillow Home Value Index, 2001-2020**



Source: ABAG Housing Needs Data Workbook

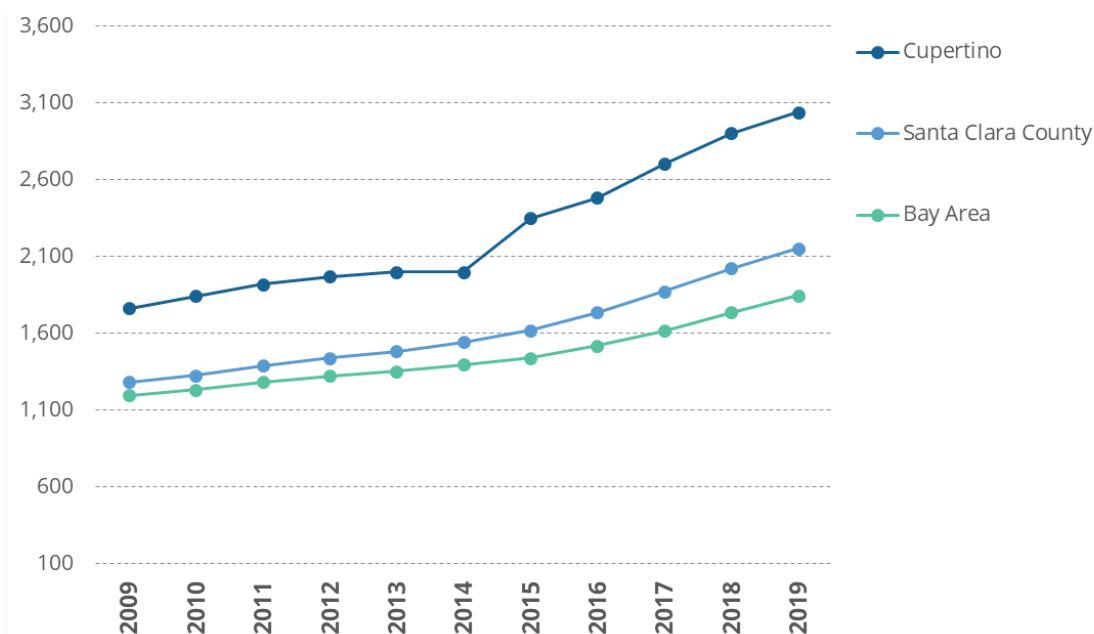
**Figure B3-68 Distribution of Contract Rents for Renter Occupied Units, 2019**



Source: ABAG Housing Needs Data Workbook

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-69 Median Contract Rent, 2009-2019**

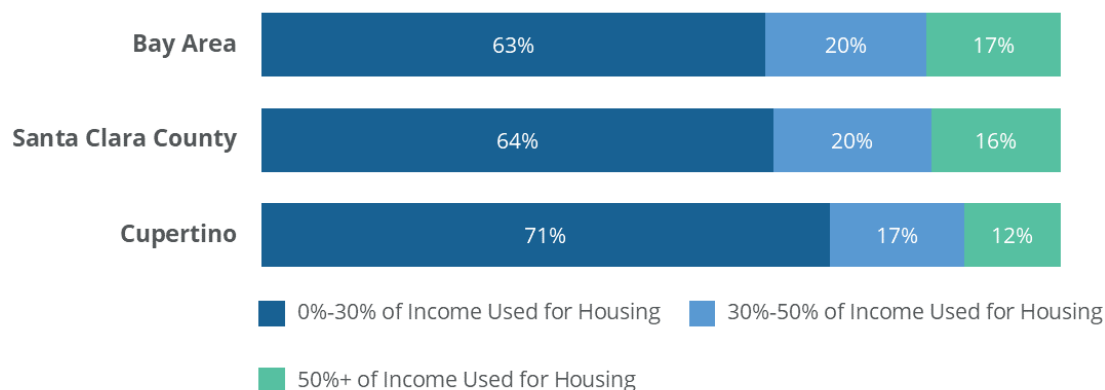


Source: ABAG Housing Needs Data Workbook

## COST BURDEN AND SEVERE COST BURDEN

**Figure B3-70** shows overpayment by jurisdiction. **Figures B3-71** through **B3-74** show overpayment (cost burden) by tenure, AMI, race and ethnicity, and family size, respectively. **Figure B3-75** depicts a map of overpayment for renter households by census tract and **Figure B3-76** shows this map for owner households.

**Figure B3-70 Overpayment (Cost Burden) by Jurisdiction, 2019**

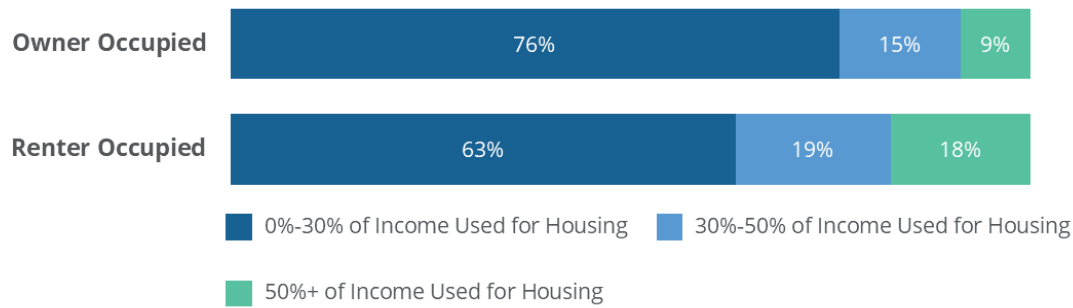


Source: ABAG Housing Needs Data Workbook



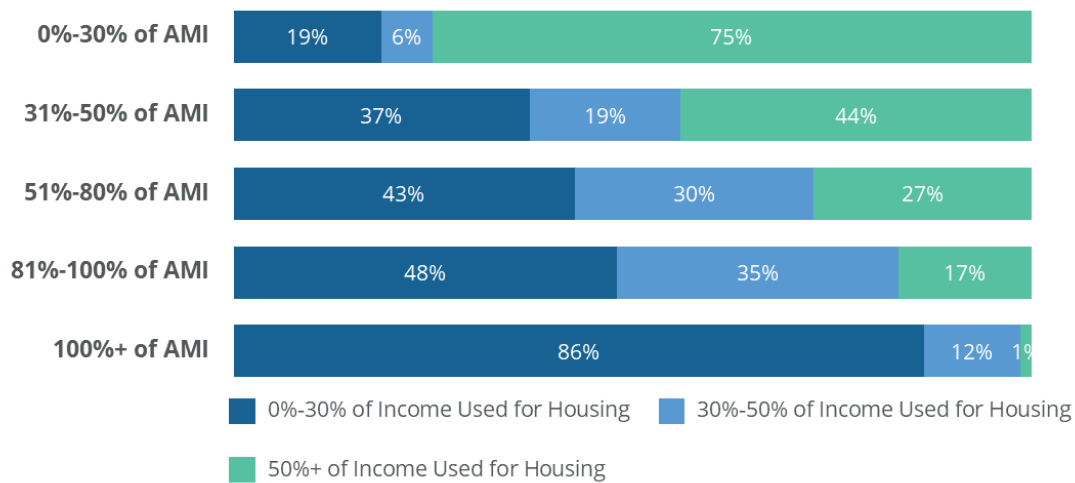
APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-71 Overpayment (Cost Burden) by Tenure, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

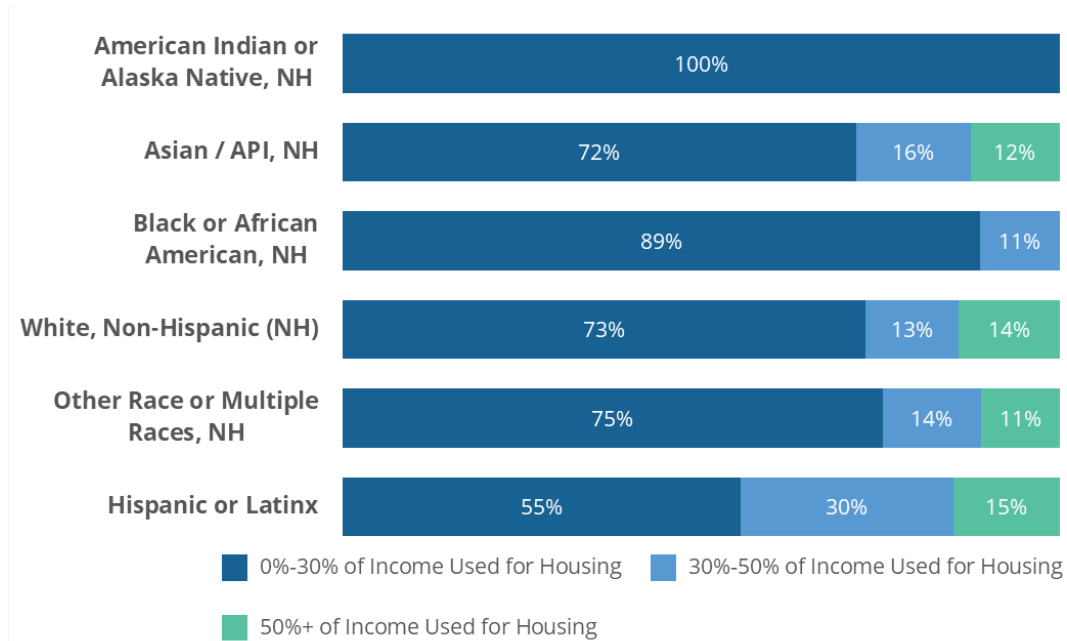
**Figure B3-72 Overpayment (Cost Burden) by Area Median Income (AMI), Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

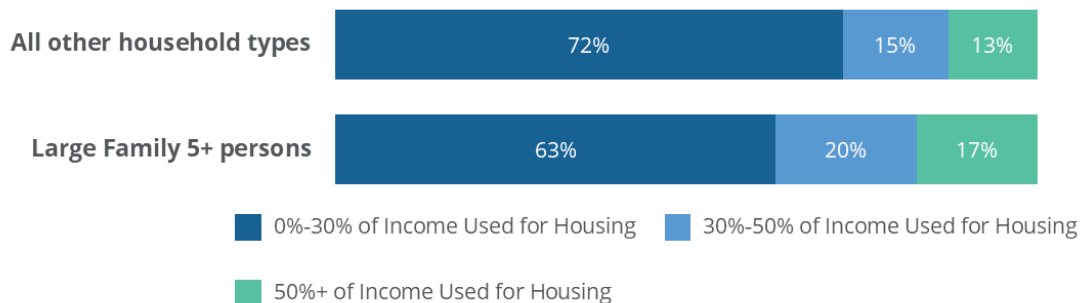
APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-73 Overpayment (Cost Burden) by Race and Ethnicity, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

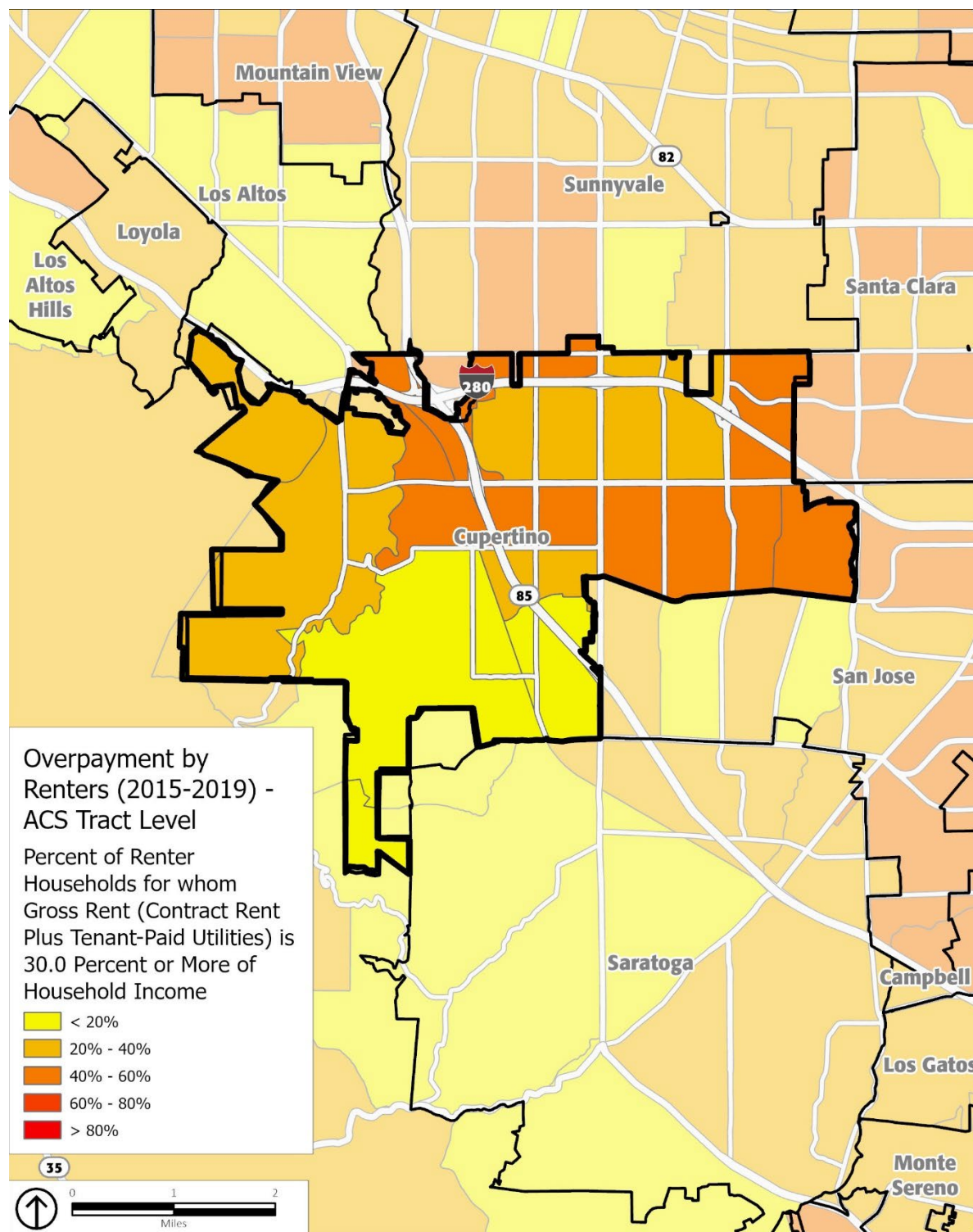
**Figure B3-74 Overpayment (Cost Burden) by Family Size, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

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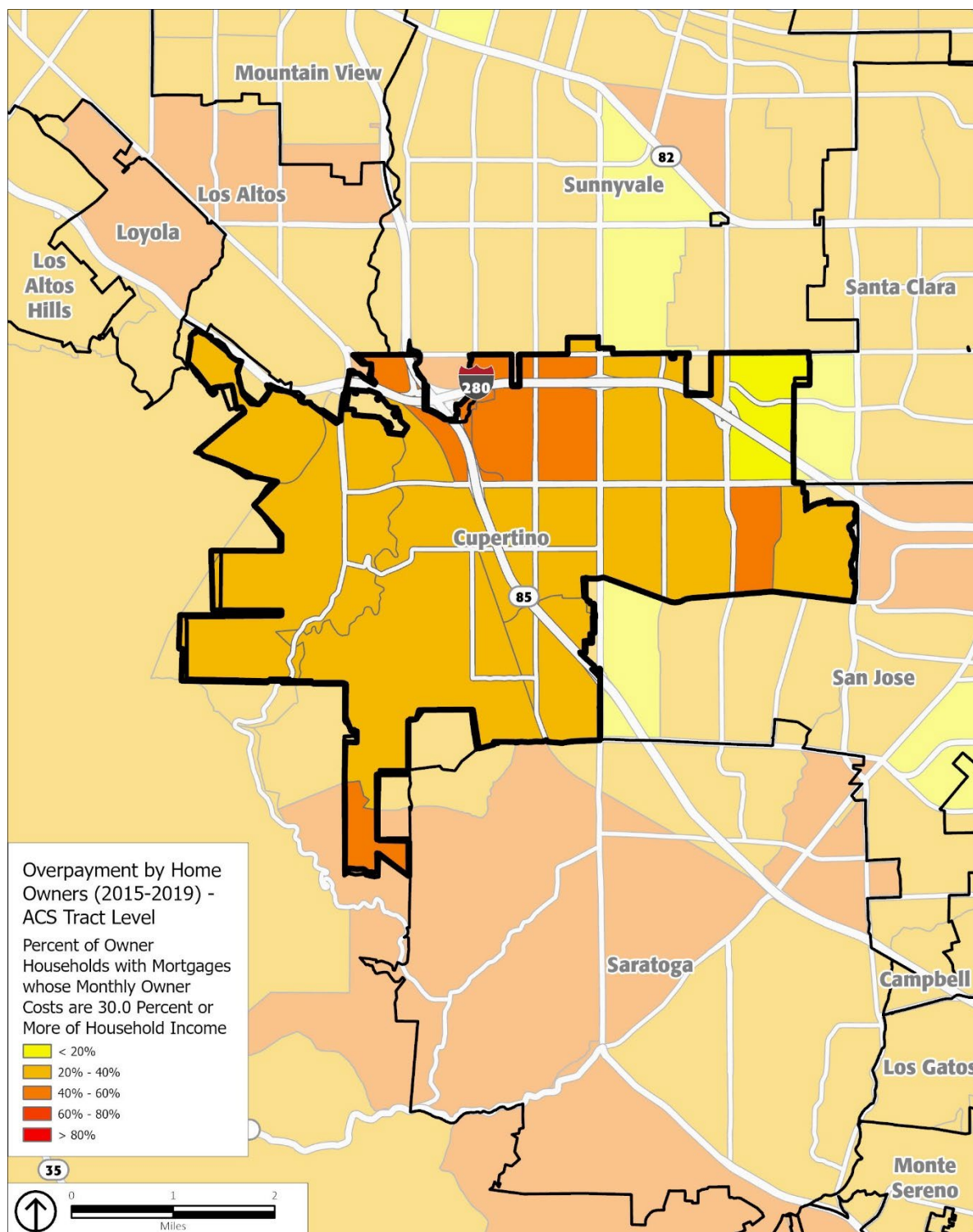
**Figure B3-75 Overpayment (Cost Burden) for Renter Households by Census Tract, 2019**



Source: California Department of Housing and Community Development AFFH Data Viewer

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**Figure B3-76 Overpayment (Cost Burden) for Owner Households by Census Tract, 2019**



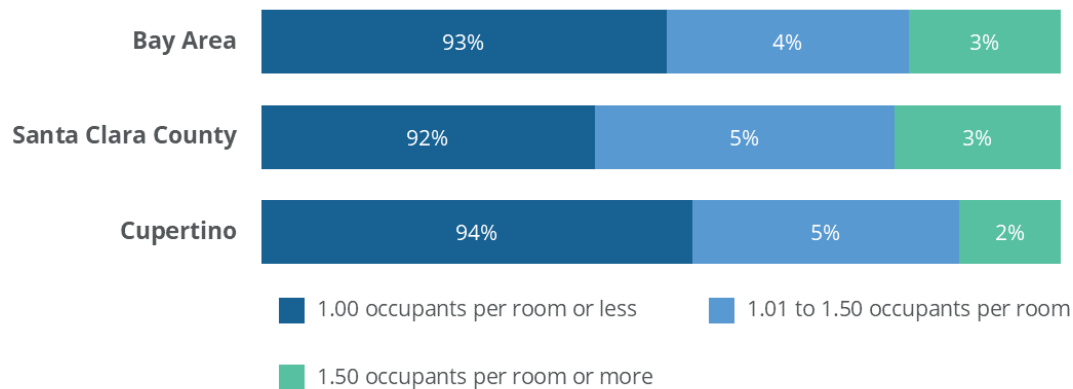
Source: California Department of Housing and Community Development AFFH Data Viewer

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## OVERCROWDING

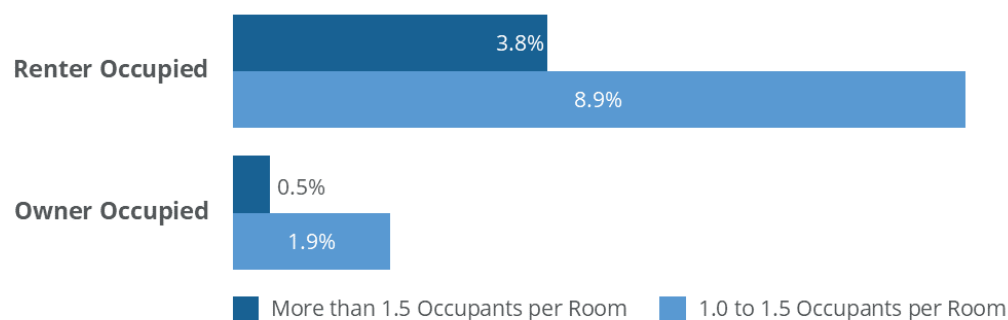
**Figure B3-77** shows occupants per room by jurisdiction (city, county, and Bay Area as a whole). **Figure B3-78** shows occupants per room by tenure (renter versus owner) for Cupertino. **Figures B3-79** and **B3-80** show overcrowding by race and ethnicity and AMI, respectively. **Figure B3-81** depicts overcrowded households by census tract.

**Figure B3-77 Occupants per Room by Jurisdiction, 2019**



Source: ABAG Housing Needs Data Workbook

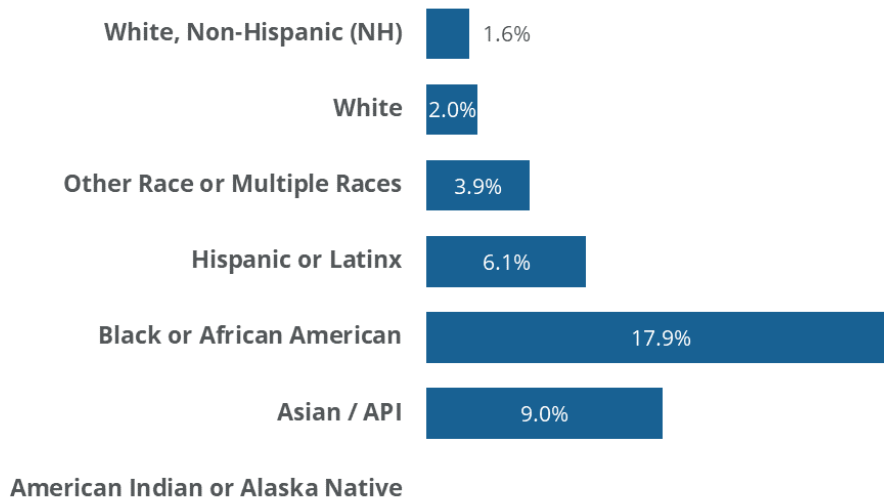
**Figure B3-78 Occupants per Room by Tenure, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

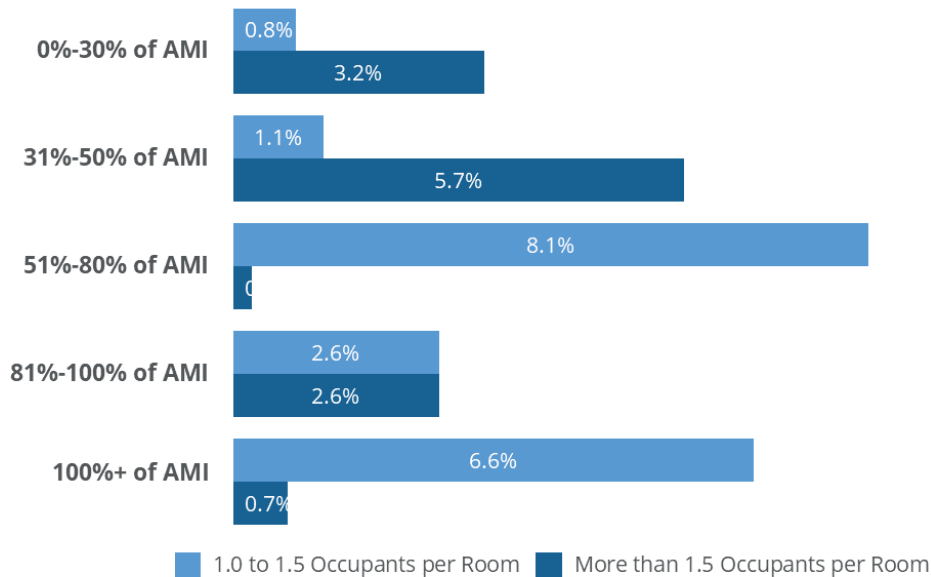
## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-79 Overcrowding by Race and Ethnicity, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook  
NOTE: Overcrowding is indicated by more than 1 person per room.

**Figure B3-80 Occupants per Room by AMI, Cupertino, 2019**

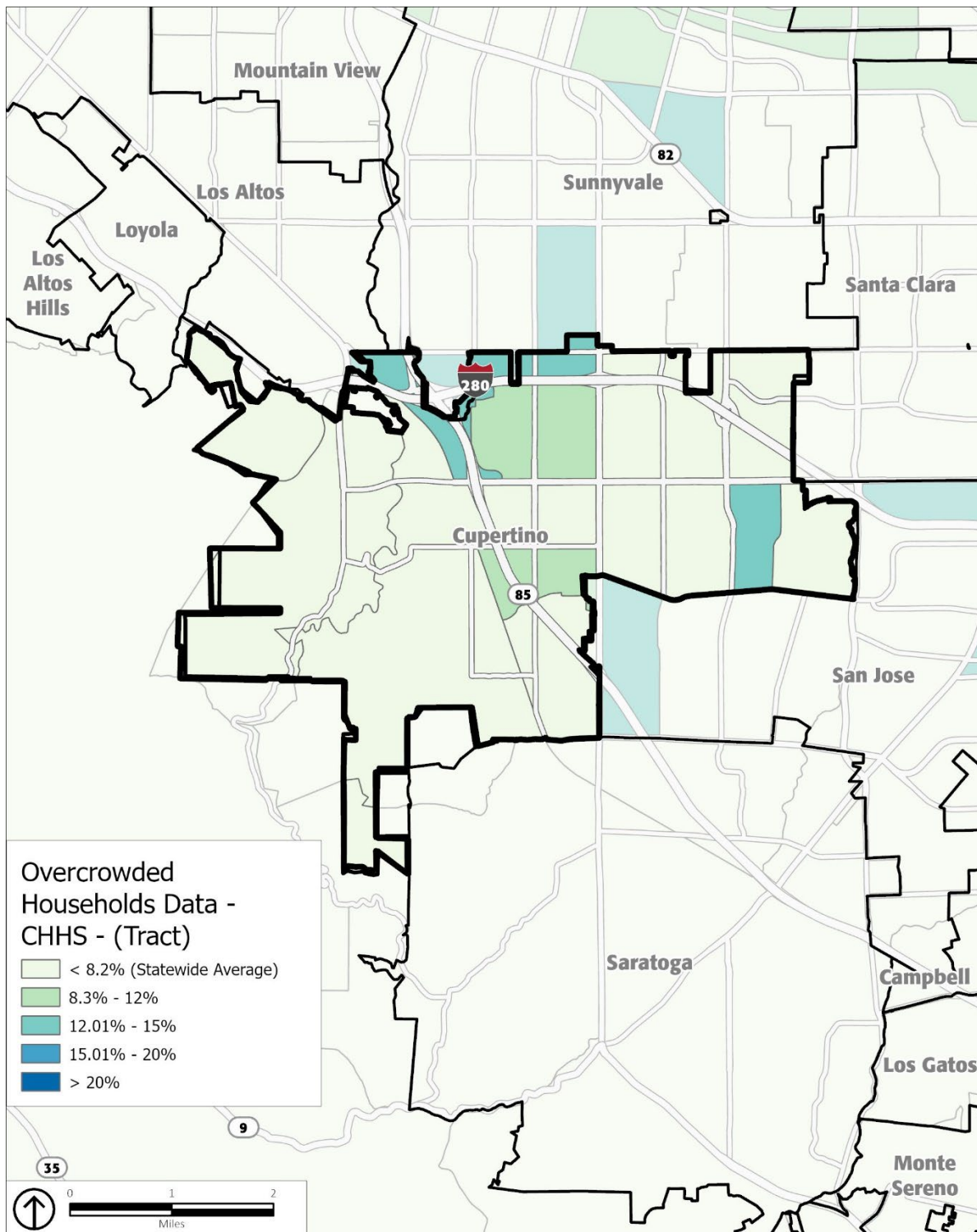


Source: ABAG Housing Needs Data Workbook



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Figure B3-81 Overcrowded Households by Census Tract, 2019



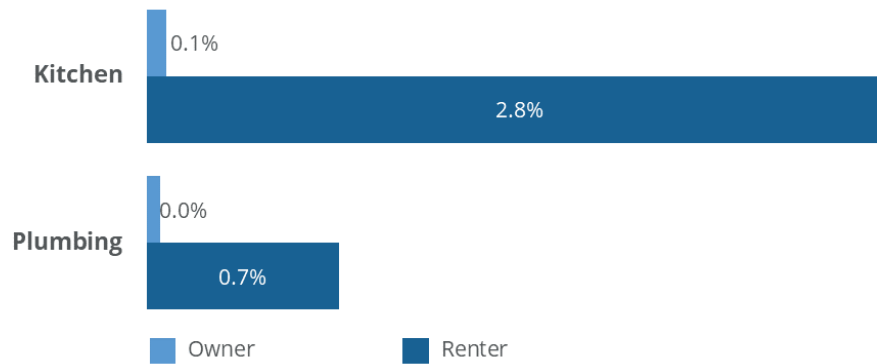
Source: California Department of Housing and Community Development AFFH Data Viewer



## SUBSTANDARD HOUSING

Figure B3-82 depicts percentage of units lacking kitchen and plumbing facilities.

**Figure B3-82 Percentage of Units Lacking Complete Kitchen and Plumbing Facilities, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

## HOMELESSNESS

Figures B3-83 through B3-86 show homeless statistics.

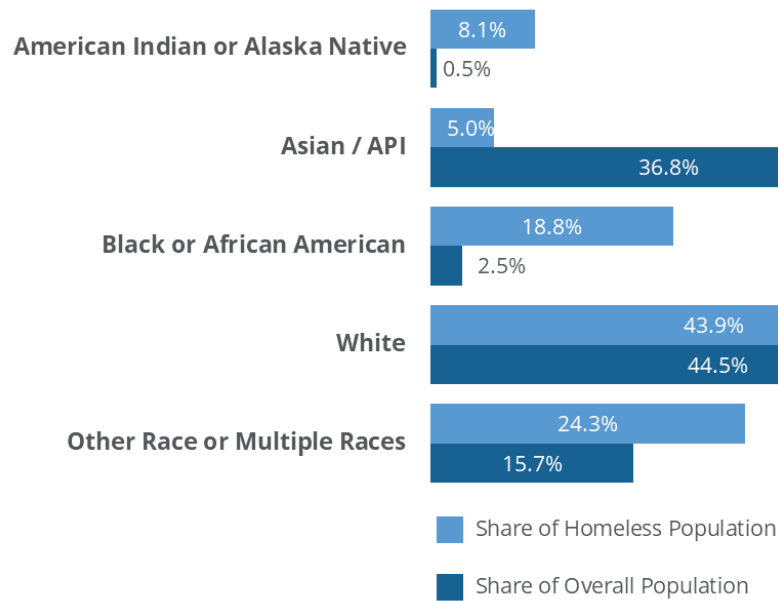
**Figure B3-83 Homelessness by Household Type and Shelter Status, Santa Clara County, 2019**

	People in Households Solely Children	People in Households with Adults and Children	People in Households Without Children
Sheltered - Emergency Shelter	7	377	696
Sheltered - Transitional Housing	3	301	400
Unsheltered	#	243	7,413

Source: ABAG Housing Needs Data Workbook

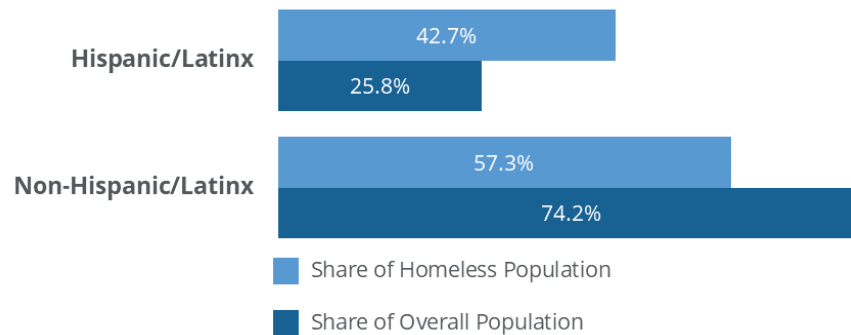
APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Figure B3-84 Share of General and Homeless Populations by Race, Santa Clara County, 2019**



Source: ABAG Housing Needs Data Workbook

**Figure B3-85 Share of General and Homeless Populations by Ethnicity, Santa Clara County, 2019**



Source: ABAG Housing Needs Data Workbook

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**Figure B3-86 Characteristics of the Population Experiencing Homelessness, Santa Clara County, 2019**

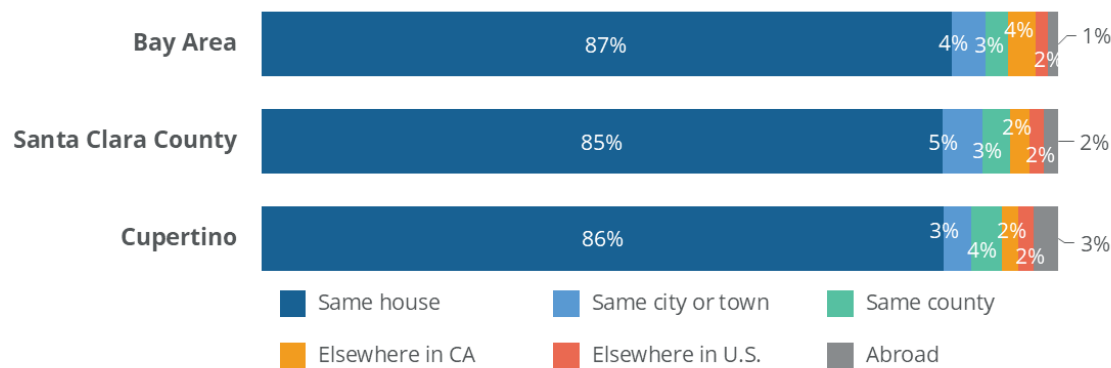
	Chronic Substance Abuse	HIV/AIDS	Severely Mentally Ill	Veterans	Victims of Domestic Violence
Sheltered - Emergency Shelter	128	5	201	79	52
Sheltered - Transitional Housing	153	11	130	129	20
Unsheltered	1,668	65	2,328	445	383

Source: ABAG Housing Needs Data Workbook

## DISPLACEMENT

Figure B3-87 through B3-93 depict data on displacement in Cupertino.

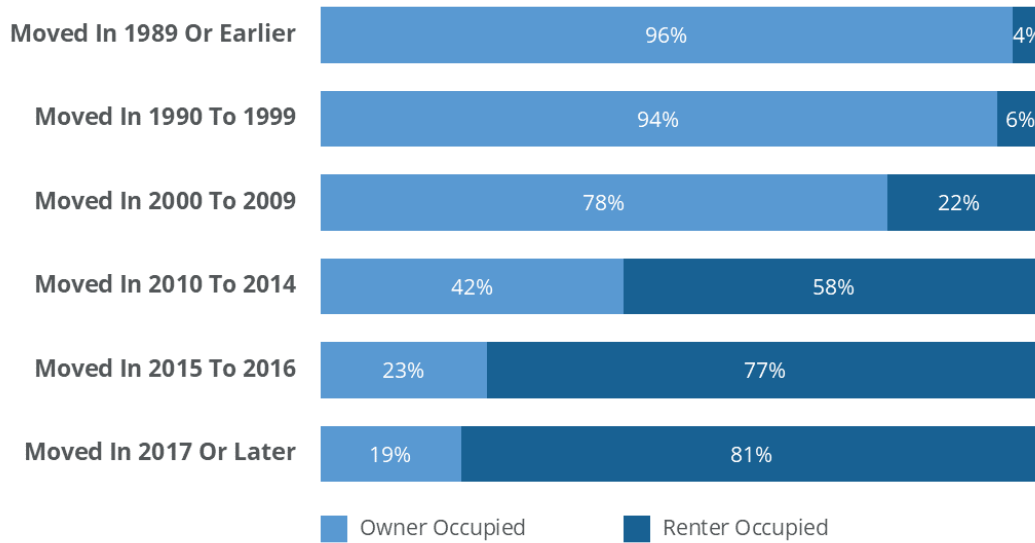
**Figure B3-87 Location of Population One Year Ago, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

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**Figure B3-88 Tenure by Year Moved to Current Residence, Cupertino, 2019**



Source: ABAG Housing Needs Data Workbook

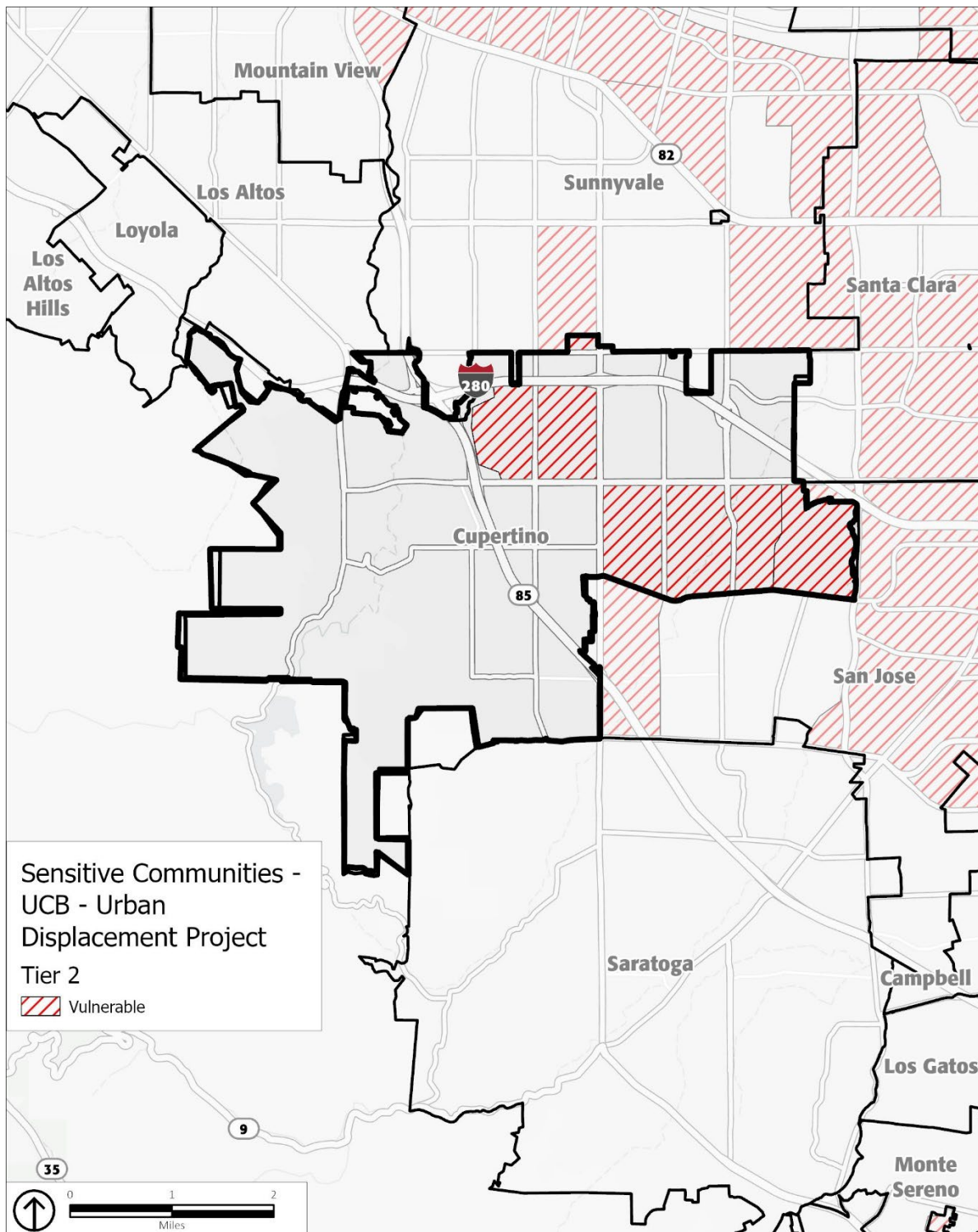
**Figure B3-89 Assisted Units at Risk of Conversion, Cupertino, 2019**

	Low	Moderate	High	Very High	Total Assisted Units in Database
Cupertino	153	0	0	0	153
Santa Clara County	28,001	1,471	359	58	29,889
Bay Area	110,177	3,375	1,854	1,053	116,459

Source: ABAG Housing Needs Data Workbook

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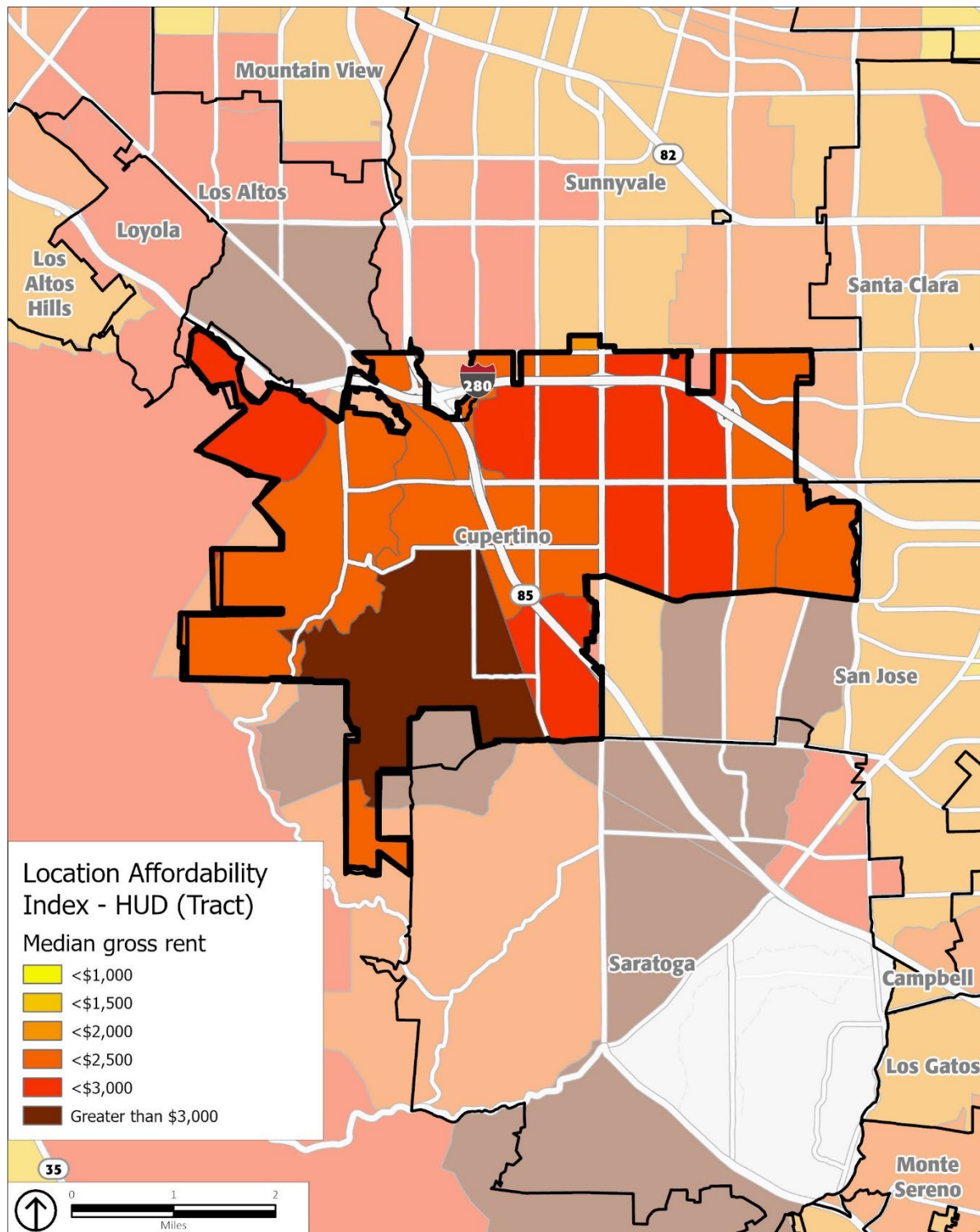
Figure B3-90 Census Tracts Vulnerable to Displacement



Source: California Department of Housing and Community Development AFFH Data Viewer

APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Figure B3-91 Location Affordability Index by Census Tract

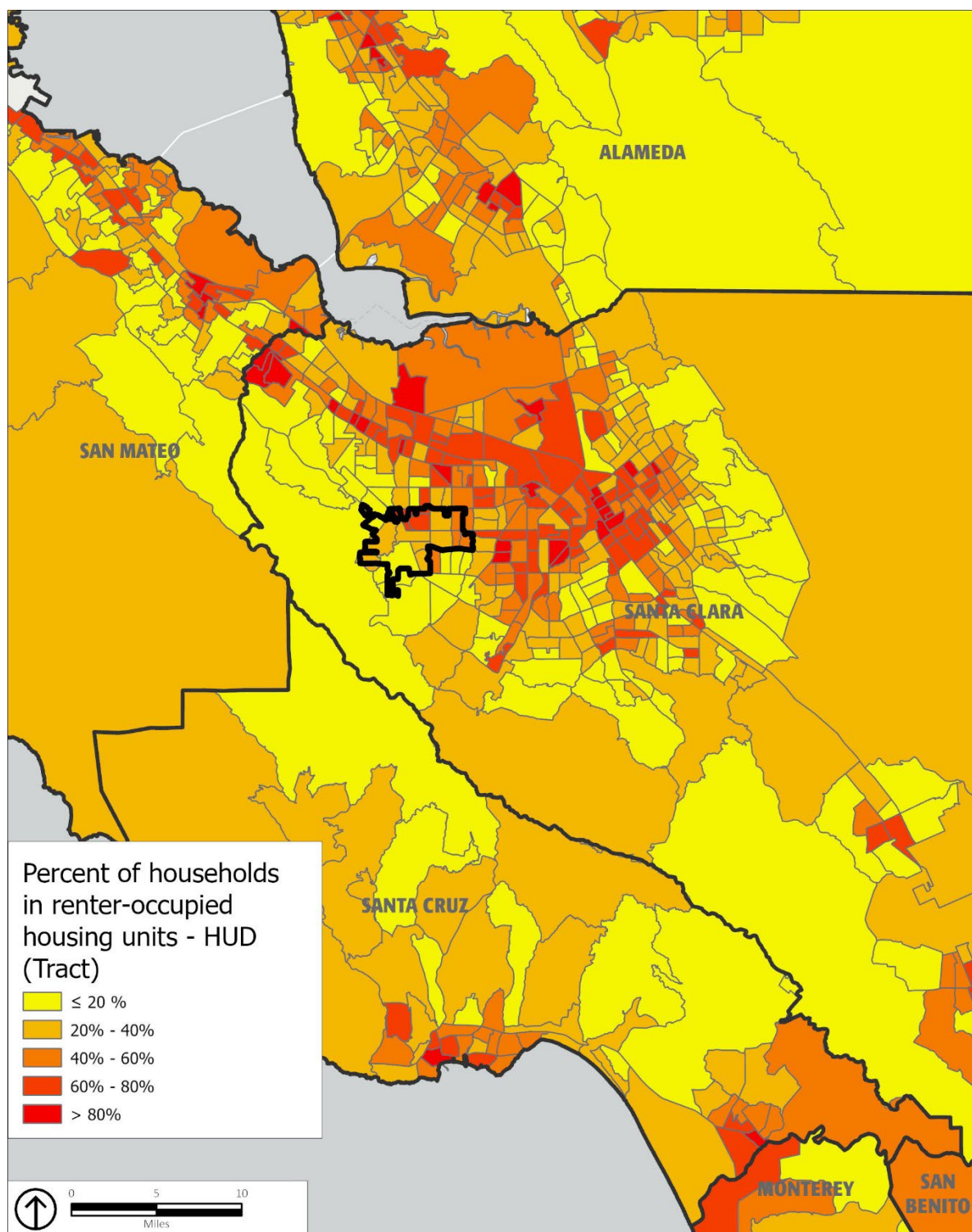


Source: California Department of Housing and Community Development AFFH Data Viewer



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Figure B3-92 Share of Renter Occupied Households by Census Tract, 2019

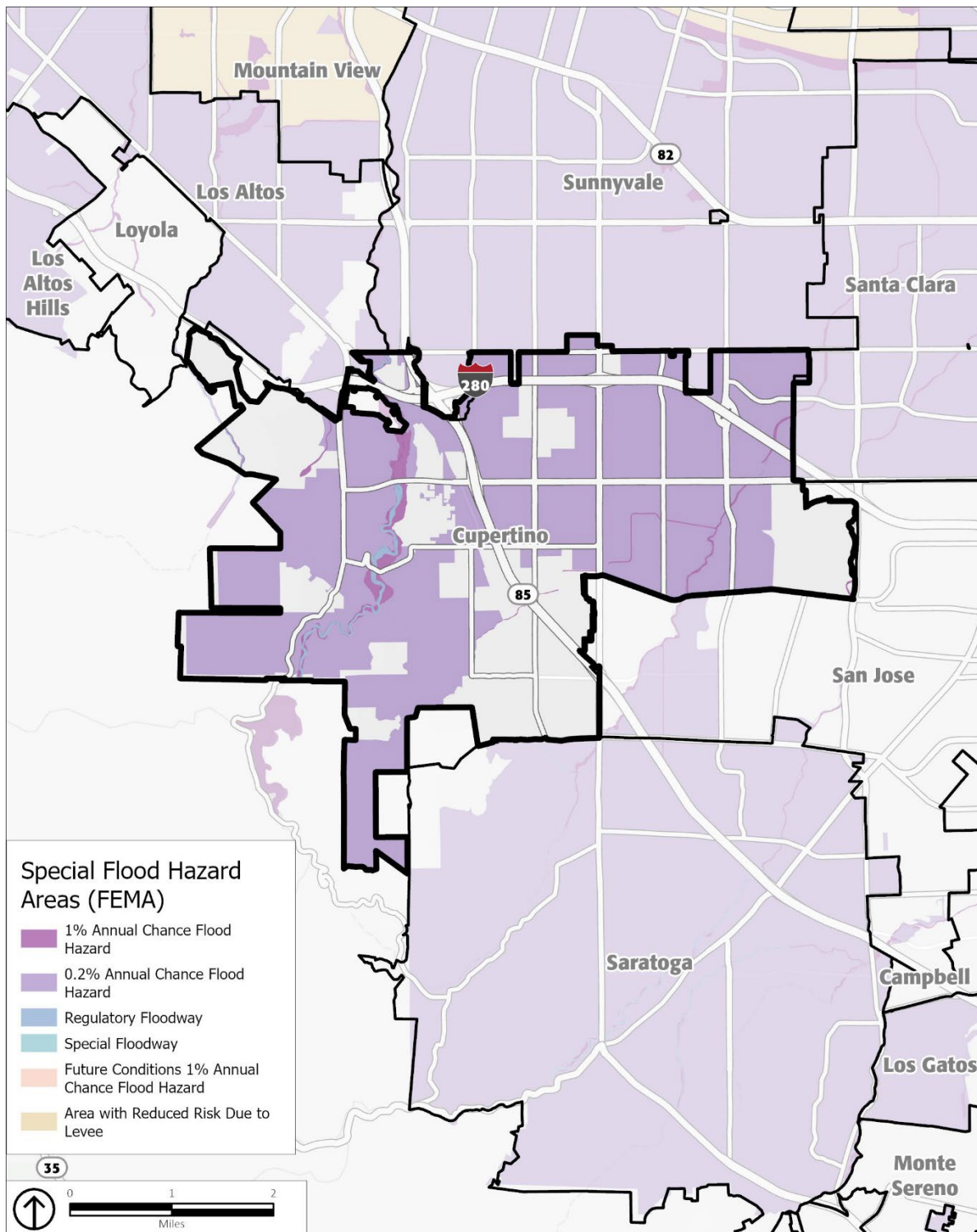


Source: California Department of Housing and Community Development AFFH Data Viewer



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Figure B3-93 Special Flood Hazard Areas, 2020

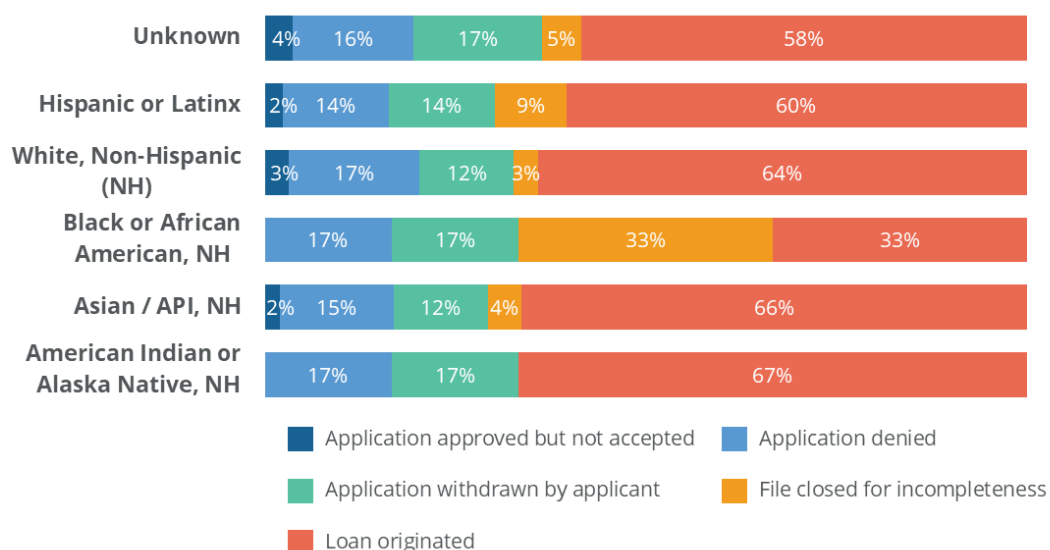


Source: California Department of Housing and Community Development AFFH Data Viewer

## OTHER CONSIDERATIONS

**Figure B3-94** shows mortgage applications by race and ethnicity in Cupertino and **Figure B3-95** shows mortgage application denial rates by race and ethnicity.

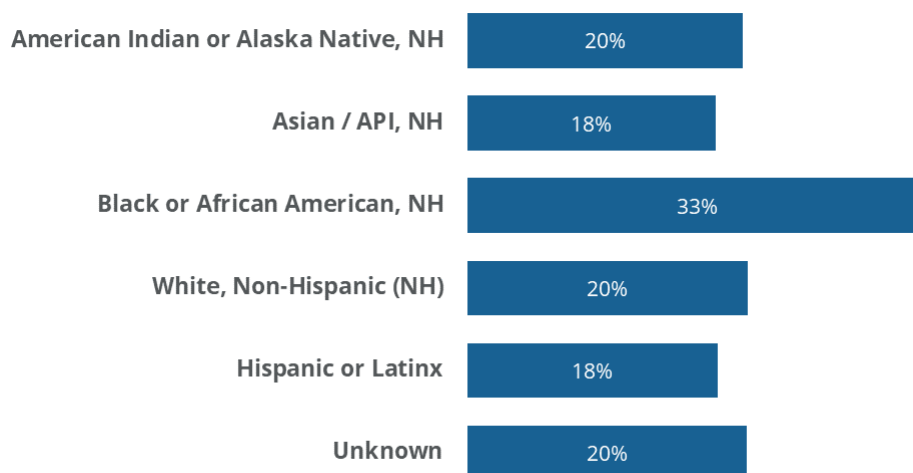
**Figure B3-94 Mortgage Applications by Race and Ethnicity, Cupertino, 2018-2019**



Source: ABAG Housing Needs Data Workbook

NOTE: Applications were very low for American Indian/Alaskan Native (6 total), Black/African American (also 6 total), and Hispanic/Latino applicants (33 total).

**Figure B3-95 Mortgage Application Denial Rate by Race and Ethnicity, Cupertino, 2018-2019**



Source: ABAG Housing Needs Data Workbook

## Housing Resources and Opportunities

# B.4

APPENDIX



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## B4 HOUSING RESOURCES AND OPPORTUNITIES

California law (Government Code Section 65583 (a)(3)) requires that the Housing Element contain an inventory of land suitable for residential development, including vacant sites that can be developed for housing within the planning period and nonvacant (i.e., underutilized) sites having potential for redevelopment. State law also requires an analysis of the relationship of zoning and public facilities and services to these sites.

### B4.1 REGIONAL HOUSING NEEDS ALLOCATION

The Regional Housing Needs Allocation (RHNA) is the State of California–required process that seeks to ensure cities and counties are planning for enough housing to accommodate all economic segments of the community. The process is split into the following three steps.

1. **Regional Determination:** The California Department of Housing and Community Development (HCD) provides each region with a Regional Determination of housing need, which includes a total number of units split into four income categories. The City of Cupertino is in the region covered by the Association of Bay Area Governments (ABAG). HCD allocated ABAG a Regional Determination of 441,176 units for the 6th cycle RHNA covering the years from 2023 to 2031. This is the total number of units that the 109 cities and counties in the ABAG region must collectively plan to accommodate.
2. **RHNA Methodology:** ABAG is responsible for developing a RHNA Methodology for allocating the Regional Determination to each city and county in their region. This methodology must specifically identify objectives, including, but not limited to, promoting infill, equity, and environmental protection; ensuring jobs-housing balance; and affirmatively furthering fair housing. Of the 441,176 units allocated to the ABAG region, 4,588 were allocated to Cupertino.
3. **Housing Element Updates:** Each city and county must then adopt a Housing Element that demonstrates how the jurisdiction can accommodate its assigned RHNA through zoning. HCD reviews each jurisdiction's Housing Element for compliance with State law.

Cupertino's share of the regional housing need for the eight-year period from 2023 to 2031 is 4,588 units, which is a 431 percent increase over the 1,064 units required during the 5th Cycle (2015 to 2023) RHNA planning period. The housing need is divided into the four income categories of housing affordability. [Table B4-1, Cupertino's Regional Housing Needs Allocation – 2023–2031](#), shows Cupertino's RHNA for the 6th Cycle (2023–2031) planning period and the percentage of the city's total RHNA that is allocated to each affordability category.



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B4-1 Cupertino's Regional Housing Needs Allocation – 2023–2031		
Income Group	Unit Allocation	Percentage
Very Low Income (<50% of AMI)*	1,193	26.0%
Low Income (50%-80% of AMI)	687	15.0%
Moderate Income (80%-120% of AMI)	755	16.5%
Above Moderate Income (>120% of AMI)	1,953	42.6%
<b>Total</b>	<b>4,588</b>	<b>100.0%</b>

Source: California Department of Housing and Community Development, 6th Cycle Regional Housing Needs Allocation, Final Methodology, 2021

\*It is assumed that 50 percent of the very low-income category is allocated to the extremely low-income category. There are projected to be 596 new extremely low-income households during the 6th cycle planning period.

AMI = Area Median Income

## B4.2 PENDING PROJECTS

Projects that have been approved, permitted, or received a certificate of occupancy since the beginning of the RHNA projected period may be credited toward meeting the RHNA based on the affordability and unit count of the development. For projects yet to receive their certificate of occupancy or final permit, the element can demonstrate that the project is expected to be built within the planning period. For projects that have received their certificate of occupancy, affordability is based on the actual or projected sale prices, rent levels, or other mechanisms establishing affordability in the planning period of the units within the project.

Cupertino has a significant number of development projects that are seeking entitlements or that have been approved. [Table B4-2, Pending Projects](#), summarizes the inventory of residential and mixed-use projects that are pending approval or that have current active entitlements. None of the projects listed in **Table B4-2** have received a certificate of occupancy or final permit. As of July 2023, of the more than 3,319 units that the City has approved, there were an estimated 1,618 housing units in the pipeline assumed to meet a portion of the City's RHNA. Of these units, 586 units are affordable to lower-income households, 49 units are affordable to moderate-income households, and 893 units are market rate. Affordability for lower- and moderate-income units are based on tax credits and private funding.

**Figure B4-1** provides a map of all approved and pending projects along with the sites that will be used to meet the RHNA. Sites in this map are designated by the RHNA affordability levels that are expected to be accommodated by the site.

Table B4-2 Pending Projects														
Site ID	Assessor's Parcel Number	Project Name	Site Address/ Intersection	Existing Units	Project Total			Portion Counted Toward RHNA					Funding Source	Project Status
					Total	Lower	Moderate	Above Moderate	Percentage/Phase Assumed	Lower	Moderate	Above Moderate		
P1	31620122	The Rise (Vallco)	10101 N Wolfe Road	0	2,669	890	0	1,779	Phase 1	581	0	1,321	Abu Dhabi Investment Authority. Potential Low-Income Housing Tax Credit (LIHTC) application.	Building permit application not yet submitted. Project site soil remediation completed summer 2023. New architect on board and value engineering in process. Sand Hill Property Co.  The developer has completed demolition and the process of cleaning up the west side of the site, which includes Phases 1 and 2 of the project (2,669 units). The foundation permits have been issued, so construction can begin. The City fully anticipates the west side (1902 units total, 581 affordable) being available in the planning period. The City is not relying on the east side of the project (Phase 2: 767 units total, 309 affordable) to meet the RHNA.
	31620121		10330 N Wolfe Road						Phase 2 (Not Counted Toward RHNA)	309	0	458		
P2	32627043	Westport	21267 Stevens Creek Boulevard	0	259	48	0	211	100%	48	0	211	LIHTC	Building permits have been issued and construction is ongoing for 48-unit below-market rate (BMR) portion and 88 townhomes/rowhomes. Construction for senior living is anticipated to begin winter 2023.
P3	34216087	Canyon Crossing	10625 S. Foothill Boulevard	1	18	1	3	14	100%	1	3	14	---	Demolition permits issued. Building permits submitted in early summer 2023.
P4	36610126	Coach House/ 1655 S. De Anza	7357 Prospect Road	0	34	3	1	30	100%	3	1	30	---	Entitlement approved late spring 2023. Applicant to submit building permits by winter 2023.
	36610061		1655 S. De Anza											
P5	32634066	Marina Food	10118-10122 Bandlely Drive	0	206	0	36	170	100%	0	36	170	---	Entitlements granted in 2022. Project being value engineered currently.
	32634043		10145 N. De Anza Boulevard											
P6	34214066	Bateh Brothers	22690 Stevens Creek Boulevard	0	10	0	2	8	100%	0	2	8	---	Under construction. Anticipated completion late winter 2023.
	34214104													
	34214105													
P7	35907021	Bianchi Townhomes	10040 Bianchi Way	2	7	0	1	6	100%	0	1	6	---	Application under review.
P8	35920030	McClellan LLC	20860 McClellan Road	1	12	0	6	6	100%	0	6	6	---	Demolition permit issued in summer 2023. Building permits under review.
P9	362 31 003	Cleo	20638 Cleo Avenue	1	4	0	0	4	100%	0	0	4	---	Pre-application. Ready to submit.
Total				5	3,219	942	49	2,228	---	633	49	1,770	---	---

Source: City of Cupertino, September 2023

APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

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## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

### B4.3 SITES INVENTORY

#### AVAILABILITY OF LAND

State Housing Element law emphasizes the importance of adequate land for housing and requires that each Housing Element “...identify adequate sites ... to facilitate and encourage the development of a variety of housing types for all income levels...” (California Government Code Section 65583(c)(1)). To allow for an adequate supply of new housing, land must be zoned at a variety of densities to ensure that development is feasible for a wide range of income levels. The identified land must also have access to appropriate services and infrastructure, such as water, wastewater, and roads.

To demonstrate the City’s capacity to potentially meet its RHNA, an adequate-sites inventory was conducted. The inventory must identify adequate sites that will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of housing types for households of all income levels. The analysis of the relationship of suitable sites to zoning provides a means for determining the realistic number of dwelling units that could be constructed on those sites in the current planning period.

#### SITES APPROPRIATE FOR LOWER-INCOME HOUSING

Housing Element law requires jurisdictions to provide an analysis showing that zones identified for lower-income households are sufficient to encourage such development. The law provides two options for preparing the analysis: (1) describe market demand and trends, financial feasibility, and recent development experience; or (2) use default density standards deemed adequate to meet the appropriate zoning test. According to State law (California Government Code Section 65583.2(c)(3)(B)), the default density standard for Cupertino is 30 dwelling units per acre. The City has included several sites, listed in **Tables B4-7** and **B4-9**, that allow for densities up to 80 units per acre, that well exceed the City’s default density.

#### SITES IDENTIFIED IN PREVIOUS HOUSING ELEMENT

Pursuant to California Government Code Section 65583.2(c), a nonvacant site identified in the previous planning period and a vacant site identified in two or more previous consecutive planning periods cannot be used to accommodate the lower-income RHNA unless the site is subject to an action in the Housing Element that requires rezoning within three years of the beginning of the planning period that will allow residential use by right for housing developments with at least 20 percent units affordable to lower-income households. The City is not relying on any sites that were previously used to meet the lower income RHNA.

#### REALISTIC CAPACITY

In determining the realistic capacity for the City’s inventory of sites, the City considered land use controls and site improvements and assumed an 80 percent adjustment to reflect developable acreage due to on-site improvements, including sidewalks, utility easements, and infrastructure improvements (roadway access, water, sewer, and stormwater). All sites are served by or planned to be served by infrastructure, with no constraints identified that would reduce capacity beyond the 80 percent adjustment. To further determine an appropriate realistic capacity assumption, the City considered and evaluated the implementation of its current multifamily development standards (e.g., setbacks, building height, parking, density requirements, land use controls, water and wastewater access, and

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

open space requirements) as well as project examples to determine approximate density and unit capacity so as to not over-project unit potential. The city also reviewed both residential and mixed-use project examples to further determine the appropriate realistic capacity for the sites inventory.

### *Realistic Capacity for Residential Sites*

**Table B4-3** shows project examples in Cupertino from 2016 to 2023. Overall, projects show a very high realistic capacity, ranging from 80 to more than 100 percent of the site. On example sites where the total exceeded 100 percent of the maximum number of units permitted by the base General Plan and zoning density, a density bonus was used. Proposed projects must achieve 100 percent of the maximum density prior to applying for density bonus units. When determining the realistic capacity that should be applied to the sites listed in **Table B4-7**, the City looked at both the 80 percent adjustment for land use controls and site improvements, and project examples. To ensure capacity is not over projected, the city assumed a 95 percent realistic capacity on all residentially zoned sites in **Table B4-7**.

There is one exception. For Site 10, due to an active 100 percent affordable housing proposal, not yet entitled, the City assumed the realistic capacity and affordability based on the tentative plans for this project.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B4-3 Realistic Capacity Examples, Residential-Only

Project Name	Acres	Project Status	Unit Affordability	General Plan/ Zoning	Total Project Units	Max. Allowable Units	Realistic Capacity Percentage	Proposed Use	Prior Use
Hamptons	12.44	Entitlements granted in 2016	871 AM, 30 M, 41 Lower. Affordable units from inclusionary program	High-Density Residential (35+ dwelling units/acre)	942	942	>100%	100% residential	342 units. The plan is to demolish all units and construct 942 new apartments.
McClellan subdivision	1.25	Entitled in October 2022. Demolition permit issued. Building permits in review.	6 AM, 6 ADUs	Low-Density Residential	6	6	100%	100% residential	One home and a barn/large storage shed. The plan is to demolish existing uses and redevelop entire site.
Cleo Small Lot SFR	0.23	Project Application in review as of 2023.	BMR in-lieu of fee	Medium (10-20 du/ac); P(R3).	4	5	80%	4 residential units	One single family home. The plan is to demolish existing use and redevelop entire site.

Source: City of Cupertino, September 2023

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

*Realistic Capacity for Commercial/Residential (Mixed-Use) Sites*

In Cupertino, Planned Development (P) zoning districts with a residential component (e.g., P(Res)) in the Housing Sites inventory, allow horizontal and vertical mixed-use development by right. Additionally, Cupertino Zoning Code Section 19.80.030 (2) provides special density rules for what it terms “Priority Housing Sites.” According to the code:

*“If a [mixed-use] site is listed as a Priority Housing Site in the City’s adopted Housing Element of the General Plan, then residential development that does not exceed the number of units designated for the site in the Housing Element shall be a permitted use.”*

**Table B4-4** summarizes three approved mixed-use developments, Marina Plaza, Westport, and Valco. These projects range in realistic capacity from 83 to 344 percent, with most coming in around 113 percent. This suggests that mixed-use projects in Cupertino develop at greater than 100 percent of the permitted density. For example sites where the total number of units exceeded 100 percent of the maximum number of units permitted by the base General Plan and zoning density, a density bonus was used. Proposed projects must achieve 100 percent of the maximum density prior to applying for density bonus units. Since the City still needs to account for the unlikely possibility of nonresidential uses on mixed-use sites in the current market, while the trends over the past decade indicates development on most large sites at close to or over 100 percent of the maximum allowable density, the City conservatively estimates a 75 percent realistic capacity for sites with mixed-use zoning in the sites inventory.

Additionally, out of all development projects over the past three years within a P(Com/Res) zoning, two were 100 percent residential, three included a mix of uses, while none developed with 100 percent commercial uses. This track record further shows the high potential for residential to develop on sites that allow for commercial uses.



Table B4-4 Realistic Capacity Examples, Mixed-Use Zones

Project Name	Acres	Project Status	Unit Affordability	General Plan/Zoning	Total Project Units	Max. Allowable Units	Realistic Capacity Percentage	Proposed Use	Prior Use
Marina Plaza	5.12	Entitled 2022	170 AM, 18 M, 18 Median	Commercial/Residential; Planned Development with Commercial and Residential Uses (P(CG/Res)). Includes density bonus.	206	179	115%	Mixed-use	100% commercial, 45-50k sf retail center and a standalone restaurant building. The structures were constructed in the 1970s.The plan is to demolish existing use and redevelop the entire site. As of 2022, the combined site had an ILV of 0.45, with the two individual parcels having ILVs of 0.11 and 1.26.
Westport	7.76	Entitled 2020. 136 Building Permits Issued as of 2022.	88 AM, 123 AM Senior Assisted Living, 48 Lower senior units	Commercial/Residential -Planned Development with Commercial and Residential uses (P(CG/,Res). Includes density bonus and waivers.	259	237	109%	Mixed-use (+/- 20ksf, 259 residential)	100% commercial, (72k sf village shopping center). The existing structures, constructed in the 1970s, were demolished to allow and redevelopment of the entire site. Prior to entitlement, some spaces were occupied. Under construction now.
Vallco	50.82	Entitled 2018. Demolition and Foundation permits issued in 2019 and 2020	1,779 AM, 267 VLI, 623 Low	Regional Commercial/ Planned Development with commercial uses (entitled when residential uses were allowed on site). Includes density bonus, concessions and waivers	2,669	1,779	150%	Mixed-use (2mn office, 200k +/- sf comm, 2,669 residential)	100% commercial, (1.27k s.f. regional mall). The plan is to demolish the existing use and redevelop the entire site. There were few existing tenants.
Canyon Crossing	1.38	Entitled 2022. Demolition permits issued in 2022.	1 VLI, 1 LI, 1 M, 1 median, 14 AM	Commercial/Residential at 15 du/ac. Planned Development with Commercial and Residential uses (P(CG/Res). No Density Bonus	18	20	90%	Mixed-use (4500 s.f. plus 18 units)	100% commercial strip mall and one residential unit. The structures were developed in the 1950s and 1960s. The site is currently vacant, as the prior use was demolished to redevelop the entire site. Prior to demolition, ILV was 0.01.
1655 S. De Anza	1.68	Entitled 2023	1 M, 1 LI, 3 VLI, 29 AM	Commercial/Residential at 5-15 du/ac. Planned Development with Commercial and Residential uses (P(CG/Res 5-15)). Includes Density Bonus and waivers.	34	25	136%	Mixed-use (7600 s.f. and 34 units)	100% commercial, 11,650 s.f strip mall and adjoining parcel with parking lot improvements constructed in the early 1960s. The plan is to demolish the existing use and redevelop the entire site. There were/are existing tenants. The ILV as of 2022 was 0.28.
Verandas	0.55	Built in 2019	19 lower (SROs)	Commercial/Residential; P(CG/Res) Includes Density Bonus and reduced parking standards	19	14	135%	100% residential	Vacant
Alan Row/Bateh Brothers	0.78	Building Permit Issued 2022	8 AM, 2 M	Commercial/Residential; P(CG/Res) No Density Bonus	10	12	83%	100% residential	100% commercial, ~2800 sf standalone liquor store constructed in the 1960s with two adjacent undeveloped properties. The plan is to demolish the existing use and redevelop the entire site. Store was owner-operated.
Bianchi Townhomes	0.34	Project Application in review as of 2023.	1 Median, 6 AM	Commercial/Office/Residential, P(CG/Res). No bonus units, but waivers, concession and a reduced parking standard	7	8	88%	100% residential (7 units)	Existing four-plex built in the 1950sPlan is to demolish existing use and redevelop the entire site. As of 2023, the site had an ILV of 0.11.

Source: City of Cupertino, 2023

APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

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## UNIT ALLOCATION

For determining capacity, the City assumed a mixed-income approach for each site to not only provide for a more realistic assumption, but to ensure the city is affirmatively furthering fair housing. The City used the percentage of the RHNA category to distribute the units on each site and has distributed accordingly. For most sites, the City assumed that 41 percent of each site will be affordable to lower-income households, 16 percent will be affordable to moderate-income households, and 43 percent will be affordable to above moderate-income households. For sites that do not allow for at least 16 units per site (Sites 12, 18, 19, 25, 31, 33, 34, 35, and 43) and for sites that were also smaller than 0.5 acres but still met the 16-unit threshold (2, 4, 11, 12, 17, 21, 45, and 54), capacity was allocated towards the moderate- and above moderate-income categories. On Site 10, there is an active 100 percent affordable housing proposal that has not yet been entitled, so all estimated units were assigned to the lower-income category. Similarly, on Sites 36 and 37, the realistic capacity was based on a pending Senate Bill (SB) 330 application. Site 27 is owned by Santa Clara County and in December 2023 released a Request For Offers (RFO) for an affordable housing development on the site. In January 2024, the County selected Eden Housing as the developer for the site, with the objective of having a fully-entitled project prior to the end of the 2024 calendar year. The County included the City in the RFO and developer selection process and Eden Housing has, as of February, begun having regular meetings with the City on its community outreach strategy and refining their plans to develop an all affordable housing project with units affordable to lower and moderate-income households. Based on this the City has allocated the capacity on the site accordingly.

## PROPOSED REZONE CAPACITY

All of the sites within the City's inventory have been identified for either rezoning, a change in General Plan land use designation to allow for increased density, or both. As shown in **Table B4-5**, the City does not currently have sufficient capacity to meet the RHNA. As part of **Strategy HE-1.3.2**, the City commits to completing changes to the land use designation and rezoning by January 31, 2024. The rezoning and changes in General Plan land use designation will increase the maximum density on many sites to as much as 80 dwelling units per acre. This will allow the City to cover the shortfall identified and allow for a surplus in all income categories **Table B4-6**. Additionally, per Government Code Section 65583.2(g)(2), and as shown in **Table B4-6**, 50 percent of the very low- and low-income shortfall (534 units) is being met on sites that allow for exclusively residential development. Also note, not all residential capacity in the city is identified in the priority housing sites list and therefore, the shortfall is most likely even lower.

**Tables B4-7 through B4-10** provide further information and detail on each of the priority housing sites in the City's inventory list. Please note that the site numbers listed here are added only as an additional way to reference the site and do not indicate any preference or priority. **Figures B4-1 – B4-4**, maps the housing priority sites potential sites.

Additionally, to comply with Government Code section 65583.2, subd. (c)(4), AB 725, for Metropolitan jurisdictions, Cupertino must accommodate at least 25 percent of the moderate and 25 percent above moderate RHNA on sites that allow at least four units of housing. As shown in **Table B4-7** and **B4-9**, all sites listed are large enough to accommodate at least 5 housing units. Therefore, the City is meeting the requirements of Government Code section 65583.2, subd. (c)(4).

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Table B4-5 RHNA Capacity Prior to Rezone

RHNA Category	2023-2031 RHNA	Pending Project Capacity	Current Residential Site Capacity	Current Mixed-Use Sites Capacity	Projected Accessory Dwelling Units	Total Capacity	Shortfall
Very Low	1,193	633	15 <sup>1</sup>	49	116	813	1,067
Low	687						
Moderate	755	49	297 <sup>2</sup>	411	57	1,020	59
Above Moderate	1,953	1,770	173 <sup>3</sup>	61	19	1,821	70
<b>Total</b>	<b>4,588</b>	<b>2,168</b>	<b>485</b>	<b>520</b>	<b>192</b>	<b>3,654</b>	<b>939</b>

Source: City of Cupertino, 2023

1 Sites allowing 30 du/acre or more

2 Sites allowing 20-29 du/acre

3 Sites allowing less than 20 du/acre

Table B4-6 RHNA Capacity with Rezone

RHNA Category	2023-2031 RHNA	Pending Projects Capacity	Residential Site Capacity with Rezone	Mixed Use Site Capacity with Rezone	Projected ADUs	Total Capacity	Surplus
Very Low	1,193	633	833	596	116	2,178	298
Low	687						
Moderate	755	49	360	436	57	902	147
Above Moderate	1,953	1,770	662	695	19	3,146	1,193
<b>Total</b>	<b>4,588</b>	<b>2,452</b>	<b>1,855</b>	<b>1,727</b>	<b>192</b>	<b>6,226</b>	<b>1,638</b>

Source: City of Cupertino, July 2023

NOTE: While the City assumes that ADUs will provide capacity to meet the RHNA, the City is not relying on ADU capacity to meet the RHNA targets.

Table B4-7 Priority Housing Sites in Residential Zones

Site ID	APN	Acres	Existing General Plan Designation	Existing Zoning Designation	Current Maximum Allowed Density	Proposed General Plan Designation	Proposed Zoning	Proposed Minimum Density	Proposed Maximum Density (du/acre)	Maximum Unit Capacity (100%)	Realistic Unit Capacity (95%)	Lower Income Units	Moderate Income Units	Above Moderate Income Units
1	31623027	0.64	Commercial/Office/Residential	P(CG, Res)	25	H/VHD - High/Very High Density	R4	50.01	65	42	35	14	6	15
2	36903005	0.47	Commercial/Office/Residential	P(CG, Res)	25	H/VHD - High/Very High Density	R4	50.01	65	31	29	12	5	12
3	32634047	1.09	Commercial/Office/Residential	P(CG, Res)	25	H/VHD - High/Very High Density	R4	50.01	65	71	67	27	11	29
4	35907006	0.32	Commercial/Office/Residential	P(CG, Res)	25	H/VHD - High/Very High Density	R4	50.01	65	21	20	8	3	9
5	37506006	1.71	Commercial/Office/Residential	P(CG, Res)	25	VHD - Very High Density	R4	65.01	80	137	130	53	21	56
6	37506007	0.96	Commercial/Office/Residential	P(CG, Res)	25	VHD - Very High Density	R4	65.01	80	77	73	30	12	31
7	31621031	1.81	Commercial/Office/Residential	P(CG, Res)	25	H/VHD - High/Very High Density	R4	50.01	65	118	112	46	18	48
8	31623026	1.78	Commercial/Office/Residential	P(CG, Res)	25	H/VHD - High/Very High Density	R4	50.01	65	116	110	45	18	47
9	32632050	0.83	Commercial/Office/Residential	P(CG, Res)	25	H/VHD - High/Very High Density	R4	50.01	65	54	51	21	8	22
10	32627053	0.75	Transportation	T	0	H/VHD - High/Very High Density	R4	50.01	65	49	40	40		
11	32336018	0.42	Commercial / Residential	P(CG)	35	H/VHD - High/Very High Density	R4	50.01	65	27	26	11	4	11
12	31604064	0.44	Res Low 1-5	A1-43	5	MD - Medium Density	R3/TH	10.01	20	9	8		4	4
13	32607022	1.64	Commercial	P(CG)	15	VHD - Very High Density	R4	65.01	80	131	125	51	20	54
14	32607030	0.92	Commercial	BQ	15	VHD - Very High Density	R4	65.01	80	74	70	29	11	30
15	32607031	0.24	Commercial	P(CG)	15	VHD - Very High Density	R4	65.01	80	19	18	7	3	8
16	32607036	1.74	Commercial	P(CG)	15	VHD - Very High Density	R4	65.01	80	139	132	54	21	57
17	36937022	0.39	Medium (10-20 DU/Ac)	R3	20	VHD - Very High Density	R4	50.01	65	25	24	10	4	10
18	36937023	0.22	Medium (10-20 DU/Ac)	R3	20	MHD - Medium High Density	R3/TH	20.01	35	8	7		1	6
19	36937024	0.17	Medium (10-20 DU/Ac)	R3	20	MHD - Medium High Density	R3/TH	20.01	35	6	6		1	5
20	36934053	0.54	Commercial / Residential	P(CG)	15	MHD - Medium High Density	R3/TH	20.01	35	19	18	7	3	8
21	35918044	0.26	Commercial / Residential	P(CG)	25	H/VHD - High/Very High Density	R4	50.01	65	17	16	7	3	6
22	36610121	1.34	Commercial / Residential	P(CG, Res 5-15)	15	MHD - Medium High Density	R3/TH	20.01	35	47	45	18	7	20
23	36610137	0.92	Commercial / Residential	P(CG, Res 5-15)	15	MHD - Medium High Density	R3/TH	20.01	35	32	31	13	5	13
24	36619047	2.33	Commercial / Residential	P(CG, Res 5-15)	15	H/VHD - High/Very High Density	R4	50.01	65	151	144	59	23	62
25	36619078	0.08	Commercial / Residential	P(CG, Res 5-15)	15	H/VHD - High/Very High Density	R4	50.01	65	5	5		1	4
26	35909017	1.00	Commercial / Residential	P(CG, Res)	25	H/VHD - High/Very High Density	R4	50.01	65	65	62	25	10	27
27	31620088	5.16	Reg Shopping	CG	0	VHD - Very High Density	R4	50.01	65	335	319	207	112	0
28	35913019	0.99	Res Low 1-5	R1-10	5	MD - Medium Density	R3	10.01	20	20	19	8	3	8
29	35606001	0.73	Res Low 1-5	R1-7.5	5	MHD - Medium High Density	R3/TH	20.01	35	26	24	10	4	10
30	35606002	0.69	Res Low 1-5	R1-7.5	5	MHD - Medium High Density	R3/TH	20.01	35	24	23	9	4	10
31	35606003	0.25	Res Low 1-5	R1-7.5	5	MHD - Medium High Density	R3/TH	20.01	35	9	8		5	3
32	35606004	0.87	Res Low 1-5	R1-7.5	5	MHD - Medium High Density	R3/TH	20.01	35	30	29	12	5	12
33	36231001	0.25	Res Medium 10-20	P(R3)	20	MHD - Medium High Density	R3/TH	20.01	35	9	8		1	7
34	36231030	0.23	Res Medium 10-20	P(R3)	20	MHD - Medium High Density	R3/TH	20.01	35	8	8		1	7
35	32720034	1.34	Res Low 1-5	R1-10	5	LM - Low Medium	R3/TH	5.01	10	13	13		2	11
Total										1,963	1,855	833	360	662

Source: City of Cupertino, September 2023.

Table B4-8 Priority Housing Sites in Residential Zones - Additional Site Details							
Site ID	APN	Location	Existing Use	Owner Interest	Current Lease	Age of Building/ Condition	Discussion
1	316 23 027	20149 Stevens Creek Blvd	Commercial building and unpermitted warehouse (Sun Design Center)	Yes	n/a	1957, aged	Site 1 is located in the Heart of the City – Central Special Area, which is predominantly commercial uses located both north and south of Stevens Creek Blvd and approximately 0.75 miles east of De Anza College. Existing uses on the site include two commercial structures. One of the commercial structures, a concrete tilt-up, currently a kitchen and bathroom remodel store, was built in 1957 and is in very aged condition, with no exterior improvement made, but not dilapidated condition, and the other is a wooden warehouse that is unpermitted. The owner has expressed an interest in redeveloping the site. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 0.72 so development on this site is considered feasible.
2	369 03 005	20010 Stevens Creek Blvd	Commercial building	Yes	n/a	1955. Aged building	Site 2 is located in the Heart of the City – Central Special Area, which is predominantly commercial uses located both north and south of Stevens Creek Blvd. Site 2 is located in the central core area approximately 0.75 miles east of De Anza College. Existing uses on the site include a commercial structure, currently a breakfast restaurant. The building was constructed in 1955 and while not dilapidated, is not in good shape. The owner has expressed an interest in redeveloping the site. Neighboring uses include commercial and multi-family residential buildings. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 0.17 so development on this site is considered feasible.
3	326 34 047	10125 Bandley Dr	Restaurant	Yes	n/a	1979. Aged building	Site 3 is a 1.09-acre site located in the Heart of the City – Crossroads Special Center, which is predominantly commercial uses located both north and south of Stevens Creek Blvd and approximately 0.5 mile east of De Anza College. The site currently has a commercial building that was constructed in 1979 that is aged but not dilapidated. The owner has expressed an interest in redeveloping the site. Neighboring uses include commercial and multi-family residential uses. The improvement-land value ratio for this site is 0.41 so development on this site is considered feasible.
4	359 07 006	20950 Stevens Creek Blvd	Single tenant retail	Yes	n/a	1966, Aged borderline dilapidated	Site 4 is a 0.32-acre site located in the Heart of the City – Crossroads Special Center, which is predominantly commercial uses located both north and south of Stevens Creek Blvd. and is approximately 0.5 mile east of De Anza College. Existing uses on the site include a commercial structure. The existing structure was constructed in 1966 and is borderline dilapidated. The owner has expressed an interest in redeveloping the site. Neighboring uses include commercial and multi-family residential uses. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 0.17 so development on this site is considered feasible.
5	375 06 006	19220 Stevens Creek Blvd	Commercial Offices	Yes	n/a	1970, aged and dated	Sites 5 and 6 are two parcels totaling 2.67 acres located in the Heart of the City – East Special Area, which is predominantly commercial uses located both north and south of Stevens Creek Blvd. Existing uses on the site include two commercial structures. Site 5 includes an office building that was constructed in 1970, currently occupied by a childcare facility. Site 6 is developed with an office building, currently occupied by law offices, that was constructed in 1969. The owner of the two parcels has expressed continued interest in redeveloping the sites. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for these parcels are 0.38 (Site 5) and less than 0.01 (Site 6) so development on this site is considered feasible.
6	375 06 007	19300 Stevens Creek Blvd	Commercial Offices	Yes	n/a	1969, aged and dated	
7	316 21 031	19875 Stevens Creek Blvd	Cort Furniture and childcare.	Yes	n/a	1964	Site 7 is a 1.81-acre parcel located in the Heart of the City Special Area – Central Special Center, which is a mix of commercial and residential uses located approximately 1.25 miles east of De Anza College. Existing uses on Site 7 include a commercial building with a furniture rental store and a day care center, and associated parking. The building was constructed in 1964 and is a concrete tilt up with very little improvements on the exterior. Neighboring uses include commercial and single-family uses. Several developers have expressed interest in redeveloping the site and discussed potential with City staff. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 0.43 so development on this site is considered feasible.



Table B4-8 Priority Housing Sites in Residential Zones - Additional Site Details

Site ID	APN	Location	Existing Use	Owner Interest	Current Lease	Age of Building/ Condition	Discussion
8	316 23 026	20111 Stevens Creek Blvd	Office building.	Yes,-active conversation with property owner, conversations with interested developer in Fall 2023.	n/a	1982	Site 8 is a 1.78-acre parcel located in the Heart of the City Special Area – Central Special Area, which is a mix of commercial and residential uses. Site 8 is located on the north side of Stevens Creek Boulevard, approximately one mile east of De Anza College. Existing uses on the site include a dentist's office and associated parking, adjacent to Site 1. The building was constructed in 1982 and has had minimal upgrades. Neighboring uses include commercial and single-family uses. The property is on the same block 11051 N, Blaney, which has an application on file for a 5-story, 85-unit/acre apartment development. Developers have contacted the City about the possibility of redeveloping this site. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 0.80 so development on this site is considered feasible.
9	326 32 050	20883 Stevens Creek Blvd	Office building.	No response received	n/a	1981	Site 9 is a 0.83-acre parcel located in the Heart of the City – Crossroads Special Area, which is a mix of commercial and residential uses. Site 9 is located approximately 0.25 miles east of De Anza College. Existing uses on the site include an office building. The building is occupied by a tech company and was constructed in 1981. The site is across the street from a pipeline project (Bianchi) and two vacant commercial buildings (former Fontana's Restaurant and Pizza Hut) that are strong redevelopment candidates. Neighboring uses include commercial uses, with single-family uses and amenities in close proximity. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 19.72 so development on this site may be a challenge; however, due to the nearby presence of a pipeline project and the potential for redevelopment of other nearby parcels in this corridor, it is estimated that this will not be a barrier to redevelopment. Current trends are showing there is a lot of interest in developing near this site. Redevelopment of small, dated buildings is occurring across the street which includes an SB330 preliminary application to redevelop three existing buildings (two restaurants and one larger format commercial building) with associated parking lots and an approved townhome development in the vicinity.
10	326 27 053	Mary Ave site	Vacant	Yes. City Owned	n/a	n/a	Site 10 is located in the Garden Gate neighborhood and is located east of Highway 85. Presently, the site is a new parcel carved out from unused right-of-way, owned by the City of Cupertino, adjacent to Highway 85 that includes some on-street parking. Neighboring uses include multi-family residential uses, a dog park, condominiums and Highway 85.  In response to an October 2022 RFP for projects for this property, the site has an active proposal for a 40-unit, two-story affordable (100% Low and Very Low Income) housing project developed by Cupertino Rotary Housing Corporation, Housing Choices Coalition, and Charities Housing. The project will include 18 units for residents with intellectual or developmental disabilities.  This site does not have a current assessed land or improvement value, so an improvement-land value ratio could not be calculated for this site.
11	323 36 018	11025 N De Anza Blvd	Vacant	Yes	n/a	1960	Site 11 is a 0.42-acre parcel located in the Homestead Road Special Area, which is predominantly multi-family homes and commercial uses. Site 11 is located north of Interstate 280 at the northwest corner of Homestead Road and Sunnvale-Saratoga Road. The small commercial structure that previously occupied this site was recently demolished and the site is now vacant. The owner has expressed an interest in redeveloping the site. Neighboring uses include multi-family homes and a variety of commercial structures. The property is close to the Apple Campus and close to bus lines on De Anza and Homestead Rd. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 0 due to the lack of improvements on the site, so development is considered feasible.
12	316 04 064	19820 Homestead Rd	Single Family Residential	Yes	n/a	1954, borderline dilapidated	Site 12 is a 0.44-acre site located in the Homestead Road Special Area, which is predominantly multi-family homes and commercial uses located immediately north of Interstate 280. Existing uses on Site 12 include a single-family home that was built in 1954 and is borderline dilapidated. The owner has expressed an interest in redeveloping the site. Neighboring uses include similar single-family homes. The improvement-land value ratio for this site is 0.02 so development is considered feasible.



Table B4-8 Priority Housing Sites in Residential Zones - Additional Site Details							
Site ID	APN	Location	Existing Use	Owner Interest	Current Lease	Age of Building/ Condition	Discussion
13	326 07 022	[no address]	Church - tennis courts	Yes	n/a		Sites 13 and 16 are 1.64 and 1.74-acre parcels, respectively, that are located in the Homestead Road Special Area, as are Sites 14 and 15. Sites 14 and 15 are two adjacent parcels totaling 1.16 acres. This area is predominantly multi-family homes and commercial uses located immediately north of Interstate 280. Existing uses on the site include tennis courts, parking, and a vacant lot. The parcels have the potential to either develop separately or as a consolidated lot, though it is likely that sites 14 and 15 would develop as a consolidated lot due to their sizes and arrangement. The owner has expressed an interest in redeveloping these four sites together. Neighboring uses include a church sanctuary and parking lot, a new bank building, older office buildings and an electrical power substation. Additionally, a neighborhood center is located across Homestead Road in the City of Sunnyvale. The sites would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for all four parcels is 0 as there is no assessed improvement value.
14	326 07 030	[no address]	Church parking lot	Yes	n/a		
15	326 07 031	[no address]	Church parking lot	Yes	n/a		
16	326 07 036	[no address]	Outdoor sand courts on Church property.	Yes	n/a		
17	369 37 022	20421 Bollinger Rd	Vacant lot	Yes	n/a	Vacant lot	Sites 53 (see mixed-use zoning inventory), 17, 18 and 19 are adjacent parcels, owned by the same property owner, located on the north side of Bollinger Road just east of South DeAnza Boulevard. The South Blaney Neighborhood includes a mix of single- and multi-family housing and commercial use. Existing uses on the sites include a commercial structure and residential/duplex uses. Neighboring uses include commercial and single-family uses. Site 17 is currently vacant. The owner of sites 18 and 19 has expressed interest in developing townhomes on all or part of Sites 18 and 19. Site 19 currently has a single-family house constructed in 1940 that appears aged but not yet dilapidated. The current use of Site 18 is a duplex that is aged but not yet dilapidated; the age of this house is unknown. Site 53, which is adjacent to Sites 17, 18, and 19, is a vacant commercial building (former Taco Bell – with no interest in re-leasing this building from the property owner) that was built in 1991 and is in need of repair, though not yet dilapidated and is a site that is generating regular code enforcement inquiries due to its unmaintained appearance. The property owner has expressed consistent and strong interest in developing the properties and has met with City staff to discuss potential and options. The site has excellent access to amenities and bus service on De Anza Blvd and Bollinger Rd. The sites would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for Site 17 is 0 as there is no assessed improvement value. Sites 18 and 19 have improvement-land value ratios of 2.00 and 2.44, respectively. While this is higher than the default assumption of redevelopment feasibility, the owner's proactive interest in redevelopment is considered sufficient to overcome this high improvement value ratio.
18	369 37 023	20411 Bollinger Rd	Duplex	Yes	n/a	Mid-1950s/ 60s, Aged	
19	369 37 024	20431 Bollinger Rd	Single Family Home (legal non-conforming)	Yes	n/a	Mid-1950s/ 60s, Aged	
20	369 34 053	10891 S Blaney Ave	Strip Mall	Yes	n/a	1961, Aged condition	Site 20 is a 0.54-acre parcel in the South Blaney Neighborhood, which is a mix of single- and multi-family housing and commercial uses located immediately north of Bollinger Road at the intersection of Bollinger Road and S. Blaney Ave. The site is 0.4 miles from De Anza Blvd and 0.6 miles from Miller Ave, both of which have amenities at the intersection. Existing uses on the site include a commercial structure that was built in 1961 and is in fair condition. Neighboring uses include commercial and single-family uses. There have been multiple developer/broker contacts regarding this site since late 2022. This site and Site 52 have the same owner and the two properties will likely be consolidated or redeveloped jointly. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 0.28 so development is considered feasible.
21	359 18 044	10619 South De Anza Blvd	Strip mall	Yes	n/a	1966, Aged	Site 21 is a 0.26-acre parcel located in the South De Anza Blvd Special Area, which is predominantly commercial uses located along De Anza Blvd. Existing uses on the Site 21 include commercial uses, including a hair salon, small café, and massage store. There is also an associated parking lot. The building was constructed in 1966 and is in aged but not in dilapidated condition. The owner has expressed interest in redeveloping the site. Neighboring uses include commercial uses and De Anza Blvd. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 0.34 so development is considered feasible.

Table B4-8 Priority Housing Sites in Residential Zones - Additional Site Details

Site ID	APN	Location	Existing Use	Owner Interest	Current Lease	Age of Building/ Condition	Discussion
22	366 10 121	1505 S De Anza Blvd	Commercial, Kelly-Moore Paints	<del>No</del> : Yes	For sale	1965	Site 22 is a 1.34-acre parcel located in the South De Anza Blvd Special Area, and is very underutilized. The site is developed with a dated industrial building, originally a lumber yard, that has had a succession of short-term commercial tenants and is now vacant. The most recent occupant was a paint store. The property has a large surface parking area with worn paving that has few cars present during business hours (Site 23). The site is located along a stretch of De Anza Blvd. where most sites are redevelopment candidates. The east side of DeAnza Blvd. Is in the City of San Jose, where strip malls and similar under-performing commercial sites are currently being redeveloped with residential uses. The building was constructed in 1965. However, a recent entitlement for property approximately 750 feet south of this property at 1655 S. De Anza was approved in 2023 by the City, in which a strip mall was redeveloped with a mixed-use residential development. Neighboring uses include commercial uses, multi-family uses, and De Anza Blvd. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 0.25 so development is considered feasible. Site 22 is located adjacent to site 23 which is currently surface parking. City staff attended two meeting with a Long Beach based developer, Linc Housing, in March 2024. The developer expressed interest in doing a 100 percent affordable project and informed staff that the owner is aggressively marketing the site for housing development. Staff has an additional meeting with the prospective developer's team later in March.
23	366 10 137	[no address]	Parking lot behind KinderCare	Yes. The property owner has been interested in developing with residential in the past 2 years.	n/a	n/a	Site 23 is a 0.92-acre parcel located in the South De Anza Blvd Special Area, adjacent to Site 22, which has active interest to develop an affordable housing project. The surrounding area is predominantly low-intensity commercial uses located along De Anza Blvd. The existing use on Site 23 is a parking lot located behind a day care center, the site does not have any structures of its own but provides parking for adjacent low-density uses. Neighboring uses include commercial and residential uses and De Anza Blvd. The owner has been contacted regarding their interest in redeveloping this site, but a response has not yet been received. In the past, however, this property owner has been interested in redeveloping this property with residential uses. However, a recent entitlement for adjacent property at 1655 S. De Anza was approved in 2023 by the City, in which a strip mall was redeveloped with a mixed-use residential development. While the site is not eligible for by-right residential development under AB 2011 (2022) due to frontage requirements of the law, the property is adjacent to other property which are eligible for such development and therefore, contiguous development is anticipated. The improvement-land value ratio for this site is 0 as there is no assessed improvement value.
24	366 19 047	1361 S De Anza Blvd	Yamagami's Nursery	Yes	n/a	1960	Sites 24 and 25 are a 2.33-acre parcel and a 0.08-acre parcel, respectively, located in the South De Anza Blvd Special Area, which is predominantly commercial uses, a dated nursery building, located along De Anza Blvd. Existing uses on Sites 24 and 25 include a nursery and an associated parking lot. The nursery was constructed in 1960 and is a dated building. The owner has expressed a strong interest in redeveloping the site. Neighboring uses include commercial uses, single-family units, townhome units, De Anza Blvd, and new residential development in the City of San Jose. The site has fair access to amenities and bus service along De Anza Blvd. While the site is not eligible for by-right residential development under AB 2011 (2022) due to proximity to freeway limitations of the law, the property owner interest for redevelopment is strong. The improvement-land value ratio for Site 24 is 0.11 and 0 for Site 25 (no assessed improvement value), so development is considered feasible.
25	366 19 078	No address	Portion of Yamagami's site	Yes	n/a		
26	359 09 017	10105 S De Anza Blvd	Commercial Offices	Yes	n/a	1977, older building with no significant improvements	Site 26 is a one-acre parcel located in the South De Anza Blvd Special Area, which is predominantly commercial uses located along De Anza Blvd. Existing uses on Site 26 include a commercial building and parking lot. The current commercial building was constructed in 1977 and remains in fair condition. The site is located 0.5 miles from De Anza College and Apple's Infinite Loop Campus. There are several offices located within walking distance of the site. Neighboring uses include commercial uses, multi-family units, and De Anza Blvd. The owner has expressed an active interest in redeveloping this property. The site has excellent access to amenities and rapid bus service along Stevens Creek Blvd and other bus service along De Anza Blvd. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 0.42 so development is considered feasible.

Table B4-8 Priority Housing Sites in Residential Zones - Additional Site Details							
Site ID	APN	Location	Existing Use	Owner Interest	Current Lease	Age of Building/ Condition	Discussion
27	316 20 088	[no address]	Vacant site with parking lot, north of Vallco site	Yes	n/a	n/a	Site 27 is a 5.16-acre parcel located in the Vallco Shopping District, which is predominantly commercial uses located south of Interstate 280 along Wolfe Road. The site is presently a vacant lot. The owner has expressed interest in transferring this property to Santa Clara County to allow the redevelopment of this site with affordable housing development, including teacher housing. Neighboring uses include single-family uses, Wolfe Road, and the Interstate 280 corridor. The site has excellent access to planned amenities, is adjacent to a significant pipeline project (Vallco/The Rise), and is in close proximity to rapid bus service along Stevens Creek Blvd and other bus service along Wolfe Road. While the site is not eligible for by-right residential development under AB 2011 (2022) due to proximity to freeway limitations of the law, the property owner interest for redevelopment is strong. The improvement-land value ratio for this site is 0 due to a lack of assessed improvement value, so development is considered feasible. The site is owned by Santa Clara County and in December 2023 released an Request For Offers (RFO) for an affordable housing development on the site. In January 2024, the County selected Eden Housing as the developer for the site, with the objective of having a fully-entitled project prior to the end of the 2024 calendar year. The County included the City in the RFO and developer selection process and Eden Housing has, as of February, begun having regular meetings with the City on its community outreach strategy and refining their plans to develop an all affordable housing project with units affordable to lower and moderate-income households. Based on this the City has allocated the capacity on the site accordingly.
28	359 13 019	20865 McClellan Rd	Single Family Residential	Yes	n/a	1957, Aged borderline dilapidated	Site 28 is a 0.99-acre parcel located in the Jollyman Neighborhood, which is predominantly defined by single-family residential homes and located immediately south of the De Anza College campus and east of the Highway 85 corridor. Site 29 currently includes a single-family home built close to the McClellan Road right-of-way with a large rear yard. Neighboring uses include single-family housing. A developer has made contact with the City regarding the development of townhomes on this property since 2021, with continued interest for development in 2023. The site has good access to amenities within 0.25-0.5 miles of the site and has fair access to bus service at De Anza College. The improvement-land value ratio for this site is 0.02 so development is considered feasible.
29	356 06 001	10857 Linda Vista Dr	Single Family Residential	Yes	n/a	1947- 1954, Aged Borderline Dilapidated	Sites 29 through 32 are contiguous parcels located in the Monta Vista North Neighborhood, which is predominantly defined by single-family residential homes and located immediately east of the foothills. The individual parcels range in size from 0.25 acres to 0.87 acres. Existing uses on the site include four occupied single-family homes built between 1947 and 1957. Neighboring uses include tennis courts, a golf course, and single-family homes. The current physical condition of these houses is borderline dilapidated. The four parcels are adjacent to each other and have common ownership, and there has been active developer interest in developing this area into townhomes. The existing cul-de-sac (Evulich Ct.) could also be incorporated into the development and the City could consider selling this right of way to the developer for development purposes to allow a cohesive and contiguous site planning. Property owners have attended almost all housing element meetings to ensure parcels are included on the sites inventory list. The improvement-land value ratio for these sites are 0.84 (Site 29), 1.01 (Site 30), 0.89 (Site 31), and 0.51 (Site 32), for a combined ratio of 0.80, so development is considered feasible.
30	356 06 002	10867 Linda Vista Dr	Single Family Residential	Yes	n/a	1947- 1954, Aged Borderline Dilapidated	
31	356 06 003	10877 Linda Vista Dr	Single Family Residential	Yes	n/a	1947- 1954, Aged Borderline Dilapidated	
32	356 06 004	10887 Linda Vista Dr	Single Family Residential	Yes	n/a	1947- 1954, Aged Borderline Dilapidated	
33	362 31 001	20666 Cleo Ave	Single Family Residential	Yes	n/a	1951, good condition	Site 33 is a 0.25-acre site located in the Monta Vista South Neighborhood, which is predominantly defined by single-family residential homes and located immediately southwest of SR 85. Site 34 is currently developed with an occupied one single-family residence that was constructed in 1951. This lot is similar in size to another lot on this street where a Habitat for Humanity development was developed on a site and another lot where a developer is proposing 4 townhomes. The existing structure on the property is legal non-conforming and any improvements must comply with existing multi-family zoning, which the property owner is unwilling to do. However, the current property owner is interested in redeveloping the site in its entirety and as a result the zoning is being updated to allow townhome development on the site to make the site more attractive for development, similar to the one being considered approximately 200 feet to the east of this site. The improvement-land value ratio for this site is 0.02 so development is considered feasible.

Table B4-8 Priority Housing Sites in Residential Zones - Additional Site Details

Site ID	APN	Location	Existing Use	Owner Interest	Current Lease	Age of Building/ Condition	Discussion
34	362 31 030	[no address] Also on Cleo	Vacant	Yes.	n/a	1950's, good condition	Site 34 is a 0.23-acre parcel located in the Monta Vista South Neighborhood, which is predominantly defined by single-family residential homes and located immediately west of Highway 85. The irregularly-shaped parcel is currently undeveloped and vacant. Neighboring uses include single-family and duplex homes. This lot is similar in size to another lot on this street where a Habitat for Humanity development was developed on a site and another lot where a developer is proposing 4 townhomes. The zoning is being updated to allow townhome development on the site to make the site more attractive for development, similar to the one being considered approximately 60 feet to the south of this site. The improvement-land value ratio for this site is 0 due to a lack of improvements, so development is considered feasible.
35	326 20 034	10231 Adriana Ave	Single Family Residential	Yes	n/a	Single Family Residential	Site 35 is a 1.34 acre-parcel currently occupied with a Single-Family Residential unit. The property owner recently inherited the property and is very motivated to redevelop the site with higher density residential. The owner most recently reiterated the intention to develop the property in September 2023. The improvement-land value ratio for this site is 4.44. However, due to the owner's recent interest, this is not considered a barrier to development.

Source: City of Cupertino, September 2023

Table B4-9 Priority Housing Sites in Mixed-Use Zones

Site ID	APN	Acres	Existing General Plan Designation	Existing Zoning Designation	Current Maximum Allowed Density	Proposed General Plan Designation	Proposed Zoning	Proposed Minimum Density (du/acre)	Proposed Maximum Density (du/acre)	Maximum Unit Capacity	Realistic Unit Capacity (75%)	Lower-Income Units	Moderate-Income Units	Above Moderate-Income Units
36	316 23 093	1.35	Commercial/Office/Residential	P(CG, Res)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65	88	132	30	102	
37	316 23 036	0.24	Commercial/Office/Residential	P(CG, Res)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65					
38	369 06 002	0.9	Commercial/Office/Residential	P(CG, Res)	25	Commercial/Residential - VH	P (CG/R4)	65.01	80	72	54		31	23
39	369 06 003	0.53	Commercial/Office/Residential	P(CG, Res)	25	Commercial/Residential - VH	P (CG/R4)	65.01	80	42	32		18	14
40	369 06 004	1.29	Commercial/Office/Residential	P(CG, Res)	25	Commercial/Residential - VH	P (CG/R4)	65.01	80	103	77		44	33
41	359 10 015	1.18	Commercial / Residential	P(CG)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65	77	58	24	9	25
42	359 10 060	0.98	Commercial / Residential	P(CG)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65	64	48	20	8	20
43	359 10 044	0.18	Commercial / Residential	P(CG)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65	12	9		5	4
44	359 08 025	0.83	Commercial/Office/Residential	P(CG, Res)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65	54	40	16	6	18
45	359 08 026	0.45	Commercial/Office/Residential	P(CG, Res)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65	29	22	9	4	9
46	359 08 027	0.87	Commercial/Office/Residential	P(CG, Res)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65	57	42	17	7	18
47	359 08 028	0.85	Commercial/Office/Residential	P(CG, Res)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65	55	41	17	7	17
48*	359 08 029	0.92	Commercial/Office/Residential	P(CG, Res)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65	60				
49	326 09 052	0.74	Commercial	P(CG)	35	Commercial/Residential - VH	P (CG/R4)	65.01	80	59	44	18	7	19
50	326 09 060	2.75	Commercial	P(Rec/Enter)		Commercial/Residential - VH	P (CG/R4)	65.01	80	220	165	68	26	71
51	326 09 061	1.12	Commercial	P(CG)	35	Commercial/Residential - VH	P (CG/R4)	65.01	80	90	67	27	11	29
52	369 34 052	2.70	Commercial / Residential	P(CG)	15	Commercial/Residential - HVH	P (CG/R4)	50.01	65	176	132	54	21	57
53	369 37 028	0.56	Commercial / Residential	P(CG)	25	Commercial/Residential - HVH	P (CG/R4)	50.01	65	36	27	11	4	12
54	366 19 055	0.40	Commercial / Residential	P(CG, Res 5-15)	15	Commercial/Residential - MH	P (CG/R3/TH)	20.01	35	14	11		7	4
55	366 19 053	0.56	Commercial / Residential	P(CG, Res 5-15)	15	Commercial/Residential - MH	P (CG/R3/TH)	20.01	35	20	15	6	2	7
56	366 19 054	1.75	Commercial / Residential	P(CG, Res 5-15)	15	Commercial/Residential - MH	P (CG/R3/TH)	20.01	35	61	46	19	7	20



Table B4-9 Priority Housing Sites in Mixed-Use Zones														
Site ID	APN	Acres	Existing General Plan Designation	Existing Zoning Designation	Current Maximum Allowed Density	Proposed General Plan Designation	Proposed Zoning	Proposed Minimum Density (du/acre)	Proposed Maximum Density (du/acre)	Maximum Unit Capacity	Realistic Unit Capacity (75%)	Lower-Income Units	Moderate-Income Units	Above Moderate-Income Units
57	316 05 050	1.02	Commercial / Residential	P(CG, Res)	25	Commercial/Residential - VH	P (CG/R4)	65.01	80	82	61	25	10	26
58	316 05 051	0.62	Commercial / Residential	P(CG, Res)	25	Commercial/Residential - VH	P (CG/R4)	65.01	80	50	37	15	6	16
59	316 05 052	0.73	Commercial / Residential	P(CG, Res)	25	Commercial/Residential - VH	P (CG/R4)	65.01	80	58	44	18	7	19
60	316 05 053	0.92	Commercial / Residential	P(CG, Res)	25	Commercial/Residential - VH	P (CG/R4)	65.01	80	74	55	23	9	23
61	316 05 056	6.94	Commercial / Residential	P(CG, Res)	25	Commercial/Residential - VH	P (CG/R4)	65.01	80	555	416	171	67	178
62	316 05 072	0.54	Commercial / Residential	P(CG, Res)	25	Commercial/Residential - VH	P (CG/R4)	65.01	80	43	32		8	24
63	359 20 028	0.75	Quasi-Public	BQ	0	Commercial/Residential - MH	P (CG/R3)	20.01	35	26	20	8	3	9
Total										2,276	1,727	596	436	695

Source: City of Cupertino, September 2023  
NOTE: \*The City is not relying on site 48 to accommodate the RHNA and capacity is not reflected in Table B4-12.

Table B4-10 Priority Housing Sites in Mixed-Use Zones – Additional Site Details

Site ID	APN	Location	Existing Use	Owner Interest	Current Lease	Age of Building/ Condition	Discussion
36	316 23 093	20007 Stevens Creek Blvd	Commercial buildings	Yes	n/a	1978.	Sites 36 and 37 are two parcels located in the Heart of the City - Central Special Area, which is a mix of commercial and residential uses. These sites are approximately 0.75 miles east of De Anza College and located about halfway between Apple's Infinite Loop and Apple Park campuses. The parcels are 1.35 and 0.24 acres, respectively. Neighboring uses include commercial uses and multi-family residential. Existing uses on the site include a childcare center in one building and two vacant commercial buildings. The building was constructed in 1978. In May 2023 the property owner expressed an interest in redeveloping the site. The City is currently reviewing a project application under Builder's Remedy for a 141 unit rental development. Based on the pending application, it is estimated that 141 units, with 20% lower income units, in a 5-story building, could be developed on this site. The site has excellent access to amenities and rapid bus service along Stevens Creek Blvd. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for Site 36 is 0.22 and 0.40 for Site 37, so development is considered feasible.
37	316 23 036	10051 N Blaney Ave	Childcare center	Yes	n/a	1969. Tenant improvements in 2020.	
38	369 06 002	19610 Stevens Creek Blvd	Strip Mall (House of Falafel)	Yes	n/a	1960, aged. No improvements made to structures since construction.	Sites 38, 39, and 40 are a set of three parcels totaling 2.72 acres located in the Heart of the City – East Special Area, which is a mix of commercial and residential uses. The Sites are located 1.5 miles east of De Anza College and a little under 1 mile south of the Apple Park campus, and range in size from 0.53 acres to 1.29 acres. Existing uses on the site include commercial buildings built in the 1960s and are aged, but not yet dilapidated. The strip mall portion has vacancies. Neighboring uses include a variety of commercial buildings and single-family homes. As of September 2023, the parcels are under contract negotiations with Toll Brothers, an established residential developer with the intent to develop townhomes for a mix of income levels. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The site has excellent access to amenities and rapid bus service along Stevens Creek Blvd and lends development at densities greater than townhome densities. The improvement-land value ratios for these sites are 0.03 (Site 38), 0.05 (Site 39), and less than 0.01 (Site 40) so development is considered feasible.
39	369 06 003	10071 E Estates Dr	Commercial building (United Furniture)				
40	369 06 004	10075 E Estates Dr	United Furniture parking lot				
41	359 10 015	10133 S De Anza Blvd	Strip mall north of Vardy's Shopping Center (S&G Carpet)	Yes	n/a	1952, with some improvements in 1970. No additional improvements since. Aged.	Site 41 is a 1.18-acre parcel located in the South De Anza Special Area, which is a mix of commercial and residential uses. The site is located approximately 0.75 miles east of De Anza College and about 1 mile south of the Apple Infinite loop campus. Existing uses on the site include a bank, restaurant, and assorted commercial uses along with associated parking. The owner has recently expressed an interest in redeveloping the site. Neighboring uses include commercial uses and single-family uses. It is anticipated that the site would be designed with live/work units fronting S. De Anza Blvd to retain the "commercial" look along South De Anza Blvd corridor. The site has excellent access to amenities and is close to rapid bus service along Stevens Creek Blvd and other bus service along De Anza Blvd. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio for this site is 2.30; however, due to the lack of improvements over the past 50 years it is estimated that this will not be a barrier to redevelopment.
42	359 10 060	10211 S De Anza Blvd	Vardy's shopping center.	No. There has been interest expressed from developers and brokers regarding developing the site with housing or a mixed-use project.	n/a	1960, aged	Site 42 is a 0.98-acre parcel located in the South De Anza Special Area, which is a mix of commercial and residential uses. Site 42 is located approximately 0.65 miles east of De Anza College and about 1 mile south of the Apple Infinite loop campus. The site is developed with an older, partially occupied shopping center, including one vacancy and a sandwich shop and associated parking. Neighboring uses include both commercial and single-family uses. It is anticipated that Live/Work type units would be designed on the site, given its location on the South DeAnza Boulevard corridor. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. There has been interest expressed from developers and brokers regarding in developing the site with housing or a mixed-use project. The site has excellent access to amenities and is close to rapid bus service along Stevens Creek Blvd and other bus service along De Anza Blvd. The improvement-land value ratio for this site is 1.30, but due to the potential for co-development with Site 43, it is not estimated that this will be a barrier to redevelopment. Current trends are showing there is a lot of interest for these types of sites, older shopping centers with a high turnover rate. Neighboring site 41 is for sale and there is a developer interested in a 100 percent affordable project. This site has a similar make up to sites 42 and 43. The owner of sites 42 is elderly and runs a family-owned business. There is a currently vacant storefront which occupies a big portion of the center.

Table B4-10 Priority Housing Sites in Mixed-Use Zones – Additional Site Details							
Site ID	APN	Location	Existing Use	Owner Interest	Current Lease	Age of Building/ Condition	Discussion
43	359 10 044	10201 S. De Anza Blvd	Acupuncture Clinic	No. There has been expressed interest from developers interested in developing the site.	n/a	1953, aged	Site 43 is a 0.18-acre parcel located in the South De Anza Blvd Special Area, which is predominantly commercial uses located along De Anza Blvd. Site 43 is located approximately 0.65 miles east of De Anza College and about 1 mile south of the Apple Infinite loop campus. Existing uses on Site 43 include a standalone commercial building occupied by an acupuncture clinic and associated parking lot. Neighboring uses include commercial uses, single-family uses, and De Anza Blvd. Could develop in conjunction with Site 42 and it is anticipated that this could be developed with live/work units. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. There has been expressed interest from developers interested in developing the site. The improvement-land value ratio for this site is 0.21 so development is considered feasible. Current trends are showing there is a lot of interest for these types of sites, older shopping centers with a high turnover rate. Neighboring site 41 is for sale and there is a developer interested in a 100 percent affordable project. This site has a similar make up to sites 42 and 43. Based on the developer interest in this area, there is a high probability of this site developing in conjunction with site 42.
44	359 08 025	20840 Stevens Creek Blvd	Commercial building (former Fontana's restaurant)	No	n/a	1996	Sites 44 through 48 are a set of five parcels totaling 13.73 acres, of which only the western most 3.92 acres are expected to be redeveloped. In particular, only a portion of site 47 is anticipated to be rezoned to allow residential units. These parcels are located in the Heart of the City – Crossroads Special Center, which consists of predominantly commercial uses located both north and south sides of Stevens Creek Blvd. The sites are located within 0.3 mile of De Anza College to the east and within 0.8 miles of Apple's Infinite Loop and Bandley campuses to the north. Existing uses on the Sites 44 through 48 include commercial buildings and associated surface parking areas. At least one commercial building (former Pizza Hut) on these sites has been vacant for the past seven years and is in dilapidated condition near the Stevens Creek right-of-way, and another commercial business (Fontana's Restaurant) in this development closed during the COVID-19 pandemic and has remained unoccupied since that time. The City Council, Planning Commission and many residents have indicated support for the redevelopment of the western portion of this site with housing during the extensive public hearings and community outreach done for the Housing Element update in 2022-23. The extant buildings are of mixed quality, but some are in very poor condition. While site 48 has a newer building, due to the proximity of the site to potential neighboring development, the site could be redeveloped together with the adjacent sites as a mixed-use development. Neighboring uses include commercial uses, with single-family uses in close proximity. The site has excellent access to amenities and is close to rapid bus service along Stevens Creek Blvd. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. Improvement-land value ratios for these parcels are 0.65 (Site 44), 0 (Site 45), 4.20 (Site 46), 2.79 (Site 47), and 2.60 (Site 48), for a combined ratio of 2.38. However, because only portions of the more developed sites are expected to redevelop, it is not estimated that the existence of these improvements will be a barrier to redevelopment. As of January 2024, sites 44 through 47 have a preliminary SB 330 application on file, which indicates interest in development, but the project has not yet been finalized or approved. As previously mentioned, the sites are part of a larger property that is owned by the same long term ownership group. There is interest in beginning to divest some of their interests. Additionally, there has been another project in the vicinity already approved for a townhome development within a few hundred yards of Site 48.
45	359 08 026	20830 Stevens Creek Blvd	Parking lot in front of Staples		n/a	n/a	
46	359 08 027	No address	Staples building		n/a	1996	
47	359 08 028	20690 Stevens Creek Blvd	Crossroads Shopping Center (Former Pizza Hut building and surrounding parking lots, and western parking lot only)		n/a	n/a	
48*	359 08 029	20750 Stevens Creek Blvd	Dish'n'Dash Restaurant	No	n/a	2012	
49	326 09 052	20916 Homestead Rd	Strip Mall	No. Developer interest as of Dec. 2023.	n/a	1984, Aged not dilapidated	Sites 49, 50, and 51 are three parcels totaling 4.61 acres, located on the east side of Stelling Road, immediately south of Homestead Road. The parcels range in size from 0.74 to 2.75 acres and are located directly across Stelling Road from Sites 13-16, establishing a large swath of redevelopment sites at a major intersection and gateway to the City from neighboring Sunnyvale. The sites are located 1 mile north of De Anza College and within 0.8 miles of Apple's Infinite Loop and Bandley campuses to the southeast. There has not been any reinvestment in the properties and there is a high turnover rate of the current businesses. There are no long-term establishments. The surrounding area is predominantly single- and multi-family homes, including adjacent
50	326 09 060	20990 Homestead Rd	Strip Mall and Bowling Alley	No. Developer interest as of Dec. 2023.	n/a	1976, Aged not dilapidated	



Table B4-10 Priority Housing Sites in Mixed-Use Zones – Additional Site Details

Site ID	APN	Location	Existing Use	Owner Interest	Current Lease	Age of Building/ Condition	Discussion
51	326 09 061	20956 Homestead Rd	Strip Mall	No. Developer interest as of Dec. 2023.	n/a	1979, dated	<p>apartment complexes, along with commercial uses located north of Interstate 280. Current uses include retail buildings constructed in 1984, 1979 and 1976. The buildings are aged but not dilapidated, though it is expected that the commercial uses would be redeveloped along with the parking area. There have been no façade improvements to the structures since the 1980s. Site 50, the largest of the four sites, is owned by a large housing developer and is currently occupied by a bowling alley located on the property which has not had any improvements since the late 1990s. Due to shared parking easements and the fact that the properties are not owned by the same owner, the parcels have the potential to either develop separately or as a consolidated site. The two strip centers are occupied by several ethnic food uses and there is frequent turnover in the tenancy. Neighboring uses include residential and commercial uses. There have been multiple developers interested in these sites as of September 2023. The site has excellent access to most amenities, with only fair access to parks located within the City of Cupertino city limits, and is close to bus service on Homestead Road and De Anza Blvd. Two of the three parcels would be eligible for by-right residential development under AB2011 (2022) prior to the completion of the rezone and due to adjacency of the third parcel, it makes sense to consider this as one site. This site is across the street from Sites 13 and 14 for which there is owner interest. Improvement-land value ratios for these parcels are 0.30 (Site 49), 0.03 (Site 50), and 0.75 (Site 51), so development is considered feasible.</p> <p>In summary, Sites 49, 50, and 51 are viewed by real estate agents and developers as one site for redevelopment, and although this is made of up three separate parcels, would develop as one. The City will also incentivize lot consolidation through program HE-1.3.7 to assist with the development of affordable housing on this site and make development more financially feasible. Site 51 is 1.12 acres, irregularly-irregularly shaped, landlocked with only a drive aisle out to Stelling Road. Given its configuration and access it cannot redevelop independently. Site 50, presently occupied with a derelict bowling alley and bar, is 60 percent of the total site area and was acquired by Barry Swenson, a major Northern California home developer, in late 2021. In order to redevelop the overall 4.61-acre site access to Homestead Road from Sites 50 and 51 will be needed, which requires the inclusion of Site 49, the smallest of the three parcels. The tenants on Sites 49 and 51 are a mix of underperforming restaurants and a nail salon, typical of the strip commercial centers located along the City’s major transportation corridors that City staff has been receiving inquiries about for redevelopment as higher-density housing. There have been two broker inquiries since December 2023 regarding the potential for housing development on this site, including all of the three parcels (49,50, and 51).</p>
52	369 34 052	10787 S Blaney Ave	Strip Mall	No. City staff has had three conversations with developers regarding this site over the past 6 months.	n/a	1961, Aged not dilapidated	Site 52 is a 2.70-acre parcel located adjacent to Site 20. Sites 52 and 20 are under the same ownership. The site is 0.4 miles from De Anza Blvd and 0.6 miles from Miller Ave, both of which have amenities at the intersection. Existing uses on the site include commercial structures. There is a strip mall on the site, but the owner and several developers have expressed an interest in redeveloping the site. The site has access to bus service on Bollinger Road. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio is 0.36, so development is considered feasible. This site has had numerous ongoing inquiries from developers and brokers about redeveloping. The majority of the strip mall is in poor condition and dated beyond renovation.
53	369 37 028	10710 S De Anza Blvd	Vacant Taco Bell building	Yes	n/a	1991, Aged not dilapidated	Site 53 is a 0.56-acre parcel located adjacent to Sites 17, 18 and 19. Existing uses on the site include a vacant commercial building which was formerly occupied by Taco Bell. The property owner has expressed an interest in 2022 and 2023 in redeveloping the site and has remained committed to not re-leasing the property for commercial uses. The site has excellent access to amenities and bus service on De Anza Blvd and Bollinger Rd. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. The improvement-land value ratio is 0.04, so development is considered feasible.
54	366 19 055	1471 S De Anza Blvd	Commercial Building (red barn). Same owner as Summerwinds Nursery	Yes	n/a	1978, Aged not dilapidated	Sites 54, 55, and 56 are located in the South De Anza Blvd Special Area, which is predominantly commercial uses located along De Anza Blvd. Sites 55 and 56 are 0.56- and 1.75-acre parcels, respectively, and are the site of Summerwinds Nursery. The nursery was built in 1978 and is aged but not yet dilapidated. Other locations (Sunnyvale and the Almaden area of San Jose, both cities neighboring Cupertino) of the Summerwinds chain of nurseries have recently closed and have redeveloped with housing. Site 54 is a 0.40-acre parcel owned by the same owner as the Summerwinds nursery but is operated independently. Existing uses on Site 54 include a commercial use and parking lot. The current building was constructed in 1968, and, like the nursery, is aged but not yet dilapidated. Due to its proximity to the other sites, it is expected to redevelop at the same time as the
55	366 19 053	1491 S De Anza Blvd	Summerwinds Nursery	Yes	n/a		

Table B4-10 Priority Housing Sites in Mixed-Use Zones – Additional Site Details							
Site ID	APN	Location	Existing Use	Owner Interest	Current Lease	Age of Building/ Condition	Discussion
56	366 19 054	1491 S De Anza Blvd	Summerwinds Nursery	Yes	n/a	1978, Aged not dilapidated	nursery site. Neighboring uses include commercial uses and De Anza Blvd. The owner of these sites has reached out in recent years. This site has also been of interest to housing developers. Sites 22-25 are adjacent to the south and north of this property. The site has fair access to amenities and bus service on De Anza Blvd. Two of the three sites (Sites 54 and 56) would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. Improvement-land value ratios for these sites are 0.07 (Site 54), 0 (Site 55, with no assessed improvement value), and 0.06 (Site 56), so development is considered feasible.
57	316 05 050	10989 N Wolfe Rd	Cupertino Village Shopping Center	Yes	n/a	1969, Aged not dilapidated	Site 57 to 62 are located in the North Vallco Park Special Area, which is predominantly commercial uses located north of Interstate 280 and immediately west of the Apple Park Campus. The six parcels range in size from 0.54 acres to 6.87 acres. All six parcels are owned by the same entity, and the owner has expressed a strong interest in redeveloping a portion of this site to include residential uses while maintaining much of the commercial portions of the development and is planning to pursue entitlements once the site has been rezoned. Existing uses on the site include commercial uses, many of which were constructed in the late 1960s. Neighboring uses include existing apartments, single-family uses, a Church, some commercial buildings in the City of Sunnyvale and the Apple Park Campus. The existing 99 Ranch commercial building and a standalone commercial (bank/Starbucks) building are expected to be demolished and replaced with a new building with the 99 Ranch store on the first floor and apartments above at the northeast corner of the site. In a later phase, the owner intends to demolish an older building adjacent to a parking garage and build an all-residential structure. The owner has indicated an interest in the development of just over 300 units and a minimum of 115,000 s.f. of commercial uses. It is anticipated that a maximum of between 2.75 and 3 acres of the existing property, in two different locations will be rezoned to allow the maximum of 310 residential units that the property owner anticipates constructing on this site. The site has excellent access to amenities but less access to park space and has access to bus service along Homestead Road and Wolfe Road. The site would also be eligible for by-right residential development under AB 2011 (2022) prior to the completion of the rezone. Improvement-land value ratios for these sites are 1.34 (Site 57), 4.57 (Site 58), 3.05 (Site 59), 3.70 (Site 60), 0.57 (Site 61), and 1.61 (Site 62), for a combined ratio of 1.38. However, because only part of the site will be redeveloped and the current owner is managing the planned redevelopment, this is not considered a barrier to development.
58	316 05 051	10961 N Wolfe Rd	Cupertino Village Shopping Center		n/a	1968, Aged not dilapidated	
59	316 05 052	10871 N Wolfe Rd	Cupertino Village Shopping Center		n/a	1968, Aged not dilapidated	
60	316 05 053	10883 N Wolfe Rd	Cupertino Village Shopping Center		n/a	1968, Aged not dilapidated	
61	316 05 056	10805 N Wolfe Rd	Cupertino Village Shopping Center		n/a	2016, Good condition	
62	316 05 072	11111 N Wolfe Rd	Cupertino Village Shopping Center		n/a	1999, Aged not dilapidated	
63	359 20 028	20920 McClellan Rd	St. Jude's Church parking lot and orchard	Yes	n/a	n/a	Site 63 is located in the Jollyman Neighborhood, which is predominantly defined by single-family residential homes and located east of the Highway 85 corridor. The site is located immediately south of the De Anza College campus and approximately 0.5 miles east of the Apple Results Way/Bubb Campus. The primary current use of the site is a church and associated buildings. Neighboring uses include townhomes, single-family housing, and De Anza College. The City last spoke to the Church in September 2022, and they expressed an active interest in developing the portion of their property, limited to approximately 0.75 acres with affordable residential uses, the existing Church buildings would remain. However, some of the parking area and open green space on the northwest corner of the lot may be redeveloped. The zoning on the site would be changed to allow residential uses on 0.75 acres of the site. The site is eligible to develop with affordable housing pursuant to new state laws prior to the completion of the rezone. The site has fair access to amenities and is in close proximity to bus service at De Anza College. The improvement-land value ratio is 5.78; however, because only part of the site will be redeveloping and the church building will not be removed from the site, it is not estimated that these improvements will be considered a barrier to development.

Source: City of Cupertino, September 2023  
NOTE: \*The City is not relying on site 48 to accommodate the RHNA and capacity is not reflected in Table B4-12.

## DEVELOPMENT OF NON-VACANT SITES

As shown in **Tables B4-3** and **B4-4**, the city has a track record of developing affordable and market-rate housing on non-vacant sites. Based on this track record, the City believes the priority housing sites are prime candidates for redevelopment. Non-vacant sites were evaluated for suitability based on a combination of their improvement-land value ratio (ILV), age and condition, and owner interest in redevelopment. Sites with an improvement-land value ratio less than 1.0, which is to say sites where the value of current improvements is lower than that of the land on its own, were deemed to be suitable for redevelopment. While land and improvement values prior to redevelopment were not available for some older projects, where this data was available, project examples shown in **Table B4-4** indicate that most recent non-vacant sites that have redeveloped have had improvement-land value ratios of less than 1.0, though one parcel of Marina Plaza had an ILV of 1.26, suggesting that an ILV higher than 1.0 was not inherently a barrier to redevelopment, even with existing tenants. Access to amenities was also considered when identifying potential redevelopment sites. Additionally, buildings in poor condition or without recent improvements, along with buildings older than 40 years, were considered suitable for redevelopment. Recent examples of mixed-use development projects on non-vacant sites shown in **Table B4-4** show that buildings that are more than 40 years old (built before 1983) were able to be redeveloped due to building age and condition even where the building had tenants prior to redevelopment, so in these cases existing tenancy or active use is not considered a barrier to redevelopment. Owner interest was also considered an important factor in evaluating suitability, particularly in cases where the owner has taken proactive steps to seek out redevelopment or is directly managing the site's redevelopment, as was a long-term lack of tenants in the case of Sites 44 and 47. These factors were all considered jointly along with building condition when determining the development potential of sites described in B4-8 and B4-10. The majority of non-vacant sites identified for redevelopment have some combination of factors including having been built more than 40 years ago, lack of ongoing maintenance or poor condition, having an ILV less than 1.0, and having active owner interest in redevelopment. In cases where buildings are not anticipated to be removed as part of redevelopment, building age, existing building conditions and ILV were given lower consideration.

As is shown in **Table B4-4**, the City's existing policy of providing development waivers and concessions, along with the density bonus program, have been helpful in facilitating development on non-vacant land. Additionally, to promote the development of non-vacant sites, the City has included **Strategy 1.3.4** to establish an outreach and coordination program to connect developers, builders, and owners of non-vacant sites.

## DEVELOPMENT OF SMALL SITES AND POTENTIAL LOT CONSOLIDATION

### *Small Site Development*

A small site is classified as a site that is smaller than one-half acre in size. The City is relying on 16 sites to meet a portion of the RHNA on sites that are smaller than one-half acre, as shown in **Table B4-11**. The City is assuming that 84 units would be affordable to moderate-income households and 146 units would be affordable to above moderate-income households. The City has not allocated lower-income units to any of the small sites in the inventory. Additionally, while the City is planning to rezone these parcels to provide for housing opportunities, these small sites are not needed to meet the RHNA. **Strategy 1.3.7** has been included to help facilitate lot consolidation to encourage affordable housing development.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B4-11 Small Sites Assumed to Meet a Portion of the RHNA

Site Number	Acreage	Total Capacity	Realistic Capacity (95%)	Lower-Income Capacity	Moderate-Income Capacity	Above Moderate-Income Capacity
2	0.47	31	29		11	18
4	0.32	21	20		7	13
11	0.42	27	26		10	16
12	0.44	9	8		4	4
15	0.24	19	18		7	11
17	0.39	25	24		9	15
18	0.22	11	10		2	8
19	0.17	9	8		1	7
21	0.26	17	16		4	12
25	0.08	5	5		1	4
31	0.25	9	8		5	3
33	0.25	9	8		1	7
34	0.23	8	8		1	7
43	0.18	12	9		5	4
45	0.45	29	22		9	13
54	0.40	14	11		7	4
<b>Total</b>		<b>255</b>	<b>230</b>	<b>0</b>	<b>84</b>	<b>146</b>

Source: City of Cupertino, September 2023.

*Lot Consolidation*

Due to the large number of smaller sites in the City (90 percent of the sites in the City are less than 0.33 acre in size), the City encourages lot consolidation and has a track record of lot consolidation, as shown in **Table B4-11A**. **Table B4-11A** illustrates that there is a precedence of residential projects developing on property that previously had commercial uses, whether as a mixed-use project or as solely residential development. Trends also show that lot consolidation occurs frequently for this type of development. **Table B4-11A** also reflects that lot consolidations approved by the City vary with regard to the number of parcels included in the project. The City has approved smaller consolidations with two or three parcels merging into one, as well as larger consolidations with 11 parcels being consolidated into two. Due to the size and configuration of parcels in the City, lot consolidation is common for redevelopment of existing commercial converting to mixed use or residential development. While consolidation is not required of any sites, in the sites inventory (**Table B4-8** or **B4-10**), Sites 49, 50 and 51 would benefit from lot consolidation due to the fact that the sites are irregularly shaped and have limited access with only one access point. It is important to note, that the City does not have control over market conditions and can present hypothetical consolidation scenarios, however it is possible that further consolidation could occur or that a developer proposes a dense residential project on a small parcel. As previously mentioned, the City has included **Strategy 1.3.7** to help facilitate lot consolidation to encourage affordable housing development.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B4-11A Small Sites Assumed to Meet a Portion of the RHNA

Project Name/ Address	Year Approved/ Year Built	Project Type/ Affordability	Original # of Parcels	Final # of Parcels After Consolidation	Common Owner (Y/N)	Redevelopment Project (Y/N)	Additional Details
Marina Plaza 10145 N. De Anza, 20118 Bandley Dr	Approved 2022. Extended 2023	Mixed Use Project (206 residential units)/Above moderate, moderate income	2	1	N	Yes – Currently a center with grocery store and a standalone restaurant, with associated surface parking lots. Current uses will be demolished.	Developed under existing zoning and density bonus.
Hamptons 19500 Pruneridge Ave	Approved 2016	Residential Project (942 residential units)/Above moderate, moderate, and lower income	3	1	Y	Yes – Currently has 342 residential units. Current uses will be demolished.	General Plan Amendment and Zoning approved as part of 5 <sup>th</sup> Cycle Housing Element
Vallco 10101 and 10330 N Wolfe Road	Approved 2018/Amended 2024	Mixed Use Project (2,669 residential units, 890 lower income, retail and office uses)	11	2	Y	Yes – Site had an existing mall and anchors (Macy's, JC Penney and Sears). The current property owner acquired property from anchors and the mall from a different entity. Half the site has been demolished and site remediation has been completed. The site will be redeveloped with mixed use development	Used SB35 streamlining and Density bonus under existing zoning at time of project application.
Canyon Crossing 10625 S. Foothill Boulevard	Approved 2022. Demolition completed	Mixed Use Project (18 residential units)/Above moderate-, moderate- and lower-income units, commercial uses	2	14	N	Yes – Site had an existing strip center and one home. Uses were demolished.	Built under existing zoning



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B4-11A Small Sites Assumed to Meet a Portion of the RHNA

Project Name/ Address	Year Approved/ Year Built	Project Type/ Affordability	Original # of Parcels	Final # of Parcels After Consolidation	Common Owner (Y/N)	Redevelopment Project (Y/N)	Additional Details
Alan Row	Approved 2022. Demolition complete, units under construction	Residential Project (9 units)/ Above moderate- and moderate-income units	3	8	Y	Yes – Site had an existing liquor store and associated parking. Uses were demolished.	Built under existing zoning
1655 S. De Anza	Approved 2023	Mixed Use Project (34 units) Above Moderate with moderate- and lower- income level	2	12	Y	Yes – Currently an existing strip center with associated parking. Current uses will be demolished.	Existing zoning and density bonus
Builder's Remedy (Shan Restaurant etc.)	N/A	Residential (142 units) above moderate-, lower- income	3	1	Y	Yes – Currently two existing strip malls and one standalone commercial building and associated parking. Current uses will be demolished.	Builder's remedy

Source: City of Cupertino, March 2024

Note: Where the number of final parcels exceeds the number of original parcels, existing lots were consolidated by the developer to make a unified development site and subsequently subdivided.

## NO NET LOSS

Per state law, the City is required to maintain “no net loss” of the housing capacity represented by this list of parcels and the sites they comprise. To facilitate this, the inventory presented below has been designed with excess capacity.<sup>1</sup> This allows some degree of flexibility in decision making for individual development projects as they come forward for approval by City Council.

With some limited flexibility, the City is committed to permitting housing on each of the parcels listed in **Tables B4-7**, and **B4-9**, and in so doing ensuring that the number of units listed for each parcel in the table--“planned capacity”—is achieved. Should the City approve development that is inconsistent with the parcel’s planned capacity, it is then required as part of that approval to:

1. Find, based on quantitative evidence, that the remaining inventory of housing sites is still sufficient to meet the City’s 6<sup>th</sup>-Cycle RHNA, or
2. Identify one or more available sites with the realistic development capacity to replace the housing that would have otherwise been developed had consistency with planned capacity been achieved.

## SITES IDENTIFIED IN PREVIOUS HOUSING ELEMENT

Pursuant to California Government Code Section 65583.2(c), a nonvacant site identified in the previous planning period and a vacant site identified in two or more previous consecutive planning periods cannot be used to accommodate the lower-income RHNA unless the site is subject to an action in the Housing Element that requires rezoning within three years of the beginning of the planning period that will allow residential use by right for housing developments with at least 20 percent units affordable to lower-income households. There are no sites included on **Tables B4-7** or **B4-9** that were previously included to meet the lower income RHNA. However, as a part of the rezoning process, all sites assumed to meet the lower income RHNA will comply with Government Code Sections 65583, (c)(1) and 65583.2(h) and 65583.2(i).

## ENVIRONMENTAL CONSTRAINTS

None of the sites identified in the sites inventory are within the Federal Emergency Management Agency (FEMA) 100-year floodplain, though sites near Calabazas Creek are adjacent to the boundary of this floodplain. None of the sites are in a California Office of Emergency Services Dam Inundation Area. Only one site, Site 21, is partially within a California Geological Service (CGS) Seismic Hazards Program liquefaction zone. Because they are adjacent to a more mountainous area of the city, Sites 30 through 33 are partly in an area with class seven landslide susceptibility. This CGS classification is graded on a scale from zero to 10, where 10 signifies areas where landslides have occurred or have the highest level of susceptibility. The remainder of the sites are in class zero areas.

The entirety of Cupertino is within a CalFire Local Responsibility Area, and therefore does not have an assigned Fire Hazard Severity Zone.

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<sup>1</sup> Excess capacity is primarily comprised of the development potential created by SB9, which allows owners of a single-family property to divide their property into two parcels. Each of these parcels would then have the capacity for three units each—the main residence, plus and ADU and a Junior ADU.



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

## ACCESSORY DWELLING UNITS

California Government Code Section 65583.1(a) states that a town, city, or county may identify sites for accessory dwelling units (ADUs) based on the number of ADUs developed in the prior Housing Element planning period, whether the units are permitted by right, the need for ADUs in the community, the resources or incentives available for their development, and any other relevant factors. Based on recent changes in State law reducing the time to review and approve ADU applications, requiring ADUs that meet requirements to be allowed by right, eliminating discretionary review for most ADUs, and removing other restrictions on ADUs, it is anticipated that the production of ADUs will increase in the 6th Cycle Housing Element planning period.

The City issued the following ADU building permits over the last five years:

- 2018 – 15 ADUs received building permits
- 2019 – 15 ADUs received building permits
- 2020 – 19 ADUs received building permits
- 2021 – 41 ADUs received building permits
- 2022 – 30 ADUs received building permits

Therefore, based on the most recent five-year period, there are about 24 building permits for ADUs approved each year. This analysis assumes that the annual average of 24 per year will be projected over the next eight years, for a total of 192 ADUs during the planning period. While ADUs provide an affordable housing option, the city does not need this capacity to meet the RHNA. To promote ADUs, the City has included **Strategy HE-1.3.8** to promote the construction of affordable ADUs through several actions.

To determine assumptions on ADU affordability in the ABAG region, ABAG conducted a regional analysis of existing ADU rents and prepared a draft report in September 2021. The analysis resulted in affordability assumptions that allocate 30 percent of ADUs to very low-income households, 30 percent to low-income households, 30 percent to moderate-income households, and 10 percent to above moderate-income households. Affordability of ADUs projected to be built in the city during the planning period were based on the ABAG analysis.

## B4.4 SUMMARY AND CONCLUSIONS

Table B4-12, RHNA Summary, summarizes Cupertino's sites inventory, including the proposed rezone capacity for the 2023-2031 planning period.

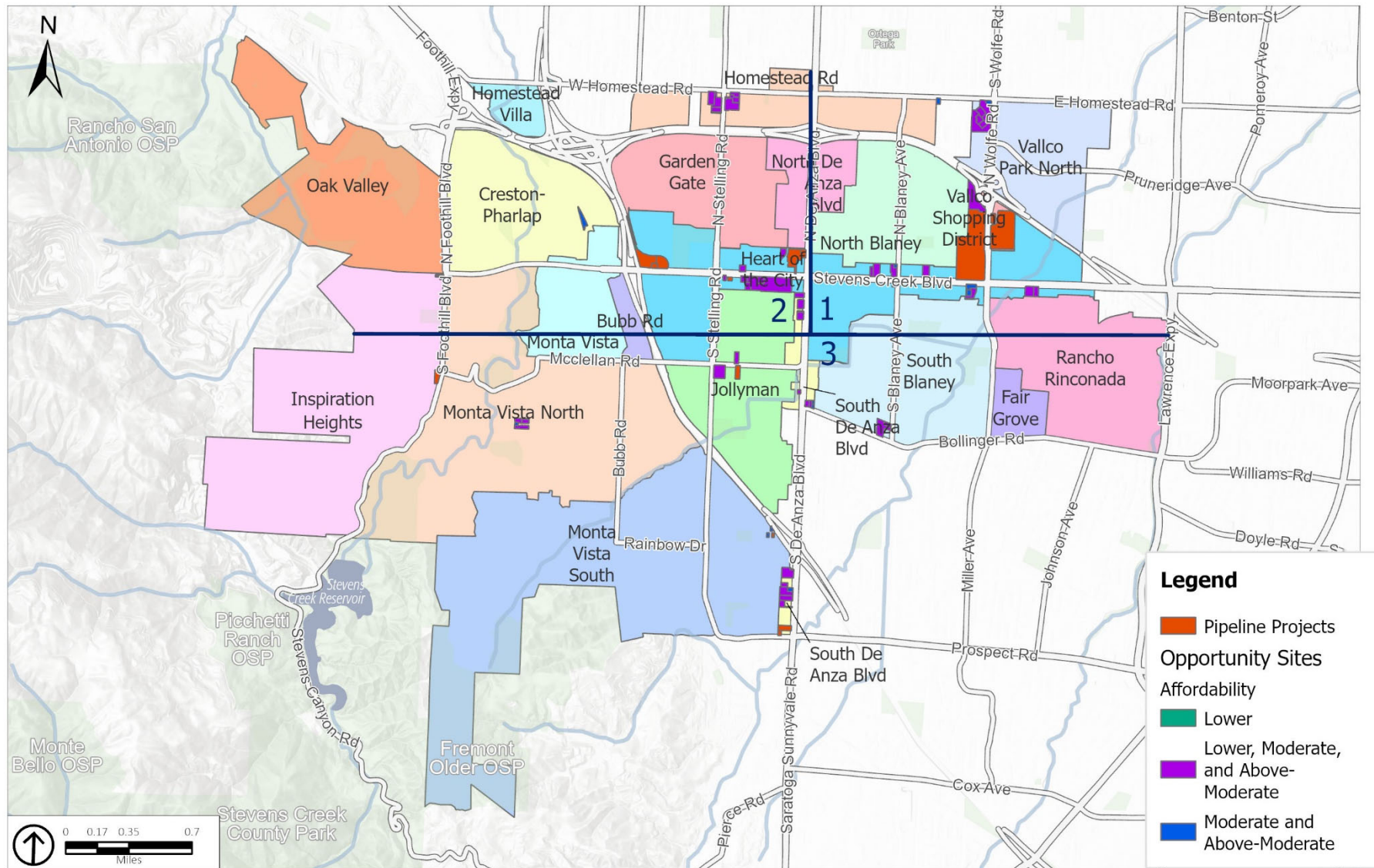
APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B4-12 Summary of Residential Capacity Compared to the 6 <sup>th</sup> Cycle RHNA							
RHNA Category	2023-2031 RHNA	Pending Projects Capacity	Residential Site Capacity with Rezone	Mixed Use Site Capacity with Rezone	Projected ADUs	Total Capacity	Surplus
Very Low	1,193	633	833	596	116	2,178	298
Low	687						
Moderate	755	49	360	436	57	902	147
Above Moderate	1,953	1,770	662	695	19	3,146	1,193
<b>Total</b>	<b>4,588</b>	<b>2,452</b>	<b>1,855</b>	<b>1,727</b>	<b>192</b>	<b>6,226</b>	<b>1,638</b>

Source: ABAG 2021, City of Cupertino, 2023

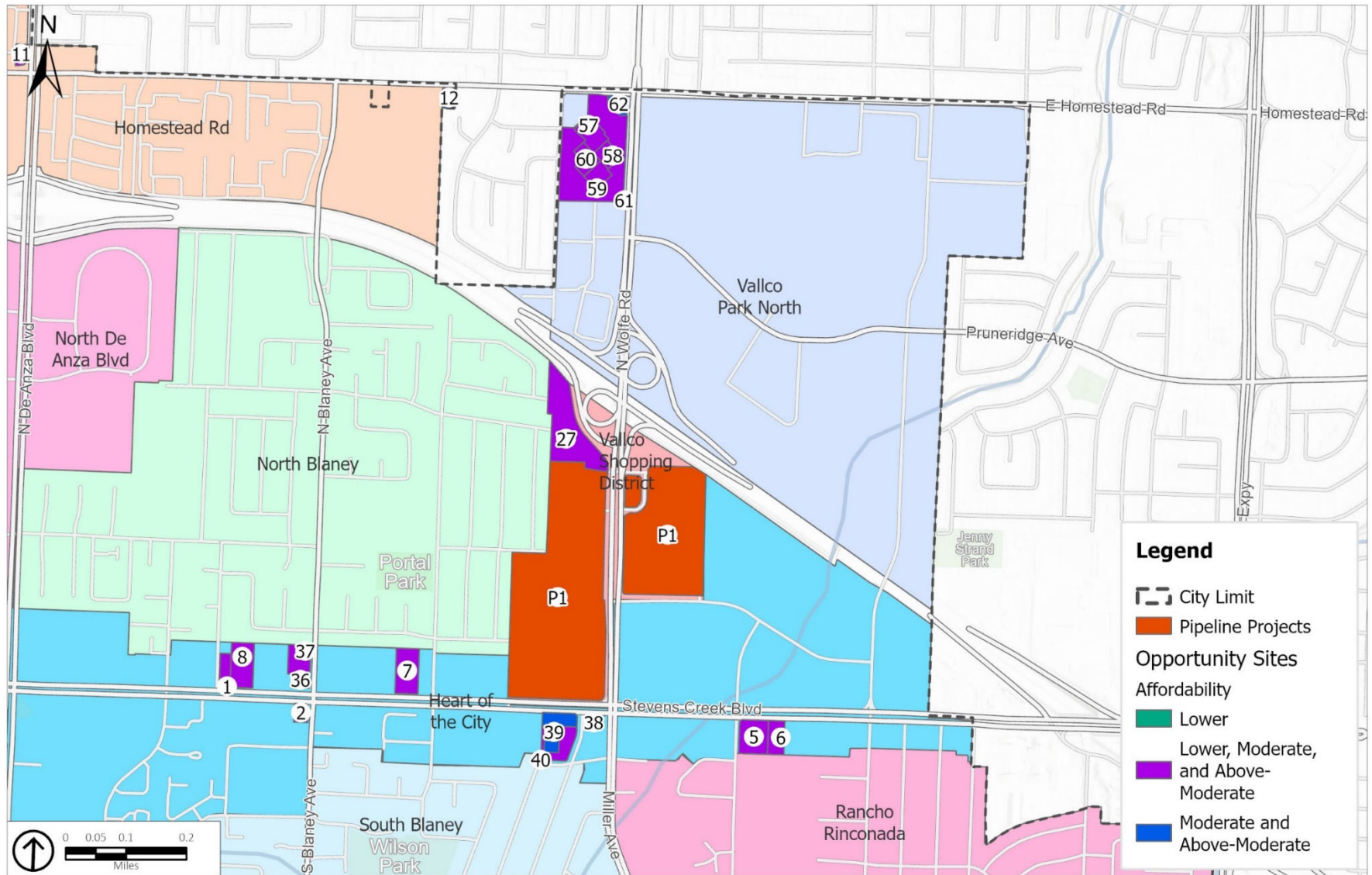
APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Figure B4-1 Priority Housing Sites Map



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Figure B4-2 Priority Housing Sites Map, Detail 1





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Figure B4-3 Priority Housing Sites Map, Detail 2

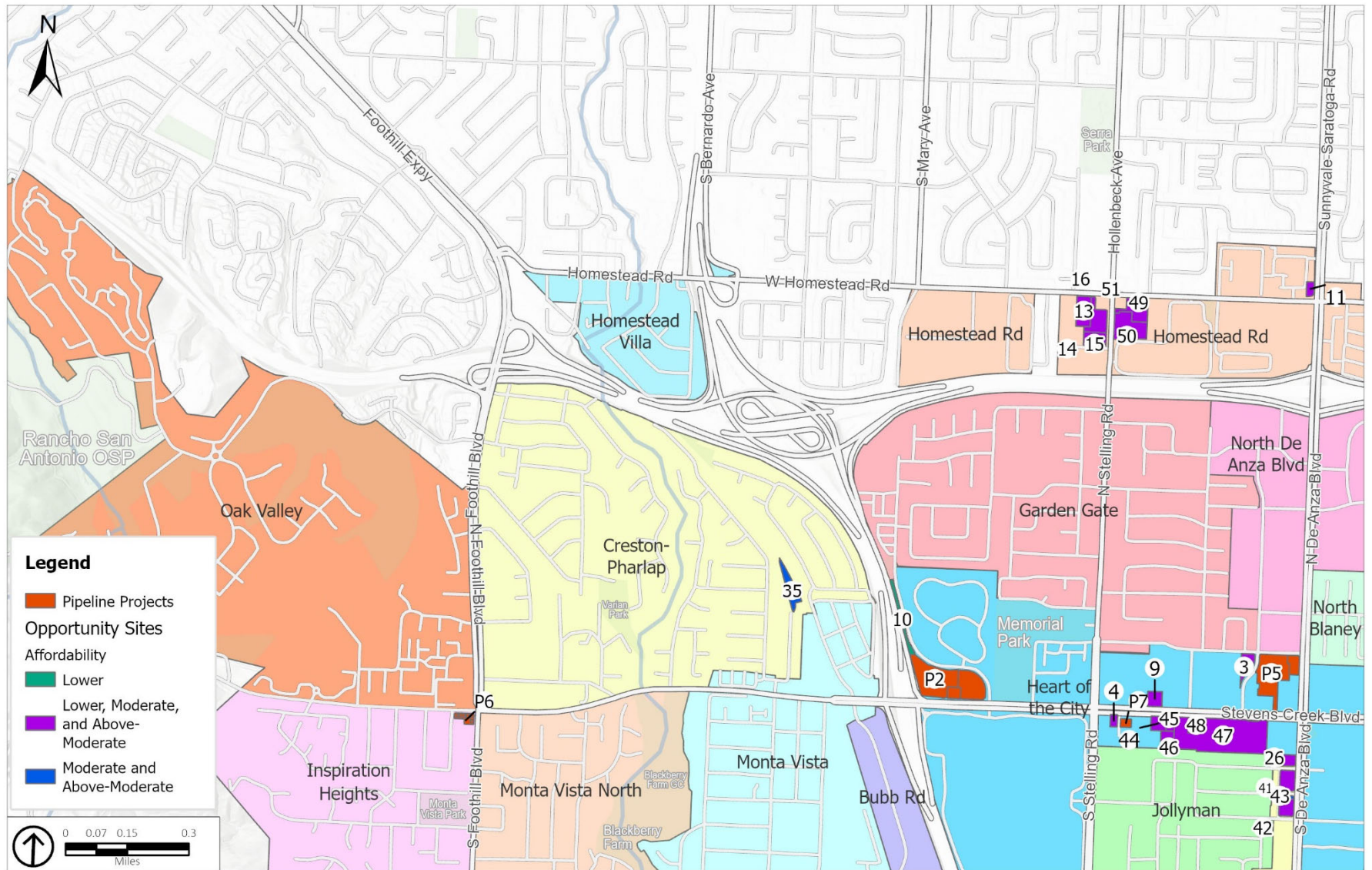
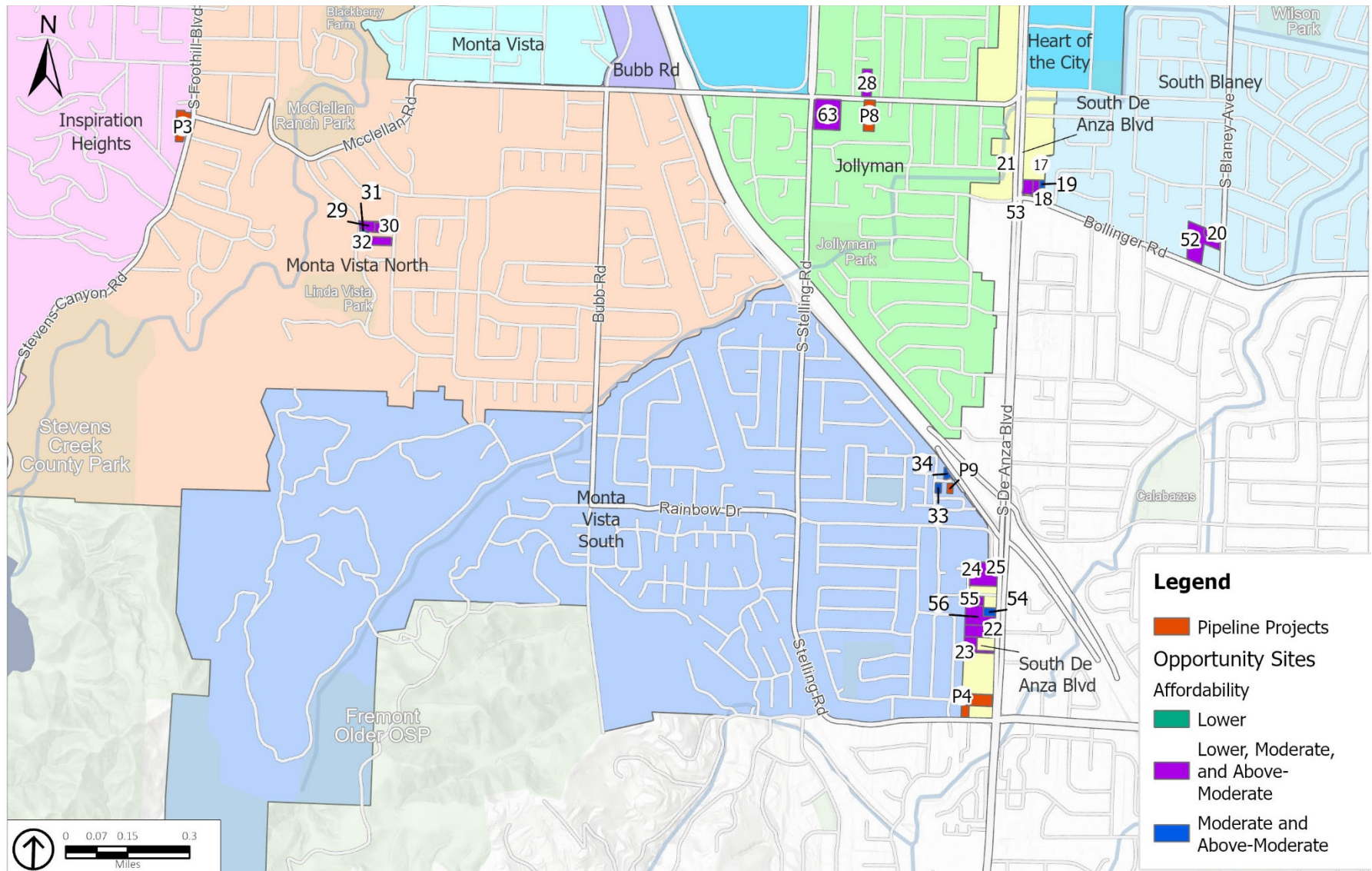


Figure B4-4 Priority Housing Sites Map, Detail 3



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

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## Housing Constraints

# B.5

APPENDIX



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

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## B5 HOUSING CONSTRAINTS

State law requires that Housing Elements include an analysis of governmental and nongovernmental constraints on the maintenance, improvement, or development of housing for all income levels. Governmental constraints include land use controls, building codes and their enforcement, fees and exactions, and permitting procedures. Nongovernmental constraints include market-driven and land costs, construction costs, and the availability of financing, as well as environmental hazards, such as wildfires, earthquakes, and flooding.

### B5.1 GOVERNMENTAL CONSTRAINTS

#### GENERAL PLAN LAND USES

The General Plan provides the policy and program direction necessary to guide land use decisions. The existing General Plan is current and legally adequate and is not considered an impediment to housing production. [Table B5-1, Residential Land Use Density Classifications](#), lists the General Plan land use classifications that allow residential development.

Table B5-1. Residential Land Use Density Classifications		
Classification	Development Category	Maximum Density (dwelling units per acre)
Residential Hillside <sup>1</sup>	Hillside Single-Family Housing	See Note
Low Density	Single-Family Housing	1–5 du/ac
Low/Medium Density	Single-Family Housing	5.01–10 du/ac
Medium Density	Multifamily Housing	10.01–20 du/ac
Medium/High Density	Multifamily Housing	20.01–35 du/ac
High Density	Multifamily Housing	Current–35.01+ du/ac Planned – 35.01–50 du/ac <sup>2</sup>
High/Very High Density	Multifamily Housing	50.01–65 du/ac <sup>2</sup>
Very High Density	Multifamily Housing	65.01 – 80 du/ac <sup>2</sup>
Commercial/Residential – MH	Commercial/Residential	20.01–35 du/ac <sup>2</sup>
Commercial/Residential – H	Commercial/Residential	35.01–50 du/ac <sup>2</sup>
Commercial/Residential – HVH	Commercial/Residential	50.01–65 du/ac <sup>2</sup>
Commercial/Residential – VH	Commercial/Residential	65.01–80 du/ac <sup>2</sup>

Source: City of Cupertino, 2023.

Notes:

1 – Residential Hillside Classification is intended to protect environmentally sensitive areas from extensive development and to protect human life from hazards associated with floods, fires, and unstable terrain. It applies one of four slope-density formulae to determine allowable residential density.

2 – The City is planning to create new and modify existing General Plan Land Use Designations (see [Strategy 1.3.3](#)).

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

## NEW AND REVISED GENERAL PLAN LAND USE DESIGNATIONS

The City is in the process of creating two new General Plan Land Use designations – High/Very High Density (HVVH), which will allow for 50.01 to 65 units per acre and Very High Density (VH), which will allow for 65.01 to 80 units per acre. The City will also modify the Commercial/Residential (C/R) designation to apply different densities to sites with the C/R land use designation. The City will also allow solely residential uses to be permitted if the project is 100 percent affordable. (**Strategy HE-1.3.3**). These new designations will allow for increased housing capacity in Cupertino.

## CUPERTINO MUNICIPAL CODE

Title 19, Zoning, of the Cupertino Municipal Code establishes development standards and densities for housing in the city. These regulations include minimum lot sizes, maximum number of dwelling units per acre, lot width, setbacks, lot coverage, maximum building height, and minimum parking requirements. These standards are summarized in [Table B5-2, Residential Development Standards](#). As required by State law, the City’s Zoning Map is consistent with the General Plan. The development standards for the City’s zoning district that permit residential development are summarized in [Table B5-2](#). All zoning and development standards, as well as list of fees, are available on the City’s website, consistent with transparency requirements pursuant to Government Code Section 65940.1, subsections (a)(1)(A) and (a)(1)(B)).

Cupertino Zoning Code Section 19.80.030 (E)(2) provides special density rules for what it terms “Priority Housing Sites.” According to the code:

*“If a [mixed-use] site is listed as a Priority Housing Site in the City’s adopted Housing Element of the General Plan, then residential development that does not exceed the number of units designated for the site in the Housing Element shall be a permitted use.”*

## NEW ZONING DISTRICT

The City is in the process of creating a new R4 Zoning District that will align with the two new General Plan Land Use designations, High/Very High Density, and Very High Density allowing 50.1 to 65 units per acre and 65.01 to 80 units per acre, respectively (**Strategies HE-1.3.3 and HE-1.3.9**). The City will create development standards, looking at height, setbacks, lot coverage, etc., to ensure that maximum densities can be achieved.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B5-2. Residential Development Standards

Zoning	Minimum Lot Area (square feet)	Setbacks (feet)					Maximum Height (feet) (stories)	Maximum Structural Lot Coverage	Maximum Floor-Area Ratio
		Front	---	Interior Side	Street Side	Rear			
A	215,000	30		20	-20	25	28	40%	-
A-1	43,000 - 215,000	30		20	-20	20	28	40%	45%
R-1	5,000-20,000	20		Varies, no less than 5 feet on 1 <sup>st</sup> floor (combined 10 – 15 depending on zoning district) and no less than 10 feet on 2 <sup>nd</sup> floor (combined 25 feet)	12	20	28 (two stories)	45% (plus 5% for overhangs, patios, porches, and similar unenclosed features)	45%
R-2	8,500	20		20% of lot width, no less than 6 feet	12 -	20 or 20% of the lot depth, whichever is greater.	30 (two stories)	40%	-
R-3	9,300 (1 <sup>st</sup> 3 units) 2,000 (each add.)	20		1 <sup>st</sup> Floor – 6 2 <sup>nd</sup> Floor – 9 > 24 feet tall – 18	12 > 24 feet tall – 18	20 feet or 20% of the lot depth, whichever is greater.	30 (two stories)	40%	-
RHS	10,000-440,000	10-25		1 <sup>st</sup> Floor – 10 2 <sup>nd</sup> Floor – 15 3 <sup>rd</sup> Floor - 20	1 <sup>st</sup> Floor – 15 2 <sup>nd</sup> Floor – 15 3 <sup>rd</sup> Floor - 20	20-25	30	-	Lesser of 6,500 sq. ft. or (4,500 + ((Net Lot Area - 10000)/1000) (59.59)) x (Slope Adjustment Factor)
R-1C	No minimum	Units adjacent to development boundary - Same setbacks as required in the adjacent zones.					30	N/A	N/A
CG	No minimum	Per General or Special Plans		0-12	0-12	20	30	No minimum	N/A

Source: City of Cupertino, Municipal Code Title 19: Zoning

Notes:

N/A = Not Applicable/Available

Note: Standards in planned development districts are consistent with the applicable residential zone. For example, P(CG, R-3) would indicate a mixed-use planned development for which the commercial use would follow Commercial General development standards and the residential component would be subject to the development standards of the R-3 zone. For residential projects in Planned Development zoning districts, the P zoning allows flexibility in proposing their own standards depending on the types of units being proposed.



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

## PARKING REQUIREMENTS

In California, providing sufficient parking for vehicles is an essential part of good planning. At the same time, however, excessive parking requirements can detract from the feasibility of developing new housing at a range of densities necessary to facilitate affordable housing. The City's Zoning Code establishes residential parking standards, as summarized in [Table B5-3, Parking Requirements](#). The City has included **Strategy HE-1.3.9** to analyze parking standards in comparison to those of neighboring jurisdictions, reduce parking requirements in response to this analysis, and revise all residential parking standards to ensure parking is not a constraint to the development of housing.

Table B5-3. Parking Requirements		
Zoning Designation	Housing Type	Parking Requirement
R-1	Single-Family	4 / Dwelling Unit (DU) (2 garage, 2 open)
R-2	Duplex	3 / DU (1.5 enclosed, 1.5 open)
R-3	High-Density Multifamily (all size units)	2 / DU (1 covered, 1 open)
RHS	Single-Family	4 / DU (2 garage, 2 open)
A-1	Single-Family	4 / DU (2 garage, 2 open)
P	Single-Family	4 / DU (2 garage, 2 open)
	High-Density Multifamily	2 / DU (1 covered, 1 open)
	Small Lot Single-Family, Townhouse	2.8 / DU (2 garage, 0.8 open)
BQ	Permanent emergency shelter	Minimum of one parking space for each nonresident employee

Source: City of Cupertino, 2023

## CUMULATIVE IMPACTS OF DEVELOPMENT STANDARDS

State law requires the City to consider the impacts of development standards on the cost of housing, and further to consider the cumulative impacts of development standards on the cost and supply of housing. The City has historically tried to be creative in allowing multiple forms of residential developments in its Planning Development and Cluster zoning, such as row homes, townhomes, condominiums, and small lot single-family etc. Within single-family neighborhoods, the City has required a minimum lot size of 5,000 square feet. This standard is not a constraint on the development of housing since other forms of development and zoning allowed much smaller lot sizes. Further, the passage both of Senate Bill (SB) 9, which allows for lot splits and duplexes by-right, and of new accessory dwelling unit (ADU) legislation, which allows up to two ADUs and one junior accessory dwelling unit (JADU) by-right, in addition to the primary residence on the single-family lot, has lessened the constraints on what are traditionally single-family zoned properties.

Similarly, the primary development standard affecting housing costs for multifamily units is typically the maximum allowable density. The R-3 District permits multifamily residential development. This district requires a minimum lot area of 9,300 square feet for a development with three dwelling units

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

and an additional 2,000 square feet for every additional dwelling unit. The minimum lot width in the R-3 District is 70 feet, and lot coverage may not exceed 40 percent of net lot area. For single-story structures, required setbacks are 20 feet in the front yard, 6 feet in the side yard, and the greater of 20 feet or 20 percent of lot depth in the rear yard; the minimum side yard setback for two-story structures is 9 feet. The maximum height of any building is two stories and may not exceed 30 feet. This height limit is used because many R-3 districts are contiguous to single-family residential neighborhoods. Basements submerged entirely below grade, except for lightwells required for light, ventilation, and emergency egress, which may have a maximum exterior wall height of two feet between natural grade and ceiling, are permitted and are not counted towards the height requirements. For these reasons, the building height standards in the R-3 District are not considered a constraint to housing production. Furthermore, the development standards for the R-3 District are on par with standards present in neighboring jurisdictions and do not unreasonably constrain the development of multifamily housing. Multifamily residential uses are permitted uses in the R-3 District without the need for a Use Permit. Developments are able to achieve the maximum allowable densities under existing development standards, including the height limit and maximum lot coverage. For example, looking at the number of developable units on a one-acre parcel, the maximum density allowed on a one-acre parcel is 20 units. With a maximum lot coverage of 40 percent and assuming two stories of residential development, approximately 35,000 square feet of residential development can be achieved. Using conservative assumptions of 20 percent common area space and large unit sizes of 1,400 square feet, 20 units can be developed under this scenario. This analysis demonstrates that projects would be able to achieve the maximum allowable density in the R-3 District under the development standards.

Other zoning districts where residential development is allowed include Planned Development Residential or P(Res) zoning districts. These are typically higher-density zoning districts with densities of up to 35 dwelling units per acre. Building heights typically range from two to three stories (higher along transportation corridors such as Stevens Creek Boulevard and De Anza Boulevard). There are no maximum floor-area ratio limits and this zoning district allows a multitude of development types ranging from multifamily apartments, condominium developments to small lot single-family, rowhomes/townhomes to cluster developments. The City has seen great success in developing a variety of housing types with this zoning designation and has been able to meet (and with State density law bonuses, exceed) the maximum density for a site.

In addition, the designation of selected housing sites as Priority Housing Sites (see **Policy HE-1.3**) ensures that the designated number of units assigned to sites in **Tables B4-7** and **B4-9** of this 6th Cycle Housing Element can be readily achieved, regardless of the specific development standards of the R-3 and other multifamily-allowing districts.

## ANALYSIS OF DEVELOPMENT STANDARDS BY ZONE

The City evaluated the cumulative impact of its land use controls on the cost and supply of housing, including development standards that limit sites' building envelope (setbacks, private open space, and parking) and lot coverage restrictions. Based on this evaluation, none of the land use controls in conventional residential zoning districts would prevent an applicant from reaching the maximum density allowed for single-family development in single family-zones and multifamily developments in all zones, including Planned Development zoning districts, where multifamily is allowed, or otherwise

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constrain housing development. Current development standards for the residential zones that permit multifamily housing were applied to RHNA inventory sites of varying size that are listed in **Tables B4-7 or B4-9**, or hypothetical sites representing common parcel sizes in each respective zone when an inventory site was not available. The results confirmed the above conclusion, and each scenario achieved the respective zone's maximum allowable density (**Table B5-4**).

In the R-2 zone (maximum 20 units per acre), the City analyzed development feasibility on the minimum parcel size, 8,500 square feet, and on an approximately one-half acre parcel. Sites larger than one-half acre were not evaluated, as development standards do not become more restrictive as parcel size increases. In both scenarios, the maximum density can be achieved with a mix of one-, two-, and three-bedroom units served by the required covered/garaged and uncovered (screened) parking.

The R-3 and Planned Development zones (maximum 35 units per acre) are the City's existing multifamily designation and is intended to allow more conventional stacked residential product types. Development feasibility on the minimum parcel size, approximately 9,300 square feet for the R-3 zone, was evaluated. To represent development on a larger site, the City combined three adjacent parcels identified in the sites inventory (sites 17, 18, and 19) to create an approximately single three-quarter acre lot. In both scenarios, the maximum density can be achieved with a mix of studio, one-, and two-bedroom units served by the required covered/garaged and uncovered (screened) parking. Similarly, in the Planned Development zoning district, there are no minimum parcel sizes – the only development regulation that dictates number of units allowed is density. These Planned Development zoning districts are located mainly along the City's arterials and an analysis of the previously approved projects in the 5<sup>th</sup> Cycle production period indicates that the adopted standards are not barriers to development.

As part of **Strategy HE-1.3.3**, the City is proposing an R-4 zone (maximum 80 units per acre) to allow even higher density development to occur, in appropriate areas. As presently drafted, the standards are comparable to those applicable to development in the R-3 zone, with the exception of maximum height and lot coverage. The R-4 zone will permit development up to a maximum of 70 feet (5 floors) instead of 30 feet (2 floors) and allows for a lot coverage maximum of 0.55 instead of 0.4. The City evaluated development feasibility on a 1.6-acre parcel identified in the sites inventory (site 13), which represents a lot size commonly found in the R-4 zone, and on a 1-acre lot to represent development at the smaller end of the parcel size spectrum. In both scenarios, the maximum density can be achieved with a mix of studio, one-, and two-bedroom units in a five-floor podium-style product with the first two floors reserved exclusively for parking. As lot size increases, developers may develop wrap-style products to reduce building footprint and increase space for community amenities without sacrificing livable square footage.

The first step in the analysis was to determine the allowable building footprint given the site size and the maximum lot coverage. The next step was to determine the maximum allowed developable envelope given the lot coverage, setback, open space, and parking requirements. Private open space was accommodated within the developable envelope and was not assumed to encroach into setback areas. Covered parking was subtracted from the maximum building footprint to determine the occupiable area on the first floor. Occupiable area on the second floor, and additional floors, was set equal to the first floor building footprint, including parking area, less additional setback/step-back

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requirements. Average unit size was calculated by dividing the total occupiable building area by the permitted number of units (site acreage multiplied by density). Density bonus units are not factored into the calculations.

Table B5-4. Cumulative Impacts Analysis, by Zone		
	Scenario 1	Scenario 2
R-2 Zone		
APN:	N/A	N/A
Square footage:	8,500	22,000
Length (feet):	100	200
Width (feet):	85	110
Lot coverage:	0.4	0.4
Number of stories (30 ft max):	2	2
Maximum building footprint, given lot coverage requirements:	3,400	8,800
Maximum building envelope given setbacks and parking (see below for spaces per unit)	3,060	8,800
<i>Covered parking spaces per unit:</i>	2	2
<i>Area required for covered parking (sqft):</i>	1,760	4,400
<i>Parking type:</i>	Garage	Garage
Maximum occupiable building square footage:	4,000	12,800
Number of units:	4	10
Average unit square footage:	1,000	1280
<b>Achievable Density (units per acre):</b>	<b>20</b>	<b>20</b>
<b>Permitted Density (units per acre):</b>	<b>20</b>	<b>20</b>
R-3 Zone		
	Sites 17, 18, 19	Scenario 2
APN:	369-37-022-024	N/A
Square footage:	33,750	9,450
Length (feet):	225	105
Width (feet):	150	90
Lot coverage:	0.4	0.4
Number of stories (30 ft max):	2	2
Maximum building footprint, given lot coverage requirements:	13,500	3,780
Maximum building envelope given setbacks, parking (see below for spaces per unit) and private open spaces (10-20% of unit size):	22,080	4,992
<i>Covered parking spaces per unit:</i>	1	1
<i>Area required for covered parking (sqft):</i>	5,400	1,600
<i>Parking type:</i>	Garage / Carport	Garage / Carport
Maximum occupiable building square footage:	21,060	5,772

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Table B5-4. Cumulative Impacts Analysis, by Zone		
Number of units:	27	8
Average unit square footage:	780	722
<b>Achievable Density (units per acre):</b>	<b>35</b>	<b>35</b>
<b>Permitted Density (units per acre):</b>	<b>35</b>	<b>35</b>
New R-4 Zone		
	Site 13	Scenario 2
APN:	32607022	N/A
Square footage:	71,500	43,750
Length (feet):	325	250
Width (feet):	220	175
Lot coverage:	0.55	0.55
Number of stories (70 ft max):	5	4
Maximum building footprint, given lot coverage requirements:	39,325	24,063
Maximum building envelope given setbacks, parking (see below for spaces per unit) and private open spaces (10% of unit size):	49,920	29,340
<i>Covered parking spaces per unit:</i>	<i>1</i>	<i>1</i>
<i>Area required for covered parking (sqft):</i>	<i>39,300</i>	<i>24,000</i>
<i>Parking type:</i>	<i>Structured garage</i>	<i>Structured garage</i>
Maximum occupiable building square footage:	118,000	69,408
Number of units:	131	80
Average unit square footage:	901	868
<b>Achievable Density (units per acre):</b>	<b>80</b>	<b>80</b>
<b>Permitted Density (units per acre):</b>	<b>80</b>	<b>80</b>

## ZONING FOR A VARIETY OF HOUSING

Housing Element law specifies that jurisdictions must identify adequate sites to be made available through appropriate zoning and development standards to encourage the development of various types of housing for all economic segments of the population. This includes single-family housing, multifamily housing, manufactured housing, mobile homes, emergency shelters, and transitional housing, among others. See [Table B5-4, Permitted Uses in Residential Zones](#), for permitted and conditionally permitted uses by land use in residential zones.

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Table B5-5. Permitted Uses in Residential Zones

Land Use	A	A-1	R-1	RHS	R1C	R-2	R-3	BQ
Accessory Dwelling Unit	P	P	P	P	P	P	P	-
Single-family dwelling unit		P	P	P	P	P	P	-
Dwelling, multifamily	-	-	-	-	-	-	P	-
Manufactured Housing	P	P	P	P	P	P	P	-
Residential Care Facility (6 or fewer)	P	P	P	P	P	P	P	-
Residential Care Facility (7 or more)	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC	CUP - PC
Transitional and Supportive Housing	P	P	P	P	P	P	P	-
Emergency Shelter	-	-	-	-	-	-	-	P
Employee Housing (36 Beds or 12-unit spaces)	P	P	-	CUP-Admin.	-	-	-	-
Employee Housing (6 or fewer employees)	P	P	P	P	P	P	P	P

Source: City of Cupertino Zoning Code

Notes: P – Permitted Use, - – Not Allowed, CUP - Admin. – Conditional Use Permit issued by the Director of Community Development, CUP - PC – Conditional Use Permit issued by the Planning Commission.

## ACCESSORY DWELLING UNITS

Accessory dwelling units (ADUs), also called “second units” in the Zoning Code, are attached or detached residential dwellings that provide complete, independent living facilities for one or more persons. That is, they include permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as a single-family dwelling. To comply with Government Code Section 65852.2, ADUs must be permitted ministerially subject to objective design standards.

Junior accessory dwelling units (JADUs) are ADUs of less than 500 square feet and must be permitted within the walls of the proposed or existing single-family dwelling. An existing bedroom or interior entry into the single-family home is not required for JADUs. Currently, ADUs and JADUs are permitted within all zones where single-family and multifamily dwellings are permitted.

ADUs and JADUs offer an opportunity for homeowners to earn additional income and provide an opportunity for affordable housing units.

One additional off-street parking space is required if the principal dwelling unit has less than the minimum off-street parking spaces for the residential district in which it is located. In most cases, State law exempts ADU development from having to provide parking, except in Residential hillside zoning districts far from transit lines. The City routinely reviews its ADU ordinance to ensure compliance with State law and will continue to do so. ADUs must also comply with the underlying site development regulations specified by the zoning district.



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In February 2024, The City adopted an updated ADU ordinance to comply with state law, and to go above and beyond the State requirements. The updated ordinance includes the following:

- Permit up to three streamlined ADUs of any kind (three detached, three attached or three JADUs, or three conversion ADUs);
- In duplexes, permit streamlined ADUs similar to single family but up to a maximum of four units total: two detached, two attached, two JADUs or two conversion ADUs.

The City has included **Strategy HE-1.3.8** to review and revise ADU requirements to ensure compliance with State law. **Strategy HE-1.3.8** also included several actions the city plans to take to promote the development of ADUs.

### TRANSITIONAL AND SUPPORTIVE HOUSING

Transitional housing is defined in Section 50675.2 of the Health and Safety Code as rental housing for stays of at least six months but where the units are recirculated to another program recipient after a set period. Transitional housing may be designated for a homeless individual or family transitioning to permanent housing. This housing can take many structural forms, such as group housing and multifamily units and may include supportive services to allow individuals to gain necessary life skills in support of independent living.

Supportive housing is defined by Health and Safety Code Section 50675.14 as housing with linked on-site or off-site services with no limit on the length of stay and occupied by a target population as defined in Health and Safety Code Section 53260 (i.e., low-income person with mental disabilities, AIDS, substance abuse, or chronic health conditions, or persons whose disabilities originated before the age of 18). Services linked to supportive housing are usually focused on retaining housing, living and working in the community, and/or health improvement.

Government Code Section 65583 requires that transitional and supportive housing types be treated as residential uses and subject only to those restrictions that apply to other residential uses of the same type in the same zone. Additionally, according to Government Code Section 65651(a), supportive housing must be permitted by-right in multifamily zones and mixed-use and nonresidential zones allowing multifamily. Both transitional and supportive housing types must be explicitly permitted in the Municipal Code. Additionally, Government Code Section 65583(c)(3) requires that jurisdictions change their zoning to provide a “by-right” process and expedited review for supportive housing. The City currently permits Transitional and Supportive housing consistent with State law but has included **Strategy HE-2.3.1** to assist with the development of these housing types.

### RESIDENTIAL CARE FACILITIES

Pursuant to State law, licensed residential care facilities for six or fewer residents are permitted by right in all residential districts (including A, A-1, R-1, R-2, R-3, RHS, and R-1C). Licensed small group homes are not subject to special development requirements, policies, or procedures that would impede such uses from locating in a residential district. Furthermore, small group homes (with six or fewer persons) with continuous 24-hour care are permitted by right in all residential districts. Large group homes (with more than six residents) are conditionally permitted uses in the R-1 District, subject to



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Planning Commission approval. **Strategy HE-5.1.5** has been included to ensure compliance with State law and allow facilities for seven or more persons only subject to those restrictions that apply to other residential uses of the same type in the same zone.

## EMERGENCY SHELTERS

The Zoning Ordinance allows for permanent and rotating homeless shelters in the Quasi-Public Building (BQ) zone by-right without discretionary review. Rotating homeless shelters are permitted within existing church structures in the BQ zone for up to 25 occupants. The operation of rotating shelters cannot exceed two months in any one-year span at a single location. Permanent emergency shelter facilities are permitted in the BQ zone. To ensure compliance with Government Code Section 65583 (a)(4) (Assembly Bill [AB] 2339), the City will amend the Zoning Code to also permit emergency shelters in the new R4 zoning district by-right without discretionary review and update the definition of emergency shelter. The R4 zone is close to services and grocery stores and has sufficient capacity for an emergency shelter. The R4 zone has 22 parcels totaling 26.72 acres, ranging in size from 0.24 to 5.16 acres, with the majority of the parcels ranging from 0.05 to 1.75 acres. These parcels assumed to accommodate a potential emergency shelter are all non-vacant sites and the suitability and development potential of these sites is discussed in conjunction with the sites inventory, including in **Table B4-4** and associated discussion. Based on the identified need in Appendix B2, Housing Needs Assessment, the City is required to identify sites with capacity for 102 persons experiencing homelessness. Based on an estimate of 200 square feet per person of lot space, 0.47 acres would need to develop with an emergency shelter use. Redevelopment of this amount of R4-zoned land from the inventory would not cause the RHNA inventory to enter a capacity shortfall. **Strategy HE-5.1.1** has been included to allow emergency shelters in the R4 zoning district and review; amend the definition of emergency shelter to include other interim interventions, including but not limited to, navigation centers, bridge housing, and respite or recuperative care; and revise managerial standards to ensure compliance with State law including AB 2339.

## SINGLE-ROOM OCCUPANCY

Single-Room Occupancy (SRO) units are one-room units intended for occupancy by a single individual. They are distinct from a studio or efficiency unit, in that a studio is a one-room unit that must contain a kitchen and bathroom. Although SRO units are not required to have a kitchen or bathroom, many SROs have one or the other. The Cupertino Zoning Ordinance does not currently define or identify where SRO units are permitted, but SRO units are treated as a regular multifamily use, subject to the same restrictions that apply to other residential uses in the same zone. However, to add clarity around the permissibility of these units, **Strategy HE-2.3.10** has been included to define SROs and allow them in the R4 zoning district.

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### LOW-BARRIER NAVIGATION CENTERS

AB 101, adopted in 2019, requires approval “by right” of low-barrier navigation centers that meet the requirements of State law. “Low Barrier Navigation Center” means a Housing First, low-barrier, service-enriched shelter focused on moving people into permanent housing that provides temporary living facilities while case managers connect individuals experiencing homelessness to income, public benefits, health services, shelter, and housing. To ensure compliance with State law, **Strategy HE-5.1.4** has been included.

### FARMWORKER AND EMPLOYEE HOUSING

Pursuant to the State Employee Housing Act, any employee housing consisting of no more than 36 beds in a group quarter or 12 units or spaces designed for use by a single family or household shall be deemed an agricultural land use. No Conditional Use Permit (CUP), zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located. The Employee Housing Act also specifies that housing for six or fewer employees shall be treated as a residential use. In 2014, the City amended the Zoning Ordinance to be consistent with the State Employee Housing Act, permitting employee housing for six or fewer residents in all residential zoning districts and employee group quarters in the A and A-1 districts, and in the RHS district with approval of an Administrative CUP.

### MANUFACTURED HOUSING

Manufactured housing can be an affordable housing option for low- and moderate-income households. Currently, the City permits mobile homes for purposes of a caretaker unit in the Park and Recreation zone by right. **Strategy HE-5.1.6** has been included to amend the Zoning Code to permit manufactured homes, as defined in Government Code Section 65852.3, in the same manner and in the same zoning districts as a conventional or stick-built structures are permitted.

### SB 35 STREAMLINING

SB 35 requires jurisdictions that have failed to meet their Regional Housing Needs Assessment allocation (RHNA) to provide a streamlined, ministerial entitlement process for housing developments that incorporate affordable housing. The City Council adopted procedures for processing Streamlined Projects on September 3, 2019. The SB 35 Checklist in Resolution No. 19-113 has been updated to reflect amendments to State law by AB 1485 and is available online. This procedure has an established process that specifies the SB 35 streamlining approval process and standards for eligible projects. The City has also processed the Vallco Town Center (The Rise) Development, which included 2,669 residential units, 226,500 square feet of retail uses, and approximately 1,955,000 square feet of office development under SB 35.

### SENATE BILL 330 PROCESSING PROCEDURE

SB 330, the Housing Crisis Act of 2019, established specific requirements and limitations on development application procedures. Housing developments for which a preliminary application is submitted that complies with applicable General Plan and zoning standards is subject only to the

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development standards and fees that were applicable at the time of submittal. This applies to all projects unless the project square footage or unit count changes by more than 20 percent after the preliminary application is submitted. The developer must submit a full application for the development project within 180 days of submitting the preliminary application. The City has established an application process related to SB 330 and makes the preliminary application available on the City's website.

## SB 9 CALIFORNIA HOUSING OPPORTUNITY AND MORE EFFICIENCY (HOME) ACT

SB 9, also known as the California Housing Opportunity and More Efficiency (HOME) Act, is a State bill that requires cities to allow one additional residential unit onto parcels zoned for single-dwelling units. Since the adoption of this section of the Government Code, the City has adopted regulations that allow development beyond that allowed under State law to permit duplexes in qualifying single-family zoning districts.

## CONSTRAINTS FOR PEOPLE WITH DISABILITIES

California SB 520, passed in October 2001, requires local housing elements to evaluate constraints for persons with disabilities and develop programs that accommodate the housing needs of disabled persons. Additionally, in public comments to City Council, community members expressed a need for the City to explore ways to increase housing opportunities for the developmentally disabled population and reducing barriers to accessing below-market rate units. The City does this with the adopted Reasonable accommodation procedure and will be removing the CUP process for larger residential care facilities through implementation of **Strategy HE-5.1.5. Reasonable Accommodation Procedure**

Both the federal Fair Housing Act and the California Fair Employment and Housing Act impose an affirmative duty on cities and counties to make reasonable accommodations in their zoning and land use policies when such accommodations are necessary to provide equal access to housing for persons with disabilities and do not impose significant administrative or financial burdens on local government or undermine the fundamental purpose of the zoning law. Reasonable accommodations refer to modifications or exemptions to particular policies that facilitate equal access to housing. Examples include exemptions to setbacks for wheelchair access structures or to height limits to permit elevators.

The City of Cupertino adopted an ordinance in April 2010 for people with disabilities to make a reasonable accommodations request. Chapter 19.25 provides a procedure to request reasonable accommodation for persons with disabilities seeking equal access to housing under the Federal Fair Housing Act, the Federal Fair Housing Amendments Act of 1988, and the California Fair Employment and Housing Act. A reasonable accommodation may be approved by the City's Director of Community Development, only after the director first finds:

- The proposed improvements are necessary to provide housing access for persons with disabilities.

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- The reasonable accommodation granted is one that will accomplish the purpose with the least modification to the development or land use regulations from which reasonable accommodation is being requested.
- The granting of the reasonable accommodation will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, and general welfare, or convenience, and to secure the purpose of the title.

The City's requirements for approval of a reasonable accommodation conform to the State's requirements and therefore do not serve as a constraint on housing for individuals with disabilities.

**Separation Requirements:** The City's Zoning Ordinance requires residential care facilities located in the A, A-1, R-1, RHS, R1C, R-2, and R-3 zones with seven or more persons must have a minimum distance of 500 feet from the property boundary of another residential care facility, provided that the facility obtains any license.

**Site Planning Requirements:** Site planning requirements are no different for these uses than other residential uses in the same zone.

**Zoning and Other Land Use Regulations:** The City provides for a variety of housing types intended to care for the special needs of individuals with disabilities. The City's Zoning Ordinance defines residential care facilities in residential dwellings where non-medical care is provided. Small or large community residential care facilities include counseling, recovery planning, medical, or therapeutic assistance facilities for the elderly; facilities for the mentally disordered or otherwise handicapped; alcoholism or drug abuse recovery or treatment facilities; and other similar care facilities. Licensed residential care facilities for six or fewer individuals are allowed by right in all residential districts, while large care facilities are subject to a CUP in all residential districts. The City has included **Strategy HE-5.1.5** to allow residential care facilities for seven or more persons subject only to those restrictions that apply to other residential uses of the same type in the same zone.

**Definition of Family:** The Zoning Ordinance contains a broad and inclusive definition of family. A family means an individual or group of persons living together who constitute a bona fide single housekeeping unit in a dwelling unit. Families are distinguished from groups occupying a hotel, lodging club, fraternity or sorority house, or institution of any kind. This definition of family does not limit the number of people living together in a household and does not require them to be related. Therefore, the City's definition of "family" is not a constraint on housing for individuals with disabilities.

## BUILDING CODES AND PERMITTING

The City's Building Code does not include any amendments to the California Building Code that might diminish the ability to accommodate persons with disabilities.

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## DEVELOPMENT FEES AND EXACTIONS

Housing development is subject to permit processing and impact fees. These fees help to compensate the public for any impact associated with the new development. Like cities throughout California, Cupertino collects development fees to recover the capital costs of providing community services and the administrative costs associated with processing applications. New housing typically requires payment of school impact fees, sewer, and water connection fees, building permit fees, wastewater treatment plant fees, and a variety of handling and service charges. Typical development and planning fees collected are outlined in [Table B5-5, Cupertino Development and Planning Fees \(July 2022\)](#).

Table B5-6. Cupertino Development and Planning Fees (July 2022)	
Subdivisions	
Parcel Map	\$19,190
Tentative Map	\$31,919
Conditional Use Permit	
Temporary Use Permit	\$4,256
Administrative Conditional Use Permit	\$7,048
Minor <sup>1</sup>	\$19,305
Major <sup>2</sup>	\$32,169
Amendment to Conditional Use/Development Permit	
Minor <sup>1</sup>	\$8,868
Major <sup>2</sup>	\$16,196
Architectural and Site Approval Permit	
Minor Duplex / Residential <sup>3</sup>	\$6,782
Minor <sup>4</sup>	\$13,355
Major <sup>5</sup>	\$19,878
Single Family (R-1) Residential Permits	
Minor Residential Permit	\$3,482
Two-Story Permit without Design Review	\$4,522
Two-Story Permit with Design Review	\$5,427
Director Minor Modification <sup>6</sup>	\$4,757
Ministerial Residential Permits	
Miscellaneous Ministerial Permit	\$3,965
Environmental Assessment	
Environmental Impact Report (Plus State & County Filing Fees)	Contract + Admin Fee Estimated cost: \$60,000 - \$150,000, depending on the scope of the project
Negative Declaration - Major (Plus State & County Filing Fees)	Contract + Admin Fee Estimated cost: \$30,000 - \$45,000
Negative Declaration - Minor (Plus State & County Filing Fees)	Contract + Admin Fee Estimated cost: \$20,000 - \$35,000
Categorical Exemption (Plus County Filing Fee)	\$347 filing fee

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	Estimated cost: \$5,000 - \$25,000, depending on complexity of project/studies required
<b>Zoning, Planning, Municipal Code Fees</b>	
All Nonresidential and Multifamily (per sq. ft.)	\$0.45
Residential Single-Family (per sq. ft.)	\$0.22

Source: City of Cupertino, Schedule C – Planning.

Notes:

1. For 10,000 square feet or less of commercial and/or industrial and/or office and/or other nonresidential use, or six or less residential units (Cupertino Municipal Code, Chapter 19.12).
2. For more than 10,000 square feet of commercial and/or industrial and/or office and/or other nonresidential use, or greater than six residential units (Cupertino Municipal Code, Chapter 19.12).
3. Architectural approval of single-family homes in a planned development zoning district, redevelopment, or modification of duplexes, and associated landscaping, where such review is required (Cupertino Municipal Code, Chapter 19.12).
4. Architectural approval of the following: minor building modifications, landscaping, signs, and lighting for new development, redevelopment, or modification in such zones where such review is required (Cupertino Municipal Code, Chapter 19.12).
5. Architectural approval of all other development projects (Cupertino Municipal Code, Chapter 19.12).
6. An application that is administratively reviewed by staff either at an advertised public hearing/meeting or in a non-hearing process (Cupertino Municipal Code, Chapter 19.164).

In the spring 2022, the Santa Clara County Planning Collaborative conducted a survey of fees and permit processing times in Santa Clara County. Fourteen of fifteen jurisdictions completed the survey. The results indicated that Cupertino's fees are on the higher end when looking at all Santa Clara County jurisdictions. Cupertino's fees totaled \$136,596 per single-family home (**Table B5-6**), \$77,770 per unit of a hypothetical 10-unit multifamily development (**Table B5-7**), and \$73,959 per unit of a 100-unit multifamily development (**Table B5-8**). The median fees for other jurisdictions who completed the survey were \$70,626 for a single-family home, \$31,802 per unit for a 10-unit development, and \$29,902 per unit for a 100-unit development. The fees also represent a relatively low percentage of the overall cost to develop housing in Cupertino. Based on the Santa Clara County Planning Collaborative survey results and an analysis on housing development costs performed by Century Urban, a San Francisco-based real estate consulting firm, Cupertino's fees represent 2.9 percent of total development costs for a single-family home, 10.3 percent for a 10-unit multifamily development, and 10.5 percent for a 100-unit multifamily development. While the current fee structure is on the high end and could be a constraint on development, City fees represent a very small percentage of the overall cost of developing housing within the city. The City has included **Strategy HE-2.3.9** to review and revise impact fees as needed.

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Table B5-7. Comparison of Single-Family Housing Development Fees in Santa Clara County

Jurisdiction	Entitlement Fees	Construction Fees	Impact Fees	Other Fees	Total	Total Fees/DU	% of Dev. Costs
Campbell	\$4,062	\$43,300	\$25,194		\$72,556	2,600	2.6%
<b>Cupertino</b>	<b>\$5,271</b>	<b>\$18,179</b>	<b>\$113,146</b>		<b>\$136,596</b>	<b>5,000</b>	<b>2.9%</b>
Gilroy	\$4,747	\$11,105	\$53,367		\$69,219	5,000	1.5%
Los Altos Hills	\$4,880	\$108,659	\$33,092		\$146,631	5,000	3.1%
Los Gatos	\$11,202	\$16,718	\$4,538		\$32,458	2,600	1.2%
Milpitas	\$17,360	\$23,110	\$0	\$36,728	\$77,198	2,600	2.8%
Monte Sereno	\$2,900	\$16,928	\$7,894	\$5,723	\$33,445	5,000	0.7%
Morgan Hill	\$0	\$13,760	\$42,143		\$55,903	2,600	2.0%
Mountain View	\$0	\$14,720	\$71,347	\$4,356	\$90,423	2,600	3.3%
San Jose	\$312	\$9,607			\$9,919	2,600	0.4%
Santa Clara	\$1,816	\$13,675	\$56,543		\$72,034	2,600	2.6%
Saratoga	\$7,811	\$35,033	\$21,428		\$64,272	5,000	1.4%
Sunnyvale	\$456	\$14,322	\$99,268	\$19,343	\$133,389	2,600	4.8%
Unincorporated County	\$10,984	\$14,182			\$25,166	2,600	0.9%

Source: Santa Clara County Regional Planning Collaborative, 2022.



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Table B5-8. Comparison of Small Multifamily (10 units) Housing Development Fees in Santa Clara County							
Jurisdiction	Entitlement Fees	Construction Fees	Impact Fees	Other Fees	Total	Total Fees/DU	% of Dev. Costs
Campbell	\$22,887	\$4,027	\$179,075		\$205,989	\$20,599	2.7%
<b>Cupertino</b>	<b>\$84,275</b>	<b>\$44,478</b>	<b>\$648,951</b>		<b>\$777,704</b>	<b>\$77,770</b>	<b>10.3%</b>
Gilroy	\$8,107	\$17,904	\$375,938		\$401,949	\$40,195	5.3%
Los Altos Hills	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Los Gatos	\$16,965	\$27,935	\$12,743		\$57,643	\$5,764	0.8%
Milpitas	\$36,714	\$131,118	\$485,068	\$90,362	\$743,262	\$74,326	9.8%
Monte Sereno	\$0	\$27,675	\$15,065	\$5,411	\$48,151	\$4,815	0.6%
Morgan Hill	\$28,052	\$45,798	\$339,890		\$413,740	\$41,374	5.5%
Mountain View	\$2,841	\$137,000	\$550,770	\$4,356	\$694,967	\$69,497	9.2%
San Jose	\$65,000	\$61,600	\$107,500		\$234,100	\$23,410	3.1%
Santa Clara	\$37,929	\$29,239	\$5,826		\$72,995	\$7,299	1.0%
Saratoga	\$7,811	\$51,302	\$111,520		\$170,633	\$17,063	2.3%
Sunnyvale	\$19,768	\$35,918	\$1,095,000	\$116,043	\$1,266,729	\$126,673	16.8%
Unincorporated County	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Source: Santa Clara County Regional Planning Collaborative, 2022.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Table B5-9. Comparison of Large Multifamily (100+ Units) Housing Development Fees in Santa Clara County**

Jurisdiction	Entitlement Fees	Construction Fees	Impact Fees	Other Fees	Total	Total Fees / DU	% of Dev. Costs
Campbell	\$28,802	\$53,594	\$1,771,670		\$1,854,066	\$18,541	2.6%
<b>Cupertino</b>	<b>\$84,275</b>	<b>\$1,453,082</b>	<b>\$5,858,542</b>		<b>\$7,395,899</b>	<b>\$73,959</b>	<b>10.5%</b>
Gilroy	\$33,787	\$129,816	\$3,749,871		\$3,913,474	\$39,135	5.6%
Los Altos Hills	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Los Gatos	\$16,965	\$189,996	\$119,936		\$326,897	\$3,269	0.5%
Milpitas	\$36,714	\$616,695	\$4,858,789	\$461,772	\$5,973,970	\$59,740	8.5%
Monte Sereno	\$0	\$193,741	\$129,164	\$92,729	\$415,634	\$4,156	0.6%
Morgan Hill	\$98,913	\$141,780	\$3,398,900		\$3,639,593	\$36,396	5.2%
Mountain View	\$45,000	\$278,900	\$7,899,900	\$35,250	\$8,259,050	\$82,591	11.8%
San Jose	\$650,000	\$616,000	\$1,075,000		\$2,341,000	\$23,410	3.3%
Santa Clara	\$84,156	\$161,009	\$59,633		\$304,798	\$3,048	0.4%
Saratoga	\$12,211	\$429,705	\$1,097,200		\$1,539,115	\$15,391	2.2%
Sunnyvale	\$21,545	\$240,807	\$8,510,640	\$1,056,257	\$9,829,249	\$98,292	14.0%
Unincorporated County	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Source: Santa Clara County Regional Planning Collaborative, 2022.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

## REVIEW OF LOCAL ORDINANCES

### SHORT-TERM RENTALS

On September 15, 2020, City Council adopted Ordinance No. 20-2200 with new rules to regulate short-term rentals (STRs), residential rentals of 30 days or less, such as those conducted through or VRBO. As of January 2021, all STRs must be registered with the City, pay a \$211 STR registration fee, and must comply with the rules, such as those listed here:

- STRs must be an incidental use and operated by a primary resident.
- Stays are limited to 60 days for un-hosted stays (no host/operator present on-site).
- Limit of one STR per parcel and one rental agreement per night.
- Guest occupancy is limited to two times the number of bedrooms within the STR, or two for a studio unit.
- Must provide the minimum parking spaces required by the zoning district in which it is located, and designate at least one on-site parking space for the STR.
- Must have a local contact that can respond to any complaint within 60 minutes.
- May not be used for commercial purposes or events that are likely to result in violation in traffic, parking, noise, or other standard regulating the residential use and character of the neighborhood. Must comply with quiet hours from 9 p.m. to 7 a.m.
- Must provide a guest manual to the guest upon booking and in a prominent place within the STR. The guest manual must include information on noise, quiet hours, trash collection, vehicle parking, and any relevant regulations from the Municipal Code. A sample Guest Manual Template can be found [here](#).
- Must maintain a license plate registry of all guest vehicles. A sample vehicle registration log can be found [here](#).
- Must retain records documenting compliance for three years.
- May not occur in any ADU.

STR platforms are required to:

- Prevent bookings of any STR that does not have a valid registration number with the City;
- Collect the Transient Occupancy Tax and remit it to the City; and
- Retain records for three years in case they are needed to verify compliance.

Cupertino's STR ordinance is not seen as a constraint but rather a way to preserve the rental stock to ensure rental units are available for current and future Cupertino residents.

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## BELOW-MARKET RATE MITIGATION PROGRAM

The City's BMR Residential Mitigation Program requires all new residential developers to either provide below market rate units or pay a mitigation fee, which is placed in the City's Below Market-Rate (BMR) Affordable Housing Fund (AHF). The BMR Mitigation Program is based on a nexus study prepared by the City that demonstrated that all new developments create a need for affordable housing. Under this program, developers of for-sale housing where units may be sold individually must sell at least 15 percent of units at a price affordable to median- and moderate-income households. Projects of seven or more units must provide on-site BMR units. Developers of projects of six units or fewer can either build a unit or provide pay the Housing Mitigation fee. The City treats its BMR units the same as density bonus affordable unit, meaning the provision of BMR units can count as density bonus affordable units. Density bonus units that are counted toward the BMR unit total also have to meet the other requirements of the BMR program related to affordability. The City also accepts density bonus affordable units of a deeper affordability than the required BMR units would have been as units counting toward the BMR unit requirements. The City's BMR program is a way to ensure affordable units are built in the city and has not been seen as a constraint to housing development.

## PROCESSING AND PERMIT PROCEDURES

As a comparison, [Table B5-9, Comparison of Permit Processing Times \(Months\)](#), lists estimated permitted processing time from neighboring communities within Santa Clara County. Cupertino's review times are similar to approval times for surrounding jurisdictions and not seen as a constraint to development. However, in response to feedback received from developers in a focus group, the City has included **Strategy 2.3.1** through which the City will give priority in permit processing for projects providing 100 percent affordable housing throughout the city, including projects for special-needs groups, in order to encourage housing affordability and address the desire for expedited processing times.

**Table B5-10. Comparison of Permit Processing Times (Months)**

Jurisdiction	ADU Process	Ministerial By-Right	Discretionary By-Right	Discretionary (Hearing Officer if Applicable)	Discretionary (Planning Commission)	Discretionary (City Council)
Cupertino	1-3	1-6	2-4	2-4	3-6	6-12
Gilroy	1-2	1-2	2-4	N/A	4-5	5-6
Los Altos Hills	1-2	0.5-2	2-3	3-4	4-6	5-8
Los Gatos	No Data	3-6*	1-2	2-4	4-6	6-12
Milpitas	3-5	4-6	2-3	6-18	N/A	12-24
Monte Sereno	0.75	0.75	1	1-2	N/A	1-2
Morgan Hill	1-2	1-3	2-3	2-3	4-6	4-6
Mountain View	3-5	4-6	2-3	6-18	N/A	12-24

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Table B5-10. Comparison of Permit Processing Times (Months)

Jurisdiction	ADU Process	Ministerial By-Right	Discretionary By-Right	Discretionary (Hearing Officer if Applicable)	Discretionary (Planning Commission)	Discretionary (City Council)
San Jose	2	1-3	7	7	7-11	5-12
Santa Clara	0-1	0-1	0-3	4-9	6-9	6-12
Saratoga	1	1-2	2-3	N/A	4-6	6-12
Sunnyvale	1-3	1-3	3-6	6-9	9-18	9-18
Unincorporated County	4-6	6-8	9-12	12-15	15-18	15-18

Source: Santa Clara County Constraints, Fees, &amp; Processing Times Survey Quick Summary, 2022.

Note: Permit processing times indicated in months

\*Time to first review; and City staff time.

## APPROVAL PROCESS

The Housing Element must examine the length of time between receiving approval for a housing development and submittal of an application for building permits. The time between application approval and building permit issuance is influenced by a number of factors, none of which are directly impacted by the City. Factors that may impact the timing of building permit issuance include required technical or engineering studies; completion of construction drawings and detailed site and landscape design; securing construction and permanent financing; and retention of a building contractor and subcontractors.

The majority of residential permits in Cupertino are for single-family homes, with building permit issuance generally taking 8 to 14 months after Planning approvals. In Cupertino, most approved projects are constructed in a reasonable time period following approval.

As is shown in **Table B5-10**, projects for ADUs and single-family review (building permit only) requiring ministerial review are usually reviewed within two to four weeks. Discretionary approvals, such as two-story single-family homes, subdivisions involving multiple homes, townhomes, or small-lot homes, have longer processing time frames (three to nine months depending on the scope of the project), as is shown in **Table B5-11**. Larger housing developments requiring multiple approvals involve joint applications and permits that are processed concurrently and may require additional environmental review. All approvals for a particular project are reviewed in a single Planning Commission and/or City Council meeting. The typical permit processing times in Cupertino are similar to or lower than those in other jurisdictions and do not pose a major constraint to new development in the city. Cupertino is able to process applications in a timely manner because City staff works closely with applicants during a pre-application process. The pre-application is currently free of charge and its duration may vary depending on the completeness or complexity of the project. The typical pre-application process may consist of the following:

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- Initial preliminary consultation with property owners/developers to go over project objectives and City development standards.
- Submittal and review of conceptual development plans.
- Preliminary consultations with relevant City departments (i.e., Fire, Building, Public Works), as deemed necessary.
- Submittal and review of pre-submittal materials and final plans.

One-story, single-family homes in properly zoned areas do not require entitlements from the Community Development Department and are reviewed concurrently with building permit review. However, two-story single-family homes require a two-story permit, which is approved by the Director of the Community Development Department and takes two to three months to process. Two-story homes very seldom require a meeting unless they are requesting an exception or a variance. Residential subdivisions require a tentative parcel map or tentative subdivision map, depending on the number of units in the development, and take two to four months to receive approvals. Multifamily residential developments in R3 Districts are typically approved in two to four months.

Multifamily projects with more than six units require major development permits, while those with fewer than six units require minor development permits. In the case of minor development permits, only an administrative review is required unless a decision is appealed. For major development permits, the Planning Commission is the final review body for developments of up to 49 units, except in cases where their decision is appealed, at which point the final approval is within the authority of the City Council. Developments with 50 or more units are approved by the City Council. Appeals may be made when it is alleged there is an error in any requirement, decision, or determination made. In either case, a public meeting is required but not a public hearing (i.e. only mailed notices within 300 feet of the project are required, but not a published notice in the newspaper), unless a subdivision is proposed, in which case, they are reviewed in accordance with the requirements of the Subdivision Map Act. Review of the development proposal requires the following findings:

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

Finding 2 does not preclude alterations for reasonable accommodation requests or group homes. The City applies these findings in a manner compliant with the Housing Accountability Act using the “specific, adverse impact” standard outlined therein. The City also regularly provides information to the Planning Commission about the Housing Accountability Act findings which must be made by the decision making body in order to deny a project to remind the acting body about the high bar for being able to reduce the density or deny the project. Additionally, these findings are not considered a

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barrier to development, as the City has not denied any housing development projects in over fifteen years.

To ensure approval findings are not a constraint on the development of housing, **Strategy HE-1.3.9** commits the City to removing the bolded text from approval finding 1 for residential developments: “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.**”

### *Building Permit*

Standard plan check and building permit issuance for single-family dwellings in Cupertino takes approximately 20 business days. Plan checks for large additions, remodels, and major structural upgrades for single-family homes are also reviewed within 20 business days. If a second review is necessary, the City will take approximately 15 business days to complete the review.

Over-the-counter plan checks are available for simple home remodels and small residential additions of 250 square feet or less. Building Department staff typically review these projects in less than 30 minutes during normal business hours. Any projects with more than 10 units might take 30 business days to review. Cupertino’s building permit procedures are reasonable and comparable to those in other California communities. **Tables B5-10 and B5-11** provide the typical process for a single-family and multifamily development. These timeframes assume the applicant meets all development regulations.

Post-entitlement phase permit applications are provided with determinations of application completeness within 15 days of receipt, and permits for complete post-entitlement applications are issued within 30 days (for buildings with 25 units or fewer) or 60 days (for 25+ units) in compliance with SB 2234.

**Table B5-11. Single-Family Development Process**

Type of Approval or Permit	Time to complete (days/months)	Approval Body
<b>Step 1: Application intake</b>	<b>2 days</b>	<b>Staff and applicant</b>
<b>Step 2: Plan review</b>	Up to 30 days	Staff
<b>Step 3: Noticing and comment period</b>	2 business days plus 2 weeks	Staff
<b>Step 4: Finalizing approval letter</b>	Up to 2 business days	Staff
<b>Estimated Total Processing Time</b>	<b>7-9 weeks</b>	Staff

Source: City of Cupertino, 2023.



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**Table B5-12. Multifamily and Planned Development Process**

Type of Approval or Permit	Time to complete (days/months)	Approval Body
<b>Step 1: Project intake</b>	<b>2 business days</b>	<b>Staff and applicant</b>
<b>Step 2: Plan review and distribution</b>	30 business days	Staff
<b>Step 3: Environmental and architectural review</b>	Categorical Exemption no studies needed – 2 weeks	Staff and consultants
	EIR – 9-12 months	
	Categorical Exemption but needs some studies – 2 months	
	MND – 4-6 months	
	Architectural review (Concurrent) – 2-3 weeks	
<b>Step 4: Plan review (second cycle)</b>	30 days	Staff
<b>Step 5: Schedule hearings</b>	3 weeks	Staff
<b>Step 6: Schedule Planning Commission/City Council hearing, if needed</b>	3 – 6 weeks	Staff/Planning Commission/City Council
<b>Estimated Total Processing Time</b>	<b>20 – 26 Months</b>	<b>Staff</b>

Source: City of Cupertino, 2023.

## DESIGN GUIDELINES AND OBJECTIVE DESIGN STANDARDS

Cupertino has not adopted citywide residential design guidelines. However, all Planned Development Zoning Districts, the R1 District, RHS District, the Heart of the City Specific Plan Area, and the North De Anza Boulevard Conceptual Plan Area are subject to design guidelines. These design guidelines pertain to features such as landscaping, building and roof forms, building entrances, colors, outdoor lighting, and building materials.

The Heart of the City Specific Plan design guidelines are intended to promote high-quality private-sector development, enhance property values, and ensure that both private investment and public activity continues to be attracted to the Stevens Creek Boulevard Special Area. Design guidelines promote retention and development viability of single-family residential-sized lots and enable a transition from these smaller single-family neighborhoods to the larger, multifamily residential and mixed-use properties fronting Stevens Creek Boulevard. The City requires design review for certain residential developments to ensure that new development and changes to existing developments comply with City development requirements and policies. These include:

- Variances in the R-1 District.
- Two-story residential developments in the R-1 District where second-floor to first-floor area ratio is greater than 0.66:1:00 and/or where second-story side yard setback(s) are less than 15 feet to a property line.
- Two-story addition, new two-story home, and/or second-story deck in the R1-a zone.

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- Any new development or modifications in planned development residential or mixed-use residential zoning districts.
- Single-family homes in a planned development residential zoning district.
- Modifications to buildings in the R1-C or R-2 zoning districts.
- Signs, landscaping, parking plans, and modifications to buildings in the R-3 zoning district.

For Single-Family Residential, the design guidelines for all projects include the following:<sup>1,2</sup>

- There should not be a three-car-wide driveway curb cut.
- No more than 50 percent of the front elevation of a house should consist of garage area.
  - In the R1-a zone, the maximum width of a garage on the front elevation should be 25 feet, which will accommodate a two-car garage. Additional garage spaces should be provided through the use of a tandem garage or a detached accessory structure at the rear of the property.<sup>2</sup>
- Living area should be closer to the street, while garages should be set back more.
- All roofs should have at least a one-foot overhang.
- Porches are encouraged.
  - In the R1-a zone, the following porch design guidelines apply:<sup>2</sup>
- When viewed from the street, a porch should appear proportionately greater in width than in height. A porch differs from an entry element, which has a proportionately greater height than its width.
  - Structural supports should be designed such that the appearance is not obtrusive or massive.
  - The use of large columns or pillars is discouraged.
  - The eave height for a front porch should not be significantly taller than the eave height of typical single-story elements in the neighborhood.
  - Porch elements should have detailing that emphasizes the base and caps for posts and fence elements.
- In R1-6e and R1-a zones, entry features should not be higher than 14 feet from natural grade to plate.<sup>2</sup>

The City has detailed two-story design principles incorporated in the R-1 District. These design principles help integrate new homes and additions to existing homes into existing neighborhoods by providing a framework for the review and approval process. Two-story homes with a second story to

<sup>1</sup> Refer to the Eichler Design Handbook- Fairgrove Neighborhood for additional design guidelines in the R1-6e zone.

<sup>2</sup> Nonconformance with the design guidelines in the R1-a zone shall be considered acceptable only if the applicant shows that there are no adverse impacts from the proposed project.

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first-floor ratio greater than 0.66:1.00 and homes with second-story side setbacks less than 15 feet must offset building massing with designs that encompass higher-quality architectural features and materials. For Two-Story Design Guidelines, the mass and bulk of the design should be reasonably compatible with the predominant neighborhood pattern. All new construction should not be disproportionately larger than, or out of scale with, the neighborhood pattern in terms of building forms, roof pitches, eave heights, ridge heights, and entry feature heights. Additionally, the design should use vaulted ceilings rather than high exterior walls to achieve higher volume in interior spaces. In the R1-a zone, all second-story wall heights greater than six feet, as measured from the second-story finished floor, should have building wall offsets at least every 24 feet, with a minimum 4-foot depth and 10-foot width. The offsets should comprise the full height of the wall plane. The current pattern of side setback and garage orientation in the neighborhood should be maintained. When possible, doors, windows, and architectural elements should be aligned with one another vertically and horizontally and symmetrical in number, size, and placement. In the R1-a zone, windows on the side elevations should be fixed and obscured to a height of five feet above the second floor and have permanent exterior louvers to a height of five feet above the second floor or have sill heights of five feet or greater to mitigate intrusion into a neighbor's privacy.

Two-story homes that are subject to Design Review required by Section 19.28.040(E) in the Zoning Ordinance (except in R1-a zones) must include:

- An identifiable architectural style.
- Design features, proportions, and details consistent with the architectural style selected.
- Visual relief deemed appropriate by the Director of Community Development.
- Materials of high quality.
- Appropriate building mass and scale.
- Design with architectural integrity on all sides of the structure
- Reflect symmetry, proportion, and balance in design.

The design guidelines are intended to ensure development is consistent with the existing neighborhood character and are generally not considered significant constraints to housing production. These design guidelines currently contain subjective design standards, which are inconsistent with State housing law. While much of the design guidelines are applicable to only single-family development, the City is in the process of developing objective design standards for other forms of residential development. The City has included **Strategy HE-1.3.9** to review and revise design and development standards to ensure they are objective in nature, while preserving existing neighborhood character without creating any undue constraints on new housing development. This will also address feedback received from developers during a focus group, during which participants expressed a desire for certainty and consistency in the review process. It should be noted that single family or duplex developments are not expected to generate any significant housing options during the 6<sup>th</sup> Housing Element cycle since the City is largely built out and most housing will be infill development with attached multifamily or townhome developments in R3 and R4 zoning districts.

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- No discretionary design review is required to permit multifamily housing in the R-3 zone. Design review is not required for projects in the R-3 zone, where multifamily housing is permitted by-right. The City is in the process of adopting Objective Design standards for all multifamily and mixed use development.

### REQUESTS TO DEVELOP AT DENSITIES BELOW THOSE PERMITTED

During the previous Housing Element cycle, the city did not approve any projects proposed at densities lower than those proposed in the Housing Element. Three out of the five projects requested the maximum allowable under State law at time of entitlement based on the amount of affordability proposed (35 percent for two projects and 15 percent for one); and the 600-unit Hampton Apartment Homes received approval to build to the maximum anticipated in the Housing Element.

It should be noted that Cupertino is built out and most new development is infill development, unlike in communities where greenfields or large single-family tracts are still being developed. Most development in Cupertino is either attached multifamily or townhome/row home style developments on redeveloped property. To the extent that the City is rezoning properties, these are to accommodate developments that are higher in density than single family developments.

To incentivize development that better implements densities planned in the Housing Element sites inventory, the Housing Element sets forth a program (**Strategy HE-1.3.2**) to ensure that there are adequate sites available throughout the planning period to accommodate the City's regional housing needs allocation, or RHNA.

### BUILDING CODES AND CODE ENFORCEMENT

The City of Cupertino has adopted the 2022 Edition of the California Building Code, the 2022 California Electrical Code and Uniform Administrative Code Provisions, the International Association of Plumbing Officials Uniform Plumbing Code (2022 Edition), the California Mechanical Code 2022 Edition, the 2022 California Fire Code, and the 2022 Green Building Standard Code. The City also enforces the 1997 Edition of the Uniform Housing Code, the 1998 Uniform Code for Building Conservation, and the 1997 Uniform Code for the Abatement of Dangerous Buildings.

Cupertino has adopted several amendments to the California Building Code. The City requires sprinkler systems for new and expanded one- and two-family dwellings and townhouses; underhanging appendages enclosed with fire-resistant materials; roof coverings on new buildings and replacement roofs complying with the standards established for Class A roofing, the most fire-resistant type of roof covering. The amendments also establish minimum standards for building footings, seismic reinforcing on attached multifamily dwellings, and brace wall panel construction. These amendments apply more stringent requirements than the California Building Code. The California Building Code and the City's amendments to it have been adopted to prevent unsafe or hazardous building conditions. The City's building codes are reasonable and do not adversely affect the ability to construct housing in Cupertino.

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The City's code enforcement program is an important tool for maintaining the housing stock and protecting residents from unsafe or unsightly conditions. The Code Enforcement Division is responsible for enforcing the provisions of the Cupertino Municipal Code and various other related codes and policies. Code Enforcement Division staff work to achieve compliance through intervention, education, and enforcement, partnering with the community to enforce neighborhood property maintenance standards.

Code Enforcement staff investigate and enforce City codes and State statutes based on complaints received. Violation of a code regulation can result in a warning, citation, fine, or legal action, if not corrected over time. If a code violation involves a potential emergency, officers will respond immediately; otherwise, Code Enforcement staff responds to complaints through scheduled inspections. Since 2007, out of the approximately 21,000 total housing units in the city, Code Enforcement has declared only three housing units unfit for human occupancy, and most residential complaints are readily resolved. Code Enforcement activities are, therefore, not considered a constraint to development of housing in Cupertino.

**ON- AND OFF-SITE IMPROVEMENT STANDARDS**

Residential developers are responsible for constructing road, water, sewer, and storm drainage improvements for new housing sites. Where a project has off-site impacts, such as increased runoff or added congestion at a nearby intersection, additional developer expenses may be necessary to mitigate these impacts. Accordingly, developers pass these expenses on to consumers.

Chapter 18 of the Cupertino Municipal Code (the Subdivision Ordinance) establishes the requirements for new subdivisions, including the provision of on- and off-site improvements. The ordinance requires that subdivisions comply with lot frontage requirements and stormwater runoff be collected and conveyed by an approved storm drain system. Furthermore, each unit or lot within the subdivision must be served by an approved sanitary sewer system, domestic water system, and gas, electric, telephone, and cablevision facilities. All utilities within the subdivision and along peripheral streets must be placed underground.

Typical residential streets are 40 feet wide curb-to-curb (60-foot right-of-way width) unless a project is adjacent to arterial and/or major roadways. Street widths within private development are subject to Fire Department requirements related to fire safety, staging, and fire truck turnaround. Typical internal streets with no parking along the street are 20 to 22 feet wide. The City works with developers to explore various street design options to meet their needs and satisfy public safety requirements. Developers are typically required to install curbs, gutters, and sidewalks; however, there is a process where the City Council can waive these requirements. The City prefers detached sidewalks with a landscaped buffer in between the street and the pedestrian walk to enhance community aesthetics and improve pedestrian safety. However, the City works with developers to explore various frontage improvement options depending on the project objectives, taking into consideration factors such as tree preservation, land/design constraints, pedestrian safety, and neighborhood pattern/compatibility. This is especially true in Planned Development projects, where the City works with developers to achieve creative and flexible street and sidewalk designs to maximize the project as well as community benefits.

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The Subdivision Ordinance also includes land dedication and fee standards for parkland. The formula for dedication of park land for residential development is based on a standard of three acres of parkland per 1,000 persons. The developer must either dedicate parkland based on this formula or pay an in-lieu fee based on the fair-market value of the land being developed. In addition to parkland dedication, the City Council may require a subdivider to dedicate lands to the school district(s) as a condition of approval of the final subdivision map. If school site dedication is required and the school district accepts the land within 30 days, the district must repay the subdivider the original cost of the dedicated land plus the cost of any improvements, taxes, and maintenance of the dedicated land. If the school district does not accept the offer, the dedication is terminated.

The developer may also be required to reserve land for a park, recreational facility, fire station, library, or other public use if such a facility is shown on an adopted specific plan or adopted general plan. The public agency benefiting from the reserved land shall pay the developer the market value of the land at the time of the filing of the tentative map and any other costs incurred by the developer in the maintenance of the area. The ordinance states that the amount of land to be reserved shall not make development of the remaining land held by the developer economically unfeasible.

The City of Cupertino's site improvement requirements for new subdivisions are consistent with those in surrounding jurisdictions and do not pose a significant constraint to new housing development.

### SUMMARY OF GOVERNMENTAL CONSTRAINTS

The City of Cupertino maintains development regulations that are consistent with State law and that do not pose undo constraints on the development of affordable housing. To continue this into the 6th Cycle Housing Element, new strategies have been incorporated.

- **Accessory Dwelling Units (ADUs).** As of February 2024, Cupertino in compliance with State law as of submittal of this draft, though an amended ADU ordinance is pending. The City has included **Strategy HE-1.3.8** to review and revise ADU requirements to ensure compliance with State law. **Strategy HE-1.3.8** also included several actions the City plans to take to promote the development of ADUs and has been added to the Goal and Policy section of this 6th Cycle Housing Element to address this problem.
- **Residential Design Guidelines.** Cupertino maintains a requirement for design review of multifamily residential projects. These design guidelines currently contain subjective design standards, which are inconsistent with State housing law. The City has included **Strategy HE-1.3.9** to review and revise design and development standards to ensure they are objective.
- **Priority Housing Sites.** The City will continue to implement Housing Element **Policy HE-1.3**, which states: Sites assumed to meet the City Regional Housing Needs Allocation (**Tables B4-7 and B4-9**) are designated "Priority Housing Sites" in the Cupertino Zoning Code Section 19.80.030 and the maximum number of units listed for each site shall be permitted uses.<sup>3</sup>

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<sup>3</sup> Cupertino Zoning Code Section 19.80.030 (E)(2). "If a site is listed as a Priority Housing Site in the City's adopted Housing Element of the General Plan, then residential development that does not exceed the number of units designated for the site in the Housing Element shall be a permitted use."



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- **Low-Barrier Navigation Centers.** AB 101, adopted in 2019, requires approval “by right” of low-barrier navigation centers that meet the requirements of State law. A program has been included to allow low-barrier navigation centers by right in appropriate zoning districts (see **Strategy HE-5.1.4**).
- **California Housing Opportunity and More Efficiency (HOME) Act.** SB 9, also known as the California Housing Opportunity and More Efficiency (HOME) Act, is a State bill that requires cities to allow one additional residential unit onto parcels zoned for single-dwelling units.
- **Development Fees.** Total fees in Cupertino are on the higher end of Santa Clara County jurisdictions for all housing developments. A program has been included to review and revise fees for housing projects (see **Strategy HE-2.3.9**).
- **Parking Standards.** The requirement for two parking spaces for studios and single-room occupancy units (SROs) in the R-3 Zoning District could be a possible constraint on the development of affordable housing. A program has been included to review and revise all residential parking standards and specially reduce the number of required parking spaces for studio and SRO units (see **Strategy HE-1.3.9**).

## B5.2 NONGOVERNMENTAL CONSTRAINTS

In addition to governmental constraints, nongovernmental factors may constrain the production of new housing. These could include economic and market-related conditions, such as land and construction costs, as well as environmental hazards such as wildfires, earthquakes, and flooding.

### LAND AND CONSTRUCTION COSTS

Land costs in Cupertino are very high due to high demand and an extremely limited supply of available land. Cupertino has seen a number of smaller detached infill housing projects where single-family homes are constructed on remnant lots or lots that have previously been developed with older homes. Multifamily development often requires lot consolidation and/or removing existing uses. A review of available real estate listings indicated several vacant properties for sale as of September 2022. The available properties varied in size from 1,920 square feet to 11.19 acres with prices ranging from \$825,000 to \$7,000,000 depending on the size and location of the property.

Construction costs vary significantly depending on building materials and the quality of finishes. Parking structures for multifamily developments represent another major variable in the development cost. In general, below-grade parking raises costs significantly. Soft costs (architectural and other professional fees, land carrying costs, transaction costs, construction period interest, etc.) comprise an additional 10 to 40 percent of the construction and land costs. Owner-occupied multifamily units have higher soft costs than renter-occupied units due to the increased need for construction defect liability insurance. Permanent debt financing, site preparation, off-site infrastructure, impact fees, and developer profit add to the total development cost of a project. Construction costs run about \$100 per square foot for Type 5 construction (wood and stucco over parking) for multifamily units and \$110 per square foot for single-family units. Residential developers indicate that construction costs in



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

the Bay Area far exceed these national averages and can reach \$200 per square foot for larger (four- to six-story) developments.

Key construction costs have risen nationally in conjunction with economic recovery and associated gains in the residential real estate market.

### AVAILABILITY OF FINANCING

As a stable and affluent community, private housing mortgage financing is readily available in Cupertino. There are no mortgage-deficient areas in the city and no identifiable underserved groups in need of financing assistance. At the time this Housing Element was drafted, interest rates for homebuyers were increasing from a low of 2.75 percent in 2020 to 5.75 percent in 2022 for a fixed-rate, 30-year mortgage. The current economic climate is uncertain and still affected by the COVID-19 pandemic, increasing inflation, and supply chain disruptions.

### ENVIRONMENTAL CONSTRAINTS

The majority of Cupertino's land area has been urbanized and now supports roadways, structures, other impervious surfaces, areas of turf, and ornamental landscaping. In general, urbanized areas tend 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. There are no significant wetland or environmental resource issues of concern that would constrain development in the urbanized areas designated for residential development in Cupertino.

### INFRASTRUCTURE

#### WATER

Three water suppliers provide service to the City of Cupertino: the California Water Company serviced through the Los Altos Suburban District, San Jose Water Company, and Cupertino Water. The San Jose Water Company also has a lease agreement to operate and maintain the City of Cupertino's water system until 2022. The lease was extended for two more years and included an extension of the current lease for up to three years. Both of these providers derive the vast majority of their water from the Santa Clara Valley Water District (SVWD). According to the 2022 Urban Water Management Plan (UWMP), SVWD has developed demand projections from 2020 to 2045 based on population growth, land use changes, trends in per-capita water use, and considerations of upcoming mandates in water conservation. Based on projected demand for single-family development for 2035, the demand is 17,657 mg for single-family and 11,505 mg for multifamily in the areas serviced by San Jose Water. The projected water supply for 2035 is 44,629 mg, which meets the need for future development for the next eight years for both single-family and multifamily water demands. Additionally, the Pacheco Reservoir is undergoing improvements that would act as a surface bank for SVWD's existing supplies and diversify its reserve storage by increasing the volume of locally banked reserves. In addition, by increasing locally available storage, SVWD'S may be better positioned to respond to future water supply emergencies. The supply increase associated with this reservoir is to be determined and depends on imported water assumptions, demands, permit requirements, and operational requirements. However, there is current capacity to meet the City's 2023-2031 RHNA on sites identified in **Appendix B4**.

## WASTEWATER

Cupertino Sanitary District (CSD) serves as the main provider of wastewater collection and treatment services for Cupertino, while the City of Sunnyvale serves a small portion of the Cupertino Urban Service area on the east side of the city. The City of Sunnyvale Wastewater Treatment Plant has a daily treatment capacity of 29 million gallons per day (mgd), of which, approximately 12 mgd were being utilized in 2022. According to the Donald M. Somers Water Pollution Control Plant (WPCP), over the next 30 years, almost every process and building in the WPCP will be rehabilitated or replaced. This will be accomplished through up to 35 individual projects, each including several major elements and some involving multiple facilities. The improvements identified include rehabilitation of existing facilities, new primary, secondary, and tertiary treatment facilities, support facilities and upgrades to power, automation, and heating. The projects are grouped into five phases, correlating with the timing and types of improvements. It projects that projects in Phases 1 through 3 will be needed by 2030. The cost for these projects is budgeted at \$456 million and includes design, permitting, program management, construction management, and construction. The estimates for future years have been escalated to account for price inflation. These improvements are expected to ensure capacity for future buildout for the wastewater collection demand throughout the 2023-2031 planning period on sites identified in **Appendix B4**.

### *Priority Water and Wastewater Procedure*

Consistent with the provisions of Government Code Section 65589.7, the City will immediately forward its adopted Housing Element to its water and wastewater providers so they can grant priority for service allocations to proposed developments that include units affordable to lower-income households (**Strategy 4.1.4**).

## AVAILABLE DRY UTILITIES

Dry utilities, including cable, electricity, and telephone service, are available to all areas in the city. There is sufficient capacity to meet the current need and any future need. Service providers are:

- Electricity: Pacific Gas and Electric Company (PG&E) and Silicon Valley Clean Energy
- Telephone: AT&T and other providers available
- Internet Service: Comcast and other provider available

## CONTINUING EFFORTS TO ADDRESS NONGOVERNMENTAL CONSTRAINTS

As residential developments are approved by the City and building permits have not been obtained, the City will make diligent efforts to contact applicants to learn why units have not been constructed within two years after approval. If these impediments are due to nongovernmental constraints, such as accelerating construction costs, shortages of labor or materials, or rising interest rates, to the extent appropriate and legally possible, the City will seek to identify actions that may help to remove these constraints. In addition, the City will aim to work with stakeholders to identify nongovernmental constraints or other circumstances that may impede the construction of housing in Cupertino and work collaboratively to find strategies and actions that can eliminate or reduce identified constraints (**Strategy HE-3.3.7**).

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

### B5.3 OPPORTUNITIES FOR ENERGY CONSERVATION

Energy conservation is a major priority in Cupertino. The City prepared a climate action plan in 2015, which provided a roadmap to actions the City will take to reduce energy consumption and lower greenhouse gas (GHG) emissions. The plan is entitled *City of Cupertino Climate Action Plan* (CAP) and was prepared by the City of Cupertino.

The City's CAP defines Cupertino's path toward creating a healthy, livable, and vibrant place for its current and future residents to live, learn, work, and play. The strategies outlined in this CAP seek to not only reduce GHG emissions, but also provide energy, water, fuel, and cost savings for the City, its community members and businesses, further improving Cupertino's already high quality of life. The plan also represents another example of a successful partnership between engaged community members and City staff to jointly plan for Cupertino's sustainable future and continue to lead by example on important environmental issues.

The CAP identifies five objectives:

- **To demonstrate environmental leadership** – Cupertino as a community can rise to the difficult challenge of reducing the impact of climate change by defining measurable, reportable, verifiable climate actions to reduce its contribution to local and global GHG emissions that can serve as a model for small cities in the state and nationwide;
- **To save money and promote green jobs** – Residents, businesses, and government can reduce their utility costs through increased energy and water efficiency, and a focus on efficiency can create job opportunities within the community that contribute to protecting our shared environmental resources;
- **To comply with the letter and spirit of state environmental initiatives** – California is taking the lead in tackling climate change while driving new energy markets and fostering new environmental services. As coordination with cities serves as the keystone to achieving statewide greenhouse gas emissions reductions, Cupertino has a responsibility to help the state address emissions sources that arise in our geography and meet its goals to reduce these emissions;
- **To promote sustainable development** – By developing this Climate Action Plan to reinforce General Plan policies and align with the Bay Area Air Quality Management District guidelines, a new class of sustainable development projects, such as mixed use and transit-oriented developments, can be fast-tracked (i.e., “streamlined”) through the California Environmental Quality Act (CEQA) review process by not requiring GHG emissions for proposed projects consistent with the CAP; and
- **To support regional climate change efforts** – Cupertino developed its CAP through a county-wide effort that established consistency in the local response to climate change, and created a framework to collaborate regionally on implementation of different CAP programs. This partnership elevates the credibility of local climate action planning by allowing

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

transparency, accountability, and comparability of the plan's actions, performance, and commitments across all participating jurisdictions.

The City of Cupertino updated its CAP in 2022.

## SILICON VALLEY CLEAN ENERGY

Silicon Valley Clean Energy (SVCE) is the community electricity provider for 13 communities in Santa Clara County, including Cupertino, and is governed by local elected officials serving on the Board of Directors. SVCE was formed with the mission to reduce dependence on fossil fuels by providing carbon-free, affordable, and reliable electricity and innovative programs within the community.

## PACIFIC GAS & ELECTRIC COMPANY ENERGY-EFFICIENCY PROGRAMMING

PG&E, which provides energy-efficiency services in Cupertino, offers public information and technical assistance to homeowners regarding energy conservation. PG&E also provides numerous incentives for energy efficiency in new construction and home remodeling. For example, remodeling rebates exist for projects installing three or more upgrades from a flexible menu of options that earn points towards incentives and rebates. This program's incentives range between \$1,000 and \$4,500. One of the more recent strategies in building energy-efficient homes is following the U.S. Green Building Council's guidelines for Leadership in Energy and Environmental Design (LEED) Certification. The LEED for Homes program includes standards for new single-family and multifamily home construction.

Additionally, PG&E provides residents with information regarding energy-saving measures, including various incentives and programs available to developers and residential property owners. [Table B5-12, PG&E Programs and Incentives for Residential Properties](#), includes a description of the various financial and energy-related assistance that PG&E offers low-income customers.

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Table B5-13. PG&E Programs and Incentives for Residential Properties	
Program	Description
Energy Savings Assistance Program	PG&E's Energy Savings Assistance program offers free weatherization measures and energy-efficient appliances to qualified low-income households. PG&E determines qualified households through the same sliding income scale used for CARE. The program includes measures such as attic insulation, weather stripping, caulking, and minor home repairs. Some customers qualify for replacement of appliances, including refrigerators, air conditioners, and evaporative coolers.
Energy Efficiency for Multifamily Properties	The Energy Efficiency for Multifamily Properties program is available to owners and managers of existing multifamily residential dwellings containing five or more units. The program encourages energy efficiency by providing rebates for the installation of certain energy-saving products.
California Alternate Rates for Energy (Care)	PG&E offers this rate-reduction program for low-income households. PG&E determines qualified households by a sliding income scale based on the number of household members. The CARE program provides a discount of 20% or more on monthly energy bills.
Reach (Relief for Energy Assistance Through Community Help)	The REACH program is sponsored by PG&E and administered through a non-profit organization. PG&E customers can enroll to give monthly donations to the REACH program. Qualified low-income customers who have experienced uncontrollable or unforeseen hardships, which prohibit them from paying their utility bills may receive an energy credit. Eligibility is determined by a sliding income scale based on the number of household members. To qualify for the program, the applicant's income cannot exceed 200 percent of the federal poverty guidelines.
Medical Baseline Allowance	The Medical Baseline Allowance program is available to households with certain disabilities or medical needs. The program allows customers to get additional quantities of energy at the lowest or baseline price for residential customers.

Source: PG&amp;E, 2022.

As part of this Housing Element update, the City of Cupertino will implement Program Q to continue to promote and encourage energy conservation in residential development. This program will encourage energy conservation practices for new and existing residential dwelling units by enforcing State and local regulations and encouraging incentives for energy conservation “best practices,” including:

- Continuing to offer streamlining and reduced permitting fees for solar panel installations;
- Continuing to implement the CALGreen building code requirements;
- Continuing to require “Reach Codes” for all-electric building requirements;
- Providing information regarding rebate programs and energy audits available through PG&E; and
- Providing resource materials regarding green building and conservation programs.

## Review of Previous Housing Element

# B.6

APPENDIX





## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

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## B6 REVIEW OF PREVIOUS HOUSING ELEMENT

To effectively plan for the future, it is important to reflect back on the goals of the previous Housing Element and to identify those areas where progress was made and those areas where continued effort is needed. State Housing Element guidelines require communities to evaluate their previous Housing Element according to the following criteria:

- Effectiveness of the Element;
- Progress in Implementation; and
- Appropriateness in Goals, Objectives, and Policies.

### B6.1 EFFECTIVENESS OF THE ELEMENT

The City's 2015 Housing Element identified the following goals:

- **Goal HE-1:** An Adequate Supply of Residential Units for all Economic Segments;
- **Goal HE-2:** Housing that is Affordable for a Diversity of Cupertino Households;
- **Goal HE-3:** Enhanced Residential Neighborhoods;
- **Goal HE-4:** Energy and Water Conservation;
- **Goal HE-5:** Services for Extremely Low-Income Households and Special Needs Neighborhoods;
- **Goal HE-6:** Equal Access to Housing Opportunities; and
- **Goal HE-7:** Coordination with Regional Organizations and Local School Districts.

To achieve these goals, the 2015 Housing Element listed a series of policies and actions. The policies covered a range of housing concerns, including appropriate zoning for lower- and moderate-income households, assisting in developing affordable housing, removing governmental constraints, conserving the existing affordable housing stock, preventing the conversion of affordable units to market rate, and promoting equal housing opportunities for all persons. The policies comply with State Housing Law guidelines.

### B6.2 PROGRESS TOWARD MEETING QUANTIFIABLE OBJECTIVES

The 2015–2023 Regional Housing Needs Assessment allocation (RHNA) prepared by the Association of Bay Area Governments (ABAG) determined that zoning to accommodate 1,064 additional housing units needed to be in place in Cupertino during the prior planning period to meet regional housing

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needs. ABAG disaggregated this allocation into four income categories: very low, low, moderate, and above moderate. **Table B6-1** compares the 5th Cycle RHNA to the building permits issued during 2015 to 2022.

<b>Table B6-1 Regional Housing Needs Allocation Compared to Permits Issued 2015 – 2022 (5th Cycle Housing Element)</b>			
<b>Income Group</b>	<b>2015 – 2022 RHNA</b>	<b>Building Permits Issued</b>	<b>Percentage of RHNA Accomplished</b>
Very Low Income	356	48	13.48%
Low Income	207	19	9.18%
Moderate Income	231	158	68.40%
Above Moderate Income	270	321	118.89%
<b>Total</b>	<b>1,064</b>	<b>546</b>	<b>51.32%</b>

Source: City of Cupertino, 2023

### B6.3 EFFORTS TO ADDRESS SPECIAL HOUSING NEEDS

California Government Code Section 65588 requires that local governments review the effectiveness of the housing element goals, policies, and related actions to meet the community's special housing needs. As shown in the Review of Previous 2015-2023 Housing Element Programs matrix (**Table B6-2**), the City worked diligently to continuously promote housing for special-needs groups in a variety of ways.

- To ensure the housing stock has affordable housing options, the City approved 158 building permits for accessory dwelling units (ADUs) and created a pre-approved ADU program to further incentivize the creation of ADUs as of 2021.
- To help facilitate residential development, the City approved:
  - Waivers for development standards and parking standards for the 48 senior affordable living units, 123 assisted living units, and 35 memory care rooms as part of the Westport Project.
  - Waivers for development standards and parking standards for the 206 condominiums as part of the Marina Plaza Project.
  - Incentives and concessions for the development as part of the 2,402-unit mixed-use development as part of the Vallco Town Center (The Rise) development.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

- The City's below-market rate (BMR) Affordable Housing Fund (AHF) funded and supported affordable housing projects, strategies, and services, including, but not limited to:
  - \$305,615 to Project Sentinel for information and referral calls to 712 households.
  - \$339,639 to WVCS Affordable Placement Program to assist in rental and ownership vacancies and BMR homeowner monitoring helping assist a total of 47 households.
  - \$36,874 to Fair Housing – ECHO Housing for investigated fair housing cases assisting 21 households.
  - \$399,986 to WVCS Greenwood Court Renovation for rehabilitated units assisting 3 households.
  - \$175,000 to Hello Housing, which assisted 50 households while also assisting 49 households through Rise Housing.
  - \$783,049 to Vista Village Repair Project to rehabilitate BMR rental units.
- To help incentivize Affordable Housing Development, the City received a total of \$561,482 in Community Development Block Grant (CDBG) funds for Rebuilding Together Silicon Valley (RTSV).
- The City indirectly helped the Veranda Project obtain \$999,906 through the Housing Trust Silicon Valley, to assist with land acquisition.
- The City provided a \$3,672,000 loan to The Veranda to assist with the land acquisition of 19 extremely low-income units.
- The City also funded The Veranda Project by \$500,000 through its share of HOME funds to assist with construction costs.
- The City also funded Faith in Action Rotating Shelter by providing \$7,700 for job development programming that assisted 33 unhoused participants that were prepared to be resume and interview ready.
- The City provided \$8,000 to fund United Way 211 Santa Clara for residents who called and accessed 211 Santa Clara County.
- In 2021, the City established the City Unhoused Task Force to address the needs of unhoused residents through resource referral and partnered with the West Valley Rotating Safe Car Park (RSCP) program and there is a max of 30 people at a time per safe parking site.
- The City provided 5 households with low-interest loans through MeriWest Credit Union Program to put towards rental assistance in the amount of \$86,872.
- The City assisted 3 households with emergency rental assistance loans in the amount of \$6,000.

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- The City also funded the Rotating Safe Car Program providing \$50,000 to 20 households in rental assistance grants.
- During the planning period, the City took various steps to provide supportive services for lower-income households and persons with special needs, including:
  - Establishing the City Unhoused Task Force to address the needs of unhoused residents.
  - CDBG funds of \$22,720.18 to Live Oak Adult Day Services, a senior adult day care.
  - CDBG funds of \$164,807 to assist 274 senior households at Live Oak Adult Day Services, a senior adult day care.
  - CDBG funds of \$299,156 to West Valley Community Services (WVCS) CARE Program to provide supportive services to prevent homelessness.
  - CDBG funds of \$224,184 to City-wide curb installation project for Americans with Disabilities Act (ADA)-accessible curb ramps installed throughout the city.
  - CDBG funds of \$809,802 for Cupertino Housing for the Disabled Inc. to rehabilitate rental units.
  - CDBG funds of \$234,672 for 10 homeless residents who received supportive and sanitation services.
  - CDBG funds of \$24,142 that assisted 36 seniors to access meal deliveries.
  - CDBG funds of \$185,000 providing \$5,000 in grants to 37 small businesses.
  - Human Services Grant Program (HSG) \$195,797 to MAITRI that assist transitional residents who receive case management.
  - HSG \$104,999 to SALA for seniors who received legal services.
  - HSG \$266,788 to WVCS Haven Home program for people who received supportive services to prevent homelessness.
  - The City developed and funded the Homeless Jobs Program to provide up to eight months of employment for two unhoused residents in Cupertino in the amount of \$222,063.
  - The City also implemented the grants for De Anza students to provide \$8,080 in housing assistance grants.

## B6.4 PRESERVATION OF “AT RISK” UNITS

According to the 2015 Housing Element, there was one affordable project at risk of converting to market rate within 10 years from the beginning of the 2015–2023 planning period—Beardon Drive, which has eight affordable units. In 2019, the owner of Beardon Drive paid off the City’s CDBG loan and indicated that the property would continue to operate as affordable housing.

## B6.5 REHABILITATION OF EXISTING UNITS

The City had established a goal of rehabilitating 40 total housing units between 2015 and 2023.

## B6.6 PROGRESS IN IMPLEMENTATION OF HOUSING ELEMENT PROGRAMS

[Table B6-2, Review of the 5th Cycle Housing Element Programs](#), identifies all of the actions the City committed to in the 2015 Housing Element. The table also includes a description of the progress that was made during the 2015–2023 planning period.



APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Table B6-2** Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
HE-1.3.1	<p><b>Land Use Policy and Zoning Provisions</b></p> <p>To accommodate the Regional Housing Needs Allocation (RHNA), the City will continue to:</p> <ul style="list-style-type: none"> <li>• Provide adequate capacity through the Land Use Element and Zoning Ordinance to accommodate the RHNA of 1,064 units</li> <li>• Monitor development standards to ensure they are adequate and appropriate to facilitate a range of housing in the community</li> <li>• Monitor the sites inventory and make it available on the City website</li> <li>• Monitor development activity on the Housing Opportunity Sites to ensure that the City maintains sufficient land to accommodate the RHNA during the planning period. Identify alternative site(s) as needed</li> </ul>	<p>The City continued to provide adequate capacity through the Land Use Element and Zoning Ordinance to accommodate the RHNA allocation. As a result of flexible land use controls as of 2021, four of the five Priority Housing Element sites from the 5th cycle used density bonuses, incentives, and/or waivers that were approved by the City between 2016-2022.</p>	<p>Continue, through Strategy HE-1.3.1, HE-1.3.2, and HE-1.3.3. The City will commit to rezoning and adding new zoning districts and land use designations to accommodate RHNA.</p>
HE-1.3.2	<p><b>Second Dwelling Units</b></p> <p>The City will continue to implement the Second Dwelling Unit Ordinance and encourage the production of second units</p>	<p>The City annually updated the Ordinance to comply with State law and established a program to streamline the ADU review and production process as part of the City 2020-21 work program. In 2021, the City created a pre-approved ADU program to further incentivize the creation of ADUs. Since 2015, the City has issued 158 building permits for ADUs.</p>	<p>Continue, through Strategy HE-1.3.8. The City will continue to address new State legislation for ADU's and expand on efforts to encourage the development of these housing types.</p>

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Table B6-2 Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
HE-1.3.3	<b>Lot Consolidation</b> To facilitate residential and mixed-use developments, the City will continue to: <ul style="list-style-type: none"> <li>• Encourage lot consolidation</li> <li>• Encourage master plans for such sites with coordinated access and circulation</li> <li>• Provide technical assistance</li> <li>• Encourage intra- and inter-agency cooperation</li> </ul>	The City encouraged lot consolidation and provided technical assistance to property owners of adjacent parcels to coordinate redevelopment where appropriate. Sand Hill Property Company filed an application with the City of Cupertino on March 27, 2018, entitled "Vallco Town Center Project Application pursuant to SB 35." On September 21, 2018, an approval letter was issued for the project. Vallco requested less commercial development with only 1 bedroom and studio BMR units and smaller 1 bedroom and studios than market rate and 1-bedroom studios as BMR. The coordination included intra- and inter-agency cooperation and encouragement of master plans for sites with coordinated access and circulation.	Continue, through Strategy HE 1.3.7.
HE-1.3.4	<b>Flexible Development Standards</b> The City recognizes the need to encourage a range of housing options in the community. The City will continue to: <ul style="list-style-type: none"> <li>• Offer flexible residential development standards in planned residential zoning districts</li> <li>• Consider granting reductions in off-street parking on a case-by-case basis for senior housing</li> </ul>	In 2021, the 123 assisted living units and 35 memory care rooms Westport Project was approved with waivers, an incentive for development standards and a reduction in parking standards. The Westport project is within the Heart of the City Specific Plan and on a Housing Element site. The City had 4 of the 5 Housing Element sites use waivers and Density Bonus parking standards as part of their project within the Vallco, Marina, Verandas, and Westport Projects. The City also allowed 2 of the 5 projects to use incentives as part of their project - Westport and Vallco.	Continue for affordable units through Strategy HE-2.3.7. The City will also commit to other strategies like density bonus incentives to address Affordable Housing Development.
HE-1.3.5	<b>Heart of the City Specific Plan</b> The City will review revisions to the Heart of the City Specific Plan residential density calculation requirement to eliminate the requirement to net the non-residential portion of the development from the lot area.	Completed in May 2015.	Delete, the action was completed.

APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Table B6-2** Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
HE-2.3.1	<p><b>Office and Industrial Housing Mitigation Program</b></p> <p>The City will continue to require that developers of office, commercial, and industrial space pay a mitigation fee for affordable housing in the City of Cupertino.</p>	<p>To help offset the loss of land, the City continued to implement the Office and Industrial Housing Mitigation Program. The City requires developers of office, commercial, and industrial space to pay a mitigation fee to support affordable housing. Mitigated fees are collected and deposited into the City's BMR Affordable Housing Fund (AHF) for the following fiscal years (FY) the following mitigation fees were collected and deposited and in the BMR and AFH funds:</p> <ul style="list-style-type: none"> <li>FY19: \$159,178</li> <li>FY20: \$39,000</li> <li>FY21: \$197,661</li> <li>FY22: \$36,000</li> <li>FY23: \$170,824</li> </ul> <p>The Veranda project received BMR and AFH funds. This senior housing project, now complete and occupied, is a 19-unit affordable development on a vacant, 0.56-acre site, at 19160 Stevens Creek Boulevard in Cupertino.</p>	<p>Continue, through Strategy HE-2.3.2. This program has proven successful and will continue with only minor text updates.</p>
HE-2.3.2	<p><b>Residential Housing Mitigation Program</b></p> <p>The City will continue to implement the Residential Housing Mitigation Program to mitigate the need for affordable housing created by new market-rate residential development. This program applies to new residential development. Mitigation includes either the payment of the "Housing Mitigation" fee or the provision of a Below Market-Rate (BMR) unit or units.</p>	<p>The City continued to implement the Residential Housing Mitigation Program. The program applies to new residential development and includes the provision of BMR units or the payment of the "Housing Mitigation" fee. The BMR Linkage Fees Update study was completed and adopted by City Council on May 19, 2020, which included an increased requirement of 15%-20% for inclusionary ownership projects. In 2021, the BMR AHF provided funding to the following affordable housing projects, strategies, and services:</p> <ul style="list-style-type: none"> <li>BMR Program Administration: 400 households sought assistance, 12 new households were assisted.</li> </ul>	<p>Continue, through Strategy HE-2.3.3. This program has proven successful and will expand on efforts to prioritize, provide rental alternatives, develop for-sale and rental units, and develop BMR units off-site.</p>

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B6-2 Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
		<ul style="list-style-type: none"> <li>Fair housing services: \$305,615 to Project Sentinel</li> <li>City of Cupertino Housing Programs for De Anza College Students</li> </ul>	
HE-2.3.3	<p><b>Below Market-Rate (BMR) Affordable Housing Fund (AHF)</b></p> <p>The City's BMR AHF will continue to support affordable housing projects, strategies and services, including but not limited to:</p> <ul style="list-style-type: none"> <li>BMR Program Administration</li> <li>Substantial rehabilitation</li> <li>Land acquisition</li> <li>Acquisition of buildings for permanent affordability, with or without rehabilitation</li> <li>New construction</li> <li>Preserving "at-risk" BMR units</li> <li>Rental operating subsidies</li> <li>Down payment assistance</li> <li>Land write-downs</li> <li>Direct gap financing</li> <li>Fair housing</li> </ul>	<p>The City provided ongoing technical assistance to nonprofits/developers, including providing data and information on properties for sale to nonprofit partners and developers for their consideration. In 2017, the fund provided \$175,000 to Hello Housing, which assisted five households purchase BMR for-sale units and 15 new rental households. Additionally, a \$3,672,000 loan to The Veranda helped assist with the Land Acquisition of 19 extremely low-income units and very low-income senior housing development. Additional financial assistance included:</p> <ul style="list-style-type: none"> <li>A rehabilitation award of \$399,986 to the Greenwood Court Renovation Project, assisting four former transitional housing units that converted to BMR rental units.</li> <li>\$561,482 in CDBG funds to Rebuilding Together Silicon Valley, a low-income housing repair and rehabilitation program.</li> <li>\$783,049 in funds to Vista Village Renovation Project, a low-income affordable housing development. \$305,615 to Project Sentinel for fair housing services.</li> <li>Emergency Assistance Funds for Cupertino Tenants Impacted by COVID</li> <li>\$50,000 to Earnin</li> <li>\$86,872 to Meriwest Credit Union and \$50,000 to West Valley Community Services (WVCS)</li> </ul>	Continue, through Strategy HE-2.3.4. This program has proven successful and will continue with additional focus on areas with limited availability of rental housing and high cost burden.

APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Table B6-2** Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
	To ensure the mitigation fees continue to be adequate to mitigate the impacts of new development on affordable housing needs, the City will update its Nexus Study for the Housing Mitigation Plan by the end of 2015	<ul style="list-style-type: none"> <li>\$8,080 to De Anza College for the City of Cupertino Housing Program for De Anza Students</li> </ul>	
HE-2.3.4	<p><b>Housing Resources</b></p> <p>The City will continue to provide information on housing resources and services offered by the County and other outside agencies. These include, but are not limited to:</p> <ul style="list-style-type: none"> <li>Mortgage Credit Certificate (MCC) – Santa Clara County Housing and Community Development Department</li> <li>First-Time Homebuyer Assistance and Developer Loans for Multi-Family Development – Housing Trust Silicon Valley (HTSV)</li> <li>Housing Choice Vouchers (Section 8) – Housing Authority of Santa Clara County (HASCC)</li> <li>Affordable housing development – Santa Clara County HOME Consortium</li> </ul> <p>The City will also continue to explore and pursue various affordable housing resources available at the local, regional, state, and federal levels that could be used to address housing needs in the community</p>	<p>The City provided information on housing resources and services to:</p> <ul style="list-style-type: none"> <li>County Measure A Affordable Housing Bond</li> <li>County Mortgage Credit Certificate</li> <li>County Developmental Disability Funding</li> <li>Housing Trust Silicon Valley First-Time Homebuyer</li> <li>Assistance and Developer Loans</li> <li>Project Sentinel Rental Support</li> <li>Housing Authority Section 8 Vouchers</li> <li>Destination: HOME Community Housing Fund</li> <li>West Valley Community Services</li> </ul> <p>In addition, the City worked with nonprofit organizations in providing programs and services for low-income households and private industry, in particular financial and development groups, to encourage the development of affordable housing opportunities regionally and in the city (see Program HE-2.3.3). The City provided technical assistance to the public service agencies it funded. The City coordinated with a number of groups to engage in discussions about grant funding opportunities, regional housing needs, and efforts to address homelessness. The City participated in the following groups: Santa Clara County PLHA Consortium, Regional</p>	Continue, through Strategy HE-2.3.5. The City, through the new strategy, will also continue to identify and pursue various affordable housing resources available to address needs in the community.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B6-2 Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
		CDBG/Housing Coordinators Group, SV@Home, Non-Profit Housing of Northern CA. The participants in these groups, including the City, work together to pool their knowledge and share expertise. The County's Office of Supportive Housing helps to coordinate these efforts and provides the participants with invaluable technical assistance. Through the SCC PLHA Consortium, the City was awarded an allocation of PLHA funding and is currently working towards implementing the funding for projects in Cupertino. In 2021, the City created a pilot Homeless Jobs Program with two Cupertino unhoused residents participating in the program. The Homeless Jobs Program assists two people per year, plus their families by extension. The City Council did not prioritize the Plan to End Homelessness for the FY 2023-25 City Work Program. This item was concluded, and no final version of the Plan was created. Unused funds will be returned to the General Fund.	
HE-2.3.5	<b>Surplus Properties for Housing</b> The City will explore opportunities on surplus properties as follows: <ul style="list-style-type: none"> <li>• Work with local public agencies, school districts and churches, to identify surplus properties or underutilized properties that have the potential for residential development.</li> <li>• Encourage long-term land leases of properties from churches, school districts, and corporations for construction of affordable units</li> <li>• Evaluate the feasibility of developing special housing for teachers or other</li> </ul>	The City worked with local public agencies, school districts, and churches to identify surplus properties that have the potential for residential development. There were no surplus properties available from any school districts or churches for the City to pursue. The City continued to support the Rotating Car-park program on church property.	Continue, through Strategy HE-2.3.6. The City will partner with local developers or organizations to purchase surplus properties, infill lots, and other green fields within the city to use for the development of affordable housing.

APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Table B6-2** Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
	<p>employee groups on the surplus properties</p> <ul style="list-style-type: none"> <li>Research other jurisdictions' housing programs for teachers for their potential applicability in Cupertino</li> </ul>		
HE-2.3.6	<p><b>Incentive for Affordable Housing Development</b></p> <p>The City will continue to offer a range of incentives to facilitate the development of affordable housing. These include:</p> <ul style="list-style-type: none"> <li>Financial assistance through the City's Below Market-Rate Affordable Housing Fund (BMR AHF) and CDBG funds</li> <li>Partner with CDBG and/or support the funding application of qualified affordable housing developers for regional, state, and federal affordable housing funds, including HOME funds, Low Income Housing Tax Credits (LIHTC), and mortgage revenue bonds.</li> <li>Density bonus incentives (see Strategy HE-2.3.7)</li> <li>Flexible development standards</li> <li>Technical assistance</li> <li>Waiver of park dedication fees and construction tax</li> <li>Parking ordinance waivers</li> </ul>	<p>The City offered a range of financial assistance through the City's BMR AHF, by partnering with CDBG and receiving a total of \$64,000 in CDBG funds to Rebuilding Together Silicon Valley, a low-income housing repair and rehabilitation program. To incentivize affordable housing development, the City supported the funding application of qualified affordable housing developers for regional, state, and federal affordable housing funds, density bonus incentives, flexible development standards, technical assistance, waiver of park dedication fees and construction tax, parking ordinance waivers, and expedited permit processing. As previously mentioned, the City approved waivers of development and parking standards for the Westport and Marina Plaza projects. The City also approved density bonus incentives for the Westport and Vallco Town Center (The Rise) projects. In addition, the City allowed flexible development standards and a reduced parking standard was approved for the Hamptons Development under the Planned Development zoning district. Technical assistance was provided for the Verandas project on an ongoing basis and the project was also provided expedited permit processing with entitlements on the project being completed in 6-7 months. In addition, the City provided approximately \$3.7 million in funding for this 100% affordable housing project and supported funding applications for the project. With all residential developments, parkland dedication in lieu of fees and construction taxes were waived for all affordable units. The City has provided</p>	<p>Continue, through Strategy HE-2.3.7. Development of housing for lower-income households will be facilitated citywide, but extra focus will be given to areas with currently low percentages of renter-occupied households to facilitate housing mobility and integration of ownership and rental units.</p>



## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B6-2 Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
	<ul style="list-style-type: none"> <li>Expedited permit processing</li> </ul>	<p>\$8,172,000 in BMR AHF and CDBG funds to facilitate the development of affordable housing (see Program HE-2.3.4).</p> <p>The City coordinated with a number of groups to engage in discussions about grant funding opportunities, regional housing needs, and efforts to address homelessness. The City participated in the following groups: Santa Clara County PLHA Consortium, Regional CDBG/Housing Coordinators Group, SV@Home, Non-Profit Housing of Northern CA. The participants in these groups, including the City, work together to pool their knowledge and share expertise. The County's Office of Supportive Housing helps to coordinate these efforts and provides the participants with invaluable technical assistance. Through the SCC PLHA Consortium, the City was awarded an allocation of PLHA funding and is currently working towards implementing the funding for projects in Cupertino.</p>	
HE-2.3.7	<p><b>Density Bonus Ordinance</b></p> <p>The City will encourage use of density bonuses and incentives, as applicable, for housing developments</p>	<p>All the sites listed in the 5th cycle table with the exception of (APNs: 316-06-059, 316-06-060, and 316-06-058) have been awarded density bonuses, incentives, waivers, and/or reduction in parking standards. They were approved by the City between 2016 and 2022.</p>	<p>Continue, through Strategy HE-2.3.8. Development will be citywide but extra focus will be given to areas with currently low percentages of renter-occupied households to facilitate housing mobility.</p>
HE-2.3.8	<p><b>Extremely Low-Income Housing and Housing for Persons with Special Needs</b></p> <p>The City will continue to encourage the development of adequate housing to meet the needs of extremely low-income households and persons with special needs, including the following incentives:</p> <ul style="list-style-type: none"> <li>Provide financing assistance using the Below Market-Rate Affordable Housing Fund (BMR AHF) and Community</li> </ul>	<p>The City continued to provide financing assistance using the BMR AHF and CDBG funds. A \$3,672,000 loan to The Veranda to assist with the Land Acquisition of 19 extremely low-income units. Additional financial assistance included grant reductions in off-street parking. The City coordinated with a number of groups to engage in discussions about grant funding opportunities, regional housing needs, and efforts to address homelessness. The City participated in the following groups: Santa Clara County PLHA Consortium, Regional CDBG/Housing Coordinators Group, SV@Home, Non-Profit Housing of Northern CA. The participants in these groups, including the City, work together to pool their knowledge and</p>	<p>Continue, through Strategy HE-2.3.10. Additionally, Strategies HE-2.3.1 and HE-5.1.2 have been developed and supplement aspects of this program.</p>

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

Table B6-2 Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
	<p>Development Block Grant funds (CDBG).</p> <ul style="list-style-type: none"> <li>• Allow residential developments to exceed planned density maximums if they provide special needs housing</li> <li>• Grant reductions in off-street parking on a case-by-case basis</li> <li>• Partner with and/or support the funding application of qualified affordable housing developers for regional, state, and federal affordable housing funds</li> </ul>	<p>share expertise. The County's Office of Supportive Housing helps to coordinate these efforts and provides the participants with invaluable technical assistance. Through the SCC PLHA Consortium, the City was awarded an allocation of PLHA funding and is currently working towards implementing the funding for projects in Cupertino. In addition, the City provides technical assistance to the public service agencies it funds. The City also participates in the Santa Clara County HOME Consortium. The City worked with nonprofits and developers to review the feasibility of residential uses on two potential affordable housing sites (Mary Avenue). The City issued an RFP (request for proposals) for the site and received interest from one developer. Currently, the City is in the process of drafting an Exclusive Negotiating Agreement (ENA) to move the project forward.</p>	
HE-2.3.9	<p><b>Employee Housing</b></p> <p>The City permits employee housing in multiple zoning districts. Pursuant to the State Employee Housing Act, any employee housing consisting of no more than 36 beds in a group quarters or 12 units or spaces designed for use by a single family or household shall be deemed an agricultural land use. No conditional use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The permitted occupancy in employee housing in a zone allowing agricultural uses shall include agricultural employees who do not work on the property where the employee housing is located. The Employee Housing Act also specifies that</p>	<p>The City amended the zoning code in 2014 to allow employee housing in multiple zoning districts.</p>	Deleted.

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**Table B6-2** Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
	housing for six or fewer employees be treated as a residential use. The City amended the Zoning Ordinance to be consistent with the State law in 2014 and will continue to comply with the Employee Housing Act where it would apply.		
HE-3.3.1	<p><b>Residential Rehabilitation</b></p> <p>The City will continue to:</p> <ul style="list-style-type: none"> <li>• Utilize its Below Market-Rate Affordable Housing Fund (BMR AHF) and Community Development Block Grant (CDBG) funds to support residential rehabilitation efforts in the community. These include:</li> <li>• Acquisition/rehabilitation of rental housing</li> <li>• Rehabilitation of owner-occupied housing</li> <li>• Provide assistance for home safety repairs and mobility/accessibility improvements to income-qualified owner-occupants using CDBG funds</li> <li>• Partner with and/or support the funding application of qualified affordable housing developers for regional, state, and federal affordable housing funds</li> </ul>	<p>The City utilized BMR AHF and CDBG funds to acquire/rehabilitate rental housing and rehabilitate owner-occupied housing. In 2021, the following CDBG funds were provided to the following rehabilitation efforts:</p> <ul style="list-style-type: none"> <li>• A rehabilitation award of \$399,986 to the Greenwood Court Renovation Project, assisting four former transitional housing units that converted to BMR rental units.</li> <li>• \$561,482 in CDBG funds to Rebuilding Together Silicon Valley, a low-income housing repair and rehabilitation program.</li> <li>• \$783,049 to the Vista Village Renovation Project for substantial rehabilitation.</li> </ul>	Continue, through Strategy HE-3.3.1.

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**Table B6-2** Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
HE-3.3.2	<p><b>Preservation of At-Risk Housing Units</b></p> <p>One housing project – Beardon Drive (eight units). The City will proactively contact the property owner regarding its intent to remain or opt out of the affordable program. In the event the project becomes at risk of converting to market-rate housing, the City will work with the property owner or other interested nonprofit housing providers to preserve the units. The City will also conduct outreach to the tenants to provide information on any potential conversion and available affordable housing assistance programs.</p> <p>The City will continue to monitor its entire portfolio of affordable housing for-sale and rental inventory annually. The City will monitor its affordable for-sale inventory by requiring Below Market-Rate (BMR) homeowners to submit proof of occupancy such as utility bills, mortgage loan documentation, homeowner's insurance, and property tax bills. The City will further monitor its affordable for-sale inventory by ordering title company lot books, reviewing property profile reports and updating its public database annually. The City will monitor its affordable rental inventory by verifying proof of occupancy and performing annual rental income certifications for each BMR tenant.</p>	<p>In the event the project becomes at risk of converting to market-rate housing, the City will work with the property owner or other interested nonprofit housing providers to preserve the eight units. In 2017, the BMR AFH fund provided \$175,000 to Hello Housing, which assisted five households purchase BMR for-sale units. In 2019, as part of the BMR AHF program, the owner of Beardon Drive paid off the City's CDBG loan and indicated that the 8 units making up the property would continue to operate as affordable housing.</p>	<p>Continue, through Strategy HE-3.3.2. The City will continue to monitor and conduct outreach to at-risk below-market rate housing units throughout the City and will also implement policy that provides tenants or mission-driven nonprofits the right of first refusal to purchase a property at market price.</p>

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Table B6-2 Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
HE-3.3.3	<b>Condominium Conversion</b> Condominium conversions are not allowed if the rental vacancy rate in Cupertino and certain adjacent areas is less than five percent at the time of the application for conversion and has averaged five percent over the past six months. The City will continue to monitor the effectiveness of this ordinance in providing opportunities for homeownership while preserving a balanced housing stock with rental housing.	The City continued to monitor the effectiveness of this ordinance by providing opportunities for homeownership while preserving a balanced housing stock with rental housing.	Continue, through Strategy HE-3.3.3. The ordinance has proven successful and will be carried forward with no modification or additional language.
HE-3.3.4	<b>Housing Preservation Program</b> When a proposed development or redevelopment of a site would cause a loss of multi-family housing, the City will grant approval only if: <ul style="list-style-type: none"> <li>• The project will comply with the City's Below Market-Rate Program</li> <li>• The number of units provided on the site is at least equal to the number of existing units, and</li> <li>• Adverse impacts on displaced tenants, in developments with more than four units, are mitigated</li> </ul> The City will participate, as appropriate, in studies of regional housing need and displacement, and consider policies or programs to address the indirect displacement of lower income residents	The City continued to participate in studies of regional housing need and displacement. In collaboration with the Santa Clara County Consortium, the City's Affirmatively Furthering Fair Housing (AFFH) documents was completed in spring 2022.	Continue, through Strategy HE-3.3.4. The updated strategy also commits the City to approving the redevelopment of existing multifamily units if they are redeveloped at the same or deeper affordability, with the equivalent size and provides displaced tenants with right of first refusal to rent new units at the same rent.

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**Table B6-2** Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
HE-3.3.5	<p><b>Neighborhood and Community Clean-Up Campaigns</b></p> <p>The City will continue to encourage and sponsor neighborhood and community clean-up campaigns for both public and private properties</p>	<p>The City continued to encourage and sponsor neighborhood and community clean-up campaigns for both public and private properties. The City promotes and staffs the following events available to the community:</p> <ul style="list-style-type: none"> <li>Recology provides quarterly drop-off events for bulky items, construction waste, landscape waste, and hazardous waste (due to COVID, the quarterly events were cancelled and resumed in mid-2021).</li> <li>The City staffs two annual creek clean ups- National River Clean Up Day and Coastal Clean Up Day.</li> </ul>	Deleted.
HE-4.1.1	<p><b>Enforcement of Title 24</b></p> <p>The City will continue to enforce Title 24 requirements for energy conservation and will evaluate utilizing some of the other suggestions as identified in the Environmental Resources/ Sustainability element</p>	<p>The City continued to enforce Title 24 requirements for energy conservation and evaluate using some of the other suggestions as identified in the Environmental Resources/Sustainability element. In 2020, the City adopted REACH codes, which were further amended in 2022, that will assist in achieving the City's sustainability goals. The City has Chapter 16.58, Green Building Standards Code, that requires certain projects to achieve LEED certification or similar.</p>	Continue, through Strategy HE-4.1.1. The program has proven successful and will be carried forward with no modification or additional language.

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Table B6-2 Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
HE-4.1.2	<p><b>Sustainable Practices</b></p> <p>The City will continue to implement the Landscape Ordinance for water conservation and the Green Building Ordinance.</p> <p>To further the objectives of the Green Building Ordinance, the City will evaluate the potential to provide incentives, such as waiving or reducing fees, for energy conservation improvements at affordable housing projects (existing or new) with fewer than ten units to exceed the minimum requirements of the California Green Building Code. This City will also implement the policies in its climate action plan to achieve residential-focused greenhouse gas emission reductions and further these community energy and water conservation goals</p>	<p>The City implemented the following ordinances:</p> <ul style="list-style-type: none"> <li>• Landscape Ordinance</li> <li>• Green Building Ordinance</li> <li>• The Climate Action Plan, which evaluates the potential to provide incentives for energy conservation improvements at affordable housing projects (e.g., waiving or reducing fees) and continue to implement the policies in the climate action plan.</li> </ul> <p>The City also adopted energy-efficiency reach codes that include requirements for electrification for certain types of buildings, water efficiency, and green materials to reduce energy use and lower greenhouse gas emissions. These reach codes are a component of the California Energy and California Green Building Codes and include requirements for water efficiency, green materials, and other items designed to encourage building electrification for certain types of buildings.</p>	Continue, through program HE-4.1.2.
HE-5.1.1	<p><b>Emergency Shelters</b></p> <p>The City will continue to facilitate housing opportunities for special needs persons by allowing emergency shelters as a permitted use in the "BQ" Quasi-Public zoning district. The City will subject emergency shelters to the same development standards as other similar uses within the BQ zoning district, except for those provisions permitted by State law and provided in the Zoning Ordinance for emergency shelters</p>	<p>The City facilitated housing opportunities for special-needs groups by allowing emergency shelters as a permitted use in the "BQ" Quasi-Public Building zoning district. In 2021, the City established the City Unhoused Task Force to address the needs of unhoused residents through resource referral and partnered with the West Valley Rotating Safe Car Park (RSCP) program. The RSCP program is an emergency homeless program made up of a network of local city governments, service organizations, and volunteer faith-based host sites that provide temporary overnight parking for homeless individuals/families living out of their cars. The RSCP program is still active, and there is a maximum of 30 people at a time per safe parking site.</p>	Continue, through Strategy HE-5.1.1. The updated strategy amends the Zoning Code to permit in the Quasi-Public zoning district without discretionary review and commits the City to review and revise managerial standards.



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No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
		The same year, the City created a pilot Homeless Jobs Program with two Cupertino unhoused residents participating in the program. The City Work Program is renewed on an annual basis by the City Council, and contains a variety of different projects, one of which being the City Plan To End Homelessness. The City Council did not prioritize the Plan To End Homelessness for the FY 2023-25 City Work Program. This item was concluded, and no final version of the Plan was created. Unused funds will be returned to the General Fund.	
HE-5.1.2	<p><b>Supportive Services for Lower-Income Households and Persons with Special Needs</b></p> <p>The City will continue to utilize its Below Market-Rate Affordable Housing Fund, Community Development Block Grant (CDBG) funds, and General Fund Human Service Grants (HSG) funds to provide for a range of supportive services for lower-income households and persons with special needs</p>	<p>During the planning period, the City took various steps to provide supportive services for lower-income households and persons with special needs, including:</p> <ul style="list-style-type: none"> <li>• Establishing the City Unhoused Task Force to address the needs of unhoused residents.</li> <li>• CDBG \$164,807 to Live Oak Adult Day Services, a senior adult day care.</li> <li>• CDBG \$299,156 to West Valley Community Services (WVCS) CARE Program, a community access to resource and education program.</li> <li>• HSG \$66,189 to Catholic Charities of Santa Clara County, a long-term care ombudsman program.</li> <li>• HSG \$25,000 to MAITRI, a transitional housing direct client services program.</li> <li>• HSG \$105,999 to Senior Adult Legal Assistance, a legal assistance to elders program.</li> <li>• HSG \$266,778 to WVCS Haven to Home program, a supportive services and housing resources program for the homeless.</li> </ul>	Continue, through Strategy HE 5.1.2. The program has been a success and is carried forward with added focus on areas along the Interstate 280 corridor, in the areas abutting at the intersection of Highway 85 and Stevens Creek Boulevard, along N. Foothill Boulevard (western edge of Creston-Pharlap neighborhood), and along Miller Avenue north of Creekside Park.

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No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
		<ul style="list-style-type: none"> <li>The City developed and funded the Homeless Jobs Program to provide up to eight months of employment for two unhoused residents in Cupertino.</li> </ul>	
HE-5.1.3	<b>Rotating Homeless Shelter</b> The City will continue to support the operation of a Rotating Homeless Shelter program	<p>The City provided Faith in Action Rotating Shelter with space at City Hall to provide intake and registration for the community each night until it was shut down in 2017.</p> <p>In 2021, the City partnered with the West Valley RSCP program, an emergency homeless program made up of a network of local city governments, service organizations, and volunteer faith-based host sites that provide temporary overnight parking for homeless individuals/families living out of their cars. Through \$299,156 in CDBG funding, the City assisted 887 households and provided services to prevent homelessness.</p>	Modify, through Strategy HE-5.1.3. The Strategy has been updated based on previous program outcomes. The City will continue to support the Rotating Safe Car Park program.
HE-6.1.1	<b>Fair Housing Services</b> The City will continue to: <ul style="list-style-type: none"> <li>Provide fair housing services, which include outreach, education, counseling, and investigation of fair housing complaints</li> <li>Retain a fair housing service provider to provide direct services for residents, landlords, and other housing professionals</li> <li>Coordinate with efforts of the Santa Clara County Fair Housing Consortium to affirmatively further fair housing</li> </ul>	<p>In 2020, the City coordinated with the Regional CDBG/Housing Coordinators group to begin drafting the City's Affirmatively Furthering Fair Housing Plan. The City has provided a total of \$850,000 in BMR AHF funds to fair-housing services and landlord/tenant rental mediation programs.</p>	Continue, through program HE-6.1.1. The strategy will also include commitments to partner with a local fair housing service provider.

APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

**Table B6-2** Review of the 5th Cycle Housing Element Programs

No.	Programs/Actions	Achievements/Effectiveness	Continue/Modify/Delete
	<ul style="list-style-type: none"> <li>Distribute fair housing materials produced by various organizations at public counters and public events</li> </ul>		
HE-7.3.1	<p><b>Coordination with Outside Agencies and Organizations</b></p> <p>The City will meet with these agencies/organizations periodically to discuss the changing needs, development trends, alternative approaches, and partnering opportunities:</p> <ul style="list-style-type: none"> <li>School districts</li> <li>Housing providers</li> <li>Neighboring jurisdictions</li> <li>Association of Bay Area Governments (ABAG)</li> <li>Air Quality Management District</li> <li>Housing Trust Silicon Valley</li> <li>Santa Clara County Fair Housing Consortium</li> <li>Santa Clara County HOME Consortium</li> <li>Santa Clara County Continuum of Care (COC)</li> <li>Housing Authority of Santa Clara County (HASCC)</li> <li>Valley Transportation Authority (VTA)</li> </ul>	<p>The City coordinated with these groups to engage in discussions about grant funding opportunities, regional housing needs, and efforts to address homelessness. The City participated in the following groups: Santa Clara County PLHA Consortium, Regional CDBG/Housing Coordinators Group, SV@Home, Non-Profit Housing of Northern CA. The participants in these groups, including the City, work together to pool their knowledge and share expertise. The County's Office of Supportive Housing helps to coordinate these efforts and provides the participants with invaluable technical assistance. Through the SCC PLHA Consortium, the City was awarded an allocation of PLHA funding and is currently working towards implementing the funding for projects in Cupertino. Housing CA, Grounded Solutions, US Department of Housing and Urban Development, among others. In 2021, the City provided referrals to COVID-related funding sources and services. The City Council did not prioritize the Plan To End Homelessness for the Fiscal Year 2023-25 City Work Program. This item was concluded, and no final version of the Plan was created. The unused funds will be returned to the General Fund.</p>	<p>Continue, through Strategy HE-7.3.1. The City will commit to meet with these agencies and organizations to periodically discuss the changing needs, development trends, alternative approaches, and partnering opportunities.</p>

## B6.7 APPROPRIATENESS IN GOALS, OBJECTIVES, AND POLICIES

The goals, objectives, and policies identified in the 2015 Housing Element were appropriate for the 2015-2023 timeframe because they directly relate to the program requirements listed by the California Department of Housing and Community Development (HCD).

As for new construction, the greatest progress was made in producing housing in the Moderate Income and Above Moderate-Income categories, where the City permitted approximately 68 percent and 119 percent of the needed units, respectively. The City permitted only about 13.5 percent of its needed Very Low-Income units and 9.2 percent of its Low-Income units. As was the case in prior years, the cost of land and construction continued to be high in Cupertino, making affordable housing difficult to develop in this market.

## B6.8 SUMMARY

Like many communities, the City of Cupertino experienced less construction than expected in its 2015–2023 planning period. Of the 1,064 units it identified in its table of quantified housing objectives (Table HE-6 on page H-19 of the 2015 Housing Element), the City was able to issue building permits for 546 units (approximately 51.3 percent), most of them for Above Moderate-Income households, even though the City had entitled more than 3,400 units (including more than 1,201 lower income units) during this time frame.

Nonetheless, the goals, objectives, policies, and actions in the 2015–2023 Housing Element complied with State Housing Law that was in effect at the time and provided proper guidance for housing development in the city. With the 2023-2031 Housing Element update, objectives for each of the goals will be modified as appropriate to more specifically respond to the housing environment in Cupertino. Policies will also be modified as needed to respond to current Housing Element Law and existing and anticipated residential development conditions.

## APPENDIX B: HOUSING ELEMENT TECHNICAL REPORT

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# Appendix G: General Plan 2040 and Zoning Code Amendments Environmental Assessment

for the City of Cupertino

April 2024









# Appendix G: General Plan 2040 and Zoning Code Amendments Environmental Assessment

for the City of Cupertino

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**April 2024**



**Prepared by: PlaceWorks**

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# 1. Introduction

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Pursuant to the California Environmental Quality Act (CEQA) Guidelines, Chapter 14, *California Code of Regulations*, Section 15378(a), the proposed amendments to the City of Cupertino General Plan 2040 (General Plan 2040), also known as Community Vision 2015-2040, and the Zoning Code are considered a “project” subject to environmental review. Approval of the General Plan and Zoning Code amendments is considered “an action [undertaken by a public agency], which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.”

The proposed amendments include updating the 2015-2023 Housing Element, Land Use and Community Design Element, and Mobility Element of the General Plan 2040, Heart of the City Specific Plan, and Zoning Code. Pursuant to State law, the Housing Element is required to be updated every eight years. The General Plan 2040 Land Use and Community Design Element Zoning Code, and the Heart of the City Specific Plan include standards for residential density and residential zoning districts and are therefore required to be updated at the same time to ensure internal consistency within the General Plan 2040 and consistency with the Zoning Code and Heart of the City Specific Plan.

## 1.1 ENVIRONMENTAL ASSESSMENT PURPOSE

On January 8, 2024, the Superior Court of Santa Clara County issued a stipulated judgement that requires the City of Cupertino (City) to expeditiously complete and approve an update to the 2015-2023 Housing Element. California Government Code Section 65759(a)(2) provides that when a City is ordered by a court to bring its General Plan, which includes the Housing Element, Land Use and Community Design Element, and Mobility Element, into compliance, the City shall prepare an Environmental Assessment (EA), the content of which shall substantially conform to the required content of a Draft Environmental Impact Report (EIR). With an EA, there are no formal review periods and no “response to comments” document that would generally be prepared as part of a Final EIR.

Prior to the stipulated judgement, a Notice of Preparation (NOP) was prepared and issued on March 27, 2023, to receive comments on the evaluation of topics in a Draft Subsequent EIR for the proposed Modified Project. The comment period closed on April 25, 2023. While preparing the Draft Subsequent EIR, the stipulated judgement was issued, and the document type was changed from an EIR to an EA. However, because the proposed Modified Project and topics evaluated remain similar between the EIR and EA, the original NOP issued on March 27, 2023, was used as the NOP for the EA.

The current General Plan was adopted in December 2014 and included a horizon year of 2040. Since this time, several amendments to the General Plan have occurred. A summary of the amendments to the General Plan 2040 is shown in Table 3-1, *Amendments to the General Plan 2040*, of Chapter 3, *Project*

## INTRODUCTION

*Description*, of this EA. The City evaluated the impacts of the General Plan 2040 and subsequent amendments to the General Plan 2040 in the *General Plan Amendment, Housing Element Update, and associated Rezoning Project Environmental Impact Report* that was certified by the Cupertino City Council in December 2014, and in the subsequent addenda to the EIR that were approved by the City Council in October 2015, August 2019, December 2019, and October 2021, referred to together as the “General Plan EIR.” The General Plan 2040 and Zoning Code as amended and evaluated in the General Plan EIR are considered the “Approved Project” and the proposed amendments that are the subject of this EA are considered the “proposed Modified Project.”

The City is the lead agency for the proposed Modified Project, which pursuant to CEQA Guidelines Section 15367 is defined as “the public agency which has the principal responsibility for carrying out or approving a project.” As lead agency, the City determined that because the proposed Modified Project amends the Approved Project, to comply with the requirements of California Government Code Section 65759(a)(2), this EA shall be prepared as a subsequent program-level analysis of the General Plan EIR pursuant to CEQA Guidelines Sections 15162, *Subsequent EIR*, and 15168, *Program EIR*, respectively.

This EA has been prepared to provide public agency decision makers and the public with an analysis of the proposed Modified Project’s potentially significant environmental effects and identify feasible alternatives and mitigation measures that would avoid or substantially lessen any significant effects. This EA’s analysis and findings reflect the City’s independent and impartial conclusions. This EA will be reviewed in public session by the City Planning Commission and reviewed and adopted as part of the General Plan in public session by the City Council.

## 1.2 PROPOSED ACTION

If approved by the Cupertino City Council, the proposed Modified Project would replace the City’s existing 5th Cycle Housing Element (2015-2023) with the 6th Cycle Housing Element (2023-2031), Land Use and Community Design Element, and Mobility Element of the General Plan 2040. It would also replace corresponding sections of Title 19, *Zoning* (Zoning Code) of the Cupertino Municipal Code (CMC) to ensure consistency between the General Plan land use designations and zoning districts. The proposed Modified Project would build off the existing General Plan 2040 to provide a framework for land use and housing decisions to accommodate the City’s Regional Housing Needs Allocation (RHNA) of 4,588 dwelling units and associated buffer of 1,423 dwelling units for the 2023-2031 planning period. See Chapter 3, *Project Description*, of this EA for additional details on the proposed Modified Project. See Chapter 5, *Alternatives to the Proposed Project*, for a comparison of the Approved Project and the proposed Modified Project presented as the No Project Alternative.

## 1.3 ENVIRONMENTAL ASSESSMENT SCOPE

Pursuant to California Government Code Section 65759, CEQA does not apply to any discretionary actions necessary to bring the General Plan, including the proposed Housing Element (2023-2031), Land Use and Community Design Element, and Mobility Element, into compliance with the court order. Therefore, this EA serves as the environmental review document for the proposed discretionary actions detailed in

## INTRODUCTION

Chapter 3, *Project Description*, of this EA, which are necessary to bring the proposed Housing Element (2023-2031), relevant mandatory General Plan 2040 elements (i.e., the Land Use and Community Design Element and Mobility Element), Heart of the City Specific Plan, and Zoning Code into compliance with State law. Pursuant to Government Code Section 65759(a)(3), this EA is deemed to be part of the City's General Plan.

Although CEQA does not apply to the proposed Modified Project, as previously stated, this EA substantially conforms to the required content for a Draft EIR found in State CEQA Guidelines Article 9 (Section 15120 et seq.) and the required content for a subsequent program-level analysis of the General Plan EIR pursuant to CEQA Guidelines Sections 15162, *Subsequent EIR*, and 15168, *Program EIR*, respectively.

### 1.3.1 SUBSEQUENT EIR

Pursuant to CEQA Guidelines Sections 15162(3)(A) and (B), this EA has been prepared to evaluate potential environmental impacts associated with adoption and implementation of the proposed Modified Project as a subsequent analysis to the General Plan EIR. As defined in CEQA Guidelines Section 15162, a subsequent EIR is prepared when:

1. Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
2. Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or Negative Declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
3. New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
  - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible, and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
  - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

Regarding the adequacy of a subsequent EIR, according to CEQA Guidelines Section 15151:

“An [S]EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which intelligently takes account of environmental consequences. An evaluation of the environmental effects of a proposed project need

## INTRODUCTION

not be exhaustive, but the sufficiency of an [S]EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an [S]EIR inadequate, but the [S]EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure.”

The General Plan EIR analyzed impacts associated with an overall development capacity of 4,040,231 square feet (sf) of office uses, 1,343,679 sf of commercial uses, 1,339 hotel rooms, and 4,421 housing units above the City’s existing (2013) conditions, over a planning horizon to 2040. The proposed 6th Cycle Housing Element (2023-2031) has been prepared to demonstrate compliance with the RHNA assigned to Cupertino to ensure the City is meeting its fair share of regional housing over the 2023-2031 planning period of 4,588 dwelling units plus an additional 1,423 dwelling units as a buffer. A buffer is necessary to ensure that if one or more of the identified housing sites are developed at lower densities than projected, or with non-housing uses, there is remaining capacity elsewhere in the city to provide an ongoing supply of sites for housing during the eight-year planning period/cycle of the Housing Element. The RHNA assignment of 4,588 dwelling units and the buffer of 1,423 dwelling units could not have been known at the time of the General Plan EIR certification and is in excess of the number of dwelling units analyzed in the General Plan EIR. In addition, the General Plan EIR did not include an evaluation of environmental topics (energy, tribal cultural resources, vehicle miles traveled, and wildfire) that were introduced in the CEQA Guidelines, Appendix G, *Environmental Checklist Form*, following the certification of the General Plan EIR. This EA includes an evaluation of impacts associated with the additional dwelling units required to meet the City’s fair share of regional housing as part of the proposed Housing Element 2023-2031 and the potential impacts associated with energy, tribal cultural resources, vehicle miles traveled, and wildfire. This EA also analyzes whether the changes resulting from the proposed Modified Project would result in new significant impacts when compared to the certified General Plan EIR. This EA only includes the information necessary to make the certified General Plan EIR adequate for the proposed Modified Project. This EA analyzes potential impacts of the proposed Modified Project, and in doing so, describes ways in which implementation of the proposed Housing Element 2023-2031 would result in impacts that would be new or different from those identified in the General Plan EIR.

### 1.3.2 PROGRAM EIR

This EA is the equivalent of a program EIR that analyzes the adoption and implementation of the proposed Modified Project. This is in contrast to a project-level EIR, which is used to identify and analyze the potential impacts of site-specific construction and operation. CEQA Guidelines Section 15168 states that program EIRs are appropriate when a project consists of a series of actions related to the issuance of rules, regulations, and other planning criteria.

In this case, the proposed Modified Project that is the subject of this EA consists of a long-term plan and set of regulatory changes that would be implemented over time as policy documents and regulations guiding future development activities and City actions. No specific development projects are proposed as part of the proposed Modified Project. Therefore, this EA presents a program-level evaluation of the potential environmental effects of the adoption and implementation of the proposed Modified Project.

## INTRODUCTION

### 1.4 ENVIRONMENTAL REVIEW PROCESS

Although CEQA does not apply to the proposed actions, preparation of an “environmental assessment” that substantially conforms to the required content for a Draft EIR is required, if any of the proposed actions would have a significant effect on the environment. This document constitutes the required “environmental assessment.”

A Notice of Availability of the EA will be published in a newspaper of general circulation in the area and distributed to public agencies as part of Government Code Section 65352 and Public Utilities Code Section 21676 noticing requirements.

The EA and Appendices are available for review at the following locations:

City of Cupertino Community Development Department  
10300 Torre Avenue  
Cupertino, California 95014

City of Cupertino website: <https://engagecupertino.org/hub-page/housingelement>

Following EA release, the City will consider all comments during their deliberations of the approval of the proposed Modified Project. Pursuant to CEQA Section 21081.6, a Mitigation Monitoring and Reporting Program (MMRP) will be incorporated into this document. Such a program is intended to ensure the implementation of all mitigation measures adopted through the preparation of an EIR. The City will consider all information included in the EA when acting on the proposed Housing Element (2023-2031). Once adopted by the City, the EA will be incorporated as an appendix to the General Plan 2040.

### 1.5 TIERED ENVIRONMENTAL REVIEW

As allowed by State CEQA Guidelines Section 15168, *Program EIR*, and Section 15183, *Projects Consistent with a Community Plan or Zoning*, the City will review future development under the proposed Modified Project considering the General Plan EIR and this EA. State CEQA Guidelines Section 15168 allows a program EIR to serve as the basis for environmental review of subsequent projects. State CEQA Guidelines Section 15183 provides additional exemptions for projects proposed in accordance with an adopted community plan, general plan, or zoning code.

If any potential future development projects requiring discretionary approval are not eligible for “by right” approval, as described in Chapter 3, *Project Description*, of this EA, and have potentially significant adverse environmental effects that were not examined in this EA or in the General Plan EIR, an Initial Study would be prepared for that project, leading to the preparation of either a Negative Declaration, Mitigated Negative Declaration, focused EIR, or supplement to this EA or the General Plan EIR. When additional environmental documentation for a future project is necessary, this EA or the General Plan EIR may be incorporated by reference to address regional context, secondary effects, cumulative impacts, alternatives, and other factors applicable to the program overall. Section 3.8, *Buildout Projections*, in Chapter 3, *Project Description*, of this EA, provides additional information concerning future project approvals and procedures.

## INTRODUCTION

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## 2. *Executive Summary*

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### 2.1 INTRODUCTION

Each city and county in California is required to have an adopted comprehensive long-range general plan that must include eight mandatory elements.<sup>1</sup> One such element is the housing element. The housing element of the general plan is required to be updated every eight years to comply with the Regional Housing Needs Allocation (RHNA). Regional councils of government across California are responsible for allocating their region's housing needs to individual cities and counties (i.e., RHNA). The Association of Bay Area Governments (ABAG) is responsible for the RHNA and tasked with determining each county and city's fair share of the regional total. This determination is made using a formula that considers population size, employment, proximity to transit, and access to high-quality resources, such as schools, health care, parks, and services. The total 2023 -2031 RHNA for all counties and municipalities in the Bay Area is 441,176 dwelling units. Cupertino received an allocation of 4,588 dwelling units to meet their fair share of housing for the region.

The City of Cupertino (City) General Plan 2040 (General Plan 2040), also known as Community Vision 2015-2040, includes the 5th Cycle Housing Element, which complied with the RHNA for the 2015 to 2023 planning period. Accordingly, the City is required to amend its General Plan 2040 with an updated 6th Cycle Housing Element and any other corresponding General Plan elements and zoning code standards to comply with the RHNA for the 2023 to 2031 planning period. The General Plan 2040 Land Use and Community Design Element, Mobility Element, Heart of the City Specific Plan, and Title 19, *Zoning* (Zoning Code), of the Cupertino Municipal Code (CMC), include standards for residential density and residential zoning districts, and are therefore required to be updated at the same time to ensure internal consistency in the General Plan 2040 and with Heart of the City Specific Plan and the Zoning Code.

Pursuant to the California Environmental Quality Act (CEQA) Guidelines, Chapter 14, *California Code of Regulations*, Section 15378(a), the proposed amendments to the General Plan 2040, Heart of the City Specific Plan, and Zoning Code are considered a "project" subject to environmental review. Their implementation is "an action [undertaken by a public agency], which has the potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment." Pursuant to California Government Code Section 65759, this Environmental Assessment (EA) has been prepared to substantially conform to the required content for a Draft Environmental Impact Report (EIR) found in State CEQA Guidelines Article 9 (Section 15120 et seq.) to identify the potentially significant environmental effects from the proposed amendments to the General Plan 2040, Heart of the City Specific Plan, and Zoning Code.

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<sup>1</sup> California Government Code Section 65300.

## EXECUTIVE SUMMARY

The General Plan 2040 and Zoning Code, as amended and evaluated in the City's certified *General Plan Amendment, Housing Element Update, and associated Rezoning Project Environmental Impact Report* and the subsequent addenda to the EIR (General Plan EIR) are considered the "Approved Project" and the proposed amendments that are the subject of this EA are considered the "proposed Modified Project." Because the proposed Modified Project amends the Approved Project, the City of Cupertino (City) has determined that to comply with the requirements of California Government Code Section 65759(a)(2), this EA shall be prepared pursuant to CEQA Guidelines Section 15162, *Subsequent EIR*, and Section 15168, *Program EIR*. Accordingly, this EA is a subsequent program-level analysis of the General Plan EIR.

This chapter describes the organization of this document, environmental procedures, type, and purpose of this EA, summarizes the proposed Modified Project and its alternatives, identifies issues to be resolved and areas of controversy, and summarizes impacts and mitigation from the analysis in Chapters 4.1 through 4.16 of this EA. For a complete description of the proposed Modified Project and alternatives to the proposed Modified Project, see Chapter 3, *Project Description*, and Chapter 5, *Alternatives to the Proposed Modified Project*, of this EA, respectively.

## 2.2 DOCUMENT ORGANIZATION

This EA is organized into the following chapters:

- **Chapter 1: *Introduction*.** Provides an overview describing the EA document and process.
- **Chapter 2: *Executive Summary*.** Summarizes environmental consequences that would result from implementation of the proposed Modified Project, describes recommended mitigation measures, and indicates the level of significance of environmental impacts with and without mitigation.
- **Chapter 3: *Project Description*.** Describes the proposed Modified Project in detail, including the characteristics, objectives, and the structural and technical elements of the proposed Modified Project.
- **Chapter 4: *Environmental Analysis*.** Organized into 16 chapters corresponding to the environmental resource categories identified in 2018 CEQA Guidelines Appendix G, *Environmental Checklist*, this chapter provides a description of existing conditions, which provide a context that the City will use to determine the significance of environmental impacts resulting from the proposed project. This chapter provides an analysis of the potential environmental impacts of the proposed Modified Project and recommended mitigation measures, if required, to reduce the impacts to less than significant where possible, and to reduce their magnitude or significance when impacts cannot be reduced to a less-than-significant level. Each subchapter also includes a description of the thresholds used to determine if a significant impact would occur, the methodology to identify and evaluate the potential impacts of the proposed Modified Project, and the potential cumulative impacts associated with the proposed Modified Project.
- **Chapter 5: *Alternatives to the Proposed Modified Project*.** Considers alternatives to the proposed Modified Project, including the CEQA-required "No Project Alternative" and "environmentally superior alternative."

## EXECUTIVE SUMMARY

- **Chapter 6: *CEQA-Mandated Sections*.** Describes growth inducement, cumulative impacts, unavoidable significant effects, and significant irreversible changes as a result of the proposed Modified Project.
- **Chapter 7: *Organizations and Persons Consulted*.** Lists the people and organizations that were contacted during the preparation of this EA for the proposed Modified Project.
- **Appendices:** The appendices for this document include the following supporting documents:
  - Appendix A: Notice of Preparation and Scoping Comments
  - Appendix B: Air Quality and Greenhouse Gas Emissions Data
  - Appendix C: Tribal Consultation Correspondence
  - Appendix D: Noise Data
  - Appendix E: Transportation Analysis

## 2.3 ENVIRONMENTAL PROCEDURES

This EA has been prepared to assess the environmental effects associated with implementation of the proposed Modified Project. The main objectives of this document as established by CEQA are:

- To disclose to decision makers and the public the significant environmental effects of proposed activities.
- To identify ways to avoid or reduce environmental damage.
- To prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures.
- To disclose to the public reasons for agency approval of projects with significant environmental effects.
- To foster interagency coordination in the review of projects.
- To enhance public participation in the planning process.

As previously stated, this EA has been prepared to substantially conform to the required content for an EIR. An EIR is the most comprehensive form of environmental documentation identified in the CEQA statute and in the CEQA Guidelines. It provides the information needed to assess the environmental consequences of a proposed project to the extent feasible. EIRs are intended to provide an objective, factually supported, full-disclosure analysis of the environmental consequences associated with a proposed project that has the potential to result in significant, adverse environmental impacts. An EIR is also one of various decision-making tools used by a lead agency to consider the merits and disadvantages of a project that is subject to its discretionary authority. Prior to approving a proposed project, the lead agency must consider the information contained in the EIR, determine whether the EIR was properly prepared in accordance with CEQA and the CEQA Guidelines, determine that it reflects the independent judgment of the lead agency, adopt findings concerning the project's significant environmental impacts and alternatives, and adopt a Statement of Overriding Considerations<sup>2</sup> if the proposed project would result in significant impacts that cannot be avoided. See Section 1.1, *Environmental Assessment Purpose*, in Chapter 1, *Introduction*, of this EA).

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<sup>2</sup> CEQA Guidelines Section 15093.

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### 2.4 TYPE AND PURPOSE OF THIS EA

According to Section 15121(a) of the CEQA Guidelines, the purpose of an EIR is to inform public agency decision makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project. As described in the CEQA Guidelines, different types of EIRs are used for varying situations and intended uses. CEQA Guidelines Section 15162, *Subsequent EIR*, and Section 15168, *Program EIR*, describe the conditions for when the preparation of a subsequent EIR and program EIR are appropriate, respectively. The RHNA for Cupertino's 6th Cycle Housing Element and the associated buffer dwelling units could not have been known at the time of General Plan EIR certification, and these allocations are in excess of the number of dwelling units analyzed in the General Plan EIR. Further, the General Plan EIR did not evaluate environmental topics added to CEQA Guidelines Appendix G, *Environmental Checklist Form*, for energy, tribal cultural resources, vehicle miles traveled, and wildfire, after the certification of the General Plan EIR. Accordingly, this EA has been prepared pursuant to CEQA Guidelines Sections 15162(3)(A) and (B). Further, because of the long-term planning horizon of the proposed Modified Project and the permitting, planning, and development actions that are related both geographically and as logical parts in the chain of contemplated actions for implementation, this EA has been prepared as a program-level evaluation of the proposed Modified Project, pursuant to CEQA Guidelines Section 15168. See Section 1.3, *Environmental Assessment Scope*, in Chapter 1, *Introduction*, of this EA. Following the approval of the EA and the proposed Modified Project, subsequent activities within the program must be evaluated to determine whether additional CEQA review needs to be prepared. However, if the program evaluation addresses the effects as specifically and comprehensively as possible, subsequent activities could be found to be in the program's scope, and additional environmental review may not be required (CEQA Guidelines Section 15168[c]). When a program EIR is relied on for a subsequent activity, the lead agency must incorporate feasible mitigation measures and alternatives developed in the program EIR into the subsequent actions (CEQA Guidelines, Section 15168[c][3]). If a subsequent activity would have effects that are not within the scope of a program EIR, the lead agency must prepare a new Initial Study leading to a Negative Declaration, a Mitigated Negative Declaration, or an EIR. For these subsequent environmental review documents, this program EA and General Plan EIR will serve as the first-tier environmental analysis. See Section 1.5, *Tiered Environmental Review*, in Chapter 1, *Introduction*, of this EA.

### 2.5 SUMMARY OF PROPOSED MODIFIED PROJECT

The proposed Modified Project would replace the City's existing 5th Cycle Housing Element (2015-2023) with the 6th Cycle Housing Element (2023-2031). It would also replace the corresponding Land Use and Community Design Element, Mobility Element, sections of the Heart of the City Specific Plan, and sections of the Zoning Code to ensure consistency between the General Plan land use designations and zoning districts. The 6th Cycle Housing Element (2023-2031) provides direction for implementation of various programs to meet existing and projected future housing needs for all income levels in Cupertino. It provides policies, programs, and strategies that support and create the framework for production, preservation, and maintenance of the City's housing stock for all income levels. In addition, the Housing Element identifies specific sites appropriate for the development of multifamily housing. The proposed Housing Element 2023-2031 has been prepared to ensure adequate, safe, and affordable housing

## EXECUTIVE SUMMARY

conditions and accommodate housing needs based on a comprehensive analysis of the City's current and projected demographic, economic, and housing characteristics and needs, including its identified RHNA requirement. The City's projected regional housing need for the 6th Cycle RHNA planning period (2023-2031), as assigned by the Association of Bay Area Governments (ABAG) in accordance with State law, is 4,588 dwelling units.

The proposed Land Use and Community Design Element update would assign new levels of increased housing density in Cupertino neighborhoods to be consistent with the updated Housing Element. The update also includes minor policy language changes for consistency with the proposed Housing Element update. The proposed Zoning Code update would replace corresponding sections of CMC Title 19, *Zoning*, to ensure consistency between the General Plan land use designations to accommodate the required RHNA and zoning districts. The proposed Zoning Code update includes site development standards to ensure neighborhood compatibility and the provision of important amenities for current and new city residents. Changes to City standards and regulations necessary to implement the actions of the proposed Housing Element 2023-2031 are anticipated to include parcel-specific rezoning and may include targeted updates to one or more City-adopted Specific Plans.

The proposed Mobility Element update would ensure consistency between the proposed Housing Element and Zoning Code Amendments, including updates in State law guidance, by reducing vehicle miles traveled (VMT) at both the city level and project level scales. This update would include policies and strategies to mitigate transportation impacts associated with the implementation of the Housing Element, including evaluation of new development pursuant to the City's adopted Transportation Analysis Guidelines, establishing VMT reduction frameworks for the city and future potential development projects, and promoting existing transit and car share programs throughout the city.

The proposed Modified Project would update the Heart of the City Specific Plan to ensure consistency between the proposed Housing Element, Land Use and Community Design Element, and Zoning Code amendments, including the Zoning Map. This would not include updates to design guidelines.

The City's assigned RHNA of 4,588 dwelling units plus the 1,423 dwelling units for the buffer, which are "back-up" sites that are identified for housing in the event an identified Housing Element site becomes unavailable, total 6,016 dwelling units. The proposed Modified Project land use redesignations and rezonings are only needed to meet a portion of the City's assigned RHNA and buffer dwelling units. In other words, under existing conditions (i.e., no changes to land use designations or zoning standards are required), the City can currently accommodate 2,704 dwelling units. Therefore, this EA only evaluates the proposed changes to the land use designation and zoning districts required to accommodate the remainder of the dwelling units necessary to meet the RHNA and buffer dwelling units, which is 3,312 net new dwelling units. Furthermore, because the buffer dwelling units are technically "back-up" sites, the evaluation of these sites presents a conservative evaluation of impacts in this EA. See Chapter 3, *Project Description*, of this EA for a detailed description of the proposed Modified Project.

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### 2.6 SUMMARY OF PROJECT ALTERNATIVES

This EA analyzes alternatives to the proposed Modified Project that are designed to reduce the significant environmental impacts of the proposed Modified Project and feasibly attain most of the proposed Modified Project objectives. There is no set methodology for comparing the alternatives or determining the environmentally superior alternative under CEQA. Identification of the environmentally superior alternative involves weighing and balancing all of the environmental resource areas by the City. The following alternatives, which present a reasonable range of alternatives to the proposed project, were considered and the comparative merits of the alternatives were analyzed in detail.

- **Alternative A: No Project.** Consistent with Section 15126.6(e)(2) of the CEQA Guidelines, Alternative A presents the No Project scenario. This alternative assumes the current General Plan 2040 and Zoning Code requirements remain in effect and are not replaced by the proposed amendments to the General Plan 2040 and Zoning Code would not be adopted. Under Alternative A, the City would not implement the proposed Housing Element 2023-2031 required to comply with State law, to accommodate the lower-income RHNA units, including amendments to existing land use designations and zoning districts. The City would also not update the Land Use and Community Design Element or the Zoning Code.
- **Alternative B: Increased Housing Sites.** The purpose of this alternative is to reduce significant and unavoidable impacts associated with vehicle miles travelled as evaluated in the Chapter 4.14, *Transportation*, of this EA. Alternative B would demonstrate increased compliance with *Plan Bay Area 2050*, the Bay Area's Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS) that identifies the sustainable vision for the Bay Area, than the proposed Modified Project. Alternative B assumes all the proposed amendments to the General Plan 2040 and Zoning Code would occur. The housing sites identified under the proposed Modified Project would remain, but there would be additional housing sites. These sites would include those that comply with the Affordable Housing and High Road Jobs Act, commonly known by its legislative bill number, Assembly Bill 2011 (AB 2011), that was adopted in August 2020. The intent of AB 2011 is to make affordable housing by right on commercially zoned lands, and mixed-income housing by right along commercial corridors. This alternative would focus increased residential density along Stevens Creek Boulevard and South De Anza Boulevard, which are Priority Development Areas (PDA) and Transit Priority Areas (TPA) of *Plan Bay Area 2050*. This would include an additional 18 sites totaling 987 additional units. As shown on Figure 5-1, the majority of the additional housing sites would be within the boundaries of the high-transit corridor along Stevens Creek Boulevard (922 additional dwelling units) and two additional sites would be on South De Anza Boulevard (65 additional dwelling units). The alternatives analysis assumes that all applicable mitigation measures and General Plan goals, policies, and strategies recommended for the proposed Modified Project would apply to Alternative B. The potential environmental impacts associated with Alternative B when compared to the proposed Modified Project are described herein.

Chapter 5, *Alternatives to the Proposed Modified Project*, of this EA, includes a complete description of these alternatives. As described in Chapter 5, Alternative B is the Environmentally Superior Alternative pursuant to CEQA Guidelines Section 15126.6.

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## 2.7 AREAS OF CONTROVERSY AND ISSUES TO BE RESOLVED

The CEQA Guidelines require a summary that identifies areas of controversy known to the lead agency, including issues raised by agencies and the public (CEQA Guidelines Section 15123(b)(2)); and issues to be resolved, including the choice among alternatives and whether or how to mitigate the significant effects (CEQA Guidelines Section 15123(b)(3)).

### 2.7.1 AREAS OF CONTROVERSY

Based on the City's review of available information and comments received from the public and public agencies during the EIR scoping meeting and NOP public review period for the proposed Housing Element (2023-2031), the following issues may either be controversial or require resolution. Though every concern applicable to the CEQA process is addressed in this EA, this list is not necessarily exhaustive, but rather attempts to capture concerns that are likely to generate the greatest interest based on the input received during the planning and environmental review process.

- Location of potential housing sites and those on contaminated sites
- Street traffic and congestion
- Greenhouse gas emissions and air pollution
- Impacts to public services and recreation
- Noise impacts
- Nighttime lighting and aesthetic resources
- Adequacy of electricity grid, water supply, and other utilities
- Consultation with Native American tribes

As stated, these issues have been considered in this EA, where applicable, in Chapters 4.1 through 4.16. With respect to the proposed Modified Project, this EA evaluates the locations and potential impacts associated with the additional dwelling units required to meet the City's fair share of regional housing as part of the proposed Housing Element 2023-2031. The decision-making body (i.e., the City Council) will be asked to select housing strategies for the proposed Housing Element 2023-2031 that consider the values and character of the Cupertino community while meeting the various State mandates that apply for the City to meet its objective to gain certification of the Housing Element 2023-2031 in accordance with State housing laws.

### 2.7.2 ISSUES TO BE RESOLVED

CEQA Guidelines Section 15123(b)(3) requires that an EIR identify issues to be resolved, including the choice among alternatives, and whether or how to mitigate significant impacts. With regard to the Modified Project, the major issues to be resolved include decisions by the City, as lead agency, related to:

- Whether this EA adequately describes the environmental impacts of the proposed Modified Project.
- Whether the benefits of the proposed project override environmental impacts that cannot be feasibly avoided or mitigated to a level of insignificance.
- Whether the proposed land use changes are compatible with the character of the existing area.
- Whether the identified goals, policies, or mitigation measures should be adopted or modified.
- Whether there are other mitigation measures that should be applied to the proposed project besides those goals, policies, strategies, or mitigation measures identified in the EA.



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- Whether there are any alternatives to the proposed project that would substantially lessen any of the significant impacts of the proposed Modified Project and achieve most of the basic objectives.

## 2.8 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Table 2-1, *Summary of Impacts and Mitigation Measures*, summarizes the conclusions of the environmental analysis in this EA and presents a summary of the identified significant impacts and the proposed General Plan 2040 policies and strategies and the CEQA-required mitigation measures that reduce impacts. As summarized in Table 2-1, and as required by CEQA, some impacts remain significant and unavoidable after implementation of General Plan 2040 policies and strategies, and consideration of feasible mitigation. Table 2-1 is organized to correspond with the environmental issues in Chapters 4.1 through 4.16. Table 2-1 is arranged in four columns: (1) standard of significance question or impact statement, (2) General Plan 2040 policies and strategies and required mitigation measures, (3) proposed project policies and strategies and required mitigation measures, and (4) level of significance. For a complete description of potential impacts, please refer to the specific descriptions in Chapters 4.1 through 4.16.

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**TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
AESTHETICS (AES)			
AES-1: Implementation of the proposed Modified Project would not have an adverse effect on a scenic vista.	Policies LU-3.3, LU-6.7, LU-12.3, and RPC-3.1 Strategies LU-3.3.1, LU-12.4.1, and LU-13.7.5	Policies LU-3.3, LU-6.7, LU-12.3, LU-12.4, LU-13.7, and RPC-3.1 Strategies LU-3.3.1, LU-12.4.1, and LU-13.7.5	LTS
	N/A	N/A	
AES-2: Implementation of the proposed Modified Project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings, within a State scenic highway.	Policies LU-6.1 and ES-5.3	Policies LU-6.1 and ES-5.3 Strategy LU-19.3.10.	LTS
	N/A	N/A	
AES-3: Implementation of the proposed Modified Project in an urbanized area could conflict with applicable zoning and other regulations governing scenic quality.	N/A	N/A	LTS
	N/A	N/A	
AES-4: Implementation of the proposed Modified Project would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.	N/A	Policies LU-3.5, LU-20.6 and LU-27.8 Strategy LU-3.5.1	LTS
	N/A	N/A	
AES-5: Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to aesthetic resources.	Policies LU-3.3, LU-6.1, LU-6.7, LU-12.3, and ES-5.3 Strategies LU-3.3.1, LU-12.4.1, and LU-13.7.5	Policies LU-3.3, LU-6.1, LU-6.7, LU-12.3, LU-12.4, LU-13.7, LU-20.6, LU-27.8, ES-5.3, and RPC-3.1 Strategies LU-3.3.1, LU-12.4.1, LU-13.7.5, and LU-19.3.10	LTS
	N/A	N/A	
AIR QUALITY (AIR)			
AIR-1: Implementation of the proposed Modified Project would conflict with the growth assumptions under <i>Plan Bay Area</i> 2040 that are applied to the Bay Area Air Quality Management District’s (BAAQMD) 2017 Clean Air Plan, the proposed Modified Project would therefore conflict with the air quality emissions forecast in the BAAQMD 2017 Clean Air Plan.	Policy M-1.1 Strategy ES-4.1.3	Policy M-1.1 Strategies ES-4.1.1, ES- 4.1.3, and ES- 4.2.1	SU
	General Plan EIR Mitigation Measures AQ-2a: As part of the City’s development approval process, the City shall require applicants for future development projects to comply with the current Bay Area Air Quality Management District’s basic control measures for reducing construction emissions of PM <sub>10</sub> . General Plan EIR Mitigation Measures AQ-2b: As part of the City’s development approval process the City shall require applicants for future development	General Plan EIR Mitigation Measures AQ-2a and AQ-2b have been incorporated into CMC Section 17.04.050(A), <i>Standard Environmental Protection Requirements Air Quality Permit Requirements</i> , therefore, compliance with the CMC is required to mitigate impacts.	

N/A = Not Applicable; LTS = Less Than Significant; LTS/M = Less Than Significant with Mitigation; SU = Significant and Unavoidable

**EXECUTIVE SUMMARY****TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
	projects that could generate emissions in excess of the Bay Area Air Quality Management District's (BAAQMDs) current significance thresholds during construction, as determined by project-level environmental review, when applicable, to implement the current BAAQMD construction mitigation measures (e.g. Table 8-3 of the BAAQMD CEQA Guidelines) or any construction mitigation measures subsequently adopted by the BAAQMD.		
<b>AIR-2:</b> Operation of development projects that could occur from implementation of the proposed Modified Project would generate emissions that would exceed Bay Area Air Quality Management District's regional significance thresholds for Reactive Organic Gases (ROG), nitrogen oxides (NOx), coarse inhalable particulate matter (PM <sub>10</sub> ), and fine inhalable particulate matter (PM <sub>2.5</sub> ).	<p>Policies ES-4.2 and ES- 4.3 Strategy ES-4.1.3</p> <p>N/A</p>	<p>Policies ES-4.1, ES- 4.2, and ES-4.3 Strategies ES-4.1.1, ES-4.1.2, ES-4.1.3, ES- 4.2.1, ES- 4.2.2, ES- 4.2.23, ES- 4.2.4, ES- 4.2.5, ES- 4.3.1, and ES- 4.3.2</p> <p>N/A</p>	SU
<b>AIR-3:</b> Implementation of the proposed Modified Project could expose sensitive receptors to substantial pollutant concentrations.	<p>Policies LU-1.1, LU-3.1, LU- 20.2, LU-21.3, LU- 21.4, LU-24.2, M-1.3, M-3.6, M-4.4, ES- 4.2, and HS-6.2 Strategies LU-19.2.2, LU-27.1.1, M-5.1.1, and M-9.3.2</p> <p>General Plan EIR Mitigation Measures AQ-4a: Applicants for future non-residential land uses within the city that: 1) have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered TRUs, and 2) are within 1,000 feet of a sensitive land use (e.g. residential, schools, hospitals, nursing homes), as measured from the property line of the proposed Project to the property line of the nearest sensitive use, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment and the Bay Area Air Quality Management District. If the HRA shows that the incremental cancer risk exceeds ten in</p>	<p>Policies LU-1.1, LU-3.1, LU- 20.2, LU-21.3, LU- 21.4, LU- 24.2, M-1.3, M-3.6, M-4.4, ES- 4.2, and HS-6.2 Strategies LU-19.2.2, LU-27.1.1, M-5.1.1, M-9.3.2, and ES- 4.1.1</p> <p>General Plan EIR Mitigation Measure AQ-4a has been incorporated into CMC Section 17.04.040(A), <i>Standard Environmental Protection Requirements, Air Quality Technical Requirements</i>, therefore, compliance with the CMC is required to mitigate impacts.</p>	SU

N/A = Not Applicable; LTS = Less Than Significant; LTS/M = Less Than Significant with Mitigation; SU = Significant and Unavoidable

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**TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
	<p>one million (10E-06), PM<sub>2.5</sub> concentrations exceed 0.3 µg/m<sup>3</sup>, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that Best Available Control Technologies for Toxics (T-BACTs) are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms. T-BACTs may include but are not limited to:</p> <ul style="list-style-type: none"> <li>▪ Restricting idling on-site.</li> <li>▪ Electrifying warehousing docks.</li> <li>▪ Requiring use of newer equipment and/or vehicles.</li> <li>▪ Restricting offsite truck travel through the creation of truck routes.</li> </ul> <p>T-BACTs identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the proposed Project.</p>		
<b>AIR-4:</b> Implementation of the proposed Modified Project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.	<p>Policy ES- 4.2 Strategies LU- 27.1.1, ES- 4.2.1, ES- 4.2.2, ES- 4.2.3, ES-4.2.4, and ES-4.2.5 N/A</p>	<p>Policy ES- 4.2 Strategies LU- 27.1.1, ES- 4.2.1, ES- 4.2.2, ES- 4.2.3, ES- 4.2.4, and ES-4.2.5 N/A</p>	LTS
<b>AIR-5:</b> The emissions that could occur over the buildout horizon of the proposed Modified Project could generate a substantial increase in emissions that exceeds the Bay Area Air Quality Management District's significance thresholds and cumulatively contribute to the nonattainment designations and health risk in the San Francisco Bay Area Air Basin.	<p>Policies LU-1.1, LU-3.1, LU- 20.2, LU-21.3, LU- 21.4, LU-24.2, M-1.1, M-1.3, M-3.6, M-4.4, ES- 4.2, ES- 4.3and HS-6.2 Strategies LU-19.2.2, LU-27.1.1, M-5.1.1, M-9.3.2, ES- 4.1.3, ES- 4.2.1, ES- 4.2.2, ES- 4.2.3, ES-4.2.4, and ES- 4.2.5 Implement General Plan EIR Mitigation Measures AQ-2a, AQ-2b, and AQ-4a</p>	<p>Policies LU-1.1, LU-3.1, LU- 20.2, LU-21.3, LU- 21.4, LU- 24.2, M-1.1, M-1.3, M-3.6, M-4.4, ES-4.1, ES- 4.2, ES- 4.3and HS-6.2 Strategies LU-19.2.2, LU-27.1.1, M-5.1.1, M-9.3.2, ES- 4.1.1, ES-4.1.2, ES-4.1.3, ES- 4.2.1, ES-4.2.2, ES- 4.2.3, ES- 4.2.4, ES- 4.2.5, ES- 4.3.1, and ES-4.3.2 General Plan EIR Mitigation Measures AQ-2a and AQ-2b have been incorporated into CMC Section 17.04.050(A), <i>Standard Environmental Protection Requirements, Air Quality Permit Requirements</i>, and General Plan EIR Mitigation Measure AQ-4a has been incorporated into CMC Section 17.04.040(A), <i>Standard Environmental Protection Requirements, Air Quality Technical Requirements</i>, therefore, compliance with</p>	SU

N/A = Not Applicable; LTS = Less Than Significant; LTS/M = Less Than Significant with Mitigation; SU = Significant and Unavoidable

## EXECUTIVE SUMMARY

TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
the CMC is required to mitigate impacts.			
<b>BIOLOGICAL RESOURCES (BIO)</b>			
<b>BIO-1:</b> Implementation of the proposed Modified Project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plan, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.	<p>Policies ES-5.2, ES-5.3, ES-5.6, ES-7.1, and ES-7.8 Strategy ES-5.3.1</p> <p>General Plan EIR Mitigation Measures BIO-1: Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code. If construction activities and any required tree removal occur during the breeding season (February 1 and August 31), a qualified biologist shall be required to conduct surveys prior to tree removal or construction activities. Preconstruction surveys are not required for tree removal or construction activities outside the nesting period. If construction would occur during the nesting season (February 1 to August 31), preconstruction surveys shall be conducted no more than 14 days prior to the start of tree removal or construction. Preconstruction surveys shall be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped. Locations of active nests containing viable eggs or young birds shall be documented and protective measures implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds. Protective measures shall include 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 a qualified 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</p>	<p>Policies LU-3.5, ES-5.2, ES-5.3, ES-5.6, ES-7.1, and ES-7.8 Strategies LU-3.6.2, LU-12.4.2, and ES-5.3.1</p> <p>General Plan EIR Mitigation Measure BIO-1 has been incorporated into CMC Section 17.04050(D), <i>Standard Environmental Protection Requirements, Biological Resources Permit Requirements</i>, therefore, compliance with the CMC is required to mitigate impacts.</p>	LTS

N/A = Not Applicable; LTS = Less Than Significant; LTS/M = Less Than Significant with Mitigation; SU = Significant and Unavoidable

## EXECUTIVE SUMMARY

**TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
	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 biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with California Department of Fish and Wildlife. The protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.		
<b>BIO-2:</b> Implementation of the proposed Modified Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.	N/A N/A	N/A N/A	NI
<b>BIO-3:</b> Implementation of the proposed Modified Project would not have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.	N/A N/A	N/A N/A	LTS
<b>BIO-4:</b> Implementation of the proposed Modified Project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	Strategy ES-5.3.1 N/A	Strategy ES-5.3.1 N/A	LTS
<b>BIO-5:</b> Implementation of the proposed Modified Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	Policies ES-5.2, ES-5.3, ES-5.6, ES-7.1, and ES-7.8 Strategy ES-5.3.1 N/A	Policies LU-3.5, ES-5.2, ES-5.3, ES-5.6, ES-7.1, and ES-7.8 Strategies LU-3.6.2, LU-12.4.2, and ES-5.3.1 N/A	LTS

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**EXECUTIVE SUMMARY****TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
<b>BIO-6:</b> Implementation of the proposed Modified Project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan	N/A N/A	N/A N/A	NI
<b>BIO-7:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to biological resources.	Policies ES-5.2, ES-5.3, ES-5.6, ES-7.1, and ES-7.8 Strategy ES-5.3.1  Implement General Plan EIR Mitigation Measure BIO-1	Policies LU-3.5, ES-5.2, ES-5.3, ES-5.6, ES-7.1, and ES-7.8 Strategies LU-3.6.2, LU-12.4.2, and ES-5.3.1  General Plan EIR Mitigation Measure BIO-1 has been incorporated into CMC Section 17.04050(D), <i>Standard Environmental Protection Requirements, Biological Resources Permit Requirements</i> , therefore, compliance with the CMC is required to mitigate impacts.	LTS
<b>CULTURAL AND TRIBAL CULTURAL RESOURCES (CUL)</b>			
<b>CUL-1:</b> Implementation of the proposed Modified Project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.	Policies LU-6.1, LU-6.2, LU-6.3, LU-6.4, LU-6.5, and LU-6.6 N/A	Policies LU-6.1, LU-6.2, LU-6.3, LU-6.4, LU-6.5, and LU-6.6 N/A	LTS
<b>CUL-2:</b> Implementation of the proposed Modified Project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5.	N/A N/A	N/A N/A	LTS
<b>CUL-3:</b> Implementation of the proposed Modified Project would not disturb any human remains, including those interred outside of dedicated cemeteries?.	N/A N/A	N/A N/A	LTS
<b>CUL-4:</b> Implementation of the proposed Modified Project would not cause a substantial adverse change in the significance of a Tribal Cultural Resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is: (i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical	N/A N/A	N/A N/A	LTS

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Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
resources as defined in Public Resources Code Section 5020.1(k), or (ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in Public Resources Code Section 5024.1(c). In applying the criteria set forth in Public Resources Code Section 5024.1(c) for the purposes of this paragraph, the lead agency shall consider the significance to a California Native American tribe.			
<b>CUL-5:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to cultural and tribal cultural resources.	Policies LU-6.1, LU-6.2, LU-6.3, LU-6.4, LU-6.5, and LU-6.6 N/A	Policies LU-6.1, LU-6.2, LU-6.3, LU-6.4, LU-6.5, and LU-6.6 N/A	LTS
<b>ENERGY (ENE)</b>			
<b>ENE-1:</b> Implementation of the proposed Modified Project would not result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation.	N/A	Policies HE-4.1, LU-1.1, LU-3.1, M-1.1, M-3.1, M-4.8, M-8.1, M-8.3, M-9.2, ES-1.1, ES-1.2, ES-3.1, INF-6.1, INF-6.2, and INF-6.3 Strategies HE- 1.3.5, HE- 2.3.12, HE-4.1.1, HE-4.1.2, HE-4.1.3, M-8.1.3 ES- 1.1.1, ES-2.1.1, ES-2.1.2, ES-2.1.3, ES-2.1.4, ES- 2.1.6, ES-2.1.7, ES-2.1.8, ES-2.1.9, ES-2.1.10, ES-3.1.1, ES-3.1.2, ES-3.1.3, ES-3.1.4, ES-4.2.2, INF-6.2.1, INF-6.2.2., INF-6.2.4, INF-6.2.5, and INF-6.3.1 N/A	LTS
<b>ENE-2:</b> Implementation of the proposed Modified Project would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency?.	N/A N/A	N/A N/A	LTS
<b>ENE-3:</b> Implementation of the proposed Modified Project would not result in a substantial increase in natural gas and electrical service demands, and would not require new energy supply facilities and distribution infrastructure or capacity enhancing alterations to existing facilities.	N/A N/A	N/A N/A	LTS

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Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
<b>ENE-4:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to energy resources.	N/A	Policies HE-4.1, LU-1.1, LU-3.1, M-1.1, M-3.1, M-4.8, M-8.1, M-8.3, M-9.2, ES-1.1, ES-1.2, ES-3.1, INF-6.1, INF-6.2, and INF-6.3 Strategies HE- 1.3.5, HE- 2.3.12, HE-4.1.1, HE-4.1.2, HE-4.1.3, M-8.1.3 ES- 1.1.1, ES-2.1.1, ES-2.12, ES-2.1.3, ES-2.1.4, ES- 2.1.6, ES-2.1.7, ES-2.1.8, ES-2.1.9, ES-2.1.10, ES-3.1.1, ES-3.1.2, ES-3.1.3, ES-3.1.4, ES-4.2.2, INF-6.2.1, INF-6.2.2., INF-6.2.4, INF-6.2.5, and INF-6.3.1	LTS
	N/A	N/A	
<b>GEOLOGY AND SOILS (GEO)</b>			
<b>GEO-1:</b> Implementation of the proposed Modified Project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury or death involving: i) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. ii) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway. iii) Seismic-related ground failure, including liquefaction. iv) Landslides, mudslides, or other similar hazards.	Policies HS-5.1 and HS-5.2 Strategies HS-1.1.1, HS-1.1.2, HS-5.1.1, HS-5.1.2, HS-5.1.3, HS-5.2.1, HS-5.2.2, HS-5.2.3, HS-5.2.4, and HS-5.2.5	Policies HS-5.1 and HS-5.2 Strategies HS-1.1.1, HS-1.1.2, HS-5.1.1, HS-5.1.2, HS-5.1.3, HS-5.2.1, HS-5.2.2, HS-5.2.3, HS-5.2.4, and HS-5.2.5	LTS
	N/A	N/A	
<b>GEO-2:</b> Implementation of the proposed Modified Project would not result in substantial soil erosion or the loss of topsoil.	Policies ES-5.3, ES-7.2, and ES-7.5 Strategy ES-7.2.3,	Policies ES-5.3, ES-7.2, and ES-7.5 Strategies LU-12.3.1 and ES-7.2.3	LTS
		N/A	
<b>GEO-3:</b> Implementation of the proposed Modified Project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.	N/A N/A	N/A N/A	LTS

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<b>GEO-4:</b> Implementation of the proposed Modified Project would not be located on expansive soil, as defined by Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property.	Policies HS-1.1, HS-5.1, and HS-5.2 N/A	Policies HS-1.1, HS-5.1, and HS-5.2 N/A	LTS
<b>GEO-5:</b> Implementation of the proposed Modified Project would not have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater.	N/A N/A	N/A N/A	NI
<b>GEO-6:</b> Implementation of the proposed Modified Project would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	N/A N/A	N/A N/A	LTS
<b>GEO-7:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact to geology and soils.	Policies ES-5.3, ES-7.2, ES-7.5, HS-1.1, HS-5.1 and HS-5.2 Strategies LU-12.3.1, ES-7.2.3, HS-1.1.1, HS-1.1.2, HS-5.1.1, HS-5.1.2, HS-5.1.3, HS-5.2.1, HS-5.2.2, HS-5.2.3, HS-5.2.4, and HS-5.2.5 N/A	Policies ES-5.3, ES-7.2, ES-7.5, HS-1.1, HS-5.1 and HS-5.2 Strategies LU-12.3.1, ES-7.2.3, HS-1.1.1, HS-1.1.2, HS-5.1.1, HS-5.1.2, HS-5.1.3, HS-5.2.1, HS-5.2.2, HS-5.2.3, HS-5.2.4, and HS-5.2.5 N/A	LTS
<b>GREENHOUSE GAS EMISSIONS (GHG)</b>			
<b>GHG-1:</b> Implementation of the proposed Modified Project would exceed the net zero greenhouse gas emission threshold under Executive Order B-55-18.	Policies LU-1.1, LU-3.1, LU-13.5, LU-13.6, HE-1.3, M-1.1, M-3.1, M-3.8, M-8.3, M-8.6, M-9.2, ES-1.1, ES-1.2, ES-2.1, ES-3.1, and INF-2.5 Strategies HE-4.1.1, HE-4.1.2, ES-1.1.1, ES-1.1.2, ES-1.1.3, ES-1.2.1, ES-2.1.1, ES-2.1.1, ES-2.1.3, ES-2.1.4, ES-2.1.6, ES-2.1.8, ES-2.1.9, ES-2.1.10, ES-3.1.1, ES-3.1.2, ES-3.1.3, ES-3.1.4, ES-4.2.4, and INF-2.5.1 N/A	Policies LU-1.1, LU-3.1, LU-13.5, LU-13.6, HE-1.3, M-1.1, M-3.1, M-3.8, M-4.8, M-8.1, M-8.3, M-9.2, ES-1.1, ES-1.2, ES-2.1, ES-3.1, and INF-2.5 Strategies HE-4.1.1, HE-4.1.2, M-8.1.1, M-8.1.2, M-8.1.3, ES-1.1.1, ES-1.1.2, ES-1.1.3, ES-1.2.1, ES-2.1.1, ES-2.1.1, ES-2.1.2, ES-2.1.3, ES-2.1.4, ES-2.1.5, ES-2.1.6, ES-2.1.7, ES-2.1.8, ES-2.1.9, ES-2.1.10, ES-3.1.1, ES-3.1.2, ES-3.1.3, ES-3.1.4, ES-4.2.4, and INF-2.5.1 N/A	SU

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<b>GHG-2:</b> The proposed Modified Project would not meet California Green Building Standards Code nonresidential voluntary Tier 2 electric vehicle parking standards and would exceed the City of Cupertino's vehicle miles traveled reduction threshold, and therefore be inconsistent with the California Air Resources Board Scoping Plan.	Policies LU-1.1, LU-3.1, LU-13.5, LU-13.6, HE-1.3, HE-4.1, M-1.1, M-3.1, M-3.8, M-8.3, M-8.6, ES-1.1, ES-1.2, ES-2.1, ES-3.1, and INF-2.5 Strategies HE-4.1.1, HE-4.1.2, ES-1.1.1, ES-1.1.2, ES-1.1.3, ES-1.2.1, ES-2.1.2, ES-2.1.3, ES-2.1.4, ES-2.1.6, ES-2.1.7, ES-2.1.8, ES-2.1.9, ES-2.1.10, ES-3.1.1, ES-3.1.2, ES-3.1.3, ES-3.1.4, ES-4.2.4, and INF-2.5.1	Policies LU-1.1, LU-3.1, LU-13.5, LU-13.6, HE-1.3, HE-4.1, M-1.1, M-3.1, M-3.8, M-8.1, M-8.3, ES-1.1, ES-1.2, ES-2.1, ES-3.1, and INF-2.5 Strategies HE-4.1.1, HE-4.1.2, M-8.1.1, M-8.1.2, M-8.1.3, ES-1.1.1, ES-1.1.2, ES-1.1.3, ES-1.2.1, ES-2.1.1, ES-2.1.1, ES-2.1.2, ES-2.1.3, ES-2.1.4, ES-2.1.5, ES-2.1.6, ES-2.1.7, ES-2.1.8, ES-2.1.9, ES-2.1.10, ES-3.1.1, ES-3.1.2, ES-3.1.3, ES-3.1.4, ES-4.2.4, and INF-2.5.1	SU
	N/A	EA Mitigation Measure GHG-2: Future development projects in the City of Cupertino shall comply with the voluntary Tier 2 electric vehicle charging standards under the California Green Building Standards Code (CALGreen) version that is applicable at the time of permit applications and shall illustrate compliance with Tier 2 CALGreen electric vehicle charging standards on the site plans submitted to the City of Cupertino Planning Department. Additionally, the City of Cupertino shall amend the Chapter 17.04, <i>Standard Environmental Protection Requirements</i> , of the Cupertino Municipal Code (CMC) to require that new parking amenities included in individual development projects install electric vehicle spaces in compliance with the voluntary Tier 2 standards under the CALGreen version that is applicable at the time of permit applications. The amended CMC shall require that all site plans submitted to the City of Cupertino Planning Department shall illustrate compliance with Tier 2 CALGreen electric vehicle charging standards.	
<b>GHG-3:</b> The proposed Modified Project would result in vehicle miles traveled that would exceed the City of Cupertino's reduction target, and therefore conflict with the California Air Resources Board Scoping Plan and Executive Order B-55-18.	N/A	N/A	SU
	N/A	Implement EA Mitigation Measure GHG-2.	

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<b>HAZARDS AND HAZARDOUS MATERIALS (HAZ)</b>			
<b>HAZ-1:</b> Implementation of the proposed Modified Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	Policies HS-6.1, HS-6.2, HS-6.4, and HS-6.5 N/A	Policies HS-6.1, HS-6.2, HS-6.4, and HS-6.5 N/A	LTS
<b>HAZ-2:</b> Implementation of the proposed Modified Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	N/A N/A	N/A N/A	LTS
<b>HAZ-3:</b> Implementation of the proposed Modified Project would not emit hazardous emissions or handle hazardous materials, substances, or waste within 0.25 miles of an existing or proposed school.	N/A Implement General Plan EIR Mitigation Measure HAZ-4a and HAZ-4b.	N/A General Plan EIR Mitigation Measures HAZ-4a and Haz-4b have been incorporated into CMC Section 17.04.040(B), <i>Standard Environmental Protection Requirements, Hazardous Materials</i> and in CMC Section 17.04.050(B), <i>Standard Environmental Protection Requirements, Hazardous Materials Permit Requirements</i> , therefore, compliance with the CMC is required to mitigate impacts.	LTS
<b>HAZ-4:</b> Implementation of the proposed Modified Project would not be located on a site that is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment.	Policies HS-6.1, HS-6.2, HS-6.4, and HS-6.5 General Plan EIR Mitigation Measure HAZ-4a: Construction at the sites with known contamination shall be conducted under a project-specific Environmental Site Management Plan (ESMP) that is prepared in consultation with the Regional Water Quality Control Board (RWQCB). The purpose of the ESMP is to protect construction workers, the general public, the environment, and future site occupants from subsurface hazardous materials previously identified at the site and to address the possibility of encountering unknown contamination or hazards in the subsurface. The ESMP shall summarize soil and groundwater analytical data collected on the project site during past investigations; identify management options for excavated soil and groundwater, if	Policies HS-6.1, HS-6.2, HS-6.4, and HS-6.5 General Plan EIR Mitigation Measures HAZ-4a and Haz-4b have been incorporated into CMC Section 17.04.040(B), <i>Standard Environmental Protection Requirements, Hazardous Materials</i> and in CMC Section 17.04.050(B), <i>Standard Environmental Protection Requirements, Hazardous Materials Permit Requirements</i> , therefore, compliance with the CMC is required to mitigate impacts.	LTS

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	<p>contaminated media are encountered during deep excavations; and identify monitoring, irrigation, or other wells requiring proper abandonment in compliance with local, State, and federal laws, policies, and regulations.</p> <p>The ESMP shall include measures for identifying, testing, and managing soil and groundwater suspected of or known to contain hazardous materials. The ESMP shall: 1) provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively; 2) describe required worker health and safety provisions for all workers potentially exposed to hazardous materials in accordance with State and federal worker safety regulations; and 3) designate personnel responsible for implementation of the ESMP.</p> <p>General Plan EIR Mitigation Measure HAZ-4b: For those sites with potential residual contamination in soil, gas, or groundwater that are planned for redevelopment with an overlying occupied building, a vapor intrusion assessment shall be performed by a licensed environmental professional. If the results of the vapor intrusion assessment indicate the potential for significant vapor intrusion into an occupied building, project design shall include vapor controls or source removal, as appropriate, in accordance with regulatory agency requirements. Soil vapor mitigations or controls could include passive venting, and/or active venting. The vapor intrusion assessment and associated vapor controls or source removal can be incorporated into the ESMP (Mitigation Measure HAZ-4a).</p>		

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<b>HAZ-5:</b> Implementation of the proposed Modified Project would not, for a project within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area.	N/A N/A	N/A N/A	NI
<b>HAZ-6:</b> Implementation of the proposed Modified Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.	Policies HS-2.1, HS-2.4, HS-3.3, HS-3.4, HS-7.1, and HS-7.2 Strategies HS-1.1.1, HS-2.2.1, HS-3.3.1, HS-3.3.3, and HS-3.3.4 N/A	Policies HS-2.1, HS-2.4, HS-3.3, HS-3.4, HS-7.1, and HS-7.2 Strategies HS-1.1.1, HS-2.2.1, HS-3.3.1, HS-3.3.3, and HS-3.3.4 N/A	LTS
<b>HAZ-7:</b> Implementation of the proposed Modified Project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.	Policies HS-3.1, HS-3.2, and HS-3.5 N/A	Policies HS-3.1, HS-3.2, and HS-3.5 N/A	LTS
<b>HAZ-8:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to hazards and hazardous materials.	Policies HS-2.1, HS-2.4, HS-3.1, HS-3.2, HS-3.3, HS-3.4, HS-3.5, HS-6.1, HS-6.2, HS-6.4, HS-6.5, HS-7.1, and HS-7.2 Strategies HS-1.1.1, HS-2.2.1, HS-3.3.1, HS-3.3.3, and HS-3.3.4 Implement General Plan Mitigation Measures HAZ-4a and HAZ-4b.	Policies HS-2.1, HS-2.4, HS-3.1, HS-3.2, HS-3.3, HS-3.4, HS-3.5, HS-6.1, HS-6.2, HS-6.4, HS-6.5, HS-7.1, and HS-7.2 Strategies HS-1.1.1, HS-2.2.1, HS-3.3.1, HS-3.3.3, and HS-3.3.4 General Plan EIR Mitigation Measures HAZ-4a and Haz-4b have been incorporated into CMC Section 17.04.040(B), <i>Standard Environmental Protection Requirements, Hazardous Materials</i> and in CMC Section 17.04.050(B), <i>Standard Environmental Protection Requirements, Hazardous Materials Permit Requirements</i> , therefore, compliance with the CMC is required to mitigate impacts.	LTS
<b>HYDROLOGY AND WATER QUALITY (HYD)</b>			
<b>HYD-1:</b> Implementation of the proposed Modified Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality.	Policies ES-7.1, ES-7.2, ES-7.3, and ES-7.5 Strategies ES-5.3.1, ES-7.2.2, ES-7.3.2, and ES-7.4.1 N/A	Policies ES-5.1, ES-5.2, ES-5.3, ES-7.1, ES-7.2, ES-7.3, ES-7.4, ES-7.5, ES-7.6, and ES-7.8 Strategies ES-5.1.1, ES-5.1.2, ES-5.2.1, ES-5.3.2, ES-5.6.1, ES-7.1.1, ES-7.2.1, ES-7.2.2, ES-7.2.3, ES-7.3.1, ES-7.3.2, ES-7.4.1, ES-7.4.2, ES-7.4.3, and ES-7.8.1 N/A	LTS

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**EXECUTIVE SUMMARY****TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
<b>HYD-2:</b> Implementation of the proposed Modified Project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.	N/A	Policies ES-7.5 and ES-7.8 Strategy ES-7.2.3	LTS
	N/A	N/A	
<b>HYD-3:</b> Implementation of the proposed Modified Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: i) Result in substantial erosion or siltation on- or off-site; ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or iv) Impede or redirect flood flows	Policies INF-1.2 and INF-4.1 Strategy INF-1.1.3	Policies INF-1.1, INF-1.2, INF-1.3, INF-1.4, INF-4.1, and INF-4.2 Strategies INF-1.1.1, INF-1.1.2, INF-1.1.3, INF-1.4.1, INF-1.4.2, INF-1.4.3, INF-4.1.1, INF-4.1.2, INF-4.1.3, and INF-4.2.1	LTS
	N/A	N/A	
<b>HYD-4:</b> Implementation of the proposed Modified Project would not, in a flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation.	Policies HS-1.1, HS-1.2, and HS-7.2 Strategies HS-1.1.3, HS-1.2.1, HS-1.2.2, and HS-7.2.2	Policies HS-1.1, HS-1.2, HS-7.1, HS-7.2, HS-7.3, and HS-7.4 Strategies HS-1.1.1, HS-1.1.2, HS-1.1.3, HS-1.2.1, HS-1.2.2, HS-7.2.1, HS-7.2.2, HS-7.4.1, HS-7.4.2, HS-7.4.3	LTS
	N/A	N/A	
<b>HYD-5:</b> Implementation of the proposed Modified Project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.	N/A	N/A	LTS
	N/A	N/A	
<b>HYD-6:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to hydrology and water quality.	N/A	N/A	LTS
	N/A	N/A	

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## EXECUTIVE SUMMARY

**TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
<b>LAND USE AND PLANNING (LU)</b>			
<b>LU-1:</b> Implementation of the proposed Modified Project would not physically divide an established community.	Policies LU-23.1, LU-25.1, LU-25.2, LU-27.1, LU-27.7, M-2.2, M-3.2, HS-8.5, and RPC-2.4 Strategies LU-1.3.2, LU-3.3.8, LU-8.3.3, LU-27.1.1, LU-27.1.3, M-3.5.1, and M-3.5.2 N/A	Policies LU-4.1, LU-13.1, LU-23.1, LU-25.1, LU-25.2, LU-27.1, LU-27.7, M-2.2, M-3.2, HS-8.5, and RPC-2.4 Strategies LU-1.3.2, LU-3.3.8, LU-8.3.3, LU-27.1.1, LU-27.1.3, M-3.5.1, and M-3.5.2 N/A	LTS
<b>LU-2:</b> Implementation of the proposed Modified Project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.	Policies LU-1.6 and ES-1.2 N/A	Policies LU-1.6 and ES-1.2 N/A	LTS
<b>LU-3:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to land use and planning.	N/A N/A	N/A N/A	LTS
<b>NOISE (NOI)</b>			
<b>NOI-1:</b> Implementation of the proposed Modified Project would not generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or in other applicable local, state, or federal standard.	Policies LU-27.8, HS-8.1, HS-8.3, HS-8.4, HS-8.5, HS-8.6, and HS-8.7 Strategies HS-8.2.2, HS-8.2.3, and HS-8.6.1 N/A	Policies LU-27.8, HS-8.1, HS-8.3, HS-8.4, HS-8.5, HS-8.6, and HS-8.7 Strategies HS-8.2.2, HS-8.2.3, and HS-8.6.1 N/A	LTS
<b>NOI-2:</b> Generate excessive groundborne vibration or groundborne noise levels?	N/A N/A	Policies LU-27.8 and HS-8.1 N/A	LTS
<b>NOI-3:</b> Implementation of the proposed Modified Project would not for a project located within the vicinity of a private airstrip or an airport land use plan, or where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels.	N/A N/A	N/A N/A	NI
<b>NOI-4:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to noise.	N/A N/A	N/A N/A	LTS

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<b>POPULATION AND HOUSING (POP)</b>			
<b>POP-1:</b> Implementation of the proposed Modified Project would not induce substantial unplanned population growth or growth for which inadequate planning has occurred, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure.	Policies LU-1.6, LU-5.3, LU-18.2, LU-23.1, LU-25.1, LU-27.1, LU-27.2, LU-27.6, HE-1.1, HE-1.2, HE-1.3, HE-2.1, HE-2.2, HE-2.3, HE-3.1, HE-3.2, HE-3.3, HE-4.1, HE-6.1, M-2.2, M-2.4, M-9.1, M-9.3, ES-1.2, INF-2.4, and RPC-2.4 Strategies LU-1.4.2, LU-3.3.8, LU-9.1.3, LU-13.7.3, LU-27.1.1, LU-27.1.4, LU-27.6.1, HE-1.3.2, ES-1.2.1, INF-1.1.2, and INF-1.4.2 N/A	Policies LU-1.6, LU-5.3, LU-18.2, LU-23.1, LU-25.1, LU-27.1, LU-27.2, LU-27.6, HE-1.1, HE-1.2, HE-1.3, HE-2.1, HE-2.2, HE-2.3, HE-3.1, HE-3.2, HE-3.3, HE-4.1, HE-6.1, M-2.2, M-2.4, M-9.1, M-9.3, ES-1.2, INF-2.4, and RPC-2.4 Strategies LU-1.3.2, LU-3.3.8, LU-9.1.3, LU-13.7.3, LU-27.1.1, LU-27.1.4, LU-27.6.1, HE-1.3.2, ES-1.2.1, INF-1.1.2, and INF-1.4.2 N/A	LTS
<b>POP-2:</b> Implementation of the proposed Modified Project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere.	N/A N/A	N/A N/A	LTS
<b>POP-3:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to population and housing.	N/A N/A	N/A N/A	LTS
<b>PUBLIC SERVICES AND RECREATION (PS)</b>			
<b>PS-1:</b> Implementation of the proposed Modified Project would not result in the need for new or physically altered fire protection and emergency medical facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives.	Policies HS-3.1, HS-3.2, HS-3.3, HS-3.5, HS-3.6, HS-3.7, and HS-38 Strategies HS-3.3.3 and HS-3.3.4 N/A	Policies HS-3.1, HS-3.2, HS-3.3, HS-3.5, HS-3.6, HS-3.7, and HS-38 Strategies HS-3.3.3 and HS-3.3.4 N/A	LTS
<b>PS-2:</b> Implementation of the proposed Modified Project would not result in significant cumulative impacts with respect to fire protection services.?	Policies HS-3.1, HS-3.2, HS-3.3, HS-3.5, HS-3.6, HS-3.7, and HS-38 Strategies HS-3.3.3 and HS-3.3.4 N/A	Policies HS-3.1, HS-3.2, HS-3.3, HS-3.5, HS-3.6, HS-3.7, and HS-38 Strategies HS-3.3.3 and HS-3.3.4 N/A	LTS
<b>PS-3:</b> Implementation of the proposed Modified Project would not result in the need for new or physically altered police protection facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives.	Policies HS-4.1, HS-4.2, and HS-4.2 Strategy 4.2.2 N/A	Policies HS-4.1, HS-4.2, and HS-4.2 Strategy 4.2.2 N/A	LTS

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**TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
<b>PS-4:</b> Implementation of the proposed Modified Project would not result in significant cumulative impacts with respect to police protection services.	Policies HS-4.1, HS-4.2, and HS-4.2 Strategy 4.2.2 N/A	Policies HS-4.1, HS-4.2, and HS-4.2 Strategy 4.2.2 N/A	LTS
<b>PS-5:</b> Implementation of the proposed Modified Project would not result in the need for new or physically altered public school facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios or other performance objectives.	Policies HE-7.1, LU-1.6, LU-11.1, and RPC-8.1 Strategies HE-7.3.2, RPC-8.1.1, and RPC-8.1.2 N/A	Policies HE-7.1, LU-1.6, LU-11.1, and RPC-8.1 Strategies HE-7.3.2, RPC-8.1.1, and RPC-8.1.2 N/A	LTS
<b>PS-6:</b> Implementation of the proposed Modified Project would not result in significant cumulatively considerable impact with respect to public school services.	Policies HE-7.1, LU-1.6, LU-11.1, and RPC-8.1 Strategies HE-7.3.2, RPC-8.1.1, and RPC-8.1.2 N/A	Policies HE-7.1, LU-1.6, LU-11.1, and RPC-8.1 Strategies HE-7.3.2, RPC-8.1.1, and RPC-8.1.2 N/A	LTS
<b>PS-7:</b> Implementation of the proposed Modified Project would not result in the need for new or physically altered public libraries, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios or other performance objectives.	Policies RPC-6.1 and RPC-6.4 Strategy RPC-1.1.2 N/A	Policies RPC-6.1 and RPC-6.4 Strategy RPC-1.1.2 N/A	LTS
<b>PS-8:</b> Implementation of the proposed Modified Project would not result in significant cumulative impacts with respect to the construction of other public libraries.	Policies RPC-6.1 and RPC-6.4 Strategy RPC-1.1.2 N/A	Policies RPC-6.1 and RPC-6.4 Strategy RPC-1.1.2 N/A	LTS
<b>PS-9:</b> Implementation of the proposed Modified Project would not result in the need for new or physically altered park facilities or other recreational facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, or other performance objectives.	Policies RPC-1.2 and RPC-2.4 Strategy HE-3.3.5 N/A	Policies RPC-1.2 and RPC-2.4 Strategy HE-2.3.9 and HE-3.3.5 N/A	LTS
<b>PS-10:</b> Implementation of the proposed Modified Project would not increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur, or be accelerated.	Policies LU-7.1, RPC-1.1, and RPC-5.1 Strategies RPC-1.1.1, and RPC-2.5.1 N/A	Policies LU-7.1, RPC-1.1, and RPC-5.1 Strategies RPC-1.1.1 and RPC-2.5.1 N/A	LTS

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<b>PS-11:</b> Implementation of the proposed Modified Project would not result in significant cumulative impacts with respect to parks.	Policies LU-7.1, RPC-1.1, RPC-1.2, RPC-2.4, and RPC-5.1 Strategies HE-3.3.5, RPC-1.1.1, and RPC-2.5.1	Policies LU-7.1, RPC-1.1, RPC-1.2, RPC-2.4, and RPC-5.1 Strategies HE-3.3.5, RPC-1.1.1, and RPC-2.5.1	LTS
	N/A	N/A	
<b>TRANSPORTATION (TRANS)</b>			
<b>TRANS-1:</b> Implementation of the proposed Modified Project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.	Policies LU-1.1, LU-3.1, LU-13.1, LU-20.2, LU-21.3, LU-21.4, LU-24.2, M-1.1, M-1.2, M-1.3, M-1.4, M-3.1, M-3.6, M-4.4, M-7.1, M-8.1, and M-9.2 Strategies LU-8.3.3, LU-12.5.1, LU-13.7.4, LU-19.2.2, LU-25.4.2, M-5.1.1, M-9.3.2, and ES-2.1.9	Policies LU-1.1, LU-3.1, LU-13.1, LU-20.2, LU-21.3, LU-21.4, LU-24.2, M-1.1, M-1.3, M-3.1, M-3.2, M-3.3, M3-4, M-3.5, M-3.6, M3.7, M-3.8, M-4.1, M-4.2, M-4.3, M-4.4, M-4.5, M-4.6, M-4.7, M-4.8, M-5.1, M-7.1, M-8.1, M-8.2, M-9.2, M-10.1, M-10.3, and ES-1.2. Strategies LU-8.3.3, LU-12.5.1, LU-13.7.4, LU-19.2.2, LU-25.4.2, M-5.1.1, M-8.1.1, M-8.1.2, M-8.1.3, M-8.2.1, M-8.2.2, M-8.2.3, M-8.2.4, M-9.3.2, ES-1.2.1, and ES-2.1.9	LTS
	General Plan EIR Mitigation Measure TRAF-1 was required for impacts related to level of service (LOS), which is no longer a threshold under CEQA.	N/A	
<b>TRANS-2:</b> Implementation of the proposed Modified Project would exceed the adopted Cupertino vehicle miles traveled (VMT) threshold per service population of 31.30 VMT by 3.5 VMT per service population, due to forecasted growth through 2040.	N/A	Policies M-8.1, M-8.2, and M-8.3 Strategies M-8.1.1, M-8.1.2, M-8.1.3, M-8.2.1, M-8.2.2, M-8.2.3, and M-8.2.4	SU
	N/A	N/A	
<b>TRANS-3:</b> Implementation of the proposed Modified Project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).	Policies LU-20.2, LU-21.3, LU-21.4, LU-24.2, M-2.2, M-3.5, M-3.6, M-7.2, and HS-3.2 Strategies HS-3.3.3 and HS-8.7.2	Policies LU-20.2, LU-21.3, LU-21.4, LU-24.2, M-2.2, M-3.5, M-3.6, M-7.2, and HS-3.2 Strategies HS-3.3.3 and HS-8.7.2	LTS
	N/A	N/A	
<b>TRANS-4:</b> Implementation of the proposed Modified Project would not result in inadequate emergency access.	Policies HS-2.2, HS-2.4, HS-3.2, HS-3.3, HS-3.4, HS-3.5, HS-3.6, and HS-7.1 Strategies HS-3.3.2 and HS-3.3.3	Policies HS-2.2, HS-2.4, HS-3.2, HS-3.3, HS-3.4, HS-3.5, HS-3.6, and HS-7.1 Strategies HS-3.3.2 and HS-3.3.3	LTS
	N/A	N/A	
<b>TRANS-5:</b> Implementation of the proposed Modified Project would cumulatively contribute to regional vehicle miles traveled.	Policies LU-1.1, LU-3.1, LU-13.1, LU-20.2, LU-21.3, LU-21.4, LU-24.2, M-1.1, M-1.2, M-1.3, M-1.4, M-3.1, M-3.6, M-4.4, M-7.1, M-8.1, M-9.2, HS-2.2, HS-2.4, HS-3.2, HS-3.3, HS-3.4, HS-3.5, HS-3.6, and HS-7.1	Policies LU-1.1, LU-3.1, LU-13.1, LU-20.2, LU-21.3, LU-21.4, LU-24.2, M-1.1, M-1.3, M-1.4, M-3.1, M-3.6, M-4.4, M-4.8, M-7.1, M-8.1, M-8.2, M-9.2, ES-1.2, HS-2.2, HS-2.4, HS-3.2, HS-3.3, HS-3.4, HS-3.5, HS-3.6, and HS-	SU

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	Strategies LU-8.3.3, LU-12.5.1, LU-13.7.4, LU-19.2.2, LU-25.4.2, M-5.1.1, M-9.3.2, HS-3.3.2, HS-3.3.3, HS-8.7.2, and ES-2.1.9	7.1 Strategies LU-8.3.3, LU-12.5.1, LU-13.7.4, LU-19.2.2, LU-25.4.2, M-5.1.1, M-8.1.1, M-8.1.2, M-8.1.3, M-8.2.1, M-8.2.2, M-8.2.3, M-8.2.4 M-9.3.2, HS-3.3.2, HS-3.3.3, HS-8.7.2, ES-1.2.1, and ES-2.1.9	
	General Plan EIR Mitigation Measure TRAF-1 was required for impacts related to level of service (LOS), which is no longer a threshold under CEQA.	N/A	
<b>UTILITIES AND SERVICE SYSTEMS (UTIL)</b>			
<b>UTIL-1:</b> Implementation of the proposed Modified Project would have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years.	Policies ES-1.1 and ES-7.9 Strategy ES-7.9.1	Policies ES-1.1, ES-3.1, ES-7.6, ES-7.9, ES-7.10, ES-7.11, INF-1.1, INF-1.2, INF-1.3, INF-1.4, INF-2.5, INF-3.1, and INF-3.2 Strategies ES-1.1.1, ES-1.1.3, ES-3.1.1, ES 3.1.2, ES-3.1.3, ES-3.1.4, ES-7.8.1, ES-7.9.1, ES-7.10.1, ES-7.10.2, ES-7.11.1, ES-7.11.2, ES-7.11.3, ES-7.11.4, ES-7.11.5, ES-7.11.6, ES-7.11.7, INF-1.1.1, INF-1.1.2, INF-1.1.3, INF-1.4.1, INF-1.4.2, INF-1.4.3, INF-2.5.1, INF-2.5.2, INF-2.5.3, and INF-3.1.1	LTS
	N/A	N/A	
<b>UTIL-2:</b> Implementation of the proposed Modified Project would not require or result in the construction of new water facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.	Policies ES-1.1 and ES-7.9 Strategy ES-7.9.1	Policies ES-1.1, ES-3.1, ES-7.6, ES-7.9, ES-7.10, ES-7.11, INF-1.1, INF-1.2, INF-1.3, INF-1.4, INF-2.5, INF-3.1, and INF-3.2 Strategies ES-1.1.1, ES-1.1.3, ES-3.1.1, ES 3.1.2, ES-3.1.3, ES-3.1.4, ES-7.8.1, ES-7.9.1, ES-7.10.1, ES-7.10.2, ES-7.11.1, ES-7.11.2, ES-7.11.3, ES-7.11.4, ES-7.11.5, ES-7.11.6, ES-7.11.7, INF-1.1.1, INF-1.1.2, INF-1.1.3, INF-1.4.1, INF-1.4.2, INF-1.4.3, INF-2.5.1, INF-2.5.2, INF-2.5.3, and INF-3.1.1	LTS
	N/A	N/A	
<b>UTIL-3:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to water services.	N/A N/A	N/A N/A	LTS
<b>UTIL-4:</b> Implementation of the proposed Modified Project would not require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which would	Policy ES-7.7 Strategy INF-5.1.2	Policies ES-7.7, INF-1.1, INF-1.2, INF-1.3, INF-1.4, INF-5.1, and INF-5.2 Strategies INF-1.1.1, INF-1.1.2, INF-1.1.3, INF-1.4.1, INF-1.4.2, INF-1.4.3, INF-5.1.1, and INF-5.1.2	LTS

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cause significant environmental effects.	N/A	N/A	
<b>UTIL-5:</b> Implementation of the proposed Modified Project would not result in the determination by the wastewater treatment provider, which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	<p>Policy ES-7.7 Strategy INF-5.1.2</p> <p>General Plan EIR Mitigation Measure UTIL-6a: The City shall work with the Cupertino Sanitary District to increase the available citywide treatment and transmission capacity to 8.65 million gallons per day, or to a lesser threshold if studies justifying reduced wastewater generation rates are approved by CSD as described in Mitigation Measure UTIL-6c.</p> <p>General Plan EIR Mitigation Measure UTIL-6b: The City shall work to establish a system in which a development monitoring and tracking system to tabulate cumulative increases in projected wastewater generation from approved projects for comparison to the Cupertino Sanitary District's treatment capacity threshold with San Jose/Santa Clara Water Pollution Control Plant is prepared and implemented. If it is anticipated that with approval of a development project the actual system discharge would exceed the contractual treatment threshold, no building permits for such project shall be issued prior to increasing the available citywide contractual treatment and transmission capacity as described in Mitigation Measure UTIL-6a.</p> <p>General Plan EIR Mitigation Measure UTIL-6c: The City shall work with the Cupertino Sanitary District to prepare a study to determine a more current estimate of the wastewater generation rates that reflect the actual development to be constructed as part of Project implementation. The study could include determining how the green/LEED certified buildings in the City reduce wastewater demands.</p>	<p>Policies ES-7.7, INF-1.1, INF-1.2, INF-1.3, INF-1.4, INF-5.1, and INF-5.2</p> <p>Strategies INF-1.1.1, INF-1.1.2, INF-1.1.3, INF-1.4.1, INF-1.4.2, INF-1.4.3, INF-5.1.1, and INF-5.1.2</p> <p>General Plan EIR Mitigation Measure UTIL-6a, UTIL-6b, and UTIL-6c, have been incorporated into CMC Section 17.04.050(l)(1), <i>Standard Environmental Protection Requirements, Manage Wastewater Inflow and Infiltration to Sewer System</i>, therefore, compliance the CMC is required to mitigate impacts.</p>	LTS

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## EXECUTIVE SUMMARY

**TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
<b>UTIL-6:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to wastewater services.	N/A Implement General Plan Mitigation Measure UTIL-6a, UTIL-6b, and UTIL-6c.	N/A General Plan EIR Mitigation Measure UTIL-6a, UTIL-6b, and UTIL-6c, have been incorporated into CMC Section 17.04.050(l)(1), <i>Standard Environmental Protection Requirements, Manage Wastewater Inflow and Infiltration to Sewer System</i> , therefore, compliance with this section of the CMC is required to mitigate impacts.	LTS
<b>UTIL-7:</b> Implementation of the proposed Modified Project would not require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.	Policies ES-7.2 and ES-7.4 Strategy ES-7.2.3  N/A	Policies ES-7.1, ES-7.2, ES-7.3, ES-7.4, and ES-7.5 Strategies ES-7.1.1, ES-7.2.1, ES-7.2.2, ES-7.2.3, ES-7.3.1, ES-7.4.1, ES-7.4.2, ES-7.4.3, and ES-7.8.1  N/A	LTS
<b>UTIL-8 :</b> Implementation of the proposed Modified Project would not result in significant cumulative impacts with respect to stormwater.	Policies ES-7.2 and ES-7.4 Strategy ES-7.2.3  N/A	Policies ES-7.1, ES-7.2, ES-7.3, ES-7.4, and ES-7.5 Strategies ES-7.1.1, ES-7.2.1, ES-7.2.2, ES-7.2.3, ES-7.3.1, ES-7.4.1, ES-7.4.2, ES-7.4.3, and ES-7.8.1  N/A	LTS
<b>UTIL-9:</b> Implementation of the proposed Modified Project would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.	N/A  N/A	Policies INF-7.1, INF-7.2, INF-7.3, INF-7.4, and INF-8.1 Strategies INF-7.3.1, INF-8.1.1, INF-8.1.2, INF-8.1.3, INF-8.1.4, INF-8.1.5, INF-8.1.6, and INF-8.1.7  N/A	LTS
<b>UTIL-10:</b> Implementation of the proposed Modified Project would comply with federal, State, and local statutes and regulations related to solid waste.	N/A General Plan EIR Mitigation Measures UTIL-8: The City shall continue its current recycling ordinances and zero-waste policies in an effort to further increase its diversion rate and lower its per capita disposal rate. In addition, the City shall monitor solid waste generation volumes in relation to capacities at receiving landfill sites to ensure that sufficient capacity exists to accommodate future growth. The City shall seek new landfill sites to replace the Altamont and Newby Island landfills, at such time that these landfills are closed.	N/A N/A	LTS

N/A = Not Applicable; LTS = Less Than Significant; LTS/M = Less Than Significant with Mitigation; SU = Significant and Unavoidable

**EXECUTIVE SUMMARY****TABLE 2-1 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
<b>UTIL-11:</b> Implementation of the proposed Modified Project would not result in cumulatively considerable impact with respect to solid waste.	N/A Implement General Plan EIR Mitigation Measure UTIL-8.	N/A N/A	LTS
<b>UTIL-12:</b> Implementation of the proposed Modified Project would not require or result in the relocation or construction of new or expanded electric power, natural gas, or telecommunications facilities, the construction or relocation of which would cause significant environmental effects.	Policies ES-1.1, ES-2.1, and ES-3.1 Strategies ES-2.1.2, ES-2.1.3, ES-2.1.4, ES-2.1.7, ES-2.1.8, and ES-3.1.1  N/A	Policies ES-1.1, ES-2.1, ES-3.1, INF-6.1, INF-6.2, and INF-6.3 Strategies ES-1.1.1, ES-2.1.1, ES-2.1.2, ES-2.1.3, ES-2.1.4, ES-2.1.6, ES-2.1.7, ES-2.1.8, ES-2.1.10, ES-3.1.1, ES-3.1.2, ES-3.1.3, ES-3.1.4, INF-6.2.1, INF-6.2.2, INF-6.2.3, INF-6.2.4, INF-6.2.5, and INF-6.3.1  N/A	LTS
<b>UTIL-13:</b> Implementation of the proposed Modified Project would not, in combination with past, present, and reasonably foreseeable projects, result in a cumulatively considerable impact to electric power, natural gas, or telecommunications facilities.	Policies ES-1.1, ES-2.1, and ES-3.1 Strategies ES-2.1.2, ES-2.1.3, ES-2.1.4, ES-2.1.7, ES-2.1.8, and ES-3.1.1  N/A	Policies ES-1.1, ES-2.1, ES-3.1, INF-6.1, INF-6.2, and INF-6.3 Strategies ES-1.1.1, ES-2.1.1, ES-2.1.2, ES-2.1.3, ES-2.1.4, ES-2.1.6, ES-2.1.7, ES-2.1.8, ES-2.1.10, ES-3.1.1, ES-3.1.2, ES-3.1.3, ES-3.1.4, INF-6.2.1, INF-6.2.2, INF-6.2.3, INF-6.2.4, INF-6.2.5, and INF-6.3.1  N/A	LTS
<b>WILDFIRE (FIRE)</b>			
<b>FIRE-1:</b> Implementation of the proposed Modified Project would not substantially impair an adopted emergency response plan or emergency evacuation plan.	N/A  N/A	Policies HS-2.1, HS-2.2, HS-2.4, HS-3.2, HS-3.4, HS-3.5, and HS-3.6 Strategies HS-3.3.2, HS-3.3.3, HS-3.3.4, and HS-3.4.2  N/A	LTS
<b>FIRE-2:</b> Implementation of the proposed Modified Project would not exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.	N/A  N/A	Policies HS-1.1, HS-3.1, HS-3.2, HS-3.5, and HS-3.7 Strategies HS-1.1.1 and HS-1.1.2  N/A	LTS
<b>FIRE-3:</b> Implementation of the proposed Modified Project would not require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) but would not exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.	N/A N/A	N/A N/A	LTS

N/A = Not Applicable; LTS = Less Than Significant; LTS/M = Less Than Significant with Mitigation; SU = Significant and Unavoidable

## EXECUTIVE SUMMARY

**TABLE 2-1      SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Standard of Significance Question or Impact Statement	General Plan 2040 Policies and Strategies and Required Mitigation Measures	Proposed Modified Project Policies and Strategies and Required Mitigation Measures	Level of Significance
<b>FIRE-4:</b> Implementation of the proposed Modified Project would not expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.	N/A	Policies ES-5.3, ES-7.2, ES-7.3, ES-7.5, and HS-7.5 Strategies ES-7.3.1 and ES-7.8.1	LTS
	N/A	N/A	
<b>FIRE-5:</b> Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to wildfire.	N/A	N/A	LTS
	N/A	N/A	

N/A = Not Applicable; LTS = Less Than Significant; LTS/M = Less Than Significant with Mitigation; SU = Significant and Unavoidable

## EXECUTIVE SUMMARY

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N/A = Not Applicable; LTS = Less Than Significant; LTS/M = Less Than Significant with Mitigation; SU = Significant and Unavoidable

### 3. Project Description

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This chapter describes the proposed amendments to the City of Cupertino General Plan 2040 (General Plan 2040), also known as Community Vision 2015-2040, and the Zoning Code. As described in Chapter 1, *Introduction*, of this Environmental Assessment (EA), the General Plan 2040 and Zoning Code, as amended and evaluated in the City’s certified *General Plan Amendment, Housing Element Update, and associated Rezoning Project Environmental Impact Report* (General Plan EIR) and the subsequent addenda are considered the “Approved Project” and the proposed amendments that are the subject of this EA are considered the proposed “Modified Project.” Accordingly, the City of Cupertino (City) has determined that to comply with the requirements of California Government Code Section 65759(a)(2), this EA shall be prepared as a subsequent program-level analysis General Plan EIR pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15162, *Subsequent EIR*, and Section 15168, *Program EIR*.

The proposed Modified Project specifically addresses the changes that have occurred to the Housing Element as part of the City’s 6th Cycle Housing Element (2023 -2031) and the associated amendments to the Land Use and Community Design Element and Mobility Element for internal (or horizontal) consistency<sup>1</sup> and the Cupertino Municipal Code (CMC) Title 19, *Zoning*, for consistency with the General Plan, known as vertical consistency.<sup>2</sup> This EA provides a program-level analysis of whether the changes resulting from the approval and implementation of the proposed Modified Project would result in new significant impacts when compared to the certified General Plan EIR. The potential buildout of the city of Cupertino evaluated in this EA is described in Section 3.8, *Buildout Projections*.

This chapter provides a detailed description of the proposed Modified Project, including the location, setting, and characteristics of the environmental study area, as well as the project objectives, the project components, and required permits and approvals. The City is the lead agency for the environmental review of the proposed Modified Project.

#### 3.1 BACKGROUND

Every city and county in California is required to have an adopted comprehensive long-range general plan for the physical development of the county or city and, in some cases, land outside the city or county boundaries.<sup>3</sup> It is the community’s overarching policy document that defines a vision for future change and sets the “ground rules” for locating and designing new projects that enhance the character of the community, expanding the local economy, conserving and preserving environmental resources, improving public services and safety, minimizing hazards, and fostering community health. The General Plan, which includes a vision, guiding principles, goals, policies, and strategies, functions as the City’s primary land use

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<sup>1</sup> Government Code Section 65300.5 (internal consistency).

<sup>2</sup> Government Code Section 65860 (vertical consistency).

<sup>3</sup> California Government Code Section 65300.

## PROJECT DESCRIPTION

regulatory tool. It provides a basis for judging whether specific development proposals and public projects are in harmony with General Plan policies. It is the constitution for future change in Cupertino.

Pursuant to State law, a general plan must contain eight mandated elements: land use, circulation, housing, conservation, open space, noise, environmental justice, and safety. Typically, general plans cover a time frame or forecast of 15 to 20 years. However, general plan housing elements are required to be updated every eight years to comply with the Regional Housing Needs Allocation (RHNA).

State law requires consistency between and within general plan elements.<sup>4</sup> The City's General Plan Land Use Map is integrated with the City's Zoning Map, which shows the parcel-specific delineation of the zoning districts throughout the city and depicts permitted and conditionally permitted uses. A parcel's zoning district stems directly from its General Plan land use designation, with the zoning district acting to implement the General Plan by refining the specific uses and development standards for that parcel. State law requires that the zoning ordinance be consistent with the General Plan.<sup>5</sup>

The General Plan 2040 was adopted in December 2014 and included a horizon year of 2040. Since 2015, several amendments to the General Plan have occurred. These are shown in Table 3-1, *Amendments to the General Plan 2040*.

**TABLE 3-1**      **AMENDMENTS TO THE GENERAL PLAN 2040**

Date	Changes
October 20, 2015 <sup>a</sup>	Minor editorial changes and figure revisions were made to Chapter 1, <i>Introduction</i> , Chapter 2, <i>Planning Areas</i> , Chapter 3, <i>Land Use and Community Design</i> , Chapter 5, <i>Mobility</i> , Chapter 6, <i>Environmental Resources and Sustainability</i> , Chapter 7, <i>Health and Safety</i> , Chapter 8, <i>Infrastructure</i> , and Chapter 9, <i>Recreation Parks and Community Service</i> , Appendix A, <i>Land Use Definitions</i> , and Appendix D, <i>Community Noise Fundamentals</i> . The General Plan Land Use Map was changed to designate a property at 10950 North Blaney Avenue from Industrial/Residential to Industrial/Commercial/Residential. In addition, the name of the General Plan, "Community Vision 2040," was changed to "General Plan (Community Vision 2015–2040)."
July 16, 2019 <sup>b</sup>	General Plan Table LU-1, <i>Citywide Development Allocation Between 2014-2040</i> , was updated to increase the buildout of hotel rooms in the North Vallco Special Area from 123 to 308 and citywide from 1,429 to 1,614. Table LU-1 was also updated to show an additional 185 hotel rooms available in North Vallco Special Area and 498 hotel rooms available citywide.
August 20, 2019 <sup>a</sup>	The General Plan was updated to remove Office land use as a permitted use from the Vallco Shopping District Special Area and remove associated Office land use allocations. This amendment also included changes to the General Plan Land Use Map (Appendix A) to establish a height limit of 60 feet, a minimum residential density of 29.7 dwelling units per acre on approximately 13 acres, and prohibit residential uses as a permitted use in the Regional Shopping land use designation.
March 3, 2020 <sup>c</sup>	General Plan Table LU-1, <i>Citywide Development Allocation Between 2014-2040</i> , was updated to increase the buildout of hotel rooms in the Homestead Special Area from 126 to 281 and citywide from 1,614 to 1,769 to accommodate a hotel in the North Vallco Special Area. Table LU-1 was also updated to show an additional 155 hotel rooms available in the Homestead Special Area and 653 hotel rooms available citywide. Figure LU-2, <i>Community Form Diagram</i> , was updated to increase the maximum height for the De Anza Hotel project site from 45 to 85 feet and allow a change to the required setback to height ratio (slope line) along North De Anza Boulevard for the De Anza Hotel project site from the required 1:1 (Figure LU-4, <i>Vallco Shopping District Allowable Land Uses</i> , of the General Plan).

<sup>4</sup> California Government Code Section 65300.5 (internal consistency).

<sup>5</sup> California Government Code Section 65860 (vertical consistency).

**PROJECT DESCRIPTION****TABLE 3-1 AMENDMENTS TO THE GENERAL PLAN 2040**

Date	Changes
October 22, 2021 <sup>a</sup>	General Plan Chapter 3, <i>Land Use and Community Design Element</i> , and Figure LU-2, <i>Community Form Diagram</i> , were modified for clarification, and text edits to Chapter 6, <i>Environmental Resources and Sustainability Element</i> , were made for emphasis. Changes were made to Policy LU-1.1, <i>Land Use and Transportation</i> , to clarify that Figure LU-2, <i>Community Form Diagram</i> , indicates the maximum residential densities for sites that allow residential land uses. The Heart of the City Special Area description was changed to clarify that Goal LU-13 will apply throughout the entire Special Area; while more specific goals, policies, and strategies for each subarea are designed to address their individual settings and characteristics and are identified in Goals LU-14 through LU-18. In addition, Figure LU-2 included text clarifications and corrections. Chapter 6, <i>Environmental Resources and Sustainability Element</i> , included a revision to Strategy ES-6.1.1, <i>Public Participation</i> , to change “encourage” to “strongly encourage” Santa Clara County to engage with the affected neighborhoods when considering changes to restoration plans and mineral extraction activity.

## Notes:

a. An addendum to the General Plan EIR was approved for the General Plan Amendment pursuant to CEQA Guidelines Section 15164.

b. A Mitigated Negative Declaration, State Clearinghouse No. 2018112025, was approved for the Village Hotel project.

c. A Mitigated Negative Declaration, State Clearinghouse No. 2019079010, was approved for the De Anza Hotel project.

Source: City of Cupertino. “Archived General Plans.” <https://www.cupertino.org/our-city/departments/community-development/planning/general-plan/general-plan/archived-general-plans>.

## 3.2 OVERVIEW

The General Plan’s Housing Element provides direction for implementation of various programs to meet existing and projected future housing needs for all income levels within Cupertino. It provides policies, programs, and strategies that support and create the framework for production, preservation, and maintenance of the City’s housing stock for all income levels. The Housing Element is based on the RHNA for that planning period. The current Housing Element was prepared for the 5th Cycle planning period, which is 2015 to 2023, and included a RHNA of 1,064 dwelling units. The proposed update to the Housing Element is being prepared for the 6th Cycle planning period, which is 2023 to 2031 and includes a RHNA of 4,588 dwelling units.

In updating the Housing Element, some policies in the Land Use and Community Design Element, Cupertino Land Use Map, and Mobility Element, also need to be updated to ensure General Plan internal consistency.

As required by State Housing Law, the City must specify the number of dwelling units that can realistically be accommodated on each housing site and identify whether the housing site is adequate to accommodate lower-income housing in accordance with existing regulations or if future implementation actions could accommodate these lower-income dwelling units by amending the General Plan land use designation and applicable zoning for selected housing sites. Therefore, in conjunction with these General Plan amendments, Title 19, *Zoning*, of the CMC would be amended to be consistent with the proposed changes to the General Plan.

The proposed Modified Project is described in detail in Section 3.7.1, *General Plan 2040 Amendments*, Section 3.7.3, *Zoning Code Amendments*, and Section 3.8, *Buildout Projections*.



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### 3.3 LOCATION AND SETTING

Cupertino is a suburban city of 10.9 square miles on the southern portion of the San Francisco Peninsula, in Santa Clara County. The city is approximately 36 miles southeast of downtown San Francisco and 8 miles west of downtown San José. As shown on Figure 3-1, *Regional and Vicinity Map*, the cities of Los Altos and Sunnyvale are adjacent to the northern city limit, while the cities of Santa Clara and San José lie to the east, and Saratoga lies to the south of Cupertino. Unincorporated areas of Santa Clara County form the western and portions of the southern limit of the city.

The city is accessed by Interstate 280 (I-280), which functions as a major east to west regional connector and State Route 85 (SR-85), which functions as the main north to south regional connector. Cupertino is served by the Santa Clara Valley Transportation Authority (VTA) and has eight bus routes that include frequent, local, and express routes operating throughout various locations in the city, including several stops along De Anza Boulevard and Stevens Creek Boulevard.<sup>6</sup> The VTA bus system provides local and regional transportation to the greater Silicon Valley, including San José and Sunnyvale. In addition, VTA has built a Bus Rapid Transit line along Stevens Creek Boulevard, which is a major east to west arterial connector in the city.<sup>7</sup> Cupertino is also served by the Via-Cupertino Shuttle (Via), an app-based ride-sharing program that provides transportation anywhere inside the city and also connects to the Sunnyvale Caltrain station.<sup>8</sup> Via plans to expand into Santa Clara with electric cars in the coming years.

### 3.4 STUDY AREA

The environmental study area for this EA is the same as that of the General Plan EIR and includes all the lands within the city's urban service area, the sphere of influence (SOI), and the city limit. The urban service area is predominantly coterminous with the current city limit; however, the SOI area extends beyond these boundaries. These locations are shown on Figure 3-2, *Study Area*.

### 3.5 PLANNING PROCESS SUMMARY

The proposed updates to the Housing Element, Land Use and Community Design Element, Mobility Element, and the Zoning Code involved public outreach efforts. The planning process began in October 2021 with the proposed Housing Element when the first community workshop was held to inform the public about the update and collect input from the community and the location and type of housing that is best suited for Cupertino. Throughout the preparation for the public draft of the Housing Element, nine community workshops and meetings were held both in person and virtually. These events were given in a variety of formats, some centered around a panel of individuals while others were informal "pop-up" events.

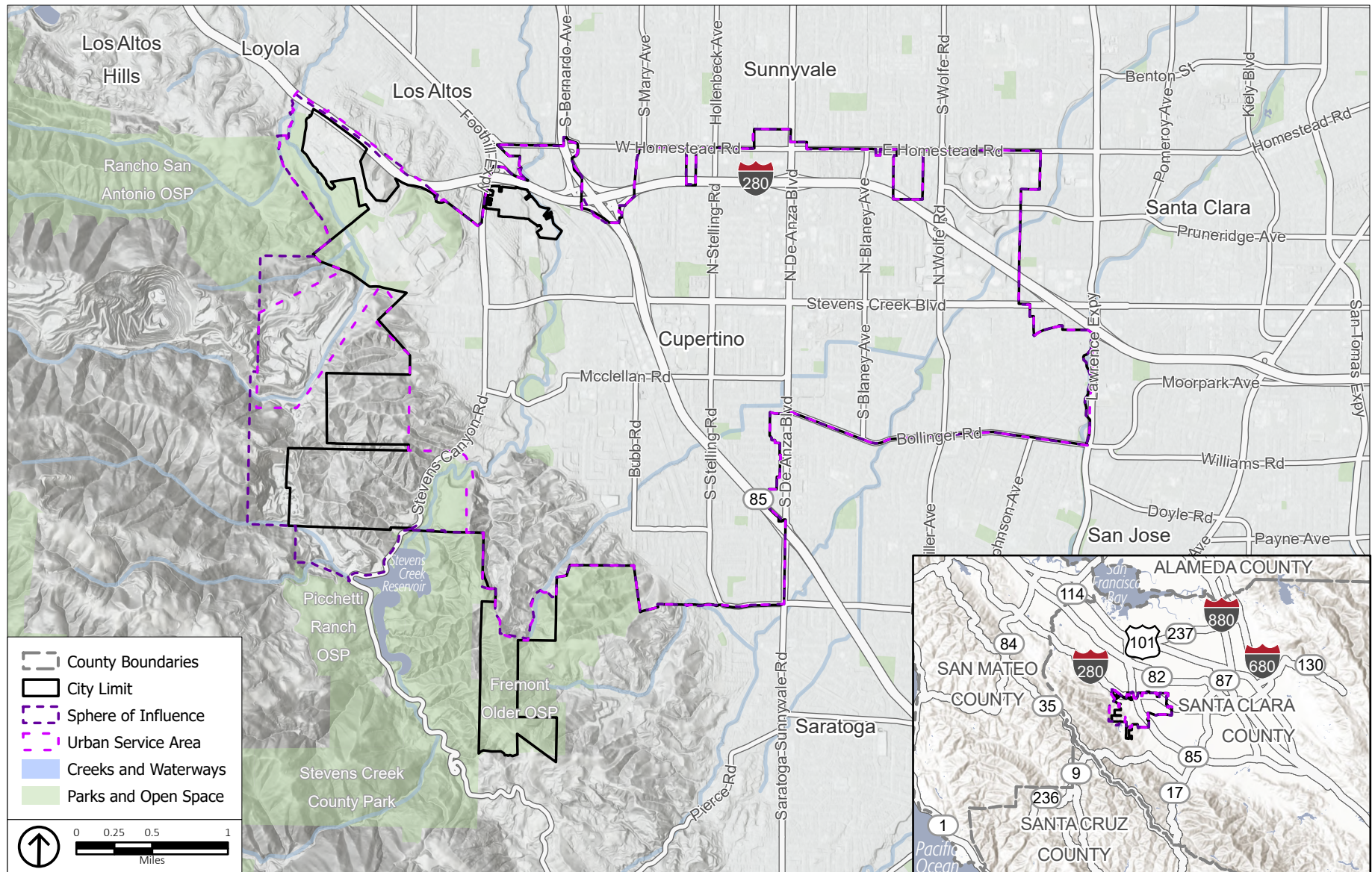
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<sup>6</sup> Santa Clara Valley Transportation Authority, 2023, February 17 (accessed). Bus Routes, <https://www.vta.org/go/routes>.

<sup>7</sup> Santa Clara Valley Transportation Authority, 2023, February 17 (accessed). Route 523, <https://www.vta.org/go/routes/rapid-523>.

<sup>8</sup> Via-Cupertino Shuttle, <https://www.cupertino.org/our-city/departments/public-works/transportation-mobility/community-shuttle>, accessed on February 17, 2023.

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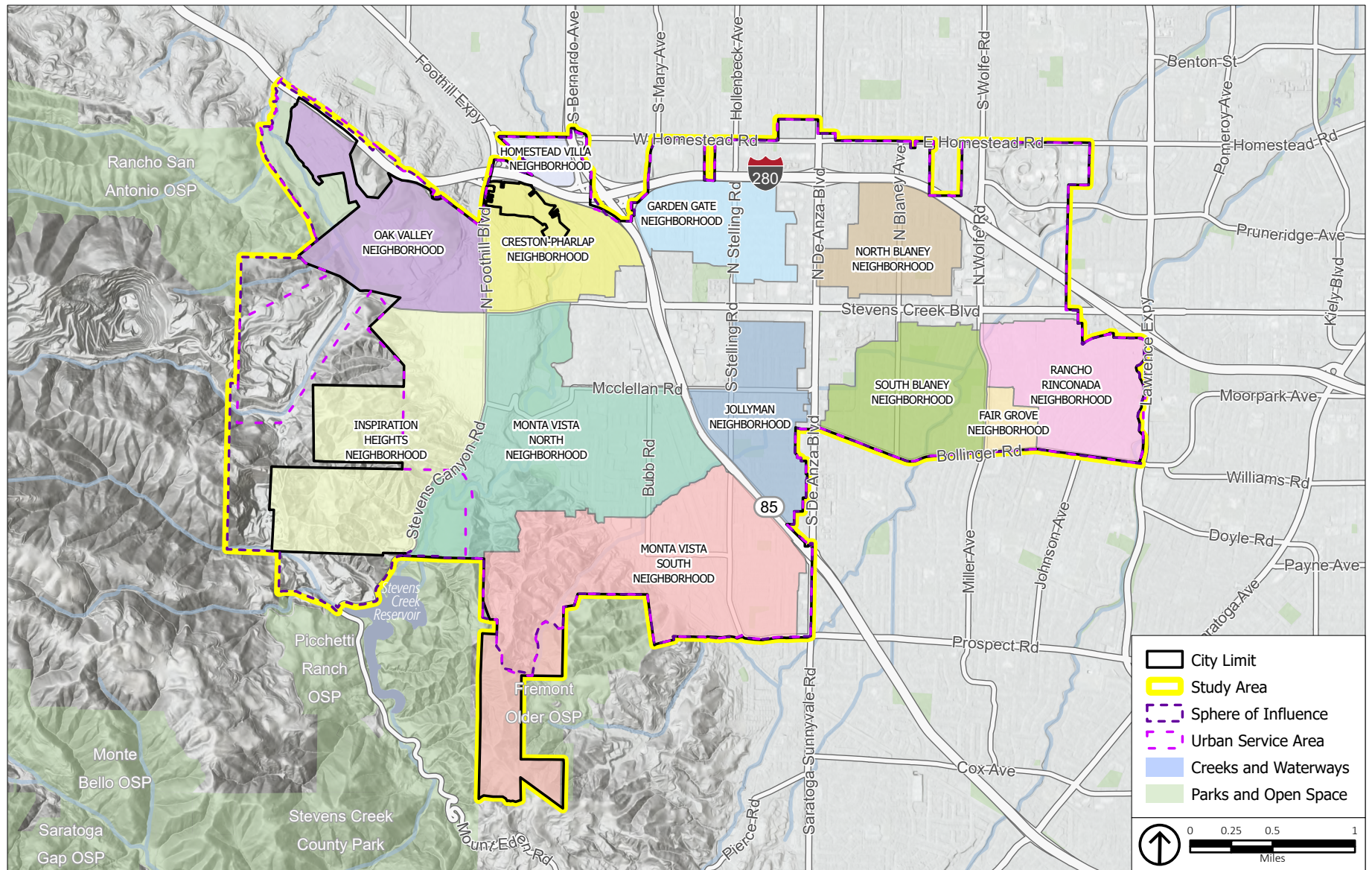


Source: ESRI, 2022; City of Cupertino, 2023; PlaceWorks, 2023.

Figure 3-1  
Regional and Vicinity Map



## PROJECT DESCRIPTION



Source: ESRI, 2022; ABAG, 2022; City of Cupertino, 2023; PlaceWorks, 2023.

Figure 3-2  
Study Area

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In addition to public outreach events, there were 14 Housing Commission, Planning Commission, and City Council meetings. Meetings were also held with Project Sentinel Executive Director, Carole Conn, and Fair Housing director, Molly Current, to describe fair housing and rental housing issues in Cupertino and countywide. A dedicated affirmatively furthering fair housing (AFFH) outreach was also done as part of this process. The City released two sets of e-newsletters, the first set was to 685 email subscribers, and the second was sent to 1,856 subscribers with a 58 percent open rate and a 5 percent click rate. Social media outreach included Facebook, Nextdoor, Twitter, and electronic notification. The two posts that were made for the proposed Housing Element had a combined reach of 20,758 people and a combined engagement of 742 people. Mailed outreach through *The Cupertino Scene*, which is the City's official newsletter, was used twice and went out to 23,351 addresses each time. Surveys were also conducted multiple times throughout the process. The City maintains a website for the proposed Housing Element at: <https://engagecupertino.org/hub-page/housingelement>

The website offers opportunities for the public to weigh in on key issues and download information about the project. A complete description of the public outreach process for the proposed Housing Element 2021-2031 is available on this website.

Following the preparation of the public draft Housing Element, the City engaged in additional outreach efforts for the Zoning Code updates. These activities included an in-person community open house on September 9, 2023, and a virtual community open house on September 14, 2023.

### 3.6 PROJECT OBJECTIVES

The primary purpose of the proposed Modified Project is to update the State-mandated Housing Element of the 2040 General Plan for the 6th Cycle planning period (2023-2031) to ensure adequate, safe, and affordable housing conditions in Cupertino and to update the other relevant General Plan elements and Zoning Code for consistency with the updated Housing Element. Pursuant to CEQA Guidelines Section 15124, the following project objectives support the proposed Modified Project's purpose and assist the City, as the lead agency, in developing a reasonable range of alternatives to be evaluated in this EA.

- Update the General Plan's Housing Element to comply with State-mandated housing requirements and to address the maintenance, preservation, improvement, and development of housing in the city between 2023 and 2031.
- Include an adequate inventory of housing sites and rezone the sites as necessary to meet the required Regional Housing Needs Allocation (RHNA) and to provide an appropriate buffer.
- To affirmatively further fair housing (AFFH).
- Incentivize the development of housing, particularly affordable housing, suited to special needs and all income levels.
- Promote a healthy and sustainable Cupertino through support of housing at all income levels that minimizes reliance on natural resources and automobile use.

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- Update the City's Zoning Code and Land Use and Community Design General Plan Element to be consistent with the Housing Element pursuant to Government Code Section 65300.5 (internal consistency) and Government Code Section 65860 (vertical consistency), respectively.
- Update the City's General Plan Mobility Element to minimize environmental impacts associated with implementation of the Housing Element and be consistent with updated State law and guidance for vehicle miles traveled.
- Update the Heart of the City Specific Plan to be consistent with the Housing Element pursuant to Government Code Section 65860 (vertical consistency).

## 3.7 PROJECT COMPONENTS

### 3.7.1 GENERAL PLAN 2040 AMENDMENTS

The proposed Modified Project includes amendments to the General Plan 2040 Housing Element, Land Use and Community Design Element, and Mobility Element. Chapter 2, *Planning Areas*, would also be updated for internal consistency. Each element contains background information and a series of goals, policies, and strategies, which would address, among other things, the maintenance, preservation, improvement, and development of housing in the city. The following provides a description of goals, policies, and strategies and explains the relationship between them:

- A *goal* is a broad statement of values or aspirations needed to achieve the vision of the General Plan. It is a description of the general desired result that the City seeks to create through the implementation of its General Plan.
- A *policy* is a more precise statement that guides the actions of City staff, developers, and policy makers necessary to achieve the goal. A policy is ongoing and requires no further implementation. Policies regulate activities in the city and set out the standards that will be used by City staff and the other decision makers in their review of land development projects and in decision making about City actions.
- A *strategy* is a specific task that the City will undertake to implement the policy and work toward achieving the goals. Implementation of the strategies is intended to help reach a specified goal. The City must take additional steps to implement each strategy in the General Plan. A strategy is something that can and will be completed.

Policies and strategies are at the same level of importance and are both intended to support goals. In most cases, goals have both policies and strategies. The following describes the changes to the Housing Element, Land Use and Community Design Element, and Mobility Element.

#### 3.7.1.1 HOUSING ELEMENT UPDATE

State law requires that all cities and counties in California have a compliant housing element. The housing element must analyze housing needs, evaluate factors that could potentially constrain housing production, and identify sites for new residential development. Each city and county must submit their housing

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element to the California Department of Housing and Community Development (HCD) for review and certification to ensure that it meets the minimum requirements under State law. Cupertino's current Housing Element was adopted in 2015. The planning period covered by that Housing Element was 2015 through 2023. State law requires that the City's next Housing Element be adopted in 2023 and cover the period from 2023 through 2031. State requirements for housing elements have expanded considerably in the last eight years. The focus of prior housing elements was on housing conservation and the creation of new housing opportunities. While housing production is still the central focus, there is a much greater emphasis on equity, fair housing, and meeting the needs of lower-income households and people with special needs. Cities and counties have been asked to plan for much larger quantities of housing and provide substantially more detail on potential housing sites. Requirements for community engagement and outreach to under-represented populations have also been expanded. Cities and counties must demonstrate that their policies and strategies are affirmatively furthering fair housing and directly addressing the factors that have resulted in segregation and concentrated poverty around the state.

The proposed Modified Project includes a housing sites inventory with sufficient existing and new housing sites at appropriate densities to meet the City's fair share of housing for the region (i.e., required RHNA) plus an ample buffer (backup sites for housing).

### Regional Housing Needs Allocation

The proposed Housing Element 2023-2031 process started with the State determining the total need for housing in each region of California over an eight-year period. These estimates are broken down by income categories, with households categorized as very low-income, low-income, moderate-income, or above moderate-income. Regional councils of government across California are responsible for allocating their region's housing needs to individual cities and counties (i.e., RHNA). In the nine-county San Francisco Bay Area, the Association of Bay Area Governments (ABAG) is responsible for the RHNA and tasked with determining each county and city's fair share of the regional total. This determination is made using a formula that considers population size, employment, proximity to transit, and access to high-quality resources, such as schools, health care, parks, and services. The total 2023 -2031 RHNA for all counties and municipalities in the Bay Area is 441,176 dwelling units. Cupertino received an allocation of 4,588 dwelling units to meet their fair share of housing for the region. The breakdown of dwelling units pursuant to income category is shown in Table 3-2, *Cupertino Regional Housing Needs Allocation 2023-2031*. To have a substantially compliant 2023-2031 Housing Element, the City is required to demonstrate that it has the realistic capacity to produce 4,588 dwelling units by 2031.

**TABLE 3-2 CUPERTINO REGIONAL HOUSING NEEDS ALLOCATION 2023-2031**

Income Category	Income Range <sup>a</sup>	Dwelling Units
Very Low <sup>b</sup>	<\$93,200	1,193
Low	\$93,200 to \$149,100	687
Moderate	\$149,100 to \$199,200	755
Above Moderate	>\$199,200	1,953
<b>Total Units</b>		<b>4,588</b>

Notes:

a. Income range is for a household of four residents.

b. It is assumed that 50 percent of the very low-income category (596 units) is allocated to the extremely low-income category.

Source: Association of Bay Area Governments, 2021; California Department of Housing and Community Development Income Levels, 2022.

## PROJECT DESCRIPTION

In addition to the required RHNA, the City is required to identify a buffer of dwelling units because of the Housing Accountability Act's "no net loss" provisions. California State Senate Bill 166 (adopted in 2017) enacted Government Code Section 65589.5 requires that the land inventory and site identification programs in the Housing Element always include sufficient sites to accommodate unmet RHNA. The buffer is necessary to ensure that if one or more of the identified housing sites are developed at lower densities than projected, or with non-housing uses, there is remaining capacity elsewhere in the city to provide an ongoing supply of sites for housing at the remaining income levels during the eight-year planning period/cycle of the Housing Element. While there is no specific number of buffer dwelling units, HCD recommends a buffer of 10 to 30 percent of the assigned RHNA.

While State law requires the Housing Element to include an inventory of housing sites and requires the City to appropriately zone sites to meet its RHNA, the City is not responsible for sponsoring projects or generating the housing itself. Future development would be at the discretion of individual property owners, would largely be dependent on market forces, and in the case of affordable housing, available funding and/or other incentives. However, the number of dwelling units permitted annually (by income category) will be used as a metric to evaluate the success of the proposed Housing Element 2023-2031 and the need for additional City-led programs to come closer to the targets.

## Housing Site Inventory

To comply with Housing Law,<sup>9</sup> the City must specify the number of dwelling units that can be accommodated on each housing opportunity site and identify whether the site is adequate to accommodate lower-income housing in accordance with existing regulations or if future implementation actions are needed. To assess options to meet the RHNA for Cupertino, the City compiled an inventory of pipeline projects, estimated a reasonably foreseeable amount of Accessory Dwelling Units (ADUs), and identified housing opportunity sites that when combined would have the potential to accommodate the City's RHNA plus the HCD-recommended buffer ("back-up" sites). Collectively, pipeline projects, estimated ADUs, and housing opportunity sites, would be used to meet the City's RHNA plus the buffer. The housing inventory sites for the proposed Housing Element are described in the following sections.

### *Pipeline Projects*

The City identified nine sites, listed in Table 3-3, *Pipeline Projects*, that are currently in the permitting or construction process and account for 2,119 dwelling units to meet the RHNA. Pipeline projects are those that have the highest likelihood of being constructed within the eight-year Housing Element cycle. These projects have received planning entitlements, so that the primary permit needed prior to construction is a building permit.<sup>10</sup> Some of these sites have already received building permits. These sites count towards the RHNA but are not evaluated as net new housing in this EA.

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<sup>9</sup> California Government Code Sections 65580 through 65589.8

<sup>10</sup> Engage Cupertino, 2023, February 23 (accessed). Housing Site Information, <https://engagecupertino.org/available-housing-sites>.



**PROJECT DESCRIPTION****TABLE 3-3 PIPELINE PROJECTS**

Assessor's Parcel Number	Size (Acres)	Project Name	General Plan Land Use Designation	Zoning Designation	Current Maximum Allowed Density (units/acre) <sup>a</sup>	Total New Dwelling Units
31620120, 31620121	50.8	Vallco (The Rise)	Regional Shopping/ Residential	CG	35	1,569 <sup>b</sup>
32627043	7.9	Westport	Commercial/Residential	P (CG, Res)	25	259
34216087, 35907021, 35920030	1.57	Canyon Crossing	Commercial/Residential	P(CG)	15	18
36610061, 36610126	1.68	Coach House (1655 South De Anza)	Commercial/Office/ Residential	P(CG,Res 5- 15)	15	34
32634043, 32634066	5.1	Marina Plaza	Commercial/Office/ Residential	P (CG, Res)	25	206
34214066, 34214104, 34214105	0.78	Bateh Brothers	Commercial/Residential	P(CG)	15	10 <sup>c</sup>
35907021	0.34	Leon Townhomes	Residential	P (CG, Res)	25	7
35920030	1.35	McClellan LLC	Residential	R1-10	5	12 <sup>c</sup>
36231003	0.23	Cleo Subdivision	Residential	P(R3)	20	4
<b>TOTAL</b>	<b>71.33</b>					<b>2,119</b>

Notes:

a. Dwelling unit density is expressed as the number of dwelling units permitted per gross acre.

b. Because it is anticipated that the Vallco/Rise project will extend beyond the year 2031, the proposed Housing Element (2023-2031) and this EA evaluates only the units for Phases 1 and 2 of the Vallco (The Rise) project as indicated in the projects phasing plan, totaling 1,569 dwelling units instead of the total project 2,402 dwelling units.

c. Includes Accessory Dwelling Units

Source: City of Cupertino, 2023.

**Accessory Dwelling Units**

The City developed a projection of ADUs that would be built within the 2023-2031 planning period based on the average annual production of 24 ADUs per year between 2018 and 2022. Accordingly, the City estimates construction of 192 ADUs during the 2023-2031 planning period.

**Housing Opportunity Sites**

The City identified 63 parcels (approximately 67 acres) as housing opportunity sites to accommodate residential only or commercial/residential (mixed-use) development. The proposed housing opportunity sites are listed in Table 3-4, *Housing Element (2023-2031) Opportunity Sites: Residential*, and Table 3-5, *Housing Element (2023-2031) Opportunity Sites: Commercial/Residential (Mixed Use)*, and shown on Figure 3-3, *Housing Element (2023-2031) Opportunity Sites*. Table 3-4 and Table 3-5 show the existing and proposed General Plan land use designations and zoning districts, and the maximum density for each housing opportunity site for the existing, proposed, and net new maximum density for each housing opportunity site. The proposed Modified Project would revise the General Plan land use designations and zoning districts on each site shown in Tables 3-4 and 3-5 to accommodate higher density and create consistencies between the General Plan and Zoning Code. As shown on Tables 3-4 and 3-5, many of the sites have existing residential General Plan land use designations and zoning districts; therefore, the total number of additional dwelling units is described as “net new.”

**PROJECT DESCRIPTION****TABLE 3-4 HOUSING ELEMENT (2023-2031) OPPORTUNITY SITES: RESIDENTIAL**

Site No.	Assessor's Parcel Number	Size (acres)	Special Area / Gateway / Neighborhood	General Plan Land Use Designation		Zoning District		Maximum Density (dwelling units/acre) <sup>a</sup>		Maximum Dwelling Units from Applying the Maximum Density		
				Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Net New <sup>b</sup>
1	31623027	0.64	Heart of the City - Central	Commercial/Office/Residential	High/Very High Density	P(CG, Res)	R4	25	65	16	42	26
2	36903005	0.47	Heart of the City - Central	Commercial/Office/Residential	High/Very High Density	P(CG, Res)	R4	25	65	12	31	19
3	32634047	1.09	Heart of the City - Crossroads	Commercial/Office/Residential	High/Very High Density	P(CG, Res)	R4	25	65	27	71	44
4	35907006	0.32	Heart of the City - Crossroads	Commercial/Office/Residential	High/Very High Density	P(CG, Res)	R4	25	65	8	21	13
5	37506006	1.71	Heart of the City - East	Commercial/Office/Residential	Very High Density	P(CG, Res)	R4	25	80	43	137	94
6	37506007	0.96	Heart of the City - East	Commercial/Office/Residential	Very High Density	P(CG, Res)	R4	25	80	24	77	53
7	31621031	1.81	Heart of the City	Commercial/Office/Residential	High/Very High Density	P(CG, Res)	R4	25	65	45	118	72
8	31623026	1.78	Heart of the City	Commercial/Office/Residential	High/Very High Density	P(CG, Res)	R4	25	65	45	116	71
9	32632050	0.83	Heart of the City	Commercial/Office/Residential	High/Very High Density	P(CG, Res)	R4	25	65	21	54	33
10	32627053	0.75	Heart of the City - West	Transportation	High/Very High Density	T	R4	0	65	0	49	49
11	32336018	0.42	Homestead	Commercial / Residential	High/Very High Density	P(CG)	R4	35	65	15	27	13
12	31604064	0.44	Homestead	Residential Low (1-5 du/ac)	Medium Density	A1-43	R3/TH	5	20	2	9	7
13	32607022	1.64	Homestead Special Area - Stelling Gateway	Commercial	Very High Density	P(CG)	R4	15	80	25	131	107

## PROJECT DESCRIPTION

**TABLE 3-4 HOUSING ELEMENT (2023-2031) OPPORTUNITY SITES: RESIDENTIAL**

Site No.	Assessor's Parcel Number	Size (acres)	Special Area / Gateway / Neighborhood	General Plan Land Use Designation		Zoning District		Maximum Density (dwelling units/acre) <sup>a</sup>		Maximum Dwelling Units from Applying the Maximum Density		
				Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Net New <sup>b</sup>
14	32607030	0.92	Homestead Special Area - Stelling Gateway	Commercial	Very High Density	BQ	R4	15	80	14	74	60
15	32607031	0.24	Homestead Special Area - Stelling Gateway	Commercial	Very High Density	P(CG)	R4	15	80	4	19	16
16	32607036	1.74	Homestead Special Area - Stelling Gateway	Commercial	Very High Density	P(CG)	R4	15	80	26	139	113
17	36937022	0.39	South Blaney	Residential Medium (10-20 du/ac)	Very High Density	R3	R4	20	65	8	25	18
18	36937023	0.22	South Blaney	Residential Medium (10-20 du/ac)	Medium High Density	R3	R3/TH	20	35	4	8	4
19	36937024	0.17	South Blaney	Residential Medium (10-20 du/ac)	Medium High Density	R3	R3/TH	20	35	3	6	3
20	36934053	0.54	South Blaney	Commercial / Residential	Medium High Density	P(CG)	R3/TH	15	35	8	19	11
21	35918044	0.26	South De Anza	Commercial / Residential	High/Very High Density	P(CG)	R4	25	65	7	17	10
22	36610121	1.34	South De Anza	Commercial / Residential	Medium High Density	P(CG, Res 5-15)	R3/TH	15	35	20	47	27
23	36610137	0.92	South De Anza	Commercial / Residential	Medium High Density	P(CG, Res 5-15)	R3TH	15	35	14	32	18
24	36619047	2.33	South De Anza	Commercial / Residential	High/Very High Density	P(CG, Res 5-15)	R4	15	65	35	151	117
25	36619078	0.08	South De Anza	Commercial / Residential	High/Very High Density	P(CG, Res 5-15)	R4	15	65	1	5	4
26	35909017	1.00	South De Anza	Commercial / Residential	High/Very High Density	P(CG, Res)	R4	25	65	25	65	40
27	31620088	5.16	Vallco Shopping District	Regional Shopping	Very High Density	CG	R4	0	80	0	413	413
28	35913019	0.99	Jollyman	Residential Low (1-5 du/ac)	Medium Density	R1-10	R3	5	20	5	20	15
29 <sup>c</sup>	35606001	0.73	Monta Vista	Residential	Medium High	R1-7.5	R3/TH	5	35	4	26	22

## PROJECT DESCRIPTION

**TABLE 3-4 HOUSING ELEMENT (2023-2031) OPPORTUNITY SITES: RESIDENTIAL**

Site No.	Assessor's Parcel Number	Size (acres)	Special Area / Gateway / Neighborhood	General Plan Land Use Designation		Zoning District		Maximum Density (dwelling units/acre) <sup>a</sup>		Maximum Dwelling Units from Applying the Maximum Density		
				Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Net New <sup>b</sup>
			North	Low (1-5 du/ac)	Density							
30 <sup>c</sup>	35606002	0.69	Monta Vista North	Residential Low (1-5 du/ac)	Medium High Density	R1-7.5	R3/TH	5	35	3	24	21
31 <sup>c</sup>	35606003	0.25	Monta Vista North	Residential Low (1-5 du/ac)	Medium High Density	R1-7.5	R3/TH	5	35	1	9	8
32 <sup>c</sup>	35606004	0.87	Monta Vista North	Residential Low (1-5 du/ac)	Medium High Density	R1-7.5	R3/TH	5	35	4	30	26
33	36231001	0.25	Monta Vista South	Residential Medium (10-20 du/ac)	Medium High Density	P(R3)	R3/TH	20	35	5	9	4
34	36231030	0.23	Monta Vista South	Residential (10-20 du/ac)	Medium High Density	P(R3)	R3/TH	20	35	5	8	3
35	32720034	1.34	Creston-Pharlap	Residential Low (1-5 du/ac)	Low Medium Density	R1-10	R3/TH	5	10	7	13	7
<b>Total</b>		<b>34</b>								<b>484</b>	<b>2,040</b>	<b>1,556</b>

Notes:

a. Dwelling unit density is expressed as the number of dwelling units permitted per gross acre.

b. The net new is the proposed maximum density minus the existing maximum density.

c. The land use and rezoning of this parcel assumes the approximately 0.42-acre parcel currently shown as the “cul-de-sac road” would also redesignate the land use to MHD – Medium High Density and rezone to R3/TH. This approximately 0.42-acre property could be developed with up to 15 units.

Source: City of Cupertino, 2023.

**TABLE 3-5 HOUSING ELEMENT (2023-2031) OPPORTUNITY SITES: COMMERCIAL/RESIDENTIAL (MIXED USE)**

Site No.	Assessor's Parcel Number	Size (acres)	Special Area / Gateway / Neighborhood	General Plan Land Use Designation		Zoning District		Maximum Density (dwelling units/acre) <sup>a</sup>		Maximum Dwelling Units from Applying the Maximum Density		
				Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Net New <sup>b</sup>
36	31623093	1.35	Heart of the City	Commercial/ Office/ Residential	Commercial/ Residential - High/Very High Density	P(CG, Res)	P (CG/R4)	25	65	25	88	58
37	31623036	0.24	Heart of the City	Commercial/ Office/	Commercial/ Residential –	P(CG, Res)	P (CG/R4)	25	65	5		

## PROJECT DESCRIPTION

**TABLE 3-5 HOUSING ELEMENT (2023-2031) OPPORTUNITY SITES: COMMERCIAL/RESIDENTIAL (MIXED USE)**

Site No.	Assessor's Parcel Number	Size (acres)	Special Area / Gateway / Neighborhood	General Plan Land Use Designation		Zoning District		Maximum Density (dwelling units/acre) <sup>a</sup>		Maximum Dwelling Units from Applying the Maximum Density		
				Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Net New <sup>b</sup>
				Residential	High/Very High Density							
38	36906002	0.9	Heart of the City	Commercial/ Office/ Residential	Commercial/ Residential – Very High Density	P(CG, Res)	P (CG/R4)	25	80	17	72	55
39	36906003	0.53	Heart of the City	Commercial/ Office/ Residential	Commercial/ Residential – Very High Density	P(CG, Res)	P (CG/R4)	25	80	10	42	32
40	36906004	1.29	Heart of the City	Commercial/ Office/ Residential	Commercial/ Residential – Very High Density	P(CG, Res)	P (CG/R4)	25	80	24	103	79
41	35910015	1.18	Heart of the City	Commercial / Residential	Commercial/ Residential – High/Very High Density	P(CG)	P (CG/R4)	25	65	22	77	55
42	35910060	0.98	Heart of the City	Commercial / Residential	Commercial/ Residential – High/Very High Density	P(CG)	P (CG/R4)	25	65	18	64	45
43	35910044	0.18	South De Anza	Commercial / Residential	Commercial/ Residential – High/Very High Density	P(CG)	P(CG/R4)	25	65	3	12	8
44	35908025	0.83	Heart of the City - Crossroads	Commercial/ Office/ Residential	Commercial/ Residential - High/ Very High Density	P(CG, Res)	P (CG/R4)	25	65	16	54	38
45	35908026	0.45	Heart of the City - Crossroads	Commercial/ Office/ Residential	Commercial/ Residential – High/Very High Density	P(CG, Res)	P (CG/R4)	25	65	8	29	21
46	35908027	0.87	Heart of the City - Crossroads	Commercial/ Office/ Residential	Commercial/ Residential – High/Very High Density	P(CG, Res)	P (CG/R4)	25	65	16	57	40

**PROJECT DESCRIPTION****TABLE 3-5 HOUSING ELEMENT (2023-2031) OPPORTUNITY SITES: COMMERCIAL/RESIDENTIAL (MIXED USE)**

Site No.	Assessor's Parcel Number	Size (acres)	Special Area / Gateway / Neighborhood	General Plan Land Use Designation		Zoning District		Maximum Density (dwelling units/acre) <sup>a</sup>		Maximum Dwelling Units from Applying the Maximum Density		
				Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Net New <sup>b</sup>
47	35908028	0.85	Heart of the City - Crossroads	Commercial/ Office/ Residential	Commercial/ Residential – High/Very High Density	P(CG, Res)	P (CG/R4)	25	65	16	55	39
48	35908029	0.92	Heart of the City - Crossroads	Commercial/ Office/ Residential	Commercial/ Residential – High/Very High Density	P(CG, Res)	P (CG/R4)	25	65	17	60	43
49	32609052	0.74	Homestead Special Area – Stelling Gateway	Commercial	Commercial/ Residential – High/Very High Density	P(CG)	P (CG/R4)	35	80	19	59	40
50	32609060	2.75	Homestead Special Area - Stelling Gateway	Commercial	Commercial/ Residential – Very High Density	P(Rec/ Enter)	P (CG/R4)	0	80	0	220	220
51	32609061	1.12	Homestead Special Area - Stelling Gateway	Commercial	Commercial/ Residential – Very High Density	P(CG)	P (CG/R4)	35	80	29	90	60
52	36934052	2.70	South Blaney	Commercial / Residential	Commercial/ Residential – High/Very High Density	P(CG)	P (CG/R4)	15	65	30	176	145
53	36937028	0.56	South De Anza	Commercial / Residential	Commercial/ Residential – High/Very High Density	P(CG)	P (CG/R4)	25	65	11	36	26
54	36619055	0.40	South De Anza	Commercial / Residential	Commercial/ Residential – Medium High Density	P(CG, Res 5-15)	P (CG/R3/TH)	15	35	5	14	10
55	36619053	0.56	South De Anza	Commercial / Residential	Commercial/ Residential – Medium High Density	P(CG, Res 5-15)	P (CG/R3/TH)	15	35	6	20	13
56	36619054	1.75	South De Anza	Commercial / Residential	Commercial/ Residential –	P(CG, Res 5-15)	P (CG/R3/TH)	15	35	20	61	42

## PROJECT DESCRIPTION

**TABLE 3-5 HOUSING ELEMENT (2023-2031) OPPORTUNITY SITES: COMMERCIAL/RESIDENTIAL (MIXED USE)**

Site No.	Assessor's Parcel Number	Size (acres)	Special Area / Gateway / Neighborhood	General Plan Land Use Designation		Zoning District		Maximum Density (dwelling units/acre) <sup>a</sup>		Maximum Dwelling Units from Applying the Maximum Density		
				Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Net New <sup>b</sup>
					Medium High Density							
57	31605050	1.02	North Vallco Park	Commercial / Residential	Commercial/Residential - Very High Density	P(CG, Res)	P (CG/R4)	25	80	19	82	62
58	31605051	0.62	North Vallco Park	Commercial / Residential	Commercial/Residential - Very High Density	P(CG, Res)	P (CG/R4)	25	80	12	50	38
59	31605052	0.73	North Vallco Park	Commercial / Residential	Commercial/Residential - Very High Density	P(CG, Res)	P (CG/R4)	25	80	14	58	45
60	31605053	0.92	North Vallco Park	Commercial / Residential	Commercial/Residential - Very High Density	P(CG, Res)	P (CG/R4)	25	80	17	74	56
61	31605056	6.94	North Vallco Park	Commercial / Residential	Commercial/Residential - Very High Density	P(CG, Res)	P (CG/R4)	25	80	130	555	425
62	31605072	0.54	North Vallco Park	Commercial / Residential	Commercial/Residential - Very High Density	P(CG, Res)	P (CG/R4)	25	80	10	43	33
63	35920028	0.75	Jollyman	Quasi-Public	Commercial/Residential – Medium High Density	BQ	P (CG/R3)	0	35	0	26	26
<b>Total</b>		<b>33</b>								<b>520</b>	<b>2,276</b>	<b>1,756</b>

Notes:

a. Dwelling unit density is expressed as the number of dwelling units permitted per gross acre.

b. The net new is the proposed maximum density minus the existing maximum density.

Source: City of Cupertino, 2023.





Source: ESRI, 2022; ABAG, 2022; City of Cupertino, 2023; PlaceWorks, 2023.

Figure 3-3  
Housing Element (2023 to 2031) Opportunity Sites

**PROJECT DESCRIPTION**

Table 3-6, *Housing Opportunity Site Maximum Density*, when considering the “maximum density” from the proposed changes to the General Plan land use designation and zoning district on 63 parcels in the city would generate an additional 3,312 dwelling units.

**TABLE 3-6 HOUSING OPPORTUNITY SITE MAXIMUM DENSITY**

Housing Inventory Category	Dwelling Units per Existing Residential Density <sup>a</sup>	Dwelling Units per Proposed Residential Density <sup>b</sup>	Net New Dwelling Units per Proposed Residential Density <sup>c</sup>
<b>Housing Element Sites (2023-2031)</b>			
Residential	485	2,041	1,556
Commercial/Residential (Mixed Use)	520	2,276	1,756
<b>Total</b>	<b>1,005</b>	<b>4,317</b>	<b>3,312</b>

Notes:

a. The existing dwelling units represent the buildout of the Housing Element Sites at the maximum density under existing conditions for residential sites, 75 percent of the maximum residential density for the commercial/residential sites, and assumes 25 percent of the commercial/residential sites would be commercial.

b. The proposed dwelling units represent the buildout of the Housing Element Sites at the maximum density under the proposed Modified Project.

c. The net new dwelling units represent the projected new growth evaluated in this EA.

Sources: City of Cupertino, 2014; PlaceWorks, 2023.

*Housing Element Site Summary*

The housing sites identified in the housing site inventory that count towards Cupertino’s RHNA plus a buffer inventory for the 2023 -2031 planning period are shown in Table 3-7, *Housing Element 2023-2031 Site Inventory*. The proposed Housing Element applies a “realistic capacity” to ensure that enough opportunity sites are identified in the Housing Element that is less than the “maximum capacity” applied to the analysis in this EA, which is applied to ensure a conservative evaluation of environmental impacts. As shown in Table 3-7, the proposed Housing Element site inventory includes a total of 6,011 dwelling units from the pipeline projects, the estimated ADUs, and a realistic capacity of each housing opportunity site. As stated, the realistic capacity identified in the proposed Housing Element is less than the maximum density on each housing opportunity site shown in Tables 3-4 and 3-5 of this EA. As shown in Table 3-7, the proposed Housing Element site inventory adequately meets the City’s RHNA fair share of 4,588 dwelling units, plus a 31 percent buffer of 1,423 dwelling units.

**TABLE 3-7 HOUSING ELEMENT 2023-2031 SITE INVENTORY**

Housing Inventory Category	<i>Regional Housing Needs Allocation with Buffer</i>
Pipeline Projects	2,119
ADUs	192
Residential Only	1,928
Commercial/Residential (Mixed Use)	1,772
<b>Total</b>	<b>6,011</b>

Sources: City of Cupertino, 2014; PlaceWorks, 2023.



## PROJECT DESCRIPTION

### 3.7.1.2 PLANNING AREAS

Chapter 2, *Planning Areas*, of the General Plan provides a description of the distinct Planning Areas that make up Cupertino. The Planning Areas are divided into two categories: Special Areas and Neighborhoods. The Planning Areas chapter provides an overview of each Planning Area, including its current context and future vision. Specific goals, policies and strategies for each Planning Area are included in the various topical elements of the General Plan (i.e., Chapters 3 through 9). The proposed Modified Project would include updates to this chapter, including the figures, to ensure internal General Plan consistency. Including updating the map figures.

### 3.7.1.3 LAND USE AND COMMUNITY DESIGN ELEMENT UPDATE

The Land Use and Community Design Element provides direction on land use and design principles to shape development in Cupertino, consistent with California Government Code Section 65302(a). This element contains Figure LU-2, *Community Form Diagram*, which provides residential dwelling unit densities and height limits for each of the City's eight special areas, as well as neighborhoods in the city limits. This element also describes the City's development allocations that establish the amount of commercial and office square footage, hotel rooms, and dwelling units by special area, other locations, and major employers that the City anticipates over the General Plan 2040 buildout horizon.

The Land Use and Community Design Element is divided into a background section providing context, a citywide set of goals, policies, and strategies for land use development, and specific planning area goals and policies for each of the special areas, neighborhoods, and subareas.

The proposed Modified Project would update the Land Use and Community Design Element to ensure consistency between the proposed Housing Element and Zoning Code amendments, including the Land Use Map and Zoning Map. This would include an updated Figure LU-2, *Community Form Diagram*; Appendix A, *Land Use Definitions*; and revised goals, policies, and strategies to streamline housing development on housing opportunity sites. Figure 3-4, *Housing Opportunity Sites: Land Use Designation Changes*, shows the proposed Land Use Map changes to the housing opportunity sites. Appendix A, *Land Use Definitions*, of the General Plan 2040 would include updates to the Residential and Commercial/Residential land use designations as listed:

- **Residential**
  - High Density would be changed from greater than 35 dwelling units per acre to 35.01 to 50 dwelling units per acre.
  - A new High/Very High Density category would be added, which would include 50.01 to 65 dwelling units per acre.
  - A new Very High Density category would be added, which would include 65.01 to 80 dwelling units per acre.
  - A new Highest Density category would be added, which would include 80.1 to 95 dwelling units per acre.



Source: ESRI, 2022; ABAG, 2022; City of Cupertino, 2023; PlaceWorks, 2023.

Figure 3-4

## Housing Opportunity Sites: Land Use Designation Changes

## PROJECT DESCRIPTION

- **Commercial/Residential.** This land use designation would be updated to include six sub-categories based on residential densities.
  - Commercial/Residential Low/Medium Density, which would include mixed-use land uses with 5.01 to 10 dwelling units per acre of residential land use.
  - Commercial/Residential Medium Density, which would include mixed-use land uses with 10.01 to 20 dwelling units per acre of residential land use.
  - Commercial/Residential Medium High Density, which would include mixed-use land uses with 20.01 to 35 dwelling units per acre of residential land use.
  - Commercial/Residential High Density, which would include mixed-use land uses with 35.01 to 50 dwelling units per acre of residential land use.
  - Commercial/Residential High/Very High Density, which would include mixed-use land uses with 50.01 to 65 dwelling units per acre of residential land use.
  - Commercial/Residential Very High Density, which would include mixed-use land uses with 65.01 to 80 dwelling units per acre of residential land use.

Due to changes in State housing law to address the statewide housing crisis, the proposed Modified Project would update Table LU-1, *Citywide Development Allocation Between 2014-2040*, of the Land Use and Community Design Element to remove the residential development allocation. No changes to the development allocation for commercial and office square footage, nor the number of hotel rooms are proposed.

### 3.7.1.4 MOBILITY ELEMENT UPDATE

The Mobility Element provides an overview of the transportation and transit network in Cupertino and goals, policies, and strategies to guide decision making regarding transportation network improvements needed to accommodate the City's anticipated growth, consistent with California Government Code Section 65302(b). One of the primary purposes of this element is to reduce the strain on the automobile network by improving bicycling, pedestrian, and transit access throughout the city.

The proposed Modified Project would include updates to Mobility Element to ensure internal General Plan consistency, as well as updates in State law guidance, by reducing vehicle miles traveled (VMT) at both the city level and project level scales. This update would include policies and strategies to mitigate transportation impacts associated with the implementation of the Housing Element, including evaluation of new development pursuant to the City's adopted Transportation Analysis Guidelines, establishing VMT reduction frameworks for the city and future potential development projects, and promoting existing transit and car share programs throughout the city.

### 3.7.2 HEART OF THE CITY SPECIFIC PLAN

The Heart of the City Specific Plan provides the development standards and design guidelines for the Heart of the City area. The proposed Modified Project would update the Heart of the City Specific Plan to ensure consistency between the proposed Housing Element, Land Use and Community Design Element, and Zoning Code amendments, including the Zoning Map. This would not include updates to design guidelines.

## PROJECT DESCRIPTION

### 3.7.3 ZONING CODE AMENDMENTS

The Zoning Code is the City's primary tool for implementing the objectives, policies, and programs of the General Plan. The Zoning Code aims to protect the character and social and economic stability of different zoning districts within the city, while mitigating negative impacts to public safety. The Zoning Code contains various chapters, including definitions, administration, and regulations for the use of land and the placement of buildings for each zoning district, density bonus, signs, wireless communications facilities, public art, and parking.

The Zoning Map establishes and delineates the different zoning districts within the study area. Together, the Zoning Code and Zoning Map govern the use of land, including the construction, alteration, movement, replacement, or maintenance of buildings; the height, bulk, and placement of buildings and uses on each site; the provision of open space, amenities, off-street parking, and loading; the relationships between buildings and uses on adjoining sites or within adjoining classes of districts; and other aspects of land use and development.

The proposed Modified Project would include updates to the Zoning Code and map to ensure consistency between the proposed Housing Element and the proposed Land Use and Community Design Element. This would include text updates, the creation of a new zoning district and combining district, and an updated Zoning Map. Tables 3-4 and 3-5 show the proposed changes to zoning for the housing opportunity sites.

The proposed Modified Project would include revisions to the following sections of the Zoning Code:

- Section 19.08: *Definitions*. This section would be revised and updated to include additional appropriate definitions for the revised content listed below.
- Section 19.12: *Administration*. Updates to this section would include adding references to the new zoning and combining districts and establishing a by-right process.
- Section 19.16: *Designations and Establishment of Districts*. Updates to this section would incorporate reference to new zoning and combining districts.
- Section 19.20: *Permitted, Conditional, and Excluded Uses in Agricultural and Residential Zones*. Updates to this section would incorporate reference to new zoning and combining districts and revise the land use table with the new zoning districts.
- Section 19.28: *Single-Family Residential (R-1) Zones*. Revisions to this section would include revising Table 19.28.040 to allow missing-middle housing.
- Section 19.36: *Multiple-Family Residential (R-3) Zones*. Updates to this section would include establishing density levels as medium, medium/high, and high density, as well as revising the site and building development regulations. Densities would range from 20.01 to 50 dwelling units per acre.
- Section 19.38: *Multiple-Family Residential (R-4) Zones*. This would be a new section that includes establishing a new zoning district and regulations for high/very high and very high density multiple-family residential. This district would correlate to the High/Very High and Very High land use designations with residential densities ranging from 50.01 to 80 dwelling units per acre.

## PROJECT DESCRIPTION

- Section 19.46: *Townhome (TH) Combining District*. This would be a new section that establishes a new combining district and regulations for townhome development in combination with the R-3 and R-4 zoning districts.
- Section 19.48: *Fences*. Revisions to this section would incorporate reference to new zoning and combining districts.
- Section 19.76: *Public Building (BA), Quasi-Public Building (BQ), and Transportation (T) Zones*. This section would be updated to revise requirements for rotating homeless shelters and permanent emergency shelters.
- Section 19.80: *Planned Development (P) Zones*. Revisions to this section would include incorporating reference to new zoning and combining districts, and establishing low-barrier navigation centers and supportive housing as allowed uses in mixed-use zones where residential is an allowed use.
- Section 19.100: *Accessory Buildings/Structures*. Updates to this section would include incorporating references to new zoning and combining districts.
- Section 19.124: *Parking Regulations*. Revisions to this section would include establishing parking standards for new zoning and combining districts, which includes revising parking standards for the R-3 zoning district and for emergency shelters, as well as clarifying parking standards for the R1-C zoning district.

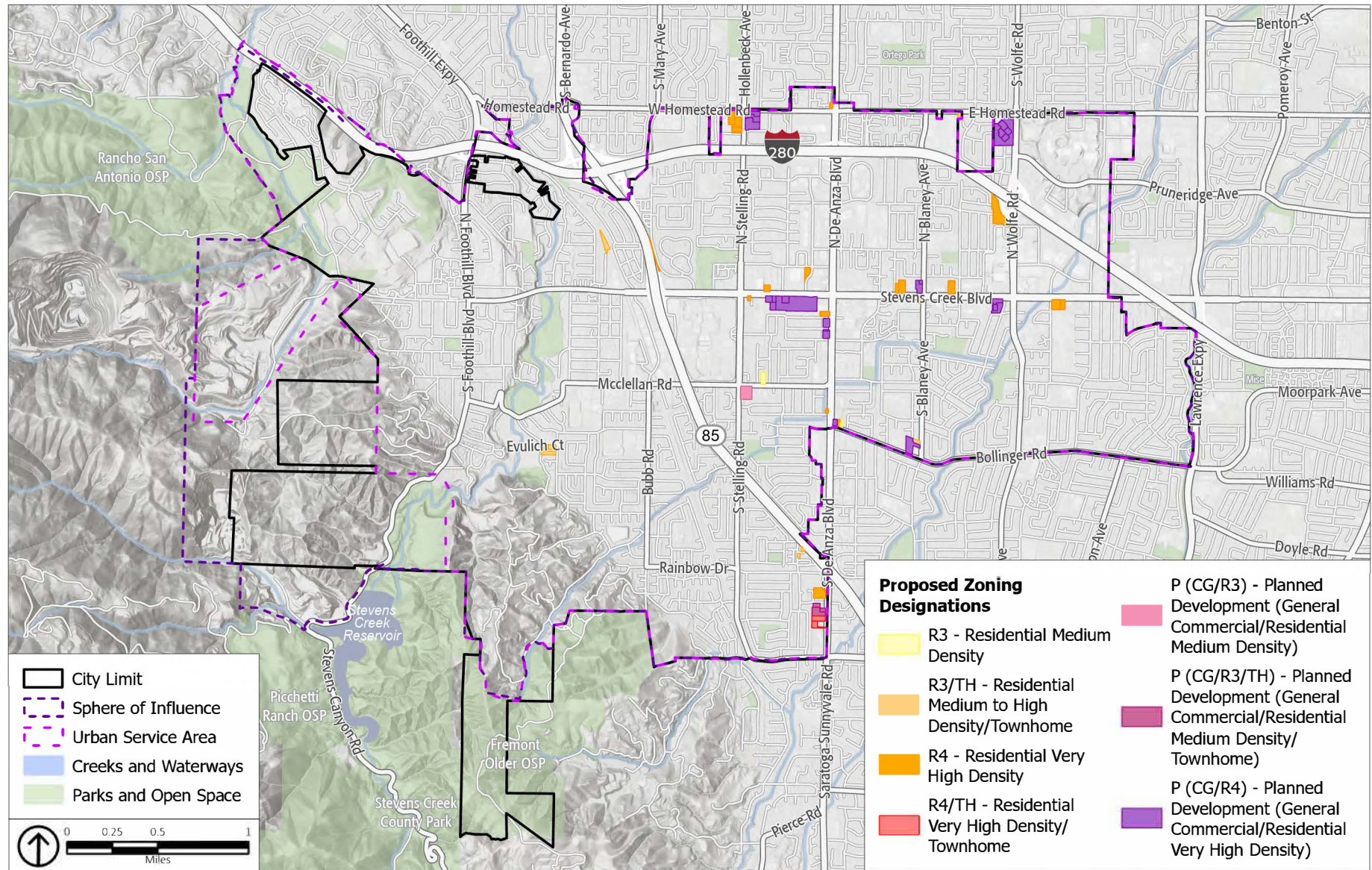
Figure 3-5, *Housing Opportunity Sites: Zoning District Changes*, shows the proposed zoning map changes.

## 3.8 BUILDOUT PROJECTIONS

As shown in Table 3-8, *Proposed 2040 Buildout Projections*, the proposed changes to the maximum density on the housing opportunity sites would add a total net new 3,312 dwelling units to Cupertino over the buildout horizon of the General Plan 2040. These additional dwelling units would accommodate an increase in population of approximately 9,737 people, and a proposed 2040 buildout population of 81,037 people, which is an increase from what was evaluated in the General Plan EIR. The proposed Modified Project does not include an increase in commercial, office, or hotel space in the city, and therefore would not increase the number of jobs in the city. Buildout projections for office and commercial square feet, or hotel rooms would occur as part of the proposed Modified Project.



## PROJECT DESCRIPTION



Note: This map is intended to show general locations of identified housing opportunity sites by Assessor Parcel Numbers or APNs, and is not intended to be used to identify project specific development boundaries. Project-specific development boundaries will be determined on a project-by-project basis as future development is proposed.

Source: ESRI, 2022; ABAG, 2022; City of Cupertino, 2023; PlaceWorks, 2023.

Figure 3-5  
Housing Opportunity Sites: Zoning District Changes

**PROJECT DESCRIPTION****TABLE 3-8 PROPOSED 2040 BUILDOUT PROJECTIONS**

Category	Existing Conditions		Net New		2040 Buildout	
	2013 General Plan EIR	2023 2013 Existing + Pipeline	General Plan EIR <sup>a</sup>	Proposed Modified Project	General Plan EIR	Proposed Modified Project
Office (square feet)	8,929,774	11,019,774 <sup>b</sup>	4,040,231	0	12,970,005	12,970,005
Commercial (square feet)	3,729,569	4,040,201 <sup>c</sup>	1,343,679	0	5,073,248	5,073,248
Hotel rooms	1,090	1,430 <sup>d</sup>	1,339	0	2,429	2,429
Housing units	21,399	24,351 <sup>e</sup>	4,421	3,312 <sup>f</sup>	25,820	29,132
Population	58,302	65,922 <sup>g</sup>	12,998	9,737 <sup>h</sup>	71,300	81,037
Jobs	21,399	29,158 <sup>i</sup>	16,855	0	44,242	44,242

## Notes:

a. The General Plan EIR evaluated the impacts from the addition of new development that is different than the Development Allocation limits shown in the General Plan 2040 at the time of adoption (2015) and the current General Plan 2040 that has since been amended (2023).

b. Additional office square footage includes the Vallco (The Rise) 1,810,000 square feet and 19191 Vallco Parkway (Apple) 280,000 square feet.

c. Additional commercial square footage includes the Public Storage 209,458 square feet; Scandinavian Design 2,235 square feet; Loc-N-Stor 96432 square feet; and 19191 Vallco Way (Apple) 2,300 square feet.

d. Additional hotel rooms include the Village Hotel 185 hotel rooms and De Anza Hotel 155 hotel rooms.

e. Includes the pipeline projects shown in Table 3-3 (2,119 dwelling units currently in the permitting or construction process) plus full buildout of the Vallco (The Rise) project (2,402 dwelling units) for an additional 883 dwelling units, for a total of 2,952 dwelling units.

f. Proposed housing units include the net new dwelling units from the housing opportunity sites. See Table 3-6, *Housing Opportunity Site Maximum Density*

g. Population is calculated by applying the City's generation rate used in the General Plan EIR of 2.94 persons per household (2,952 dwelling units x 2.94 persons per unit = 7,620 additional population)

h. Proposed population is the 3,312 net new dwelling units x 2.94 persons per household.

i. Jobs are calculated applying the City's generation rates used in the General Plan EIR as follows; 300 square feet office = 1 job; 450 square feet commercial = 1 job; 1 hotel room = .3 jobs. (2,090,000 sf office total / 300 sf per job = 6,967 additional jobs) + (310,632 sf commercial total / 450 sf per job = 690 additional jobs) + (340 rooms total x 0.3 jobs per room = 102 new jobs) = 7,759 total new jobs

Sources: City of Cupertino, 2014; PlaceWorks, 2023.

As previously described, the proposed Housing Element (2023-2031) identifies a total of 6,011 units to meet the required RHNA (4,588 dwelling units) and buffer (1,423 dwelling units) and the proposed changes to the land use designations and zoning districts result in a total net new 3,312 dwelling units. Accordingly, the proposed changes are only needed to meet a portion of the City's assigned RHNA and buffer dwelling units. In other words, under existing conditions (i.e., no changes to land use designations or zoning standards are required), the City can currently accommodate 2,704 dwelling units toward the RHNA. Therefore, this EA only evaluates the proposed changes to the land use designation and zoning districts required to accommodate the remainder of the dwelling units necessary to meet the RHNA and buffer dwelling units, which is 3,312 net new dwelling units. Furthermore, because the buffer dwelling units are technically "back-up" sites, the evaluation of these sites presents a conservative evaluation of impacts in this EA.

While the proposed Housing Element, a policy-level document, has a planning horizon of 2031, the exact timing of development under the Housing Element 2023-2031 is unknown and will ultimately be market driven. Individual projects would occur incrementally over time, largely based on economic conditions, market demand, and other planning considerations. Therefore, as a subsequent analysis to the General Plan EIR, this analysis assumes that the projected cumulative growth will occur by the year 2040, which

## PROJECT DESCRIPTION

was the horizon year used in the General Plan EIR. This EA will provide an update to that analysis necessitated by the net new housing growth that was not anticipated in the General Plan EIR. CEQA Guidelines Section 15064(d) states that “In evaluating the significance of the environmental effect of a project, the lead agency shall consider direct physical changes in the environment which may be caused by the project and reasonably foreseeable indirect physical changes in the environment which may be caused by the project.” The 2040 buildout projections represent the City’s projection of “reasonably foreseeable” development that could occur over the next 17 years and are used as the basis for the cumulative analysis in this EA. Although the General Plan EIR assumed a buildout horizon of 2040, it is possible that the maximum development potential may be reached sooner than anticipated. However, the General Plan EIR evaluated the maximum development potential that could occur at any given time and did not consider the phased buildout of the development potential; therefore, the evaluation of impacts as a result of any expedited buildout that might occur are not included as part of this analysis. See Chapter 4, *Environmental Analysis*, of this EA, for additional discussion on the setting for the cumulative impact analysis.

### 3.9 INTENDED USES OF THE EA

This EA is intended to review potential environmental impacts associated with the adoption and implementation of the proposed Modified Project and determine corresponding mitigation measures, as necessary. This EA is a program-level evaluation and does not evaluate the impacts of specific, individual developments that may be allowed under the proposed Modified Project. Each specific future project will conduct separate approval and environmental review processes pursuant to City procedures and CEQA, if required, to secure the necessary discretionary development permits. Therefore, while subsequent environmental review may be tiered off the analysis provided in this EA, this EA is not intended to address impacts of individual projects. Subsequent projects will be reviewed by the City for consistency with the proposed Modified Project and this EA, which will be appended to the General Plan 2040 pursuant to Government Code Section 65759. Projects successive to this EA include, but are not limited to, the following:

- Updates to utility infrastructure master plans, such as the water, wastewater, and stormwater master plans.
- Issuance of permits and other approvals necessary for implementation of the proposed Modified Project.
- Development plan approvals, such as tentative maps, variances, conditional use permits, and other land use permits.
- Development of hazard mitigation or adaptation programs.
- Permit issuance and other approvals necessary for public and private development projects.
- Development agreement processes and approvals.

### 3.10 REQUIRED PERMITS AND APPROVALS

The proposed Housing Element 2023-2031 is subject to review and certification by HCD, and the proposed Health and Safety Element is subject to review by the California Department of Forestry and Fire

## PROJECT DESCRIPTION

Protection, California Geological Survey, and California Office of Emergency Services. Following these reviews, the General Plan 2040 and Zoning Code Amendments would be adopted solely by the City of Cupertino City Council, without permitting by other agencies. The Planning Commission and other decision-making bodies will review the proposed Modified Project and make recommendations to the City Council. Subsequent development under the General Plan 2040 and Zoning Code, as amended, may require approval by responsible and trustee agencies that may rely on the analysis for this EA for decisions in their areas of permitting. Responsible and trustee agencies that may rely on the analysis for this EA include, but are not limited to:

- California Geological Survey (CGS)
- California Department of Forestry and Fire Protection (CAL FIRE)
- Bay Area Air Quality Management District (BAAQMD)
- California Department of Transportation (Caltrans)
- San Francisco Regional Water Quality Control Board (San Francisco RWQCB)

## 4. Environmental Analysis

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This chapter describes the organization of the environmental analysis of this Environmental Assessment (EA) and the assumptions and methodology of the impact analysis and the cumulative impact setting.

### CHAPTER ORGANIZATION

The EA is made up of 16 subchapters that evaluate the direct, indirect, and cumulative environmental impacts of the proposed project. In accordance with Appendix F, *Energy Conservation*, and Appendix G, *Environmental Checklist Form*, of the California Environmental Quality Act (CEQA) Guidelines, the potential environmental effects of the proposed project are analyzed for potential significant impacts in the following 16 environmental issue areas, which are organized with the listed abbreviations:

4.1	Aesthetics (AES)	4.9	Hydrology and Water Quality (HYD)
4.2	Air Quality (AIR)	4.10	Land Use and Planning (LU)
4.3	Biological Resources (BIO)	4.11	Noise (NOI)
4.4	Cultural and Tribal Cultural Resources (CUL)	4.12	Population and Housing (POP)
4.5	Energy (ENE)	4.13	Public Services and Recreation (PS)
4.6	Geology and Soils (GEO)	4.14	Transportation (TRANS)
4.7	Greenhouse Gas Emissions (GHG)	4.15	Utilities and Service Systems (UTIL)
4.8	Hazards and Hazardous Materials (HAZ)	4.16	Wildfire (FIRE)

Each subchapter is organized into the following sections:

- **Environmental Setting** offers a description of the existing environmental conditions, providing a baseline against which the impacts of the proposed Modified Project can be compared, and an overview of federal, State, regional, and local laws and regulations relevant to each environmental issue.
- **Standards of Significance** refer to the quantitative or qualitative standards, performance levels, or criteria used to evaluate the existing setting with and without the proposed Modified Project to determine whether the impact is significant. These thresholds are based primarily on the CEQA Guidelines, and also may reflect established health standards, ecological tolerance standards, public service capacity standards, or guidelines established by agencies or experts.
- **Impact Discussion** gives an overview of the potential impacts of the proposed Modified Project compared to the Approved Project and explains why impacts are found to result or not result in new or more severe impacts beyond what was evaluated in the General Plan EIR. This section also includes a discussion of cumulative impacts related to the proposed Modified Project. Impacts and mitigation measures are numbered consecutively within each topical analysis and begin with an acronym or abbreviated reference to the impact section.

## ENVIRONMENTAL ANALYSIS

### STANDARDS OF SIGNIFICANCE

As stated, significance criteria are identified before the impact discussion subsection in each chapter. For each impact identified, a level of significance is determined using the following classifications:

- **Significant.** A significant impact includes a description of the circumstances where an established or defined threshold would be exceeded.
- **Less than Significant.** A less-than-significant impact includes effects that are noticeable, but do not exceed established or defined thresholds, or can be mitigated below such thresholds.
- **No Impact.** A no impact conclusion describes circumstances where there is no adverse effect on the environment.
- **Significant and Unavoidable.** For each impact identified as being significant, the EA identifies mitigation measures to reduce, eliminate, or avoid the adverse effect. If one or more mitigation measures would reduce the impact to a less-than-significant level successfully, this is stated in the EA. Significant and unavoidable impacts are described where mitigation measures would not diminish these effects to less-than-significant levels. The identification of a program-level significant and unavoidable impact does not preclude the finding of less-than-significant impacts for subsequent projects that comply with the applicable regulations and meet applicable thresholds of significance.

### EVALUATION METHODOLOGY

Under CEQA, the decision as to whether an environmental effect should be considered significant is reserved to the discretion of the City of Cupertino, acting as the lead agency, based on substantial evidence in the record as a whole, including views held by members of the public. An ironclad definition of significant effect is not always possible because the significance of an activity may vary based on the setting. The analysis in the EA is based on scientific and factual data that has been reviewed by the lead agency and represents the lead agency's independent judgment and conclusions.<sup>1</sup> This section describes the methodology for the program-level evaluation in Chapters 4.1 through 4.16 with respect to the horizon year, the baseline, the application of the proposed City of Cupertino General Plan 2040 (General Plan 2040) policies, effects of the environment on the project, parking impacts, and cumulative impacts.

### INCORPORATION BY REFERENCE

Pertinent documents relating to this EA are cited in accordance with CEQA Guidelines Section 15148 or have been incorporated by reference in accordance with CEQA Guidelines Section 15150, which encourages incorporation by reference as a means of reducing redundancy and the length of environmental reports. The following documents are hereby incorporated by reference. Information in these documents is used for various sections of this EA.

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<sup>1</sup> California Code of Regulations, Title 14, Division 6, Chapter 3, Section 15064(b).



## ENVIRONMENTAL ANALYSIS

### CUPERTINO GENERAL PLAN

Adopted in December 2014, the City's General Plan serves as a blueprint for the community through the year 2040. Since this time, several amendments to the General Plan have occurred. The General Plan provides a roadmap for new housing and job growth, while protecting those characteristics and values that make Cupertino a desirable and distinctive place to live, work, and visit. The City's General Plan consists of seven elements: Land Use and Community Character; Housing; Mobility; Environmental Resources and Sustainability; Health and Safety; Infrastructure; and Recreation, Parks, and Community Services. Each General Plan Element includes goals, policies, and strategies that create a roadmap for new housing and job growth, provide guidance for decision makers on allocating resources, and describe the use, management, and conservation of natural resources, public services, and infrastructure. This document is available for viewing on the City's website at: <https://www.cupertino.org/gp>. The General Plan is used in this EA as a source for existing City policy.

### GENERAL PLAN EIR

The *General Plan Amendment, Housing Element Update, and associated Rezoning Project Environmental Impact Report* (State Clearinghouse No. 2014032007) and the subsequent addenda to the EIR (General Plan EIR) assessed the potentially significant environmental effects of the General Plan 2040. The General Plan EIR was used in this EA as a source for existing environmental setting data, buildout impact analyses, and City mitigation measures. This document is available for viewing on the City's website at: <https://records.cupertino.org/WebLink/Browse.aspx?id=697928&dbid=0&repo=CityofCupertino>

### CUPERTINO MUNICIPAL CODE

The Cupertino Municipal Code (CMC) regulates land use and activities in the City's jurisdiction, including the Environmental Regulations and Zoning Code (codified in CMC Titles 17 and 19, respectively). The Municipal Code is organized by title, chapter, and section. The Environmental Regulations and Zoning Code are the primary tools for implementing the City's General Plan policies. Title 17, *Environmental Regulations*, contains Chapter 17.04, *Standard Environmental Protection Requirements*, which codify several of the project-level mitigation measures from the General Plan EIR. Every project in the Study Area must comply with these standards for environmental compliance. This section includes standards for the following:

- |  |   |
|--|---|
| ▪ Air Quality Technical Requirements                     | ▪ Biological Resources Permit Requirements          |
| ▪ Hazardous Materials                                    | ▪ Cultural Resources Permit Requirements            |
| ▪ Vehicle Miles Traveled Technical Report Requirements   | ▪ Hydrology and Water Quality Permit Requirements   |
| ▪ Vibration Technical Report Requirements                | ▪ Noise and Vibration Permit Requirements           |
| ▪ Air Quality Permit Requirements                        | ▪ Paleontological Resources Permit Requirements     |
| ▪ Hazardous Materials Permit Requirements                | ▪ Utilities and Service Systems Permit Requirements |
| ▪ Greenhouse Gas Emission and Energy Permit Requirements |   |



## ENVIRONMENTAL ANALYSIS

Additional details regarding each of the Standards Environmental Protection Requirements is described in Chapters 4.1 through 4.16 of this EA, where relevant. In addition, CMC Title 16, *Buildings and Construction*, and CMC Title 18, *Subdivisions*, contain regulatory provisions that apply to residential development. The CMC was used throughout this EA to establish the proposed Modified Project baseline requirements for City regulatory compliance. The CMC can be accessed online at: [https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino\\_ca/0-0-0-78624](https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino_ca/0-0-0-78624).

## 2040 HORIZON DEVELOPMENT POTENTIAL

As described in Section 3.7.1.1, *Housing Element Update*, this EA evaluates the conservative possibility that all housing opportunity sites would be developed to 100 percent of their allowed density. For purposes of this EA, only sites that require a change in the General Plan Land Use Designation, Zoning District, or increase density will be evaluated, and the net new increase in density is the focus of the analysis. This EA considers potential impacts of potential future development that may result from adoption of the proposed Housing Element 2023-2031, including rezoning of potential housing sites to allow housing and/or mixed-use developments, and related actions to encourage housing production, including, but not limited to, changes in allowable densities and changes in development standards.

The Housing Element is a policy-level document that presents the City's proposed policies and strategies to achieve the City's housing objectives in the 2023-2031 planning period. Growth assumptions in the Housing Element 2023-2031 represent a theoretical development capacity (based on the City's Regional Housing Needs Allocation [RHNA] as determined by the Association of Bay Area Governments [ABAG]), which, consistent with the Housing Element planning period, is estimated to occur by 2031. The Housing Element 2023-2031 does not propose development, but rather is intended to accommodate and encourage housing development to accommodate projected housing needs at all income levels in Cupertino. The amendments to the Land Use and Community Character Element, Mobility Element, Heart of the City Specific Plan, and the Zoning Code support the implementation of the Housing Element through land use designation and site development standard changes. The 6,011 dwelling unit development capacity, inclusive of the development at 100 percent of the proposed density, potential accessory dwelling units, and pipeline projects, which would include the buffer needed to meet the remaining unmet RHNA of 4,588 dwelling units, is based on theoretical conditions used to conduct a thorough and conservative analysis of potential environmental impacts that would result from future potential development accommodated by the Housing Element 2023-2031 and corresponding updates to the Land Use and Community Character Element, Mobility Element, Heart of the City Specific Plan, and Zoning Code.

The development capacity and planning period do not consider factors that influence the timing of development, such as economics and market forces, among others. Individual projects would occur incrementally over time, largely based on economic conditions, market demand, and other planning considerations. The actual rate of housing development would be outside of the City's control and would be dictated by factors that influence development, as described previously. Therefore, while the City's remaining unmet RHNA is 4,588 dwelling units, it is unlikely that the anticipated development would occur in the Housing Element's 2031 planning horizon. The intent of the Housing Element 2023-2031 is to provide the capacity (i.e., through modifications to existing land use designations and zoning

## ENVIRONMENTAL ANALYSIS

classifications) for the housing market to adequately address housing needs for all income groups, rather than generating the full development capacity within the planning cycle. The Housing Element 2023-2031 further directs the development capacity to occur where planned growth is best suited to occur. Therefore, to provide a conservative analysis of potential environmental impacts associated with the Housing Element 2023-2031 implementation (i.e., a “worst-case” scenario environmentally) and corresponding updates to the Land Use and Community Character Element and Zoning Code, this EA assumes project buildout of all 6,011 dwelling units on any combination of the housing sites by 2031.

To assess the increase in housing units with the adoption and implementation of the proposed project, this EA will use an updated baseline and updated projections for 2040. The updated baseline and projections are shown in Table 3-8, *Proposed 2040 Buildout Projections*, of Chapter 3, *Projection Description*, of this EA, and are explained briefly here.

- **Existing Conditions: 2013 General Plan EIR** column is included for informational purposes. Comparison with the 2023 Existing Conditions allows readers to understand changes since the General Plan EIR was prepared.
- **Existing Conditions: 2023, 2013 Existing + Pipeline** column reflects conditions on the ground in Cupertino when the Notice of Preparation (NOP) was published in 2023 and also includes the pipeline commercial, residential, and office projects that have been approved and are either under construction or expected to commence construction shortly. As described in Chapter 3, *Project Description*, of this EA, this data is used as the baseline for the analysis of the proposed Modified Project impacts.
- **Net New: General Plan EIR** column reflects the addition of new development that is different than the Development Allocation limits shown in the General Plan 2040 at the time of adoption (2015) and the current General Plan 2040 that has since been amended (2023).
- **Net New: Proposed Modified Project** column shows the net new units and population growth proposed by the Housing Element 2023-2031. The proposed housing units include the net new dwelling units from the housing opportunity sites maximum density, which is shown in Table 3-6, *Housing Opportunity Site Maximum Density*. Population is calculated by applying the City’s generation rate used in the General Plan EIR of 2.94 persons per household.
- **2040 Buildout: General Plan EIR** column is included for informational purposes and allows readers to understand the maximum buildout of the General Plan that was anticipated in the General Plan EIR.
- **2040 Buildout: Proposed Modified Project** column provides a summary of the maximum buildout of the General Plan as a result of the proposed Modified Project plus other past, present, and reasonably foreseeable development projects that were not reflected in the General Plan EIR projections. The data reflects the 2040 Buildout General Plan EIR projections plus the 3,312 additional units anticipated as a result of the Housing Element 2023-2031.

The environmental analysis in this EA describes the potential for adverse impacts to occur from increasing the buildout potential in the Study Area, as well as new and modified General Plan 2040 goals, policies, and strategies. The 2040 horizon development potential under the proposed Modified Project includes the net increase of maximum development potential for the city. As shown in Table 3-8, *Proposed 2040 Buildout Projections*, in Chapter 3, *Project Description*, of this EA, this combined projected new growth in

## ENVIRONMENTAL ANALYSIS

the entire Study Area for the 2040 horizon year includes approximately 3,312 new residential units and 9,737 new residents.

Because the proposed Modified Project consists of a long-term policy document (i.e., the General Plan 2040) that is intended to guide future development activities and City actions, and because no specific development projects are proposed as part of the project, it is reasonable to assume that future development would occur incrementally or gradually over the buildout horizon. However, while this assumption describes the long-range nature of the proposed Modified Project, it does not prohibit or restrict when development can occur over the horizon period.

## BASELINE

As a subsequent analysis to the General Plan EIR, this analysis assumes that the projected cumulative growth would occur by the year 2040, which was the horizon year used in the General Plan EIR. The 2040 buildout projections represent the City's projection of "reasonably foreseeable" development that could occur over the next 17 years and are used as the basis for the cumulative analysis in this EA. Therefore, this EA, which is in the format of a subsequent Draft EIR, provides an update to that analysis necessitated by the net new housing growth that was not anticipated in the General Plan EIR. As shown in Table 3-8, *Proposed 2040 Buildout Projections*, in Chapter 3, *Project Description*, of this EA, the baseline conditions in 2040 include approximately 25,820 residential units and 71,300 residents.

## GENERAL PLAN 2040 POLICIES

As described in Chapter 3, *Project Description*, the proposed goals, policies, and strategies in the proposed Housing Element 2023-2031 aim to maintain, preserve, improve, and develop housing; affirmatively further fair housing; incentivize the development of housing for special needs and all income levels; and promote healthy and sustainable housing throughout the Study Area. Housing Element 2023-2031 and associated Land Use and Community Design Element policies aim to avoid hazardous conditions and facilitate a healthy and safe environment for residents and visitors to Cupertino.

In October 2015, the adopted policies and strategies in the General Plan 2040 document were revised.<sup>2</sup> Therefore, the numbering of policies and strategies may be different between the Approved Project and proposed Modified Project. The amended General Plan 2040 is the primary reference document for the current list of goals and strategies referenced in this EA.

This EA includes substantive General Plan 2040 policy and strategy changes, which includes the addition, removal, or functional revisions (i.e., not purely semantic) to the text in ways that have the potential to result in a physical impact on the environment. Chapters 4.1 through 4.16 of this EA include an analysis of how substantive policy changes may result in adverse physical changes to the environment. Amended and new policies collectively reflect the changes to the current General Plan 2040. The proposed goals, policies, and strategies were reviewed for their adequacy in reducing and/or avoiding impacts to the environment that could occur from future development in the city. The proposed Modified Project goals,

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<sup>2</sup> Cupertino General Plan Community Vision 2015 – 2040, adopted by council on May 19, 2015, per Resolution No. 15-042

## ENVIRONMENTAL ANALYSIS

policies, and strategies are listed in the impact discussions of Chapters 4.1 through 4.16 to illustrate where they would reduce impacts from potential future development in Cupertino.

The content of the General Plan 2040 policies and strategies are directly integrated with and reflective of the proposed Modified Project as a whole. Therefore, impact discussions for the effects of the proposed project necessarily encompass analysis of the effects of these policies as a whole, and policies with relevance to CEQA topics are described in the appropriate chapters. Non-substantive changes include but are not limited to, the renumbering of policies or minor text revisions, which do not have the potential to result in a physical change to the environment.

### PRIORITY DEVELOPMENT AND TRANSIT PRIORITY AREAS

*Plan Bay Area* is the San Francisco Bay Area's Regional Transportation Plan and Sustainable Communities Strategy (RTP/SCS), prepared by ABAG in partnership with the Metropolitan Transportation Commission (MTC), the Bay Area Air Quality Management District, and the Bay Conservation and Development Commission. *Plan Bay Area* 2050, adopted October 21, 2021, is the current version.<sup>3</sup> *Plan Bay Area* 2050 is a limited and focused update to the *Plan Bay Area* 2040, with updated planning assumptions that incorporate key economic, demographic, and financial trends from the last several years. Although recently updated, *Plan Bay Area* 2040 provides information not available in *Plan Bay Area* 2050, such as population projections at a City scale, and is used as the basis for other regional planning documents, such as the Bay Area Air Quality Management District 2017 Clean Air Plan. Therefore, this EA references both *Plan Bay Area* 2040 and *Plan Bay Area* 2050 in the analysis. Also note that, *Plan Bay Area* 2050+, a limited and focused update that builds upon the foundation of *Plan Bay Area* 2050, is being prepared.

*Plan Bay Area* provides transportation and environmental strategies to continue to meet the regional transportation-related greenhouse gas (GHG) reduction goals of Senate Bill (SB) 375. Under the *Plan Bay Area* 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. GHG emissions from transportation would decrease significantly as a result of these transportation and land use changes, and the Bay Area would meet the State mandate of a 19 percent reduction in per-capita emissions by 2035 — but only if all strategies are implemented.<sup>4</sup> Strategies to reduce GHG emissions include focusing housing and commercial construction in walkable, transit-accessible places; investing in transit and active transportation; and shifting the location of jobs to encourage shorter commutes. As part of the implementing framework for *Plan Bay Area*, Priority Development Areas (PDAs) and Transit Priority Areas (TPAs) are identified as areas where concentrated development can have beneficial environmental effects and reduce adverse environmental impacts. The Study Area includes the Santa Clara Valley Transportation

<sup>3</sup> Association of Bay Area Governments and Metropolitan Transportation Commission, 2021, October, *Plan Bay Area* 2050, [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed May 25, 2023.

<sup>4</sup> Association of Bay Area Governments and Metropolitan Transportation Commission, 2021, October, *Plan Bay Area* 2050, [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed June 21, 2023.

## ENVIRONMENTAL ANALYSIS

Authority City Cores, Corridors, and Station Areas PDA and an unnamed TPA, which are shown on Figure 4-1, *Priority Development Areas and Transit Priority Areas*. Additional details about PDAs and TPAs are provided in the sections that follow.

### PRIORITY DEVELOPMENT AREAS

A PDA is a place that has convenient public transit service, often referred to as “transit-oriented,” that is prioritized by local governments, such as Cupertino, for housing, jobs, and services in existing communities. PDAs are created and planned by local governments, which nominate eligible areas to ABAG for adoption.<sup>5</sup> The PDAs identified throughout the Bay Area in *Plan Bay Area 2050* were projected to accommodate 72 percent (or 985,000 units) of new housing and 48 percent (or 679,000) of new jobs in the region from the 2015 baseline.<sup>6</sup> Development in PDAs leverage existing infrastructure and therefore can minimize development in greenfield (undeveloped) areas and maximize growth in transit-rich communities to help lower vehicle miles traveled (VMT) and consequently reduce GHG emissions, air quality pollutants, and noise from vehicles with internal combustion engines dependent on fossil fuels and reduce wasteful, inefficient, or unnecessary consumption of energy resources. Additionally, due to the location, infill development in PDAs results in fewer impacts related to agricultural, forestry, mineral, archaeological, and biological resources, energy, geology and soils, hydrology and water quality, and wildfire. Impacts related to concentrated development in the PDAs is described throughout this EA and specific quantified impacts are described in Chapter 4.2, *Air Quality*; Chapter 4.7, *Greenhouse Gas Emissions*; and Chapter 4.14, *Transportation*, of this EA. Certain potential future residential or mixed-use residential projects and projects in PDAs that meet defined criteria in the CEQA Guidelines may be eligible for CEQA streamlining. For example, while not exclusive to PDAs, due to their urban setting, development in a PDA is more likely to qualify for a CEQA Guidelines Section 15332, *Infill Development Projects*, Class 32 Categorical Exemption.

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<sup>5</sup> Cupertino’s PDA was designated by VTA as part of their Cores, Corridors and Station Areas program. The PDA was affirmed by the City in June 2012, and again in 2019, since the PDA boundaries align, for the most part, with the City’s Heart of the City Specific Plan area, which was envisioned as the core of the city where much of the City’s growth/change is anticipated to occur.

<sup>6</sup> Metropolitan Transportation Commission and Association of Bay Area Governments, October 2021, *Plan Bay Area 2050*, [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed January 23, 2024.





Source: ESRI, 2022; ABAG, 2022; City of Cupertino, 2023; PlaceWorks, 2023.

Figure 4-1

## Priority Development Areas and Transit Priority Areas

## ENVIRONMENTAL ANALYSIS

### TRANSIT PRIORITY AREAS

*Plan Bay Area 2050* also identifies TPAs, referred to as Transit-Rich PDAs.<sup>7</sup> These are areas within a half-mile of a major transit stop (i.e., a stop with service frequency of 15 minutes or less) that is existing or planned to be completed in the planning horizon of a Transportation Improvement Program adopted pursuant to Section 450.216 or Section 450.322 of Title 23 of the Code of Federal Regulations. In Cupertino, there are five major transit stops identified in the Regional Transportation Plan.<sup>8</sup> TPAs generally include existing neighborhoods served by transit and opportunities for housing and jobs, high performing schools, and amenities. Certain potential future residential or mixed-use residential projects and projects<sup>9</sup> in TPAs that meet defined criteria in the CEQA Guidelines may be eligible for CEQA streamlining. Like development in PDAs, developing in TPAs also minimizes development in greenfield (undeveloped) areas and maximizes growth in transit-rich communities to help lower VMT and consequently reduce GHG emissions, air quality pollutants, and noise from vehicles with internal combustion engines dependent on fossil fuels and reduce wasteful, inefficient, or unnecessary consumption of energy resources.

With respect to potential future development in a TPA, SB 743, which became effective on January 1, 2014, amended CEQA by adding Public Resources Code (PRC) Section 21099 regarding analysis of transportation, aesthetics, and parking impacts for urban infill projects, among other provisions. SB 743, which became effective on January 1, 2014, amended CEQA by adding PRC Section 21099 regarding analysis of transportation, aesthetics, and parking impacts for urban infill projects, among other provisions.

- **Transportation Impacts.** SB 743 required the Governor’s Office of Planning and Research—the entity charged with drafting guidelines to help agencies implement CEQA—to identify new metrics for identifying and mitigating transportation impacts under CEQA, shifting from a congestion-based standard (level of service or LOS) to a vehicle miles traveled (VMT) standard. CEQA Guidelines Section 15064.3 was added in December 2018 pursuant to SB 743 and describes specific considerations for evaluating a project’s transportation impacts. CEQA Guidelines Section 15064.3(b)(1) states that projects within half a mile of either an existing major transit stop or a stop along an existing high-quality transit corridor should be presumed to cause a less-than-significant transportation impact. Accordingly, transportation impacts related to VMT from potential future development in the TPA that meets the specific criteria, are presumed to be less than significant. Transportation impacts consistent with the required VMT standard are described in Chapter 4.14, *Transportation*, of this EA.
- **Aesthetic and Parking Impacts.** PRC Section 21099(d)(1), states, “Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a TPA shall not be considered significant impacts on the environment.” Accordingly, these topics are no

<sup>7</sup> Association of Bay Area Governments and Metropolitan Transportation Commission, *Plan Bay Area 2050: Regional Growth Framework Update – Overview of Existing and Updated Geographies*, [https://www.planbayarea.org/sites/default/files/pdfs\\_referenced/2019\\_Regional\\_Growth\\_Framework\\_Update\\_-\\_Whats\\_Changed\\_1.pdf](https://www.planbayarea.org/sites/default/files/pdfs_referenced/2019_Regional_Growth_Framework_Update_-_Whats_Changed_1.pdf), accessed January 23, 2024.

<sup>8</sup> Association of Bay Area Governments and Metropolitan Transportation Commission, <https://opendata.mtc.ca.gov/datasets/MTC::transit-stops-major-2021/explore?location=37.323167%2C-122.009494%2C14.00> accessed on March 5, 2024.

<sup>9</sup> A project in a transit priority area is referred to as a transit priority project (TPP).



## ENVIRONMENTAL ANALYSIS

longer considered in determining significant environmental effects for a project that meets all three of the following criteria:

- Is located on an infill site which is defined as “a lot located within an urban area that has been previously developed or on a vacant site where at least 75 percent of the perimeter of the site adjoins or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.”
- Is a residential, mixed-use residential, or an employment-center project.
- Is in a TPA, which is defined as “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 adopted pursuant to Section 450.216 or Section 450.322 of Title 23 of the Code of Federal Regulations.”

Accordingly, in compliance with SB 743, no significant aesthetic or parking impacts can be made in the environmental analysis for potential future qualifying development in the TPAs in the Study Area as they exist today or are modified over the buildout horizon.

## POTENTIAL EFFECTS OF THE ENVIRONMENT ON THE PROJECT

The California Supreme Court concluded in the *California Building Industry Association vs. Bay Area Air Quality Management District* (CBIA vs. BAAQMD) case that “CEQA generally does not require an analysis of how existing environmental conditions will impact a project’s future users or residents.” The CBIA vs. BAAQMD ruling provided for several exceptions to the general rule where an analysis of the project on the environment is warranted: (1) if the project would exacerbate existing environmental hazards (such as exposing hazardous waste that is currently buried); (2) if the project qualifies for certain specific specified exemptions (certain housing projects and transportation priority projects per PRC Sections 21159.21 (f)(h), 21159.22 (a),(b)(3), 21159.23 (a)(2)(A), 21159.24 (a)(1),(3), or 21155.1 (a)(4),(6)); (3) if the project is exposed to potential noise and safety impacts on projects due to proximity to an airport (per PRC Section 21096); and (4) school projects require specific assessment of certain environmental hazards (per PRC Section 21151.8). Therefore, the evaluation of the significance of project impacts under CEQA focuses on the potential impacts of the proposed project on the environment, including whether the proposed project may exacerbate any existing environmental hazards. Existing potential environmental hazards in Cupertino include seismic hazards, flooding, and wildfire. Therefore, while the effects of these hazards on the proposed project are not subject to CEQA review following the CBIA vs. BAAQMD case,<sup>10</sup> the City recognizes that seismic, flooding, and wildfire hazards are issues of local concern. Therefore, a discussion of the project’s potential to exacerbate these hazardous conditions is provided in Chapter 4.6, *Geology and Soils*; Chapter 4.7, *Greenhouse Gas Emissions*; Chapter 4.9, *Hydrology and Water Quality*; and Chapter 4.16, *Wildfire*, of this EA.

<sup>10</sup> *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369.

## ENVIRONMENTAL ANALYSIS

### PARKING IMPACTS

Effective in 2010, parking inadequacy as a significant environmental impact was eliminated from the CEQA Guidelines by the Governor's Office of Planning and Research, which is the entity charged with drafting guidelines to help agencies implement CEQA. Accordingly, parking adequacy in the Study Area is not discussed further in this EA.

### DENSITY BONUS LAW

On January 1, 2021, Assembly Bill 2345 amended the California Density Bonus Law (Government Code Section 65915 et seq.) to expand development incentives for projects with affordable and/or senior housing units. Under this amended law, future potential development with 15 percent of total units for very low income, 24 percent of total units for low income, or 44 percent of total units for moderate income, can receive a density bonus of up to 50 percent. Future potential development under both the Approved Project and proposed Modified Project could exceed site development standards. However, the density bonus and concessions would be approved on a project-by-project basis, and therefore it would be speculative to evaluate increases in density under this law for a plan level analysis.

### CUMULATIVE IMPACT ANALYSIS

A cumulative impact consists of an impact created as a result of the combination of the project evaluated in the EA, together with other reasonably foreseeable projects causing related impacts. Section 15130 of the CEQA Guidelines requires an EIR to discuss cumulative impacts of a project when the project's incremental effect is "cumulatively considerable." Used in this context, cumulatively considerable means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. In the case of a long-range plan such as the General Plan 2040 and proposed Modified Project, cumulative effects occur when future development under the long-range plan is combined with development in the surrounding areas, or in some instances, in the entire region.

Where the incremental effect of a project is not "cumulatively considerable," a lead agency need not consider that effect significant but must briefly describe its basis for concluding that the incremental effect is not cumulatively considerable. The CEQA Guidelines state that a lead agency has discretion to determine if a project's contribution to a significant cumulative impact is cumulatively considerable.

The cumulative discussions in Chapters 4.1 through 4.16 of this EA explain the geographic scope of the area affected by each cumulative effect (e.g., immediate project vicinity, county, watershed, or air basin). The geographic area considered for each cumulative impact depends on the impact that is being analyzed. For example, in assessing macro-scale air quality impacts, all development within the air basin contributes to regional emissions of criteria pollutants, and basin-wide projections of emissions are the best tool for determining the cumulative impact. In assessing aesthetic impacts, on the other hand, only development in the local area of change would contribute to a cumulative visual effect since the area of change is only visible in its vicinity.

## ENVIRONMENTAL ANALYSIS

CEQA Guidelines Section 15130 permits two different methodologies for the cumulative impact analysis:

- The “list” approach permits the use of a list of past, present, and probable future projects producing related or cumulative impacts, including projects both in and outside the city.
- The “projections” approach allows the use of a summary of projections in an adopted plan or related planning document, such as an RTP, or in an EIR prepared for such a plan. The projections may be supplemented with additional information such as regional modeling.

The cumulative impact analysis in this EA relies on a projections approach and considers growth from the proposed Modified Project in the Study Area in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by ABAG’s Metropolitan Transportation Plan and the Sustainable Communities Strategy, also known as *Plan Bay Area*. The following provides a summary of the cumulative impact setting for each impact area:

- **Aesthetics:** The cumulative setting for visual/aesthetic impacts includes potential future development under the proposed Modified Project combined with effects of development on lands adjacent to the city in Los Altos, Sunnyvale, Santa Clara, San Jose, Saratoga, and the unincorporated areas of Santa Clara to the west of the Study Area.
- **Air Quality:** Cumulative air quality impacts could occur from a combination of the proposed project with regional growth in the San Francisco Air Basin.
- **Biological Resources:** The geographic scope of the cumulative analysis for biological resources considers the surrounding incorporated and unincorporated lands and the region.
- **Cultural and Tribal Resources:** Cumulative impacts to cultural and tribal resources could occur from projected growth in the surrounding region.
- **Energy:** Cumulative impacts to energy resources could occur from the estimated growth in the energy provider’s (i.e., Silicon Valley Clean Energy and Pacific Gas and Electric Company) service area.
- **Geology and Soils:** Potentially cumulative geological impacts could arise from combination of the development of the proposed Modified Project together with future development in the immediate vicinity of the adjoining jurisdictions.
- **Greenhouse Gas Emissions:** The cumulative impact analyses for GHG emissions are related to the entire region. Because GHG emissions are not confined to a particular air basin but are dispersed worldwide, the cumulative impact analysis focuses on the global impacts and thus, is by nature cumulative.
- **Hazards and Hazardous Materials:** The cumulative analysis considers the effects of the proposed Modified Project in combination with growth in the rest of Santa Clara County and surrounding region.
- **Hydrology and Water Quality:** The geographic context used for the cumulative assessment of hydrology and water quality impacts, including the potential to exacerbate the potential for flooding, considers the watersheds that encompass Cupertino.
- **Land Use and Planning:** The geographic context for the cumulative land use and planning effects considers impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast in *Plan Bay Area*.

## ENVIRONMENTAL ANALYSIS

- **Noise:** The geographic context for cumulative construction noise and vibration considers development that could occur with implementation of the proposed Modified Project and cumulative development in adjacent cities. The vehicle traffic noise levels are based on cumulative traffic conditions that consider cumulative development in the Study Area.
- **Population and Housing:** Impacts from cumulative growth are considered in the context of their consistency with regional planning efforts in the Santa Clara County region.
- **Public Services and Recreation:** Cumulative impacts are considered in the context of projected growth in the rest of Santa Clara County and the surrounding region, as forecast by *Plan Bay Area* and contiguous with the service area boundaries of the service providers evaluated in this section.
- **Transportation:** The analysis of the proposed Modified Project addresses cumulative impacts to the transportation network and VMT in the Study Area and surrounding region.
- **Utilities and Service Systems:** Cumulative impacts are considered in the context of the estimated growth in each utility's service area.
- **Wildfire:** The geographic context for the cumulative wildfire analysis includes impacts of the proposed Modified Project plus cumulative development in Cupertino and the surrounding region.

## **4.1 AESTHETICS**

This chapter describes the potential impacts to aesthetics associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and existing conditions, identifies criteria used to determine impact significance, provides an analysis of the potential aesthetics impacts, and identifies General Plan 2040 policies and strategies that could minimize any potentially significant impacts.

### **4.1.1 ENVIRONMENTAL SETTING**

#### **4.1.1.1 REGULATORY FRAMEWORK**

##### **State Regulations**

###### *California State Scenic Highway Program*

California's Scenic Highway Program was created by the State legislature in 1963. Its purpose is to protect and enhance the natural scenic beauty of California highways and adjacent corridors through special conservation treatment. The State laws governing the Scenic Highways Program are found in the Streets and Highways Code, Sections 260 through 263. The California Scenic Highway Program is maintained by the California Department of Transportation (Caltrans).

###### *California Building Code*

The State of California provides a minimum standard for building design through Title 24 of the California Code of Regulations (CCR), commonly referred to as the California Building Code (CBC). The CBC is in Part 2 of Title 24. The CBC is updated on a three-year cycle. It is effective statewide, but a local jurisdiction may adopt more restrictive standards based on local conditions under specific amendment rules prescribed by the State Building Standards Commission. The CBC includes standards for outdoor lighting that are intended to reduce light pollution and glare by regulating light power and brightness, shielding, and sensor controls. The City of Cupertino (City) regularly adopts each new CBC update under the Cupertino Municipal Code (CMC) Chapter 16.02, *Administrative Code*.

###### *California Building Code: CALGreen*

The California Building Standards Commission provides the California Green Building Standards Code, also known as CALGreen, as part of CCR Title 24. As part of the CBC, CALGreen is in Part 11 of Title 24. CALGreen establishes building standards aimed at enhancing the design and construction of buildings using building concepts that reduce negative impacts and increase positive environmental impacts by encouraging sustainable construction practices. Specifically, CALGreen Section 5.106.8, *Light Pollution Reduction*, establishes backlight, uplight, and glare ratings to minimize the effects of light pollution for nonresidential development. The local building permit process enforces the mandatory provisions of CALGreen. The City regularly adopts each new CALGreen update under CMC Chapter 16.58, *Green Building Standards Code Adopted*.

## AESTHETICS

### *Senate Bill 743*

As described in Chapter 4, *Environmental Analysis*, of this Environmental Assessment (EA), Senate Bill (SB) 743, which became effective on January 1, 2014, amended the California Environmental Quality Act (CEQA) by adding California Public Resources Code Section 21099 regarding analysis of aesthetics impacts for urban infill projects, among other provisions. CEQA Section 21099(d)(1), states, “Aesthetic and parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a transit priority area (TPA) shall not be considered significant impacts on the environment.” Accordingly, these topics are no longer to be considered in determining significant environmental effects for projects that meet all three of the following criteria:

1. Is on an infill site, which is defined as “a lot located within an urban area that has been previously developed or on a vacant site where at least 75 percent of the perimeter of the site adjoins, or is separated only by an improved public right-of-way from, parcels that are developed with qualified urban uses.”
2. Is a residential, mixed-use residential, or an employment-center project.
3. Is in a transit priority area (TPA), which is defined as “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 adopted pursuant to Section 450.216 or Section 450.322 of Title 23 of the Code of Federal Regulations.”

Accordingly, in compliance with SB 743, no significant aesthetic impact findings can be made in any environmental analysis for potential future development in the Cupertino TPA (see Figure 4-1, *Priority Development Areas and Transit Priority Areas*, in Chapter 4, *Environmental Analysis*, of this EA). Aesthetic impacts are not discussed further in this EA with respect to potential future development in the TPA. As appropriate, aesthetic impacts are only considered for potential future development outside of these areas.

## Local Regulations

### *General Plan 2040*

The Land Use and Community Design (LU) and Recreation Parks and Community Services (RPC) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to aesthetic resources. Applicable policies and strategies that would minimize potential adverse impacts on aesthetic resources are identified in Section 4.1.3, *Impact Discussion*.

### *Municipal Code*

The CMC includes various directives to minimize adverse impacts to visual resources in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to aesthetics and visual character are included in Title 1, *General Provisions*; Title 14, *Street, Sidewalks and Landscaping*; Title 18, *Subdivision Regulations*; and Title 19, *Zoning*, as follows:

## AESTHETICS

- **Title 1, *General Provisions*.** This title establishes the adoption and general terms of the CMC.
- **Chapter 1.09, *Nuisance Abatement*.** This chapter addresses nuisance abatement and includes provisions aimed at protecting the visual quality of the community. This chapter defines aspects that constitute a nuisance, including “a condition that diminishes property values and degrades the quality of life within the city.” This chapter requires proper maintenance of buildings and property and the abatement of visual nuisances to ensure the protection of public health and safety.
- **Title 14, *Street, Sidewalks and Landscaping*.** This title provides development standards related to aesthetics, such as street improvements, encroachments, and use of the rights-of-way, landscaping, and undergrounding utilities in the city.
- **Chapter 14.8, *Protected Tree Ordinance*.** This ordinance outlines the importance of protected trees to the community, and measures to preserve these trees. Actions that are prohibited through this ordinance are deliberately causing damage to any protected trees and removing any protected trees in any zoning district without first obtaining a tree removal permit as required by Section 14.18.110 unless a permit is not required per Section 14.18.150. This ordinance also outlines Heritage Tree Designations and how this designation can only be initiated by the owner of property on which the tree is located unless the tree is on public or quasi-public property. After designation, the heritage tree shall be added to the heritage tree list and a heritage tree identification tag will be added and placed by the City. Removals of heritage trees is also addressed in this chapter.
- **Title 18, *Subdivision Regulations*.** This title establishes the standards that regulate and control the division of land in Cupertino for the preservation of public safety and general welfare. The ordinance provides standards to support orderly growth and development, ensure appropriate design and construction, promote and protect open space, offer adequate traffic circulation, and install necessary infrastructure.
- **Title 19, *Zoning*.** The zoning code is the primary tool that shapes the form and character of physical development in Cupertino. This title establishes comprehensive zoning regulations for the city and ensures the orderly and beneficial development of the city, attains a desirable balance of residential and employment opportunities, and promotes efficient urban design and arrangement. The zoning code sets forth the standards requiring architectural and site review and stipulating aesthetic criteria for new development.
- **Chapter 19.48, *Fences*.** This chapter regulates the location and height of fences and vegetation in all zoning districts.
- **Chapter 19.102, *Glass and Lighting Standards*.** This chapter regulates the design and construction of structures and accessory elements in all zoning districts to protect the natural environment, particularly enhancing bird-safety and reducing light pollution. Section 19.102.030, *Bird-safe Development Requirements*, provides guidelines on glazing and indoor and outdoor light to help protect birds. Section 19.102.040, *Outdoor Lighting Requirements*, describes outdoor lighting regulations and requirements to minimize light pollution and impact on the dark sky.
- **Chapter 19.104, *Signs*.** This chapter regulates the appearance and placement of signs to maintain the aesthetic of the city while providing information to the public.
- **Chapter 19.168, *Architectural and Site Review*.** This chapter provides an orderly process to review architectural and site designs of buildings, structures, signs, lighting, and landscaping for prescribed types of land development within the city to promote the goals and objectives contained in the



## AESTHETICS

General Plan, to protect and stabilize property values, and to maintain the character and integrity of neighborhoods.

### *Heart of the City Specific Plan*

The Heart of the City Specific Plan (Specific Plan) provides guidance for development along Stevens Creek Boulevard, a major commercial corridor in Cupertino. The General Plan 2040 identifies the Specific Plan area as the Heart of the City Special Area. The primary aim of the Specific Plan is to create a greater sense of place and community identity for Cupertino. To accomplish this goal, the Specific Plan provides design guidelines that promote buildings that create visual interest. In addition, the Specific Plan focuses on aesthetics to ensure the corridor maintains appropriate character and form.

### *South Vallco Master Plan*

The South Vallco Master Plan (SVMP) is a coordinated framework for the development of commercial properties in the South Vallco area, or as described in the General Plan 2040, the South Vallco Gateway East and South Vallco Gateway West, within the Heart of the City Special Area. As development under the SVMP occurs, the City envisions achievement of the following benefits: area revitalization, aesthetic coordination, property connectivity, roadway infrastructure optimization, and identity recognition. The SVMP also establishes the following policies to ensure that the community character and aesthetics of the SVMP area are realized.

- **Policy 4.1.** Establish consistent, pedestrian friendly landscape and streetscape to promote a downtown and Main Street style setting.
- **Policy 4.2.** Identify the style and design features for lighting, street furniture, and wayfinding to promote a consistent aesthetic.
- **Policy 4.3.** Enhance and supplement current landscaped areas with quality landscaping.
- **Policy 4.4.** Support a variety of architectural styles, heights, massing, and uses to create an eclectic Main Street style character.
- **Policy 4.5.** Support gateway features, signage, and/or monuments.
- **Policy 4.6.** Include native vegetation and drought tolerant landscaping.

### *Monta Vista Design Guidelines*

The Monta Vista Design Guidelines (MV Guidelines) refine and implement the policies of General Plan 2040 by outlining building design details, landscaping treatment, signage, and public improvement details for the Monta Vista Commercial Area and is located in the area between the urban transition and the hillside transition,<sup>1</sup> historically the rural part of the city. The Monta Vista Commercial Area portion of the Monta Vista Village Neighborhood is considered “Downtown Monta Vista” and is to the north and south of Stevens Creek Boulevard between State Route 85 (SR-85) on the east and Byrne Avenue to the west. Future potential development in this area would be required to comply with the applicable design

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<sup>1</sup> See Figure LU-2 of Chapter 3 of the General Plan.

## AESTHETICS

standards outlined in the MV Guidelines. The MV Guidelines outline the activities that trigger improvement requirements or conformance with the design standards. In some cases, changes in land use activity may trigger one or more of the other improvements, including, but not limited to, landscaping, public improvements, and signage improvements.

### *Conceptual Plans*

The North De Anza Boulevard, South De Anza Boulevard, and South Sunnyvale-Saratoga Conceptual Plans delineate the guidelines for development, redevelopment, and change of use for properties and businesses in these areas of Cupertino. These Conceptual Plans set forth conditions implementing all the relevant policies of the Cupertino General Plan relating to development and establish limits to ensure future potential development blends with and enhances the existing development pattern in these areas.

#### 4.1.1.2 EXISTING CONDITIONS

Chapter 4.1, *Aesthetics*, of the General Plan Environmental Impact Report (EIR), addresses the impacts to visual resources associated with buildout of the Approved Project at a program level. The setting for aesthetic resources is described in the General Plan EIR Section 4.1.1.2, *Existing Conditions*. Since the certification of the General Plan EIR, the approval and construction of the following new projects have contributed to the visual character of Cupertino:

- **Apple Park (formally Apple Campus 2)**, completed in 2017, included the construction of a corporate campus on a 175-acre site in the northeastern portion of the city. The campus is made up of a ring-shaped four-story building that has 60-foot-tall panels of curved glass and solar panels along the exterior of the building. The overall campus and building are surrounded by mature trees ranging from 15 to 60 feet tall.
- **Westport Cupertino**, currently under construction on an 8.1-acre parcel, is a senior and family living project along Stevens Creek Boulevard and Mary Avenue, adjacent to SR-85. This project adds two six-story buildings and 88 three-story townhomes where a single-story town and country shopping center was previously located.
- **The Rise (Formerly Vallco)** is the area known as Study Area 6 of the General Plan EIR. This area includes the Vallco Mall, which is mostly demolished and slated for new development of a mix of uses, including over 2,650 housing units, approximately 1.95 million square feet of office space, and approximately 226,000 square feet of retail uses.

#### 4.1.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in a significant aesthetics impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
AES-1. Have a substantial adverse effect on a scenic vista?	LTS	LTS
AES-2. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?	LTS	LTS

**AESTHETICS**

Implementation of the proposed Modified Project would result in a significant aesthetics impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
AES-3. In nonurbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). If the project is in an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?	LTS	LTS
AES-4. Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?	LTS	LTS
AES-5. Result in a cumulatively considerable impact with respect to aesthetic resources?	LTS	LTS
Note: In December 2018, amendments were made to Appendix G, <i>Environmental Checklist</i> , of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. AES-3 was revised to differentiate between urban and nonurbanized areas when it comes to evaluating visual character. Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable		

With respect to AES-3, CEQA Section 21071, *Urbanized Area; Definition*, has several metrics by which an incorporated city can be defined as an “urbanized” area. CEQA Section 21071(a)(2) states that an incorporated city can be classified as an urbanized area if the city has a population of less than 100,000 persons and if the population of that city, and not more than two contiguous incorporated cities combined, equals at least 100,000 persons. As described in Chapter 3, *Project Description*, of this EA, the population estimate in 2023 for Cupertino was 65,922 residents.<sup>2</sup> According to the U.S. Census, the two contiguous cities, Sunnyvale to the north and San Jose to the east, have 153,091 and 971,233 residents, respectively. This brings the total population of the three contiguous cities to 1,190,246. Therefore, Cupertino is considered an urbanized area under CEQA Section 21071(a)(2) and impacts of potential future development projects in Cupertino are based on part two of the standard regarding whether the proposed Modified Project conflicts with applicable zoning and other regulations governing scenic quality.

**4.1.3 IMPACT DISCUSSION**

<b>AES-1</b>	<b>Implementation of the proposed Modified Project would not have a substantial adverse effect on a scenic vista.</b>
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As described in the General Plan EIR, scenic vistas are generally interpreted as long-range views, while scenic corridors are made up of short-, middle-, and long-range views. The General Plan EIR considered the westward views of the foothills and ridgelines of the Santa Cruz Mountains as scenic vistas and the Caltrans-designated segment of Interstate 280 (I-280) from Santa Clara County line on the west to I-880 on the east as an eligible State Scenic Highway “scenic corridor.” Please note that the impacts to the State-designated scenic corridor are described under impact discussion AES-2.

<sup>2</sup> Population is calculated applying the City’s generation rate used in the General Plan EIR of 2.94 persons per household (2,952 dwelling units x 2.94 persons per unit = 7,620 additional population).

## AESTHETICS

The General Plan EIR found that potential future development over the buildout horizon of the General Plan 2040 with heights ranging from 30 to 160 feet would not block views of scenic vistas/corridors from specific publicly accessible vantage points or alter the overall scenic vista/corridor itself. However, as described in Chapter 4, *Environmental Analysis*, due to the expanded California Density Bonus law (Assembly Bill 2345), future potential development under both the Approved Project and proposed Modified Project could exceed this height limit. The density would be approved on a project-by-project basis, and therefore would be speculative to evaluate increases in height that may be granted.

As described in the General Plan EIR, because the topography of Cupertino is essentially flat, the views from street-level public viewing to the scenic resources are already inhibited by existing conditions such as buildings, structures, and mature trees/vegetation. In addition, the maximum heights currently permitted also limit the opportunity for views of scenic vistas/corridors from street-level public viewing. Furthermore, as shown on Figure 3-3, *Housing Element (2023-2031) Opportunity Sites*, in Chapter 3, *Project Description*, of this EA, the location of potential future development under the proposed Modified Project, as with the Approved Project, would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or in close proximity to existing residential and residential-serving development, where future development would have a lesser impact on scenic vistas. Additionally, the areas of potential development identified in the proposed Modified Project are not considered destination public viewing points.

Development at these locations support the goal of a more sustainable, less auto-oriented city. Specifically, areas of concentrated growth would occur in the Santa Clara Valley Transportation Authority (VTA) City Cores, Corridors & Station Areas Priority Development Area (PDA) and the TPA that covers much of Cupertino, as shown on Figure 4-1, *Priority Development Areas and Transit Priority Areas*, in Chapter 4 of this EA. As described in the General Plan EIR, even with more intense development on the sites being analyzed as a result of the proposed Modified Project, similar views would continue to be visible between elements of the built environment and over lower-intensity areas, and no new or greater impacts to views of the existing scenic resources would occur. Additionally, as described in Section 4.1.1.1, *Regulatory Framework*, under subheading “Senate Bill 743,” there is the potential for future qualifying development located within the TPA surrounding Stevens Creek Boulevard and North Wolfe Road to be exempt from aesthetics evaluation.

The General Plan EIR also found that the General Plan 2040 Land Use and Community Design (LU), Environmental Resources and Sustainability (ES), and Recreation, Parks, and Community Service (RPC) Elements contain policies and strategies that require local planning and development decisions to consider impacts to scenic vistas/corridors from potential new development. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize potential adverse impacts on scenic vistas/corridors:

- **Policy LU-3.3. *Building Design*.** Ensure that building layouts and design are compatible with the surrounding environment and enhance the streetscape and pedestrian activity. (General Plan EIR Policy 2-18)

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## AESTHETICS

- **Strategy LU-3.3.1. *Attractive Design.*** Emphasize attractive building and site design by paying careful attention to building scale, mass, placement, architecture, materials, landscaping, screening of equipment, loading areas, signage, and other design considerations. (General Plan EIR Policy 2-16)
- **Policy LU- 6.7. *Heritage Trees.*** Protect and maintain the city’s heritage trees in a healthy state. (General Plan EIR Policy 2-74)
- **Policy LU-12.3. *Rural Improvement Standards in Hillside Areas.*** Require rural improvement standards in hillside areas to preserve the rural character of the hillsides. Improvement standards should balance the need to furnish adequate utility and emergency services against the need to protect the hillside, vegetation, and animals. (General Plan EIR Policy 2-51)
- **Policy LU-12.4. *Hillside Views.*** The Montebello foothills at the south and west boundary of the valley floor provide a scenic backdrop, adding to the City’s scale and variety. While it is not possible to guarantee an unobstructed view of the hills from every vantage point, an attempt should be made to preserve views of the foothills.
- **Strategy LU-12.4.1. *Views from Public Facilities.*** Design public facilities, particularly open spaces, so they include views of the foothills or other nearby natural features, and plan hillside developments to minimize visual and other impacts on adjacent public open space. (General Plan EIR Policy 2-52)
- **Policy LU-13.7. *Streetscape and Connectivity.*** Create a walkable and bikeable boulevard with active uses and a distinct image for each subarea.
- **Strategy LU-13.7.5. *Neighborhood Buffers.*** Consider buffers such as setbacks. Landscaping and/or building transitions to buffer abutting single-family residential areas from visual and noise impacts.
- **Policy RPC- 3.1. *Preservation of Natural Areas.*** Design parks to utilize natural features and the topography of the site in order to protect natural features and keep maintenance costs low. (General Plan EIR Policy 2-88)

In summary, potential future development under the proposed Modified Project would not further obstruct public views of scenic vistas from within the city. Similar views would continue to be visible between projects and over lower-density areas. Considering this and the fact that the proposed housing locations are not considered destination public viewing points and are in similar locations as those evaluated under the Approved Project, overall impacts from the proposed Modified Project would not result in new or more severe impacts to scenic vistas beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

## AESTHETICS

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**AES-2                      Implementation of the proposed Modified Project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State Scenic Highway.**

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As described in the General Plan EIR, Caltrans designated the segment of I-280 from Santa Clara County line on the west to I-880 on the east as an eligible State Scenic Highway.<sup>3</sup> The status of a proposed State Scenic Highway changes from “eligible” to officially “designated” when the local governing body applies to Caltrans for scenic highway approval, adopts a Corridor Protection Program, and receives notification that the highway has been officially designated a Scenic Highway. The City of Cupertino has not applied to Caltrans for Scenic Highway approval at the time of drafting this EA. As described in Section 4.1.1.1, *Regulatory Framework*, under subheading “Senate Bill 743,” there is the potential for future qualifying development located within the TPA surrounding Stevens Creek Boulevard and North Wolfe Road would be exempt from aesthetics evaluation. The General Plan EIR found that potential future development over the buildout horizon of the General Plan 2040 with heights ranging from 30 to 160 feet would not represent a substantial change in the character of the areas in the viewshed of this segment of I-280, because the existing viewshed in this area is largely urbanized and built out.

As with the Approved Project, the proposed Modified Project would primarily involve gradual changes in development intensity along the I-280 viewshed, similar to existing buildings, albeit with increased building height potential. Like the Approved Project, new and/or intensified uses in the I-280 viewshed, as a result of the proposed Modified Project, would be dispersed within the Heart of the City Special Area, North De Anza Special Area, North Vallco Park Special Area, South De Anza Special Area, and Homestead Special Area, and would not fully obstruct views of far-field scenic resources (e.g., Santa Cruz Mountains), trees, or historic buildings from the eligible State Scenic Highway (I-280).

As described under impact discussion AES-1, the General Plan EIR found that the Land Use and Community Design (LU); Recreation, Parks, and Community Service (RPC); and Environmental Resources and Sustainability (ES) Elements contain policies and strategies that require local planning and development decisions to consider impacts to scenic vistas/corridors, including I-280, from potential new development. Additional policies and strategies that require local planning and development decisions to consider impacts to scenic resources include:

- **Policy LU- 6.1. *Historic Preservation.*** Maintain and update an inventory of historically significant structures and sites in order to protect resources and promote awareness of the city’s history in the following four categories: Historic Sites, Commemorative Sites, Community Landmarks and Historic Mention Sites (General Plan Figure LU-3). (General Plan EIR Policy 2-71)
- **Strategy LU-19.3.10. *Trees.*** Retain trees along the Interstate 280, Wolfe Road, and Stevens Creek Boulevard to the extent feasible, when new developments are proposed.

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<sup>3</sup> California Department of Transportation website, Officially Designated State Scenic Highways, <https://caltrans.maps.arcgis.com/apps/webappviewer/index.html?id=465dfd3d807c46cc8e8057116f1aaca>, accessed September 6, 2023.

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- **Policy ES-5.3. *Development Near Sensitive Areas.*** Encourage the clustering of new development away from sensitive areas such as riparian corridors, wildlife habitat and corridors, public open space preserves and ridgelines. New developments in these areas must have harmonious landscaping plan approved prior to development. (General Plan EIR Policy 5-9)

Like the Approved Project, these policies and strategies would continue to serve to minimize potential adverse impacts along the I-280 viewshed. Accordingly, overall impacts to scenic resources in the I-280 viewshed under the proposed Modified Project would not result in new or more severe impacts beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>AES-3</b>	<b>Implementation of the proposed Modified Project in an urbanized area could conflict with applicable zoning and other regulations governing scenic quality.</b>
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The General Plan EIR identified sites, shown on Figure 3-40, *General Plan and Zoning Ordinance Conformance Sites*, of the General Plan EIR, where there were inconsistencies between the Approved Project and existing land use for the location. However, under the Approved Project, the General Plan Map was amended to bring consistency between the existing use and the General Plan land use for the location. Additionally, future potential projects under the Approved Project would be reviewed for compliance with applicable regulations as part of the entitlement process. Given the existing commercial, industrial, and residential uses surrounding the locations for future potential development under the Approved Project, gradual development of those future projects would not substantially degrade the existing visual character or quality of the Study Area and their surroundings. General Plan 2040 is the primary planning document for Cupertino and is implemented by the zoning code. The proposed amendments to the General Plan 2040 and zoning code are intended to ensure consistency between the General Plan 2040, zoning code, and State law. All potential future development under the proposed Modified Project, like the Approved Project, would be required to be consistent with the General Plan 2040, zoning code, and other City regulations governing visual character, as described in Section 4.1.1.1, *Environmental Setting*. Because the proposed Modified Project includes updates to the overriding planning documents for the City, and because the proposed Modified Project involves amending the General Plan 2040 and the zoning code to improve consistency, adoption and implementation of the proposed Modified Project would have no impact with respect to being inconsistent with policies or regulations governing scenic quality. With respect to State regulations, as described in impact discussion AES-2, impacts associated with State regulations governing designated State Scenic Highways would not result in new or more severe impacts beyond what was evaluated in the General Plan EIR. However, it should also be noted, as described in Section 4.1.1.1, *Regulatory Framework*, under subheading “Senate Bill 743,” there is the potential for future qualifying development located within the TPA surrounding Stevens Creek Boulevard and North Wolfe Road to be exempt from aesthetics evaluation.

**Significance without Mitigation:** Less than significant.



## AESTHETICS

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**AES-4                      Implementation of the proposed Modified Project would not create a new source of substantial light or glare that would adversely affect day or nighttime views in the area.**

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Light pollution refers to all forms of unwanted light in the night sky, including glare, light trespass, sky glow, and over-lighting. Views of the night sky are an important part of the natural environment. Excessive light and glare can be visually disruptive to humans and nocturnal animal species. Although there is considerable development in Cupertino, commercial development is concentrated near highways, in the Heart of the City Special Area, and along major arterials. Generally, light pollution takes form through street lighting along major streets and highways and nighttime illumination of commercial buildings, shopping centers, and industrial buildings. Nighttime illumination and glare impacts are the effects of a development's exterior lighting on adjoining uses and areas. Light and glare impacts are determined through a comparison of the existing light sources with the proposed lighting plan or policies.

As described in the General Plan EIR, the Study Area currently contains many existing sources of nighttime illumination, including street and parking area lights, security lighting, and exterior lighting on existing residential, commercial, and institutional buildings, as well as traffic on SR-85 and I-280. As stated in the General Plan EIR, despite the new and expanded sources of nighttime illumination and glare from the Approved Project, potential future development over the buildout horizon of the General Plan 2040 with heights ranging from 30 to 160 feet was not expected to generate a substantial increase in light and glare. The General Plan EIR found that besides general guidelines that require lighting that is context-sensitive in style and intensity, all potential new development in Cupertino would also have to comply with the General Plan 2040 policies and CMC provisions that ensure new land uses do not generate excessive light levels.

After the certification of the General Plan EIR, the City adopted the Bird Safe and Dark Sky Ordinance into CMC Chapter 19.102. The ordinance regulates the design and construction of structures and accessory components in all zoning districts to protect the natural environment, particularly enhancing bird-safety and reducing light pollution by establishing regulations to reduce light pollution. Potential future development under the proposed Modified Project would be required to follow these standards.

The General Plan EIR also found that the Land Use and Community Design (LU) Element contains policies that require local planning and development decisions to consider impacts from light and glare. Like the Approved Project, the following existing General Plan 2040 policies and strategy, and updated policies and strategy as part of the proposed Modified Project, would also serve to minimize potential adverse impacts from light and glare.

- **Policy LU-3.5. *Light Pollution.*** Reduce light pollution and other adverse effects associated with night lighting from street and urban uses.
- **Strategy LU-3.5.1. *Dark Sky Ordinance.*** New development and other applicable projects shall comply with the City's Glass and Lighting Standards Ordinance, which provides Dark Sky regulations to reduce light pollution.
- **Policy LU-20.6. *Neighborhood Buffers.*** Provide building transitions, setbacks and/or landscaping to buffer development from adjoining single-family residential uses.

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- **Policy LU-27.8. Protection.** Protect residential neighborhoods from noise, traffic, light, glare, odors, and visually intrusive effects from more intense development with landscape buffers, site and building design, setbacks, and other appropriate measures.

Additionally, the preservation of mature trees with substantial tree canopies, as described in CMC Chapter 14.8, *Protected Tree Ordinance*, would diffuse the overall amount of light generated by new development and glare generated by windows of multistory buildings. Furthermore, because the areas of potential growth are largely developed, the lighting associated with the proposed Modified Project would not substantially increase nighttime light and glare within the Study Area or its surroundings compared to the Approved Project.

Potential future development under the proposed Modified Project, same as the Approved Project, would occur on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or in close proximity to existing residential and residential-serving development, where future development would have lesser light and glare impacts. Potential future development under the proposed Modified Project would be subject to the same regulatory setting as that of the Approved Project, including the City's General Plan policies that require reducing light and glare spillover from future development to surrounding land uses by buffering new development with landscaping and trees and CMC Section 19.102.040, *Outdoor Lighting Requirements*, to minimize impact on the dark sky. Accordingly, overall impacts related to light and glare would not result in new or more severe impacts beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>AES-5</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to aesthetic resources.</b>
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The General Plan EIR considers growth projected by the General Plan in the Cupertino city limit and Sphere of Influence (SOI), in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by the Association of Bay Area of Governments (ABAG) and found that because of the developed nature of the Study Area, future development would not negatively impact the visual character of the city. Because of the developed nature of the projected areas of growth in Cupertino, future development under the proposed Modified Project, in combination with other new development, would not negatively impact the visual character of the city or the surrounding communities. Furthermore, the proposed Modified Project would not constitute a significant adverse impact, when compared to the Approved Project, because future potential development and redevelopment within the Study Area is anticipated to occur as growth occurs.

The General Plan 2040 policies and strategies listed in impact discussions AES-1, AES-2, and AES-4 would not cause adverse physical changes that could create aesthetic impacts in Cupertino. Individual potential future developments would continue to be subject to General Plan policies and strategies and the CMC provisions related to aesthetics, including potential project-level design review requirements. Additionally, similar to the Approved Project, as part of the approval process, potential future development as a result of implementation of the proposed Modified Project would be subject to architectural, environmental,

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and site design review, as applicable, to ensure that the development is aesthetically pleasing and compatible with adjoining land uses. With the development review mechanisms in place, approved future potential development under the proposed Modified Project would not create substantial impacts to visual resources in Cupertino or the surrounding communities, when compared to the Approved Project. Therefore, the proposed Modified Project would not result in a cumulatively considerable impact to aesthetic resources and cumulative impacts would continue to be less than significant. Overall cumulative aesthetics impacts would not result in new or more severe impacts to aesthetics resources beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

## **AESTHETICS**

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## 4.2 AIR QUALITY

This chapter describes the potential impacts to air quality associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and baseline conditions, identifies criteria used to determine impact significance, provides an analysis of the potential air quality impacts, and identifies General Plan 2040 policies and/or strategies that could minimize any potentially significant impacts.

### 4.2.1 ENVIRONMENTAL SETTING

#### 4.2.1.1 AIR POLLUTANTS OF CONCERN

##### *Criteria Air Pollutants*

The pollutants emitted into the ambient air by stationary and mobile sources are categorized as primary and/or secondary pollutants. Primary air pollutants are emitted directly from sources. Carbon monoxide (CO), volatile organic compounds (VOC), nitrogen oxides (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), coarse inhalable particulate matter (PM<sub>10</sub>), fine inhalable particulate matter (PM<sub>2.5</sub>), and lead (Pb) are primary air pollutants. Of these, CO, SO<sub>2</sub>, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> are “criteria air pollutants,” which means that Ambient Air Quality Standards (AAQS) have been established for them. VOC and NO<sub>x</sub> are criteria pollutant precursors that form secondary criteria air pollutants through chemical and photochemical reactions in the atmosphere. Ozone (O<sub>3</sub>) and nitrogen dioxide (NO<sub>2</sub>) are the principal secondary pollutants. Table 4.2-1, *Criteria Air Pollutant Health Effects Summary*, summarizes the potential health effects associated with the criteria air pollutants.

**TABLE 4.2-1 CRITERIA AIR POLLUTANT HEALTH EFFECTS SUMMARY**

Pollutant	Health Effects	Examples of Sources
Carbon Monoxide (CO)	Chest pain in heart patients, Headaches, nausea, Reduced mental alertness Death at very high levels	Any source that burns fuel such as cars, trucks, construction and farming equipment, and residential heaters and stoves
Ozone (O <sub>3</sub> )	Cough, chest tightness, Difficulty taking a deep breath, Worsened asthma symptoms Lung inflammation	Atmospheric reaction of organic gases with nitrogen oxides in sunlight
Nitrogen Dioxide (NO <sub>2</sub> )	Increased response to allergens, Aggravation of respiratory illness	Same as carbon monoxide sources
Particulate Matter (PM <sub>10</sub> and PM <sub>2.5</sub> )	Hospitalizations for worsened heart diseases, Emergency room visits for asthma, Premature death	Cars and trucks (particularly diesels), Fireplaces and woodstoves, Windblown dust from overlays, agriculture, and construction
Sulfur Dioxide (SO <sub>2</sub> )	Aggravation of respiratory disease (e.g., asthma and emphysema) Reduced lung function	Combustion of sulfur-containing fossil fuels, smelting of sulfur-bearing metal ores, and industrial processes
Lead (Pb)	Behavioral and learning disabilities in children, Nervous system impairment	Contaminated soil

Source: California Air Resources Board, 2024, Common Air Pollutants: Air Pollution and Health, <https://ww2.arb.ca.gov/resources/common-air-pollutants>, accessed January 29, 2024; South Coast Air Quality Management District, May 6, 2005, *Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning*, <http://www.aqmd.gov/docs/default-source/planning/air-quality-guidance/complete-guidance-document.pdf>, accessed January 29, 2024.

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A description of each of the primary and secondary criteria air pollutants and their known health effects is presented below.

- **Carbon Monoxide (CO)** is a colorless, odorless gas produced by incomplete combustion of carbon substances, such as gasoline or diesel fuel. CO is a primary criteria air pollutant. CO concentrations tend to be the highest during winter mornings with little to no wind, when surface-based inversions trap the pollutant at ground levels. The highest ambient CO concentrations are generally found near traffic-congested corridors and intersections. When inhaled at high concentrations, CO combines with hemoglobin in the blood and reduces its oxygen-carrying capacity. This results in reduced oxygen reaching the brain, heart, and other body tissues. This condition is especially critical for people with cardiovascular diseases, chronic lung disease, or anemia, as well as for fetuses. Even healthy people exposed to high CO concentrations can experience headaches, dizziness, fatigue, unconsciousness, and even death.
- **Nitrogen Oxides (NO<sub>x</sub>)** are a by-product of fuel combustion and contribute to the formation of ground-level O<sub>3</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. The two major forms of NO<sub>x</sub> are nitric oxide (NO) and nitrogen dioxide (NO<sub>2</sub>). NO is a colorless, odorless gas formed from atmospheric nitrogen and oxygen when combustion takes place under high temperature and/or high pressure. The principal form of NO<sub>x</sub> produced by combustion is NO, but NO reacts quickly with oxygen to form NO<sub>2</sub>, creating the mixture of NO and NO<sub>2</sub> commonly called NO<sub>x</sub>. NO<sub>2</sub> is an acute irritant and more injurious than NO in equal concentrations. At atmospheric concentrations, however, NO<sub>2</sub> is only potentially irritating. NO is a colorless, odorless gas formed from atmospheric nitrogen and oxygen when combustion takes place under high temperature and/or high pressure. NO<sub>2</sub> acts as an acute irritant and in equal concentrations is more injurious than NO. At atmospheric concentrations, however, NO<sub>2</sub> is only potentially irritating. There is some indication of a relationship between NO<sub>2</sub> and chronic pulmonary fibrosis. Some increase in bronchitis in children (2 and 3 years old) has also been observed at concentrations below 0.3 parts per million (ppm).
- **Sulfur Dioxide (SO<sub>2</sub>)** is a colorless, pungent, irritating gas formed by the combustion of sulfurous fossil fuels. It enters the atmosphere as a result of burning high-sulfur-content fuel oils and coal and chemical processes at plants and refineries. Gasoline and natural gas have very low sulfur content and do not release significant quantities of SO<sub>2</sub>. When sulfur dioxide forms sulfates (SO<sub>4</sub>) in the atmosphere, together these pollutants are referred to as sulfur oxides (SO<sub>x</sub>). Thus, SO<sub>2</sub> is both a primary and secondary criteria air pollutant. At sufficiently high concentrations, SO<sub>2</sub> may irritate the upper respiratory tract. Current scientific evidence links short-term exposures to SO<sub>2</sub>, ranging from 5 minutes to 24 hours, with an array of adverse respiratory effects, including bronchoconstriction and increased asthma symptoms. These effects are particularly adverse for asthmatics at elevated ventilation rates (e.g., while exercising or playing) at lower concentrations and when combined with particulates, SO<sub>2</sub> may do greater harm by injuring lung tissue.
- **Suspended Particulate Matter (PM<sub>10</sub> and PM<sub>2.5</sub>)** consists of finely divided solids or liquids such as soot, dust, aerosols, fumes, and mists. In the San Francisco Bay Area Air Basin (SFBAAB or Air Basin), most particulate matter is caused by combustion, factories, construction, grading,

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demolition, agricultural activities, and motor vehicles. Two forms of fine particulates are now recognized and regulated. Inhalable coarse particles, or  $PM_{10}$ , include particulate matter with an aerodynamic diameter of 10 microns (i.e., 10 millionths of a meter or 0.0004 inch) or less. Inhalable fine particles, or  $PM_{2.5}$ , have an aerodynamic diameter of 2.5 microns or less (i.e., 2.5 millionths of a meter or 0.0001 inch). Diesel particulate matter (DPM) is also classified as a carcinogen. Extended exposure to particulate matter can increase the risk of chronic respiratory disease.  $PM_{10}$  bypasses the body's natural filtration system more easily than larger particles and can lodge deep in the lungs. The EPA scientific review concluded that  $PM_{2.5}$  penetrates even more deeply into the lungs, and this is more likely to contribute to health effects—at concentrations well below current  $PM_{10}$  standards. These health effects include premature death in people with heart or lung disease, nonfatal heart attacks, irregular heartbeat, aggravated asthma, decreased lung function, and increased respiratory symptoms (e.g., irritation of the airways, coughing, or difficulty breathing). Motor vehicles are currently responsible for about half of particulates in the SFBAAAB. Wood burning in fireplaces and stoves is another large source of fine particulates.

- **Ozone ( $O_3$ )** is a key ingredient of “smog” and is a gas that is formed when ROGs and  $NO_x$ , both by-products of internal combustion engine exhaust, undergo photochemical reactions in sunlight.  $O_3$  is a secondary criteria air pollutant.  $O_3$  concentrations are generally highest during the summer months when direct sunlight, light winds, and warm temperatures create favorable conditions for its formation.  $O_3$  poses a health threat to those who already suffer from respiratory diseases as well as to healthy people. Breathing  $O_3$  can trigger a variety of health problems, including chest pain, coughing, throat irritation, and congestion. It can worsen bronchitis, emphysema, and asthma; reduce lung function; and inflame the linings of the lungs. Besides causing shortness of breath, it can aggravate existing respiratory diseases such as asthma, bronchitis, and emphysema. Chronic exposure to high ozone levels can permanently damage lung tissue.  $O_3$  can also damage plants and trees and materials such as rubber and fabrics.
- **Reactive Organic Gases (ROGs)/Volatile Organic Compounds (VOCs)** are compounds composed primarily of hydrogen and carbon atoms. Internal combustion associated with motor vehicle usage is the major source of ROGs. Other sources of ROGs include evaporative emissions from paints and solvents, the application of asphalt paving, and the use of household consumer products such as aerosols. Adverse effects on human health are not caused directly by ROGs, but rather by reactions of ROGs to form secondary pollutants such as  $O_3$ . There are no AAQS established for ROGs. However, because they contribute to the formation of  $O_3$ , the BAAQMD has established a significance threshold for this pollutant.
- **Lead (Pb)** is a metal found naturally in the environment as well as in manufactured products. The major sources of lead emissions have historically been mobile and industrial sources. As a result of the phasing out of leaded gasoline, metal processing is currently the primary source of lead emissions. The highest levels of lead in the air are generally found near lead smelters. Other stationary sources are waste incinerators, utilities, and lead-acid battery manufacturers. Because



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emissions of lead are found only in projects that are permitted by the BAAQMD, lead is not an air quality of concern for the Approved Project or proposed Modified Project.

### *Toxic Air Contaminants*

The California Health and Safety Code defines a toxic air contaminant (TAC) as “an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health.” A substance that is listed as a hazardous air pollutant pursuant to Section 112(b) of the federal Clean Air Act (42 US Code Section 7412[b]) is a toxic air contaminant. People exposed to toxic air pollutants at sufficient concentrations and durations may have an increased chance of getting cancer or experiencing other serious health effects. These health effects can include damage to the immune system, as well as neurological, reproductive (e.g., reduced fertility), developmental, respiratory, and other health problems.<sup>1</sup> CARB has identified over 200 substances and groups of substances as TACs.<sup>2</sup> Additionally, CARB has implemented control measures for several compounds that pose high risks and show potential for effective control measures. Most of the estimated health risks from TACs can be attributed to relatively few compounds. The most important compounds are particulate matter from diesel-fueled engines.

In 1998, CARB identified Diesel Particulate Matter (DPM) as a TAC. Previously, the individual chemical compounds in diesel exhaust were considered TACs. Almost all diesel exhaust particles are 10 microns or less in diameter. Because of their extremely small size, these particles can be inhaled and eventually trapped in the bronchial and alveolar regions of the lungs. According to the BAAQMD, PM emitted from diesel engines contributes to more than 85 percent of the cancer risk in the SFBAAB. Cancer risk from TACs is highest near major DPM sources.<sup>3</sup>

Because placement of sensitive land uses falls outside CARB’s jurisdiction, CARB developed and approved the *Air Quality and Land Use Handbook: A Community Health Perspective* (2005) to address the siting of sensitive land uses in the vicinity of freeways, distribution centers, rail yards, ports, refineries, chrome-plating facilities, dry cleaners, and gasoline-dispensing facilities. This guidance document was developed to assess compatibility and associated health risks when placing sensitive receptors near existing pollution sources. CARB’s recommendations on the siting of new sensitive land uses identified in Table 4.2-2, *CARB Recommendations for Siting New Sensitive Land Uses*, are based on a compilation of recent studies that evaluated data on the adverse health effects from proximity to air pollution sources.

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<sup>1</sup> United States Environmental Protection Agency, updated November 2023, Health and Environmental Effects of Hazardous Air Pollutants, <https://www.epa.gov/haps/health-and-environmental-effects-hazardous-air-pollutants>, accessed January 29, 2024.

<sup>2</sup> California Air Resources Board, 2022, CARB Identified Toxic Air Contaminants. <https://ww2.arb.ca.gov/resources/documents/carb-identified-toxic-air-contaminants>, accessed January 29, 2024.

<sup>3</sup> Bay Area Air Quality Management District, April 2014, *Improving Air Quality & Health in Bay Area Communities, Community Air Risk Evaluation Program Retrospective & Path Forward (2004-2013)*, [https://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CARE%20Program/Documents/CARE\\_Retrospective\\_April2014.ashx?la=en](https://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CARE%20Program/Documents/CARE_Retrospective_April2014.ashx?la=en), accessed January 29, 2024.

**AIR QUALITY****TABLE 4.2-2 CARB RECOMMENDATIONS FOR SITTING NEW SENSITIVE LAND USES**

<b>Source/Category</b>	<b>Advisory Recommendations</b>
Freeways and High-Traffic Roads	Avoid siting new sensitive land uses within 500 feet of a freeway, urban roads with 100,000 vehicles per day, or rural roads with 50,000 vehicles per day.
Distribution Centers	Avoid siting new sensitive land uses within 1,000 feet of a distribution center (that accommodates more than 100 trucks per day, more than 40 trucks with operating transport refrigeration units [TRUs] per day, or where TRU unit operations exceed 300 hours per week).
Rail Yards	Avoid siting new sensitive land uses within 1,000 feet of a major service and maintenance rail yard.
Ports	Avoid siting of new sensitive land uses immediately downwind of ports in the most heavily impacted zones. Consult local air districts or the CARB on the status of pending analyses of health risks.
Refineries	Avoid siting new sensitive land uses immediately downwind of petroleum refineries. Consult with local air districts and other local agencies to determine an appropriate separation.
Chrome Platers	Avoid siting new sensitive land uses within 1,000 feet of a chrome plater.
Dry Cleaners Using Perchloroethylene	Avoid siting new sensitive land uses within 300 feet of any dry cleaning operation. For operations with two or more machines, provide 500 feet. For operations with 3 or more machines, consult with the local air district. Do not site new sensitive land uses in the same building with perc dry cleaning operations.
Gasoline Dispensing Facilities	Avoid siting new sensitive land uses within 300 feet of a large gas station (defined as a facility with a throughput of 3.6 million gallons per year or greater). A 50 foot separation is recommended for typical gas dispensing facilities.

Source: California Air Resources Board, April 2005, *Air Quality and Land Use Handbook: A Community Health Perspective*, <https://files.ceqanet.opr.ca.gov/221458-6/attachment/UNR-g159CW-r0G4DR8q6daNdAKT3RJTd8gGQCfz4wqFfl-eNdZNQEqjf8tfls1x6Gsae7YqpXwtFIZBd0>, accessed January 29, 2024.

The key observation in these studies is that proximity to air pollution sources substantially increases both exposure and the potential for adverse health effects. There are three carcinogenic TACs that constitute the majority of the known health risks from motor vehicle traffic: DPM from trucks, benzene, and 1,3-butadiene from passenger vehicles.

In 2017, CARB provided a supplemental technical advisory to the handbook for near-roadway air pollution exposure, *Strategies to Reduce Air Pollution Exposure Near High-Volume Roadways*. Strategies include practices and technologies that reduce traffic emissions, increase dispersion of traffic pollution (or the dilution of pollution in the air), or remove pollution from the air.

### 4.2.1.2 REGULATORY FRAMEWORK

Federal, State, and local air districts have passed laws and regulations intended to control and enhance air quality. Land use in the Study Area is subject to the rules and regulations imposed by the United States Environmental Protection Agency (EPA), California Air Resources Board (CARB), the California Environmental Protection Agency (CalEPA), and Bay Area Air Quality Management District (BAAQMD). AAQS have been adopted at federal and state levels for criteria air pollutants. In addition, both the federal and state governments regulate the release of TACs. Cupertino is in the San Francisco Bay Area Air Basin (SFBAAB) and is subject to the rules and regulations imposed by BAAQMD, the national AAQS adopted by

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the EPA, and the California AAQS adopted by CARB. The regulatory framework applicable to future potential development under the proposed Modified Project is summarized below.

### Federal and State Regulations

#### *Ambient Air Quality Standards*

The Clean Air Act was passed in 1963 by the United States Congress and has been amended several times. The 1970 Clean Air Act amendments strengthened previous legislation and laid the foundation for the regulatory scheme of the 1970s and 1980s. In 1977, Congress again added several provisions, including nonattainment requirements for areas not meeting National AAQS and the Prevention of Significant Deterioration program. The 1990 amendments represent the latest in a series of federal efforts to regulate the protection of air quality in the United States. The Clean Air Act allows states to adopt more stringent standards or to include other pollution species. The California Clean Air Act, signed into law in 1988, requires all areas of the state to achieve and maintain the California AAQS by the earliest practical date. The California AAQS tends to be more restrictive than the National AAQS, based on even greater health and welfare concerns.

Both California and the federal government have established health based AAQS for seven air pollutants, which are shown in Table 4.2-3, *Ambient Air Quality Standards for Criteria Pollutants*. These National AAQS and California AAQS are the levels of air quality considered to provide a margin of safety in the protection of the public health and welfare. They are designed to protect “sensitive receptors” most susceptible to further respiratory distress, such as asthmatics, the elderly, very young children, people already weakened by other disease or illness, and persons engaged in strenuous work or exercise. Healthy adults can tolerate occasional exposure to air pollutant concentrations considerably above these minimum standards before adverse effects are observed. California has also adopted a host of other regulations that reduce criteria pollutant emissions, including:<sup>4</sup>

- Assembly Bill (AB) 1493: Pavley Fuel Efficiency Standards.
- Heavy-Duty (Tractor-Trailer) GHG Regulation.
- Advanced Clean Cars Regulation.
- Advanced Clean Fleets Regulation.
- Senate Bill (SB) 1078 and SB 107: Renewables Portfolio Standards.
- Title 20 California Code of Regulations (CCR): Appliance Energy Efficiency Standards.
- Title 24, Part 6, CCR: Building Energy Efficiency Standards.
- Title 24, Part 11, CCR: Green Building Standards Code.

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<sup>4</sup> See Chapter 4.7, *Greenhouse Gas Emissions*, of this Draft EA for a description of regulations that reduce emissions including Assembly Bill 32, also known as the Global Warming Solutions Act, Senate Bill 375, also known as the Sustainable Communities and Climate Protection Act. See Chapter 4.14, *Transportation*, of this Draft EIR for a description on Senate Bill 743, and how it relates to reducing vehicle miles traveled or “VMT.”

**AIR QUALITY****TABLE 4.2-3 AMBIENT AIR QUALITY STANDARDS FOR CRITERIA POLLUTANTS**

Pollutant	Averaging Time	California Standard <sup>a</sup>	Federal Primary Standard <sup>b</sup>	Major Pollutant Sources
Ozone (O <sub>3</sub> ) <sup>c</sup>	1 hour	0.09 ppm	*	Motor vehicles, paints, coatings, and solvents.
	8 hours	0.070 ppm	0.070 ppm	
Carbon Monoxide (CO)	1 hour	20 ppm	35 ppm	Internal combustion engines, primarily gasoline-powered motor vehicles.
	8 hours	9.0 ppm	9 ppm	
Nitrogen Dioxide (NO <sub>2</sub> )	Annual Arithmetic Mean	0.030 ppm	0.053 ppm	Motor vehicles, petroleum-refining operations, industrial sources, aircraft, ships, and railroads.
	1 hour	0.18 ppm	0.100 ppm	
Sulfur Dioxide (SO <sub>2</sub> )	Annual Arithmetic Mean	*	0.030 ppm	Fuel combustion, chemical plants, sulfur recovery plants, and metal processing.
	1 hour	0.25 ppm	0.075 ppm	
	24 hours	0.04 ppm	0.14 ppm	
Respirable Coarse Particulate Matter (PM <sub>10</sub> )	Annual Arithmetic Mean	20 µg/m <sup>3</sup>	*	Dust and fume-producing construction, industrial, and agricultural operations, combustion, atmospheric photochemical reactions, and natural activities (e.g., wind-raised dust and ocean sprays).
	24 hours	50 µg/m <sup>3</sup>	150 µg/m <sup>3</sup>	
Respirable Fine Particulate Matter (PM <sub>2.5</sub> ) <sup>d</sup>	Annual Arithmetic Mean	12 µg/m <sup>3</sup>	12 µg/m <sup>3</sup>	Dust and fume-producing construction, industrial, and agricultural operations, combustion, atmospheric photochemical reactions, and natural activities (e.g., wind-raised dust and ocean sprays).
	24 hours	*	35 µg/m <sup>3</sup>	
Lead (Pb)	30-Day Average	1.5 µg/m <sup>3</sup>	*	Present source: lead smelters, battery manufacturing & recycling facilities. Past source: combustion of leaded gasoline.
	Calendar Quarter	*	1.5 µg/m <sup>3</sup>	
	Rolling 3-Month Average	*	0.15 µg/m <sup>3</sup>	
Sulfates (SO <sub>4</sub> ) <sup>e</sup>	24 hours	25 µg/m <sup>3</sup>	*	Industrial processes.
Visibility Reducing Particles	8 hours	ExCo =0.23/km visibility of 10≥ miles	No Federal Standard	Visibility-reducing particles consist of suspended particulate matter, which is a complex mixture of tiny particles that consists of dry solid fragments, solid cores with liquid coatings, and small droplets of liquid. These particles vary greatly in shape, size and chemical composition, and can be made up of many different materials such as metals, soot, soil, dust, and salt.
Hydrogen Sulfide	1 hour	0.03 ppm	No Federal Standard	Hydrogen sulfide (H <sub>2</sub> S) is a colorless gas with the odor of rotten eggs. It is formed during bacterial decomposition of sulfur-containing organic substances. Also, it can be present in sewer gas and some natural gas, and can be emitted as the result of geothermal energy exploitation.
Vinyl Chloride	24 hours	0.01 ppm	No Federal Standard	Vinyl chloride (chloroethene), a chlorinated hydrocarbon, is a colorless gas with a mild, sweet odor. Most vinyl chloride is used to make polyvinyl

**AIR QUALITY****TABLE 4.2-3 AMBIENT AIR QUALITY STANDARDS FOR CRITERIA POLLUTANTS**

Pollutant	Averaging Time	California Standard <sup>a</sup>	Federal Primary Standard <sup>b</sup>	Major Pollutant Sources
				chloride (PVC) plastic and vinyl products. Vinyl chloride has been detected near landfills, sewage plants, and hazardous waste sites, due to microbial breakdown of chlorinated solvents.

Notes: ppm: parts per million;  $\mu\text{g}/\text{m}^3$ : micrograms per cubic meter; \*Standard has not been established for this pollutant/duration by this entity.

a. California standards for  $\text{O}_3$ , CO (except 8-hour Lake Tahoe),  $\text{SO}_2$  (1 and 24 hour),  $\text{NO}_2$ , and particulate matter ( $\text{PM}_{10}$ ,  $\text{PM}_{2.5}$ , and visibility reducing particles), are values that are not to be exceeded. All others are not to be equaled or exceeded. California ambient air quality standards are listed in the Table of Standards in Section 70200 of Title 17 of the California Code of Regulations.

b. National standards (other than  $\text{O}_3$ , PM, and those based on annual arithmetic mean) are not to be exceeded more than once a year. The  $\text{O}_3$  standard is attained when the fourth highest 8-hour concentration measured at each site in a year, averaged over three years, is equal to or less than the standard. For  $\text{PM}_{10}$ , the 24-hour standard is attained when the expected number of days per calendar year with a 24-hour average concentration above  $150 \mu\text{g}/\text{m}^3$  is equal to or less than one. For  $\text{PM}_{2.5}$ , the 24-hour standard is attained when 98 percent of the daily concentrations, averaged over 3 years, are equal to or less than the standard.

c. On October 1, 2015, the national 8-hour ozone primary and secondary standards were lowered from 0.075 to 0.070 ppm.

d. On December 14, 2012, the national annual  $\text{PM}_{2.5}$  primary standard was lowered from  $15 \mu\text{g}/\text{m}^3$  to  $12.0 \mu\text{g}/\text{m}^3$ . The existing national 24-hour  $\text{PM}_{2.5}$  standards (primary and secondary) were retained at  $35 \mu\text{g}/\text{m}^3$ , as was the annual secondary standard of  $15 \mu\text{g}/\text{m}^3$ . The existing 24-hour  $\text{PM}_{10}$  standards (primary and secondary) of  $150 \mu\text{g}/\text{m}^3$  also were retained. The form of the annual primary and secondary standards is the annual mean, averaged over 3 years.

e. On June 2, 2010, a new 1-hour  $\text{SO}_2$  standard was established and the existing 24-hour and annual primary standards were revoked. The 1-hour national standard is in units of parts per billion (ppb). California standards are in units of parts per million (ppm). To directly compare the 1-hour national standard to the California standard the units can be converted to ppm. In this case, the national standard of 75 ppb is identical to 0.075 ppm.

Source: California Air Resources Board, March 2017, *Short-Lived Climate Pollutant Reduction Strategy*, [https://ww2.arb.ca.gov/sites/default/files/2020-07/final\\_SLCP\\_strategy.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-07/final_SLCP_strategy.pdf), accessed January 29, 2024.

***Tanner Air Toxics Act and Air Toxics “Hot Spot” Information and Assessment Act***

Public exposure to TACs is a significant environmental health issue in California. In 1983, the California Legislature enacted a program to identify the health effects of TACs and reduce exposure to these contaminants to protect public health. A substance that is listed as a hazardous air pollutant pursuant to Section 112(b) of the federal Clean Air Act (42 United States Code Section 7412[b]) is a toxic air contaminant. Under State law, CalEPA, acting through CARB, is authorized to identify a substance as a TAC if it is an air pollutant that may cause or contribute to an increase in mortality or serious illness, or may pose a present or potential hazard to human health.

California regulates TACs primarily through Assembly Bill (AB) 1807 (Tanner Air Toxics Act) and AB 2588 (Air Toxics “Hot Spot” Information and Assessment Act of 1987). AB 1807 sets up a formal procedure for CARB to designate substances as TACs. Once a TAC is identified, CARB adopts an “airborne toxics control measure” for sources that emit designated TACs. If there is a safe threshold for a substance (i.e., a point below which there is no toxic effect), the airborne toxics control measure must reduce exposure to below that threshold. If there is no safe threshold, the airborne toxics control measure must incorporate toxics best available control technology to minimize emissions. To date, CARB has established formal control measures for 11 TACs that are identified as having no safe threshold.

Under AB 2588, TAC emissions from individual facilities are quantified and prioritized by the air quality management district or air pollution control district. High priority facilities<sup>5</sup> are required to perform a

<sup>5</sup> Each district is responsible for establishing the prioritization score threshold at which facilities are required to prepare a health risk assessment. In the Bay Area, facilities that generate a cancer risk of greater or equal to 10 in a million and a non-

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health risk assessment, and if specific thresholds are exceeded, are required to communicate the results to the public through notices and public meetings. CARB has promulgated the following specific rules to limit TAC emissions:

- **13 CCR Chapter 10 Section 2485: Airborne Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling.** Restricts on-road diesel-powered commercial motor vehicles with a gross vehicle weight rating of greater than 10,000 pounds from idling more than five minutes.
- **13 CCR Chapter 10 Section 2480: Airborne Toxic Control Measure to Limit School Bus Idling and Idling at Schools.** Restricts a school bus or transit bus from idling for more than five minutes when within 100 feet of a school.
- **13 CCR Section 2477 and Article 8: Airborne Toxic Control Measure for In-Use Diesel-Fueled Transport Refrigeration Units (TRU) and TRU Generator Sets and Facilities Where TRUs Operate.** Regulations established to control emissions associated with diesel-powered TRUs.

## Regional Regulations

### *Bay Area Air Quality Management District*

BAAQMD is the agency responsible for ensuring that the National and California AAQS are attained and maintained in the SFBAAB. Air quality conditions in the SFBAAB have improved significantly since BAAQMD was created in 1955.<sup>6</sup> BAAQMD prepares air quality management plans (AQMP) to attain ambient air quality standards in the SFBAAB. BAAQMD prepares ozone attainment plans for the National O<sub>3</sub> standard and clean air plans for the California O<sub>3</sub> standard BAAQMD prepares these air quality management plans in coordination with Association of Bay Area Governments (ABAG) and the Metropolitan Transportation Commission (MTC) to ensure consistent assumptions about regional growth.

### 2017 Clean Air Plan

BAAQMD adopted the 2017 *Clean Air Plan, Spare the Air, Cool the Climate* (2017 Clean Air Plan) on April 19, 2017, making it the most recently adopted comprehensive plan. The 2017 Clean Air Plan incorporates significant new scientific data, primarily in the form of updated emissions inventories, ambient measurements, new meteorological episodes, and new air quality modeling tools. The 2017 Clean Air Plan serves as an update to the adopted Bay Area 2010 Clean Air Plan and continues to provide the framework for SFBAAB to achieve attainment of the California and National AAQS. The 2017 Clean Air Plan updates the Bay Area's ozone plan, which is based on the "all feasible measures" approach to meet the requirements of the California Clean Air Act. Additionally, it sets a goal of reducing health risk impacts to local communities by 20 percent between 2015 and 2020. Furthermore the 2017 Clean Air Plan also lays the groundwork for reducing GHG emissions in the Bay Area to meet the State's 2030 GHG reduction

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cancer chronic or acute risk greater or equal to 10 in a million are high priority facilities. Types of facilities that have the potential to generate risks of this level include refineries, other heavy industrial manufacturing/industrial processes, and fueling stations.

<sup>6</sup> Bay Area Air Quality Management District, April 2023, *California Environmental Quality Act: Air Quality Guidelines*, <https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>, accessed January 29, 2024.

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target and 2050 GHG reduction goal. It also includes a vision for the Bay Area in a post-carbon year 2050 that encompasses the following:<sup>7</sup>

- Construct buildings that are energy efficient and powered by renewable energy.
- Walk, bicycle, and use public transit for the majority of trips and use electric-powered autonomous public transit fleets.
- Incubate and produce clean energy technologies.
- Live a low-carbon lifestyle by purchasing low-carbon foods and goods in addition to recycling and putting organic waste to productive use.

A multipollutant control strategy was developed to be implemented in the next three to five years to address public health and climate change and to set a pathway to achieve the 2050 vision. The control strategy includes 85 control measures to reduce emissions of ozone, particulate matter, TACs, and GHG from a full range of emission sources. These control measures cover the following sectors: 1) stationary (industrial) sources; 2) transportation; 3) energy; 4) agriculture; 5) natural and working lands; 6) waste management; 7) water; and 8) super-GHG pollutants. The control strategy includes these key priorities:

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of “super-GHGs” such as methane, black carbon, and fluorinated gases.
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
  - Increase efficiency of the energy and transportation systems.
  - Reduce demand for vehicle travel and high-carbon goods and services.
- Decarbonize the energy system.
  - Make the electricity supply carbon-free.
  - Electrify the transportation and building sectors.

### Community Air Risk Evaluation (CARE) Program

The BAAQMD Community Air Risk Evaluation program was initiated in 2004 to evaluate and reduce health risks associated with exposure to outdoor TACs in the Bay Area, primarily DPM. The last update to this program was conducted in 2014. Based on findings of the 2014 report, DPM was found to account for approximately 85 percent of the cancer risk from airborne toxics. Carcinogenic compounds from gasoline-powered cars and light duty trucks were also identified as significant cancer risks: 1,3-butadiene contributed 4 percent of the cancer risk-weighted emissions and benzene contributed 3 percent. Collectively, five compounds—DPM, 1,3-butadiene, benzene, formaldehyde, and acetaldehyde—were found to be responsible for more than 90 percent of the cancer risk attributed to emissions. All these compounds are associated with emissions from internal combustion engines. The most important sources of cancer risk-weighted emissions were combustion-related sources of DPM, including on-road mobile sources (31 percent), construction equipment (29 percent), and ships and harbor craft (13 percent). Overall, cancer risk from TACs dropped by more than 50 percent between 2005 and 2015, when emissions inputs accounted for State diesel regulations and other reductions.<sup>8</sup>

<sup>7</sup> Bay Area Air Quality Management District, April 19, 2017, *Final 2017 Clean Air Plan, Spare the Air, Cool the Climate: A Blueprint for Clean Air and Climate Protection in the Bay Area*, [https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-proposed-final-cap-vol-1-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en), accessed January 29, 2024.

<sup>8</sup> Bay Area Air Quality Management District, April 2014, *Improving Air Quality & Health in Bay Area Communities, Community Air Risk Evaluation Program Retrospective & Path Forward (2004-2013)*,



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The major contributor to acute and chronic noncancer health effects in the SFBAAB is acrolein ( $C_3H_4O$ ). Major sources of acrolein are on-road mobile sources and aircraft near freeways and commercial and military airports.<sup>9</sup> Currently CARB does not have certified emission factors or an analytical test method for acrolein. Since the appropriate tools needed to implement and enforce acrolein emission limits are not available, BAAQMD does not conduct health risk screening analyses for acrolein emissions.<sup>10</sup>

### Air District Rules and Regulations

#### Regulation 7, Odorous Substances

Sources of objectionable odors may occur within the Study Area. BAAQMD's Regulation 7, *Odorous Substances*, places general limitations on odorous substances and specific emission limitations on certain odorous compounds. Odors are also regulated under BAAQMD Regulation 1, Rule 1-301, Public Nuisance, which states that "no person shall discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or the public; or which endangers the comfort, repose, health or safety of any such persons or the public, or which causes, or has a natural tendency to cause, injury or damage to business or property." Under BAAQMD's Rule 1-301, a facility that receives three or more violation notices within a 30-day period can be declared a public nuisance.

#### Naturally Occurring Asbestos Program

To reduce public exposure to naturally occurring asbestos, BAAQMD places Airborne Toxic Control Measures to regulate all construction, maintenance, grading, and mining activities that could potentially produce dust containing naturally occurring asbestos.<sup>11</sup> The Naturally Occurring Asbestos Program also requires the best available dust mitigation measures to be followed to reduce exposure to airborne asbestos.<sup>12</sup>

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[https://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CARE%20Program/Documents/CARE\\_Retrospective\\_April2014.ashx?la=en](https://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CARE%20Program/Documents/CARE_Retrospective_April2014.ashx?la=en), accessed January 29, 2024.

<sup>9</sup> Bay Area Air Quality Management District, April 2014, *Improving Air Quality & Health in Bay Area Communities, Community Air Risk Evaluation Program Retrospective & Path Forward (2004-2013)*, [https://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CARE%20Program/Documents/CARE\\_Retrospective\\_April2014.ashx?la=en](https://www.baaqmd.gov/~media/Files/Planning%20and%20Research/CARE%20Program/Documents/CARE_Retrospective_April2014.ashx?la=en), accessed January 29, 2024.

<sup>10</sup> Bay Area Air Quality Management District, January 2010, *Air Toxics NSR Program Health Risk Screening Analysis (HSRA) Guidelines*, [http://www.baaqmd.gov/~media/Files/Engineering/Air%20Toxics%20Programs/hrsa\\_guidelines.ashx](http://www.baaqmd.gov/~media/Files/Engineering/Air%20Toxics%20Programs/hrsa_guidelines.ashx), accessed January 29, 2024.

<sup>11</sup> Bay Area Air Quality Management District, 2023, *Naturally Occurring Asbestos*, <https://www.baaqmd.gov/permits/asbestos/naturally-occurring-asbestos>, accessed January 29, 2024.

<sup>12</sup> Bay Area Air Quality Management District, 2018, *Compliance Advisory, Naturally Occurring Asbestos Program Fee Change*, [https://www.baaqmd.gov/~media/files/compliance-and-enforcement/advisories/asbestos-atcm/noa-compliance-advisory-2019\\_final-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/compliance-and-enforcement/advisories/asbestos-atcm/noa-compliance-advisory-2019_final-pdf.pdf?la=en), accessed May 25, 2023.

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### Other Air District Regulations

In addition to the plans and programs described above, BAAQMD administers several specific regulations on various sources of pollutant emissions that would apply to potential future development constructed, including:

- Regulation 2, Rule 2, New Source Review
- Regulation 2, Rule 5, New Source Review of Toxic Air Contaminants
- Regulation 6, Rule 1, General Requirements
- Regulation 6, Rule 2, Commercial Cooking Equipment
- Regulation 8, Rule 3, Architectural Coatings
- Regulation 8, Rule 4, General Solvent and Surface Coatings Operations
- Regulation 8, Rule 7, Gasoline Dispensing Facilities
- Regulation 11, Rule 2, Asbestos, Demolition, Renovation and Manufacturing
- Regulation 11, Rule 18, Reduction of Risk from Air Toxic Emissions at Existing Facilities

### Valley Transportation Authority

The Valley Transportation Authority (VTA) is the congestion management agency for Santa Clara County. VTA is tasked with developing a comprehensive transportation improvement program among local jurisdictions to reduce traffic congestion and improve land use decision making and air quality plans. VTA's latest congestion management program (CMP) is the Congestion Management Program Document, adopted December 2021.<sup>13</sup> VTA's countywide transportation model must be consistent with the regional transportation model developed by the MTC with ABAG data. The countywide transportation model is used to help evaluate cumulative transportation impacts of local land use decisions on the CMP system.

### Plan Bay Area

MTC and ABAG adopted *Plan Bay Area* on October 21, 2021.<sup>14</sup> *Plan Bay Area* provides transportation and environmental strategies to continue to meet the regional transportation related GHG reduction goals of SB 375. Strategies to reduce GHG emissions include focusing housing and commercial construction in walkable, transit-accessible places; investing in transit and active transportation; and shifting the location of jobs to encourage shorter commutes. As part of the implementing framework for *Plan Bay Area*, local governments have identified Priority Development Areas (PDAs) and Transit Priority Areas (TPAs) to focus growth. As described in Chapter 4, *Environmental Analysis*, of this EA, PDAs are transit-oriented, infill development opportunity areas within existing communities. TPAs are half-mile buffers surrounding major transit stops or terminals. As shown on Figure 4-1, *Priority Development Area and Transit Priority Areas*, of

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<sup>13</sup> Valley Transportation Authority, December 2021, *Congestion Management Program (CMP) Document*, [https://www.vta.org/sites/default/files/2022-01/2021CMPDocumentV2\\_Reduced.pdf](https://www.vta.org/sites/default/files/2022-01/2021CMPDocumentV2_Reduced.pdf), accessed January 29, 2024.

<sup>14</sup> Association of Bay Area Governments and Metropolitan Transportation Commission, October 2021, *Plan Bay Area 2050*, [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed January 29, 2024.

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this EA, there are four TPAs and two PDAs, the Santa Clara Valley Transportation Authority City Cores, Corridors & Station Areas, and South DeAnza.<sup>15,16</sup>

### *Nitrogen Oxides from Natural Gas-Fired Furnaces, Boilers, and Water Heaters*

BAAQMD adopted amendments to Regulation 9, Inorganic Gaseous Pollutants, Rule 4, Nitrogen Oxides from Natural Gas-Fired Furnaces (Rule 9-4) and Rule 6, Nitrogen Oxides Emissions from Natural Gas-Fired Boilers and Water Heaters (Rule 9-6). Space- and water-heating appliances generate a large portion of nitrogen oxide (NO<sub>x</sub>) emissions from sources in the Bay Area. NO<sub>x</sub> are a key criteria pollutant as a precursor to ozone and secondary particulate matter (PM) formation. The amendments would require more stringent NO<sub>x</sub> emission standards for space- and water-heating appliances within BAAQMD's jurisdiction starting in year 2023 and would substantially reduce NO<sub>x</sub> emissions from these appliances commonly found in single-family homes and commercial applications. The amendments to Rules 9-4 and 9-6 include the following elements:

- Sales and installation of smaller water heaters and boilers (below 75,000 BTU/hour) must be zero emission, starting in 2027.
- Sales and installation of furnaces (heat input rate less than 175,000 BTU/hour) must be zero emission starting in 2029.
- Sales of larger water heaters and boilers (between 75,000 and 2 million BTU/hour) must be zero emission starting in 2031.
- Existing appliances can remain in operation, but the rule would apply once they need replacement.

## Local Regulations

### *General Plan 2040*

The Mobility (M), Environmental Resources (ES), and Health and Safety (HS) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider air quality impacts. Applicable policies and strategies that would minimize potential adverse impacts to air quality are identified in Section 4.2.3, *Impact Discussion*.

### *Climate Action Plan*

Adopted in August 2022, the City of Cupertino Climate Action Plan (CAP 2.0) is an updated roadmap of specific actions to reduce GHG emissions, achieve the City's target of carbon neutrality by 2040, and increase community resilience, and capacity to adapt to the impacts of climate change.<sup>17</sup> The CAP 2.0 allows City decision-makers and the community to understand the sources and magnitude of local GHG

<sup>15</sup> Metropolitan Transportation Commission, Transit Priority Areas (2021), 2024, <https://opendata.mtc.ca.gov/datasets/MTC::transit-priority-areas-2021-1/explore?location=37.328339%2C-122.044206%2C14.00>, accessed on January 20, 2024

<sup>16</sup> Metropolitan Transportation Commission, Priority Development Areas – Plan Bay Area 2050, 2024, <https://opendata.mtc.ca.gov/datasets/priority-development-areas-plan-bay-area-2050/explore?location=37.319615%2C-122.033008%2C14.71>, accessed on January 20, 2024.

<sup>17</sup> City of Cupertino, August 2022, *Climate Action 2.0*, <https://www.cupertino.org/home/showpublisheddocument/31683/637964240923930000>, accessed on January 29, 2024.

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emissions and identifies a strategy, reduction measures, and implementation actions the City will use to achieve targets consistent with State recommendations of 4.3 metric tons of carbon dioxide equivalent (MTCO<sub>2</sub>e) per person by 2030 and 1.2 MTCO<sub>2</sub>e per person by 2050. The CAP 2.0 adopted in 2022 updated and expanded the City's goals from the 2015 CAP, including strategies for Cupertino to prepare for and mitigate approaching risks from climate change.

### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to minimize adverse impacts to local and regional air quality. The CMC is organized by title, chapter, and section. Most provisions related to air quality are included in Title 6, *Franchises*, Title 14, *Street, Sidewalks and Landscaping*, Title 16, *Buildings and Construction*, Title 17, *Environmental Regulations*, and Title 19, *Zoning*, as follows:

- **Chapter 6.24, *Garbage, Non-Organic Recycling and Organic Waste Recycling Collection and Disposal*.** This chapter includes Section 6.24.037, *Mandatory Organic Waste Disposal Reduction*, which includes a list of requirements for organic waste generators, in compliance with state recycling laws, and state organic recycling laws.
- **Chapter 14.02, *Transportation Impact Fee Program*.** This chapter recognizes that there will be additional demand on the City's existing transportation infrastructure and therefore created the Transportation Impact Fee Program to generate revenue that the City can use as a funding source for the costs of the transportation improvements required to serve new development.
- **Chapter 14.18, *Protected Trees*.** This chapter protects, preserves, and replenishes healthy and valuable trees in the city for the health and welfare of residents and to counteract air pollutants and maintain climatic balances, among reasons.
- **Chapter 16.32, *Energy Code*.** Adopts the 2022 edition of the California Energy Code and each and all the regulations, provisions, conditions and terms of the code and requires newly constructed buildings in the City to be all-electric, with varying exceptions for non-residential occupancies.
- **Chapter 16.72, *Recycling and Salvaging of Construction and Demolition Debris*.** This chapter requires projects to recycle or divert at least sixty-five percent (65 percent), or meet the amounts, criteria and requirements specified in the applicable California Green Building Standards Code, whichever is more restrictive, of all materials generated for discard by the project. This helps the City reduce landfill waste, foster resource conservation, and meet and exceed an overall waste diversion rate of 50 percent.
- **Section 17.04.040, *Standard Environmental Protection Technical Report Submittal Requirements*.** This section requires project applicants to submit technical reports for air quality and hazardous materials which are subject to review and approval prior to the approval of the project.

### **Air Quality Technical Report Requirements**

1. **Control Diesel Particulate Matter from Non-Residential Projects During Operation.** Applicants for new non-residential land uses within the city that either have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered Transport Refrigeration Units (TRUs), and are within 1,000 feet of a sensitive land use (e.g.,

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residential, schools, hospitals, nursing homes), as measured from the property line of the project to the property line of the nearest sensitive use, shall:

- a. Prepare and submit an operational Health Risk Assessment (HRA) for approval by the City prior to approval of the project.
- b. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA) and the Bay Area Air Quality Management District (BAAQMD).
- c. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM<sub>2.5</sub> concentrations exceed 0.3 micrograms per cubic meter (µg/m<sup>3</sup>), or the appropriate noncancer hazard index exceeds 1.0, the project applicant shall be required to identify and demonstrate that Best Available Control Technologies for Toxics (T-BACTs) are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms.
- d. T-BACTs identified in the HRA shall be indicated in the appropriate applicable construction document prior to approval of the project. T-BACTs may include the following measures from BAAQMD's *Planning Healthy Places Guidebook* but are not limited to:
  - i. Restricting nonessential idling on-site to no more than two minutes.
  - ii. Providing electric charging capable truck trailer spaces to accommodate Zero Emissions (ZE) Trucks.
  - iii. Providing electric charging capable warehousing docks to accommodate ZE Transport Refrigeration Units (TRUs).
  - iv. Requiring use of Near Zero Emissions (NZE) or ZE equipment (e.g., yard trucks and forklifts) and/or vehicles.
  - v. Restricting offsite truck travel through the creation of truck routes.

### 2. Manage Indoor Air Pollution.

- a. Applicants for residential and other sensitive land use projects (e.g., hospitals, nursing homes, day care centers) in areas identified on the Bay Area Air Quality Management District's (BAAQMD) "Conduct Further Study" on the Planning Healthy Places Map shall:
  - i. Prepare and submit an operational Health Risk Assessment (HRA) to the City prior to approval of the project.
  - ii. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA) and BAAQMD. The latest OEHHA guidelines shall be used for the analysis, including age sensitivity factors, breathing rates, and body weights appropriate for children ages 0 to 16 years.
  - iii. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM<sub>2.5</sub> concentrations exceed 0.3 micrograms per cubic meter (µg/m<sup>3</sup>), or the appropriate noncancer hazard index exceeds 1.0, the project applicant shall identify and demonstrate measures that are capable of reducing potential cancer and non-cancer risks to an

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acceptable level (i.e., below ten in one million or a hazard index of 1.0), including appropriate enforcement mechanisms.

- iv. Measures to reduce risk may include, but are not limited to:
    - 1. Air intakes located away from high volume roadways and/or truck loading zones.
    - 2. Heating, ventilation, and air conditioning systems of the buildings provided with appropriately sized Minimum Efficiency Reporting Value (MERV) filters.
  - b. Applicants for residential and/or other sensitive land use projects (e.g., hospitals, nursing homes, day care centers) must state in the applicable construction document where the site is located on the Bay Area Air Quality Management District (BAAQMD) Planning Healthy Places Map, as subsequently revised, supplemented, or replaced. If the site is located in an area identified as “Implement Best Practices,” the project applicant shall implement, and include in applicable construction documents, the following best practices identified in the BAAQMD *Planning Healthy Places Guidebook*:
    - i. Install air filters rated at a MERV 13 or higher.
    - ii. Locate operable windows, balconies, and building air intakes as far away from any emission source as is feasible.
    - iii. Incorporate solid barriers or dense rows of trees in a minimum planter width of 5 feet per row of trees between the residential and/or sensitive land use, and the emissions source into site design.
    - iv. Do not locate residential and/or sensitive land use on the ground floor units of buildings near non-elevated sources (e.g., ground level heavily traveled roadways and freeways).
  - c. The project applicant shall include the applicable measures identified in subsections (a) and (b) above in the applicable construction documents prior to approval of the project. Specifically, the air intake design and MERV filter requirements shall be included on all applicable construction documents submitted to the City and verified by the City’s Planning Division.
- **Section 17.04.050, *Standard Environmental Protection Permit Submittal Requirements*.** This section requires project applicants to control construction exhaust and describes the procedures to be implemented.
- 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 PM2.5 and PM10) 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.
  - 2. **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

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- 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.
3. **Control Volatile Organic Compound Emissions from Paint.** Projects shall use low-VOC paint (i.e., 50 grams per liter [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.
- **Chapter 19.72, Light Industrial (ML) and Industrial Park (MP) Zones.** This chapter includes regulation for smoke and odor in Section 19.72.050, *Restrictions Related to Emissions*. No visible grey smoke of a shade equal to or darker than No. 1 on the Ringelmann Smoke Chart shall be permitted at any point. No emission of detectable odorous gases is permitted without a secondary safeguard system so that control will be maintained if the primary safeguard system should fail.

### 4.2.1.3 EXISTING CONDITIONS

Chapter 4.2, *Air Quality*, of the General Plan EIR, addresses the impacts to air quality associated with buildout of the General Plan 2040 at a program level. The setting for air quality is described in the General Plan EIR Section 4.2.1.2, *Existing Conditions*. Since the certification of the General Plan EIR, the City has codified regulations equivalent to the General Plan EIR mitigation measures to reduce construction-related air quality impacts in CMC Chapter 17.04, *Standard Environmental Protection Requirements*, as described under the "Municipal Code" heading in Section 4.2.1.2, *Regulatory Framework*. The Standard Environmental Protection Requirements incorporate mitigation from the General Plan EIR, notably Mitigation Measure AQ-2a which requires applicants for future development projects to comply with the current Bay Area Air Quality Management District (BAAQMD) basic control measures for reducing fugitive dust emissions (PM<sub>10</sub> and PM<sub>2.5</sub>) during construction and Mitigation Measures AQ-4a and AQ-4b, which require the submittal of health risk assessments (HRAs) to the City to ensure mobile sources of TACs are considered in subsequent project-level environmental review from the General Plan EIR. Thus, individual project applicants for future potential development must include these measures in the applicable construction documents, prior to issuance of the first permit. Additionally, *Plan Bay Area* was updated as described in Section 4.2.1.2, *Regulatory Framework*.

### San Francisco Bay Area Air Basin Conditions

California is divided geographically into air basins for the purpose of managing the air resources of the State on a regional basis. The State is divided into 15 air basins and the Study Area is in the SFBAAB. The BAAQMD is the regional air quality agency for the SFBAAB, which comprises all of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara Counties; the southern portion of Sonoma County; and the southwestern portion of Solano County. Air quality in this area is determined by such



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natural factors as topography, meteorology, and climate, in addition to the presence of existing air pollution sources and ambient conditions. The discussion below identifies the natural factors in the SFBAAB that affect air pollution. Air pollutants of concern are criteria air pollutants and TACs. Federal, State, and local air districts have adopted laws and regulations intended to control and improve air quality.

### *Meteorology*

The SFBAAB is characterized by complex terrain, consisting of coastal mountain ranges, inland valleys, and bays, which distort normal wind flow patterns. The Coast Range splits the Bay Area, creating a western coast gap, the Golden Gate strait, and an eastern coast gap, the Carquinez Strait, which allows air to flow in and out of the Bay Area and the Central Valley. The climate is dominated by the strength and location of a semi-permanent, subtropical high-pressure cell. During the summer, the Pacific high-pressure cell is centered over the northeastern Pacific Ocean, resulting in stable meteorological conditions and a steady northwesterly wind flow. The upwelling of cold ocean water from below the surface because of the northwesterly flow produces a band of cold water off the California coast. The cool and moisture-laden air approaching the coast from the Pacific Ocean is further cooled by the presence of the cold-water band, resulting in condensation and the presence of fog and stratus clouds along the Northern California coast. In the winter, the Pacific high-pressure cell weakens and shifts southward, resulting in wind flow offshore, the absence of upwelling, and the occurrence of storms. Weak inversions coupled with moderate winds result in a low air pollution potential.

### *Wind Patterns*

During the summer, winds flowing from the northwest are drawn inland through the Golden Gate and over the lower portions of the San Francisco Peninsula. Immediately south of Mount Tamalpais in Marin County, the northwesterly winds accelerate considerably and come more directly from the west as they stream through the Golden Gate. This channeling of wind through the Golden Gate produces a jet that sweeps eastward and splits off to the northwest toward Richmond and to the southwest toward San José when it meets the East Bay hills. Wind speeds may be strong locally in areas where air is channeled through a narrow opening, such as the Carquinez Strait, the Golden Gate, or the San Bruno gap.

The air flowing in from the coast to the Central Valley, called the sea breeze, begins developing at or near ground level along the coast in late morning or early afternoon and the sea breeze deepens and increases in velocity while spreading inland. Under normal atmospheric conditions, the air in the lower atmosphere is warmer than the air above it. In the winter, the SFBAAB frequently experiences stormy conditions with moderate to strong winds, known as Diablo Winds, as well as periods of stagnation with very light winds. Winter stagnation episodes (i.e., conditions where there is little mixing, which occurs when there is a lack of or little wind) are characterized by nighttime drainage flows in coastal valleys. Drainage is a reversal of the usual daytime air-flow patterns; air moves from the Central Valley toward the coast and back down toward the Bay from the smaller valleys within the SFBAAB.

### *Temperature*

Summertime temperatures in the Air Basin are determined in large part by the effect of differential heating between land and water surfaces. Because land tends to heat up and cool off more quickly than

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water, a large-scale gradient (differential) in temperature is often created between the coast and the Central Valley, and small-scale local gradients are often produced along the shorelines of the ocean and bays. The temperature gradient near the ocean is also exaggerated, especially in summer, because of the upwelling of cold water from the ocean bottom along the coast. On summer afternoons, the temperatures at the coast can be 35 degrees Fahrenheit (°F) cooler than temperatures 15 to 20 miles inland; at night, this contrast usually decreases to less than 10°F. In the winter, the relationship between minimum and maximum temperatures is reversed. During the daytime the temperature contrast between the coast and inland areas is small, whereas at night the variation in temperature is large.

### *Precipitation*

The SFBAAB is characterized by moderately wet winters and dry summers. Winter rains (November through March) account for about 75 percent of the average annual rainfall. The amount of annual precipitation can vary greatly from one part of the SFBAAB to another, even within short distances. In general, total annual rainfall can reach 40 inches in the mountains, but it is often less than 16 inches in sheltered valleys.

During rainy periods, ventilation (rapid horizontal movement of air and injection of cleaner air) and vertical mixing (an upward and downward movement of air) are usually high, and thus pollution levels tend to be low (i.e., air pollutants are dispersed more readily into the atmosphere rather than accumulate under stagnant conditions). However, during the winter, frequent dry periods do occur, where mixing and ventilation are low and pollutant levels build up.

### *Wind Circulation*

Low wind speed contributes to the buildup of air pollution because it allows more pollutants to be emitted into the air mass per unit of time. Light winds occur most frequently during periods of low sun (fall and winter, and early morning) and at night. These are also periods when air pollutant emissions from some sources are at their peak, namely, commuter traffic (early morning) and wood-burning appliances (nighttime). The problem can be compounded in valleys, when weak flows carry the pollutants up-valley during the day, and cold air drainage flows move the air mass down-valley at night. Such restricted movement of trapped air provides little opportunity for ventilation and leads to buildup of pollutants to potentially unhealthful levels.

### *Inversions*

An inversion is a layer of warmer air over a layer of cooler air. Inversions affect air quality conditions significantly because they influence the mixing depth (i.e., the vertical depth in the atmosphere available for diluting air contaminants near the ground). There are two types of inversions that occur regularly in the SFBAAB. Elevation inversions are more common in the summer and fall, and radiation inversions are more common during the winter. The highest air pollutant concentrations in the SFBAAB generally occur during inversions.

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### Attainment Status of the SFBAAB

The AQMP provides the framework for air quality basins to achieve attainment of the State and federal AAQS through the State Implementation Plan. Areas that meet AAQS are classified as attainment areas, and areas that do not meet these standards are classified nonattainment areas. Severity classifications for O<sub>3</sub> range from marginal, moderate, and serious to severe and extreme.

- **Unclassified:** A pollutant is designated unclassified if the data are incomplete and do not support a designation of attainment or nonattainment.
- **Attainment:** A pollutant is in attainment if the AAQS for that pollutant was not violated at any site in the area during a three-year period.
- **Nonattainment:** A pollutant is in nonattainment if there was at least one violation of an AAQS for that pollutant in the area.
- **Nonattainment/Transitional:** A subcategory of the nonattainment designation. An area is designated nonattainment/transitional to signify that the area is close to attaining the AAQS for that pollutant.

The attainment status for the SFBAAB is shown in Table 4.2-4, *Attainment Status of Criteria Pollutants in the San Francisco Bay Area Air Basin*. The SFBAAB is currently designated a nonattainment area for California and National O<sub>3</sub>, California and National PM<sub>2.5</sub>, and California PM<sub>10</sub> AAQS.

**TABLE 4.2-4 ATTAINMENT STATUS OF CRITERIA POLLUTANTS IN THE SAN FRANCISCO BAY AREA AIR BASIN**

Pollutant	State	Federal
Ozone – 1-hour	Nonattainment	Classification revoked (2005)
Ozone – 8-hour	Nonattainment (serious)	Nonattainment (marginal) <sup>a</sup>
PM <sub>10</sub>	Nonattainment	Unclassified/Attainment <sup>b</sup>
PM <sub>2.5</sub>	Nonattainment	Unclassified/Attainment
CO	Attainment	Attainment
NO <sub>2</sub>	Attainment	Unclassified
SO <sub>2</sub>	Attainment	Attainment
Lead	Attainment	Attainment
Sulfates	Attainment	Unclassified/Attainment
All others	Unclassified/Attainment	Unclassified/Attainment

Notes:

a. Severity classification current as of February 13, 2017.

b. In December 2014, US EPA issued final area designations for the 2012 primary annual PM<sub>2.5</sub> National AAQS. Areas designated “unclassifiable/attainment” must continue to take steps to prevent their air quality from deteriorating to unhealthy levels. The effective date of this standard is April 15, 2015.

Source: Bay Area Air Quality Management District, April 19, 2017, *Final 2017 Clean Air Plan, Spare the Air, Cool the Climate: A Blueprint for Clean Air and Climate Protection in the Bay Area*, [https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-proposed-final-cap-vol-1-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en), accessed January 29, 2024.

### Existing Ambient Air Quality

Existing levels of ambient air quality and historical trends and projections in the City are best documented by measurements taken by the BAAQMD. The BAAQMD has 24 permanent monitoring stations around the

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Bay Area. The nearest station to the Study Area is the San Jose-Jackson Street Monitoring Station, which monitors O<sub>3</sub>, NO<sub>2</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. Data from the monitoring station is summarized in Table 4.2-5, *Ambient Air Quality Monitoring Summary*. The data show that the area regularly exceeds the State and federal one-hour, eight-hour O<sub>3</sub> standards and federal PM<sub>2.5</sub>, and occasionally exceeds the State PM<sub>10</sub> in the last three recorded years.

**TABLE 4.2-5 AMBIENT AIR QUALITY MONITORING SUMMARY**

Pollutant/Standard	Number of Days Thresholds Were Exceeded and Maximum Levels		
	2020	2021	2022
<b>Ozone (O<sub>3</sub>)</b>			
State 1-Hour $\geq$ 0.09 ppm (Days exceed threshold)	1	3	0
State & Federal 8-hour $\geq$ 0.070 ppm (Days exceed threshold)	2	4	1
Max. 1-Hour Conc. (ppm)	0.106	0.098	0.090
Max. 8-Hour Conc. (ppm)	0.085	0.084	0.074
<b>Nitrogen Dioxide (NO<sub>2</sub>)</b>			
State 1-Hour $\geq$ 0.18 ppm (Days exceed threshold)	0	0	0
Federal 1-Hour $\geq$ 0.100 ppm (Days exceed threshold)	0	0	0
Max. 1-Hour Conc. (ppm)	0.0519	0.0478	0.0468
<b>Coarse Particulates (PM<sub>10</sub>)</b>			
State 24-Hour $>$ 50 $\mu\text{g}/\text{m}^3$ (Days exceed threshold)	10	0	0
Federal 24-Hour $>$ 150 $\mu\text{g}/\text{m}^3$ (Days exceed threshold)	0	0	0
Max. 24-Hour Conc. ( $\mu\text{g}/\text{m}^3$ )	137.1	45.1	44.5
<b>Fine Particulates (PM<sub>2.5</sub>)</b>			
Federal 24-Hour $>$ 150 $\mu\text{g}/\text{m}^3$ (Days exceed threshold)	12	1	2
Federal Max. 24-Hour Conc. ( $\mu\text{g}/\text{m}^3$ )	120.5	38.1	36.2

Notes: ppm = parts per million; parts per billion,  $\mu\text{g}/\text{m}^3$  = micrograms per cubic meter. Data for O<sub>3</sub>, NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> obtained from the San Jose-Jackson Street Monitoring Station  
Source: California Air Resources Board, January 29, 2024 (accessed), iADAM: *Air Quality Data Statistics*, <https://www.arb.ca.gov/adam/topfour/topfour1.php>

## Sensitive Receptors

Some land uses are considered more sensitive to air pollution than others due to the types of population groups or activities involved. Sensitive population groups include children, seniors, the acutely ill, and the chronically ill, especially those with cardiorespiratory diseases.

Residential areas are considered sensitive receptors to air pollution because residents (including children and seniors) tend to be at home for extended periods of time, resulting in sustained exposure to any pollutants present. Other sensitive receptors include retirement facilities, hospitals, and schools.

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Recreational land uses are considered moderately sensitive to air pollution. Although exposure periods are generally short, exercise places a high demand on respiratory functions, which can be impaired by air pollution. In addition, noticeable air pollution can detract from the enjoyment of recreation. Industrial, commercial, retail, and office areas are considered the least sensitive to air pollution. Exposure periods are relatively short and intermittent, as most of the workers tend to stay indoors most of the time. In addition, the working population is generally the healthiest segment of the public.

### Existing Emission Sources

Existing sources of criteria pollutant and TACs emissions in the Study Area principally include area, energy, and mobile sources. Area source emissions are generated from the use of landscaping equipment, paints and coatings, and other non-point source fuel and aerosol applications. Energy source emissions are generated through the consumption of on-site natural gas for building space and water heating. Mobile source emissions for development projects are generated from the consumption of transportation fuels. As the Study Area currently has a mix of predominately residential, commercial, and retail land uses, the above emission sources exist in the city.

## 4.2.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant air quality impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
AIR-1. Conflict with or obstruct implementation of the applicable air quality plan?	SU	SU
AIR-2. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under applicable federal or State ambient air quality standard?	SU	SU
AIR-3. Expose sensitive receptors to substantial pollutant concentrations?	LTS/M	LTS/M
AIR-4. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?	LTS	LTS
AIR-5. Result in a cumulatively considerable impact with respect to air quality?	SU	SU

Note: In December 2018, amendments were made to Appendix G, *Environmental Checklist*, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. General Plan EIR AIR-2 has been removed, and AIR-3 has been modified to exclude analyzing ozone precursors. Accordingly, this EA only analyzes the current questions AIR-1 through AIR-5 as shown here.

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

### BAAQMD Plan-Level Significance Criteria

The BAAQMD *CEQA Air Quality Guidelines* were prepared to assist in the evaluation of air quality impacts of projects and plans proposed within the Bay Area. The guidelines provide recommended procedures for 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. They also include recommended assessment methodologies for air toxics, odors, greenhouse gas emissions, and environmental justice.

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In June 2010, BAAQMD's Board of Directors adopted CEQA thresholds of significance and an update of the CEQA Guidelines. These thresholds are designed to establish the level at which BAAQMD believed air pollution emissions would cause significant environmental impacts under CEQA. BAAQMD published a new version of the BAAQMD *CEQA Air Quality Guidelines* dated April 2023.<sup>18</sup> This latest version of the BAAQMD *CEQA Air Quality Guidelines* was used to prepare the analysis in this EA.

### *Clean Air Plan Consistency*

Under its plan-level review criteria, which apply to long-range plans such as the proposed Modified Project, the BAAQMD recommends a consistency evaluation of the proposed plan with its current AQMP control measures. The BAAQMD considers a plan to be consistent with the applicable AQMP, which is currently the 2017 Clean Air Plan, if it is consistent with below considerations:

- Does the project support the primary goals of the AQMP?
- Does the project include applicable control measures from the AQMP?
- Does the project disrupt or hinder implementation of any AQMP control measure?
- Does the project result in VMT growth that is equal to or less than the projected population growth over the same timeframe?

### *Criteria Air Pollutants and Ozone Precursors*

#### Plan-Level

The BAAQMD has identified thresholds of significance for criteria air pollutant and ozone precursor emissions, including ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. These significance thresholds are recommended by the BAAQMD as de minimis thresholds for individual development projects, meaning they represent a level of air pollutant emissions at which impacts to air quality become potentially significant and could contribute to a potential or existing violation of federal and State AAQS. Development projects below the significance thresholds are not expected to generate sufficient air pollutant emissions to violate any air quality standard or contribute substantially to an existing or projected violation of federal or State AAQS.

According to the BAAQMD's *CEQA Air Quality Guidelines*, long-range plans (e.g., general plans) present unique challenges for assessing air quality impacts. Because of the SFBAAB's nonattainment status for ozone and particulate matter and the cumulative impacts of population and development growth on air quality, these plans can often have significant and unavoidable adverse air quality impacts. To meet the BAAQMD's recommended plan-level significance thresholds for operational criteria air pollutant and precursor impacts, a proposed plan must satisfy the following criteria:

- Consistency with current Air Quality Management Plan control measures.
- A proposed plan's VMT or vehicle trips growth is equal to or less than the projected population growth over the same timeframe?

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<sup>18</sup> Bay Area Air Quality Management District, April 2023, *California Environmental Quality Act: Air Quality Guidelines*, <https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>, accessed January 25, 2024.

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The BAAQMD's regional significance criteria for projects that exceed the screening thresholds are shown in Table 4.2-6, *BAAQMD Regional (Mass Emissions) Criteria Air Pollutant Significance Thresholds*. Criteria for both the construction and operational phases of the project are shown.

**TABLE 4.2-6 BAAQMD REGIONAL (MASS EMISSIONS) CRITERIA AIR POLLUTANT SIGNIFICANCE THRESHOLDS**

Air Pollutant	Construction Phase	Operational Phase	
	Average Daily Emissions (lbs/day)	Average Daily Emissions (lbs/day)	Maximum Annual Emissions (Tons/year)
ROG	54	54	10
NO <sub>x</sub>	54	54	10
PM <sub>10</sub>	82 (Exhaust)	82	15
PM <sub>2.5</sub>	54 (Exhaust)	54	10
PM <sub>10</sub> and PM <sub>2.5</sub> Fugitive Dust	Best Management Practices	None	None

Source: Bay Area Air Quality Management District, April 2023, *California Environmental Quality Act: Air Quality Guidelines*, <https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>, accessed January 25, 2024.

If projects exceed the emissions in Table 4.2-6, *BAAQMD Regional (Mass Emissions) Criteria Air Pollutant Significance Thresholds*, emissions would cumulatively contribute to the nonattainment status and would contribute in elevating health effects associated to these criteria air pollutants. Reducing emissions would further contribute to reducing possible health effects related to criteria air pollutants.

However, for projects that exceed the emissions in Table 4.2-6, it is speculative to determine how exceeding the regional thresholds would affect the number of days the region is in nonattainment since mass emissions are not correlated with concentrations of emissions or how many additional individuals in the air basin would be affected by the health effects cited above. The BAAQMD is the primary agency responsible for ensuring the health and welfare of sensitive individuals to elevated concentrations of air quality in the SFBAAB and at the present time, it has not provided methodology to assess the specific correlation between mass emissions generated and the effect on health in order to address the issue raised in *Sierra Club v. County of Fresno (Friant Ranch, L.P.) (2018) 6 Cal.5th 502, Case No. S21978* (Friant Ranch).

Ozone concentrations are dependent upon a variety of complex factors, including the presence of sunlight and precursor pollutants, natural topography, nearby structures that cause building downwash, atmospheric stability, and wind patterns. Because of the complexities of predicting ground-level ozone concentrations in relation to the National AAQS and California AAQS, it is not possible to link health risks to the magnitude of emissions exceeding the significance thresholds. To achieve the health-based standards established by the EPA, the air districts prepare air quality management plans that detail regional programs to attain the AAQS. However, if a future potential development project within the Study Area exceeds the regional significance thresholds, the future potential development project could contribute to an increase in health effects in the basin until such time the attainment standards are met in the SFBAAB.



## *Sensitive Receptor Exposure to Pollutant Concentrations*

### Local Carbon Monoxide 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). Under a plan-level review, the BAAQMD does not require an evaluation of CO hotspots. 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 for CO emissions, and CO concentrations in the Air Basin have steadily declined. Because CO concentrations have improved, the BAAQMD does not require a CO hotspot analysis if the following criteria are met (BAAQMD 2023):

- 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).

### *Community Risk and Hazards*

The BAAQMD'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<sub>2.5</sub> because emissions of these pollutants can have significant health impacts at the local level. The proposed Modified Project would generate TACs and PM<sub>2.5</sub> during construction activities that could elevate concentrations of air pollutants at the nearby sensitive receptors. The thresholds for construction-related local community risk and hazard impacts are the same as for project operations. The BAAQMD has adopted screening tables for air toxics evaluation during construction. Construction-related TAC and PM<sub>2.5</sub> impacts should be 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.<sup>19</sup>

### Community Risk and Hazards: Project

Project-level emissions of TACs or PM<sub>2.5</sub> from individual sources that exceed any of the thresholds listed below are considered a potentially significant community health risk:

- An excess cancer risk level of more than 10 in one million, or a noncancer (i.e., chronic or acute) hazard index greater than 1.0 would be a significant project contribution.

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<sup>19</sup> Bay Area Air Quality Management District, April 2023, *California Environmental Quality Act: Air Quality Guidelines*, <https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>, accessed January 25, 2024.

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- An incremental increase of greater than 0.3 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) annual average PM<sub>2.5</sub> from a single source would be a significant project contribution.<sup>20</sup>

### Community Risk and Hazards: Cumulative

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:

- An excess cancer risk level of more than 100 in one million or a chronic noncancer hazard index (from all local sources) greater than 10.0.
- 0.8  $\mu\text{g}/\text{m}^3$  annual average PM<sub>2.5</sub>.<sup>21</sup>

In February 2015, the California Office of Environmental Health Hazard Assessment (OEHHA) adopted new health risk assessment guidance that includes several efforts to be more protective of children's health. These updated procedures include the use of age sensitivity factors to account for the higher sensitivity of infants and young children to cancer causing chemicals, and age-specific breathing rate.<sup>22</sup>

### *Odor Impacts*

The BAAQMD's thresholds for odors are qualitative based on BAAQMD's Regulation 7, Odorous Substances. This rule places general limitations on odorous substances and specific emission limitations on certain odorous compounds. In addition, odors are also regulated under BAAQMD Regulation 1, Rule 1-301, Public Nuisance, which states that no person shall discharge from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or the public; or which endangers the comfort, repose, health or safety of any such persons or the public, or which causes, or has a natural tendency to cause, injury or damage to business or property. Under BAAQMD's Rule 1-301, a facility that receives three or more violation notices within a 30-day period can be declared a public nuisance. The BAAQMD has established odor screening thresholds for land uses that have the potential to generate substantial odor complaints, including wastewater treatment plants, landfills or transfer stations, composting facilities, confined animal facilities, food manufacturing, and chemical plant. For a plan-level analysis, BAAQMD requires:

- Potential existing and planned locations of odor sources to be identified.
- Policies to reduce odors.

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<sup>20</sup> Bay Area Air Quality Management District, April 2023, *California Environmental Quality Act: Air Quality Guidelines*, <https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>, accessed January 25, 2024.

<sup>21</sup> Bay Area Air Quality Management District, April 2023, *California Environmental Quality Act: Air Quality Guidelines*, <https://www.baaqmd.gov/plans-and-climate/california-environmental-quality-act-ceqa/updated-ceqa-guidelines>, accessed January 25, 2024.

<sup>22</sup> California Office of Environmental Health Hazard Assessment (OEHHA), February 2015, *Guidance Manual for Preparation of Health Risk Assessment*, <https://oehha.ca.gov/media/downloads/cnr/2015guidancemanual.pdf>, accessed January 29, 2024.

## 4.2.3 IMPACT DISCUSSION

### METHODOLOGY

#### Emissions Quantification

Impacts related to air quality resulting from implementation of the proposed Modified Project are described below. The impact analysis is based on air quality modeling of the criteria air pollutant and ozone precursor emissions that would result from future potential development under the proposed Modified Project. To determine the increase in air pollutants because of the proposed Modified Project, the maximum allowable net new residential dwelling units envisioned by the proposed Modified Project (3,312 units)<sup>23</sup> were estimated by calculating the net change from Approved Project and buildout of the proposed Modified Project in 2040. Due to a lack of available information on existing development on sites identified to accommodate the envisioned 3,312 dwelling units through 2040, emissions generated by the net new 3,312 dwelling units are herein considered to be a net increase from conditions under the Approved Project.

CalEEMod Version 2022.1 was used to calculate emissions of air pollutants associated with buildout of the proposed Modified Project (see Table 4.2-9, *Proposed Modified Project Criteria Air Pollutant Emissions Forecast*). Tables 3-4 and 3-5 in Chapter 3, *Project Description*, identify the sites intended to accommodate the housing supply growth envisioned by the proposed Modified Project. Based on the housing density data from these tables, all new housing units have been assigned to “Apartments Low-Rise”, “Apartments Mid-Rise”, “Condos/Townhouse”, and “Single-Family Housing” land use categories in CalEEMod. Consistent with the Transportation Analysis prepared by Fehr & Peers for the proposed Modified Project, emissions modeling for weekday rates utilized the daily vehicle trips and VMT provided for cumulative conditions and cumulative conditions with project implementation. Saturday and Sunday trip generation and VMT in the emissions modeling were calculated using the proportional change from CalEEMod default weekday trip rates to those provided by Fehr & Peers with the CalEEMod default values for Saturday and Sunday trip rates. All vehicle trips represented in the emissions modeling were assigned to be 100 percent primary, meaning no trip distance or generation discounts were applied for pass-by or diverted trips to provide a conservative emissions estimate.

Consistent with the BAAQMD’s Regulation 6, Rule 3, *Wood-Burning Devices*, no new dwelling units modeled with CalEEMod were assumed to contain any wood-burning devices. In addition, the per-dwelling unit indoor and outdoor water consumption rates as well as the solid waste generation and energy consumption rates reflect utilization of CalEEMod default rates.

#### Impacts of the Environment on a Project

BAAQMD’s CEQA Guidelines include methodology for jurisdictions wanting to evaluate the potential impacts from placing sensitive receptors proximate to major air pollutant sources. For assessing community risk and hazards for siting a new receptor, sources within a 1,000-foot radius of a project site

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<sup>23</sup> Modeling assumed 3,317 new residential units within the City for consistency with the transportation analysis.

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are typically considered. Sources are defined as freeways, high volume roadways (with volume of 10,000 vehicles or more per day or 1,000 trucks per day) and permitted sources.

Buildout under the proposed Modified Project could result in siting sensitive uses (e.g., residential) near sources of emissions (e.g., freeways, industrial uses, etc.). Developing new sensitive land uses near sources of emissions could expose persons that inhabit these sensitive land uses to potential air quality-related impacts. However, the purpose of this environmental evaluation is to identify the significant effects of the proposed Modified Project on the environment, not the significant effects of the environment on the proposed Modified Project. *California Building Industry Association v. Bay Area Air Quality Management District* (2015) 62 Cal.4th 369 (Case No. S213478). Thus, CEQA does not require analysis of the potential environmental effects from placing sensitive receptors near existing sources, and this type of analysis is not provided below in the Section 4.2.3, *Impact Analysis*.

While it is generally not within the purview of CEQA to analyze impacts of the environment on a project, the CMC includes provisions to prioritize the health of Cupertino's residents through the incorporation of design features to minimize air quality impacts and to achieve appropriate health standards. The General Plan 2040 contains several goals, policies, and strategies that aim to reduce the potential for sensitive receptor exposure to TACs. For example, General Plan Policy ES-4.1, *New Development*, aims to promote the reduction in health and safety hazards associated with TACs and fugitive dust generated by new development in the city.

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<b>AIR-1</b>	<b>Implementation of the proposed Modified Project would conflict with or obstruct implementation of the applicable air quality plan.</b>
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As described in the General Plan EIR, the potential future development under the Approved Project would not exceed regional growth projections or hinder BAAQMD's ability to attain the California or National AAQS. As the Approved Project would adhere to BAAQMD regulations as well as to General Plan policies, it would ensure new sources of TACs do not expose populations to significant health risk. The Approved Project is consistent with the goals of the 2010 Clean Air Plan and implements policies and strategies that ensure consistency with the control measures of the 2010 Clean Air Plan. However, the Approved Project would result in a higher VMT rate of growth than rate of service population growth, and buildout of the Approved Project would conflict with the BAAQMD 2010 Clean Air Plan goal for community-wide VMT to increase at a slower rate compared to population and employment growth.

The following describes potential air quality impacts of consistency with the AQMP from the implementation of the proposed Modified Project. The General 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 at an early enough stage 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 clean air goals in the Bay Area. BAAQMD requires a consistency evaluation of a proposed project with the current AQMP control measures, as described in Section 4.2.2, *Standards of Significance*.

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### BAAQMD 2017 Clean Air Plan Goals

#### Attain Air Quality Standards

As described in the General Plan EIR, the potential future development under the Approved Project would not exceed regional growth projections of *Plan Bay Area* or hinder BAAQMD's ability to attain the California or National AAQS. Since the certification of the General Plan EIR, BAAQMD adopted its 2017 Clean Air Plan. BAAQMD's 2017 Clean Air Plan strategy is based on regional population and employment projections in the Bay Area compiled by ABAG, which are based in part on cities' general plan land use designations. These demographic projections are incorporated into *Plan Bay Area*. Demographic trends incorporated into *Plan Bay Area* determine VMT in the Bay Area, which BAAQMD uses to forecast future air quality trends. The SFBAAB is currently designated a nonattainment area for O<sub>3</sub>, PM<sub>2.5</sub>, and PM<sub>10</sub> (State AAQS only).

In addition, as described in greater detail under Impact Discussion AIR-2, individual development projects facilitated by the proposed Modified Project that are subject to CEQA would be required to undergo their own respective environmental review. In determining whether an individual development project would have potentially significant impacts on local and regional air quality, including consideration of an individual development project's contribution to an existing or forecast air quality violation, BAAQMD recommends using project-level significance thresholds for criteria pollutants and ozone precursors.

Utilizing the BAAQMD's recommended project-level significance thresholds and considering that the SFBAAB is currently in nonattainment for PM standards, individual potential future development projects facilitated by the proposed Modified Project would be considered to have potentially significant site-specific or project-specific impacts related to the generation of fugitive dust during construction activities if they do not implement BAAQMD's Basic Dust Control Measures targeting dust control and sediment migration. The SFBAAB is currently designated a nonattainment area for PM, and BAAQMD's recommended significance threshold for construction fugitive dust is binary—meaning if a project includes dust control best management practices (BMP) that resemble BAAQMD's Basic Dust Control Measures, then construction fugitive dust emissions would be less than significant. Pursuant to CMC Section 17.04, *Standard Environmental Protection Requirements*, potential future development under both the Approved Project and proposed Modified Project would be required to implement BAAQMD's Basic Dust Control Measures and therefore impacts related to construction fugitive dust would be less than significant. The proposed Modified Project would not result in new or more severe impacts related to construction fugitive dust when compared to what was evaluated in the General Plan EIR.

In addition, construction and operation of potential future development on the Housing Opportunity Sites, as identified in Table 3-4, *Housing Element (2023-2031) Opportunity Sites: Residential*, and Table 3-5, *Housing Element (2023-2031) Opportunity Sites: Commercial/Residential (Mixed Use)*, of this EA, the proposed Modified Project could result in air quality emissions that exceed the BAAQMD significance criteria for ozone precursors. However, like the Approved Project, potential future development under the proposed Modified Project would implement the City's Standard Environmental Protection Requirements as stipulated in CMC Chapter 17.04. These requirements are codified regulations equivalent to the General Plan EIR mitigation measures to reduce construction-related air quality impacts. For example, CMC Section 17.04.050(A)(3) would require a future project to use low-VOC architectural coatings of no

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greater than 50 grams per liter of product, potential impacts related to construction VOC emissions—an O<sub>3</sub> precursor—so that these emissions would be reduced during construction and impacts would be less than significant. As the Standard Environmental Protection Requirements would apply to both the Approved Project and the proposed Modified Project, the proposed Modified Project would not result in new or more severe impacts with regard to construction and operational criteria pollutant emissions or a substantial increase in magnitude of impacts compared what was evaluated in the General Plan EIR.

Moreover, the General Plan EIR found that potential future development under the Approved Project would not exceed regional projections for residential or employment populations and would not hinder BAAQMD's ability to attain the California or National AAQS. As discussed in Chapter 3, *Project Description*, the proposed Modified Project would introduce up to 3,312 net new housing units and 9,737 new residents, which would increase the City's total population to approximately 81,037. According to the *Plan Bay Area 2040* growth projections, which underpin the growth assumptions that inform the emissions forecasts in the 2017 Clean Air Plan, Cupertino is projected to have a population of 68,305 people by 2040; therefore, the proposed Modified Project would result in greater population growth in the city than what is accounted for in the 2017 Clean Air Plan. As a result, the proposed Modified Project would be considered inconsistent with the growth assumptions and emissions forecasts of the AQMP and impacts would be potentially significant. It is important to note that this impact conclusion is solely based on the fact that the City's population growth projections exceed what is currently accounted for in BAAQMD's 2017 Clean Air Plan. Should BAAQMD update its Clean Air Plan to reflect the updated regional growth projections from ABAG for the City's 6th Cycle Housing Element (2023-2031), it is possible that the new growth accommodated by the proposed Modified Project would not conflict with or obstruct BAAQMD's ability to attain the California or National AAQS; however, it is unknown how BAAQMD's attainment strategy may change in response to updated population growth projections or emissions forecasts. As such, this impact would be potentially significant.

### Reduce Population Exposure and Protect Public Health

As described in the General Plan EIR, the Cupertino is largely developed, and new sensitive land uses could be proximate to major sources of TACs. Under the Approved Project, adherence to BAAQMD regulations would ensure new sources of TACs do not expose populations to significant health risk. Like the Approved Project, future potential development of the proposed Modified Project could result in new sources of TACs and PM<sub>2.5</sub>. Stationary sources, including smaller stationary sources associated with residential development (e.g., emergency generators, boilers), are subject to review by BAAQMD as part of the permitting process. Adherence to BAAQMD permitting regulations would ensure that new stationary sources of TACs do not expose populations to significant health risk. Mobile sources of air toxics (e.g., truck idling) are not regulated directly by BAAQMD. However, potential future residential development associated with the proposed Modified Project would not generate substantial truck traffic or idling. Furthermore, individual future potential development projects facilitated by the proposed Modified Project would be required to achieve the project-level risk thresholds established by BAAQMD to ensure the sensitive receptor impact resulting from the subject development project would be less than significant. Therefore, the proposed Modified Project would not result in new or more severe impacts with regard to reducing the population's exposure and protecting public health or a substantial increase in magnitude of impacts compared what was evaluated in the General Plan EIR.

### Reduce GHG Emissions and Protect the Climate

Consistency of the proposed Modified Project with State, regional, and local plans adopted for the purpose of reducing GHG emissions are discussed in Chapter 4.7, *Greenhouse Gas Emissions*, of this EA. The General Plan EIR determined that the Approved Project is consistent with the goals of the 2010 Bay Area Clean Air Plan to reduce GHG emissions and protect the climate and that new policies would be introduced as part of the Approved Project to minimize impacts. Like the Approved Project, future development allowed by the proposed Modified Project would be required to adhere to statewide measures that have been adopted to achieve the GHG reduction targets of AB 32, SB 32, and AB 1279. The proposed Modified Project is consistent with regional strategies for infill development identified in *Plan Bay Area 2050* and the City's Climate Action Plan. Since the certification of the General Plan EIR, BAAQMD adopted its 2017 Clean Air Plan. While Impact Discussion GHG-1 in Chapter 4.7 identifies that the proposed Modified Project would generate a substantial increase in GHG emissions, the proposed Modified Project is consistent with State, regional and local plans to reduce GHG emissions. Therefore, the proposed Modified Project is consistent with the goal of the 2017 Clean Air Plan to reduce GHG emissions and protect the climate and impacts would be less than significant. The proposed Modified Project would not result in new impacts with regards to reducing GHG emissions and protecting the climate or a substantial increase in magnitude of impacts compared to the General Plan EIR.

### *2017 Clean Air Plan Control Measures*

The General Plan EIR determined that the Approved Project would not hinder BAAQMD from implementing the control measures contained in the 2010 Clean Air Plan. Since the certification of the General Plan EIR, BAAQMD has adopted its 2017 Clean Air Plan. Table 4.2-7, *Control Measures from the BAAQMD 2017 Clean Air Plan*, identifies the control measures included in the 2017 Clean Air Plan that are required by BAAQMD to reduce air quality emissions for a wide range of both stationary and mobile sources. Like the Approved Project, the proposed Modified Project would not conflict with the 2017 Clean Air Plan and would not hinder BAAQMD from implementing the control measures in the 2017 Clean Air Plan and impacts would be less than significant. Therefore, the proposed Modified Project would not result in new impacts or a substantial increase in magnitude impacts from implementation of the 2017 Clean Air Plan Control Measures than what was evaluated in the General Plan EIR.

### *Growth Projections for VMT and Population*

The General Plan EIR determined that VMT in the Study Area would increase at a rate higher than the service population. However, because BAAQMD's AQMP recommends that the VMT increase be less than or equal to the projected population increase to determine in part a proposed plan's consistency with the applicable AQMP, impacts were significant under the Approved Project. The VMT Analysis (2024) prepared for the proposed Modified Project, which estimated the weekday citywide VMT generation for the proposed Modified Project under existing conditions (2019) and future with project conditions (2040), accounts for full buildout of the proposed Modified Project in 2040.

**AIR QUALITY****TABLE 4.2-7 CONTROL MEASURES FROM THE BAAQMD 2017 CLEAN AIR PLAN**

Type	Measure Number / Title	Consistency
Stationary Source Control Measures	<ul style="list-style-type: none"> <li>▪ SS 1 – Fluid Catalytic Cracking in Refineries</li> <li>▪ SS 2 – Equipment Leaks</li> <li>▪ SS 3 – Cooling Towers</li> <li>▪ SS 4 – Refinery Flares</li> <li>▪ SS 5 – Sulfur Recovery Units</li> <li>▪ SS 6 – Refinery Fuel Gas</li> <li>▪ SS 7 – Sulfuric Acid Plants</li> <li>▪ SS 8 – Sulfur Dioxide from Coke Calcining</li> <li>▪ SS 9 – Enhanced NSR Enforcement for Changes in Crude Slate</li> <li>▪ SS 10 – Petroleum Refining Emissions Tracking</li> <li>▪ SS 11 – Petroleum Refining Facility-Wide Emission Limits</li> <li>▪ SS 12 – Petroleum Refining Climate Impacts Limit</li> <li>▪ SS 13 – Oil and Gas Production, Processing and Storage</li> <li>▪ SS 14 – Methane from Capped Wells</li> <li>▪ SS 15 – Natural Gas Processing and Distribution</li> <li>▪ SS 16 – Basin-Wide Methane Strategy</li> <li>▪ SS 17 – GHG BACT Threshold</li> <li>▪ SS 18 – Basin-Wide Combustion Strategy</li> <li>▪ SS 19 – Portland Cement</li> <li>▪ SS 20 – Air Toxics Risk Cap and Reduction from Existing Facilities</li> <li>▪ SS 21 – New Source Review for Toxics</li> <li>▪ SS 22 – Stationary Gas Turbines</li> <li>▪ SS 23 – Biogas Flares</li> <li>▪ SS 24 – Sulfur Content Limits of Liquid Fuels</li> <li>▪ SS 25 – Coatings, Solvents, Lubricants, Sealants and Adhesives</li> <li>▪ SS 26 – Surface Prep and Cleaning Solvent</li> <li>▪ SS 27 – Digital Printing</li> <li>▪ SS 28 – LPG, Propane, Butane</li> <li>▪ SS 29 – Asphaltic Concrete</li> <li>▪ SS 30 – Residential Fan Type Furnaces</li> <li>▪ SS 31 – General Particulate Matter Emission Limitation</li> <li>▪ SS 32 – Emergency Backup Generators</li> <li>▪ SS 33 – Commercial Cooking Equipment</li> <li>▪ SS 34 – Wood Smoke</li> </ul>	<p>Stationary and area sources are regulated directly by BAAQMD; therefore, as the implementing agency, new stationary and area sources within the City would be required to comply with BAAQMD regulations. BAAQMD routinely adopts/revises rules or regulations to implement the stationary source (SS) control measures to reduce stationary source emissions. Based on the new residential uses under the proposed Modified Project, implementation of the proposed Modified Project would not hinder the ability of BAAQMD to implement these SS control measures. Major stationary source are more commonly associated with industrial manufacturing or warehousing. However, BAAQMD and the City have existing regulations in place to ensure potential future development under the proposed Modified Project would not conflict with the applicable SS control measures. Non-residential land uses may generate small quantities of stationary source emissions during project operation (e.g., emergency generators, dry cleaners, and gasoline dispensing facilities); however, these small-quantity generators would require review by BAAQMD for permitted sources of air toxics, which would ensure consistency with the 2017 Clean Air Plan.</p> <p>The proposed Modified Project involves residential uses and would not include major stationary sources of emissions. Boilers and emergency generators for multi-family residential products would be required to follow BAAQMD's permitting requirements.</p>



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**TABLE 4.2-7 CONTROL MEASURES FROM THE BAAQMD 2017 CLEAN AIR PLAN**

Type	Measure Number / Title	Consistency
	<ul style="list-style-type: none"> <li>▪ SS 35 – PM from Bulk Material Storage, Handling and Transport, Including Coke and Coal</li> <li>▪ SS 36 – PM from Trackout</li> <li>▪ SS 37 – PM from Asphalt Operations</li> <li>▪ SS 38 – Fugitive Dust</li> <li>▪ SS 39 – Enhanced Air Quality Monitoring</li> <li>▪ SS 40 – Odors</li> </ul>	
Transportation Control Measures	<ul style="list-style-type: none"> <li>▪ TR 1 – Clean Air Teleworking Initiative</li> <li>▪ TR 2 – Trip Reduction Programs</li> <li>▪ TR 3 – Local and Regional Bus Service</li> <li>▪ TR 4 – Local and Regional Rail Service</li> <li>▪ TR 5 – Transit Efficiency and Use</li> <li>▪ TR 6 – Freeway and Arterial Operations</li> <li>▪ TR 7 – Safe Routes to Schools and Safe Routes to Transit</li> <li>▪ TR 8 – Ridesharing, Last-Mile Connection</li> <li>▪ TR 9 – Bicycle and Pedestrian Access and Facilities</li> <li>▪ TR 10 – Land Use Strategies</li> <li>▪ TR 11 – Value Pricing</li> <li>▪ TR 12 – Smart Driving</li> <li>▪ TR 13 – Parking Policies</li> <li>▪ TR 14 – Cars and Light Trucks</li> <li>▪ TR 15 – Public Outreach and Education</li> <li>▪ TR 16 – Indirect Source Review</li> <li>▪ TR 17 – Planes</li> <li>▪ TR 18 – Goods Movement</li> <li>▪ TR 19 – Medium and Heavy Duty Trucks</li> <li>▪ TR 20 – Ocean Going Vessels</li> <li>▪ TR 21 – Commercial Harbor Craft</li> <li>▪ TR 22 – Construction, Freight and Farming Equipment</li> <li>▪ TR 23 – Lawn and Garden Equipment</li> </ul>	<p>Transportation (TR) control measures are strategies to reduce vehicle trips, vehicle use, VMT, vehicle idling, and traffic congestion for the purpose of reducing motor vehicle emissions. Although most of the TR control measures are implemented at the regional level—that is, by MTC or Caltrans—the 2017 Clean Air Plan relies on local communities to assist with implementation of some measures.</p> <p>Future potential development under the proposed Modified Project would be reviewed based on current General Plan 2040 policies, which are largely unchanged as a result of the proposed Modified Project being an update to the Housing Element. For example, the General Plan 2040 Mobility Element contains several policies and strategies that encourage regional transportation planning coordination, improvements to active transportation infrastructure, and improvements to transit and rideshare programs.</p>
Energy and Climate Control Measures	<ul style="list-style-type: none"> <li>▪ EN 1 – Decarbonize Electricity Production</li> <li>▪ EN 2 – Renewable Energy Decrease Electricity Demand</li> </ul>	<p>The energy and climate (EN) control measures are intended to reduce energy use as a means to reducing adverse air quality emissions.</p> <p>Future potential development under the proposed Modified Project would be reviewed based on current General Plan 2040 policies and strategies, which are largely unchanged</p>

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**TABLE 4.2-7 CONTROL MEASURES FROM THE BAAQMD 2017 CLEAN AIR PLAN**

Type	Measure Number / Title	Consistency
		<p>as a result of the proposed Modified Project being an update to the Housing Element. For example, the General Plan Environmental Resources and Sustainability Element contains several goals, policies, and strategies that encourage green building design for the conservation of energy during construction and operation of new development.</p> <p>Furthermore, future potential development accommodated under the proposed Modified Project would be built to comply with the latest Building Energy Efficiency Standards and CALGreen standards. Therefore, implementation of the proposed Modified Project would not conflict with these EN control measures.</p>
Buildings Control Measures	<ul style="list-style-type: none"> <li>▪ BL 1 – Green Buildings</li> <li>▪ BL 2 – Decarbonize Buildings</li> <li>▪ BL 3 – Market-Based Solutions</li> <li>▪ BL 4 – Urban Heat Island Mitigation</li> </ul>	<p>The buildings (BL) control measures focus on working with local governments to facilitate adoption of best GHG emissions control practices and policies.</p> <p>Future potential development under the proposed Modified Project would be reviewed based on current General Plan 2040 policies, which are largely unchanged as a result of the proposed Modified Project being an update to the Housing Element. For example, the General Plan Environmental Resources and Sustainability Element contains several goals, policies, and strategies that encourage green building design for the conservation of energy during construction and operation of new development.</p> <p>Furthermore, potential future development accommodated under the proposed Modified Project would be built to comply with the latest Building Energy Efficiency Standards and CALGreen standards. Therefore, implementation of the proposed Modified Project would not conflict with these BL control measures.</p>
Agriculture Control Measures	<ul style="list-style-type: none"> <li>▪ AG 1 – Agricultural Guidance and Leadership</li> <li>▪ AG 2 – Dairy Digesters</li> <li>▪ AG 3 – Enteric Fermentation</li> <li>▪ AG 4 – Livestock Waste</li> </ul>	<p>Agricultural practices in the Bay Area accounts for a small portion, roughly 1.5 percent, of the Bay Area GHG emissions inventory. The GHGs from agriculture include methane and nitrous oxide, in addition to carbon dioxide. While the Agriculture (AG) control measures target larger scale farming practices that are not included in the proposed Modified Project, the housing sites identified under the proposed Modified Project do not constitute any sites which currently host commercial agricultural operations.</p> <p>Therefore, implementation of the proposed Modified Project would not conflict with these AG control measures.</p>
Natural and Working Lands Control Measures	<ul style="list-style-type: none"> <li>▪ NW 1 -- Carbon Sequestration in Rangelands</li> <li>▪ NW 2 – Urban Tree Planting</li> <li>▪ NW 3 – Carbon Sequestration in Wetlands</li> </ul>	<p>The control measures for the natural and working lands sector focus on increasing carbon sequestration on rangelands and wetlands. While the Natural Working Lands (NW) control measures target the sequestration of GHG emissions through improving or establishing working lands, working lands are not included in the proposed Modified Project, and the housing sites identified under the proposed Modified Project do not constitute any sites which currently host working lands.</p> <p>Therefore, implementation of the proposed Modified Project would not conflict with these NW control measures.</p>

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**TABLE 4.2-7 CONTROL MEASURES FROM THE BAAQMD 2017 CLEAN AIR PLAN**

Type	Measure Number / Title	Consistency
Water Control Measures	<ul style="list-style-type: none"> <li>WR 1 – Limit GHGs from publicly owned treatment works (POTWs)</li> <li>WR 2 – Support Water Conservation</li> </ul>	The 2017 Clean Air Plan includes measures to reduce water use. Future potential development under the proposed Modified Project would be reviewed based on current General Plan 2040 policies. The Environmental Resources and Sustainability Element contains goals, policies, and strategies that direct the City to develop and adopt a Climate Action Plan that, among other objectives, aims to improve water efficiency and conservation through project design review. Furthermore, future potential development accommodated under the proposed Modified Project would be built to comply with the latest Building Energy Efficiency Standards and CALGreen standards that would ensure incremental improvements in water efficiency in building design. Therefore, implementation of the proposed Modified Project would not conflict with these WR control measures.
Super-GHG Control Measures	<ul style="list-style-type: none"> <li>SL 1 – Short-Lived Climate Pollutants</li> <li>SL 2 – Guidance for Local Planners</li> <li>SL 3 – GHG Monitoring and Emissions Measurements Network</li> </ul>	Super-GHGs include methane, black carbon and fluorinated gases. The compounds are sometimes referred to as short-lived climate pollutants because their lifetime in the atmosphere is generally fairly short. Measures to reduce super GHGs are addressed on a sector-by-sector basis in the 2017 Clean Air Plan. Through ongoing implementation of the CAP, the City will continue to reduce local GHG emissions, meet State, regional, and local reduction targets, which would ensure implementation of the proposed Modified Project would not conflict with these SL control measures.
Further Study Control Measures	<ul style="list-style-type: none"> <li>FSM SS 1 – Internal Combustion Engines</li> <li>FSM SS 2 – Boilers, Steam Generator and Process Heaters</li> <li>FSM SS 3 – GHG Reductions from Non Cap-and Trade Sources</li> <li>FSM SS 4 – Methane Exemptions from Wastewater Regulation</li> <li>FSM SS 5 – Controlling start-up, shutdown, maintenance, and malfunction (SSMM) Emissions</li> <li>FSM SS 6 – Carbon Pollution Fee</li> <li>FSM SS 7 – Vanishing Oils and Rust Inhibitors</li> <li>FSM SS 8 – Dryers, Ovens and Kilns</li> <li>FSM SS 9 – Omnibus Rulemaking to Achieve Continuous Improvement</li> <li>FSM BL 1 – Space Heating</li> <li>FSM AG 1 – Wineries</li> </ul>	The majority of the further study control measures apply to sources regulated directly by BAAQMD. Because BAAQMD is the implementing agency, new and existing sources of stationary and area sources in the project area would be required to comply with these additional further study control measures in the 2017 Clean Air Plan.

Source: Bay Area Air Quality Management District, April 19, 2017, *Final 2017 Clean Air Plan, Spare the Air, Cool the Climate: A Blueprint for Clean Air and Climate Protection in the Bay Area*, [https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-proposed-final-cap-vol-1-pdf.pdf?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en), accessed January 29, 2024.

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Table 4.2-8, *Comparison of the Change in Population and VMT in the City of Cupertino*, displays the change in VMT and population growth between existing conditions under the Approved Project (2019) and future 2040 conditions with buildout of the proposed Modified Project.

**TABLE 4.2-8 COMPARISON OF THE CHANGE IN POPULATION AND VMT IN THE CITY OF CUPERTINO**

Category	Existing Conditions (2019)	Cumulative Year With Proposed Modified Project (2040)	Change from Existing	
			Change	%
Population <sup>a</sup>	56,784	81,037	24,253	42.7%
Daily VMT <sup>b</sup>	3,772,000	3,927,390	155,390	4.1%
VMT/person <sup>c</sup>	66.43	48.46	-17.97	-27.1%

Notes:

a. City Population in 2019 was drawn from the California Department of Finance's Table E-4 Population Estimates for Cities, Counties, and the State, 2011-2020, with 2010 Benchmark. City Population for Cumulative Year (2040) was identified by adding the 2040 forecasted population from the General Plan EIR and adding the 9,737 net new residents accommodated by the proposed Modified Project through the buildout year of 2040, as described in Chapter 4.12, Population and Housing, of this EA.

b. The Existing Conditions (2019) and Cumulative Year with Proposed Modified Project (2040) VMT estimates are drawn from Table 7 in the Fehr & Peers Transportation Analysis for the Environmental Review, dated January 2024 (Appendix E).

c. VMT/person estimates are identified by dividing the Daily VMT estimates by the City Population for the corresponding year.

As shown in Table 4.2-8, *Comparison of the Change in Population and VMT in the City of Cupertino*, implementation of the proposed Modified Project in 2040 would result in a lower daily per capita VMT rate than is experienced under the Approved Project, which would result in a population growth which outpaces VMT growth in the Study Area from 2019 through 2040. Therefore, the proposed Modified Project would be considered consistent with the VMT-reduction objectives of the current AQMP. Nonetheless, the proposed Modified Project would result in the introduction of a population growth which goes beyond the growth projections contained in *Plan Bay Area 2040*, which underpins the growth assumptions used for the emissions forecasts in the 2017 Clean Air Plan. Therefore, the proposed Modified Project would be considered inconsistent with the applicable AQMP and impacts with regards to attainment of air quality standards would be *potentially significant*.

The General Plan EIR also found that the Mobility (M) and Environmental Resources and Sustainability (ES) Elements contain a policy and strategies that require local planning and development decisions to consider impacts that development could have on consistency with air quality plans. Like the Approved Project, the following existing General Plan 2040 includes a policy and strategies, and updated policy and strategies as part of the proposed Modified Project, would also ensure consistency with air quality plans.

- **Policy M-1.1. Regional Transportation Planning.** Participate in regional transportation planning processes to develop programs consistent with the goals and policies of Cupertino's General Plan and to minimize adverse impacts on the City's circulation system. Work with neighboring cities to address regional transportation and land use issues of mutual interest. (General Plan EIR Policy 4-1)
- **Strategy ES- 4.1.1.1. Toxic Air Contaminants.** Continue to review projects for potential generation of toxic air contaminants at the time of approval and confer with Bay Area Air Quality Management District on controls needed if impacts are uncertain.

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- **Strategy ES- 4.1.3. *Planning*.** Ensure that land use and transportation plans support air quality goals. (General Plan EIR Strategy 3)
- **Strategy ES- 4.2.1. *Public Education Program*.** Establish a citywide public education program providing information on ways to reduce and control emissions; and continue to provide information about alternative commutes, carpooling and restricting exacerbating activities on “Spare the Air” high-emissions days.

### Summary

While implementation of the proposed Modified Project would have less-than-significant impacts with respect to construction fugitive dust and criteria air pollutant emissions, exposing sensitive receptors to TACs and PM<sub>2.5</sub>, generating GHG emissions and harming the climate, and implementing the control measures from the 2017 Clean Air Plan, would be considered consistent with the VMT-reduction objectives of the current AQMP, implementation of the proposed Modified Project would be inconsistent with the growth projections applied to the 2017 Clean Air Plan and would therefore be inconsistent with the 2017 Clean Air Plan. Impacts would be *potentially significant*.

**Impact AIR-1:** Implementation of the proposed Modified Project would conflict with the growth assumptions under *Plan Bay Area* 2040 that are applied to the Bay Area Air Quality Management District’s (BAAQMD) 2017 Clean Air Plan, the proposed Modified Project would therefore conflict with the air quality emissions forecast in the BAAQMD 2017 Clean Air Plan.

**Significance without Mitigation:** Significant and Unavoidable. While the proposed Modified Project would support the primary goals of the 2017 Clean Air Plan, the buildout of the proposed Modified Project would exceed the growth projections that underpin the growth assumptions that inform the emissions forecasts in the 2017 Clean Air Plan. There are no feasible mitigation measures to address the timing of the update to the BAAQMD Clean Air Plan to incorporate the current growth projections for the Bay Area as issued by ABAG. It should be noted that the identification of this program-level impact does not preclude the finding of less-than-significant impacts for subsequent projects that comply with BAAQMD screening criteria or meet applicable thresholds of significance. However, due to the programmatic nature of the proposed Modified Project, no additional mitigation measures are available, and the impact is considered *significant and unavoidable*.

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<b>AIR-2</b>	<b>Implementation of the proposed Modified Project would result in a cumulatively considerable net increase of any criteria pollutant for which the project region is in non-attainment under applicable federal or State ambient air quality standard.</b>
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As described in the General Plan EIR, criteria air pollutant emissions associated with construction and operation under the Approved Project would generate a substantial increase in ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> emissions that would exceed the BAAQMD regional significance thresholds, even with implementation of the General Plan 2040 policies and strategies. Therefore, even with implementation of General Plan EIR Mitigation Measures AQ-2a and AQ-2b to comply with BAAQMD control measures to reduce PM<sub>10</sub>

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(fugitive dust) and implement construction mitigation measures, respectively, the Approved Project could contribute to an increase in health effects in the air basin until the attainment standards are met in the SFBAAB. Impacts were found to be significant and unavoidable.

### *Construction*

The proposed Modified Project would not directly result in construction of any development or infrastructure; however, potential future development facilitated by the proposed Modified Project would result in short-term construction-related criteria pollutant emissions with the potential to have an adverse effect on air quality. Short-term criteria pollutant emissions would occur during demolition, site preparation, grading, building construction, paving, and architectural coating activities associated with individual development projects. ROG and NO<sub>x</sub> emissions are primarily associated with gasoline and diesel equipment exhaust and the application of architectural coatings. Fugitive dust emissions (PM<sub>10</sub> and PM<sub>2.5</sub>) are primarily associated with site preparation and vary as a function of such parameters as soil silt content, soil moisture, wind speed, acreage of disturbance area, and VMT by construction vehicles on- and off-site. Typical construction equipment associated with development and redevelopment projects includes dozers, graders, excavators, loaders, and trucks.

Although the exact coverage, location, or duration of future potential construction projects is unknown at the time of preparation of this EA, potential future development activities under the proposed Modified Project would generally entail demolition, site preparation, grading, building construction, paving, and painting, like those under the Approved Project. Since Cupertino is a built-out city, many potential future developments in the Study Area would likely require the demolition of existing structures to make room for newer ones. Fugitive dust emissions would typically be greatest during building demolition, site preparation, and grading activities due to the disturbance of soils and transport of material. NO<sub>x</sub> emissions would result from the combustion of diesel fuels used to power off-road heavy-duty vehicles and equipment (e.g., backhoes, bulldozers, excavators). The types and quantity of equipment, as well as duration of construction activities, would be dependent on project-specific conditions. Larger developments would require more equipment over a longer time frame than required for redevelopment of a single residential home.

As described under Impact Discussion AIR-1, BAAQMD does not recommend plan-level thresholds of significance for construction emissions; however, similar to potential future development under the Approved Project, BAAQMD does maintain and recommend project-level thresholds of significance for construction emissions that future potential development projects under the proposed Modified Project would be subject to. In addition, the BAAQMD's *CEQA Air Quality Guidelines* identify and recommend a series of "Basic" measures to control and reduce construction-related fugitive dust emissions. The SFBAAB is currently designated as a nonattainment area for both PM<sub>10</sub> and PM<sub>2.5</sub>, and BAAQMD's recommended significance threshold for construction fugitive dust is binary, meaning if a project includes dust control best management practices that resemble BAAQMD's Basic Dust Control Measures, then construction fugitive dust emissions would be less than significant. Because CMC Section 17.04.050(A)(1) requires construction projects to implement BAAQMD's Basic Dust Control Measures, same as General Plan EIR Mitigation Measures AQ-2a and AQ2-b, impacts related to construction fugitive dust for potential future development under both the Approved and Modified Project would be less than significant. The proposed

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Modified Project would not result in new impacts and a substantial increase in magnitude of impacts compared to what was evaluated in the General Plan EIR.

### Operation

The proposed Modified Project would accommodate potential future development that would operate through the planning horizon year 2040. Potential future residential development facilitated by the proposed Modified Project would result in long-term area-, energy-, and mobile-source air quality emissions. Area source emissions are the combination of many small emission sources that include use of outdoor landscape maintenance equipment, use of consumer products such as cleaning products, use of fireplaces and hearths, and periodic reapplication of architectural coatings. Criteria pollutants generated from energy sources are principally from the on-site use of natural gas; electricity consumption is not included in energy source emissions because those potential emissions would be generated as the result of the operation of an electricity generation facility, which may or may not be within the same air basin and under the same attainment status as the end use. Mobile source emissions result from the vehicle activity associated with the operation of a given land use development project.

Implementation of the proposed Modified Project may result in potential future development of up to 3,312 net new residential units compared to the Approved Project. It should be noted that the proposed Modified Project would not itself authorize specific development in the city. Future potential development projects would be subject to the City's standard review process and would be required to assess project-specific emissions in relation to the BAAQMD significance thresholds. As such, future potential development projects subject to CEQA would prepare project-specific analyses, which would compare project emissions to the BAAQMD's project-level significance thresholds and identify and implement mitigation measures, as necessary, to reduce any potential impacts that could occur. Although specific project-level information for potential future development is not available at this time and the estimation of emissions resulting from future potential development would be speculative, CalEEMod was utilized to provide an estimate of the potential overall area, energy, and mobile source emissions resulting from implementation of the proposed Modified Project for informational purposes only (i.e., not for the purpose of determining significance of potential air quality impacts).

CalEEMod Version 2022.1 was used to calculate emissions of air pollutants associated with buildout of the proposed Modified Project (see Table 4.2-9, *Proposed Modified Project Criteria Air Pollutant Emissions Forecast*). Please refer to Table 3-4, *Housing Element (2023-2031) Opportunity Sites: Residential*, and Table 3-5, *Housing Element (2023-2031) Opportunity Sites: Commercial/Residential (Mixed Use)*, in Chapter 3, *Project Description*, of this EA, for the sites identified to accommodate the housing supply growth envisioned by the proposed Modified Project. Based on the housing density data from these tables, all new housing units have been assigned to "Apartments Low-Rise", "Apartments Mid-Rise", "Condos/Townhouse", and "Single-Family Housing" categories. Consistent with the Transportation Analysis prepared by Fehr & Peers for the proposed Modified Project (see Appendix E, *Transportation Analysis*, of this EA), modeling for weekday rates utilized the daily vehicle trips and VMT provided for cumulative conditions under the Approved Project and cumulative conditions with proposed Modified Project implementation. Saturday and Sunday trip generation and VMT were calculated from the ratio CalEEMod default Saturday and Sunday trip rates to the weekday rate. Moreover, all vehicle trips represented in the

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emissions modeling were assigned to be 100 percent primary, meaning no trip distance or generation discounts were applied for pass-by or diverted trips to provide a conservative emissions estimate.

Consistent with the BAAQMD's Regulation 6, Rule 3, *Wood-Burning Devices*, no new dwelling units modeled with CalEEMod were assumed to contain any wood-burning devices. In addition, the per-dwelling unit indoor and outdoor water consumption rates as well as the solid waste generation and energy consumption rates reflect utilization of CalEEMod default rates. The estimated criteria air pollutants resulting from full implementation of the proposed Modified Project are shown in Table 4.2-9, *Proposed Modified Project Criteria Air Pollutant Emissions Forecast*. CalEEMod output files are included as Appendix B, *Air Quality and Greenhouse Gas Emissions Data*, of this EA.

**TABLE 4.2-9 PROPOSED MODIFIED PROJECT CRITERIA AIR POLLUTANT EMISSIONS FORECAST**

Sectors	Criteria Air Pollutant Emissions (Tons per year)			
	ROG	NO <sub>x</sub>	PM <sub>10</sub>	PM <sub>2.5</sub>
<b>Proposed Modified Project Land Uses (Year 2031)</b>				
Mobile	54	26	104	27
Area	16	<1	<1	<1
Energy	<1	2	<1	<1
<b>Total Average (Tons/year)</b>	<b>71</b>	<b>28</b>	<b>104</b>	<b>27</b>
BAAQMD Project-Level Threshold (Tons/year)	10	10	15	10
<b>Total Average (lbs./day)</b>	<b>389</b>	<b>154</b>	<b>570</b>	<b>82</b>
BAAQMD Project-Level Threshold (lbs./day)	54	54	82	54

Notes: Emissions may not total to 100 percent due to rounding.

As previously described, the air quality emissions estimates in Table 4.2-9 provide an estimate of the potential overall area, energy, and mobile source emissions resulting from implementation of the proposed Modified Project. Implementation of the proposed Modified Project could generate a substantial increase in criteria air pollutant emissions that exceeds the BAAQMD project-level significance thresholds, and this impact would be potentially significant. Compliance with applicable policies and programs would contribute to minimizing long-term emissions. However, implementation of the proposed Modified Project would still exceed the BAAQMD significance thresholds for operation. While the Approved Project resulted in criteria air pollutant emission that exceeds the BAAQMD average daily thresholds for ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub> as well as its annual ROG and NO<sub>x</sub> thresholds, the proposed Modified Project would result in an exceedance of BAAQMD's average daily and annual thresholds for all pollutants. However, the Approved Project did not account for operational fugitive dust emissions. As BAAQMD has since updated its guidance for CEQA analyses to include fugitive dust emissions in operational emissions estimates, the annual PM emission estimates for full implementation of the proposed Modified Project shown in Table 4.2-9 are greater than those of the Approved Project because they include both exhaust and fugitive dust PM estimates.



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### Consistency with AQMP Control Measures

As previously described, the BAAQMD's plan-level guidance does not require an emissions inventory of criteria air pollutants for plan-level analysis; however, the BAAQMD recommends that one method used for determining plan-level impact significance is to analyze the proposed plan's consistency with the current AQMP control measures. As described in Impact Discussion AIR-1, the proposed Modified Project would be consistent with the applicable 2017 Clean Air Plan control measures, as illustrated in Table 4.2-6. As such, the proposed Modified Project would be consistent with the current AQMP control measures, and this impact would be less than significant. The proposed Modified Project would not result in new impacts and a substantial increase in magnitude of impacts compared to what was evaluated in the General Plan EIR.

### Proposed Plan VMT and Population Growth

As previously described, the BAAQMD's plan-level guidance does not require an emissions inventory of criteria air pollutants for plan-level analysis; however, the BAAQMD recommends that the second method for determining plan-level impact significance is to analyze the proposed plan's projected VMT growth versus its projected population growth from existing conditions through the General Plan's planning horizon year (2040). If the proposed Modified Project's projected VMT growth outpaces its projected population growth, then it would result in a cumulatively considerable net increase in criteria pollutants, and this impact would be potentially significant. As described in Impact Discussion AIR-1, the VMT growth facilitated by the proposed Modified Project would constitute an approximately 4.1 percent growth through 2040 while population growth facilitated by the proposed Modified Project would constitute an approximately 42.7 percent growth through 2040. Therefore, the forecast population growth would outpace the forecast VMT growth facilitated by the proposed Modified Project, and this impact would be less than significant. As such, the proposed Modified Project would not result in new or more severe impacts with regard to attainment of air quality standards or a substantial increase in magnitude of impacts compared to the General Plan EIR.

The General Plan EIR also found that the Environmental Resources and Sustainability (ES) Element contains policies and strategies that reduce criteria air pollutants. Like the Approved Project, the following existing General Plan 2040 includes policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also reduce criteria air pollutants from development projects to the maximum extent practicable.

- **Policy ES-4.1. *New Development.*** Minimize the air quality impacts of new development projects and air quality impacts that affect new development.
- **Strategy ES- 4.1.1. *Toxic Air Contaminants.*** Continue to review projects for potential generation of toxic air contaminants at the time of approval and confer with Bay Area Air Quality Management District on controls needed if impacts are uncertain.
- **Strategy ES- 4.1.2. *Dust Control.*** Continue to require water application to non-polluting dust control measures during demolition and the duration of the construction period.
- **Strategy ES- 4.1.3. *Planning.*** Ensure that land use and transportation plans support air quality goals. (General Plan EIR Strategy 3)

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- **Policy ES- 4.2. Existing Development.** Minimize the air quality impacts of existing development. (General Plan Policy 5-5)
- **Strategy ES- 4.2.1. Public Education Program.** Establish a citywide public education program providing information on ways to reduce and control emissions; and continue to provide information about alternative commutes, carpooling and restricting exacerbating activities on “Spare the Air” high-emissions days.
- **Strategy ES- 4.2.2. Home Occupations.** Review and consider expanding the allowable home-based businesses in residentially zoned properties to reduce the need to commute to work.
- **Strategy ES- 4.2.3. Tree Planting in Private Development.** Review and enhance the City’s tree planting and landscaping program and requirements for private development to reduce air pollution levels.
- **Strategy ES- 4.2.4. Fuel- efficient Vehicles and Use.** Prioritize the purchase, replacement and ongoing use of fuel-efficient and low polluting City fleet vehicles. Update applicable policies and programs to require life cycle cost analyses and include alternative fueling infrastructure review and related funding allocations. Update the Vehicle Use Policy and pursue fleet management best practices to support fuel conservation, scheduled maintenance and fleet fuel tracking. Pursue available grant funding to offset the cost of implementing these programs.
- **Strategy ES- 4.2.5. Point Sources of Emissions.** Continue to seek the cooperation of the BAAQMD to monitor emissions from identified point sources that impact the community. In addition, for sources not within the regulatory jurisdiction of the City, seek cooperation from the applicable regulatory authority to encourage reduction of emissions and dust from the point source.
- **Policy ES- 4.3. Use of Open Fires and Fireplaces.** Discourage high pollution fireplace use. (General Plan EIR Policy 5-7)
- **Strategy ES- 4.3.1. Education.** Continue to make BAAQMD literature on reducing pollution from fireplace use available.
- **Strategy ES-4.3.2. Fireplaces.** Continue to prohibit new wood-burning fireplaces, except EPA certified wood stoves as allowed by the Building Code.

## Summary

While implementation of the proposed Modified Project would have less-than-significant impacts with respect to construction fugitive dust, would be consistent with the current AQMP control measures, and the Modified Project’s projected VMT growth would not outpace its projected population growth, implementation of the proposed Modified Project could generate a substantial increase in criteria air pollutant emissions that exceeds the BAAQMD project-level significance, and impacts would be *potentially significant*.

**Impact AIR-2:** Operation of development projects that could occur from implementation of the proposed Modified Project would generate emissions that would exceed Bay Area Air Quality Management District’s regional significance thresholds for Reactive Organic Gases (ROG), nitrogen oxides (NOx), coarse inhalable particulate matter (PM<sub>10</sub>), and fine inhalable particulate matter (PM<sub>2.5</sub>).

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**Significance without Mitigation:** Significant and Unavoidable. The General Plan includes policies and strategies, listed above and under Impact Discussion AIR-1 that, once adopted would minimize GHG emissions to the extent feasible; however, there are no additional measures available to mitigate this impact due to the level of growth forecast in the city. It should be noted that the identification of this program-level impact does not preclude the finding of less-than-significant impacts for subsequent projects that comply with BAAQMD screening criteria or meet applicable thresholds of significance. However, due to the programmatic nature of the proposed Modified Project, no additional mitigation measures are available, and the impact is considered *significant and unavoidable*.

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### **AIR-3                      Implementation of the proposed Modified Project could expose sensitive receptors to substantial pollutant concentrations.**

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As described in the General Plan EIR, the Approved Project would not increase traffic volumes at affected intersections to more than 44,000 vehicles per hour or 24,000 vehicles per hour and therefore would not have the potential to result in CO hotspots at affected intersections in Cupertino. In addition, the Approved Project would implement the General Plan 2040 policies, which would address TACs under Policy ES-4.1, *New Development*, Strategy ES-4.1.1, *Toxic Air Contaminants*, and Policy ES-4.2, *Existing Development*, accompanying Strategy ES-4.2.4, *Fuel-Efficient Vehicles and Use*, and Policy HS-6.2, *Proximity of Residents to Hazardous Materials*. However, even with implementation of these policies, the General Plan EIR found impacts from TACs would be significant without mitigation. With implementation of Mitigation Measure AQ-4a and 4b, which would ensure that new development projects are consistent with BAAQMD's CEQA Guidelines and require submission of a health risk assessment for projects within 1,000 feet of a major source of TACs, impacts from TACs would be less than significant.

Same as the Approved Project, implementation of the proposed Modified Project could facilitate individual future potential development projects that cause or contribute significantly to elevated pollutant concentration levels such that it would expose sensitive receptors to elevated pollutant concentrations. Unlike regional emissions, localized emissions are typically evaluated in terms of air concentration rather than mass so they can be more readily correlated to potential health effects.

#### *Construction Community Risk and Hazards*

Future potential construction under the proposed Modified Project would temporarily elevate concentrations of TACs and DPM in the vicinity of sensitive land uses during construction activities. Since the details regarding future potential construction activities are not known at this time, due to this analysis being conducted at the programmatic level construction emissions are evaluated qualitatively in accordance with BAAQMD's plan-level guidance. Subsequent environmental review of future potential development projects would be required to assess potential impacts under BAAQMD's project-level thresholds. In addition, CMC Section 17.04.040, *Standard Environmental Protection Technical Report Submittal Requirements*, requires new development to analyze health impacts for new sensitive receptors, such as residences, that are located within "Conduct Further Study" areas on BAAQMD's "Planning Healthy Places" map. Moreover, CMC Section 17.04.050, *Standard Environmental Protection Permit Submittal Requirements*, require that new projects which disturb more than 1 acre and occur for longer

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than 2 months to use construction equipment that is rated by the U.S. Environmental Protection Agency (EPA) as Tier 4 for all off-road construction engines that are greater than 25 horsepower.

Compliance with the CMC would reduce potential health risk impacts from construction of individual projects. While construction impacts associated with individual future potential projects under the proposed Modified Project could still exceed BAAQMD's project level and cumulative significance thresholds for community risk and hazards, similar to the Approved Project, implementation of the CMC Section 17.04.040(A)(1) and Section 17.04.040(A)(2), which incorporate General Plan EIR Mitigation Measures AQ-4a and AQ-4b, would reduce the proposed Modified Project construction-related health risk impacts to a level that is less than significant. The proposed Modified Project would not result in new impacts with regard to construction-related health risk or a substantial increase in magnitude of impacts compared to what was evaluated in the General Plan EIR.

### *Operational: CO Hotspots*

As determined by the General Plan EIR, the Approved Project would 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. Areas of vehicle congestion have the potential to create pockets of CO called hotspots. These pockets have the potential to exceed the State 1-hour standard of 20 ppm or the 8-hour standard of 9.0 ppm. Since CO is produced in the greatest quantities from vehicle combustion and does not readily disperse into the atmosphere, adherence to AAQS is typically demonstrated through an analysis of localized CO concentrations. Hotspots are typically produced at intersections, where traffic congestion is highest because vehicles queue for longer periods and are subject to reduced speeds.

An overarching goal of the *Plan Bay Area 2050* is to concentrate development in areas where there are existing services and infrastructure rather than allocate new growth in outlying areas where substantial transportation investments would be necessary to achieve the per capita passenger vehicle VMT and associated GHG emissions reductions. The proposed Modified Project would be consistent with the overall goals of the *Plan Bay Area 2050* because many of the new housing sites would be located within existing PDAs and TPAs. Additionally, the proposed Modified Project would not hinder the capital improvements outlined in the Santa Clara County CMP. Thus, the proposed Modified Project would not conflict with the CMP.

Furthermore, the proposed Modified Project would result in an incremental increase in daily vehicles trips that would be distributed across the city's roadway network. The proposed Modified Project is not anticipated to increase traffic volumes at affected intersections to more than BAAQMD's screening criteria of 44,000 vehicles per hour or 24,000 vehicles per hour where vertical and/or horizontal mixing is substantially limited. Overall, similar to the Approved Project, the proposed Modified Project is not expected to increase CO emissions at intersections in the city and vicinity such that BAAQMD's CO hotspot screening criteria are exceeded. Localized air quality impacts related to mobile-source emissions would therefore be less than significant. The proposed Modified Project would not result in new impacts with regards to CO Hotspots or a substantial increase in magnitude of impacts compared to what was evaluated in the General Plan EIR.

### *Operational Community Risk and Hazards*

Common sources of TAC emissions are stationary sources, such as dry cleaners, diesel backup generators, and gasoline stations, that are subject to BAAQMD permit requirements. Implementation of the proposed Modified Project could result in new sources of TACs and PM<sub>2.5</sub>. Stationary sources, including smaller stationary sources associated with residential development (e.g., emergency generators and boilers), are subject to review by BAAQMD as part of the permitting process. Adherence to BAAQMD permitting regulations would ensure that new stationary sources of TACs do not expose populations to significant health risk. Mobile sources of air toxics (e.g., truck idling) are not regulated directly by BAAQMD. However, potential future residential development associated with the proposed Modified Project would not generate substantial truck traffic or idling. Furthermore, individual development projects would be required to achieve the project-level risk thresholds established by BAAQMD to ensure the sensitive receptor impact resulting from the subject development project would not be potentially significant. Similar to the Approved Project, implementation of CMC Section 17.04.040(A)(1) and Section 17.04.040(A)(2), which incorporate General Plan EIR's Mitigation Measures AQ-4a and AQ-4b, would reduce the proposed Modified Project's operational-related health risk impacts to a level that is less than significant. The proposed Modified Project would not result in new impacts with regard to operational community risk and hazards or a substantial increase in magnitude of impacts compared to what was evaluated in the General Plan EIR.

The General Plan EIR also found that the Land Use and Community Design (LU), Mobility (M), Environmental Resources and Sustainability (ES), and Health and Safety (HS) Elements contain policies and strategies that reduce the exposure of sensitive receptors to substantial concentrations of air pollution. Like the Approved Project, the following existing General Plan 2040 includes policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also reduce concentrations of air pollution.

- **Policy LU-1.1. *Land Use and Transportation.*** Focus higher land use intensities and densities within a half-mile of public transit service, and along major corridors. (General Plan EIR Policy 4-7)
- **Policy LU-3.1. *Site Planning.*** Ensure that project sites are planned appropriately to create a network of connected internal streets that improve pedestrian and bicycle access, provide public open space and building layouts that support city goals related to streetscape character for various Planning Areas and corridors. (General Plan EIR Policy 4-4)
- **Strategy LU-19.2.2. *Existing Streets.*** Improve Stevens Creek Boulevard and Wolfe Road to become more bike and pedestrian-friendly with bike lanes, wide sidewalks, street trees, improved pedestrian intersections to accommodate the connects to Ninteen800, Main Street, and the surrounding areas. (General Plan EIR Policy 4-9)
- **Policy LU-20.2. *Streetscape and Connectivity.*** Future roadway improvements on Wolfe Road, Homestead Road and Tantau Avenue shall be coordinated with planned improvements to improve pedestrian, bike and transit connections. Streetscape improvements will enhance the pedestrian environment with street trees, attractive bus shelters and street furniture. The campus site should provide an attractive landscaped edge along the street. Future improvements to the Wolfe Road bridge should be coordinated to preserve the vision for this area. (General Plan EIR Policy 4-12)

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- **Policy LU-21.3. *Streetscape and Connectivity.*** North De Anza is envisioned as a walkable, bikeable boulevard with wide sidewalks with street trees and roadway improvements for bike lanes and pedestrian crossings. Pedestrian and bike improvements and enhanced pedestrian crossings are also envisioned along other streets in this area to create an interconnected grid. Such improvements will also improve school routes from the Garden Gate neighborhood to Lawson school to the east and provide access to transit routes. (General Plan EIR Policy 4-12)
- **Policy LU-21.4. *Streetscape and Connectivity.*** South De Anza is envisioned as a walkable, bikeable boulevard with sidewalks, street trees and roadway improvements for bike lanes and pedestrian crossings. Side streets are also envisioned with pedestrian and bicycle improvements to ensure walkable connections from adjacent neighborhoods. (General Plan EIR Policy 4-12)
- **Policy LU-24.2. *Streetscape and Connectivity.*** Bubba Road is envisioned as a walkable, bikeable corridor with sidewalks, street trees and roadway improvements for bike lanes and pedestrian crossings. Pedestrian and bike improvements and enhanced pedestrian crossings are also envisioned along other streets in this area to create an interconnected grid. Such improvements will also improve routes from the northern and eastern neighborhood to the tri-school area, parks and services and reduce impacts caused by to school and employment traffic. (General Plan EIR Policy 4-12)
- **Strategy LU-27.1.1 *Regulations.*** Maintain and update design regulations and guidelines for single family development that address neighborhood compatibility and visual and privacy impacts. (General Plan EIR Policy 2-8)
- **Policy M-1.3. *Regional Trail Development.*** Continue to plan and provide for a comprehensive system of trails and pathways consistent with regional systems, including the Bay Trail, Stevens Creek Corridor and Ridge Trail. (General Plan EIR Policy 4-6)
- **Policy M-3.6. *Safe Spaces for Pedestrians.*** Require parking lots to include clearly defined paths for pedestrians to provide a safe path to building entrances. (General Plan EIR Policy 4-13)
- **Policy M-4.4. *Transit Facilities with New Development.*** Work with VTA and/or major developments to ensure all new development projects include amenities to support public transit including bus stop shelters, space for transit vehicles as appropriate and attractive amenities such as trash receptacles, signage, seating and lighting. (General Plan EIR Policy 4-7)
- **Strategy M-5.1.1. *Coordination with School Districts.*** Coordinate with the School Districts to develop plans and programs that encourage car/van-pooling, stagger hours of adjacent schools, establish drop-off locations, and encourage walking and bicycling to school. (General Plan EIR Policy 4-15)
- **Strategy M-9.3.2. *Streetscape Design.*** When reviewing the widening of an existing street, consider aesthetically pleasing enhancements and amenities to improve the safe movement of pedestrians and bicyclists in keeping with the vision of the Planning Area. (General Plan EIR Policy 4-12)
- **Strategy ES- 4.1.1. *Toxic Air Contaminants.*** Continue to review projects for potential generation of toxic air contaminants at the time of approval and confer with Bay Area Air Quality Management District on controls needed if impacts are uncertain.
- **Policy ES- 4.2. *Existing Development.*** Minimize the air quality impacts of existing development. (General Plan Policy 5-5)

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- **Policy HS-6.2. Proximity of Residents to Hazardous Materials.** Assess future residents' exposure to hazardous materials when new residential development or sensitive populations are proposed in existing industrial and manufacturing areas. Do not allow residential development or sensitive populations if such hazardous conditions cannot be mitigated to an acceptable level of risk. (General Plan EIR Policy 6-28)

As with the Approved Project, while the proposed Modified Project would accommodate future potential development projects that may result in a localized impacts during construction, compliance with the City's Standard Environmental Protection Requirements, such as those identified in CMC Section 17.04.050(A)(2), would reduce potential health impacts during construction. Furthermore, compliance with CMC Section 17.04.040(A)(1) and Section 17.04.040(A)(2) would reduce the proposed Modified Project health risk impacts to a level that is less than significant. The proposed Modified Project would not result in new impacts or a substantial increase in the magnitude of impacts compared to what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>AIR-4</b>	<b>Implementation of the proposed Modified Project would not result in other emissions (such as those leading to odors) adversely affecting a substantial number of people.</b>
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As described in the General Plan EIR, the Approved Project would minimize odor impacts as siting of new sensitive land uses would require utilization of BAAQMD's odor screening distances during future CEQA review and would require compliance with BAAQMD Regulation 7.

### *Construction*

While odors could be generated during construction activities, the proposed Modified Project is a General Plan Housing Element Update and would not directly result in construction of any development project. Identification of potential impacts to odor receptors resulting from construction-generated odors, such as equipment exhaust, would require project-specific information for future individual land use development projects that is not currently known. As previously discussed, consistent with the BAAQMD's CEQA Air Quality Guidelines, a plan-level analysis must acknowledge odor sources within the Study Area and identify policies, goals, and objectives aimed at reducing potential odor impacts to ensure that potential impacts would be less than significant. Therefore, implementation of the proposed Modified Project would not result in new impacts or a substantial increase in magnitude of impacts compared to the General Plan EIR as they pertain to construction odors.

### *Operation*

According to the BAAQMD's CEQA Air Quality Guidelines, land uses associated with odor complaints typically include agricultural operations, wastewater treatment plants, landfills, and certain industrial operations such as chemical and other manufacturing. While odors do not themselves present a health risk, they are often considered a nuisance by people who live, work, or otherwise are located near outdoor odor sources. Future potential development under the proposed Modified Project would not

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include odor-generating uses, such as composting, green waste, and recycling operations; food processing; and painting/coating operations, because these are types of uses are often found in the commercial and/or industrial areas. Increase in residential uses would not generate substantial odors that would affect a substantial number of people. During operation, residences could generate odors from cooking. However, odors from cooking are not substantial enough to be considered nuisance odors that would affect a substantial number of people.

The General Plan EIR also found that the Land Use and Community Design (LU) and Environmental Resources and Sustainability (ES) Elements contain policies and strategies that reduce potential land use incompatibilities regarding objectionable odors. Like the Approved Project, the following existing General Plan 2040 includes policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also reduce other emissions.

- **Strategy LU-27.1.1 Regulations.** Maintain and update design regulations and guidelines for single family development that address neighborhood compatibility and visual and privacy impacts. (General Plan EIR Policy 2-8)
- **Policy ES- 4.2. Existing Development.** Minimize the air quality impacts of existing development. (General Plan Policy 5-5)
- **Strategy ES- 4.2.1. Public Education Program.** Establish a citywide public education program providing information on ways to reduce and control emissions; and continue to provide information about alternative commutes, carpooling and restricting exacerbating activities on “Spare the Air” high-emissions days. (General Plan EIR Strategy 3 and 4)
- **Strategy ES- 4.2.2. Home Occupations.** Review and consider expanding the allowable home-based businesses in residentially zoned properties to reduce the need to commute to work. (General Plan EIR Strategy 3 and 4)
- **Strategy ES- 4.2.3. Tree Planting in Private Development.** Review and enhance the City’s tree planting and landscaping program and requirements for private development to reduce air pollution levels. (General Plan EIR Strategy 3 and 4)
- **Strategy ES- 4.2.4. Fuel- efficient Vehicles and Use.** Prioritize the purchase, replacement and ongoing use of fuel-efficient and low polluting City fleet vehicles. Update applicable policies and programs to require life cycle cost analyses and include alternative fueling infrastructure review and related funding allocations. Update the Vehicle Use Policy and pursue fleet management best practices to support fuel conservation, scheduled maintenance and fleet fuel tracking. Pursue available grant funding to offset the cost of implementing these programs. (General Plan EIR Strategy 3 and 4)
- **Strategy ES- 4.2.5. Point Sources of Emissions.** Continue to seek the cooperation of the BAAQMD to monitor emissions from identified point sources that impact the community. In addition, for sources not within the regulatory jurisdiction of the City, seek cooperation from the applicable regulatory authority to encourage reduction of emissions and dust from the point source. (General Plan EIR Strategy 3 and 4)

Furthermore, nuisance odors are regulated under BAAQMD Regulation 7, Odorous Substances, which requires abatement of any nuisance generating an odor complaint. In addition, odors are also regulated



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under BAAQMD Regulation 1, Rule 1-301, *Public Nuisance*. Compliance with BAAQMD Regulation 7 would ensure that odor impacts associated with future potential development under the proposed Modified Project are minimized. Therefore, the proposed Modified Project would not result in new impacts or a substantial increase in magnitude of impacts compared to the General Plan EIR as they pertain to operational odors.

**Significance without Mitigation:** Less than significant.

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<b>AIR-5</b>	<b>Implementation of the proposed Modified Project would result in a cumulatively considerable impact with respect to air quality.</b>
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As described in the General Plan EIR, regional air quality impacts were identified as significant and unavoidable; therefore, in combination with past, present, and reasonably foreseeable projects, the Approved Project even with implementation of applicable regulations and mitigation measures, would result in a significant cumulative impact with respect to air quality.

As with the Approved Project, the proposed Modified Project would also exceed the BAAQMD criteria air pollutant emissions thresholds, even with implementation of the General Plan 2040 policies and strategies described under Impact Discussions AIR-1 through AIR-4. As described under Impact Discussion AIR-1, the proposed Modified Project would be inconsistent with BAAQMD's 2017 Clean Air Plan due to the introduction of more residents than is assumed in the AQMP's demographic growth projections and the collective exceedance of BAAQMD's regional significance thresholds during operation. In addition, as shown under Impact AIR-2, implementation of the proposed Modified Project would collectively result in an exceedance of BAAQMD's regional air quality thresholds of significance. Implementation of the proposed Modified Project would not result in localized health risks that exceed BAAQMD's significance thresholds after compliance with the CMC Section 17.04.040(A)(1) and Section 17.04.040(A)(2), as reported under Impact AIR-3. As described under Impact AIR-4, the proposed Modified Project would constitute the development and operation of residential land uses, which are not substantial odor generators, and thus would result in less-than-significant impacts related to odors. Therefore, cumulatively, the proposed Modified Project would result in significant impacts related to consistency with the 2017 Clean Air Plan, generating cumulatively considerable criteria air pollutants, and exposing sensitive receptors to substantial pollutant concentrations. As with the Approved Project, the proposed Modified Project would result in a significant and unavoidable cumulatively considerable air quality impact.

**Impact AIR-5:** The emissions that could occur over the buildout horizon of the proposed Modified Project could generate a substantial increase in emissions that exceeds the Bay Area Air Quality Management District's significance thresholds and cumulatively contribute to the nonattainment designations and health risk in the San Francisco Bay Area Air Basin.

**Significance without Mitigation:** Significant and Unavoidable. No feasible mitigation has been identified.

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## BIOLOGICAL RESOURCES

### 4.3 BIOLOGICAL RESOURCES

This chapter describes the potential biological resource impacts associated with the approval and implementation of the proposed Modified Project. This chapter also describes the regulatory framework and existing conditions, identifies criteria used to determine impact significance, provides an analysis of the potential biological resource impacts, and identifies policies and/or strategies that could mitigate any potentially significant impacts.

#### 4.3.1 ENVIRONMENTAL SETTING

##### 4.3.1.1 REGULATORY FRAMEWORK

##### **Federal Regulations**

##### *Federal Endangered Species Act*

The U.S. Fish and Wildlife Service (USFWS) has jurisdiction over federally listed threatened and endangered plant and animal species. The federal Endangered Species Act (FESA) and its implementing regulations prohibit the take of any fish or wildlife species that is federally listed as threatened or endangered without prior approval pursuant to either Section 7 or Section 10 of the FESA. FESA defines “take” as to “harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct.” Title 50, *Wildlife and Fisheries*, Part 17, *Endangered and Threatened Wildlife and Plants*, Section 17.3, *Definitions*, of the Code of Federal Regulations, defines the term “harass” as an intentional or negligent act that creates the likelihood of injuring wildlife by annoying it to such an extent as to significantly disrupt normal behavior patterns, such as breeding, feeding, or sheltering. Furthermore, Section 17.3 defines “harm” as an act that either kills or injures a listed species. By definition, “harm” includes habitat modification or degradation that actually kills or injures a listed species by significantly impairing essential behavior patterns, such as breeding, spawning, rearing, migrating, feeding, or sheltering.

Section 10(a) of the FESA establishes a process for obtaining an incidental take permit that authorizes nonfederal entities to incidentally take federally listed wildlife or fish. Incidental take is defined by FESA as take that is “incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.” Preparation of a habitat conservation plan (HCP) is required for all Section 10(a) permit applications. The USFWS and National Oceanic and Atmospheric Administration’s National Marine Fisheries Service (NOAA Fisheries Service) have joint authority under the FESA for administering the incidental take program. NOAA Fisheries Service has jurisdiction over anadromous fish species and USFWS has jurisdiction over all other fish and wildlife species.

Section 7 of the FESA requires all federal agencies to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any species listed under the FESA, or result in the destruction or adverse modification of its habitat. Federal agencies are also required to minimize impacts to all listed species resulting from their actions, including issuance of permits or funding. Section 7 requires consideration of the indirect effects of a project, effects on federally listed plants, and effects on

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critical habitat (FESA requires that the USFWS identify critical habitat to the maximum extent that it is prudent and determinable when a species is listed as threatened or endangered). This consultation results in a Biological Opinion prepared by the USFWS stating whether implementation of the HCP required under Section 10(a) will result in jeopardy to any HCP Covered Species or will adversely modify critical habitat and the measures necessary to avoid or minimize effects to listed species.

Although federally listed animals are legally protected from harm no matter where they occur, Section 9 of the FESA provides protection for endangered plants by prohibiting the malicious destruction on federal land and other “take” that violates State law. Protection for plants not living on federal lands is provided by the California Endangered Species Act (CESA).

### *Clean Water Act*

The United States Army Corps of Engineers (USACE) is responsible under Section 404 of the Clean Water Act to regulate the discharge of fill material into waters of the United States (U.S.). These waters, and their lateral limit, include streams that are tributaries to navigable waters and their adjacent wetlands.<sup>1</sup> The lateral limits of jurisdiction for a nontidal stream are measured at the line of the ordinary high-water mark<sup>2</sup> or the limit of adjacent wetlands.<sup>3</sup> Any permanent extension of the limits of an existing water of the U.S., whether natural or human-made, results in a similar extension of USACE jurisdiction.

Waters of the U.S. fall into two broad categories: wetlands and other waters. Other waters include waterbodies and watercourses generally lacking plant cover, such as rivers, streams, lakes, springs, ponds, coastal waters, and estuaries. Wetlands are aquatic habitats that support hydrophytic wetland plants and include marshes, wet meadows, seeps, floodplains, basins, and other areas experiencing extended seasonal soil saturation. Seasonally or intermittently inundated features, such as seasonal ponds, ephemeral streams, and tidal marshes, are categorized as wetlands if they have hydric soils and support wetland plant communities. Seasonally inundated waterbodies or watercourses that do not exhibit wetland characteristics are classified as other waters of the U.S.

Waters and wetlands that cannot trace a continuous hydrologic connection to a navigable water of the U.S. are not tributaries to waters of the U.S. These are termed “isolated wetlands.” Isolated wetlands are jurisdictional when their destruction or degradation can affect interstate or foreign commerce.<sup>4</sup> The USACE may or may not take jurisdiction over isolated wetlands depending on the specific circumstances.

In general, a project proponent must obtain a Section 404 permit from the USACE before placing fill or grading in wetlands or other waters of the U.S. Prior to issuing the permit, the USACE is required to consult with the USFWS under Section 7 of FESA if the project may affect federally listed species.

All USACE permits require water quality certification under Section 401 of the Clean Water Act. This regulatory program is administered by the Regional Water Quality Control Board (RWQCB). Project

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<sup>1</sup> Code of Federal Regulations, Title 33, Navigation and Navigable Waters, Part 328.3(a).

<sup>2</sup> Code of Federal Regulations, Title 33, Navigation and Navigable Waters, Part 328.3(e).

<sup>3</sup> Code of Federal Regulations, Title 33, Navigation and Navigable Waters, Part 328.3(b).

<sup>4</sup> Code of Federal Regulations, Title 33, Navigation and Navigable Waters, Part 328.3(a).

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proponents who propose to fill wetlands or other waters of the U.S. must apply for water quality certification from the RWQCB, which has adopted a policy requiring mitigation for any loss of wetland, streambed, or other jurisdictional area.

### *Migratory Bird Treaty Act*

The federal Migratory Bird Treaty Act (MBTA) prohibits the taking, hunting, killing, selling, purchasing, etc. of migratory birds, parts of migratory birds, or their eggs and nests. As used in the MBTA, the term “take” is defined as “to pursue, hunt, shoot, capture, collect, kill, or attempt to pursue, hunt, shoot, capture, collect, or kill, unless the context otherwise requires.”<sup>5</sup> Most bird species native to North America are covered by this act. The MBTA prohibits the intentional or incidental killing of birds or destruction of their nests when in active use. USFWS administers permits to take migratory birds in accordance with the MBTA.

## State Regulations

### *California Endangered Species Act*

CESA generally parallels the main provisions of the FESA and is administered by the California Department of Fish and Wildlife (CDFW). Its intent is to prohibit take and protect State-listed endangered and threatened species of fish, wildlife, and plants. Unlike its federal counterpart, CESA also applies the take prohibitions to species petitioned for listing (State candidates). Candidate species may be afforded temporary protection as though they were already listed as threatened or endangered at the discretion of the Fish and Game Commission. Unlike the FESA, CESA does not include listing provisions for invertebrate species. Under certain conditions, CESA has provisions for take through a Section 2081 Incidental Take Permit or memorandum of understanding (MOU). In addition, some sensitive mammals and birds are protected by the State as “fully protected species.” California “species of special concern” are species designated as vulnerable to extinction due to declining population levels, limited ranges, and/or continuing threats. This list is primarily a working document for the CDFW’s California Natural Diversity Database (CNDDDB), which maintains a record of known and recorded occurrences of sensitive species. Informally listed taxa are not protected necessarily but warrant consideration in the preparation of biological resource assessments.

### *California Environmental Quality Act*

The California Environmental Quality Act (CEQA) applies to “projects” proposed to be undertaken or requiring approval by State and local government agencies. Projects are defined as having the potential to have physical impact on the environment. Under Section 15380 of the CEQA Guidelines, a species not included on any formal list “shall nevertheless be considered rare or endangered if the species can be shown by a local agency to meet the criteria” for listing. With sufficient documentation, a species could be shown to meet the definition of rare or endangered under CEQA and be considered a “de facto” rare or endangered species.

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<sup>5</sup> United States Code, Title 16, Conservation, Section 715n.

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### *California Fish and Game Code*

CDFW is responsible for enforcing the California Fish and Game Code (CFGF), which contains several protections from “take” for a variety of species. CDFW also protects streams, water bodies, and riparian corridors through the Streambed Alteration Agreement process under Sections 1601 to 1606 of the CFGF. CFGF stipulates that it is “unlawful to substantially divert or obstruct the natural flow or substantially change the bed, channel or bank of any river, stream or lake” without notifying the CDFW, incorporating necessary mitigation, and obtaining a Streambed Alteration Agreement.<sup>6</sup> CDFW’s jurisdiction extends to the top of banks and often includes the outer edge of riparian vegetation canopy cover.

The CFGF also lists animal species designated as Fully Protected or Protected, which may not be taken or possessed at any time. CDFW does not issue licenses or permits for take of these species except for necessary scientific research, habitat restoration/species recovery actions, or live capture and relocation pursuant to a permit for the protection of livestock. Fully protected species are listed in CFGF Sections 3511 (birds), 4700 (mammals), 5050 (reptiles and amphibians), and 5515 (fish) of the CFGF, while protected amphibians and reptiles are listed in Chapter 5, Sections 41 and 42, respectively.

Several provisions in the CFGF provide for the protection of birds and bird nests in active use. Unless the CFGF or its implementing regulations provide otherwise, under California law, it is unlawful to:

- Take a bird, mammal, fish, reptile, or amphibian.
- Take, possess, or needlessly destroy the nest or eggs of any bird.
- Take, possess, or destroy any bird of prey in the orders Strigiformes (owls) and Falconiformes (such as falcons, hawks, and eagles) or the nests or eggs of such a bird.
- Take or possess any of the 13 fully protected bird species listed in CFGF Section 3511.
- Take any nongame bird (i.e., bird that is naturally occurring in California that is not a gamebird, migratory game bird, or fully protected bird).
- Take or possess any migratory nongame bird as designated in the MBTA or any part of such bird, except as provided by rules or regulations adopted by the United States Department of the Interior (DOI) under the MBTA.
- Take, import, export, possess, purchase, or sell any bird (or products of a bird), listed as an endangered or threatened species under the CESA unless the person or entity possesses an Incidental Take Permit or equivalent authorization from CDFW.

Non-native species, including European starling (*Sturnus vulgaris*), house sparrow (*Passer domesticus*), and rock pigeon (*Columba livia*), are not afforded any protection under the MBTA or CFGF.

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<sup>6</sup> California Fish and Game Code Section 1602.

## BIOLOGICAL RESOURCES

### *Porter-Cologne Water Quality Control Act*

Under the Porter-Cologne Water Quality Control Act,<sup>7</sup> the RWQCB is authorized to regulate the discharge of waste that could affect the quality of the state's waters. The RWQCB asserts jurisdiction over isolated waters and wetlands, as well as waters and wetlands that are regulated by the USACE. Therefore, even if a project does not require a federal permit, it still requires review and approval by the RWQCB. When reviewing applications, the RWQCB focuses on ensuring that projects do not adversely affect the "beneficial uses" associated with waters of the state. In most cases, the RWQCB seeks to protect these beneficial uses by requiring the integration of waste discharge requirements into projects that will require discharge into waters of the state. For most construction projects, the RWQCB requires the use of construction and post-construction best management practices.

### *California Native Plant Protection Act*

The California Native Plant Protection Act of 1977 prohibits importation of rare and endangered plants into California, "take" of rare and endangered plants, and sale of rare and endangered plants. CESA defers to the California Native Plant Protection Act, which ensures that State-listed plant species are protected when State agencies are involved in projects subject to CEQA. In this case, plants listed as rare under the California Native Plant Protection Act are not protected under CESA but rather under CEQA.

The California Native Plant Society (CNPS) is a nongovernmental conservation organization that has developed a list of plants of special concern in California. The following explains the designations for each plant species:<sup>8</sup>

- **Rank 1A.** Plants Presumed Extirpated in California and Either Rare or Extinct Elsewhere
- **Rank 1B.** Plants Rare, Threatened, or Endangered in California and Elsewhere
- **Rank 2A.** Plants Presumed Extirpated in California, But Common Elsewhere
- **Rank 2B.** Plants Rare, Threatened, or Endangered in California, But More Common Elsewhere
- **Rank 3.** Plants About Which More Information is Needed; A Review List
- **Rank 4.** Plants of Limited Distribution; A Watch List

### *California Natural Communities*

Sensitive natural communities are natural community types considered to be rare or of a "high inventory priority" by CDFW. Although sensitive natural communities have no legal protective status under FESA or CESA, they are provided some level of consideration under CEQA. Appendix G of the CEQA Guidelines identifies potential impacts on a sensitive natural community as one of six criteria to consider in determining the significance of a proposed project. While no thresholds are established as part of this criterion, it serves as an acknowledgement that sensitive natural communities are an important resource and, depending on their rarity, should be recognized as part of the environmental review process. The level of significance of a project's impact on any particular sensitive natural community depends on that natural community's relative abundance and rarity.

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<sup>7</sup> California Water Code Sections 13000 through 14920.

<sup>8</sup> California Native Plant Society, 2023, CNPS Rare Plant Ranks, <https://www.cnps.org/rare-plants/cnps-rare-plant-ranks>, accessed March 10, 2023.

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As an example, a discretionary project that has a substantial adverse effect on any riparian habitat, native grassland, valley oak woodland, and/or other sensitive natural community would normally be considered to have a significant effect on the environment. Further loss of a sensitive natural community could be interpreted as substantially diminishing habitat, depending on its relative abundance, quality, degree of past disturbance, and the anticipated impacts to the specific community type.

### *Oak Woodlands Conservation Act*

The California Oak Woodlands Conservation Act<sup>9</sup> of 2001 acknowledges the importance of private land stewardship to the conservation of the state's valued oak woodlands. This act established the California Oak Woodlands Conservation Program, which aims to conserve oak woodlands existing in the state's working landscapes by providing education and incentives to private landowners. The program provides technical and financial incentives to private landowners to protect and promote biologically functional oak woodlands.

## Regional Regulations

### *Recovery Plan for Serpentine Soil Species of the San Francisco Bay Area*

Adopted in 1998, the *Recovery Plan for Serpentine Soil Species of the San Francisco Bay Area* covers 28 special-status species of plants and animals that occur mainly on serpentine soils and grasslands in the San Francisco Bay Area.<sup>10</sup> Due to much of the San Francisco Bay being converted into urban and industrial uses, many species have been forced to move from their historic ranges. The goal of this recovery plan is to delist certain endangered and threatened species, improve the security of several listed species, and ensure long-term conservation of certain species of concern.

### *Santa Clara Valley Habitat Plan*

Adopted in August 2012, the Santa Clara Valley Habitat Plan provides a framework for promoting the protection and recovery of natural resources, including endangered species, while streamlining the permitting process for planned development, infrastructure, and maintenance activities.<sup>11</sup> The permit area for the plan does not cover any part of Cupertino; therefore, the regulations in the plan do not apply to any projects in Cupertino.

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<sup>9</sup> California Fish and Game Code Section 1360 et seq.

<sup>10</sup> United States Fish and Wildlife Service, September 1998, *Recovery Plan for Serpentine Soil Species of the San Francisco Bay Area*, <https://www.nps.gov/goga/learn/management/upload/-1491-Recovery-Plan-for-serpentine-soil-species-of-the-San-Francis.pdf>, accessed August 9, 2022.

<sup>11</sup> Santa Clara County, 2012, *Santa Clara County Habitat Plan*, <https://www.scv-habitatagency.org/DocumentCenter/View/137/Executive-Summary>, accessed on July 25, 2023.



## BIOLOGICAL RESOURCES

### Local Regulations

#### *General Plan 2040*

The Land Use and Community Design (LU) and Environmental Resources and Sustainability (ES) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to biological resources. Applicable policies and strategies that would minimize potential adverse impacts to biological resources are identified in Section 4.3.3, *Impact Discussion*.

#### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to minimize adverse impacts to biological resources in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to biological resources are included in Title 8, *Animals*; Title 9, *Health and Sanitation*; Title 14, *Streets, Sidewalks and Landscaping*; Title 17, *Environmental Regulations*; and Title 19, *Zoning*.

- **Title 8, *Animals*.** This section of the CMC outlines how animals may be handled in the city and the level of authority that different people in the city have.
- **Chapter 9.19, *Water Resource Protection*.** The City has established requirements to obtain a streamside modification permit under certain conditions and establishes procedures for the administration and issuance of such permits. These permits apply to the specific property for which it was issued and therefore transfers when the property ownership is transferred, unless specific conditions provide otherwise.
- **Chapter 14.8, *Protected Tree Ordinance*.** This ordinance outlines how important protected trees are to the community, and how protecting trees in all zoning districts is intended to preserve this asset. Actions that are prohibited through this ordinance are deliberately causing damage to any protected trees and removing any protected trees in any zoning district without first obtaining a tree removal permit as required by Section 14.18.110 unless a permit is not required per Section 14.18.150. This ordinance also outlines Heritage Tree Designations and how this process can only be initiated by the owner of property on which the tree is located unless the tree is on public or quasi-public property. After designation, the heritage tree shall be added to the heritage tree list and a heritage tree identification tag will be added that is purchased and placed by the City. It also outlines removal and replacement of Protected, including Heritage, trees.
- **Chapter 14.12, *Trees*.** This chapter describes the comprehensive plan that the City has for purchase, planting, and maintenance of public trees in Cupertino. In the chapter, the master street tree list is established, which dictates the tree type and species, as well as locations for where trees should be planted in Cupertino.
- **Chapter 14.15, *Landscape Ordinance*.** This chapter was created to promote the use of region-appropriate plants that require minimal supplemental irrigation.
- **Chapter 17.04, *Standard Environmental Protection Requirements*.** The purpose of this chapter is to identify standard environmental protection requirements that all construction projects must meet, including, but not limited to, environmental mitigation measures identified in any environmental

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documents required as part of a General Plan update. This chapter includes specific requirements for biological resources, including requirements about active nests and special-status roosting bats.

- **Section 17.04.050(D)(1), *Avoid Nesting Birds During Construction*.** This section requires that 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 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 Department of 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 and August 31), preconstruction surveys shall be conducted as follows:
    - i. No more than 7 days prior to the start of demolition, construction, ground-disturbing, or tree removal/pruning activities, in order 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 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 the 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

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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.
  - e. 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.
- **Section 17.04.050(D)(2), *Avoid Special-Status Roosting Bats During Construction Permit Requirements*.** This section describes the procedures for protecting special-status bats.
- 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.

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- ii. Be conducted no more than 14 days prior to 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.
- **Chapter 19.102, *Glass and Lighting Standards*.** This chapter regulates the design and construction of buildings so that they are bird safe and reduce light pollution. The standards in this chapter reduce bird mortality from windows, specific glass features, and lighting elements, with the goals of reducing light pollution, improving bird mortality rates, and increasing bird visibility in the night sky.
  - **Section 19.102.030, *Bird-safe Development Requirements*.** This section outlines certain requirements that must be met for certain projects. These include Bird-safe Design Requirements, which deter the use of funneling flight paths, reflective and transparent glass, and the use of untreated glass or other transparent materials.

### 4.3.1.2 EXISTING CONDITIONS

Chapter 4.3, *Biological Resources*, of the General Plan EIR, addresses the impacts to biological resources associated with buildout of the General Plan at a program level. The setting for biological resources is described in the General Plan EIR Section 4.3.1.2, *Existing Conditions*. Since the certification of the General Plan EIR, the City has codified regulations equivalent to the General Plan EIR mitigation measures to reduce construction-related biological resources impacts in CMC Chapter 17.04, *Standard Environmental Protection Requirements* (SEPRs), as described under the Municipal Code heading in

## BIOLOGICAL RESOURCES

Section 4.3.1.1, *Regulatory Framework*. The SEPRs incorporate Mitigation Measure BIO-1 to ensure the protection of nesting raptors and other birds when in active use, as required by the federal MBTA and the CFGC, if applicable. CMC Section 17.04.050(D)(1), *Avoid Nesting Birds During Construction*, requires the project applicant to avoid nesting birds during construction and describes the procedures to be implemented to ensure avoidance. Thus, this mitigation measure is no longer necessary, but would still apply as a standard project requirement to all applicable projects.

### 4.3.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant biological impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
BIO-1. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plan, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	LTS/M	LTS
BIO-2. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?	NI	NI
BIO-3. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	LTS	LTS
BIO-4. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?	LTS	LTS
BIO-5. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	LTS	LTS
BIO-6. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?	NI	NI
BIO-7. Result in a cumulatively considerable impact with respect to biological resources?	LTS	LTS

Note: In December 2018, amendments were made to Appendix G, *Environmental Checklist*, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. The question posed in BIO-6 is no longer repeated in Chapter 4.10, *Land Use and Planning*, of this EA.

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

**BIOLOGICAL RESOURCES****4.3.3 IMPACT DISCUSSION**


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<b>BIO-1</b>	<b>Implementation of the proposed Modified Project would not have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plan, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.</b>
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As described in the General Plan EIR, potential future development and land use activities as a result of implementation of the Approved Project would occur in urbanized areas where special-status species are generally not expected to occur. The potential for occurrence of special-status species in developed areas is generally very remote in comparison to undeveloped lands with natural habitat that contain essential habitat characteristics for the range of species known from the west Cupertino vicinity.

The proposed Modified Project would include potential future development and land use activities that would also occur in already urbanized areas that are dominated by existing structures, pavement, and other impervious surfaces, and are surrounded by development where special-status species are generally not expected to occur. Furthermore, as shown on Figure 4-1, *Priority Development Areas and Transit Priority Areas*, of this Environmental Assessment (EA), the locations of potential future development would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already previously developed and/or underutilized, and/or in close proximity to existing residential and residential-serving development, where potential future development would have a lesser impact on biological resources.

The General Plan EIR also found that the Land Use and Community Design (LU) and Environmental Resources and Sustainability (ES) Elements contain policies and strategies that require local planning and development decisions to consider impacts that development could have on candidate, sensitive, or special-status species. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would continue to minimize adverse effects on candidate, sensitive, or special-status species:

- **Policy LU-3.5. Bird Safety.** Enhance bird safety and educe bird mortality from windows, other glass features, and certain lighting elements that are known to increase the risk of bid collisions.
- **Strategy LU-3.6.2. Bird Safe Design Ordinance.** New development and other applicable projects shall comply with the City's Glass and Lighting Standards Orsinace, which provides Bird Safe Design regulations to reduce the potential risk of bird collisions.
- **Strategy LU-12.4.2. Developments near Public Space.** Locate private driveways and building sites as far as possible from property boundaries adjoining public open space preserves and parks to enhance the natural open space character and protect plant and animal habitat.
- **Policy ES-5.2. Development Near Sensitive Areas.** Encourage the clustering of new development away from sensitive areas such as riparian corridors, wildlife habitat and corridors, public open space

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preserves and ridgelines. New developments in these areas must have a harmonious landscaping plan approved prior to development. (General Plan EIR Policies 5-9 and 5-21)

- **Policy ES-5.3. *Landscaping In and Near Natural Vegetation.*** Preserve and enhance existing natural vegetation, landscape features and open space when new development is proposed within existing natural areas. When development is proposed near natural vegetation, encourage the landscaping to be consistent with the palate of vegetation found in the natural vegetation. (General Plan EIR Policy 5-10)
- **Strategy ES-5.3.1. *Native Plants.*** Continue to emphasize the planting of native, drought tolerant, pest resistant, non-invasive, climate appropriate plants and ground covers, particularly for erosion control and to prevent disturbance of the natural terrain. (General Plan EIR Strategy 4 under Policy 2-20).
- **Policy ES-5.6. *Recreation and Wildlife.*** Provide open space linkages within and between properties for both recreational and wildlife activities, most specifically for the benefit of wildlife that is threatened, endangered or designated as species of special concern. (General Plan EIR Policy 5-14)
- **Policy ES-7.1. *Natural Water Bodies and Drainage Systems.*** In public and private development, use Low Impact Development (LID) principles to manage stormwater by mimicking natural hydrology, minimizing grading and protecting or restoring natural drainage systems. (General Plan EIR Policy 5-18)
- **Policy ES-7.8. *Natural Water Courses.*** Retain and restore creek beds, riparian corridors, watercourses and associated vegetation in their natural state to protect wildlife habitat and recreation potential and assist in groundwater percolation. Encourage land acquisition or dedication of such areas. (General Plan EIR Policy 5-27)

The General Plan EIR found that the Approved Project would have a have a potential adverse effect on some bird species, such as Cooper’s hawk and white-tailed kite, as they could use the remaining riparian corridors and heavily wooded areas for nesting, dispersal, and other functions when they pass through urbanized areas. Accordingly, the General Plan EIR included Mitigation Measure BIO-1 to minimize the possible loss or abandonment of nests of birds protected under the federal MBTA and CFGC. Following the certification of the General Plan EIR, the City codified CMC Section 17.04.050(D)(1), *Avoid Nesting Birds During Construction*, that requires the project applicant to avoid nesting birds during construction and describes the procedures to be implemented to ensure avoidance. Therefore, mandatory compliance with CMC Section 17.04.050(D)(1) as standard project requirements, would ensure that impacts would continue to be less than significant without mitigation from the adoption and implementation of the proposed Modified Project.

As with the future potential development assessed in the General Plan EIR, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing special-status species, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to candidate, sensitive, or special-status species beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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**BIOLOGICAL RESOURCES**

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<b>BIO-2</b>	<b>Implementation of the proposed Modified Project would not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service.</b>
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The General Plan EIR found that the Approved Project would have no impact on any riparian habitat or other sensitive natural community. Development and land use activities of the Approved Project would occur in urbanized areas where sensitive natural communities are absent.

As with the potential future development assessed in the General Plan EIR, potential future development under the proposed Modified Project would also occur in already urbanized areas without sensitive natural communities. Thus, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to riparian habitat or sensitive natural communities beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** No impact.

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<b>BIO-3</b>	<b>Implementation of the proposed Modified Project would not have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means.</b>
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As described in the General Plan EIR, the Approved Project would occur in urbanized areas where jurisdictional waters are absent. Any indirect impacts to wetlands and jurisdictional other waters would be largely avoided through effective implementation of best management practices during construction and compliance with water quality controls.

As shown on Figure 4-1, *Priority Development Areas and Transit Priority Areas*, of this EA, the locations of potential future development under the proposed Modified Project would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or in close proximity to existing residential and residential-serving development, where potential future development would have a lesser impact on jurisdictional waters. Additionally, potential indirect water quality-related impacts to jurisdictional waters are evaluated further in Chapter 4.9, *Hydrology and Water Quality*, of this Draft EA.

As with the future potential development assessed in the General Plan EIR, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing wetlands, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to state or federally protected wetlands beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.



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**BIO-4                      Implementation of the proposed Modified Project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.**

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As described in the General Plan EIR, potential future development and land use activities as a result of implementation of the Approved Project would occur in urbanized areas where sensitive wildlife resources and important wildlife movement corridors are no longer present because of existing development. However, wildlife species common to urban and suburban habitat could be displaced where existing structures are demolished and landscaping is removed as part of the Approved Project.

As shown on Figure 4-1, *Priority Development Areas and Transit Priority Areas*, of this EA, the locations of potential future development under the proposed Modified Project would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or in close proximity to existing residential and residential-serving development in already urbanized areas that are dominated by existing structures, pavement, and other impervious surfaces, and are surrounded by development where wildlife species are generally not expected to occur. Additionally, as described in the General Plan EIR, the species likely inhabiting the area are relatively abundant and adapted to human disturbance.

The General Plan EIR also found that the Environmental Resources and Sustainability (ES) Element contains a strategy that requires local planning and development decisions to consider impacts that development could have on the movement of native resident or migratory fish or wildlife species, migratory wildlife corridors, and nursery sites. The following General Plan 2040 strategy would also serve to provide additional habitat to minimize adverse effects on the movement of native resident or migratory fish or wildlife species, migratory wildlife corridors, and nursery sites: Strategy ES-5.3.1, *Native Plants*. Continue to emphasize the planting of native, drought-tolerant, pest-resistant, non-invasive, climate-appropriate plants and ground covers, particularly for erosion control and to prevent disturbance of the natural terrain. (General Plan EIR Strategy 4 under Proposed Policy 2-20).

As with the future potential development assessed in the General Plan EIR, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing wildlife movement, as necessary. For example, in Hillside areas, the Municipal Code allows solid board fencing on only 5,000 sq. ft. around a home and all other fencing must be open fencing to allow wildlife to pass. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of native wildlife nursery sites beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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**BIOLOGICAL RESOURCES**

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**BIO-5                    Implementation of the proposed Modified Project would not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.**

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As described in the General Plan EIR, the Approved Project would not conflict with any local ordinances or policies protecting biological resources. Activities as a result of implementation of the Approved Project would occur in urbanized areas where sensitive biological and wetland resources are generally considered to be absent, and no major conflicts with the relevant policies or ordinances in the Cupertino General Plan and/or Municipal Code are anticipated. Additionally, with adherence to the General Plan policies listed in Impact Discussions BIO-1 and BIO-4 of the General Plan EIR, and the Protected Tree Ordinance and Water Protection Ordinance, no conflicts with local plans and policies were anticipated.

Like the Approved Project, the proposed Modified Project would include potential future development and land use activities that would also occur in already urbanized areas that are dominated by existing structures, pavement, and other impervious surfaces. Additionally, future potential development under the proposed Modified Project would adhere to the General Plan policies and strategies listed in Impact Discussions BIO-1 and BIO-4 of this EA and local regulations described in Section 4.3.1.1, *Regulatory Framework*. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe conflicts with any local policies or ordinances protecting biological resources beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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**BIO-6                    Implementation of the proposed Modified Project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan.**

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The General Plan EIR found that the Approved Project was located outside the boundaries of the Santa Clara Valley Habitat Plan. The city is not within any other HCP or natural community conservation plan; as such, the Approved Project and the proposed Modified Project would not conflict with any such plan. Thus, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe conflicts with the provisions of an adopted HCP; Natural Community Conservation Plan; or other approved local, regional, or State HCP beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** No impact.

## BIOLOGICAL RESOURCES

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### **BIO-7                      Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to biological resources.**

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As described in the General Plan EIR, the geographic scope of the cumulative analysis for biological resources considers the surrounding incorporated and unincorporated lands, and the region. Potential future development and land use activities as a result of implementation of the Approved Project would occur in urbanized areas, thus avoiding or diminishing effects on biological resources. With implementation of the General Plan EIR Mitigation Measure BIO-1, the Approved Project would not make a significant contribution to cumulative impacts to biological resources.

The impacts of potential future development on biological resources tend to be site-specific, and the overall cumulative effects would depend on the degree to which significant vegetation and wildlife resources are protected on a particular site. This includes preservation of well-developed native vegetation (e.g., native grasslands, oak woodlands, riparian woodland, and chaparral), populations of special-status plant or animal species, and wetland features (e.g., coastal salt marsh, freshwater marsh and seeps, riparian corridors, and drainages). Further, site evaluations would be required for future projects, where appropriate, to determine the presence of special-status species, nesting birds, sensitive natural communities, regulated waters, and wildlife movement corridors. These biological resource assessments would serve to ensure that important biological resources are identified, protected, and properly managed, and to prevent any significant adverse development-related impacts, including future potential development from the proposed Modified Project.

Additionally, like in the Approved Project, increased future potential development potential in the Study Area is anticipated to predominantly occur in existing urbanized areas. Potential future development that could occur elsewhere in the region, outside of the Study Area, would also likely occur in urbanized areas, minimizing cumulative impacts to biological resources. Further, future potential development under the proposed Modified Project and other projects would be required to comply with applicable laws, policies, and design standards governing biological resources, as necessary. Therefore, the proposed Modified Project would not result in new or more severe cumulatively considerable impacts to biological resources beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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## CULTURAL AND TRIBAL CULTURAL RESOURCES

### 4.4 CULTURAL AND TRIBAL CULTURAL RESOURCES

This chapter describes the potential impacts to cultural and tribal cultural resources associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and existing conditions, identifies criteria used to determine impact significance, provides an analysis of the potential impacts to cultural and tribal cultural resources, and identifies General Plan 2040 policies and/or strategies that could minimize any potentially significant impacts.

#### 4.4.1 ENVIRONMENTAL SETTING

##### 4.4.1.1 TERMINOLOGY

The following are definitions for terms used throughout this chapter.

- **Cultural Resource.** This term is used to describe several different types of properties: pre-contact (prehistoric) and historic archaeological sites, buildings, objects, structures, and districts or any other physical evidence associated with human activity considered important to a culture or a community for scientific, traditional, or religious reasons.
- **Historic Property.** Federal regulations (36 Code of Federal Regulation [CFR] 800) define a historic property as any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places (NRHP). This term includes artifacts, records, and remains that are related to and located within such properties. The term also includes properties of traditional religious and cultural importance to Native American tribes or Native Hawaiian organizations and that meet NRHP criteria.
- **Historical Resource.** The California Environmental Quality Act (CEQA) Guidelines Section 15064.5(a) define a historical resource as a resource listed in the California Register of Historical Resources (CRHR) or determined to be eligible for listing in the CRHR by the State Historical Resources Commission, a resource included in a local register of Historical Resources, or identified as significant in a Historical Resource survey meeting the requirements of Public Resources Code (PRC) Section 5024.1(g), or any object, building, structure, site, area, place, record, or manuscript that a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.
- **Unique Archaeological Resource.** CEQA defines this term as an archaeological artifact, object, or site about which it can be clearly demonstrated that, without merely adding to the current body of knowledge, there is a high probability that it meets any of the following criteria:
  - Contains information needed to answer important scientific research questions and there is a demonstrable public interest in that information.
  - Has a special and particular quality, such as being the oldest of its type or the best available example of its type.
  - Is directly associated with a scientifically recognized important prehistoric or historic event or person.

## CULTURAL AND TRIBAL CULTURAL RESOURCES

- **Tribal Cultural Resource.** CEQA defines tribal cultural resources as sites, features, places, cultural landscapes (geographically defined in terms of the size and scope), sacred places, and objects with cultural value to a California Native American tribe that are included or determined to be eligible for inclusion in the CRHR; and/or included in a local register of historical resources; and/or a resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant.

### 4.4.1.2 REGULATORY FRAMEWORK

#### Federal Regulations

##### *National Historic Preservation Act*

The National Historic Preservation Act (NHPA) of 1966 defines the responsibilities of federal agencies to protect and preserve historic properties and established the National Register of Historic Places (National Register) as the official designation of historical resources, including districts, sites, buildings, structures, and objects. Sites less than 50 years in age, unless of exceptional importance, are not eligible for the National Register. Listing in the National Register does not entail specific protection for a property, but project effects on properties listed or eligible for listing in the National Register must be evaluated under CEQA. For a property to be eligible for listing in the National Register, it must be significant and possess integrity. According to the National Register criteria for evaluation,<sup>1</sup> a property is significant in American history, architecture, archaeology, engineering, or culture if it is:

- A. Associated with events that made a significant contribution to the broad patterns of our history;
- B. Associated with the lives of significant persons in our past;
- C. Embodies the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- D. Has yielded, or may be likely to yield, information important in history or prehistory.

##### *Archaeological Resources Protection Act*

The Archaeological Resources Protection Act (United States Code, Title 16, Sections 470aa–mm) became law on October 31, 1979, and has been amended four times. It regulates the protection of archaeological resources and sites that are on federal and Indian lands.

##### *Native American Graves Protection and Repatriation Act*

The Native American Graves Protection and Repatriation Act of 1990 (United States Code, Title 25, Sections 3001 et seq.) protects Native American remains, including Native American graves on federal and tribal lands, and recognizes tribal authority over the treatment of unmarked graves. This act prohibits the selling of Native American remains and provides guidelines for the return of Native American human

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<sup>1</sup> Code of Federal Regulations, 36 CFR Part 60.4.

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remains and cultural objects from any collection receiving federal funding, such as museums, universities, or governments. Noncompliance with this act can result in civil and criminal penalties.

### State Regulations

#### *California Health and Safety Code*

Health and Safety Code Section 7052 states that the disturbance of Native American cemeteries is a felony. Section 7050.5(b) of the California Health and Safety Code specifies protocol when human remains are discovered during activities involving ground disturbance. If human remains are discovered or identified in any location other than a dedicated cemetery, there should be no further disturbance or excavation nearby until the county coroner has determined the area is not a crime scene that warrants further investigation into the cause of death and made recommendations to the persons responsible for the work in the manner provided in PRC Section 5097.98 (the California Native American Historical, Cultural, and Sacred Sites Act). If the coroner determines that the remains are not subject to his or her authority and recognizes or has reason to believe the human remains are those of Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission (NAHC).

#### *California Public Resources Code*

Archaeological and historical sites are protected under a wide variety of State policies and regulations in the PRC. In addition, cultural resources are recognized as nonrenewable resources and receive protection under the PRC and CEQA. California PRC Sections 5097.9–5097.991 provides protection to Native American historical and cultural resources, and sacred sites and identifies the powers and duties of the NAHC. It also requires notification to descendants of discoveries of Native American human remains and provides for treatment and disposition of human remains and associated grave goods.

#### *California Historical Building Code*

The California Historical Building Code (CCR, Title 24, Part 8) provides regulations for permitting repairs, alterations, and additions for the preservation, rehabilitation, relocation, reconstruction, change of use, or continued use of historical buildings, structures, and properties determined by any level of government as qualifying as a historical resource. A historical resource is defined in Sections 18950 to 18961 of Division 13, Part 2.7 of the Health and Safety Code, and subject to rules and regulations in the California Historical Building Code.

#### *California Register of Historic Resources*

The California Register of Historic Resources (California Register) establishes a list of properties to be protected from substantial adverse change (PRC Section 5024.1). A historical resource may be listed in the California Register if it is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, or cultural annals of California, and meets any of the following criteria:

- Is associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage.

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- Is associated with the lives of persons important in California's past.
- Embodies the distinctive characteristics of a type, period, region, or method of construction; represents the work of an important creative individual; or possesses high artistic value.
- Has yielded or is likely to yield information important in prehistory or history.

The California Register includes properties that are listed or have been formally determined eligible for listing in the National Register, State Historical Landmarks, and eligible Points of Historical Interest. Other potential resources require nomination for inclusion in the California Register.

### *Senate Bill 18*

Senate Bill 18 (SB 18) was signed into law in September 2004 and went into effect on March 1, 2005. It places requirements on local governments for developments in or near "traditional tribal cultural places" (TTCP). Pursuant to SB 18, the law requires local jurisdictions to provide opportunities for involvement of California Native American tribes in the land planning process for the purpose of preserving TTCPs. The Final Guidelines recommend that the NAHC provide written information as soon as possible but no later than 30 days after receiving a request to inform the lead agency if the proposed project is determined to be in proximity to a TTCP and another 90 days for tribes to respond to a local government if they want to consult to determine whether the project would have an adverse impact on the TTCP. There is no statutory limit on the consultation duration. Forty-five days before the action is publicly considered by the local government council, the local government refers action to agencies, following the CEQA public review time frame. The CEQA public distribution list may include tribes listed by the NAHC who have requested consultation, or it may not.

SB 18 is triggered before the adoption, revision, amendment, or update of a city or county general plan. Although SB 18 does not specifically mention consultation or notice requirements for adoption or amendment of specific plans, the Final Tribal Guidelines advises that SB 18 requirements extend to specific plans as well, because State planning law requires local governments to use the same process for amendment or adoption of specific plans as general plans (defined in Government Code Section 65453). In addition, SB 18 provides a new definition of TTCPs requiring a traditional association of the site with Native American traditional beliefs, cultural practices, or ceremonies, or the site must be shown to actually have been used for activities related to traditional beliefs, cultural practices, or ceremonies (previously, the site was defined to require only an association with traditional beliefs, practices, lifeways, and ceremonial activities). SB 18 law also amended Civil Code Section 815.3 and adds California Native American tribes to the list of entities that can acquire and hold conservation easements for the purpose of protecting their cultural places.

### *Native American Historic Resource Protection Act*

The Native American Historic Resource Protection Act, commonly known by its legislative bill number, Assembly Bill (AB) 52, passed in 2014 and amended CEQA to address California Native American tribal concerns regarding how cultural resources of importance to tribes are treated under CEQA and created the new TCR category. CEQA identifies a TCR as a separate and distinct category of resource, separate from a historical or archaeological resource. CEQA specifies that a project that may cause a substantial adverse change in the significance of a TCR (as defined in CEQA Statute or PRC Section 21074[a]) is a



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project that may have a significant effect on the environment. To help determine whether a project may have such an effect, the PRC requires a lead agency to consult with any California Native American tribe that requests consultation and is traditionally and culturally affiliated with the geographic area of the proposed project. According to the act, tribes may have expertise in tribal history and “tribal knowledge about land and TCRs at issue should be included in environmental assessments for projects that may have a significant impact on those resources.”

CEQA Section 21074.3(a) defines a TCR as a site, feature, place, or cultural landscape that is geographically defined in terms of size and scope, sacred place, and object with cultural value to a California Native American tribe that is either included or eligible for inclusion in the California Register of Historic Resources or included in a local register of historical resources, or if the City of Cupertino, acting as the lead agency, supported by substantial evidence, chooses at its discretion to treat the resource as a TCR. Because these criteria also meet the definition of a historical resource under CEQA, a TCR may also require additional consideration as a historical resource. TCRs may or may not exhibit archaeological, cultural, or physical indicators.

CEQA Section 21080.3.2 provides that as part of the tribal consultation process, parties could propose mitigation measures. If the California Native American tribe requests consultation to include project alternatives, mitigation measures, or significant effects, the consultation would be required to cover those topics. CEQA Section 21082.3 provides that any mitigation measures agreed on during this consultation “shall be recommended for inclusion in the environmental document and in an adopted mitigation monitoring program” if determined to avoid or lessen a significant impact on TCRs.

### *Assembly Bill 168*

AB 168 was signed in 2020 and extends the responsibility of a development proponent to consult with Native American tribes to streamlined ministerial approvals for affordable multifamily housing developments under SB 35. A development with streamlined ministerial approval under SB 35 is not subject to CEQA, allowing for such developments to occur without going through a CEQA review or screening process to determine if they would affect TCRs.

AB 168 requires a development proponent to submit notice of its intent to apply for streamlined approval to the local government prior to the actual application submittal. The local government is then required to provide formal notice to each California Native American tribe that is culturally affiliated with the geographic area of the proposed development and to engage in a scoping consultation regarding the potential effects the proposed development could have on a potential TCR (California Government Code Section 65913.4(b)). The scoping consultation must commence within 30 days after the proponent submits a notice of intent to apply for ministerial approval and conclude before the proponent can submit the application.

AB 168 deems a project ineligible for the streamlined, ministerial approval process and requires it be subject to CEQA if:

- A. The site of the proposed development is a TCR that is on a national, state, tribal, or local historic register list;

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- B. The local government and the California Native American tribe do not agree that no potential TCR would be affected by the proposed development; or
- C. The local government and California Native American tribe find that a potential TCR could be affected by the proposed development and the parties do not document an enforceable agreement regarding the methods, measures, and conditions for treatment of those TCRs, as provided.

### Local Regulations

#### *General Plan 2040*

The proposed Land Use and Community Design (LU) Element of the General Plan 2040 contains goals, policies, and strategies that require local planning and development decisions to consider impacts to cultural and tribal cultural resources. Applicable policies and strategies that would minimize potential adverse impacts on cultural and tribal cultural resources are identified in Section 4.4.3, *Impact Discussion*.

#### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to minimize adverse impacts to cultural and tribal cultural resources in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to cultural and tribal cultural resources are included in Title 17, *Environmental Regulations*, and Title 19, *Zoning*, as follows:

- **Chapter 17.04, *Standard Environmental Protection Requirements*.** The purpose of this chapter is to identify standard environmental protection requirements that all construction projects must meet, including, but not limited to, environmental mitigation measures identified in any environmental documents required as part of a General Plan update. This chapter includes specific requirements for the protection of cultural and tribal cultural resources.
  - **Section 17.04.050(E), *Cultural Resources Permit Requirements*.** This section describes the procedures for the protection of cultural and tribal cultural resources.
    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:
      - 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.

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- 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

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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.

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.
- **Title 19, Zoning.** Besides the General Plan, the zoning code is the primary tool that shapes the form and character of physical development in Cupertino. This title establishes comprehensive zoning regulations for the city and assures the orderly and beneficial development of the city, attains a desirable balance of residential and employment opportunities, and promotes efficient urban design and arrangement. The zoning code sets forth the standards requiring architectural and site review and stipulating criteria for new development near historic buildings and districts.

### 4.4.1.3 EXISTING CONDITIONS

Chapter 4.4, *Cultural Resources*, of the General Plan EIR, addresses the impacts to cultural and tribal cultural resources associated with buildout of the General Plan at a program level. The setting for cultural and tribal cultural resources is described in the General Plan EIR Section 4.4.1.2, *Existing Conditions*. Since the certification of the General Plan EIR in 2015, impacts to tribal cultural resources have been added to the standards of significance.

### 4.4.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant cultural and tribal cultural resources impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
CUL-1. Cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5?	LTS	LTS

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Implementation of the proposed Modified Project would result in significant cultural and tribal cultural resources impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
CUL-2. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?	LTS	LTS
CUL-3. Disturb any human remains, including those interred outside of dedicated cemeteries?	LTS	LTS
CUL-4. Cause a substantial adverse change in the significance of a Tribal Cultural Resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is: (i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or (ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in Public Resources Code Section 5024.1(c). In applying the criteria set forth in Public Resources Code Section 5024.1(c) for the purposes of this paragraph, the lead agency shall consider the significance to a California Native American tribe?	N/A	LTS
CUL-5. Result in a cumulatively considerable impact with respect to cultural and tribal cultural resources?	LTS	LTS
<p>Note: In December 2018, amendments were made to Appendix G, <i>Environmental Checklist</i>, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. CUL-4 regarding tribal cultural resources was not included in the General Plan EIR and impacts to unique paleontological resources or sites, or unique geological features are now addressed in GEO-6 in Chapter 4.6, <i>Geology and Soils</i>, of this EA.</p> <p>Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable; N/A = not a standard of significance in the General Plan EIR.</p>		

**4.4.3 IMPACT DISCUSSION**

<b>CUL-1</b>	<b>Implementation of the proposed Modified Project would not cause a substantial adverse change in the significance of a historical resource pursuant to CEQA Guidelines Section 15064.5.</b>
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The General Plan EIR identified several historical resources within the boundaries of the Approved Project that could be impacted by future development under the Approved Project. Potential impacts to identified historic resources could be from demolition of the resource, inappropriate modification (using incompatible materials, designs, or construction techniques), and incompatible new construction that denigrate established architectural context of the historical resource. However, the General Plan EIR referenced General Plan policies, in addition to the federal and State laws, that would minimize the potential impacts to historical resources and ensure future development under the Approved Project would not cause a substantially adverse change in the significance of a historical resource.

The proposed Modified Project would include potential future development and land use activities within the same boundaries as the Approved Project. Furthermore, as shown on Figure 4-1, *Priority Development Areas and Transit Priority Areas*, of this Environmental Assessment (EA), the locations of potential future

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development under the proposed Modified Project would be in similar areas as those of the Approved Project.

The General Plan EIR also found that the Land Use and Community Design (LU) Element contains policies that require local planning and development decisions to consider impacts that development could have on historic resources. Like the Approved Project, the following existing General Plan 2040 policies, and updated policies as part of the proposed Modified Project, would also serve to minimize potential adverse impacts on historic resources:

- **Policy LU- 6.1. *Historic Preservation.*** Maintain and update an inventory of historically significant structures and sites in order to protect resources and promote awareness of the city's history in the following four categories: Historic Sites, Commemorative Sites, Community Landmarks and Historic Mention Sites (General Plan Figure LU-3). (General Plan EIR Policy 2-71)
- **Policy LU-6.2. *Historic Sites.*** Projects on Historic Sites shall meet the Secretary of Interior Standards for Treatment of Historic Properties. (General Plan EIR Policy 2-66)
- **Policy LU-6.3. *Historic Sites, Commemorative Sites and Community Landmarks.*** Projects on Historic Sites, Commemorative Sites and Community Landmarks shall provide a plaque, reader board and/ or other educational tools on the site to explain the historic significance of the resource. The plaque shall include the city seal, name of resource, date it was built, a written description and photograph. The plaque shall be placed in a location where the public can view the information. (General Plan EIR Policies 2-66, 2-67, and 2-68)
- **Policy LU-6.4. *Public Access.*** Coordinate with property owners of public and quasi-public sites to allow public access of Historic and Commemorative Sites to foster public awareness and education. Private property owners will be highly encouraged, but not required to provide public access to Historic and Commemorative Sites. (General Plan EIR Policy 2-66)
- **Policy LU-6.5. *Historic Mention Sites.*** These are sites outside the City's jurisdiction that have contributed to the City's history. Work with agencies that have jurisdiction over the historical resource to encourage adaptive reuse and rehabilitation and provide public access and plaques to foster public awareness and education. (General Plan EIR Policies 2-66 and 2-69)
- **Policy LU- 6.6. *Incentives for Preservation of Historic Resources.*** Utilize a variety of techniques to serve as incentives to foster the preservation and rehabilitation of Historic Resources including:
  1. Allow flexible interpretation of the zoning ordinance not essential to public health and safety. This could include land use, parking requirements and/ or setback requirements.
  2. Use the California Historical Building Codes standards for rehabilitation of historic structures.
  3. Tax rebates (Milles Act or Local tax rebates).
  4. Financial incentives such as grants/ loans to assist rehabilitation efforts. (General Plan EIR Policy 2-70)

Since certification of the General Plan EIR, there have not been any new historical resources added to the city. The policies listed would minimize the potential impacts to historical resources. As with the development assessed in the General Plan EIR, potential new development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing historic resources, as necessary. Based on these considerations, overall impacts from adoption and

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implementation of the proposed Modified Project would not result in new or more severe impacts on historical resources beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>CUL-2</b>	<b>Implementation of the proposed Modified Project would not cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5.</b>
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The General Plan EIR found that although the locations identified as potential for future development would be concentrated on sites and in areas either already developed and/or in close proximity to existing residential, where development would have a lesser impact on historical archaeological resources, the potential remains that archaeological deposits could be discovered because project components would result in development on, or within the vicinity of, several identified cultural resources. Ground-disturbing activities could cause a substantial adverse change in the significance of a historical archaeological resource. However, the General Plan included a policy that would protect archaeologically sensitive areas and would provide for the identification of archaeological deposits prior to actions that may disturb such deposits and make impacts less than significant.

The proposed Modified Project would include potential future development and land use activities in the same boundaries as the Approved Project. Furthermore, as shown on Figure 4-1, *Priority Development Areas and Transit Priority Areas*, of this EA, the locations of potential future development under the proposed Modified Project would be in similar areas as those of the Approved Project. Ground-disturbing activities would still have the potential to impact unrecorded Native American prehistoric archaeological sites and other historical archaeological features. However, following the certification of the General Plan EIR, the City codified CMC Section 17.04.050(E), *Cultural Resources Permit Requirements*, that describes the procedures for the protection of cultural and tribal cultural resources, including archaeological resources. Therefore, mandatory compliance with CMC Section 17.04.050(E) as a standard project requirement would ensure that impacts would continue to be less than significant without mitigation from the adoption and implementation of the proposed Modified Project.

As with the development assessed in the General Plan EIR, development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing archaeological resources, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to archaeological resources beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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**CUL-3                      Implementation of the proposed Modified Project would not disturb any human remains, including those interred outside of dedicated cemeteries.**

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The General Plan EIR concluded that human remains associated with pre-contact archaeological deposits could exist in the Approved Project Study Area and could be encountered at the time potential future development would occur. The associated ground-disturbing activities, such as site grading and trenching for utilities, have the potential to disturb human remains interred outside of formal cemeteries. However, any human remains encountered during ground-disturbing activities associated with future development under implementation of the Approved Project would be subject to federal, State, and local regulations, such as the California Health and Safety Code Section 7050.5, PRC Section 5097.98, and CCR Section 15064.5(e) and the General Plan policy that protects Native American burial sites. Therefore, while the potential for discovery or disturbance of any human remains during construction activities associated with the Approved Project is possible, the policies and regulations included in the General Plan EIR would minimize the impacts to less than significant.

The proposed Modified Project would include potential future development and land use activities within the same boundaries as the Approved Project. Furthermore, as shown on Figure 4-1, *Priority Development Areas and Transit Priority Areas*, of this EA, the locations of potential future development under the proposed Modified Project would be in similar areas as those of the Approved Project.

The General Plan EIR also found that the Land Use and Community Design (LU) Element contains policies that require local planning and development decisions to consider impacts that development could have on human remains.

Ground-disturbing activities still have the potential to impact human remains. However, following the certification of the General Plan EIR, the City codified CMC Section 17.04.050(E), *Cultural Resources Permit Requirements*, that describes the procedures for the protection of cultural and tribal cultural resources. Therefore, mandatory compliance with CMC Section 17.04.050(E) would ensure that impacts would continue to be less than significant without mitigation from the adoption and implementation of the proposed Modified Project.

As with the future potential development assessed in the General Plan EIR, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing human remains, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to human remains beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.



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<b>CUL-4</b>	<p><b>Implementation of the proposed Modified Project would not cause a substantial adverse change in the significance of a Tribal Cultural Resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is: (i) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or (ii) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in Public Resources Code Section 5024.1 (c). In applying the criteria set forth in Public Resources Code Section 5024.1(c) for the purposes of this paragraph, the lead agency shall consider the significance to a California Native American tribe.</b></p>
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While the standards regarding tribal cultural resources were adopted by the California Natural Resource Agency in July 2016, after the certification of the General Plan EIR, as described throughout this chapter, the General Plan EIR addressed impacts to cultural resources associated with the Approved Project. Additionally, the cultural resources study prepared for the General Plan EIR consisted of archival research at the Northwest Information Center at Sonoma State University, examination of the library and files, field inspection, and contact with the Native American community. The cultural resources study addressed impacts associated with archaeological resources, including those of Native Americans.

The proposed Modified Project would include potential future development and land use activities in the same boundaries as the Approved Project. Furthermore, as shown on Figure 4-1, *Priority Development Areas and Transit Priority Areas*, of this EA, the locations of potential future development under the proposed Modified Project would be in similar areas as those of the Approved Project. Pursuant to California Government Code Section 21080.3.1 (AB 52), the City provided notification of determination that a project application was complete and provided an opportunity for comments to two members of the Tamien Nation on March 27, 2023: Quirina Luna Geary, Chairwoman and Johnathan Costillas, Tribal Cultural Resource Officer (See Appendix C, *Tribal Consultation Correspondence*).

Additionally, Pursuant to California Government Code Section 65352.3-5 (SB 18), the City requested a list of local Native American representatives as potentially having local knowledge from the NAHC in September 2023. The NAHC responded and provided contact information for 15 Native American tribal representatives, which are listed below. The City submitted letters, shown in Appendix C, in December 2023 to provide an opportunity for the listed Native American tribes to participate in local land use decisions at an early planning stage, for the purpose of protecting or mitigating impacts to cultural places.

- Ed Ketchum, Vice-Chairperson of the Amah Mutsun Tribal Band
- Valentin Lopez, Chairperson of the Amah Mutsun Tribal Band
- Irene Zwierlein, Chairperson of the Amah Mutsun Tribal Band of Mission San Juan Bautista
- Ann Marie Sayers, Chairperson of the Indian Canyon Mutsun Band of Costanoan
- Kanyon Sayers-Roods, Most Likely Descendent (MLD) of the Indian Canyon Mutsun Band of Costanoan

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- Monica Arellano, Vice Chairwoman of the Muwekma Ohlone Indian Tribe of the SF Bay Area
- Charlene Nijmeh, Chairperson of the Muwekma Ohlone Indian Tribe of the SF Bay Area
- Timothy Perez, North Valley Yokuts Tribe
- Katherine Perez, Chairperson of the North Valley Yokuts Tribe
- Lillian Camarena, Secretary of the Tamien Nation
- Johnathan Wasaka Costillas, THPO of the Tamien Nation
- Quirina Luna Geary, Chairperson of the Tamien Nation
- Andrew Galvan, Chairperson of the Ohlone Indian Tribe
- Vincent Medina, Tribal Consultant for the Ohlone Indian Tribe
- Kenneth Woodrow, Chairperson of the Wuksachi Indian Tribe/Eshom Valley Band

No responses were received at the time of the publication of this EA. The City remains open to consultation with tribal representatives. In addition, the City requested a Sacred Lands File search, which was completed by NAHC Cultural Resources Analyst, Cody Champagne, on October 23, 2023, with negative results.

Following the certification of the General Plan EIR, the City codified CMC Section 17.04.050(E), *Cultural Resources Permit Requirements*, that describes the procedures for the protection of cultural and tribal cultural resources. Therefore, mandatory compliance with CMC Section 17.04.050(E), would ensure that impacts would continue to be less than significant without mitigation from the adoption and implementation of the proposed Modified Project.

As with the future potential development assessed in the General Plan EIR, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing tribal cultural resources, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to tribal cultural resources beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>CUL-5</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to cultural or tribal cultural resources.</b>
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The General Plan EIR concluded that potential future development permitted under the Approved Project, in conjunction with buildout of the city and the region, has the potential to cumulatively impact historical resources. Such impacts could result from more intensive land uses, incompatible site designs that impact the historical integrity of nearby historical buildings and districts, and demolition of historical resources. Further, development in the Approved Project Study Area also has the potential to adversely affect archaeological resources and human remains through their destruction or disturbance. However, the General Plan policies and strategies, and mandatory regulation would minimize impacts to such resources that would occur from development and land use changes under the Approved Project.

## CULTURAL AND TRIBAL CULTURAL RESOURCES

Like the Approved Project, the proposed Modified Project has the same potential to cumulatively impact historical resources since the Study Area and known resources have remained the same. The General Plan policies in place to protect cultural resources described in the previous impact discussions and CMC Section 17.04.050(E) would also help to reduce impacts to cultural and tribal cultural resources.

Further, future potential development under the proposed Modified Project and other projects would be required to comply with applicable laws, policies, and design standards governing cultural and tribal cultural resources, as necessary. Therefore, the proposed Modified Project would not result in new or more severe cumulatively considerable impacts to cultural and tribal cultural resources beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

## **CULTURAL AND TRIBAL CULTURAL RESOURCES**

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## **4.5 ENERGY**

This chapter describes the potential energy impacts associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and baseline conditions, identifies criteria used to determine impact significance, provides an analysis of the potential energy impacts, and identifies General Plan 2040 policies that could minimize any potentially significant impacts.

### **4.5.1 ENVIRONMENTAL SETTING**

#### **4.5.1.1 REGULATORY FRAMEWORK**

##### **Federal Regulations**

###### *Federal Energy Policy and Conservation Act*

The Energy Policy and Conservation Act of 1975 was established in response to the 1973 oil crisis. The act created the Strategic Petroleum Reserve, established vehicle fuel economy standards, and prohibited the export of United States crude oil (with a few limited exceptions). It also created Corporate Average Fuel Economy (CAFE) standards for passenger cars starting in model year 1978. The CAFE standards are updated periodically to account for changes in vehicle technologies, driver behavior, and/or driving conditions.

The federal government issued new CAFE standards in 2012 for model years 2017 to 2025 that required a fleet average of 54.5 miles per gallon (MPG) for model year 2025. However, on March 30, 2020, the United States Environmental Protection Agency (USEPA) finalized an updated CAFE and greenhouse gas (GHG) emissions standards for passenger cars and light trucks and established new standards, covering model years 2021 through 2026, known as the Safer Affordable Fuel Efficient (SAFE) Vehicles Final Rule for Model Years 2021 through 2026. Under SAFE, the fuel economy standards will increase 1.5 percent per year compared to the 5 percent per year under the CAFE standards established in 2012. Overall, SAFE requires a fleet average of 40.4 MPG for model year 2026 vehicles. On March 31, 2022, the National Highway Traffic Safety Administration finalized new fuel standards, which will increase fuel efficiency 8 percent annually for model years 2024 to 2025 and 10 percent annually for model year 2026. Overall, the new CAFE standards require a fleet average of 49 MPG for passenger vehicles and light trucks for model year 2026, which will be a 10 MPG increase relative to model year 2021.<sup>1</sup>

###### *Energy Independence and Security Act of 2007*

The Energy Independence and Security Act of 2007 (Public Law 110-140) seeks to provide the nation with greater energy independence and security by increasing the production of clean renewable fuels; improving vehicle fuel economy; and increasing the efficiency of products, buildings, and vehicles. It also

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<sup>1</sup> National Highway Traffic Safety Administration, April 1, 2022, USDOT Announces New Vehicle Fuel Economy Standards for Model Year 2024-2026, <https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026>, accessed January 26, 2024.

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seeks to improve the energy performance of the federal government. The act sets increased CAFE Standards; the Renewable Fuel Standard; appliance energy-efficiency standards; building energy-efficiency standards; and accelerated research and development tasks on renewable energy sources (e.g., solar energy, geothermal energy, and marine and hydrokinetic renewable energy technologies), carbon capture, and sequestration.<sup>2</sup>

### *Energy Policy Act of 2005*

Passed by Congress in July 2005, the Energy Policy Act includes a comprehensive set of provisions to address energy issues. This Act includes tax incentives for energy conservation improvements in commercial and residential buildings, fossil fuel production and clean coal facilities, and construction and operation of nuclear power plants, among other things. Subsidies are also included for geothermal, wind energy, and other alternative energy producers.

### *National Energy Policy*

Established in 2001 by the National Energy Policy Development Group, the National Energy Policy is designed to help the private sector and state and local governments promote dependable, affordable, and environmentally sound production and distribution of energy for the future. Key issues addressed by the energy policy are energy conservation, repair and expansion of energy infrastructure, and ways of increasing energy supplies while protecting the environment.

### *Natural Gas Pipeline Safety Act of 1968*

The Natural Gas Pipeline Safety Act of 1968 authorizes the United States Department of Transportation to regulate pipeline transportation of flammable, toxic, or corrosive natural gas and other gases as well as the transportation and storage of liquefied natural gas. The Pipeline and Hazardous Materials Safety Administration within the United States Department of Transportation develops and enforces regulations for the safe, reliable, and environmentally sound operation of the nation's 2.6-million-mile pipeline transportation system.

## State Regulations

### *Warren-Alquist Act*

Established in 1974, the Warren-Alquist Act created the California Energy Commission (CEC) in response to the energy crisis of the early 1970s and the state's unsustainable growing demand for energy resources. The CEC's core responsibilities include advancing State energy policy, encouraging energy efficiency, certifying thermal power plants, investing in energy innovation, developing renewable energy, transforming transportation, and preparing for energy emergencies. The Warren-Alquist Act is updated annually to address current energy needs and issues, and its latest edition was in November 2023.

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<sup>2</sup> Authenticated U.S. Government Information, 2007. One Hundred Tenth Congress of the United States of America, H.R. 6, <https://www.govinfo.gov/content/pkg/BILLS-110hr6enr/pdf/BILLS-110hr6enr.pdf>, accessed January 26, 2024.

### *California Energy Commission*

The California Energy Commission (CEC) was created in 1974 under the Warren-Alquist Act as the State's principal energy planning organization in order to meet the energy challenges facing the state in response to the 1973 oil embargo. The CEC is charged with six basic responsibilities when designing state energy policy:

- Forecast statewide electricity needs.
- License power plants to meet those needs.
- Promote energy conservation and efficiency measures.
- Develop renewable energy resources and alternative energy technologies.
- Promote research, development, and demonstration.
- Plan for and direct the state's response to energy emergencies.

### *California Public Utilities Commission*

In September 2008, the California Public Utilities Commission (CPUC) adopted the Long-Term Energy Efficiency Strategic Plan, which provides a framework for energy efficiency in California through the year 2020 and beyond. It articulates a long-term vision, as well as goals for each economic sector, identifying specific near-term, mid-term, and long-term strategies to assist in achieving these goals. This Plan sets forth the following four goals, known as Big Bold Energy Efficiency Strategies, to achieve significant reductions in energy demand:

- All new residential construction in California will be zero net energy by 2030;
- All new commercial construction in California will be zero net energy by 2030;
- Heating, Ventilation, and Air Conditioning (HVAC) will be transformed to ensure that its energy performance is optimal for California's climate; and
- All eligible low-income customers will be given the opportunity to participate in the low-income energy efficiency program by 2020.

The CPUC and CEC have adopted the following goals to achieve zero net energy levels by 2030 in the commercial sector:

- **Goal 1:** New construction will increasingly embrace zero net energy performance (including clean, distributed generation), reaching 100 percent penetration of new starts in 2030.
- **Goal 2:** 50 percent of existing buildings will be retrofit to zero net energy by 2030 through achievement of deep levels of energy efficiency and with the addition of clean distributed generation.
- **Goal 3:** Transform the commercial lighting market through technological advancement and innovative utility initiatives.

### *Renewable Portfolio: Carbon Neutrality Regulations*

#### Senate Bills 1078, 107, X1-2, and Executive Order S-14-08

The California Renewables Portfolio Standard (RPS) was established in 2002 under Senate Bill (SB) 1078 and was amended in 2006, 2011, and 2018. The RPS program requires investor-owned utilities, electric service providers, and community choice aggregators to increase the use of eligible renewable energy resources to 33 percent of total procurement by 2020. Initially under the RPS, certain retail sellers of

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electricity were required to increase the amount of renewable energy each year by at least 1 percent in order to reach at least 20 percent by December 30, 2010. Executive Order S 14 08 was signed in November 2008, which expanded the state's Renewable Energy Standard to 33 percent renewable power by 2020. This standard was adopted by the California legislature in 2011 (SB X1-2). The California Public Utilities Commission is required to provide quarterly progress reports on progress toward RPS goals. This has accelerated the development of renewable energy projects throughout the state. For year 2022, the three largest retail energy utilities provided an average of 48.4 percent of their supplies from renewable energy sources. Community choice aggregators provided an average of 52 percent of its supplies from renewable sources.<sup>3</sup>

### Senate Bills 350 and 100

SB 350 was signed on October 7, 2015, which expands the RPS by establishing a goal of 50 percent of the total electricity sold to retail customers in California per year by December 31, 2030. In addition, SB 350 includes the goal to double the energy efficiency savings in electricity and natural gas final end uses (such as heating, cooling, lighting, or class of energy uses upon which an energy efficiency program is focused) of retail customers through energy conservation and efficiency. The bill also requires the CPUC, in consultation with the CEC, to establish efficiency targets for electrical and gas corporations consistent with this goal. SB 350 also provides for the transformation of the California Independent System Operator into a regional organization to promote the development of regional electricity transmission markets in the western states and to improve the access of consumers served by the California Independent System Operator to those markets, pursuant to a specified process.

On September 10, 2018, SB 100 was signed to replace the SB 350 requirements. Under SB 100, the RPS for public owned facilities and retail sellers consist of 44 percent renewable energy by 2024, 52 percent by 2027, and 60 percent by 2030. Additionally, SB 100 also established a new RPS requirement of 50 percent by 2026. Furthermore, the bill also establishes an overall State policy that eligible renewable energy resources and zero-carbon resources supply 100 percent of all retail sales of electricity to California end-use customers and 100 percent of electricity procured to serve all State agencies by December 31, 2045. Under the bill, the State cannot increase carbon emissions elsewhere in the western grid or allow resource shuffling to achieve the 100 percent carbon-free electricity target.

### Senate Bill 1020

SB 1020 was signed into law on September 16, 2022. It requires renewable energy and zero-carbon resources to supply 90 percent of all retail electricity sales by 2035 and 95 percent by 2040. Additionally, SB 1020 requires all state agencies to procure 100 percent of electricity from renewable energy and zero-carbon resources by 2035.

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<sup>3</sup> California Public Utilities Commission (CPUC). 2023, May. 2023 Padilla Report: Costs and Savings for the RPS Program (Public Utilities Code Section 913.3), <https://www.cpuc.ca.gov/-/media/cpuc-website/industries-and-topics/documents/energy/rps/2023/2023-padilla-report---final.pdf>, accessed February 2, 2024.



## *Energy-Efficiency Regulations*

### Appliance Efficiency Regulations

California's Appliance Efficiency Regulations contain energy performance, energy design, water performance, and water design standards for appliances (including refrigerators, ice makers, vending machines, freezers, water heaters, fans, boilers, washing machines, dryers, air conditioners, pool equipment, and plumbing fittings) that are sold or offered for sale in California (California Code of Regulations Title 20, Parts 1600–1608). These standards are updated regularly to allow consideration of new energy efficiency technologies and methods.<sup>4</sup>

### California Building Energy Code: Title 24, Part 6, Energy Efficiency Standards

Energy conservation standards for new residential and non-residential buildings were adopted by the California Energy Resources Conservation and Development Commission (now the CEC) in June 1977 and most recently revised in 2022 (California Code of Regulations Title 24, Part 6). Title 24 requires the design of building shells and building components to conserve energy periodically to allow for consideration and possible incorporation of new energy efficiency technologies and methods. The 2022 standards became effective and replaced the 2019 standards on January 1, 2023.

The Energy Code contains mandatory requirements, which are required for all new development and include standards covering space conditioning, water heating, cooking and furnace equipment, building insulation, lighting controls, electrical distribution, and solar readiness. In addition to the mandatory requirements, for a new development to demonstrate compliance with the Energy Code, it must demonstrate compliance with either the Prescriptive Approach or Performance Approach. The Prescriptive Approach contains various prescribed features, such as solar water heaters, solar panel arrays, and battery storage, depending on the building occupancy types and location. For instance, the single-family and low-rise (3 or fewer habitable stories) multi-family residential occupancy types would require a photovoltaic (solar) system but no battery storage under the prescriptive pathway, while high-rise (greater than 3 habitable stories) multi-family residential, grocery, office, financial institution, unleased tenant space, retail, school, warehouse, auditorium, convention center, hotel, motel, library, medical office building/clinic, restaurant, and theater occupancy types would require both solar and battery storage systems under the Prescriptive Approach.

Under the Prescriptive Approach, a new development's building design is called the "Standard Design Building," which represents the energy efficiency performance of that project should it include all prescribed features (e.g., solar, battery storage) with no additional energy efficiency features beyond what is required at minimum under the mandatory requirements and prescriptive pathway. A project may instead demonstrate compliance with the Energy Code using the Performance Approach without including prescriptive features like solar or battery storage; however, that building design must match or exceed the energy efficiency performance of the Standard Design Building—that is, what the building's energy efficiency performance would be if it were to include solar and battery storage. For example, if a

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<sup>4</sup> California Energy Commission, 2017, *2016 Appliance Efficiency Regulations*, <https://pdf4pro.com/cdn/2016-appliance-efficiency-regulations-5104f7.pdf>, accessed January 26, 2024.

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project would be required to include solar and battery storage under the Prescriptive Approach, it can instead choose to comply with the Performance Approach and not include solar and battery storage so long as it can demonstrate that it would achieve the same energy efficiency performance as if solar and battery storage were included, as applicable.

### California Building Code: Title 24, Part 11, Green Building Standards

On July 17, 2008, the California Building Standards Commission adopted the nation's first green building standards. The California Green Building Standards Code (24 CCR, Part 11, known as "CALGreen") was adopted as part of the California Building Standards Code (CBSC). It includes mandatory requirements for new residential and nonresidential buildings throughout California. CALGreen is intended to (1) reduce GHG emissions from buildings; (2) promote environmentally responsible, cost-effective, healthier places to live and work; (3) reduce energy and water consumption; and (4) respond to the directives by the Governor. The mandatory provisions of CALGreen became effective January 1, 2011, and were last updated in 2022. The 2022 CALGreen update, which was approved as part of 2022 Energy Code, became effective on January 1, 2023, and provides updates to the residential and non-residential voluntary measures. The next update to CALGreen—the intervening cycle update—will take effect starting July 1, 2024.

Overall, the code is established to reduce construction waste, make buildings more efficient in the use of materials and energy, and reduce environmental impact during and after construction. CALGreen contains requirements for construction site selection, stormwater control during construction, construction waste reduction, indoor water use reduction, material selection, natural resource conservation, site irrigation conservation, and more. The code provides for design options allowing the designer to determine how best to achieve compliance for a given site or building condition. The code also requires building commissioning, which is a process for verifying that all building systems (e.g., heating and cooling equipment and lighting systems) are functioning at their maximum efficiency.

### 2006 Appliance Efficiency Regulations

The 2006 Appliance Efficiency Regulations (20 CCR Sections 1601 through 1608) were adopted by the CEC on October 11, 2006, and approved by the California Office of Administrative Law on December 14, 2006. The regulations include standards for both federally regulated appliances and non-federally regulated appliances. They contain energy performance, energy design, water performance, and water design standards for appliances (including refrigerators, ice makers, vending machines, freezers, water heaters, fans, boilers, washing machines, dryers, air conditioners, pool equipment, and plumbing fittings) that are sold or offered for sale in California (California Code of Regulations Title 20, Parts 1600–1608). These standards are updated regularly to allow consideration of new energy efficiency technologies and methods.

## *Off-road Equipment and Transportation-Related Regulations*

### Assembly Bill 1493

California vehicle GHG emission standards were enacted under AB 1493 (Pavley I). Pavley I is a clean-car standard that reduces GHG emissions from new passenger vehicles (light-duty auto to medium-duty vehicles) from 2009 through 2016 and is anticipated to reduce GHG emissions from new passenger vehicles by 30 percent in 2016. California implements the Pavley I standards through a waiver granted to California by the EPA. In 2012, the EPA issued a Final Rulemaking that sets even more stringent fuel economy and GHG emissions standards for model year 2017 through 2025 light-duty vehicles (see also the discussion on the update to the CAFE standards described previously in the "Federal Regulations" section). In January 2012, the California Air Resources Board approved the Pavley Advanced Clean Cars program (formerly known as Pavley II) for model years 2017 through 2025. The program combines the control of smog, soot, and GHGs and requirements for greater numbers of zero-emission vehicles into a single package of standards. Under California's Advanced Clean Car program, by 2025, new automobiles will emit 34 percent fewer global warming gases and 75 percent fewer smog-forming emissions.<sup>5</sup>

### Title 13, Chapter 9, Article 4.8, Section 2449

Section 2449 of the California Code of Regulations, Title 13, Chapter 9, Article 4.8 was adopted on May 2, 2008, that limits non-essential idling of fleets to no more than five consecutive minutes at any location. This idling restriction applies to all vehicles in California with a diesel-fueled or alternative diesel-fueled off-road engine, unless a waiver provides sufficient justification that such idling is necessary.

### Sustainable Communities and Climate Protection Act

In 2008, the Sustainable Communities and Climate Protection Act, commonly known by its legislative bill number (SB 375) was adopted to connect the GHG emissions reductions targets established in the 2008 Scoping Plan for the transportation sector to local land use decisions that affect travel behavior. Its intent is to reduce GHG emissions from light-duty trucks and automobiles (excludes emissions associated with goods movement) by aligning regional long-range transportation plans, investments, and housing allocations to local land use planning to reduce vehicle miles traveled (VMT) and vehicle trips. Specifically, SB 375 required CARB to establish GHG emissions reduction targets for each of the 18 metropolitan planning organizations (MPOs). The Association of Bay Area Governments (ABAG) is the metropolitan planning organization (MPO) for the Bay Area region, which includes the city of Cupertino. Pursuant to the recommendations of the Regional Transportation Advisory Committee (RTAC), CARB adopted per capita reduction targets for each of the MPOs rather than a total magnitude reduction target.

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<sup>5</sup> California Air Resources Board, January 18, 2017, California's Advanced Clean Cars Midterm Review, [https://ww2.arb.ca.gov/sites/default/files/2020-01/ACC%20MTR%20Summary\\_Ac.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-01/ACC%20MTR%20Summary_Ac.pdf), accessed January 26, 2024.

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### Executive Order N-79-20

On September 23, 2020, Executive Order N-79-20 was issued, which sets a time frame for the transition to zero-emissions (ZE) passenger vehicles and trucks in addition to off-road equipment. It directs CARB to develop and propose the following:

- Passenger vehicle and truck regulations requiring increasing volumes of new ZEVs (zero-emission vehicles) sold in California toward the target of 100 percent of in-state sales by 2035.
- Medium- and heavy-duty vehicle regulations requiring increasing volumes of new ZE trucks and buses sold and operated in California toward the target of 100 percent of the fleet transitioning to ZEVs by 2045 everywhere feasible, and for all drayage trucks to be ZE by 2035.
- Strategies to achieve 100 percent zero emissions from all off-road vehicles and equipment operations in California by 2035, in cooperation with other State agencies, the EPA, and local air districts.

On August 25, 2022, CARB adopted the Advanced Clean Cars II (ACC II) regulations that codifies the EO goal of 100 percent of in-state sales of new passenger vehicles and trucks be ZE by 2035. Starting in the year 2026, ACC II requires that 35 percent of new vehicles sold be ZEVs or plug-in hybrids.

### Advanced Clean Fleets Regulation

In April 2023, CARB released the Advanced Clean Fleets (ACF) regulation to accelerate the transition to zero-emission medium- and heavy-duty vehicles.<sup>6</sup> In conjunction with the Advanced Clean Trucks (ACT) regulation, the ACF regulations helps to ensure that medium- and heavy-duty ZEVs are brought to the market, by requiring certain fleets to purchase ZEVs. The ACF ZEV phase-in approach which provides initial focus where the best fleet electrification opportunities exist, sets clear targets for regulated fleets to make a full conversion to ZEVs, and creates a catalyst to accelerate development of a heavy-duty public infrastructure network.

The ACF regulations covers four main elements:

- **Manufacturer sales mandate.** Manufacturers may sell only zero-emission medium- and heavy-duty vehicles starting in 2036.
- **Drayage fleets.** Beginning January 1, 2024, trucks must be registered in the CARB Online System to conduct drayage activities in California. Non-zero-emission “legacy” drayage trucks may register in the CARB Online System through December 31, 2023. Legacy drayage trucks can continue to operate through their minimum useful life. Beginning January 1, 2024, only zero-emission drayage trucks may register in the CARB Online System. All drayage trucks entering seaports and intermodal railyards would be required to be zero-emission by 2035.
- **High-priority and federal fleets.** High-priority and federal fleets must comply with the Model Year Schedule or may elect to use the optional ZEV Milestones Option to phase-in ZEVs into their fleets:

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<sup>6</sup> California Air Resources Board. 2024. Advanced Clean Fleets Regulation. <https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets/about>, accessed January 26, 2024.

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- **Model Year Schedule:** Fleets must purchase only ZEVs beginning 2024 and, starting January 1, 2025, must remove internal combustion engine vehicles at the end of their useful life as specified in the regulation.
- **ZEV Milestones Option (Optional):** Instead of the Model Year Schedule, fleets may elect to meet ZEV targets as a percentage of the total fleet starting with vehicle types that are most suitable for electrification.
- **State and local agencies.** State and local government fleets, including city, county, special district, and State agency fleets, would be required to ensure 50 percent of vehicle purchases are zero-emission beginning in 2024 and 100 percent of vehicle purchases are zero-emission by 2027. Small government fleets (those with 10 or fewer vehicles) and those in designated counties would start their ZEV purchases beginning in 2027. Alternately, State and local government fleet owners may elect to meet ZEV targets using the ZEV Milestones Option. State and local government fleets may purchase either ZEVs or near-ZEVs, or a combination of ZEVs and near-ZEVs, until 2035. Starting in 2035, only ZEVs will meet the requirements.

The ACF regulations would also establish requirements that transform the medium- and heavy-duty vehicle sector and demonstrate independent utility through achievement of the following objectives:

- Achieve criteria and GHG emissions reductions consistent with the goals identified in the State Implementation Plan (SIP) Strategy and Scoping Plan.
- Provide emissions reductions in disadvantaged communities (DAC), thereby supporting the implementation of Assembly Bill (AB) 617 (Garcia, C., Chapter 136, Statutes of 2017).
- Support the goals of Executive Order N-79-20 which calls for accelerated ZEV deployment with these targets:
  - 100 percent ZE drayage by 2035
  - 100 percent ZE trucks and buses where feasible by 2045
- Ensure requirements, such as ZEV deployment schedules and related infrastructure build-out, are technologically feasible, cost-effective, and support market conditions.
- Lead the transition away from petroleum fuels and towards electric drivetrains.
- Contribute towards achieving carbon neutrality in California pursuant to Senate Bill (SB) 100, and in accordance with Executive Order B-55-18.
- Mindfully set requirements to allow time for public ZE infrastructure buildout for smaller fleets or for regional haul applications who would be reliant on a regional network of public chargers.
- Ensure manufacturers and fleets work together to place ZEVs in service suitably and successfully as market expands.
- Establish a fair and level playing field among fleet owners.
- Craft the Proposed Modified Project in a way that ensures institutional capacity for CARB to manage, implement, and enforce requirements.

### *Energy Storage*

California has set ambitious long-term goals for energy storage beyond 2026 to support its clean energy and climate goals. The state aims to reach 100 percent carbon-free electricity by 2045, which will require significant investment in renewable energy sources like wind and solar, as well as energy storage technologies to balance the variability of these sources.

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The California Independent System Operator (CAISO) has a total energy storage capacity of more than 3,160 megawatts (MW) as of June 2022.<sup>7</sup> This includes both large-scale and distributed energy storage systems, such as batteries, pumped hydroelectric storage, and thermal storage. CAISO is responsible for managing the electricity grid for much of California, and it has set a target of adding 3,300 MW of additional energy storage capacity by 2024 to support the integration of more renewable energy sources like wind and solar. As part of SB 100, load serving entities (LSEs) were required to procure no less than 1.3 gigawatts (GW) of energy storage capacity by 2020, and 3 GW by 2030. Additionally, the CPUC has established a target of 15 GW of energy storage capacity by 2030.<sup>8</sup>

### The Integrated Resource Plan (IRP)

CAISO develops a coordinated grid management plan to integrate the generation and storage capacities of LSEs, called the Integrated Resource Plan (IRP). The IRP is a comprehensive planning document that outlines CAISO's forecasts for electricity demand, supply, and transmission needs over a 20-year planning horizon, as well as its strategies for integrating renewable energy resources and other grid services to meet those needs. The plan is developed in collaboration with LSEs, regulators, and other stakeholders, and is updated periodically to reflect changes in the energy landscape and evolving policy goals. Overall, the IRP plays a critical role in ensuring the reliability and resilience of California's electricity grid as the state continues to transition to a cleaner and more sustainable energy system.

When an individual Battery Energy Storage (BES) facility or generation infrastructure (i.e., solar panels) comes online in California, it is typically included in the IRP through a process known as the Interconnection Queue. The Interconnection Queue is managed by the CAISO, which oversees the operation of the State's electricity grid.

### The Interconnection Queue

The Interconnection Queue is an application process that functions as a waiting list of proposed electricity generation and storage projects that are seeking to connect to the grid. When a new BES facility or generation infrastructure is proposed, the developer applies to CAISO to request an interconnection to the grid. CAISO evaluates the application to ensure that the facility meets technical and operational requirements, such as voltage regulation and frequency response, and that it can be integrated effectively into the grid.

Once the BES facility or generation infrastructure is approved by CAISO, it is assigned a point of interconnection on the grid, and its output is added to the IRP as a resource that can provide electricity and other grid services, such as frequency regulation or ramping support. The facility is then dispatched

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<sup>7</sup> California Independent System Operator, June 14, 2022, "A golden age of energy storage," <http://www.caiso.com/about/Pages/Blog/Posts/A-golden-age-of-energy-storage.aspx>, accessed January 26, 2024.

<sup>8</sup> California Public Utilities Commission, November 13, 2023, Draft 2023 Integrated Energy Policy Report, <https://www.energy.ca.gov/data-reports/reports/integrated-energy-policy-report/2023-integrated-energy-policy-report>, accessed January 26, 2024.

by CAISO based on its bids into the day-ahead and real-time electricity markets, and its output is used to help balance supply and demand on the grid in real-time.

Overall, the Interconnection Queue is an important mechanism for integrating new BES facilities and other electricity resources into the California grid, and for ensuring that the grid remains reliable and resilient as the state continues to transition to a cleaner and more sustainable energy system.

## Regional Regulations

### *Plan Bay Area 2050*

The Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) adopted Plan Bay Area 2050 on October 21, 2021.<sup>9</sup> Plan Bay Area 2050 provides transportation and environmental strategies to continue to meet the regional transportation-related GHG reduction goals of SB 375. 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. GHG emissions from transportation would decrease significantly as a result of these transportation and land use changes, and the Bay Area would meet the state mandate of a 19-percent reduction in per-capita emissions by 2035 — but only if all strategies are implemented.<sup>10</sup>

To achieve MTC’s/ABAG’s sustainable vision for the Bay Area, the Plan Bay Area land use concept plan for the region concentrates most new population and employment growth in the region in Priority Development Areas (PDAs). PDAs are transit-oriented, infill development opportunity areas within existing communities. 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. In Cupertino, there are four TPAs and two PDAs, the Santa Clara Valley Transportation Authority City Cores, Corridors & Station Areas, and South DeAnza.<sup>11,12</sup>

<sup>9</sup> Association of Bay Area Governments/Metropolitan Transportation Commission, 2021, October. Plan Bay Area 2050. [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed January 26, 2024.

<sup>10</sup> Association of Bay Area Governments/Metropolitan Transportation Commission, 2021, October. Plan Bay Area 2050. [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed January 26, 2024.

<sup>11</sup> Metropolitan Transportation Commission, Transit Priority Areas (2021), 2024, <https://opendata.mtc.ca.gov/datasets/MTC::transit-priority-areas-2021-1/explore?location=37.328339%2C-122.044206%2C14.00>, accessed on January 26, 2024.

<sup>12</sup> Metropolitan Transportation Commission, Priority Development Areas – Plan Bay Area 2050, 2024, <https://opendata.mtc.ca.gov/datasets/priority-development-areas-plan-bay-area-2050/explore?location=37.319615%2C-122.033008%2C14.71>, accessed on January 26, 2024.

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## ENERGY

### *Bay Area Air Quality Management District Clean Air Plan*

BAAQMD adopted the 2017 *Clean Air Plan, Spare the Air, Cool the Climate* (Clean Air Plan) on April 19, 2017. The 2017 Clean Air Plan also lays the groundwork for reducing GHG emissions in the Bay Area to meet the state's 2030 GHG reduction target and 2050 GHG reduction goal. It also includes a vision for the Bay Area in a post-carbon year 2050 that encompasses the following:

- Construct buildings that are energy efficient and powered by renewable energy.
  - Walk, bicycle, and use public transit for the majority of trips and use electric-powered autonomous public transit fleets.
  - Incubate and produce clean energy technologies.
- Live a low-carbon lifestyle by purchasing low-carbon foods and goods in addition to recycling and putting organic waste to productive use.<sup>13</sup>

A comprehensive multipollutant control strategy has been developed to be implemented in the next 3 to 5 years to address public health and climate change and to set a pathway to achieve the 2050 vision. The control strategy includes 85 control measures to reduce emissions of ozone, particulate matter, toxic air contaminants, and GHG from a full range of emission sources. These control measures cover the following sectors: 1) stationary (industrial) sources; 2) transportation; 3) energy; 4) agriculture; 5) natural and working lands; 6) waste management; 7) water; and 8) super-GHG pollutants. Overall, the proposed control strategy is based on the following key priorities:

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of "super-GHGs" such as methane, black carbon, and fluorinated gases.
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
  - Increase efficiency of the energy and transportation systems.
  - Reduce demand for vehicle travel, and high-carbon goods and services.
- Decarbonize the energy system.
  - Make the electricity supply carbon-free.
  - Electrify the transportation and building sectors.

## Local Regulations

### *General Plan 2040*

The Housing (HE), Environmental Resources and Sustainability (ES), and Infrastructure (INF) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to energy. Applicable policies and strategies that would minimize potential adverse energy impacts are identified in Section 4.5.3, *Impact Discussion*.

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<sup>13</sup> Bay Area Air Quality Management District (BAAQMD), 2017, *Spare the Air: Cool the Climate*, 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?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en), accessed January 26, 2024.



## *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to minimize adverse energy impacts from development in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to energy use and conservation are included in Title 16, *Buildings and Construction*, as follows:

- **Chapter 16.16, *Electrical Code*.** Adopts the 2022 California Electrical Code as the rules, regulations, and standards within the City as to all matters except as modified or amended in the CMC.
- **Chapter 16.32, *Energy Code*.** Adopts the 2022 edition of the California Energy Code and all of the regulations, provisions, conditions and terms of the code and requires newly constructed buildings in the city to be all-electric, with varying exceptions for non-residential occupancies.
- **Chapter 16.58, *Green Building Code*.** Adopts the 2022 edition of the California Green Building Standards Code and includes local amendments regarding the local water and efficient landscape ordinance, electric vehicle charging, and space design for different types of new construction.
  - **Section 16.58.400, *Electrical Vehicle (EV) Charging - Residential*.** Outlines the requirements and installation process of EV chargers in residential areas.

## *Cupertino Climate Action Plan*

Adopted in August 2022, the City of Cupertino CAP 2.0 is an updated roadmap of specific actions to reduce GHG emissions, achieve the City's target of carbon neutrality by 2040, and increase community resilience.<sup>14</sup> The CAP 2.0 allows City decision-makers and the community to understand the sources and magnitude of local GHG emissions and identifies a strategy, reduction measures, and implementation actions the City will use to achieve targets consistent with State recommendations of 15 percent below 2005 emissions levels by 2020, 4.3 metric tons of carbon dioxide equivalent (MTCO<sub>2</sub>e) per person by 2030, and 1.2 MTCO<sub>2</sub>e per person by 2050. The CAP 2.0, adopted in 2022, updated and expanded the City's goals from the 2015 CAP, it also details strategies for Cupertino to prepare for and mitigate approaching risks from climate change.

### **4.5.1.2 EXISTING CONDITIONS**

The General Plan Environmental Impact Report (EIR) did not specifically analyze energy because it was approved prior to the 2019 amendments to the California Environmental Quality Act (CEQA) Guidelines, which incorporated subdivision (b) to CEQA Guidelines Section 15162.2. While certain energy impacts standards, such as the current 2022 Building Energy Efficiency Standards and Senate Bill 100, were adopted after the certification of the General Plan EIR, Chapter 4.14, *Utilities and Services Systems*, of the General Plan EIR addressed energy impacts associated with buildout of the General Plan 2040 at a program level. The setting for energy is described in detail in General Plan EIR Section 4.14.4.1, *Environmental Setting*.

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<sup>14</sup> City of Cupertino, 2022, August, *Climate Action 2.0*, <https://www.cupertino.org/home/showpublisheddocument/31683/637964240923930000>, accessed on January 26, 2024.

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### *Silicon Valley Clean Energy*

Since the certification of the General Plan EIR a new energy service provider has formed, Silicon Valley Clean Energy (SVCE), which provides electricity through geothermal, solar power and storage, wind generation, and long duration storage to its service area. The service area includes Cupertino as well as 10 other jurisdictions, including Campbell, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Milpitas, Monte Sereno, Morgan Hill, Mountain View, Saratoga, Sunnyvale, and unincorporated Santa Clara County.

Customers are automatically enrolled in SVCE but have the option to opt out of SVCE renewable energy sources and receive their energy service from the Pacific Gas and Electric Company (PG&E). PG&E is responsible for maintaining transmission lines, handling customer billing, and responding to new service requests and emergencies within the SVCE service area.

### *Pacific Gas and Electric Company*

#### Electricity

PG&E is a publicly traded utility company which generates, purchases, and transmits energy and natural gas under contract with the CPUC. PG&E's service territory is 70,000 square miles, roughly extending north to Eureka, south to Bakersfield, west to the Pacific Ocean, and east to the Sierra Nevada mountain range. PG&E's electricity distribution system consists of 106,681 circuit-miles of electric distribution lines and 18,466 circuit-miles of interconnected transmission lines.<sup>15</sup> PG&E owns and maintains above-ground networks of electric transmission and distribution facilities throughout the EIR Study Area. In 2022, approximately 39 percent of PG&E's energy generated came from renewable resources including biopower, geothermal, small hydroelectric, solar, and wind power.<sup>16</sup>

PG&E electricity is generated by a combination of sources such as coal-fired power plants, nuclear power plants, and hydro-electric dams, as well as newer sources of energy, such as wind turbines and photovoltaic plants, also known as solar farms. The bulk electric grid (collectively referred to as "The Grid") is a network of high-voltage transmission lines, linked to power plants within the PG&E system. The distribution system, comprised of lower voltage secondary lines, is at the street and neighborhood level, and consists of overhead or underground distribution lines, transformers, and individual service "drops" that connect to the individual customer.

#### Natural Gas

PG&E gas transmission pipeline systems serve approximately 4.5 million gas customers in northern and central California.<sup>17</sup> The system is operated under an inspection and monitoring program. The system

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<sup>15</sup> Pacific Gas and Electric Company, 2024, *Company profile*. [https://www.pge.com/en\\_US/about-pge/company-information/profile/profile.page](https://www.pge.com/en_US/about-pge/company-information/profile/profile.page), accessed January 26, 2024.

<sup>16</sup> Pacific Gas & Electric Company, 2023, Key Sustainability Indicators, <https://www.pgecorp.com/assets/pgecorp/localized/en/sustainability/corporate-responsibility-sustainability/reports/2023/sustainability/key-sustainability-indicators/#fnm1c>, accessed January 26, 2024.

<sup>17</sup> Pacific Gas and Electric Company, 2024. *Company profile*. [https://www.pge.com/en\\_US/about-pge/company-information/profile/profile.page](https://www.pge.com/en_US/about-pge/company-information/profile/profile.page), accessed January 26, 2024.

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operates in real time on a 24-hour basis, and includes leak inspections, surveys, and patrols of the pipelines. PG&E also adopted Pipeline 2020 program, which aims to modernize critical pipeline infrastructure, expand the use of automatic or remotely operated shut-off valves, catalyze development of next-generation inspection technologies, develop industry-leading best practices, and enhance public safety partnerships with local communities, public officials, and first responders. Total natural gas consumption in PG&E's service area was 449,302,071,200 kilo-BTU (KBTU) for 2021.<sup>18</sup> PG&E is the sole provider for natural gas services to the City.

### *Fuel Consumption*

California is among the top producers of petroleum in the country, with crude oil pipelines throughout the state connecting to oil refineries in the Los Angeles, the San Francisco Bay, and the Central Valley regions. In addition to producing petroleum, California is also one of the top consumers of fuel for transportation. With this sector accounting for approximately 35 percent of California's total energy demand in 2020, amounting to approximately 2,355.5 trillion BTUs.<sup>19</sup> In addition, in 2020, California's transportation sector consumed approximately 433 million barrels of petroleum fuels.<sup>20</sup> According to the California Energy Commission, California's 2019 fuel sales were approximately 15,365 million gallons of gasoline and 1,756 million gallons of diesel.<sup>21</sup> In Santa Clara County, approximately 713 million gallons of gasoline and 66 million gallons of diesel fuel were sold in 2019.<sup>22</sup>

## 4.5.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant energy impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
ENE-1. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?	N/A	LTS
ENE-2. Conflict with or obstruct a State or local plan for renewable energy or energy efficiency?	N/A	LTS
ENE-3. Result in a substantial increase in natural gas and electrical service demands, and would not require new energy supply facilities and distribution infrastructure or capacity enhancing alterations to existing facilities?	LTS	LTS
ENE-4. Result in a cumulatively considerable impact with respect to energy resources?	N/A	LTS

<sup>18</sup> California Energy Commission, 2024, Gas Consumption by Planning Area. <http://www.ecdms.energy.ca.gov/gasbyplan.aspx>, accessed January 26, 2024.

<sup>19</sup> United States Energy Information Administration, 2021, *Table F35: Total Energy Consumption, Price, and Expenditure Estimates, 2021*, [https://www.eia.gov/state/seds/sep\\_fuel/html/pdf/fuel\\_te.pdf](https://www.eia.gov/state/seds/sep_fuel/html/pdf/fuel_te.pdf), accessed January 26, 2024.

<sup>20</sup> United States Energy Information Administration, 2021, *Table F16: Total Petroleum Consumption Estimates, 2021*, [https://www.eia.gov/state/seds/sep\\_fuel/html/fuel\\_use\\_pa.html](https://www.eia.gov/state/seds/sep_fuel/html/fuel_use_pa.html), accessed January 26, 2024.

<sup>21</sup> California Energy Commission, 2023, *California Retail Fuel Outlet Annual Reporting (CEC-A15) Results*, <https://www.energy.ca.gov/sites/default/files/2023-08/2010-2022%20CEC-A15%20Results%20and%20Analysis%20ADA.xlsx>, accessed January 26, 2024.

<sup>22</sup> California Energy Commission, 2023, *California Retail Fuel Outlet Annual Reporting (CEC-A15) Results*, <https://www.energy.ca.gov/sites/default/files/2023-08/2010-2022%20CEC-A15%20Results%20and%20Analysis%20ADA.xlsx>, accessed January 26, 2024.

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Implementation of the proposed Modified Project would result in significant energy impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
<p>Note: In December 2018, amendments were made to Appendix G, <i>Environmental Checklist</i>, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. Energy has been added as a separate impact category to Appendix G, thus this EA analyzes the current energy questions in addition to ENE-3, which was included in the General Plan EIR as UTIL-11. In the General Plan EIR, energy impacts were evaluated in Chapter 4.15, <i>Utilities and Service Systems</i>. Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable; N/A = not a standard of significance in the General Plan EIR.</p>		

### 4.5.3 IMPACT DISCUSSION

#### METHODOLOGY

To determine whether the proposed Modified Project would result in wasteful, inefficient, or unnecessary consumption of energy resources, this analysis uses the guidance provided in Appendix F of the CEQA Guidelines and the analytical precedent set by *League to Save Lake Tahoe Mountain etc. v. County of Placer* (2022) (75 Cal.App.5th 63, 164-168).

According to Appendix F of the CEQA Guidelines, the goal of conserving energy is translated to include decreasing overall per-capita energy consumption; decreasing reliance on fossil fuels, such as coal, natural gas, and oil; and increasing reliance on renewable energy sources. In *League to Save Lake Tahoe Mountain etc. v. County of Placer* (2022) (75 Cal.App.5th 63, 164-168), the Appellate Court concluded that the analysis of wasteful, inefficient, and unnecessary energy consumption was not adequate because it did not consider whether additional renewable energy features could be added to the project.

The proposed Modified Project would be considered to result in a potentially significant impact if it would result in wasteful, inefficient, or unnecessary consumption of energy resources. Considering the guidance provided by Appendix F of the CEQA Guidelines and the Appellate Court decision in *League to Save Lake Tahoe Mountain etc. v. County of Placer* (2022) (75 Cal.App.5th 63, 164-168), the proposed Modified Project would be considered to result in wasteful, inefficient, or unnecessary consumption of energy resources if it would conflict with the following energy conservation goals:

- Decreasing overall per-capita energy consumption;
- Decreasing reliance on fossil fuels such as coal, natural gas, or oil; and
- Increasing reliance on renewable energy sources.

The following is a summary of the assumptions used for this energy analysis:

- **On-Road Transportation.** Fuel use was based on the daily vehicle trips and VMT provided for cumulative conditions and cumulative conditions with project implementation provided by Fehr and Peers in the City (see Chapter 4.14, *Transportation*, of this EA). Saturday and Sunday trip generation and VMT were calculated from the ratio CalEEMod default Saturday and Sunday trip rates to the weekday rate. All vehicle trips represented in the emissions modeling were assigned to be 100-percent primary, meaning no trip distance or generation discounts were applied for pass-by or diverted trips to provide a conservative emissions estimate.

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**Energy (Natural Gas and Electricity).** Based on the housing density data from Table 3-4, *Housing Element (2023-2031) Opportunity Sites: Residential*, and Table 3-5, *Housing Element (2023-2031) Opportunity Sites: Commercial/Residential (Mixed Use)*, in Chapter 3, *Project Description*, of this EA, the proposed Modified Project would result in 3,312 net new residential units.<sup>23</sup> All new housing units have been assigned to “Apartments Low-Rise”, “Apartments Mid-Rise”, “Condos/Townhouse”, and “Single-Family Housing” categories. Emissions associated with natural gas and electricity use for residential land uses in the City were modeled based on CalEEMod default data for year 2031.<sup>24</sup> While the proposed Modified Project would have a buildout horizon year of 2040, the updates to the General Plan included in the proposed Modified Project in part is in response to the current Regional Housing Needs Assessment (RHNA) cycle, which has a horizon of 2031. Therefore, a buildout year of 2031 was used in emissions and energy consumption estimates for a conservative assessment and efficiencies are expected to improve through 2040 and the 3,312 net new residential units are identified for the RHNA cycle through 2031.

<b>ENE-1</b>	<b>Implementation of the proposed Modified Project would not result in a potentially significant environmental impact from wasteful, inefficient, or unnecessary consumption of energy resources during project construction or operation.</b>
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The General Plan EIR did not specifically analyze energy because it was approved prior to the 2019 amendments to the CEQA Guidelines to incorporate CEQA Guidelines Section 15162.2(b). However, as described previously, energy impacts associated with buildout of the General Plan 2040 at a program level were analyzed in Chapter 4.14, *Utilities and Services Systems*, of the General Plan EIR, and were found to be less than significant.

### Short-Term Construction Impacts

Potential future development projects facilitated by the proposed Modified Project would create temporary demands for electricity during construction. Natural gas is not generally required to power construction equipment, and therefore is not anticipated during construction activity. It is anticipated that most electric-powered construction equipment would be hand tools (e.g., power drills, table saws, compressors) and lighting, which would result in minimal electricity usage during construction activities.

Future potential development projects under both the Approved Project and proposed Modified Project would also temporarily increase demands for energy associated with transportation and off-road equipment operation. Transportation energy use depends on the type and number of vehicle trips, VMT, fuel efficiency of vehicles, and travel mode. Energy use during construction would come from the transport and use of construction equipment, delivery vehicles and haul trucks, and construction

<sup>23</sup> Modeling assumed 3,317 new residential units within the City for consistency with the transportation analysis.

<sup>24</sup> While energy use is based off of year 2031 for consistency with the Housing Element planning period, the proposed Modified project would have an implementation year of 2040.

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employee vehicles that would use diesel fuel or gasoline. The use of energy resources by these vehicles would fluctuate according to the construction activity and would be temporary. It is anticipated that most off-road construction equipment, such as those used during demolition and grading, would be gas or diesel powered. In addition, all operation of construction equipment would cease after completion of project construction. Furthermore, the construction contractors would be required to minimize non-essential idling of construction equipment during construction, in accordance with the California Code of Regulations Title 13, Chapter 9, Article 4.8, Section 2449. Such required practices would limit wasteful and unnecessary energy consumption. Future potential development in the Study Area under the Approved Project would be similar to potential future development under the proposed Modified Project. Overall, there would be no unusual project characteristics anticipated under the proposed Modified Project that would necessitate the use of construction equipment that would be less energy efficient than at comparable construction sites in other parts of California. Therefore, short-term construction activities that occur as a result of implementation of the proposed Modified Project would not result in inefficient, wasteful, or unnecessary fuel consumption during construction activities compared to the Approved Project. The proposed Modified Project would not result in new impacts or a substantial increase in magnitude of impacts compared to the General Plan EIR.

### Long-Term Impacts During Operation

Operation of potential future development accommodated under the proposed Modified Project would create additional demands for electricity and natural gas compared to the Approved Project. Operational use of electricity and natural gas would include heating, cooling, and ventilation of buildings; water heating; operation of electrical systems; use of on-site equipment and appliances; lighting; and charging electric vehicles. Land uses accommodated under the proposed Modified Project would also result in additional demands for transportation fuels (e.g., gasoline, diesel, compressed natural gas, and electricity) associated with on-road vehicles. Electricity, natural gas, and transportation fuel consumption estimates during operation of the proposed Modified Project are presented in Table 4.5-1, *Proposed Modified Project Energy Consumption*.

**TABLE 4.5-1 PROPOSED MODIFIED PROJECT ENERGY CONSUMPTION**

Energy Resource	Annual Energy Consumption <sup>a</sup>
Building – Electricity <sup>b</sup>	11,636,361
Building – Natural Gas <sup>c</sup>	37,527,747
Transportation – Electricity <sup>b</sup>	2,110,930
Transportation – Natural Gas <sup>d</sup>	981
Transportation – Diesel <sup>d</sup>	35,719
Transportation – Gasoline <sup>d</sup>	1,723,451

Notes:

a. While energy use is based off of year 2031 for consistency with the Housing Element planning period, the proposed Modified Project would have an implementation year of 2040.

b. Energy resource is expressed in kilowatt-hours (kWh).

c. Energy resource is expressed in kilo-British thermal units (kBtu).

d. Diesel, compressed natural gas (CNG), and gasoline fuels are expressed in gallons. Electric vehicles are expressed in kilowatt-hours (kWh).

Source: CalEEMod Output; EMFAC 2021 Version 1.0.2; Appendix B to this EA.

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As shown in Table 4.5-1, *Proposed Modified Project Energy Consumption*, the maximum 2040 buildout of up to 3,312<sup>25</sup> new units under the proposed Modified Project would result in the annual consumption of an estimated 11,636,361 kWh of electricity, 37,527,747 BTUs of natural gas, 35,719 gallons of diesel transportation fuel, 981 gallons of CNG transportation fuel, and 1,723,451 gallons of gasoline transportation fuel. Considering that the introduction of up to 3,312 new units could accommodate up to 9,737 new residents, the proposed Modified Project is anticipated to result in 1,412 kWh of electricity, 3,854 BTUs of natural gas, 3.7 gallons of diesel fuel, 0.1 gallons of CNG fuel, and 117 gallons of gasoline fuel per capita.

### *Decreasing Overall Per-Capita Energy Consumption*

While the electricity and natural gas demand for the Study Area is expected to increase compared to the Approved Project because the new energy consumption estimates shown in Table 4.5-1, *Proposed Modified Project Energy Consumption*, account for new units beyond the City's current housing supply, developments accommodated under the proposed Modified Project would be required to comply with the most current versions of the Building Energy Efficiency Standards and CALGreen. Compliance with these regulations would contribute to reducing the building-related energy demands shown in Table 4.5-1, *Proposed Modified Project Energy Consumption*. Newly constructed and redeveloped buildings that comply with these standards would generally have greater energy efficiency than existing buildings. In addition, not all units envisioned by the proposed Modified Project would be constructed under the current California Building Code cycle and would be subject to future iterations of CALGreen and other related building codes. It is anticipated that each update to the Building Energy Efficiency Standards and CALGreen would result in greater building-related per-capita energy efficiency and move closer toward buildings achieving zero net energy.

In addition to the Building Energy Efficiency Standards and CALGreen, the proposed Modified Project Housing (HE), Environmental Resources and Sustainability (ES), and Infrastructure (INF) Elements contain policies and strategies that require local planning and development decisions to consider impacts that potential future development could have energy. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would increase energy efficiency and reduce wasteful, inefficient use of energy resources.

- **Strategy HE-1.3.5. *Encourage Mixed-Use Projects and Residential in Commercial Zones.*** The City will incentivize development of residential units in mixed-use projects that include affordable units (at least 20 percent), by providing incentives, which will include, but are not limited to:
  - Priority project processing
  - Delay payment of development impact or permit fees for affordable units
  - Flexibility in development standards, such as parking, setbacks, and landscaping requirements
  - Support grant application requests for funding made by developers for infrastructure upgrades.

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<sup>25</sup> Modeling assumed 3,317 new residential units in the City for consistency with the transportation analysis.

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- Assist developers of 100 percent affordable housing developments with securing additional financing.
- **Strategy HE-2.3.12. *Live/Work Units*.** Encourage the development or conversion of affordable live/workspace units to reduce displacement of residents and employees, specifically when replacing older strip mall type developments along busier streets (e.g., S. De Anza Boulevard and Stevens Creek Boulevard) to preserve the more urban and mixed-use character of the street. This would allow the street frontage to remain commercial use while the residential portion of the units would be located towards the rear of the site or in upper floors.  
The City will also help to market the Homeownership Assistance Programs offered by Housing Trust Silicon Valley (HTSV) in an effort to expand affordable homeownership options.
- **Policy HE-4.1. *Energy and Water Conservation*.** Encourage energy and water conservation in all existing and new residential development.
- **Strategy HE-4.1.1. *Enforcement of Title 24*.** The City will continue to enforce Title 24 requirements for energy conservation and will evaluate using some of the other suggestions as identified in the Environmental Resources/Sustainability Element.
- **Strategy HE-4.1.2. *Sustainable Practices*.** The City will continue to implement the Landscape Ordinance for water conservation and the Green Building Ordinance (adopted in 2013) that applies primarily to new residential and nonresidential development, additions, renovations, and tenant improvements of 10 or more units. To further the objectives of the Green Building Ordinance, the City will evaluate the potential to provide incentives, such as waiving or reducing fees, for energy conservation improvements at affordable housing projects (existing or new) with fewer than 10 units to exceed the minimum requirements of the California Green Building Code. The City will also implement the policies in its climate action plan to achieve residential-focused greenhouse gas emission reductions and further these community energy and water conservation goals.
- **Strategy HE-4.1.3. *Sustainable, Energy-Efficient Housing*.** The City will work with and support housing developers to develop sustainable, energy-efficient housing. Such development should include solar panels, green roofs, energy-efficient lighting, and other features that aim toward carbon-neutral impacts while lowering energy costs.
- **Policy ES-1.1. *Principles of Sustainability*.** Incorporate principles of sustainability into Cupertino's planning, infrastructure, and development process in order to improve the environment, reduce greenhouse gas emissions and meet the needs of the community without compromising the needs of future generations.
- **Strategy ES-1.1.1. *Climate Action Plan (CAP)*.** Adopt, implement, and maintain a Climate Action Plan to attain greenhouse gas emission targets consistent with state law and regional requirements. This qualified greenhouse gas emissions reduction plan, by BAAQMD's definition, will allow for future project CEQA streamlining and will identify measures to:
  - Reduce energy use through conservation and efficiency.
  - Reduce fossil fuel use through multi-modal and alternative transportation.
  - Maximize use of and, where feasible, install renewable energy resources.



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- **Policy ES-2.1. *Conservation and Efficient Use of Energy Resources.*** Encourage the maximum feasible conservation and efficient use of electrical power and natural gas resources for new and existing residences, businesses, industrial and public uses.
- **Strategy ES-2.1.1. *Coordination.*** Continue to evaluate and revise, as necessary, applicable City plans, codes, and procedures for inclusion of Federal, State, and regional requirements and conservation targets.
- **Strategy ES-2.1.2. *Comprehensive Energy Management.*** Prepare and implement a comprehensive energy management plan for all applicable municipal facilities and equipment to achieve the energy goals established in the City's Climate Action Plan. Track the City's energy use and report findings as part of the Climate Action Plan reporting schedule. Embed this plan into the City's Environmentally Preferable Procurement Policy to ensure measures are achieved through all future procurement and construction practices.
- **Strategy ES-2.1.3. *Energy Efficient Replacements.*** Continue to use life cycle cost analysis to identify City assets for replacement with more energy efficient technology. Utilize available tools to benchmark and showcase City energy efficiency achievements (i.e., EPA Portfolio Manager, statewide Green Business Program).
- **Strategy ES-2.1.4. *Incentive Program.*** Consider incentive programs for projects that exceed mandatory requirements and promote incentives from state, county, and federal governments for improving energy efficiency and expanding renewable energy installations.
- **Strategy ES-2.1.6. *Alternate Energy Sources.*** Promote and increase the use of alternate and renewable energy resources for the entire community through effective policies, programs, and incentives.
- **Strategy ES-2.1.7. *Energy Co-Generation Systems.*** Encourage the use of energy co-generation systems through the provision of an awareness program targeting the larger commercial and industrial users and public facilities.
- **Strategy ES-2.1.8. *Energy Audits and Financing.*** Continue to offer and leverage regional partners' programs to conduct energy audits and/or subvention programs for homes, commercial, industrial and City facilities, and recommend improvements that lead to energy and cost savings opportunities for participants and encourage adoption of alternative energy technologies. Encourage energy audits to include emerging online and applications-based energy analytics and diagnostic tools. Share residential and commercial energy efficiency and renewable energy financing tools through outreach events and civic media assets.
- **Strategy ES-2.1.10. *Community Choice Energy.*** Collaborate with regional partners to evaluate feasibility for development of a Community Choice Energy Program.
- **Policy ES-3.1. *Green Building Design.*** Set standards for the design and construction of energy and resource conserving/efficient building.
- **Strategy ES-3.1.1. *Green Building Program.*** Periodically review and revise the City's Green Building ordinance to ensure alignment with CALGreen requirements for all major private and public buildings projects that ensure reduction in energy and water use for new development through site selection and building design.

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- **Strategy ES-3.1.2. *Staff Training.*** Continue to train appropriate City staff in the design principles, costs, and benefits of sustainable building and landscape design. Encourage City staff to attend external trainings on these topics and attain relevant program certifications (e.g., Green Point Rater, Leadership in Energy & Environmental Design (LEED) Accredited Professional).
- **Strategy ES-3.1.3. *Green Buildings Informational Seminars.*** Conduct and/or participate in Green Building informational seminars and workshops for members of the design and construction industry, land development, real estate sales, lending institutions, landscaping and design, the building maintenance industry and prospective project applicants.
- **Strategy ES-3.1.4. *Green Building Demonstration.*** Pursue municipal facility retrofits, through a Green Capital Improvement Program (CIP), and new construction projects that exceed CALGreen and achieve third-party certification criteria (e.g., LEED, Living Building Challenge, Zero Net Energy) as a means of creating demonstration spaces for developer and community enrichment.
- **Strategy ES- 4.2.2. *Home Occupations.*** Review and consider expanding the allowable home-based businesses in residentially zoned properties to reduce the need to commute to work.
- **Policy INF-6.1. *Telecommunications Master Plan.*** Maintain and update a Telecommunications Master Plan with regulations and guidelines for wireless and emerging technologies.
- **Policy INF-6.2. *Coordination.*** Coordinate with providers to improve access and delivery of services to businesses and homes.
- **Strategy INF-6.2.1. *Facility Upgrades.*** When possible, require service providers to upgrade existing facilities as part of permit or lease renewals. Encourage use of newer technologies that allow the facility components to be reduced in size or improve screening or camouflaging.
- **Strategy INF-6.2.2. *Improved Access.*** Work with providers to expand service to areas that are not served by telecommunications technologies.
- **Strategy INF-6.2.4. *Agency and Private Facilities.*** Encourage the installation of communications infrastructure in facilities owned by other public agencies and private development.
- **Strategy INF-6.2.5. *Communications Infrastructure.*** Support the extension and access to telecommunications infrastructure such as fiber optic cables.
- **Policy INF-6.3. *Emerging Technologies.*** Encourage new and innovative technologies and partner with providers to provide the community with access to these services.
- **Strategy INF-6.3.1. *Strategic Technology Plan.*** Create and update a Strategic Technology Plan for the City to improve service efficiency.

Additionally, fuel efficiency of vehicles during the buildout year of 2040 would, on average, improve compared to vehicle fuel efficiencies experienced under the Approved Project, thereby resulting in a lower per-capita fuel consumption in 2040 assuming travel distances, travel modes, and trip rates remain the same. The improvement in fuel efficiency would be attributable to regulatory compliance (e.g., CAFE standards), resulting in new cars that are more fuel efficient and the attrition of older, less fuel-efficient vehicles. The CAFE standards are not directly applicable to residents or land use development projects, but to car manufacturers. Thus, City residents do not have direct control in determining the fuel efficiency of vehicles manufactured and that are made available. However, compliance with the CAFE standards by car manufacturers would ensure that vehicles produced in future years have greater fuel efficiency and

would generally result in an overall benefit of reducing fuel usage by providing the population of the city with more fuel-efficient vehicle options. Considering the proposed Modified Project would result in future potential development, which on average would have the same or greater energy-efficient designs than current structures and those under the Approved Project, and vehicle fuel efficiencies would improve year over year through the buildout year of 2040, the proposed Modified Project is anticipated to result in a decrease in overall per-capita energy consumption in 2040. As such, the proposed Modified Project would be consistent with this energy conservation criterion. The proposed Modified Project would not result in new impacts or a substantial increase in magnitude of impacts compared to the General Plan EIR.

### *Decreasing Reliance on Fossil Fuels*

The proposed Modified Project would conflict with this criterion if it did not take steps to decrease the reliance on fossil fuels. New and replacement buildings in compliance with CALGreen standards would generally have greater energy efficiency than existing buildings. In addition, not all future potential development under the proposed Modified Project would be constructed under the current California Building Code cycle and would be subject to future iterations of CALGreen and other related building codes. It is anticipated that each update to the Building Energy Efficiency Standards and CALGreen would result in greater building-related per-capita energy efficiency and move closer toward buildings achieving zero net energy. The new energy-efficiency building standards would result in a decrease in per unit or per-capita natural gas consumption for space and water heating.

In addition to the Building Energy Efficiency Standards and CALGreen, the proposed Modified Project Housing (HE), and Land Use and Community Design (LU) Elements contain policies and strategies that require local planning and development decisions to consider impacts that potential future development could have energy. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would increase energy efficiency and reduce wasteful, inefficient use of energy resources.

- **Strategy HE-1.3.5. *Encourage Mixed-Use Projects and Residential in Commercial Zones.*** The City will incentivize development of residential units in mixed-use projects that include affordable units (more than 20 percent), by providing incentives, which will include, but are not limited to:
  - Priority project processing
  - Delay payment of development impact or permit fees for affordable units
  - Flexibility in development standards, such as parking, setbacks, and landscaping requirements
  - Support developers with infrastructure upgrades in the way of grant applications for funding.
  - Assist developers of 100 percent affordable housing developments with securing additional financing.
- **Strategy HE-2.3.12. *Live/Work Units.*** Encourage the development or conversion of affordable live/workspace units to reduce displacement of residents and employees, specifically when replacing older strip mall type developments along busier streets (e.g., S. De Anza Boulevard and Stevens Creek Boulevard) to preserve the more urban and mixed-use character of the street. This would allow the street frontage to remain commercial use while the residential portion of the units would be located towards the rear of the site or in upper floors. The City will also help to market the Homeownership Assistance Programs offered by Housing Trust Silicon Valley (HTSV) in an effort to expand affordable homeownership options.

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- **Strategy HE-4.1.1. *Enforcement of Title 24.*** The City will continue to enforce Title 24 requirements for energy conservation and will evaluate using some of the other suggestions as identified in the Environmental Resources/Sustainability Element.
- **Strategy HE-4.1.2. *Sustainable Practices.*** The City will continue to implement the Landscape Ordinance for water conservation and the Green Building Ordinance (adopted in 2013) that applies primarily to new residential and nonresidential development, additions, renovations, and tenant improvements of 10 or more units. To further the objectives of the Green Building Ordinance, the City will evaluate the potential to provide incentives, such as waiving or reducing fees, for energy conservation improvements at affordable housing projects (existing or new) with fewer than 10 units to exceed the minimum requirements of the California Green Building Code. The City will also implement the policies in its climate action plan to achieve residential-focused greenhouse gas emission reductions and further these community energy and water conservation goals.
- **Strategy HE-4.1.3. *Sustainable, Energy-Efficient Housing.*** The City will work with and support housing developers to develop sustainable, energy-efficient housing. Such development should include solar panels, green roofs, energy-efficient lighting, and other features that aim toward carbon-neutral impacts while lowering energy costs.
- **Policy HE-4.1. *Energy and Water Conservation.*** Encourage energy and water conservation in all existing and new residential development.
- **Policy LU-1.1. *Land Use and Transportation.*** Focus higher land use intensities and densities within a half-mile of public transit service, and along major corridors.
- **Policy LU-3.1. *Site Planning.*** Ensure that project sites are planned appropriately to create a network of connected internal streets that improve pedestrian and bicycle access, provide public open space and building layouts that support city goals related to streetscape character for various Planning Areas and corridors.

The proposed Modified Project also envisions new residential development throughout the Study Area, which would be required to install rooftop solar if seeking compliance with the prescriptive method of the Energy Code. New single-family residences would be required to comply with Title 24, Part 6, Subchapter 8, Section 150.1(c)14 and new multifamily residences would be required to comply with Title 24, Part 6, Subchapter 11, Section 170.2(f), of the 2022 California Building Code to include rooftop solar systems. Compliance with these codes would decrease overall reliance on fossil fuels for electricity generation as some on-site electricity consumption could be satisfied with on-site electricity generation.

Moreover, as previously discussed, fuel efficiency of vehicles during the buildout year of 2040 would on average improve compared to vehicle fuel efficiencies experienced under the Approved Project. In addition to regulatory compliance that would contribute to more fuel-efficient vehicles and less per-capita demand in fuels, the General Plan EIR also found that Land Use and Community Design (LU), Environmental Resources and Sustainability Elements (ES), and Mobility (M) Elements contain policies and strategies that require local planning and development decisions to consider impacts that potential future development could have related to VMT. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project,

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would contribute to minimizing overall VMT and fuel consumption, and thus incrementally decreasing dependence on fossil fuels for transportation energy needs.

- **Policy LU-1.1. *Land Use and Transportation.*** Focus higher land use intensities and densities within a half-mile of public transit service, and along major corridors. (General Plan EIR Policy 4-7)
- **Policy LU- 3.1. *Site Planning.*** Ensure that project sites are planned appropriately to create a network of connected internal streets that improve pedestrian and bicycle access, provide public open space and building layouts that support city goals related to streetscape character for various Planning Areas and corridors. (General Plan EIR Policy 4-4)
- **Policy M-1.1. *Regional Transportation Planning.*** Participate in regional transportation planning processes to develop programs consistent with the goals and policies of Cupertino's General Plan and to minimize adverse impacts on the City's circulation system. Work with neighboring cities to address regional transportation and land use issues of mutual interest.
- **Policy M-3.1. *Bicycle and Pedestrian Master Plan.*** Adopt and maintain a Bicycle and Pedestrian master plan, which outlines policies and improvements to streets, extension of trails, and pathways to create a safe way for people of all ages to bike and walk on a daily basis.
- **Policy M-4.8: *Micro-Transit.*** Continue to support a local micro-transit option, such as the Silicon Valley Hopper or similar service.
- **Policy M-8.1. *Greenhouse Gas Emissions.*** Promote transportation policies that help to reduce greenhouse gas emissions.
- **Strategy M-8.1.3. *TDM Ordinance.*** Develop and adopt a TDM ordinance to reduce vehicle trips with specific implementation actions for all development projects and a monitoring and reporting program to ensure implementation.
- **Policy M-8.3. *Transportation Systems Management (TSM) Programs.*** Employ TSM strategies to improve efficiency of the transportation infrastructure including strategic right-of-way improvements intelligent transportation systems and optimization of signal timing to coordinate traffic flow.
- **Policy M-9.2. *Reduced Travel Demand.*** Promote effective TDM programs for existing and new development.
- **Strategy ES-2.1.9. *Energy Efficient Transportation Modes.*** Continue to encourage fuel-efficient transportation modes such as alternative fuel vehicles, driverless vehicles, public transit, car and van pooling, community and regional shuttle systems, car and bike sharing programs, safe routes to schools, commuter benefits, and pedestrian and bicycle paths through infrastructure investment, development incentives, and community education. (General Plan EIR Policy 4-3)
- **Strategy ES-4.2.2. *Home Occupations.*** Review and consider expanding the allowable home-based businesses in residentially zoned properties to reduce the need to commute to work.

For a complete list of policies and strategies aimed at reducing VMT, please see Impact Discussion TRANS-2, in Chapter 4.14, *Transportation*, of this EA. Considering these policies and strategies and those in Chapter 4.14, the proposed Modified Project would result in potential future development consisting of up to 3,312 dwelling units that would be designed to be compliant with the California Building Code, thereby reducing reliance on fossil fuels for space and water heating. Additionally, the proposed Modified Project would result in population growth that would result in subsequent increases in transportation

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energy demand; however, with improving fuel-efficiency standards year over year through the buildout year of 2040 and compliance with the EV charging infrastructure requirements in the California Building Code, the proposed Modified Project would reduce reliance on fossil fuels for transportation energy demand on average. Therefore, the proposed Modified Project would be considered consistent with this energy conservation criterion, similar to the Approved Project. The proposed Modified Project would not result in new impacts or a substantial increase in magnitude of impacts compared to the General Plan EIR.

### *Increasing Reliance on Renewable Energy Sources*

New potential future development in the form of single-family residences under both the Approved Project and proposed Modified project would be required to comply with Title 24, Part 6, Subchapter 8, Section 150.1(c)(14) and new multifamily residences would be required to comply with Title 24, Part 6, Subchapter 11, Section 170.2(f), of the 2022 California Building Code, which may include rooftop solar systems depending on the Energy Code compliance method taken by the individual project. Compliance with these codes would directly increase overall reliance on renewable energy sources for electricity generation. Moreover, compliance with the EV charging infrastructure requirements in CALGreen would increase availability for electricity for transportation energy demand. As electricity consumed in California is required to meet the increasing renewable energy mix requirements under the State's RPS and accelerated by SB 100, greater proportions of electricity consumed potential future development and for transportation energy demand under the proposed Modified Project would continue to be sourced from renewable energy sources. Furthermore, future potential development facilitated by the proposed Modified Project would be automatically enrolled in SVCE service, which provides more renewable-sourced electricity services in addition to those provided by PG&E. While future potential development would have the option to opt-out back into PG&E service, SVCE would automatically enroll future residents accommodated by the proposed Modified Project into their minimum 44.9 percent renewable "SVCE GreenStart" electricity service.<sup>26</sup> As future potential residents have the option to choose an electricity service that relies on renewable sources more for electricity generation than what is minimally required under the State's RPS, and considering that both electricity service providers for the Study Area would provide incrementally greater and greater proportions of renewably sourced electricity to city residents, future potential development under the proposed Modified Project would result in an overall increase in reliance on renewable energy sources. As such, the proposed Modified Project would be consistent with this energy conservation criterion.

Considering the above analysis demonstrating that the proposed Modified Project would result in an overall decrease in energy consumption per capita, decrease in reliance on fossil fuels, and increase in renewable energy sources, the proposed Modified Project would not result in wasteful, inefficient, or unnecessary consumption of energy resources. As such, the proposed Modified Project would not result in new impacts or a substantial increase in magnitude of impacts compared to the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<sup>26</sup> Silicon Valley Clean Energy (SVCE). 2024, January 26 (accessed). 2022 Power Mix (Residential). [https://svcleanenergy.org/wp-content/uploads/PCL-Residential-Tech\\_ADA.pdf](https://svcleanenergy.org/wp-content/uploads/PCL-Residential-Tech_ADA.pdf)

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**ENE-2                      Implementation of the proposed Modified Project would not conflict with or obstruct a State or local plan for renewable energy or energy efficiency.**

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The General Plan EIR did not specifically analyze Approved Project consistency with renewable energy or energy-efficiency plans because it was approved prior to the 2019 amendments to the CEQA Guidelines to incorporate CEQA Guidelines Section 15162.2(b).

## **California Renewables Portfolio Standard Program**

The state's electricity grid is transitioning to renewable energy under California's RPS program. Renewable sources of electricity include wind, small hydropower, solar, geothermal, biomass, and biogas. In general, California has RPS requirements of 33 percent renewable energy by 2020 (SB X1-2), 40 percent by 2024 (SB 350), 50 percent by 2026 (SB 100), 60 percent by 2030 (SB 100), and 100 percent by 2045 (SB 100). SB 100 also establishes RPS requirements for publicly owned utilities that consist of 44 percent renewable energy by 2024, 52 percent by 2027, and 60 percent by 2030. The statewide RPS requirements do not directly apply to individual development projects, but to utilities and energy providers such as PG&E and SVCE, whose compliance with RPS requirements would contribute to the State of California objective of transitioning to renewable energy. For the City of Cupertino, California's Community Choice Aggregation (CCA) law (AB 117, 2002)<sup>27</sup> requires SVCE to become the default provider of electric generation for customers in its service area and operate as an opt-out program. Even if customers in the Study Area were to opt-out of the SVCE GreenStart program, and therefore receive all their electricity from PG&E, 38.3 percent of PG&E's electricity is generated from renewable energy.<sup>28</sup> Both electricity providers would be required to be consistent with the statewide RPS requirements.

Future potential development under the proposed Modified Project would be required to comply with the current and future iterations of the Building Energy Efficiency Standards and CALGreen. Furthermore, as described for Impact Discussion ENE-1, the proposed Modified Project would implement Housing Element policies that would support the statewide goal of transitioning the electricity grid to renewable sources. The net increase in energy demand associated with implementation of the proposed Modified Project would be within the service capabilities of SVCE and PG&E and would not impede their ability to implement California's renewable energy goals. Therefore, similar to the Approved Project, implementation of the proposed Modified Project would not conflict with or obstruct implementation of California's RPS program. The proposed Modified Project would not result in new impacts or a substantial increase in magnitude of impacts compared to the General Plan EIR.

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<sup>27</sup> California Public Utilities Commission (CPUC), 2024, January 31 (accessed). Community Choice Aggregation, <https://www.cpuc.ca.gov/consumer-support/consumer-programs-and-services/electrical-energy-and-energy-efficiency/community-choice-aggregation-and-direct-access-cca-regulatory-information>

<sup>28</sup> Pacific Gas and Electric (PG&E). 2024, January 26 (accessed). 2022 Power Mix. <https://www.pge.com/content/dam/pge/docs/account/billing-and-assistance/bill-inserts/1023-Power-Content-Label.pdf>

**ENERGY****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 limits; 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.<sup>29</sup> Pursuant to the CAP 2.0, projects are considered consistent with the CAP 2.0 if they do not conflict with the required GHG reduction measures contained in the CAP.

In compliance with CMC Section 17.04, *Standard Environmental Protection Requirements*, the future potential development under the proposed Modified Project must complete a consistency checklist with the City's CAP for review and approval by the City Environment and Sustainability Department prior to issuance of the first permit. A project consistency matrix with the adopted energy-reduction measures are shown in Table 4.5-2, *Cupertino Climate Action Plan 2.0 Consistency Matrix*. As described here, implementation of the proposed Modified Project would be required to be consistent with the applicable energy-related measures of the CAP 2.0. Therefore, the proposed Modified Project would not conflict or obstruct implementation of the City's CAP. The proposed Modified Project would not result in new impacts or a substantial increase in magnitude of impacts compared to the General Plan EIR.

**TABLE 4.5-2 CUPERTINO CLIMATE ACTION PLAN 2.0 CONSISTENCY MATRIX**

Applicable Proposed Measure	Consistency
<b>Measure BE-1</b> Reduce non-SVCE usage rate to 2 percent for residential and 10 percent for commercial by 2030 and maintain through 2040.	<b>Consistent.</b> Future potential development under the proposed Modified Project would comply with the current California Building and Energy Efficiency Standards to reduce energy consumptions.
<b>Measure BE-4</b> Require new residential and commercial development to be all-electric at time of construction.	<b>Consistent.</b> The City of Cupertino requires all newly constructed buildings to be All-Electric Buildings and has adopted the California Energy Code (CMC Chapter 16.32). Therefore, the proposed Modified Project would comply with this measure.
<b>Measure TR-1</b> Develop and implement an Active Transportation Plan to achieve 15 percent of active transportation mode share by 2030 and 23 percent by 2040.	<b>Consistent.</b> As stated in Chapter 4.14, <i>Transportation</i> , of this EA, the proposed Modified Project would not include modifications to the roadway, bicycle, or pedestrian network. In addition, like the Approved Project, the proposed Modified Project would also be consistent with the City of Cupertino's Pedestrian Transportation Plan with Pedestrian Guidelines and Bicycle Transportation Plan. The proposed Modified Project would also continue to implement the policies and strategies of the Approved Project to encourage active transportation throughout the Study Area, and is most exemplified through Policy M-3.1, <i>Bicycle and Pedestrian Master Plan</i> , which would see to the adoption and maintenance of a Bicycle and Pedestrian Master Plan to create a safe way for citizens to bike and walk on a daily basis. Other policies include Policy LU- 3.1, <i>Site Planning</i> , which would ensure project sites are planned so that there is a network of connected streets to improve pedestrian and bicycle access; Strategy LU-8.3.3, <i>Infrastructure and Streetscape Improvements</i> , which would encourage redevelopment of areas throughout the city to be pedestrian oriented; Strategy LU-19.1.7, <i>Existing Streets</i> , which would improve Stevens Creek Boulevard and Wolfe Road to become more

<sup>29</sup> City of Cupertino, 2015, January. *Climate Action Plan*.  
<https://www.cupertino.org/home/showpublisheddocument/9605/636280426123030000>.



**ENERGY****TABLE 4.5-2 CUPERTINO CLIMATE ACTION PLAN 2.0 CONSISTENCY MATRIX**

Applicable Proposed Measure	Consistency
	bike and pedestrian-friendly; as well as Policy M-1.3, <i>Regional Trail Development</i> , to implement best practices on streets to reduce speeds to accommodate alternative modes of transportation. Compliance with these policies and strategies would reduce fuel consumption and reliance on fossil fuels in the Study Area.
<b>Measure TR-2</b> Implement public and shared transit programs to achieve 29 percent of public transit mode share by 2030 and maintain through 2040.	<b>Consistent.</b> As described in Section 4.14, <i>Transportation</i> , of this EA, the proposed Modified Project would implement strategies and policies such as Policy LU-1.1, <i>Land Use and Transportation</i> , which would concentrate higher land use intensities within a half-mile of public transit services, and Policies LU-20.2, <i>Streetscape and Connectivity for North Vallco Park Special Area</i> , and LU-21.3, <i>Streetscape and Connectivity for North De Anza Special Area</i> , which would improve transit connections for future roadway improvements and specifically for North Vallco Park and North De Anza. These policies would also include Policy M-4.4, <i>Transit Facilities with New Development</i> , which would ensure that all future potential development would include amenities to support public transit and space for transit vehicles. Compliance with these policies and strategies would reduce fuel consumption and reliance on fossil fuels throughout the Study Area. As such, the proposed Modified Project would not conflict with implementation of this measure.
<b>Measure TR-3</b> 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.	<b>Consistent.</b> Implementation of the proposed Modified Project would result in an increase in land use intensity throughout the Study Area that has access to existing transportation infrastructure and services. Future potential development under the proposed Modified Project would comply with the CALGreen requirements for electric vehicle (EV) charging stations. In addition, as seen in Chapter 3, <i>Project Description</i> , of this EA, Cupertino is served by Via-Cupertino Shuttle (Via), an app-based ride-sharing program that provides transportation anywhere inside the city. Via plans to expand into Santa Clara with electric cars in the coming years, which would support Measure TR-3. Compliance with this measure would reduce reliance on fossil fuels throughout the Study Area and would promote use of renewable energy. The proposed Modified Project would not conflict with implementation of this measure.
<b>Measure TR-4</b> Re-focus transportation infrastructure away from single occupancy gasoline vehicles to support the bicycle/pedestrian, public transit, and ZEV goals of Measures TR-1, TR-2, and TR-3.	<b>Consistent.</b> The proposed Modified Project would implement policies and strategies to encourage active transportation throughout the Study Area, such as through redevelopment of areas to be pedestrian oriented or connecting streets to improve pedestrian and bicycle access. In addition, future potential development under the proposed Modified Project would concentrate higher land use intensities near public transit services, which could reduce the need for single-occupancy trips for gasoline-fueled vehicles. Furthermore, as seen in Chapter 3, <i>Project Description</i> , of this EA, Cupertino is served by Via-Cupertino Shuttle (Via), an app-based ride sharing program that provides transportation anywhere inside the city. Via plans to expand into Santa Clara with electric cars in the coming years, which would support Measure TR-4. Compliance with this measure would reduce fuel consumption and reliance on fossil fuels throughout the Study Area and would promote use of renewable energy. The proposed Modified Project would not conflict with implementation of this measure.

Source: Cupertino, City of. 2022, August 16. *City of Cupertino, Climate Action Plan 2.0*.  
<https://www.cupertino.org/home/showpublisheddocument/31683/637964240923930000>.

**Significance without Mitigation:** Less than significant.

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**ENE-3                    Implementation of the proposed Modified Project would not result in a substantial increase in natural gas and electrical service demands and would not require new energy supply facilities and distribution infrastructure or capacity-enhancing alterations to existing facilities.**

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Electrical service to the Study Area would be provided by SVCE and PG&E through connections to existing electrical lines and infrastructure. As shown in Table 4.5-1, *Proposed Modified Project Energy Consumption*, electricity use in the Study Area would increase by an estimated 13,747,291 kWh per year through implementation of the proposed Modified Project. In addition, natural gas use in the Study Area would increase by an estimated 37,527,747 kBtu per year through implementation of the proposed Modified Project. Considering that the introduction of up to 3,312 new units could accommodate an estimated 9,737 new residents, the proposed Modified Project is anticipated to result in 1,412 kWh of electricity use or 3,854 kBtu of natural gas per capita. This is conservative as future potential residential development in the Study Area would be subject to the CMC's all-electric requirements.

These energy consumption rates are modest increases when considered in the context of SVCE's and PG&E's service territories. The increase in electricity usage for the Study Area is approximately 0.1 percent of PG&E's projected energy supply in 2035, and the increase in natural gas consumption for the Study Area is less than 0.06 percent of PG&E's natural gas supply.<sup>30</sup> PG&E also states that there would be sufficient electrical and natural gas supplies to cover its service area in 2035.

In addition, potential future development under both the Approved Project and proposed Modified Project would be required to comply with the current and future updates to the California Energy Code and the CALGreen Code, which would contribute to reducing energy demands. Future potential development would also use new energy-efficient appliances and equipment, pursuant to the Appliance Efficiency Regulations, which would ensure the use of efficient electricity and natural gas consumption. New and replacement buildings in compliance with these standards would have greater energy efficiency than existing buildings. In addition, the sites identified by the proposed Modified Project are in urbanized areas that are served by existing high-volume energy transmission infrastructure.

Moreover, the latest California Building Standards Code and CALGreen requirements include rooftop solar systems and passive energy-efficiency designs to reduce potential wasteful, inefficient, or unnecessary consumption of electricity. Rooftop solar systems, if applicable to the individual project design, would reduce the amount of overall electricity consumed that is transported through the State's electricity grid, reducing the amount of electricity lost in transmission. Regarding electricity that would be drawn from the grid, electricity utility compliance with the State's RPS program under SB 100 would ensure that the proportion of electricity that is sourced from renewable and carbon-free sources—and consumed by individual future potential development projects under the proposed Modified Project—increases until it must be 100 percent in 2045. Compliance with the California Building Standards Code and CALGreen and utility compliance with SB 100 ultimately result in incremental shifts away from reliance on fossil fuels and toward a greater reliance on renewable energy sources. Overall, implementation of the proposed Modified Project would result in greater energy-efficiency designs for new buildings and would result in

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<sup>30</sup> PG&E's projected energy supplies for electricity and natural gas do not extend beyond 2035.

more homes in the Study Area using electricity that is generated on-site. Therefore, the proposed Modified Project electricity and natural gas consumption is not expected to result in the need for new or expanded energy supply facilities, and this impact would be less than significant. The proposed Modified Project would therefore not result in new impacts or a substantial increase in magnitude of cumulative impacts compared to the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>ENE-4</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to energy.</b>
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The area considered for cumulative impacts to electricity and natural gas supplies are the service areas of PG&E as well as SVCE. Other projects in the PG&E and SVCE service areas would be required to comply with the Building Energy Efficiency Standards and CALGreen, which would contribute to minimizing wasteful energy consumption and promoting renewable energy sources. As described under Impact Discussion ENE-1, energy consumption resulting from implementation of the proposed Modified Project would not be considered inefficient, wasteful, or unnecessary. Implementation of the proposed Modified Project would therefore not contribute to any cumulative energy impacts when considered together with cumulative development projects and would not be cumulatively considerable. The proposed Modified Project would therefore not result in new impacts or a substantial increase in magnitude of cumulative impacts compared to the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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## **4.6 GEOLOGY AND SOILS**

This chapter describes the potential impacts to geology and soils associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and baseline conditions, identifies criteria used to determine impact significance, provides an analysis of the potential geology and soils impacts, and identifies General Plan 2040 policies and/or strategies that could minimize any potentially significant impacts.

### **4.6.1 ENVIRONMENTAL SETTING**

#### **4.6.1.1 REGULATORY FRAMEWORK**

##### **Federal Regulations**

The federal Paleontological Resources Preservation Act of 2002 limits the collection of vertebrate fossils and other rare and scientifically significant fossils to qualified researchers who have obtained a permit from the appropriate state or federal agency. Additionally, it specifies these researchers must agree to donate any materials recovered to recognized public institutions, where they will remain accessible to the public and to other researchers. This act incorporates key findings of a report, *Fossils on Federal Land and Indian Lands*, issued by the Secretary of the Interior in 2000, that establishes that most vertebrate fossils and some invertebrate and plant fossils are considered rare resources.<sup>1</sup>

##### **State Regulations**

###### *Alquist-Priolo Earthquake Fault Zoning Act*

The Alquist-Priolo Earthquake Fault Zoning Act was passed in 1972 to mitigate the hazard of surface fault rupture to structures used for human occupancy.<sup>2</sup> The main purpose of the act is to prevent the construction of buildings used for human occupancy on top of active faults. This act only addresses the hazard of surface fault rupture—not other earthquake hazards such as earthquake-induced liquefaction or landslides. The act requires the State Geologist to establish regulatory zones (known as Earthquake Fault Zones or Alquist-Priolo Zones) around surface traces of active faults and to issue appropriate maps. The maps, which are developed using existing United States Geological Survey (USGS) 7.5-minute quadrangle map bases, are then distributed to all affected cities, counties, and State agencies for their use in planning and controlling new or renewed construction. Generally, construction within 50 feet of an active fault zone is prohibited.

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<sup>1</sup> U.S. Department of the Interior, May 2000, *Fossils on Federal & Indian Lands, Report of the Secretary of the Interior*, accessed September 30, 2022, [https://www.blm.gov/sites/blm.gov/files/programs\\_paleontology\\_quick%20links\\_Assessment%20of%20Fossil%20Management%20on%20Federal%20%26%20Indian%20Lands%2C%20May%202000.pdf](https://www.blm.gov/sites/blm.gov/files/programs_paleontology_quick%20links_Assessment%20of%20Fossil%20Management%20on%20Federal%20%26%20Indian%20Lands%2C%20May%202000.pdf).

<sup>2</sup> California Department of Conservation, 2023, Alquist-Priolo Earthquake Fault Zoning Act, accessed January 25, 2024, <https://www.conservation.ca.gov/cgs/alquist-priolo>.

## GEOLOGY & SOILS

### *Seismic Hazards Mapping Act*

The Seismic Hazards Mapping Act, which was passed in 1990, addresses seismic hazards such as liquefaction and seismically induced landslides.<sup>3</sup> Under this act, seismic hazard zones are mapped by the State Geologist to assist local governments in land use planning. Section 2691(c) of this act states that “it is necessary to identify and map seismic hazard zones in order for cities and counties to adequately prepare the safety element of their general plans and to encourage land use management policies and regulations to reduce and mitigate those hazards to protect public health and safety.” Section 2697(a) of the act states that “cities and counties shall require, prior to the approval of a project located in a seismic hazard zone, a geotechnical report defining and delineating any seismic hazard.”

### *California Building Code*

The State of California provides a minimum standard for building design through Title 24, Part 2, of the California Code of Regulations (CCR), commonly referred to as the “California Building Code” (CBC). The CBC is updated every three years. It is generally adopted jurisdiction by jurisdiction, subject to further modification based on local conditions. The City of Cupertino regularly adopts each new CBC update under the Cupertino Municipal Code (CMC) Chapter 16.04, Building Code. These codes provide minimum standards to protect property and public safety by regulating the design and construction of excavations, foundations, building frames, retaining walls, and other building elements to mitigate the effects of seismic shaking and adverse soil conditions. They also regulate grading activities, including drainage and erosion control.

### *California Environmental Quality Act*

Paleontological resources are afforded protection under the California Environmental Quality Act (CEQA). The Society of Vertebrate Paleontology has set significance criteria for paleontological resources.<sup>4</sup> Most practicing professional vertebrate paleontologists adhere closely to the Society of Vertebrate Paleontology’s assessment, mitigation, and monitoring requirements as specifically provided in its standard guidelines. Most State regulatory agencies with paleontological laws, ordinances, regulations, and standards accept and use the professional standards set by the Society of Vertebrate Paleontology.

### *California Public Resources Code Section 5097*

California Public Resources Code (PRC) Section 5097.5 prohibits the destruction or removal of any paleontological site or feature from public lands without the permission of the jurisdictional agency.

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<sup>3</sup> California Department of Conservation, 2023, Seismic Hazards Mapping Act, <https://www.conservation.ca.gov/cgs/hazards/seismic-hazards-mapping-act>, accessed January 25, 2024.

<sup>4</sup> Society of Vertebrate Paleontology, 2010, *Standard Procedures for the Assessment and Mitigation of Adverse Impacts to Paleontological Resources*, [https://vertpaleo.org/wp-content/uploads/2021/01/SVP\\_Impact\\_Mitigation\\_Guidelines.pdf](https://vertpaleo.org/wp-content/uploads/2021/01/SVP_Impact_Mitigation_Guidelines.pdf), accessed January 25, 2024.

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### *California Penal Code Section 622.5*

The California Penal Code Section 622.5 details the penalties for damage or removal of paleontological resources, whether from private or public lands.

## Regional Regulations

The purpose of hazard mitigation planning is to reduce the loss of life and property by minimizing the impact of disasters. The Santa Clara County Operational Area Hazard Mitigation Plan (Local Hazard Mitigation Plan), adopted in 2017, provides an assessment of natural hazards in the county and a set of short-term mitigation actions to reduce or eliminate the long-term risk to people and property from these hazards. Currently the Local Hazard Mitigation Plan is being updated to become the *Santa Clara County Multi-Jurisdictional Hazard Mitigation Plan* (MJHMP). The MJHMP has an annex (chapter) dedicated to Cupertino and provides a city-specific assessment of hazards and vulnerabilities as well as mitigation actions items for Cupertino specifically.

The MJHMP must be reviewed and approved by the Federal Emergency Management Agency (FEMA) every five years to maintain eligibility for disaster relief funding. As part of this process, the California Governor's Office of Emergency Services reviews all local hazard mitigation plans in accordance with the Disaster Management Act of 2000 regulations, and coordinates with local jurisdictions to ensure compliance with FEMA's Local Mitigation Plan Review Guide.

## Local Regulations

### *General Plan 2040*

The Land Use and Community Design (LU), Environmental Resources and Sustainability (ES), and Health and Safety (HS) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to geology and soils. Applicable policies and strategies that would minimize potential adverse impacts to soils and geologic resources are identified in Section 4.6.3, *Impact Discussion*. While not a policy or strategy, Health and Safety Element Table HS-3, *Acceptable Exposure to Risk Related to Various Land Uses*, and Table HS-4, *Technical Investigations Required based on Acceptable Risk* describe when and the level of complexity of geotechnical review is required.

### *Municipal Code*

The CMC includes various directives to minimize adverse impacts to geology and soils in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to geology and soils are in Title 15, *Water and Sewage*; Title 16, *Buildings and Construction*; Title 18, *Subdivisions*; and Title 19, *Zoning*.

- **Chapter 15.20, *Sewage Disposal Systems*.** Establishes standards for the approval, installation, and operation of individual on-site sewage disposal systems consistent with the standards of the California Regional Water Quality Control Board as set out by the Santa Clara County Environmental Health Services and adopted by the Cupertino City Council.

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- **Chapter 16.04, *Building Code*.** Adopts the 2022 CBC as the rules, regulations, and standards within the City as to all matters except as modified or amended in the CMC. The CBC includes requirements for geotechnical reports at the discretion of the building official.
- **Chapter 18.04, *General Provisions*.** Implements the Subdivision Map Act to protect the community to the maximum extent from excessive stormwater runoff, wanton destruction of trees, increased soil erosion, earth movement, earthquake hazards, and other geological hazards. Applicants who are proposing subdivisions within the Study Area must submit geotechnical reports before getting City approval on the final map. Problems of drainage are to be resolved in such a manner as to provide substantial security against excessive runoff or flooding, earth movements, and excessive erosion.
- **Chapter 19.40, *Residential Hillside (RHS) Zones*.** Section 19.40.050, Site Development Regulations, describes the regulations for the development plans in Residential Hillside (RHS) zones. Created to protect public and private lands from erosion, earth movement, and flooding, it establishes minimum standards and requirements relating to land grading, excavations and fills, and removal of major vegetation, including the preparation of geotechnical reports. The Site Development Regulations also set the standards for development on or near steep slopes in order to minimize the risk of personal injury, damage to property, and impact on water quality from potential landslides, erosion, earth creep, stormwater runoff, and other hazards associated with hillside areas of the city, as well as preserves existing topographical forms, open spaces, habitat areas and visual resources from encroachment by new hillside development. Site development planning applications may require an erosion and sediment control plan and control measures.

### 4.6.1.2 EXISTING CONDITIONS

The setting for geology and soils resources is described in the General Plan EIR Section 4.5.1.2, *Existing Conditions*. There have not been any changes or additions to the existing conditions for geology and soils since the certification of the General Plan EIR in 2014.

### 4.6.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant geology and soils impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
GEO-1. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury or death involving: <ul style="list-style-type: none"> <li>i) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</li> <li>ii) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</li> <li>iii) Seismic-related ground failure, including liquefaction?</li> <li>iv) Landslides, mudslides, or other similar hazards?</li> </ul>	LTS	LTS
GEO-2. Result in substantial soil erosion or the loss of topsoil?	LTS	LTS
GEO-3. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	LTS	LTS
GEO-4. Be located on expansive soil, as defined by Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	LTS	LTS



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Implementation of the proposed Modified Project would result in significant geology and soils impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
GEO-5. Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	NI	NI
GEO-6. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	LTS	LTS
GEO-7. Result in a cumulatively considerable impact to geology and soils?	LTS	LTS

Note: In December 2018 amendments were made to Appendix G, *Environmental Checklist*, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. GEO-6, regarding unique paleontological resources or sites, or unique geological features was included in Chapter 4.4, *Cultural Resources*, of the General Plan EIR.

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

### 4.6.3 IMPACT DISCUSSION

<b>GEO-1</b>	<b>Implementation of the proposed Modified Project would not directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving: i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; ii) Strong seismic ground shaking; iii) Seismic-related ground failure, including liquefaction; iv) Landslides, mudslides, or other similar hazards.</b>
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As described in the General Plan EIR, only one Alquist-Priolo Earthquake Fault Zone has been mapped in the Study Area—namely, the zone that flanks the San Andreas Fault in the most southwestern part of the Study Area. In the event of a large, magnitude ( $M_w$ ) 6.7 or greater seismic event, much of the Study Area is projected to experience “strong” ground shaking, with the most intense shaking forecast for the northwest part of the Study Area.<sup>5</sup> Additionally, the potential for seismically induced liquefaction is low and limited to narrow areas that flank natural drainages along Stevens, Regnart, and Calabazas Creeks. Furthermore, potential future residential developed under the proposed Modified Project is in the mostly flat and low landslide susceptibility areas of the Study Area. As described in the General Plan EIR, compliance with building codes and regulations and General Plan 2040 policies would minimize impacts involving 1) rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; 2) strong seismic ground shaking; 3) seismic-related ground failure, including liquefaction; and 4) landslides, mudslides, or similar hazards.

<sup>5</sup> Association of Bay Area Governments, 2020, MTC/ABAG Hazard Viewer Map, accessed January 25, 2024, <https://mtc.maps.arcgis.com/apps/webappviewer/index.html?id=4a6f3f1259df42eab29b35dfcd086fc8>.

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The proposed Modified Project would also include potential future development and land use activities that would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or near existing residential and residential-serving development, as shown on Figure 3-3, *Housing Element (2023-2031) Opportunity Sites*, of Chapter 3, *Project Description*, of this EA. These sites would be in similar areas as future potential development under both the Approved Project and proposed Modified Project, outside of Alquist-Priolo Fault Zones and in low landslide and liquefaction susceptible areas.

The General Plan EIR also found that the Health and Safety (HS) Element contains policies and strategies that require local planning and development decisions to consider impacts that development could have on geologic and seismic processes in the area. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize potential adverse impacts on geologic processes:

- **Strategy HS-1.1.1. *Monitoring and Budgeting.*** Monitor and evaluate the success of the LHMP, including local strategies provided in the Cupertino Annex Section 11. Working with Santa Clara County, ensure that strategies are prioritized and implemented through the Capital Improvement Program and provide adequate budget for on-going programs and department operations. (General Plan EIR Strategy 1 under Policy 6-1)
- **Strategy HS-1.1.2. *Mitigation Incorporation.*** Ensure that mitigation actions identified in the LHMP are being incorporated into upcoming City sponsored projects, where appropriate. (General Plan EIR Strategy 2 under Policy 6-1)
- **Policy HS- 5.1. *Seismic And Geologic Review Process.*** Evaluate new development proposals within mapped potential hazard zones using a formal seismic/ geologic review process. Use Table HS- 3 (from the General Plan) of this Element to determine the level of review required. (General Plan EIR Policy 6-2)
- **Strategy HS-5.1.1. *Geotechnical and Structural Analysis.*** Require any site with a slope exceeding 10 percent to reference the Landslide Hazard Potential Zone maps of the State of California for all required geotechnical and structural analysis. (General Plan EIR Strategy 1 under Policy 6-2)
- **Strategy HS-5.1.2. *Residential Upgrades.*** Require that any residential facility, that is being increased more than 50 percent assessed value or physical size, conform to all provisions of the current building code throughout the entire structure. Owners of residential buildings with known structural defects, such as un-reinforced garage openings, “soft first story” construction, unbolted foundations, or inadequate sheer walls are encouraged to take steps to remedy the problem and bring their buildings up to the current building code. (General Plan EIR Strategy 2 under Policy 6-2)
- **Strategy HS-5.1.3. *Geologic Review.*** Continue to implement and update geologic review procedures for Geologic Reports required by the Municipal Code through the development review process. (General Plan EIR Strategy 3 under Policy 6-2)
- **Policy HS- 5.2. *Public Education on Seismic Safety.*** Reinforce the existing public education programs to help residents minimize hazards resulting from earthquakes. (General Plan EIR Policy 6-3)
- **Strategy HS-5.2.1. *Covenant on Seismic Risk.*** Require developers to record a covenant to tell future residents in high-risk areas about the risk and inform them that more information is in City Hall

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records. This is in addition to the State requirement that information on the geological report is recorded on the face of subdivision maps. (General Plan EIR Strategy 1 under Policy 6-3)

- **Strategy HS-5.2.2. *Emergency Preparedness.*** Publish and promote emergency preparedness activities and drills. Use the City social media, and the website to provide safety tips that may include identifying and correcting household hazards, knowing how and when to turn off utilities, helping family members protect themselves during and after an earthquake, recommending neighborhood preparation activities, and advising residents to maintain an emergency supply kit containing first- aid supplies, food, drinking water and battery operated radios and flashlights. (General Plan EIR Strategy 2 under Policy 6-3)
- **Strategy HS-5.2.3. *Neighborhood Response Groups.*** Encourage participation in Community Emergency Response Team (CERT) training. Train neighborhood groups to care for themselves during disasters. Actively assist in neighborhood drills and safety exercises to increase participation and build community support. (General Plan EIR Strategy 3 under Policy 6-3)
- **Strategy HS- 5.2.4. *Dependent Populations.*** As part of community- wide efforts, actively cooperate with State agencies that oversee facilities for persons with disabilities and those with access and functional needs, to ensure that such facilities conform to all health and safety requirements, including emergency planning, training, exercises and employee education. (General Plan EIR Strategy 4 under Policy 6-3)
- **Strategy HS- 5.2.5. *Foreign Language Emergency Information.*** Obtain translated emergency preparedness materials and make them available to appropriate foreign language populations. (General Plan EIR Strategy 5 under Policy 6-3)

As with the development assessed under the Approved Project, development under the proposed Modified Project would be required to comply with applicable State and local laws, policies, and design standards governing development near faults, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts involving rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; and landslides, mudslides, or similar hazards beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>GEO-2</b>	<b>Implementation of the proposed Modified Project would not result in substantial soil erosion or the loss of topsoil.</b>
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The General Plan EIR found that substantial soil erosion or loss of topsoil during construction could undermine structures and minor slopes and could be a concern during buildout of the Approved Project. As described in the General Plan EIR, in the east and central parts of the Study Area, the dominant soil types include soils of the Urban Land-Flaskan, Urban-Land Stevens Creek, and Urban Land-Botella complexes generally formed on slopes of 0 to 2 percent. Soils in the western and southwestern parts of

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the Study Area largely consist of soils of the Literr-Urban Land-Merbeth and Merbeth-Literr complex formed on slopes of 5 to 30 percent. In almost all instances, these soils are reportedly deep and well drained and typified by low runoff. Soils in the vicinity of Cupertino are known to be expansive in places.<sup>6</sup> However, compliance with existing regulatory requirements, such as implementation of grading erosion control measures as specified in the CMC, would reduce impacts from erosion and the loss of topsoil.

The proposed Modified Project would also include potential future development and land use activities that would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or in close proximity to existing residential and residential-serving development, as shown on Figure 3-3, *Housing Element (2023-2031) Opportunity Sites*. These would be in similar areas as those under the Approved Project.

The General Plan EIR also found that the Land Use and Community Design (LU), Environmental Resources and Sustainability (ES), and the Health and Safety (HS) Elements contain policies and strategies that require local planning and development decisions to consider impacts development could have on soil erosion and the loss of topsoil in the area. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize potential adverse impacts to soil erosion and the loss of topsoil Project:

- **Strategy LU-12.3.1. Grading.** Follow natural land contours and avoid mass grading of sites during construction, especially in flood hazard or geologically sensitive areas. Grading hillside sites not large, flat areas shall be avoided.
- **Policy ES-5.3. Landscaping In and Near Natural Vegetation.** Preserve and enhance existing natural vegetation, landscape features and open space when new development is proposed within existing natural areas. When development is proposed near natural vegetation, encourage the landscaping to be consistent with the palate of vegetation found in the natural vegetation. (General Plan EIR Policy 5-10)
- **Policy ES-7.2. Reduction of Impervious Surfaces.** Minimize stormwater runoff and erosion impacts resulting from development and use low impact development (LID) designs to treat stormwater or recharge groundwater. (General Plan EIR Policy 5-19)
- **Strategy ES-7.2.2. Pervious Walkways and Driveways.** Encourage the use of pervious materials for walkways and driveways. If used on public or quasi- public property, mobility and access for the disabled should take precedence. (General Plan EIR Strategy 2 under Policy 7.2)
- **Strategy ES-7.2.3. Maximize Infiltration.** Minimize impervious surface areas, and maximize on-site filtration and the use of on-site retention facilities. (General Plan EIR Strategy 3 under Policy 7.2)
- **Policy HS-7.5. Hillside Grading.** Restrict the extent and timing of hillside grading operations to April through October except as otherwise allowed by the City. Require performance bonds during the remaining time to guarantee the repair of any erosion damage. Require planting of graded slopes as soon as practical after grading is complete. (General Plan EIR Policy 6-47)

<sup>6</sup> UC Davis Soil Resource Laboratory, 2023, California Soil Resource Lab, Online Soil Survey, accessed on January 25, 2024, <http://casoilresource.lawr.ucdavis.edu/soilweb/>.

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As with the future potential development assessed under the Approved Project, development under the proposed Modified Project would be required to comply with applicable State and local laws, policies, and design standards governing soil erosion and loss of topsoil, as necessary. Based on these considerations, overall impacts from implementation of the proposed Modified Project would not result in new or more severe soil erosion or loss of topsoil beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>GEO-3</b>	<b>Implementation of the proposed Modified Project would not be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.</b>
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As described in the General Plan EIR, unstable geologic units are known to be present in the Study Area. Expansive soils are typically very fine grained with a high to very high percentage of clay, typically montmorillonite, smectite, or bentonite clay, though the shrink-swell potential at a given project under the Approved Project may be highly site-specific, requiring careful geotechnical investigation prior to project design and construction. However, development under the Approved Project would not occur in areas at risk of seismically induced liquefaction because these areas are limited to land flanking natural drainages along Stevens, Regnart, and Calabazas Creeks.

Similar to the Approved Project, the proposed Modified Project would also include potential future development and land use activities that would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or in close proximity to existing residential and residential-serving development, as shown on Figure 3-3, *Housing Element (2023-2031) Opportunity Sites*

As with future potential development under the Approved Project, development under the proposed Modified Project would be required to comply with applicable State and local laws, policies, and design standards governing unstable soils, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe unstable soils as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>GEO-4</b>	<b>The proposed Modified Project would not be implemented on expansive soil, as defined by Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property.</b>
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As described in the General Plan EIR, expansive soils (denoted by soils with high linear extensibility and plasticity index) are most prevalent in the northeast part of the Study Area, as shown on Figure 4.5-1, *Geologic Map*, in the General Plan EIR. However, compliance with CBC regulations—requirements for seismic safety, excavation, foundations, retaining walls, site demolition, grading, drainage, and erosion

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control—would minimize risk to life or property from expansive soil for potential future development under the Approved Project.

Similar to the Approved Project, the proposed Modified Project would also include potential future development and land use activities that would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or in close proximity to existing residential and residential-serving development, as shown on Figure 3-3, *Housing Element (2023-2031) Opportunity Sites*.

The General Plan EIR also found that the Health and Safety (HS) Element contains policies and strategies that would serve to minimize potential adverse impacts on geologic processes, including General Plan 2040 Policies HS-1.1, *Regional Hazard Risk Reduction Planning*: Coordinate with Santa Clara County and local agencies to implement the Multi-Jurisdictional Local Hazard Mitigation Plan (LHMP) for Santa Clara County. (General Plan EIR Policy 6-1). Also relevant were Policies HS-5.1 and HS-5.2 and the supporting strategies described in Impact Discussion GEO-1. Similar to the Approved Project, these policies and strategies, coupled with the CBC regulations identified in the General Plan EIR, would ensure that potential future development permitted under the proposed Modified Project would minimize impacts to life or property due to expansive soils.

Additionally, as with the future potential development under the Approved Project, future potential development under the proposed Modified Project would be required to comply with applicable State and local laws, policies, and design standards governing expansive soil, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts from expansive soil beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>GEO-5</b>	<b>Implementation of the proposed Modified Project would not have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of wastewater.</b>
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The General Plan EIR found that future development under the Approved Project would not require the use of septic tanks or alternative wastewater disposal systems. Wastewater would be discharged into the existing public sanitary sewer system in the city, served by the Cupertino Sanitary District, whose systems capture and convey wastewater to the San Jose/Santa Clara Water Pollution Control Plant where the wastewater is cleaned and recycled. Future potential development under the proposed Modified Project would also not require the use of septic tanks or alternative wastewater disposal systems. Thus, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to soils supporting the use of septic tanks or alternative wastewater disposal systems beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** No impact.

## GEOLOGY & SOILS

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**GEO-6                      Implementation of the proposed Modified Project would not directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.**

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At the time the General Plan EIR was certified, this threshold of significance was in the Cultural Resources chapter, and this impact discussion is CULT-3 in Section 4.4.3, *Impact Discussion*, of the General Plan EIR. The General Plan EIR found that though no paleontological resources have been identified within the Study Area, the presence of Pleistocene deposits that are known to contain fossils indicates that the overall Study Area could contain paleontological resources. However, compliance with applicable laws, regulations, and General Plan policies would minimize impacts to unique paleontological resources.

Similar to the Approved Project, the proposed Modified Project would include potential future development and land use activities within the same boundaries as the Approved Project. Furthermore, as shown on Figure 3-3, *Housing Element (2023-2031) Opportunity Sites*, of this EA, the locations of potential future development under the proposed Modified Project would be in similar disturbed and/or developed areas as those of the Approved Project.

As with future potential development under the Approved Project, development under the proposed Modified Project would be required to comply with applicable federal, State, and local laws, policies, and design standards governing unique paleontological resources, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to unique paleontological resources beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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**GEO-7                      Implementation of the proposed Modified Project would not result in cumulatively considerable impact with respect to geology and soils.**

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As described in the General Plan EIR, potential cumulative geological impacts could arise from a combination of the development of the Approved Project together with future development in the immediate vicinity of the adjoining jurisdictions. Only regional faults have been mapped by the State of California within the Study Area, thus the risk of primary fault rupture to occupied buildings is low. Additionally, as described in the General Plan EIR, compliance with building code requirements would reduce cumulative, development-related impacts under the Approved Project related to seismically induced ground shaking, liquefaction, landslides, and expansive soils.

The impacts to potential future development from seismic and geologic hazards tend to be site specific, and the overall cumulative effects would be dependent on site-specific geologic studies. Like the Approved Project, the proposed Modified Project has the same potential for cumulative impact on geology and soils since the Study Area is the same. Additionally, General Plan 2040 policies and strategies to protect cultural resources—described in Impact Discussions GEO-1, GEO-2, and GEO-4 and CMC Section 17.04.050(E)—would reduce impacts to geology and soils under both the Approved Project and proposed Modified Project.

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Further, development under the proposed Modified Project and other projects would be required to comply with applicable federal and State laws, policies, and design standards governing geology and soils, as necessary. Therefore, the proposed Modified Project would not result in new or more severe cumulatively considerable impacts to geology and soils beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.



## GREENHOUSE GAS EMISSIONS

### 4.7 GREENHOUSE GAS EMISSIONS

This chapter describes the potential impacts to greenhouse gas (GHG) emissions associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and baseline conditions, identifies criteria used to determine impact significance, provides an analysis of the potential GHG impacts, and identifies General Plan 2040 policies that could minimize any potentially significant impacts.

#### 4.7.1 ENVIRONMENTAL SETTING

##### 4.7.1.1 GREENHOUSE GASES AND CLIMATE CHANGE

Scientists have concluded that human activities are contributing to global climate change by adding large amounts of heat-trapping gases, known as GHGs, to the atmosphere. The primary source of these GHGs is fossil fuel use. The Intergovernmental Panel on Climate Change (IPCC) has identified four major GHGs—water vapor, carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), and ozone (O<sub>3</sub>)—that are the likely cause of an increase in global average temperatures observed in the 20th and 21st centuries. Other GHGs identified by the IPCC that contribute to global warming to a lesser extent are nitrous oxide (N<sub>2</sub>O), sulfur hexafluoride (SF<sub>6</sub>), hydrofluorocarbons, perfluorocarbons, and chlorofluorocarbons.<sup>1,2</sup>

The major GHGs are briefly described below.

- **Carbon dioxide (CO<sub>2</sub>)** enters the atmosphere through the burning of fossil fuels (oil, natural gas, and coal), solid waste, trees and wood products, and respiration, and also as a result of other chemical reactions (e.g., manufacture of cement). Carbon dioxide is removed from the atmosphere (i.e., sequestered) when it is absorbed by plants as part of the biological carbon cycle.

**Methane (CH<sub>4</sub>)** is emitted during the production and transport of coal, natural gas, and oil. Methane emissions also result from livestock, and other agricultural practices, and from the decay of organic waste in landfills and water treatment facilities. Additionally, methane is the largest component of natural gas, used to fuel appliances.<sup>3</sup>

- **Nitrous oxide (N<sub>2</sub>O)** is emitted during agricultural and industrial activities as well as during the combustion of fossil fuels and solid waste.

<sup>1</sup> Water vapor (H<sub>2</sub>O) is the strongest GHG and the most variable in its phases (vapor, cloud droplets, ice crystals). However, water vapor is not considered a pollutant, but part of the feedback loop rather than a primary cause of change.

<sup>2</sup> Black carbon contributes to climate change both directly, by absorbing sunlight, and indirectly, by depositing on snow (making it melt faster) and by interacting with clouds and affecting cloud formation. Black carbon is the most strongly light-absorbing component of particulate matter (PM) emitted from burning fuels such as coal, diesel, and biomass. The share of black carbon emissions from transportation is dropping rapidly and is expected to continue to do so between now and 2030 as a result of California's air quality programs. The remaining black carbon emissions will come largely from woodstoves/fireplaces, off-road applications, and industrial/commercial combustion. However, state and national GHG inventories do not include black carbon due to ongoing work resolving the precise global warming potential of black carbon. Guidance for CEQA documents does not yet include black carbon.

<sup>3</sup> U.S. Energy Information Administration. 2022. "Natural Gas Explained" accessed April 19, 2024 at <https://www.eia.gov/energyexplained/natural-gas/>.

## GREENHOUSE GAS EMISSIONS

GHGs are dependent on the lifetime, or persistence, of the gas molecule in the atmosphere. Some GHGs have a stronger greenhouse effect than others. These are referred to as high Global Warming Potential (GWP) gases. The GWP of applicable GHG emissions are shown in Table 4.7-1, *Greenhouse Gas Emissions and Their Relative Global Warming Potential Compared to CO<sub>2</sub>*. The GWP is used to convert GHGs to CO<sub>2</sub>-equivalence (CO<sub>2</sub>e) to show the relative potential that different GHGs retain infrared radiation in the atmosphere and contribute to the greenhouse effect. For example, under IPCC's Fifth Assessment Report (AR5) GWP values for methane (CH<sub>4</sub>), a project that generates 10 metric tons (MT) of CH<sub>4</sub> would be equivalent to 280 MT of CO<sub>2</sub>.

**TABLE 4.7-1 GHG EMISSIONS AND THEIR RELATIVE GLOBAL WARMING POTENTIAL COMPARED TO CO<sub>2</sub>**

GHGs	Fourth Assessment Report Global Warming Potential Relative to CO <sub>2</sub> <sup>a</sup>	Fifth Assessment Report Global Warming Potential Relative to CO <sub>2</sub> <sup>a</sup>	Sixth Assessment Report Global Warming Potential Relative to CO <sub>2</sub> <sup>a</sup>
Carbon Dioxide (CO <sub>2</sub> )	1	1	1
Methane (CH <sub>4</sub> ) <sup>b</sup>	25	28	30
Nitrous Oxide (N <sub>2</sub> O)	298	265	273

Notes: The IPCC published updated GWP values in its Sixth Assessment Report (AR6) that reflect new information on atmospheric lifetimes of GHGs and an improved calculation of the radiative forcing of CO<sub>2</sub>. However, GWP values identified in AR4 are used in CalEEMod. Therefore, this analysis utilizes AR4 GWP values.

a. Based on 100-year time horizon of the GWP of the air pollutant compared to CO<sub>2</sub>.

b. The methane GWP includes direct effects and indirect effects due to the production of tropospheric ozone and stratospheric water vapor. The indirect effect due to the production of CO<sub>2</sub> is not included.

Sources: IPCC 2007, 2013, and 2022.

## Human Influence on Climate Change

For approximately 1,000 years before the Industrial Revolution, the amount of GHGs in the atmosphere remained relatively constant. During the 20th century, however, scientists observed a rapid change in the climate and the quantity of climate change pollutants in the Earth's atmosphere that is attributable to human activities.

The recent Sixth Assessment Report (AR6) of the Intergovernmental Panel on Climate Change (IPCC) summarizes the latest scientific consensus on climate change. It finds that atmospheric concentrations of CO<sub>2</sub> have increased by 50 percent since the industrial revolution and continue to increase at a rate of two parts per million each year. By the 2030s, and no later than 2040, the world will exceed 1.5 degrees Celsius (°C) warming.<sup>4</sup> These recent changes in the quantity and concentration of climate change pollutants far exceed the extremes of the ice ages, and the global mean temperature is warming at a rate that cannot be explained by natural causes alone. Human activities are directly altering the chemical composition of the atmosphere through the buildup of GHG emissions.<sup>5</sup> In the past, gradual changes in the earth's temperature changed the distribution of species, availability of water, etc. Human activities are

<sup>4</sup> California Air Resources Board, December 2022, *Draft 2022 Scoping Plan*, <https://ww2.arb.ca.gov/sites/default/files/2023-04/2022-sp.pdf>, accessed January 23, 2024.

<sup>5</sup> California Environmental Protection Agency, Climate Action Team, March 2006, *Climate Action Team Report to Governor Schwarzenegger and the Legislature*, <http://s3-us-west-2.amazonaws.com/uclcd-nuxeo-ref-media/0bdec21c-ca2b-4f4d-9e11-35935ac4cf5f>, accessed January 23, 2024.

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accelerating this process so that environmental impacts associated with climate change no longer occur in a geologic time frame but within a human lifetime.<sup>6</sup>

Like the variability in the projections of the expected increase in global surface temperatures, the environmental consequences of gradual changes in the Earth's temperature are hard to predict. Projections of climate change depend heavily upon future human activity. Therefore, climate models are based on different emission scenarios that account for historical trends in emissions and on observations of the climate record that assess the human influence of the trend and projections for extreme weather events. On a local level, the Study Area is likely to experience the following trends due to an increase in global GHG emissions:

- Increase in annual average minimum and maximum temperatures.
  - Increase in the number of extreme heat days.
  - Increase in the frequency and intensity of both heavy rainfall and drought conditions.
  - Increase in mean high tide levels and bayshore flooding.
- Increase in secondary effects of warmer temperatures and severe rainfall, including wildfires, landslides, vector-borne illnesses, and poor air quality.

### 4.7.1.2 REGULATORY FRAMEWORK

This section summarizes key federal, State, regional, and local regulations and programs related to GHG emissions resulting from the proposed Modified Project.

#### Federal Regulations

##### *United State Environmental Protection Agency*

The US Environmental Protection Agency (USEPA) announced on December 7, 2009, that GHG emissions threaten the public health and welfare of the American people and that GHG emissions from on-road vehicles contribute to that threat. The EPA's final findings respond to the 2007 U.S. Supreme Court decision that GHG emissions fit within the Clean Air Act definition of air pollutants. The findings do not impose any emission reduction requirements but allow the EPA to finalize the GHG standards proposed in 2009 for new light-duty vehicles as part of the joint rulemaking with the Department of Transportation.<sup>7</sup>

To regulate GHGs from passenger vehicles, the USEPA was required to issue an endangerment finding. The finding identified emissions of six key GHGs—CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, hydrofluorocarbons, perfluorocarbons, and SF<sub>6</sub>—that have been the subject of scrutiny and intense analysis for decades by scientists in the United States and around the world. The first three are applicable to the project's GHG emissions inventory

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<sup>6</sup> Intergovernmental Panel on Climate Change, 2007, *Fourth Assessment Report: Climate Change 2007, Impacts, Adaptation and Vulnerability*, [https://www.ipcc.ch/site/assets/uploads/2018/03/ar4\\_wg2\\_full\\_report.pdf](https://www.ipcc.ch/site/assets/uploads/2018/03/ar4_wg2_full_report.pdf), accessed January 23, 2024.

<sup>7</sup> US Environmental Protection Agency, December 2009, EPA: *Greenhouse Gases Threaten Public Health and the Environment. Science overwhelmingly shows greenhouse gas concentrations at unprecedented levels due to human activity.* [https://archive.epa.gov/epapages/newsroom\\_archive/newsreleases/08d11a451131bca585257685005bf252.html](https://archive.epa.gov/epapages/newsroom_archive/newsreleases/08d11a451131bca585257685005bf252.html).

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because they constitute the majority of GHG emissions and, according to guidance by the BAAQMD, are the GHG emissions that should be evaluated as part of a project's GHG emissions inventory.

In response to the endangerment finding, the EPA issued the Mandatory Reporting of GHG Rule in 2009 that requires substantial emitters of GHG emissions (large stationary sources, etc.) to report GHG emissions data. Facilities that emit 25,000 MT or more of CO<sub>2</sub>e per year are required to submit an annual report.

### *Corporate Average Fuel Economy Standards (2017 to 2026)*

The federal government issued new Corporate Average Fuel Economy (CAFE) standards in 2012 for model years 2017 to 2025, which required a fleet average of 54.5 miles per gallon (MPG) in 2025. However, on March 30, 2020, the EPA finalized an updated CAFE and GHG emissions standards for passenger cars and light trucks and established new standards covering model years 2021 through 2026, known as the Safer Affordable Fuel Efficient (SAFE) Vehicles Final Rule for Model Years 2021 to 2026. Under SAFE, the fuel economy standards will increase 1.5 percent per year compared to the 5 percent per year under the CAFE standards established in 2012. Overall, SAFE requires a fleet average of 40.4 MPG for model year 2026 vehicles (85 Federal Register 24174 [April 30, 2020]).<sup>8</sup>

On December 21, 2021, under the direction of Executive Order (EO) 13990, the National Highway Traffic Safety Administration (NHTSA) repealed SAFE Vehicles Rule Part One, which had preempted state and local laws related to fuel economy standards. In addition, the National Highway Traffic Safety Administration (NHTSA) announced new proposed fuel standards on March 31, 2022. Fuel efficiency under the new standards proposed will increase 8 percent annually for model years 2024 to 2025 and 10 percent annual for model year 2026. Overall, the new CAFE standards require a fleet average of 49 MPG for passenger vehicles and light trucks for model year 2026, which would be a 10 MPG increase relative to model year 2021.<sup>9</sup>

## State Regulations

Current State of California guidance and goals for reductions in GHG emissions are generally embodied in Executive Order (EO) S-03-05, EO B-30-15, EO B-55-18, Assembly Bill (AB) 32, AB 1279, Senate Bill (SB) 32, and SB 375.

### *Executive Order S-03-05*

EO S-03-05 was signed June 1, 2005, and set the following GHG reduction targets for the state:

- 2000 levels by 2010
- 1990 levels by 2020

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<sup>8</sup>Environmental Protection Agency, April 2020, *85 Federal Register 24174*, <https://www.govinfo.gov/content/pkg/FR-2020-04-30/pdf/2020-06967.pdf>, accessed on February 2, 2024.

<sup>9</sup> National Highway Traffic Safety Administration, April 1, 2022, *USDOT Announces New Vehicle Fuel Economy Standards for Model year 2024-2026*. <https://www.nhtsa.gov/press-releases/usdot-announces-new-vehicle-fuel-economy-standards-model-year-2024-2026>, accessed on January 23, 2024.

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- 80 percent below 1990 levels by 2050

### *Assembly Bill 32, the Global Warming Solutions Act (2006)*

AB 32 was passed by the California state legislature on August 31, 2006, to place the state on a course toward reducing its contribution of GHG emissions. AB 32 follows the 2020 tier of emissions reduction targets established in EO S-03-05. CARB prepared the 2008 Scoping Plan to outline a plan to achieve the GHG emissions reduction targets of AB 32.

### *Executive Order B-30-15*

EO B-30-15, signed April 29, 2015, set a goal of reducing GHG emissions in the state to 40 percent of 1990 levels by year 2030. Executive Order B-30-15 also directed CARB to update the Scoping Plan to quantify the 2030 GHG reduction goal for the state and requires State agencies to implement measures to meet the interim 2030 goal as well as the long-term goal for 2050 in EO S-03-05. It also requires the Natural Resources Agency to conduct triennial updates of the California Adaptation Strategy in order to ensure climate change is accounted for in state planning and investment decisions.

### *Senate Bill 32 and Assembly Bill 197*

In September 2016, SB 32 and AB 197 were signed into law, making the executive order goal for year 2030 into a statewide mandated legislative target. AB 197 established a joint legislative committee on climate change policies and requires the CARB to prioritize direct emissions reductions rather than the market-based cap-and-trade program for large stationary, mobile, and other sources.

### *Executive Order B-55-18*

EO B-55-18, signed September 10, 2018, sets a goal “to achieve carbon neutrality as soon as possible, and no later than 2045, and achieve and maintain net negative emissions thereafter.” Executive Order B-55-18 directs CARB to work with relevant state agencies to ensure future Scoping Plans identify and recommend measures to achieve the carbon neutrality goal. The goal of carbon neutrality by 2045 is in addition to other statewide goals, meaning not only should emissions be reduced to 80 percent below 1990 levels by 2050, but that, by no later than 2045, the remaining emissions be offset by equivalent net removals of CO<sub>2</sub>e from the atmosphere, including through sequestration in forests, soils, and other natural landscapes.

CARB adopted the 2022 Scoping Plan for Achieving Carbon Neutrality (2022 Scoping Plan) on December 15, 2022, which lays out a path to achieve carbon neutrality by 2045 or earlier and to reduce the State’s anthropogenic GHG emissions.<sup>10</sup> The Scoping Plan was updated to address the carbon neutrality goals of EO B-55-18 (described below) and the ambitious GHG reduction target as directed by AB 1279. Previous Scoping Plans focused on specific GHG reduction targets for our industrial, energy, and transportation sectors—to meet 1990 levels by 2020, and then the more aggressive 40 percent below that for the 2030 target. This plan expands upon earlier Scoping Plans with a target of reducing anthropogenic emissions to

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<sup>10</sup> California Air Resources Board, December 2022, *2022 Scoping Plan for Achieving Carbon Neutrality*, <https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp.pdf>, accessed January 23, 2024.

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85 percent below 1990 levels by 2045. Carbon neutrality takes it one step further by expanding actions to capture and store carbon including through natural and working lands and mechanical technologies, while drastically reducing anthropogenic sources of carbon pollution at the same time.

The path forward was informed by the recent Sixth Assessment Report (AR6) of the IPCC and the measures would achieve 85 percent below 1990 levels by 2045 in accordance AB 1279. CARB's 2022 Scoping Plan identifies strategies as shown in Table 4.7-2, *Priority Strategies for Local Government Climate Action Plans*, that would be most impactful at the local level for ensuring substantial process towards the State's carbon neutrality goals.

**TABLE 4.7-2 PRIORITY STRATEGIES FOR LOCAL GOVERNMENT CLIMATE ACTION PLANS**

Priority Area	Priority Strategies
Transportation Electrification	Convert local government fleets to zero-emission vehicles (ZEV) and provide EV charging at public sites.
	Create a jurisdiction-specific ZEV ecosystem to support deployment of ZEVs statewide (such as building standards that exceed state building codes, permit streamlining, infrastructure siting, consumer education, preferential parking policies, and ZEV readiness plans).
VMT Reduction	Reduce or eliminate minimum parking standards.
	Implement Complete Streets policies and investments, consistent with general plan circulation element requirements.
	Increase access to public transit by increasing density of development near transit, improving transit service by increasing service frequency, creating bus priority lanes, reducing, or eliminating fares, microtransit, etc.
	Increase public access to clean mobility options by planning for and investing in electric shuttles, bike share, car share, and walking.
	Implement parking pricing or transportation demand management pricing strategies.
	Amend zoning or development codes to enable mixed-use, walkable, transit-oriented, and compact infill development (such as increasing allowable density of the neighborhood).
Building Decarbonization	Preserve natural and working lands by implementing land use policies that guide development toward infill areas and do not convert "greenfield" land to urban uses (e.g., green belts, strategic conservation easements)
	Adopt all-electric new construction reach codes for residential and commercial uses.
	Adopt policies and incentive programs to implement energy efficiency retrofits for existing buildings, such as weatherization, lighting upgrades, and replacing energy-intensive appliances and equipment with more efficient systems (such as Energy Star-rated equipment and equipment controllers).
	Adopt policies and incentive programs to electrify all appliances and equipment in existing buildings such as appliance rebates, existing building reach codes, or time of sale electrification ordinances.
	Facilitate deployment of renewable energy production and distribution and energy storage on privately owned land uses (e.g., permit streamlining, information sharing)
	Deploy renewable energy production and energy storage directly in new public projects and on existing public facilities (e.g., solar photovoltaic systems on rooftops of municipal buildings and on canopies in public parking lots, battery storage systems in municipal buildings).

Source: California Air Resources Board, 2022, Draft 2022 Scoping Plan, <https://ww2.arb.ca.gov/our-work/programs/ab-32-climate-change-scoping-plan/2022-scoping-plan-documents>, accessed May 23, 2023.

For residential development projects, CARB recommends this first approach to demonstrate that these land use development projects are aligned with State climate goals based on the attributes of land use development that reduce operational GHG emissions while simultaneously advancing fair housing. Attributes that accommodate growth in a manner consistent with the GHG and equity goals of SB 32 have all the following attributes:

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### Transportation Electrification

- Provide EV charging infrastructure that, at a minimum, meets the most ambitious voluntary standards in the California Green Building Standards Code at the time of project approval.

### VMT Reduction

- Is located on infill sites that are surrounded by existing urban uses and reuses or redevelops previously undeveloped or underutilized land that is presently served by existing utilities and essential public services (e.g., transit, streets, water, sewer).
- Does not result in the loss or conversion of the State's natural and working lands;
- Consists of transit-supportive densities (minimum of 20 residential dwelling units/acre), or is in proximity to existing transit stops (within a half mile), or satisfies more detailed and stringent criteria specified in the region's Sustainable Communities Strategy (SCS);
- Reduces parking requirements by:
  - Eliminating parking requirements or including maximum allowable parking ratios (i.e., the ratio of parking spaces to residential units or square feet); or
  - Providing residential parking supply at a ratio of <1 parking space per dwelling unit; or
  - For multifamily residential development, requiring parking costs to be unbundled from costs to rent or own a residential unit.
- At least 20 percent of the units are affordable to lower-income residents;
- Result in no net loss of existing affordable units.

### Building Decarbonization

- Use all electric appliances without any natural gas connections and does not use propane or other fossil fuels for space heating, water heating, or indoor cooking.

The second approach to project-level alignment with State climate goals is net zero GHG emissions. The third approach to demonstrating project-level alignment with State climate goals is to align with GHG thresholds of significance, which many local air quality management (AQMDs) and air pollution control districts (APCDs) have developed or adopted.<sup>11</sup>

### *Assembly Bill 1279*

AB 1279, signed into law in September 2022, codified the carbon neutrality targets of EO B-55-18 for year 2045 and sets a new legislative target for year 2045 of 85 percent below 1990 levels for anthropogenic GHG emissions. CARB will be required to update the Scoping Plan to identify and recommend measures to achieve the net-zero and GHG emissions-reduction goals.

### *Sustainable Communities and Climate Protection Act*

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<sup>11</sup> California Air Resources Board (CARB). 2022, December. *2022 Scoping Plan for Achieving Carbon Neutrality*, <https://ww2.arb.ca.gov/sites/default/files/2022-12/2022-sp.pdf>, accessed January 23, 2024.

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The Sustainable Communities and Climate Protection Act, commonly known by its legislative bill number (SB 375), was adopted in 2008 to connect the GHG emissions reduction targets established in the 2008 Scoping Plan for the transportation sector to local land use decisions that affect travel behavior. Its intent is to reduce GHG emissions from light-duty trucks and automobiles (excludes emissions associated with goods movement) by aligning regional long-range transportation plans, investments, and housing allocations to local land use planning to reduce vehicle miles traveled (VMT) and vehicle trips. Specifically, SB 375 required CARB to establish GHG emissions reduction targets for each of the 18 metropolitan planning organizations (MPO). Metropolitan Transportation Commission (MTC) is the MPO for the San Francisco Bay region, which includes Napa, Marin, San Francisco, San Mateo, Santa Clara, Alameda, Sonoma, Solano, and Contra Costa counties. Pursuant to the recommendations of the Regional Transportation Advisory Committee, CARB adopted per capita reduction targets for each of the MPOs rather than a total magnitude reduction target.

CARB is required to update the targets for the MPOs every eight years. In June 2017, CARB released updated targets and technical methodology, and released another update in February 2018, which became effective in October 2018. All Sustainable Community Strategies (SCSs) adopted after October 1, 2018, are subject to these new targets. The updated targets consider the need to further reduce VMT, as identified in the 2017 Scoping Plan Update, while balancing the need for additional and more flexible revenue sources to incentivize positive planning and action toward sustainable communities. Like the 2010 targets, the updated SB 375 targets are in units of percent per capita reduction in GHG emissions from automobiles and light trucks compared to 2005. This excludes reductions anticipated from implementation of state technology and fuels strategies and any potential future state strategies such as statewide road user pricing. The proposed targets call for greater per-capita GHG emission reductions from SB 375 than are currently in place, which for 2035 translates into proposed targets that either match or exceed the emission reduction levels in the MPOs' currently adopted sustainable communities strategies (SCS). As proposed, CARB staff's proposed targets would result in an additional reduction of over 8 MMTCO<sub>2</sub>e in 2035 compared to the current targets.<sup>12</sup>

### *Transportation Sector Specific Regulations*

#### Assembly Bill 1493

California vehicle GHG emission standards were enacted under AB 1493 (Pavley I). Pavley I is a clean-car standard that reduces GHG emissions from new passenger vehicles (light-duty auto to medium-duty vehicles). California implements the Pavley I standards through a waiver granted to California by the EPA. In 2012, the EPA issued a Final Rulemaking that sets even more stringent fuel economy and GHG emissions standards for model years 2017 through 2025 light-duty vehicles. (See also the previous discussion in federal regulations under "Update to Corporate Average Fuel Economy Standards [2017 to 2026].")

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<sup>12</sup> California Air Resources Board (CARB), February 2018, Proposed Update to the SB 375 Greenhouse Gas Emission Reduction Targets. [https://ww2.arb.ca.gov/sites/default/files/2020-06/SB375\\_Updated\\_Final\\_Target\\_Staff\\_Report\\_2018.pdf](https://ww2.arb.ca.gov/sites/default/files/2020-06/SB375_Updated_Final_Target_Staff_Report_2018.pdf).



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In January 2012, CARB approved the Advanced Clean Cars program (formerly known as Pavley II) for model years 2017 through 2025. The program combines the control of smog, soot, and GHGs with requirements for greater numbers of ZE vehicles into a single package of standards. Under California's Advanced Clean Car program, by 2025 new automobiles will emit 34 percent less GHG emissions and 75 percent less smog-forming emissions.

### Advanced Clean Fleets and Advanced Clean Trucks

In April 2023, CARB adopted the Advanced Clean Cars II rule (AC II), which requires all new passenger vehicles, trucks, and SUVs sold in California to be zero emissions by 2035. The regulation amends the Zero-emission Vehicle Regulation to require an increasing number of zero-emission vehicles to support the 2020 EO N-79-20 and amends the Low-emission Vehicle Regulations to include increasingly stringent standards for gasoline cars and heavier passenger trucks to continue to reduce smog-forming emissions. This rule will substantially reduce air pollutants that threaten public health and would further develop the zero-emission vehicle market starting with the 2026 model year.

In April 2023, CARB approved the Advanced Clean Fleets, which requires a phased-in transition toward zero-emission medium-and-heavy duty vehicles. Under the new rule, fleet owners operating vehicles for private services (such as Postal Service, state, and local government fleets) will begin their transition toward zero-emission vehicles starting in 2024. The rule also requires an end to combustion truck sales in 2036 and follows the 2020 adoption of the Advanced Clean Trucks rule, which put in place a requirement for manufacturers to increase the sale of zero-emission trucks.

### Executive Order S-01-07

On January 18, 2007, the State set a new Low Carbon Fuel Standard (LCFS) for transportation fuels sold in the state. EO S 01 07 set a declining standard for GHG emissions measured in CO<sub>2</sub>e gram per unit of fuel energy sold in California. The LCFS requires a reduction of 2.5 percent in the carbon intensity of California's transportation fuels by 2015 and a reduction of at least 10 percent by 2020. The standard applied to refiners, blenders, producers, and importers of transportation fuels, and used market-based mechanisms to allow these providers to choose the most economically feasible methods for reducing emissions during the "fuel cycle."

### Executive Order B-16-2012

On March 23, 2012, the State identified that CARB, the California Energy Commission (CEC), the Public Utilities Commission, and other relevant agencies worked with the Plug-in Electric Vehicle Collaborative and the California Fuel Cell Partnership to establish benchmarks to accommodate ZE vehicles in major metropolitan areas, including infrastructure to support them (e.g., electric vehicle [EV] charging stations). EO B 16-2012 also directed the number of ZE vehicles in California's state vehicle fleet to increase through the normal course of fleet replacement so that at least 10 percent of fleet purchases of light-duty vehicles are ZE by 2015 and at least 25 percent by 2020. The executive order also established a target for the transportation sector of reducing GHG emissions to 80 percent below 1990 levels.

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### Executive Order N-79-20

On September 23, 2020, EO N-79-20 was signed into law, whose goal is that 100 percent of in-state sales of new passenger cars and trucks will be ZE by 2035. Additionally, the fleet goals for trucks are that 100 percent of drayage trucks are ZE by 2035, and 100 percent of medium- and heavy-duty vehicles in the state are ZE by 2045, where feasible. The EO's goal for the state is to transition to 100 percent ZE off-road vehicles and equipment by 2035, where feasible.

### *Renewables Portfolio: Carbon Neutrality Regulations*

### Senate Bills 1078, 107, and X1-2 and Executive Order S 14 08

A major component of California's Renewable Energy Program is the renewables portfolio standard (RPS) established under SB 1078 (Sher) and 107 (Simitian). Under the RPS, certain retail sellers of electricity were required to increase the amount of renewable energy each year by at least 1 percent in order to reach at least 20 percent by December 30, 2010. EO S-14-08, signed in November 2008, expanded the state's renewable energy standard to 33 percent renewable power by 2020. This standard was adopted by the legislature in 2011 (SB X1-2). Renewable sources of electricity include wind, small hydropower, solar, geothermal, biomass, and biogas. The increase in renewable sources for electricity production decreases indirect GHG emissions from development projects because electricity production from renewable sources is generally considered carbon neutral.

### Senate Bill 350

Senate Bill 350 (de Leon) was signed into law in September 2015 and establishes tiered increases to the RPS—40 percent by 2024, 45 percent by 2027, and 50 percent by 2030. SB 350 also sets a new goal to double the energy-efficiency savings in electricity and natural gas through energy efficiency and conservation measures.

### Senate Bill 100

On September 10, 2018, SB 100 was signed into law. Under SB 100, the RPS for public-owned facilities and retail sellers consists of 44 percent renewable energy by 2024, 52 percent by 2027, and 60 percent by 2030. SB 100 also established a new RPS requirement of 50 percent by 2026. Furthermore, the bill establishes an overall state policy that eligible renewable energy resources and zero-carbon resources supply 100 percent of all retail sales of electricity to California end-use customers and 100 percent of electricity procured to serve all state agencies by December 31, 2045. Under the bill, the state cannot increase carbon emissions elsewhere in the western grid or allow resource shuffling to achieve the 100 percent carbon-free electricity target.

### Senate Bill 1020

SB 1020 was signed into law on September 16, 2022. SB 1020 provides interim RPS targets (90 percent renewable energy by 2035 and 95 percent renewable energy by 2040) and requires renewable energy and zero-carbon resources to reach 100 percent clean electricity by 2045.

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### *Energy-Efficiency Regulations*

#### California Building Code: Building Energy-Efficiency Standards

Energy conservation standards for new residential and nonresidential buildings were adopted by the California Energy Resources Conservation and Development Commission (now the CEC) in June 1977 (Title 24, Part 6, of the California Code of Regulations [CCR]). Title 24 requires the design of building shells and building components to conserve energy. The standards are updated periodically to allow for the consideration and possible incorporation of new energy efficiency technologies and methods.

The 2022 Building Energy Efficiency Standards were adopted on August 11, 2021, and went into effect on January 1, 2023. The 2022 standards encourage efficient electric heat pumps, establish electric-ready requirements for new homes, expand solar photovoltaic and battery storage standards, strengthen ventilation standards, and more. The 2022 standards require mixed-fuel single-family homes to be electric-ready to accommodate replacement of gas appliances with electric appliances. In addition, the standards also include prescriptive photovoltaic system and battery requirements for high-rise, multifamily buildings (i.e., more than three stories) and noncommercial buildings such as hotels, offices, medical offices, restaurants, retail stores, schools, warehouses, theaters, and convention centers.<sup>13</sup>

#### California Building Code: CALGreen

On July 17, 2008, the California Building Standards Commission adopted the nation's first green building standards. The California Green Building Standards Code (24 CCR, Part 11, known as "CALGreen") was adopted as part of the California Building Standards Code. CALGreen established planning and design standards for sustainable site development, energy efficiency (in excess of the California Energy Code requirements), water conservation, material conservation, and internal air contaminants. The mandatory provisions of CALGreen became effective January 1, 2011, and were last updated in 2022. The 2022 CALGreen standards became effective on January 1, 2023.

#### 2006 Appliance Efficiency Regulations

The 2006 Appliance Efficiency Regulations (20 CCR Sections 1601–1608) were adopted by the CEC on October 11, 2006, and approved by the California Office of Administrative Law on December 14, 2006. The regulations include standards for both federally regulated appliances and non–federally regulated appliances. Though these regulations are now often viewed as "business as usual," they exceed the standards imposed by all other states, and they reduce GHG emissions by reducing energy demand.

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<sup>13</sup> California Energy Commission (CEC), May 2021, *Amendments to the Building Energy Efficiency Standards (2022 Energy Code) Draft Environmental Report*. <https://www.energy.ca.gov/publications/2021/environmental-impact-report-amendments-building-efficiency-standards-2022-energy>.

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### *Solid Waste Diversion Regulations*

#### Assembly Bill 939: Integrated Waste Management Act of 1989

California's Integrated Waste Management Act of 1989 (AB 939, Public Resources Code Section 40050 et seq.) set a requirement for cities and counties throughout the state to divert 50 percent of all solid waste from landfills by January 1, 2000, through source reduction, recycling, and composting. In 2008, the requirements were modified to reflect a per capita requirement rather than tonnage. To help achieve this, the Act requires that each city and county prepare and submit a source reduction and recycling element. AB 939 also established the goal for all California counties to provide at least 15 years of ongoing landfill capacity.

#### Assembly Bill 341

AB 341 (Chapter 476, Statutes of 2011) increased the statewide goal for waste diversion to 75 percent by 2020 and requires recycling of waste from commercial and multifamily residential land uses. Section 5.408 of CALGreen also requires that at least 65 percent of the nonhazardous construction and demolition waste from nonresidential construction operations be recycled and/or salvaged for reuse.

#### Assembly Bill 1327

The California Solid Waste Reuse and Recycling Access Act (AB 1327, Public Resources Code Section 42900 et seq.) requires areas to be set aside for collecting and loading recyclable materials in development projects. The act requires the California Integrated Waste Management Board to develop a model ordinance for adoption by any local agency requiring adequate areas for collection and loading of recyclable materials as part of development projects. Local agencies are required to adopt the model or an ordinance of their own.

#### Assembly Bill 1826

In October of 2014, AB 1826 was signed into law requiring businesses to recycle their organic waste on and after April 1, 2016, depending on the amount of waste they generate per week. This law also requires that on and after January 1, 2016, local jurisdictions across the state implement an organic waste recycling program to divert organic waste generated by businesses and multifamily residential dwellings with five or more units. Organic waste means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed with food waste.

### *Water Efficiency Regulations*

#### Senate Bill X7-7

The 20x2020 Water Conservation Plan was issued by the Department of Water Resources (DWR) in 2010 pursuant to Senate Bill 7, which was adopted during the 7th Extraordinary Session of 2009 to 2010 and therefore dubbed "SB X7-7." SB X7-7 mandated urban water conservation and authorized the DWR to prepare a plan implementing urban water conservation requirement (20x2020 Water Conservation Plan). In addition, it required agricultural water providers to prepare agricultural water management plans,

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measure water deliveries to customers, and implement other efficiency measures. SB X7-7 required urban water providers to adopt a water conservation target of a 20 percent reduction in urban per-capita water use by 2020 compared to 2005 baseline use.

### Assembly Bill 1881: Water Conservation in Landscaping Act

The Water Conservation in Landscaping Act of 2006 (AB 1881) requires local agencies to adopt the updated DWR model water efficient landscape ordinance or an equivalent by 2015. AB 1881 also requires the CEC to consult with the DWR to adopt, by regulation, performance standards and labeling requirements for landscape irrigation equipment, including irrigation controllers, moisture sensors, emission devices, and valves, to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy or water.

### *Short-Lived Climate Pollutant Reduction Strategy*

On September 19, 2016, SB 1383 was signed into law to supplement the GHG reduction strategies in the Scoping Plan to consider short-lived climate pollutants, including black carbon and methane. Black carbon is the light-absorbing component of fine particulate matter produced during the incomplete combustion of fuels. SB 1383 required CARB, no later than January 1, 2018, to approve and begin implementing a comprehensive strategy to reduce emissions of short-lived climate pollutants to achieve a reduction in methane by 40 percent, hydrofluorocarbon gases by 40 percent, and anthropogenic black carbon by 50 percent below 2013 levels by 2030. The bill also established targets for reducing organic waste in landfills. On March 14, 2017, CARB adopted the Short-Lived Climate Pollutant Reduction Strategy, which identifies the state's approach to reducing anthropogenic and biogenic sources of short-lived climate pollutants. Anthropogenic sources of black carbon include on- and off-road transportation, residential wood burning, fuel combustion (charbroiling), and industrial processes. According to CARB, ambient levels of black carbon in California are 90 percent lower than in the early 1960s, despite the tripling of diesel fuel use.<sup>14</sup> In-use on-road rules were expected to reduce black carbon emissions from on-road sources by 80 percent between 2000 and 2020.

## Regional Regulations

### *Plan Bay Area: Strategy for a Sustainable Region*

MTC and Association of Bay Area Governments (ABAG) adopted *Plan Bay Area 2050* on October 21, 2021.<sup>15</sup> *Plan Bay Area 2050* provides transportation and environmental strategies to continue to meet the regional transportation-related GHG reduction goals of SB 375. 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

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<sup>14</sup> California Air Resources Board (CARB). March 2017. *Short-Lived Climate Pollutant Reduction Strategy*. <https://www.arb.ca.gov/cc/shortlived/shortlived.htm>.

<sup>15</sup> Association of Bay Area Governments/Metropolitan Transportation Commission, 2021, October. *Plan Bay Area 2050*. [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed January 23, 2024.

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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. GHG emissions from transportation would decrease significantly as a result of these transportation and land use changes, and the Bay Area would meet the state mandate of a 19-percent reduction in per-capita emissions by 2035 — but only if all strategies are implemented.<sup>16</sup>

To achieve MTC's/ABAG's sustainable vision for the Bay Area, the Plan Bay Area land use concept plan for the region concentrates the majority of new population and employment growth in the region in Priority Development Areas (PDAs). PDAs are transit-oriented, infill development opportunity areas within existing communities. 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. In Cupertino, there are four TPAs and two PDAs, the Santa Clara Valley Transportation Authority City Cores, Corridors & Station Areas, and South DeAnza.<sup>17,18</sup>

### *Bay Area Clean Air Plan*

BAAQMD adopted the *2017 Clean Air Plan, Spare the Air, Cool the Climate* on April 19, 2017. The *2017 Clean Air Plan* also lays the groundwork for reducing GHG emissions in the Bay Area to meet the state's 2030 GHG reduction target and 2050 GHG reduction goal. It also includes a vision for the Bay Area in a post-carbon year 2050 that encompasses the following:

- Construct buildings that are energy efficient and powered by renewable energy.
- Walk, bicycle, and use public transit for the majority of trips and use electric-powered autonomous public transit fleets.
- Incubate and produce clean energy technologies.
- Live a low-carbon lifestyle by purchasing low-carbon foods and goods in addition to recycling and putting organic waste to productive use.<sup>19</sup>

A comprehensive multipollutant control strategy has been developed to be implemented in the next three to five years to address public health and climate change and to set a pathway to achieve the 2050 vision. The control strategy includes 85 control measures to reduce emissions of ozone, particulate matter, toxic air contaminants, and GHG from a full range of emission sources. These control measures cover the following sectors: (1) stationary (industrial) sources; (2) transportation; (3) energy; (4) agriculture; (5)

<sup>16</sup> Association of Bay Area Governments/Metropolitan Transportation Commission, 2021, October. *Plan Bay Area 2050*. [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed January 23, 2024.

<sup>17</sup> Metropolitan Transportation Commission, Transit Priority Areas (2021), 2024, <https://opendata.mtc.ca.gov/datasets/MTC::transit-priority-areas-2021-1/explore?location=37.328339%2C-122.044206%2C14.00>, accessed on January 20, 2024

<sup>18</sup> Metropolitan Transportation Commission, Priority Development Areas – Plan Bay Area 2050, 2024, <https://opendata.mtc.ca.gov/datasets/priority-development-areas-plan-bay-area-2050/explore?location=37.319615%2C-122.033008%2C14.71>, accessed on January 20, 2024.

<sup>19</sup> Bay Area Air Quality Management District, 2017, *Spare the Air: Cool the Climate, 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?la=en](https://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en), accessed January 23, 2024.

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natural and working lands; (6) waste management; (7) water; and (8) super-GHG pollutants. Overall, the proposed control strategy is based on the following key priorities:

- Reduce emissions of criteria air pollutants and toxic air contaminants from all key sources.
- Reduce emissions of “super-GHGs” such as methane, black carbon, and fluorinated gases.
- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
  - Increase efficiency of the energy and transportation systems.
  - Reduce demand for vehicle travel, and high-carbon goods and services.
- Decarbonize the energy system.
  - Make the electricity supply carbon-free.
  - Electrify the transportation and building sectors.

### *Bay Area Commuter Benefits Program*

Under Air District Regulation 14, Model Source Emissions Reduction Measures, Rule 1, Bay Area Commuter Benefits Program, employers with 50 or more full-time employees within the BAAQMD are required to register and offer commuter benefits to employees. In partnership with the BAAQMD and the MTC, the rule’s purpose is to improve air quality, reduce GHG emissions, and decrease the Bay Area’s traffic congestion by encouraging employees to use alternative commute modes, such as transit, vanpool, carpool, bicycling, and walking. The benefits program allows employees to choose from one of four commuter benefit options including a pre-tax benefit, employer-provided subsidy, employer-provided transit, and alternative commute benefit.

## Local Regulations

### *General Plan 2040*

The Land Use and Community Design (LU), Housing (HE), Mobility (M), Environmental Resources and Sustainability (ES), and Infrastructure (INF) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts from GHG emissions. Applicable policies and strategies that would minimize potential adverse impacts from GHG emissions are identified in Section 4.7.3, *Impact Discussion*.

### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to minimize GHG emissions. The CMC is organized by title, chapter, and section. Most provisions related to reducing GHG emissions are included in Title 6, *Franchises*, Title 14, *Streets, Sidewalks and Landscaping*, Title 16, *Buildings and Construction*, and Title 17, *Environmental Regulations*, as follows:

- **Chapter 6.24, *Garbage, Non-Organic Recycling and Organic Waste Recycling Collection and Disposal*.** This chapter includes Section 6.24.037, *Mandatory Organic Waste Disposal Reduction*, which includes a list of requirements for organic waste generators, in compliance with state recycling laws, and state organic recycling laws.
- **Chapter 14.02, *Transportation Impact Fee Program*.** This chapter recognizes that there will be additional demand on the City’s existing transportation infrastructure and therefore created the

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Transportation Impact Fee Program to generate revenue that the City can use as a funding source for the costs of the transportation improvements required to serve new development.

- **Chapter 14.18, *Protected Trees*.** Protects, preserves, and replenishes healthy and valuable trees in the city for the health and welfare of residents and to counteract air pollutants and maintain climatic balances, among reasons.
- **Chapter 16.28, *Expedited Permit Process for Small Rooftop Solar Systems and Electric Vehicle Charging Systems*.** This chapter streamlines rooftop solar permitting processes that complies with the Solar Rights Act and AB 2188. The Ordinance encourages the use of solar systems by removing unreasonable barriers, minimizing costs to property owners and the City, and expanding the ability of property owners to install solar energy systems.
- **Chapter 16.32, *Energy Code*.** Adopts the 2022 edition of the California Energy Code and each and all of the regulations, provisions, conditions and terms of the code and requires newly constructed buildings in the City to be all-electric, with varying exceptions for non-residential occupancies.
- **Chapter 16.58, *Green Building Code*.** Adopts the 2022 edition of the California Green Building Standards Code and includes local amendments regarding the local water and efficient landscape ordinance, electric vehicle charging, and space design for different types of new construction.
  - **Section 16.58.400, *Electrical Vehicle (EV) Charging – Residential*.** Outlines the requirements and installation process of EV chargers in residential areas.

**Chapter 16.72, *Recycling and Salvaging of Construction and Demolition Debris*.** Requires the recycling of 65 percent of construction and demolition debris to help the City reduce landfill waste, foster resource conservation, and help the City meet and exceed an overall diversion rate of 50 percent.

- **Section 17.04.050, *Standard Environmental Protection Permit Submittals Requirements*.** Requires every project to implement standard environmental protection permit submittal requirements prior to the issuance of permits by the City unless they are not applicable to the project.
  - **Section 17.04.050(C), *Greenhouse Gas Emissions and Energy Permit Requirements*.** Outlines how 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.

### *Climate Action Plan 2.0*

Adopted in August 2022, the City of Cupertino CAP 2.0 is an updated roadmap of specific actions to reduce GHG emissions, achieve the City's target of carbon neutrality by 2040, and increase community resilience, and capacity to adapt to the impacts of climate change.<sup>20</sup> The CAP 2.0 allows City decision-makers and the community to understand the sources and magnitude of local GHG emissions and identifies a strategy, reduction measures, and implementation actions the City will use to achieve targets

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<sup>20</sup> City of Cupertino, 2022, August, *Climate Action 2.0*, <https://www.cupertino.org/home/showpublisheddocument/31683/637964240923930000>, accessed on January 20, 2024.



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consistent with State recommendations of 15 percent below 2005 emissions levels by 2020, 4.3 metric tons of carbon dioxide equivalent (MTCO<sub>2</sub>e) per person by 2030, and 1.2 MTCO<sub>2</sub>e per person by 2050. The CAP 2.0 adopted in 2022 updated and expanded the City's goals from the 2015 CAP, it also details strategies for Cupertino to prepare for and mitigate approaching risks from climate change.

### 4.7.1.3 EXISTING CONDITIONS

Chapter 4.6, *Greenhouse Gas Emissions*, of the General Plan Environmental Impact Report (EIR), addresses the impacts to GHG emissions associated with buildout of the General Plan at a program level. The setting for GHG emissions is described in the General Plan EIR in Section 4.6.1.2, *Existing Conditions*.

The General Plan EIR identified that potential future development and land use activities as a result of implementation of the Approved Project would meet the 6.6 MTCO<sub>2</sub>e community-wide GHG emissions threshold for year 2020 and the 3.1 MTCO<sub>2</sub>e community-wide GHG emissions threshold for year 2040 with implementation of goals and policies that aim to reduce GHG emissions throughout the Study Area. Therefore, the Approved Project would be consistent with the GHG reduction target of AB 32 as well as the long-term GHG reduction goal of EO S-03-05. In addition, the Approved Project would not conflict with the CARB 2008 Scoping Plan. As the Approved Project would comply with all State standards and would implement policies to ensure consistency with state and regional GHG reduction planning efforts, the Approved Project also would not conflict with ABAG/MTC's Plan Bay Area. The Approved Project impacts would be less than significant.

Since the certification of the General Plan EIR, new policies and programs have since been adopted that have affected GHG emissions in the Study Area. One specific program that has been adopted since the adoption of the General Plan EIR is the CAP 2.0, which sets new GHG reduction targets. One of the larger targets that was address was for Cupertino to achieve carbon neutrality by 2040, which translates into reducing 108,380 MTCO<sub>2</sub>e by 2030, and 323,743 MTCO<sub>2</sub>e by 2040.<sup>21</sup>

Another plan that was adopted which affects GHGs is *Plan Bay Area 2050*. As described in Section 4.7.1.2, *Regulatory Framework*, this plan introduces PDAs and TPAs. In Cupertino, there are four TPAs and two PDAs, the Santa Clara Valley Transportation Authority City Cores, Corridors & Station Areas, and South DeAnza.<sup>22,23</sup>

<sup>21</sup> City of Cupertino, August 2022, *Climate Action 2.0*,  
<https://www.cupertino.org/home/showpublisheddocument/31683/637964240923930000>, accessed on July 20, 2023.

<sup>22</sup> Metropolitan Transportation Commission, Transit Priority Areas (2021), 2024,  
<https://opendata.mtc.ca.gov/datasets/MTC::transit-priority-areas-2021-1/explore?location=37.328339%2C-122.044206%2C14.00>, accessed on January 20, 2024

<sup>23</sup> Metropolitan Transportation Commission, Priority Development Areas – Plan Bay Area 2050, 2024,  
<https://opendata.mtc.ca.gov/datasets/priority-development-areas-plan-bay-area-2050/explore?location=37.319615%2C-122.033008%2C14.71>, accessed on January 20, 2024.

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### California's GHG Sources and Relative Contribution

In 2021, the statewide GHG emissions inventory was updated for 2000 to 2019 emissions using the GWPs in IPCC's AR4.<sup>24</sup> Based on these GWPs, California produced 418.2 MMTCO<sub>2</sub>e GHG emissions in 2019. California's transportation sector was the single largest generator of GHG emissions, producing 39.7 percent of the state's total emissions. Industrial sector emissions made up 21.1 percent, and electric power generation made up 14.1 percent of the state's emissions inventory. Other major sectors of GHG emissions include commercial and residential buildings (10.5 percent), agriculture and forestry (7.6 percent), high GWP (4.9 percent), and recycling and waste (2.1 percent).<sup>25</sup>

Since the peak level in 2004, California's GHG emissions have generally followed a decreasing trend. In 2016, California statewide GHG emissions dropped below the AB 32 target for year 2020 of 431 MMTCO<sub>2</sub>e and have remained below this target since then. In 2019, emissions from routine GHG-emitting activities statewide were almost 13 MMTCO<sub>2</sub>e lower than the AB 32 target for year 2020. Per capita GHG emissions in California have dropped from a 2001 peak of 14.0 MTCO<sub>2</sub>e per person to 10.5 MTCO<sub>2</sub>e per person in 2019, a 25 percent decrease.

Transportation emissions continued to decline in 2019 statewide as they had done in 2018, with even more substantial reductions due to a significant increase in renewable diesel. Since 2008, California's electricity sector has followed an overall downward trend in emissions. In 2019, solar power generation continued its rapid growth since 2013. Emissions from high-GWP gases comprised 4.9 percent of California's emissions in 2019. This continues the increasing trend as the gases replace ozone-depleting substances being phased out under the 1987 Montreal Protocol. Overall trends in the inventory also demonstrate that the carbon intensity of California's economy (the amount of carbon pollution per million dollars of gross domestic product) has declined 45 percent since the 2001 peak, though the state's gross domestic product grew 63 percent during this period.<sup>26</sup>

### 4.7.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant GHG emissions impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
GHG-1. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?	LTS	SU
GHG-2. Conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases?	LTS	SU
GHG-3. Result in a cumulatively considerable impact with respect to GHG emissions?	LTS	SU

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

<sup>24</sup> Intergovernmental Panel on Climate Change (IPCC), 2013, *Fifth Assessment Report: Climate Change 2013*. New York: Cambridge University Press.

<sup>25</sup> California Air Resources Board (CARB), July 2021, *California Greenhouse Gas 2000-2019 Emissions Trends and Indicators Report*. [https://ww3.arb.ca.gov/cc/inventory/pubs/reports/2000\\_2019/ghg\\_inventory\\_trends\\_00-19.pdf](https://ww3.arb.ca.gov/cc/inventory/pubs/reports/2000_2019/ghg_inventory_trends_00-19.pdf).

<sup>26</sup> California Air Resources Board (CARB), July 2021, *California Greenhouse Gas 2000-2019 Emissions Trends and Indicators Report*. [https://ww3.arb.ca.gov/cc/inventory/pubs/reports/2000\\_2019/ghg\\_inventory\\_trends\\_00-19.pdf](https://ww3.arb.ca.gov/cc/inventory/pubs/reports/2000_2019/ghg_inventory_trends_00-19.pdf).

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### BAAQMD Significance Criteria

The BAAQMD's *CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans* (2022) contains instructions on how to evaluate, measure, and mitigate GHG emission impacts generated from land use development projects and plans. For purposes of this analysis, the City of Cupertino is using the BAAQMD's current GHG emission plan-level significance thresholds to evaluate the proposed Modified Project's potential impacts related to GHG emissions.

#### *Greenhouse Gas Emission Impacts*

BAAQMD, in its *Justification Report: CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans* (2022) (GHG Justification Report),<sup>27</sup> recommends the use of one of two plan-level criteria to determine the GHG emission impact resulting from a proposed plan.

- A. The Plan must be consistent with a local GHG reduction strategy that meets the criteria under State CEQA Guidelines Section 15183.5(b); or
- B. The Plan must meet the State's goals to reduce emissions to 40 percent below 1990 levels by 2030 and carbon neutrality by 2045.

The City's CAP 2.0 is currently the City's local GHG reduction strategy, which meets the criteria under State California Environmental Quality Act (CEQA) Guidelines Section 15183.5(b) and includes a two-step process for ensuring project consistency. Step 1 consists of an evaluation of whether the project would be consistent with the site's General Plan land use designation and zoning designation. If a project is inconsistent with the site's General Plan land use or zoning designations, then that project's GHG emissions would need to be quantified and shown to be less than the emissions estimates contained the CAP. Step 2 consists of a consistency evaluation using a compliance checklist developed by the City to ensure project consistency with the CAP and its emissions targets. Because the City's CAP 2.0 compliance checklist is intended for individual project assessments, the City's CAP 2.0 consistency checklist is not utilized in this analysis.

The proposed Modified Project would reach full implementation in 2040, which is after the State's 2030 emissions target and well before the State's carbon neutrality goal in 2045 and the City's carbon neutrality goal in 2040, and the proposed Modified Project would facilitate future potential individual projects that, if subject to CEQA, would need to go through their own CEQA environmental review. In addition, the proposed Modified Project is not a plan that encompasses the entire jurisdiction of Cupertino and instead specifically addresses the changes that have occurred to the Housing Element as part of the City's 6th Cycle Housing Element (2023-2031), the associated amendments to Land Use and Community Design Element for internal consistency, and updates to the Cupertino Municipal Code (CMC) Title 19, *Zoning*, for internal consistency between the General Plan 2040 and Zoning Code. Given the lack of communitywide emissions data and how the proposed Modified Project's resulting changes in land use patterns would

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<sup>27</sup> Bay Area Air Quality Management District (BAAQMD). 2022, April. *CEQA Thresholds for Evaluating the Significance of Climate Impacts from Land Use Projects and Plans*. [https://www.baaqmd.gov/~/\\_media/files/planning-and-research/ceqa/ceqa-thresholds-2022/justification-report-pdf.pdf?la=en](https://www.baaqmd.gov/~/_media/files/planning-and-research/ceqa/ceqa-thresholds-2022/justification-report-pdf.pdf?la=en) .

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affect the City's long-term communitywide emissions inventory and reduction targets, a net zero emissions threshold is considered for the proposed Modified Project.

### *Net Zero Threshold*

To provide a conservative analysis of the proposed Modified Project's impacts in relation to the State's 2045 carbon neutrality goal and the City's 2040 carbon neutrality goal,<sup>28</sup> the City has identified a no net increase threshold of zero (0 MTCO<sub>2</sub>e). Appendix D of the CARB 2022 Scoping Plan recognizes that achieving no net additional increase in GHG emissions, resulting in no contribution to GHG impacts, may be an appropriate overall objective. Therefore, the zero threshold is consistent with the State's carbon neutrality goals under AB 1279 and provides the most conservative threshold for GHG emissions impacts under CEQA for the proposed Modified Project.

### *Mass Emissions and Health Effects*

On December 24, 2018, in *Sierra Club et al. v. County of Fresno et al.* (Friant Ranch), the California Supreme Court determined that the EIR for the proposed Friant Ranch project failed to adequately analyze the project's air quality impacts on human health. The EIR prepared for the project, which involved a master-planned retirement community in Fresno County, showed that project-related mass emissions would exceed the San Joaquin Valley Air Pollution Control District's regional significance thresholds. In its findings, the California Supreme Court affirmed the holding of the Court of Appeal that EIRs for projects must not only identify impacts to human health, but also provide an "analysis of the correlation between the project's emissions and human health impacts" related to each criterion air pollutant that exceeds the regional significance thresholds or explain why it could not make such a connection. In general, the ruling focuses on the correlation of emissions of toxic air contaminants and criteria air pollutants and their impact to human health.

In 2009, the EPA issued an endangerment finding for six GHGs (CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, HFCs, PFCs, and SF<sub>6</sub>) in order to regulate GHG emissions from passenger vehicles. The endangerment finding is based on evidence that shows an increase in mortality and morbidity associated with increases in average temperatures, which increase the likelihood of heat waves and ozone levels. Though identified effects such as sea level rise and increased extreme weather can indirectly impact human health, neither the EPA nor CARB has established ambient air quality standards for GHG emissions. The State's GHG reduction strategy outlines a path to avoid the most catastrophic effects of climate change and includes goals and objectives that are based on the State's path toward reducing statewide cumulative GHGs as outlined in AB 32, SB 32, and AB 1279.

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<sup>28</sup> The 2022 Scoping Plan update includes statewide measures to achieve the state's carbon neutrality goals under AB 1279, such as carbon dioxide removal, that are not applicable to local governments. Carbon neutrality goals are a "no impact" level and not a "less than significant" impact level for climate change effects. There are presently no reliable means of forecasting how future technological developments related to carbon dioxide removal may affect future emissions in a jurisdiction. Therefore, carbon neutrality targets are not directly applicable to local governments or CEQA projects to mitigate GHG emissions impacts of a proposed project.

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As described above, the two significance thresholds that the City uses to analyze GHG impacts are based on achieving the statewide GHG reduction goals based on a no net increase in GHG emissions (GHG-1) and consistency with policies or plans adopted to reduce GHG emissions (GHG-2). Further, because no single project is large enough to result in a measurable increase in global concentration of GHG emissions, climate change impacts of a project are considered on a cumulative basis. Without federal or State ambient air quality standards for GHG emissions, and given the cumulative nature of GHG emissions and the City's significance thresholds that are tied to reducing the State's cumulative GHG emissions, it is not feasible at this time to connect the project's specific GHG emissions to the potential health impacts of climate change.

### 4.7.3 IMPACT DISCUSSION

#### METHODOLOGY

Impacts related to GHG emissions resulting from implementation (construction and operation) of the proposed Modified Project are described below. To determine the increase in emissions as a result of the proposed Modified Project, the maximum allowable residential dwelling units envisioned by the proposed Modified Project (3,312 units) were estimated by calculating the net new change from the Approved Project to the potential future development under the proposed Modified Project in 2040. Due to a lack of available information on existing housing units on sites identified to accommodate the envisioned 3,312 dwelling units through 2040, all 3,312 dwelling units are considered to be a net increase in housing supply in the city. While the proposed Modified Project would have a buildout horizon year of 2040, the updates to the General Plan included in the proposed Modified Project in part is in response to the current Regional Housing Needs Assessment (RHNA) cycle, which has a horizon of 2031. Therefore, a buildout year of 2031 was used in emissions and energy consumption estimates for a conservative assessment and efficiencies are expected to improve through 2040 and the 3,312 net new residential units are identified for the RHNA cycle through 2031.

CalEEMod Version 2022.1 was used to calculate emissions of GHG emissions associated with implementation of the proposed Modified Project (see Appendix B, *Air Quality and Greenhouse Gas Emissions Data*, of this EA). Table 3-4, *Housing Element (2023-2031) Opportunity Sites: Residential*, and Table 3-5, *Housing Element (2023-2031) Opportunity Sites: Commercial/Residential (Mixed Use)*, in Chapter 3, *Project Description*, of this EA, identify the sites intended to accommodate the housing supply growth envisioned by the proposed Modified Project. Based on the housing density data from these tables, all new housing units have been assigned to "Apartments Low-Rise," "Apartments Mid-Rise," "Condos/Townhouse," and "Single-Family Housing" categories. Consistent with the Transportation Analysis prepared by Fehr & Peers for the proposed Modified Project (Appendix E), modeling for weekday rates used the daily vehicle trips and VMT provided for Approved Project cumulative conditions and cumulative conditions with project implementation. Saturday and Sunday trip generation and VMT were calculated from the ratio CalEEMod default Saturday and Sunday trip rates to the weekday rate. All vehicle trips represented in the emissions modeling were assigned to be 100-percent primary, meaning no trip distance or generation discounts were applied for pass-by or diverted trips to provide a conservative emissions estimate.

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Consistent with the BAAQMD's Regulation 6, Rule 3, *Wood-Burning Devices*, no new dwelling units modeled with CalEEMod were assumed to contain any wood-burning devices. In addition, the per-dwelling unit indoor and outdoor water consumption rates as well as the solid waste generation and energy consumption rates reflect use of CalEEMod default rates.

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**GHG-1                      Implementation of the proposed Modified Project would generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment.**

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As described in the General Plan EIR, potential future development and land use activities as a result of implementation of the Approved Project would meet the 6.6 MTCO<sub>2</sub>e community-wide GHG emissions threshold for year 2020 and the 3.1 MTCO<sub>2</sub>e community-wide GHG emissions threshold for year 2040 with implementation of goals and policies that aim to reduce GHG emissions throughout the Study Area. Therefore, the Approved Project would be consistent with the GHG reduction target of AB 32 as well as the long-term GHG reduction goal of EO S-03-05. As the Approved Project would achieve the 2020 and 2035 performance criteria, the short-term and long-term GHG emissions impacts of the Approved Project were found to be less than significant.

A Housing Element does not directly result in development without additional approvals. Before any development can occur in the city, it must be analyzed for consistency with the General Plan, Zoning Code requirements, and other applicable local and State requirements; comply with the requirements of CEQA; and obtain all necessary clearances and permits.

### *Emissions Forecast*

The proposed Modified Project guides the City's policies to encourage housing that meets the needs of all residents in the region through 2040. The proposed Modified Project is a focused effort, with particular emphasis on compliance with state housing mandates. The GHG emissions forecast for buildout of the proposed Modified Project is shown in Table 4.7-3, *Operational GHG Emissions – Housing Element Update*. Potential future development of up to 3,312 new dwelling units facilitated by the proposed Modified Project result in an estimated increase of 84,142 MTCO<sub>2</sub>e GHG emissions per year. As shown therein, the increase in residential units and population associated with the proposed Modified Project results in an increase in residential building energy use, mobile emissions, solid waste, water use and wastewater generation, and refrigerant use.

**TABLE 4.7-3      OPERATIONAL GHG EMISSIONS – HOUSING ELEMENT UPDATE**

<b>Emission Source</b>	<b>City of Cupertino GHG Emissions (MTCO<sub>2</sub>e/Year)</b>
Mobile	79,853
Area	211
Energy	3,084
Water	237
Solid Waste	753

## GREENHOUSE GAS EMISSIONS

**TABLE 4.7-3 OPERATIONAL GHG EMISSIONS – HOUSING ELEMENT UPDATE**

Emission Source	City of Cupertino GHG Emissions (MTCO <sub>2</sub> e/Year)
Refrigerants	4
<b>Total Net Emissions</b>	<b>84,142</b>
New Residents	9,737
<b>New Resident Per Capita Emissions</b>	<b>8.64</b>

Notes: Emissions may not total to 100 percent due to rounding. Emissions above represent a conservative estimate of net emissions as it does not account for the existing housing supply in the City due to a lack of available information.

Source: Appendix B, *Air Quality and Greenhouse Gas Emissions Data*, of this EA.

Because the exact conditions of sites identified to accommodate the additional housing supply envisioned by the proposed Modified Project are largely unknown, the annual GHG emissions displayed in Table 4.7-3 conservatively represent net new GHG emissions beyond existing community emissions. As such, for the purposes of this analysis, the proposed Modified Project would result in the addition of 84,142 MTCO<sub>2</sub>e per year beyond existing conditions.

It should be noted that the energy-source emissions shown in Table 4.7-3 represent new housing units that are designed as mixed-fuel, meaning they are equipped with natural gas plumbing and appliances. While Chapter 16.32 of the CMC would require newly constructed buildings to be all-electric, with most of the code exceptions applying only to nonresidential occupancies, an all-electric building would avoid natural gas consumption but would result in greater electricity consumption. Because the site-specific details, such as square footage, orientation, and mechanical and envelope design of each new housing unit that would be accommodated by the proposed Modified Project is unknown at this time, the change in energy resource consumption resulting from compliance with Chapter 16.32 of the CMC is unknown. Therefore, the energy-source emissions shown in Table 4.7-3, while based on the consumption of both natural gas and electricity, is used to represent total energy-source emissions even assuming development under the proposed Modified Project would be all-electric.

Moreover, as shown in Table 4.7-3, *Operational GHG Emissions – Housing Element Update*, the majority of annual GHG emissions generated by development facilitated by the proposed Modified Project are the result of vehicle use. Table 4.7-3 does not include reductions from State measures targeting mobile and energy sources that have been adopted to reduce GHG emissions, such as:

- The RPS requires increases in renewable electricity supplies.
- The Clean Car Standards require increased fuel efficiency of on-road vehicles and decreased carbon intensity of vehicle fuels.
- The updated Title 24 Building Energy Efficiency Standards require new buildings to achieve increased energy efficiency targets.
- The Low Carbon Fuel Standard (LCFS) mandates reduced carbon intensity of fuels used in off-road equipment.

The General Plan EIR also found that the General Plan 2040 Land Use and Community Design (LU), Housing (HE), Mobility (M), Environmental Resources and Sustainability (ES), and the Infrastructure (INF)

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## GREENHOUSE GAS EMISSIONS

Elements contain policies and strategies that require local planning and development decisions to consider impacts that development could have related to GHG emissions. Like the Approved Project, the following existing General Plan 2040 includes policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also help minimize GHG emissions to help meet the State's 2030 and 2045 GHG reduction targets.

- **Policy LU-1.1. *Land Use and Transportation.*** Focus higher land use intensities and densities within a half-mile of public transit service, and along major corridors. (General Plan EIR Policy 4-7)
- **Policy LU- 3.1. *Site Planning.*** Ensure that project sites are planned appropriately to create a network of connected internal streets that improve pedestrian and bicycle access, provide public open space and building layouts that support city goals related to streetscape character for various Planning Areas and corridors. (General Plan EIR Policy 4-4)
- **Policy LU-13.5. *Land Use.*** The Heart of the City area allows a mix of retail, commercial, office and residential uses. Specific uses are provided in the Heart of the City Specific Plan. See Figure LU-2 for residential densities and criteria.
- **Policy LU-13.6. *Building Form.*** Buildings should be high-quality, with pedestrian-oriented and active uses along the street.
- **Policy HE-1.3: *Mixed-Use Development.*** Encourage mixed-use development near transportation facilities and employment centers.
- **Policy HE-4.1. *Energy And Water Conservation.*** Encourage energy and water conservation in all existing and new residential development.
- **Strategy HE-4.1.1. *Enforcement of Title 24.*** The City will continue to enforce Title 24 requirements for energy conservation and will evaluate utilizing some of the other suggestions as identified in the Environmental Resources/ Sustainability element.
- **Strategy HE-4.1.2. *Sustainable Practices.*** The City will continue to implement the Landscape Ordinance for water conservation and the Green Building Ordinance (adopted in 2013) that applies primarily to new residential and nonresidential development, additions, renovations, and tenant improvements of ten or more units. To further the objectives of the Green Building Ordinance, the City will evaluate the potential to provide incentives, such as waiving or reducing fees, for energy conservation improvements at affordable housing projects (existing or new) with fewer than ten units to exceed the minimum requirements of the California Green Building Code. This City will also implement the policies in its climate action plan to achieve residential-focused greenhouse gas emission reductions and further these community energy and water conservation goals.
- **Policy M-1.1. *Regional Transportation Planning.*** Participate in regional transportation planning processes to develop programs consistent with the goals and policies of Cupertino's General Plan and to minimize adverse impacts on the City's circulation system. Work with neighboring cities to address regional transportation and land use issues of mutual interest.
- **Policy M-3.1. *Bicycle and Pedestrian Master Plan.*** Adopt and maintain a Bicycle and Pedestrian master plan, which outlines policies and improvements to streets, extension of trails, and pathways to create a safe way for people of all ages to bike and walk on a daily basis.
- **Policy M-3.8. *Bicycle Parking.*** Require new development and redevelopment to provide public and private bicycle parking.



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- **Policy M-4.8: *Micro-Transit*.** Continue to support a local micro-transit option, such as the Silicon Valley Hopper or similar service.
- **Policy M-8.1. *Transportation*.** Promote transportation policies that help to reduce greenhouse gas emissions.
- **Strategy M-8.1.1. *TSM Strategies*.** Employ TSM strategies to improve efficiency of the transportation infrastructure including strategic right-of-way improvements, intelligent transportation systems and optimization of signal timing to coordinate traffic flow.
- **Strategy M-8.1.2. *Major and Large Employers*.** Require major and large employers, including colleges and schools, to develop and maintain TDM programs to reduce vehicle trips generated by their employees and students and develop a tracking method to monitor results.
- **Strategy M-8.1.3. *TDM Ordinance*.** Develop and adopt a TDM ordinance to reduce vehicle trips with specific implementation actions for all development projects and a monitoring and reporting program to ensure implementation.
- **Policy M-8.3. *Alternative Fuel Charging Stations*.** Develop a city-wide strategy to encourage the construction of a network of public and private alternative fuel vehicle charging/ fueling stations.
- **Policy M-9.2. *Reduced Travel Demand*.** Promote effective TDM programs for existing and new development.
- **Policy ES-1.1. *Principles of Sustainability*.** Incorporate principles of sustainability into Cupertino's planning, infrastructure, and development process in order to improve the environment, reduce greenhouse gas emissions and meet the needs of the community without compromising the needs of future generations.
- **Strategy ES-1.1.1. *Climate Action Plan (CAP)*.** Adopt, implement, and maintain a Climate Action Plan to attain greenhouse gas emission targets consistent with state law and regional requirements. This qualified greenhouse gas emissions reduction plan, by BAAQMD's definition, will allow for future project CEQA streamlining and will identify measures to:
  - Reduce energy use through conservation and efficiency.
  - Reduce fossil fuel use through multi-modal and alternative transportation.
  - Maximize use of and, where feasible, install renewable energy resources.
- **Strategy ES-1.1.2. *CAP and Sustainability Strategies Implementation*.** Periodically review and report on the effectiveness of the measures outlined in the CAP and the strategies in this Element. Institutionalize sustainability by developing a methodology to ensure all environmental, social and lifecycle costs are considered in project, program, policy and budget decisions.
- **Strategy ES-1.1.3. *Climate Adaptation and Resiliency*.** Conduct a climate vulnerability assessment and set preparedness goals and strategies to safeguard human health and community assets susceptible to the impacts of a changing climate (e.g., increased drought, wildfires, flooding). Incorporate these into all relevant plans, including the Emergency Preparedness Plan, Local Hazard Mitigation Plan, Dam Failure Plan, Climate Action Plan, Watershed Protection Plan, and Energy Assuredness Plan.
- **Policy ES-1.2. *Regional Growth and Transportation Coordination*.** Coordinate with local and regional agencies to prepare updates to regional growth plans and strategies, including the Regional Housing Allocation Needs Allocation (RHNA), One Bay Area Plan, Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS).

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- **Strategy ES-1.2.1. *Local Plan Consistency with Regional Plans.*** Update and maintain local plans and strategies so they are consistent with One Bay Area Plan to qualify for State transportation and project CEQA streamlining.
- **Policy ES-2.1. *Conservation and Efficient Use of Energy Resources.*** Encourage the maximum feasible conservation and efficient use of electrical power and natural gas resources for new and existing residences, businesses, industrial and public uses.
- **Strategy ES-2.1.1. *Coordination.*** Continue to evaluate and revise, as necessary, applicable City plans, codes, and procedures for inclusion of Federal, State, and regional requirements and conservation targets.
- **Strategy ES-2.1.2. *Comprehensive Energy Management.*** Prepare and implement a comprehensive energy management plan for all applicable municipal facilities and equipment to achieve the energy goals established in the City's Climate Action Plan. Track the City's energy use and report findings as part of the Climate Action Plan reporting schedule. Embed this plan into the City's Environmentally Preferable Procurement Policy to ensure measures are achieved through all future procurement and construction practices.
- **Strategy ES-2.1.3. *Energy Efficient Replacements.*** Continue to use life cycle cost analysis to identify City assets for replacement with more energy efficient technology. Utilize available tools to benchmark and showcase City energy efficiency achievements (i.e., EPA Portfolio Manager, statewide Green Business Program).
- **Strategy ES-2.1.4. *Incentive Program.*** Consider incentive programs for projects that exceed mandatory requirements and promote incentives from state, county, and federal governments for improving energy efficiency and expanding renewable energy installations.
- **Strategy ES-2.1.5. *Urban Forest.*** Encourage the inclusion of additional shade trees, vegetated stormwater treatment and landscaping to reduce the "heat island effect" in development projects.
- **Strategy ES-2.1.6. *Alternate Energy Sources.*** Promote and increase the use of alternate and renewable energy resources for the entire community through effective policies, programs, and incentives.
- **Strategy ES-2.1.7. *Energy Co-Generation Systems.*** Encourage the use of energy co-generation systems through the provision of an awareness program targeting the larger commercial and industrial users and public facilities.
- **Strategy ES-2.1.8. *Energy Audits and Financing.*** Continue to offer and leverage regional partners' programs to conduct energy audits and/or subvention programs for homes, commercial, industrial and City facilities, and recommend improvements that lead to energy and cost savings opportunities for participants and encourage adoption of alternative energy technologies. Encourage energy audits to include emerging online and applications-based energy analytics and diagnostic tools. Share residential and commercial energy efficiency and renewable energy financing tools through outreach events and civic media assets.
- **Strategy ES-2.1.9. *Energy Efficient Transportation Modes.*** Continue to encourage fuel-efficient transportation modes such as alternative fuel vehicles, driverless vehicles, public transit, car and vanpooling, community and regional shuttle systems, car and bike sharing programs, safe routes to schools, commuter benefits, and pedestrian and bicycle paths through infrastructure investment, development incentives, and community education.
- **Strategy ES-2.1.10. *Community Choice Energy.*** Collaborate with regional partners to evaluate feasibility for development of a Community Choice Energy Program.

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- **Policy ES-3.1. *Green Building Design.*** Set standards for the design and construction of energy and resource conserving/efficient building.
- **Strategy ES-3.1.1. *Green Building Program.*** Periodically review and revise the City's Green Building ordinance to ensure alignment with CALGreen requirements for all major private and public buildings projects that ensure reduction in energy and water use for new development through site selection and building design.
- **Strategy ES-3.1.2. *Staff Training.*** Continue to train appropriate City staff in the design principles, costs, and benefits of sustainable building and landscape design. Encourage City staff to attend external trainings on these topics and attain relevant program certifications (e.g., Green Point Rater, Leadership in Energy & Environmental Design (LEED) Accredited Professional).
- **Strategy ES-3.1.3. *Green Buildings Informational Seminars.*** Conduct and/or participate in Green Building informational seminars and workshops for members of the design and construction industry, land development, real estate sales, lending institutions, landscaping and design, the building maintenance industry and prospective project applicants.
- **Strategy ES-3.1.4. *Green Building Demonstration.*** Pursue municipal facility retrofits, through a Green Capital Improvement Program (CIP), and new construction projects that exceed CALGreen and achieve third-party certification criteria (e.g., LEED, Living Building Challenge, Zero Net Energy) as a means of creating demonstration spaces for developer and community enrichment.
- **Strategy ES-4.2.4. *Fuel-efficient Vehicles and Use.*** Prioritize the purchase, replacement, and ongoing use of fuel-efficient and low polluting City fleet vehicles. Update applicable policies and programs to require life cycle cost analyses and include alternative fueling infrastructure review and related funding allocations. Update the Vehicle Use Policy and pursue fleet management best practices to support fuel conservation, scheduled maintenance and fleet fuel tracking. Pursue available grant funding to offset the cost of implementing these programs.
- **Policy INF-2.5. *Recycled Water Infrastructure Plan.*** for citywide access to recycled water and encourage its use.
- **Strategy INF-2.5.1. *Availability.*** Expand the availability of a recycled water system through public infrastructure projects and development review.

For a complete list of policies and strategies aimed at reducing VMT, please see Impact Discussion TRANS-2, in Chapter 4.14, *Transportation*, of this EA. While the policies and strategies listed here and in Chapter 4.14 would reduce energy- and mobile-source GHG emissions, the proposed Modified Project would result in an estimated net new 84,142 MTCO<sub>2</sub>e per year, which would exceed the net zero threshold. As such, this impact would be *potentially significant*. Because the General Plan EIR concluded that the Approved Project would result in a less-than-significant impact related to GHG emissions, the proposed Modified Project would result in more severe impacts than those analyzed in the General Plan EIR.

**Impact GHG-1:** Implementation of the proposed Modified Project would exceed the net zero greenhouse gas emission threshold under Executive Order B-55-18.

**Significance without Mitigation:** Significant and Unavoidable. As previously stated, potential future development facilitated by the proposed Modified Project would experience emission reductions from implementation of State measures and strategies to reduce statewide GHG emissions, such as the LCFS mandate or RPS requirements. In addition, the General Plan policies and strategies of the proposed Modified Project would serve to further support potential GHG reductions for individual

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## GREENHOUSE GAS EMISSIONS

development projects facilitated by the proposed Modified Project. Nonetheless, because emissions from the potential development under the proposed Modified Project collectively would exceed the net-zero emissions threshold, GHG emissions impacts resulting from the proposed Modified Project would be significant and unavoidable.

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<b>GHG-2</b>	<b>Implementation of the proposed Modified Project could conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases.</b>
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As described in the General Plan EIR, the Approved Project would achieve the AB 32 reduction targets and all new buildings would be constructed in compliance with the Building Energy Efficiency Standards and CALGreen, the Approved Project would not conflict with the CARB 2008 Scoping Plan. In addition, as the Approved Project would comply with all State standards and would implement policies to ensure consistency with State and regional GHG reduction planning efforts, the Approved Project also would not conflict with ABAG/MTC's Plan Bay Area. The General Plan EIR, therefore, concluded that the Approved Project would result in a less-than-significant impact related to consistency with plans or policies adopted for the purpose of reducing GHG emissions.

Applicable plans adopted for the purpose of reducing GHG emissions include CARB's Scoping Plan, ABAG's/MTC's Plan Bay Area, and the City of Cupertino CAP. A consistency analysis with these plans is presented below.

### *CARB Scoping Plan*

Since the certification of the General Plan EIR, the CARB 2022 Scoping Plan has been adopted. The CARB 2022 Scoping Plan is applicable to State agencies but is not directly applicable to cities or counties and individual projects (i.e., the Scoping Plan does not require local jurisdictions to adopt its policies, programs, or regulations to reduce GHG emissions). However, new regulations adopted by the State agencies from the 2022 Scoping Plan result in GHG emissions reductions at the local level. So local jurisdictions benefit from reductions in transportation emissions rates, increases in water efficiency in the building and landscape codes, and other statewide actions that affect a local jurisdiction's emissions inventory from the top down. Statewide strategies to reduce GHG emissions include the LCFS mandate and changes in the CAFE standards.

Future potential development accommodated under the proposed Modified Project would be required to adhere to the programs and regulations identified by the 2022 Scoping Plan and implemented by State, regional, and local agencies to achieve the statewide GHG reduction goals of AB 32, SB 32, and AB 1279. Future development projects would be required to comply with these State GHG emissions reduction measures because they are statewide strategies. For example, potential future development associated with land uses accommodated by implementing the proposed Modified Project would be required to meet the CALGreen and Building Energy Efficiency Standards in effect at the time when applying for building permits. Furthermore, as described under the Impact Discussion for GHG-1, the proposed Modified Project includes General Plan policies and strategies that would help reduce GHG emissions and therefore help achieve GHG reduction goals.

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Though statewide efforts could provide downstream reductions at the local level, the 2022 Scoping Plan identifies three priority areas for local actions that would support and amplify the overall state efforts to reduce GHG emissions and achieve the long-term climate goals: (1) transportation electrification, (2) VMT reduction, and (3) building decarbonization. Table 4.7-4, *Proposed Modified Project Consistency with Scoping Plan Priority Areas*, evaluates consistency of the proposed Modified Project with these three Scoping Plan local action priorities and their attributes.

**TABLE 4.7-4 PROPOSED MODIFIED PROJECT CONSISTENCY WITH SCOPING PLAN PRIORITY AREAS**

Priority Area	Priority Area Attributes	Project Consistency
Transportation Electrification	Provide EV charging infrastructure that, at a minimum, meets the most ambitious voluntary standards in the California Green Building Standards Code at the time of project approval.	<b>Inconsistent:</b> The proposed Modified Project does not include provisions in the Design Standards or Design Guidelines that require compliance with the CALGreen nonresidential voluntary Tier 2 EV parking standards.
VMT Reduction	Meets local jurisdiction adopted SB 743 threshold for VMT.	<b>Inconsistent:</b> As described in Chapter 4.14, <i>Transportation</i> , of this EA, the proposed Modified Project would result in increases in total VMT in the City and would exceed the City's threshold for VMT reductions.
Building Decarbonization	Use all electric appliances without any natural gas connections and does not use propane or other fossil fuels for space heating, water heating, or indoor cooking.	<b>Consistent:</b> The proposed Modified Project would be subject to CMC Chapter 16.32, <i>Energy Code</i> , which in most cases requires newly constructed buildings to be designed as all-electric.

Source: California Air Resources Board, December 2022, Draft 2022 Scoping Plan, <https://ww2.arb.ca.gov/sites/default/files/2023-04/2022-sp.pdf>, accessed January 23, 2024.

As described in Table 4.7-4, the proposed Modified Project would generally be inconsistent with the priority areas pertaining to transportation electrification. It should be noted that CMC Section 16.58.400 includes EV charging standards which currently match the Tier 2 CALGreen voluntary standards for residential development, which are currently the most ambitious voluntary EV charging standards; however, the CMC does not refer to compliance with the Tier 2 CALGreen and instead stipulates standards independent of Tier 2 CALGreen standards. Because the proposed Modified Project would facilitate individual development projects through 2040, the Tier 2 CALGreen EV charging standards, which are updated every 18 months, would continue to change and improve through the horizon of the proposed Modified Project. Therefore, Mitigation Measure GHG-2 would be required to ensure that future development facilitated by the proposed Modified Project complies with the most ambitious voluntary EV charging standards in CALGreen at the time each individual project is proposed. Thus, although the proposed Modified Project would adhere either directly or indirectly to statewide strategies, because it would not meet two of the three local action priority areas, it is considered inconsistent with the Scoping Plan. Unlike the Approved Project, implementation of the proposed Modified Project could conflict with the objectives of the CARB Scoping Plan. This impact would be *potentially significant*.

**Plan Bay Area**

Since the certification of the General Plan EIR, *Plan Bay Area 2050* has been adopted. *Plan Bay Area* is the Bay Area's regional transportation plan to achieve the passenger vehicle emissions reductions identified

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under SB 375. *Plan Bay Area 2050* is the current SCS for the Bay Area, which was adopted October 21, 2021. In addition to significant transit and roadway performance investments to encourage focused growth, *Plan Bay Area 2050* directs funding to neighborhood active transportation and complete streets projects, climate initiatives, lifeline transportation and access initiatives, safety programs, and PDA planning.<sup>29</sup> In the Study Area, there are four TPAs and two PDAs, the Santa Clara Valley Transportation Authority City Cores, Corridors & Station Areas, and South DeAnza.<sup>30, 31</sup>

The proposed Modified Project would redesignate and rezone to accommodate residential development, primarily in infill locations, suitable within the Study Area to meet the City's RHNA. Thus, the proposed Modified Project would be consistent with the overall goals of *Plan Bay Area 2050* in concentrating new development in locations where there is existing infrastructure and transit. Therefore, the proposed Modified Project would not conflict with the land use concept plan in *Plan Bay Area 2050* and impacts would be less than significant.

Furthermore, as described in Chapter 4.12, *Population and Housing*, of this EA, implementation of the proposed Modified Project would induce population and housing growth necessary to meet the population growth and housing needs in the Study Area. Therefore, the implementation of the proposed Modified Project would provide more housing for residents to both live and work in the Study Area instead of commuting to other areas, which would contribute to minimizing VMT and reducing VMT per service population. Therefore, like the Approved Project, the proposed Modified Project would not interfere with ABAG's/MTC's ability to implement the regional strategies in Plan Bay Area. The proposed Modified Project would not result in new impacts or a substantial increase in magnitude of impacts compared to the General Plan EIR.

### *Cupertino Climate Action Plan*

Since the certification of the General Plan EIR, the City has adopted the Cupertino CAP 2.0. Pursuant to the CAP 2.0, future potential development projects would be considered consistent with the Cupertino CAP if they do not conflict with the required GHG reduction measures contained in the CAP. A consistency evaluation for the adopted CAP 2.0 GHG reduction measures are shown in Table 4.7-5, *Cupertino Climate Action Plan 2.0 Consistency Matrix*.

<sup>29</sup> Association of Bay Area Governments/Metropolitan Transportation Commission, 2021, October. *Plan Bay Area 2050*. [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed January 23, 2024.

<sup>30</sup> Metropolitan Transportation Commission, Transit Priority Areas (2021), 2024, <https://opendata.mtc.ca.gov/datasets/MTC::transit-priority-areas-2021-1/explore?location=37.328339%2C-122.044206%2C14.00>, accessed on January 20, 2024

<sup>31</sup> Metropolitan Transportation Commission, Priority Development Areas – Plan Bay Area 2050, 2024, <https://opendata.mtc.ca.gov/datasets/priority-development-areas-plan-bay-area-2050/explore?location=37.319615%2C-122.033008%2C14.71>, accessed on January 20, 2024.

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**TABLE 4.7-5 CUPERTINO CLIMATE ACTION PLAN 2.0 CONSISTENCY MATRIX**

Applicable Proposed Measure	Consistency
<b>Measure BE-1</b> Reduce non-SVCE usage rate to 2 percent for residential and 10 percent for commercial by 2030 and maintain through 2040.	<b>Consistent.</b> Future potential development under the proposed Modified Project would comply with the current California Building and Energy Efficiency Standards to reduce energy consumptions.
<b>Measure BE-4</b> Require new residential and commercial development to be all-electric at time of construction.	<b>Consistent.</b> The City of Cupertino requires all newly constructed buildings to be all-electric buildings and has adopted the California Energy Code (CMC Chapter 16.32). Therefore, the proposed Modified Project would comply with this measure.
<b>Measure TR-1</b> Develop and implement an Active Transportation Plan to achieve 15 percent of active transportation mode share by 2030 and 23 percent by 2040.	<b>Consistent.</b> As stated in Chapter 4.14, <i>Transportation</i> , of this EA, implementation of the proposed Modified Project would not include modifications to the roadway, bicycle, or pedestrian network. In addition, like the Approved Project, the proposed Modified Project would also be consistent with the City of Cupertino's Pedestrian Transportation Plan with Pedestrian Guidelines and Bicycle Transportation Plan. The proposed Modified Project would also implement the policies and strategies to encourage active transportation throughout the City, and is most exemplified through Policy M-3.1, <i>Bicycle and Pedestrian Master Plan</i> , which would see to the adoption and maintenance of a Bicycle and Pedestrian master plan to create a safe way for citizens to bike and walk on a daily basis. Other policies include Policy LU- 3.1, <i>Site Planning</i> , which would ensure project sites are planned so that there is a network of connected streets to improve pedestrian and bicycle access; Strategy LU-8.3.3, <i>Infrastructure and Streetscape Improvements</i> , which would encourage redevelopment of areas throughout the City to be pedestrian oriented; Strategy LU-19.1.7, <i>Existing Streets</i> , which would improve Stevens Creek Boulevard and Wolfe Road to become more bike and pedestrian-friendly; as well as Policy M-1.3, <i>Regional Trail Development</i> , to implement best practices on streets to reduce speeds to accommodate for alternative modes of transportation. Compliance with these policies and strategies would reduce fuel consumption and reliance on fossil fuels throughout the Study Area.
<b>Measure TR-2</b> Implement public and shared transit programs to achieve 29 percent of public transit mode share by 2030 and maintain through 2040.	<b>Consistent.</b> As described in Chapter 4.14, <i>Transportation</i> , of this EA, implementation of the proposed Modified Project would implement strategies and policies such as Policy LU-1.1, <i>Land Use and Transportation</i> , which would concentrate higher land use intensities within a half-miles of public transit services, and Policies LU-20.2, <i>Streetscape and Connectivity for North Vallco Park Special Area</i> , and LU-21.3, <i>Streetscape and Connectivity for North De Anza Special Area</i> , which would improve transit connections for future roadway improvements and specifically for North Vallco Park and North De Anza. These policies would also include Policy M-4.4, <i>Transit Facilities With New Development</i> , which would ensure that all future potential development would include amenities to support public transit and space for transit vehicles. Compliance with these policies and strategies would reduce fuel consumption and reliance on fossil fuels throughout the Study Area. As such, the proposed Modified Project would not conflict with implementation of this measure.
<b>Measure TR-3</b> Increase zero-emission vehicle (ZEV) adoption to 35 percent for passenger vehicles and	<b>Consistent.</b> Implementation of the proposed Modified Project would result in an increase in land use intensity throughout the Study Area that has access to existing transportation infrastructure and services. Future

**GREENHOUSE GAS EMISSIONS****TABLE 4.7-5 CUPERTINO CLIMATE ACTION PLAN 2.0 CONSISTENCY MATRIX**

<b>Applicable Proposed Measure</b>	<b>Consistency</b>
20 percent for commercial vehicles by 2030 and 100 percent for all vehicles by 2040.	potential development under the proposed Modified Project would at least comply with the CALGreen requirements for electric vehicle (EV) charging stations. In addition, as seen in Chapter 3, <i>Project Description</i> , Cupertino is served by Via-Cupertino Shuttle (Via), an app-based ride sharing program that provides transportation anywhere in the city. Via plans to expand into Santa Clara with electric cars in the coming years, which would support Measure TR-3. Implementation of the proposed Modified Project would not conflict with implementation of this measure.
<b>Measure TR-4</b> Re-focus transportation infrastructure away from single occupancy gasoline vehicles to support the bicycle/pedestrian, public transit, and ZEV goals of Measures TR-1, TR-2, and TR-3.	<b>Consistent.</b> The proposed Modified Project would implement policies and strategies to encourage active transportation throughout the Study Area, such as redevelopment of areas to be pedestrian oriented or connecting streets to improve pedestrian and bicycle access. In addition, future potential development under the proposed Modified Project would concentrate higher land use intensities near public transit services, which could reduce the need for single-occupancy trips for gasoline fueled vehicles. Furthermore, as seen in Chapter 3, <i>Project Description</i> , Cupertino is served by Via-Cupertino Shuttle (Via), an app-based ride sharing program that provides transportation anywhere inside the city. Via plans to expand into Santa Clara with electric cars in the coming years, which would support Measure TR-4. The proposed Modified Project would not conflict with implementation of this measure.
<b>Measure W-1</b> 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.	<b>Consistent.</b> Future potential development throughout the Study Area under the proposed Modified Project would include compost and green waste disposal services through the City's contracts with Recology South Bay. The materials would be collected by the City garbage waste hauler. The proposed Modified Project would not conflict with implementation of this measure.
<b>Measure W-2</b> Reduce overall waste disposed to garbage, recycling, and compost per capita by 15 percent by 2035.	<b>Consistent.</b> Future potential development throughout the Study Area under the proposed Modified Project would include compost and green waste disposal services through the City's contracts with Recology South Bay. The materials would be collected by the City garbage waste hauler. The proposed Modified Project would not conflict with implementation of this measure.
<b>Measure W-3</b> Meet or exceed the SB 1383 recycled organics products procurement requirements and sequester or avoid at least 0.018 MT CO <sub>2</sub> e per person by through 2045.	<b>Consistent.</b> Future potential development throughout the Study Area under the proposed Modified Project would include compost and green waste disposal services through the City's contracts with Recology South Bay. The materials would be collected by the City garbage waste hauler. The proposed Modified Project would not conflict with implementation of this measure.
<b>Measure WW-2</b> Reduce per capita water consumption 15 percent compared to 2019 levels by 2030 and maintain through 2040	<b>Consistent.</b> Implementation of the proposed Modified Project would comply with SB X7-7, which requires California to achieve a 20 percent reduction in urban per capita water use by 2020 and would implement best management practices for water conservation to achieve the City's water conservation goals. Furthermore, future potential development under the proposed Modified Project would also comply with the Cupertino Municipal Code, in particular, Chapter 15.32, <i>Water Conservation</i> , which establishes water conservation measures to reduce the consumption of water, prevent water waste, and maximize the



**GREENHOUSE GAS EMISSIONS****TABLE 4.7-5 CUPERTINO CLIMATE ACTION PLAN 2.0 CONSISTENCY MATRIX**

Applicable Proposed Measure	Consistency
	efficient use of water in the Study Area. All landscape zones would also be irrigated as required by 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. The proposed Modified Project would not conflict with implementation of this measure.
<b>Measure CS-1</b> Increase carbon sequestration through tree planting by developing and implementing an Urban Forest Management Plan.	<b>Consistent.</b> Future potential development under the proposed Modified Project would comply with the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 and CMC Chapter 9.18, <i>Stormwater Pollution Prevention and Watershed Protection</i> , to ensure ongoing compliance with the City's municipal storm water and urban runoff requirements. The proposed Modified Project would not conflict with implementation of this measure.

Notes: Measures BE-2 and BE-3 apply to existing development and are not applicable. Measure CS-2 is for open space projects that can sequester CO<sub>2</sub>, and therefore, is not directly applicable to the project.

Source: Cupertino, City of. 2022, August 16. City of Cupertino, Climate Action Plan 2.0.

<https://www.cupertino.org/home/showpublisheddocument/31683/637964240923930000>

Development in Cupertino, including future potential new residences facilitated by the proposed Modified Project, would be required to adhere to City-adopted policy provisions, including those contained in the adopted CAP 2.0. Section 17.04.050(C) of CMC Chapter 17.04, *Standard Environmental Protection Requirements*, ensures that the provisions of the CAP 2.0 are incorporated into projects and permits as part of development review and through consistency with the Development Project Consistency Checklist. In addition, future potential development under the proposed Modified Project would result in construction of new energy-efficient structures that achieve the most current Building and Energy Efficiency Standards to decrease GHG emissions.

In addition to the CARB 2022 *Scoping Plan*, *Plan Bay Area 2050*, and the CAP 2.0, the General Plan 2040 Land Use and Community Design (LU), Housing (HE), Mobility (M), Environmental Resources and Sustainability (ES), and the Infrastructure (INF) Elements contain the following policies and strategies that would support the reduction of GHG emissions from future potential development under both the Approved Project and the proposed Modified Project:

- **Policy LU-1.1. Land Use and Transportation.** Focus higher land use intensities and densities within a half-mile of public transit service, and along major corridors. (General Plan EIR Policy 4-7)
- **Policy LU- 3.1. Site Planning.** Ensure that project sites are planned appropriately to create a network of connected internal streets that improve pedestrian and bicycle access, provide public open space and building layouts that support city goals related to streetscape character for various Planning Areas and corridors. (General Plan EIR Policy 4-4)
- **Policy LU-13.5. Land Use.** The Heart of the City area allows a mix of retail, commercial, office and residential uses. Specific uses are provided in the Heart of the City Specific Plan. See Figure LU-2 for residential densities and criteria.
- **Policy LU-13.6. Building Form.** Buildings should be high-quality, with pedestrian-oriented and active uses along the street.

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**GREENHOUSE GAS EMISSIONS**

- **Policy HE-1.3: *Mixed-Use Development*.** Encourage mixed-use development near transportation facilities and employment centers.
- **Policy HE-4.1. *Energy And Water Conservation*.** Encourage energy and water conservation in all existing and new residential development.
- **Strategy HE-4.1.1. *Enforcement of Title 24*.** The City will continue to enforce Title 24 requirements for energy conservation and will evaluate utilizing some of the other suggestions as identified in the Environmental Resources/ Sustainability element.
- **Strategy HE-4.1.2. *Sustainable Practices*.** The City will continue to implement the Landscape Ordinance for water conservation and the Green Building Ordinance (adopted in 2013) that applies primarily to new residential and nonresidential development, additions, renovations, and tenant improvements of ten or more units. To further the objectives of the Green Building Ordinance, the City will evaluate the potential to provide incentives, such as waiving or reducing fees, for energy conservation improvements at affordable housing projects (existing or new) with fewer than ten units to exceed the minimum requirements of the California Green Building Code. This City will also implement the policies in its climate action plan to achieve residential-focused greenhouse gas emission reductions and further these community energy and water conservation goals.
- **Policy M-1.1. *Regional Transportation Planning*.** Participate in regional transportation planning processes to develop programs consistent with the goals and policies of Cupertino's General Plan and to minimize adverse impacts on the City's circulation system. Work with neighboring cities to address regional transportation and land use issues of mutual interest.
- **Policy M-3.1. *Bicycle and Pedestrian Master Plan*.** Adopt and maintain a Bicycle and Pedestrian master plan, which outlines policies and improvements to streets, extension of trails, and pathways to create a safe way for people of all ages to bike and walk on a daily basis.
- **Policy M-3.8. *Bicycle Parking*.** Require new development and redevelopment to provide public and private bicycle parking.
- **Policy M-8.1. *Transportation*.** Promote transportation policies that help to reduce greenhouse gas emissions.
- **Strategy M-8.1.1. *TSM Strategies*.** Employ TSM strategies to improve efficiency of the transportation infrastructure including strategic right-of-way improvements, intelligent transportation systems and optimization of signal timing to coordinate traffic flow.
- **Strategy M-8.1.2. *Major and Large Employers*.** Require major and large employers, including colleges and schools, to develop and maintain TDM programs to reduce vehicle trips generated by their employees and students and develop a tracking method to monitor results.
- **Strategy M-8.1.3. *TDM Ordinance*.** Develop and adopt a TDM ordinance to reduce vehicle trips with specific implementation actions for all development projects and a monitoring and reporting program to ensure implementation.
- **Policy M-8.3. *Alternative Fuel Charging Stations*.** Develop a city-wide strategy to encourage the construction of a network of public and private alternative fuel vehicle charging/ fueling stations.
- **Policy M-9.2. *Reduced Travel Demand*.** Promote effective TDM programs for existing and new development.
- **Policy ES-1.1. *Principles of Sustainability*.** Incorporate principles of sustainability into Cupertino's planning, infrastructure, and development process in order to improve the environment, reduce

## GREENHOUSE GAS EMISSIONS

greenhouse gas emissions and meet the needs of the community without compromising the needs of future generations.

- **Strategy ES-1.1.1. *Climate Action Plan (CAP).*** Adopt, implement, and maintain a Climate Action Plan to attain greenhouse gas emission targets consistent with state law and regional requirements. This qualified greenhouse gas emissions reduction plan, by BAAQMD's definition, will allow for future project CEQA streamlining and will identify measures to:
  - Reduce energy use through conservation and efficiency.
  - Reduce fossil fuel use through multi-modal and alternative transportation.
  - Maximize use of and, where feasible, install renewable energy resources.
- **Strategy ES-1.1.2. *CAP and Sustainability Strategies Implementation.*** Periodically review and report on the effectiveness of the measures outlined in the CAP and the strategies in this Element. Institutionalize sustainability by developing a methodology to ensure all environmental, social and lifecycle costs are considered in project, program, policy and budget decisions.
- **Strategy ES-1.1.3. *Climate Adaptation and Resiliency.*** Conduct a climate vulnerability assessment and set preparedness goals and strategies to safeguard human health and community assets susceptible to the impacts of a changing climate (e.g., increased drought, wildfires, flooding). Incorporate these into all relevant plans, including the Emergency Preparedness Plan, Local Hazard Mitigation Plan, Dam Failure Plan, Climate Action Plan, Watershed Protection Plan, and Energy Assuredness Plan.
- **Policy ES-1.2. *Regional Growth and Transportation Coordination.*** Coordinate with local and regional agencies to prepare updates to regional growth plans and strategies, including the Regional Housing Allocation Needs Allocation (RHNA), One Bay Area Plan, Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS).
- **Strategy ES-1.2.1. *Local Plan Consistency with Regional Plans.*** Update and maintain local plans and strategies so they are consistent with One Bay Area Plan to qualify for State transportation and project CEQA streamlining.
- **Policy ES-2.1. *Conservation and Efficient Use of Energy Resources.*** Encourage the maximum feasible conservation and efficient use of electrical power and natural gas resources for new and existing residences, businesses, industrial and public uses.
- **Strategy ES-2.1.1. *Coordination.*** Continue to evaluate and revise, as necessary, applicable City plans, codes, and procedures for inclusion of Federal, State, and regional requirements and conservation targets.
- **Strategy ES-2.1.2. *Comprehensive Energy Management.*** Prepare and implement a comprehensive energy management plan for all applicable municipal facilities and equipment to achieve the energy goals established in the City's Climate Action Plan. Track the City's energy use and report findings as part of the Climate Action Plan reporting schedule. Embed this plan into the City's Environmentally Preferable Procurement Policy to ensure measures are achieved through all future procurement and construction practices.
- **Strategy ES-2.1.3. *Energy Efficient Replacements.*** Continue to use life cycle cost analysis to identify City assets for replacement with more energy efficient technology. Utilize available tools to benchmark and showcase City energy efficiency achievements (i.e., EPA Portfolio Manager, statewide Green Business Program).
- **Strategy ES-2.1.4. *Incentive Program.*** Consider incentive programs for projects that exceed mandatory requirements and promote incentives from state, county, and federal governments for improving energy efficiency and expanding renewable energy installations.

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**GREENHOUSE GAS EMISSIONS**

- **Strategy ES-2.1.5. *Urban Forest.*** Encourage the inclusion of additional shade trees, vegetated stormwater treatment and landscaping to reduce the “heat island effect” in development projects.
- **Strategy ES-2.1.6. *Alternate Energy Sources.*** Promote and increase the use of alternate and renewable energy resources for the entire community through effective policies, programs, and incentives.
- **Strategy ES-2.1.7. *Energy Co-Generation Systems.*** Encourage the use of energy co-generation systems through the provision of an awareness program targeting the larger commercial and industrial users and public facilities.
- **Strategy ES-2.1.8. *Energy Audits and Financing.*** Continue to offer and leverage regional partners’ programs to conduct energy audits and/or subvention programs for homes, commercial, industrial and City facilities, and recommend improvements that lead to energy and cost savings opportunities for participants and encourage adoption of alternative energy technologies. Encourage energy audits to include emerging online and applications-based energy analytics and diagnostic tools. Share residential and commercial energy efficiency and renewable energy financing tools through outreach events and civic media assets.
- **Strategy ES-2.1.9. *Energy Efficient Transportation Modes.*** Continue to encourage fuel-efficient transportation modes such as alternative fuel vehicles, driverless vehicles, public transit, car and vanpooling, community and regional shuttle systems, car and bike sharing programs, safe routes to schools, commuter benefits, and pedestrian and bicycle paths through infrastructure investment, development incentives, and community education.
- **Strategy ES-2.1.10. *Community Choice Energy.*** Collaborate with regional partners to evaluate feasibility for development of a Community Choice Energy Program.
- **Policy ES-3.1. *Green Building Design.*** Set standards for the design and construction of energy and resource conserving/efficient building.
- **Strategy ES-3.1.1. *Green Building Program.*** Periodically review and revise the City’s Green Building ordinance to ensure alignment with CALGreen requirements for all major private and public buildings projects that ensure reduction in energy and water use for new development through site selection and building design.
- **Strategy ES-3.1.2. *Staff Training.*** Continue to train appropriate City staff in the design principles, costs, and benefits of sustainable building and landscape design. Encourage City staff to attend external trainings on these topics and attain relevant program certifications (e.g., Green Point Rater, Leadership in Energy & Environmental Design (LEED) Accredited Professional).
- **Strategy ES-3.1.3. *Green Buildings Informational Seminars.*** Conduct and/or participate in Green Building informational seminars and workshops for members of the design and construction industry, land development, real estate sales, lending institutions, landscaping and design, the building maintenance industry and prospective project applicants.
- **Strategy ES-3.1.4. *Green Building Demonstration.*** Pursue municipal facility retrofits, through a Green Capital Improvement Program (CIP), and new construction projects that exceed CALGreen and achieve third-party certification criteria (e.g., LEED, Living Building Challenge, Zero Net Energy) as a means of creating demonstration spaces for developer and community enrichment.
- **Strategy ES-4.2.4. *Fuel-efficient Vehicles and Use.*** Prioritize the purchase, replacement and ongoing use of fuel-efficient and low polluting City fleet vehicles. Update applicable policies and programs to require life cycle cost analyses and include alternative fueling infrastructure review and related funding allocations. Update the Vehicle Use Policy and pursue fleet management best practices to

## GREENHOUSE GAS EMISSIONS

support fuel conservation, scheduled maintenance and fleet fuel tracking. Pursue available grant funding to offset the cost of implementing these programs.

- **Policy INF-2.5.** *Recycled Water Infrastructure Plan* for citywide access to recycled water and encourage its use.
- **Strategy INF-2.5.1.** *Availability.* Expand the availability of a recycled water system through public infrastructure projects and development review.

### Summary

While the proposed Modified Project would be consistent with the overall goals of the *Plan Bay Area* and the Cupertino Climate Action Plan, because the proposed Modified Project would not provide EV charging infrastructure that, at a minimum, meets the most ambitious voluntary standards in CALGreen at the time of project approval and would result in increases in total VMT in the City and would exceed the City's threshold for VMT reductions, impacts are considered *potentially significant* with respect to be consistent with the CARB Scoping Plan.

**Impact GHG-2:** The proposed Modified Project would not meet California Green Building Standards Code nonresidential voluntary Tier 2 electric vehicle parking standards and would exceed the City of Cupertino's vehicle miles traveled reduction threshold, and therefore be inconsistent with the California Air Resources Board Scoping Plan.

**Mitigation Measure GHG-2:** Future development projects in the City of Cupertino shall comply with the voluntary Tier 2 electric vehicle charging standards under the California Green Building Standards Code (CALGreen) version that is applicable at the time of permit applications and shall illustrate compliance with Tier 2 CALGreen electric vehicle charging standards on the site plans submitted to the City of Cupertino Planning Department. Additionally, the City of Cupertino shall amend the Chapter 17.04, *Standard Environmental Protection Requirements*, of the Cupertino Municipal Code (CMC) to require that new parking amenities included in individual development projects install electric vehicle spaces in compliance with the voluntary Tier 2 standards under the CALGreen version that is applicable at the time of permit applications. The amended CMC shall require that all site plans submitted to the City of Cupertino Planning Department shall illustrate compliance with Tier 2 CALGreen electric vehicle charging standards.

**Significance with Mitigation:** Significant and Unavoidable. The proposed Modified Project has the potential to be inconsistent with the Scoping Plan priority areas. Mitigation Measure GHG-2 would be required to ensure that new parking amenities constructed as part of the proposed Modified Project meets the most ambitious voluntary electric vehicle charging standards in CALGreen, ensuring that the proposed Modified Project meets the Scoping Plan objectives for transportation electrification which would render this consistency component to a less-than-significant level. Nonetheless, as discussed in Chapter 4.14, *Transportation*, of this EA, the proposed Modified Project would continue to result in a substantial increase in total VMT in the city and would exceed the City's VMT threshold. Therefore, the proposed Modified Project remains inconsistent with the Scoping Plan priority for VMT reductions. Because the proposed Modified Project would exceed the City's VMT threshold, the proposed Modified Project would conflict with the Scoping Plan after the incorporation of mitigation, and this impact would remain significant and unavoidable.

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**GREENHOUSE GAS EMISSIONS**

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**GHG-3                      Implementation of the proposed Modified Project would result in a cumulatively considerable impact with respect to GHG emissions.**

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As stated in the General Plan EIR, the Approved Project would achieve the 2020 and 2035 performance criteria, which would ensure that the City is on a trajectory that is consistent with the statewide GHG reduction goals. In addition, the Approved Project would not conflict with the CARB 2008 Scoping Plan or ABAG/MTC's *Plan Bay Area*.

The General Plan 2040 is a regulatory document that sets the framework for future growth and development. A General Plan does not directly result in development without approval. Any development in the Study Area is required to be analyzed for its conformance with the General Plan 2040, Zoning Code requirements, and other applicable local and State requirements; comply with the requirements of CEQA; and obtain all necessary clearances and permits. Future potential development under the proposed Modified Project would result in 3,312 net new residential units, which would generate an estimated additional 8.63 MTCO<sub>2</sub>e per year per capita over the Approved Project. As the proposed Modified Project would meet the population growth and housing needs in the City and would implement existing federal, State, and local strategies and policies to reduce community-wide GHG emissions, it would be consistent with ABAG/MTC's *Plan Bay Area 2050*. However, because the new residential units would result in VMT which exceeds the City's reduction target, the proposed Modified Project would have the potential to exceed the conflict with the State's 2045 carbon neutrality goal and impacts would be *potentially significant*.

**Impact GHG-3:** The proposed Modified Project would result in vehicle miles traveled that would exceed the City of Cupertino's reduction target, and therefore conflict with the California Air Resources Board Scoping Plan and Executive Order B-55-18.

**Mitigation Measure:** Implement Mitigation Measure GHG-2.

**Significance with Mitigation:** Significant and Unavoidable. Mitigation Measure GHG-2 would ensure that potential future development of the Housing Element sites would provide the necessary design elements that would lay a foundation to achieve carbon neutrality by 2045 and contribute their "fair share" to achieving the State's climate goals. However, GHG emissions associated with the proposed Modified Project are considered significant because the proposed Modified Project collectively would result in emissions which exceed the no net emissions threshold and project-induced VMT would exceed the City's reduction target. Therefore, impacts would be significant and unavoidable.

## HAZARDS AND HAZARDOUS MATERIALS

### 4.8 HAZARDS AND HAZARDOUS MATERIALS

This chapter describes the potential hazards and hazardous materials impacts associated with the implementation of the proposed Modified Project. This chapter describes the regulatory framework and baseline conditions, identifies criteria used to determine impact significance, provides an analysis of the potential hazards and hazardous materials, and identifies General Plan 2040 policies and/or strategies that could minimize any potentially significant impacts. A description of wildland fire hazards is in Chapter 4.18, *Wildfire*, of this Environmental Assessment (EA).

#### 4.8.1 ENVIRONMENTAL SETTING

##### 4.8.1.1 REGULATORY FRAMEWORK

###### Federal Regulations

###### *United States Environmental Protection Agency*

The United States Environmental Protection Agency (EPA) is the primary federal agency that regulates hazardous materials and waste. In general, the EPA works to develop and enforce regulations that implement environmental laws enacted by Congress. The agency is responsible for researching and setting national standards for a variety of environmental programs, delegating the responsibility for issuing permits, and monitoring and enforcing compliance to states and Native American tribes. EPA programs promote handling hazardous waste safely, cleaning up contaminated land, and reducing waste volumes through such strategies as recycling. California falls under the jurisdiction of EPA Region 9. Under the authority of the Resource Conservation and Recovery Act (RCRA) and in cooperation with State and tribal partners, the EPA Region 9 Waste Management and Superfund Divisions manage programs for site environmental assessment and cleanup, hazardous and solid waste management, and underground storage tanks.

###### *Resource Conservation and Recovery Act of 1976*

Federal hazardous waste laws are generally promulgated under the RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984. These laws provide for the “cradle to grave” regulation of hazardous waste. Any business, institution, or other entity that generates hazardous waste is required to identify and track its hazardous waste from the point of generation until it is recycled, reused, or disposed. The Department of Toxic Substances Control (DTSC) is responsible for implementing the RCRA program as well as California’s own hazardous waste laws, which are collectively known as the Hazardous Waste Control Law.

###### *Comprehensive Environmental Response, Compensation, and Liability Act and the Superfund Amendments and Reauthorization Act of 1986*

Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as “Superfund,” on December 11, 1980. CERCLA established prohibitions and requirements concerning closed and abandoned hazardous waste sites; provided for liability of persons

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## HAZARDS AND HAZARDOUS MATERIALS

responsible for releases of hazardous waste at these sites; and established a trust fund to provide for cleanup when no responsible party could be identified. The Superfund Amendments and Reauthorization Act (SARA) amended the CERCLA on October 17, 1986. SARA stressed the importance of permanent remedies and innovative treatment technologies in cleaning up hazardous waste sites, required Superfund actions to consider the standards and requirements found in other State and federal environmental laws and regulations, provided new enforcement authorities and settlement tools, increased State involvement in every phase of the Superfund program, increased the focus on human health problems posed by hazardous waste sites, encouraged greater citizen participation in making decisions on how sites should be cleaned up, and increased the size of the trust fund to \$8.5 billion.

### *The Stafford Act*

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) of 1988, as amended, authorizes federal government assistance for emergencies and disasters when State and local capabilities are exceeded. The Stafford Act forms the statutory authority for most federal disaster response activities, especially as they relate to the Federal Emergency Management Agency (FEMA) and FEMA programs.

## State Regulations

### *California Environmental Protection Agency*

One of the primary State agencies that regulate hazardous materials is the California Environmental Protection Agency (CalEPA). CalEPA is authorized by the EPA to enforce and implement certain federal hazardous materials laws and regulations. The California DTSC, a department of the CalEPA, protects California and its population from exposure to hazardous waste, primarily under the authority of the RCRA and the California Health and Safety Code.<sup>1</sup> The DTSC requirements include the need for written programs and response plans, such as Hazardous Materials Management Plans. The DTSC programs include dealing with aftermath clean-ups of improper hazardous waste management; evaluation of samples taken from sites; enforcement of regulations regarding use, storage, and disposal of hazardous materials; and encouragement of pollution prevention.

Additionally, CalEPA has delegated enforcement authority to the Santa Clara County Fire Department for State law regulating hazardous waste producers or generators in Cupertino under the Certified Unified Program Agency (CUPA) program.<sup>2</sup> A CUPA is an agency of a county or city that administers several State programs regulating hazardous materials and hazardous waste. The CUPA staff review plans for new underground storage tanks (USTs); inspect UST sites during several construction phases to ensure installation standards are met; and conduct annual inspections to verify that operating requirements are met. All UST owners must possess a valid operating permit; conduct routine testing; maintain equipment; prepare an approved leak-response plan; and upgrade tank systems, as required.

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<sup>1</sup> Hazardous Substance Account, Chapter 6.5 (Section 25100 et seq.) of the Hazardous Waste Control Law, Chapter 6.8 (Section 25300 et seq.) of the Health and Safety Code.

<sup>2</sup> County of Santa Clara Hazardous Materials Compliance Division, 2024, Programs and Services, <https://hazmat.sccgov.org/programs-and-services#1849274314-1684959077>, accessed January 26, 2024.



## HAZARDS AND HAZARDOUS MATERIALS

### *California Division of Occupational Safety and Health*

Like the Occupational Safety and Health Administration (OSHA) at the federal level, the California Division of Occupational Safety and Health (CalOSHA) is the responsible State-level agency for ensuring workplace safety. CalOSHA assumes primary responsibility for the adoption and enforcement of standards regarding workplace safety and safety practices. In the event that a work site is contaminated, a Site Safety Plan must be crafted and implemented to protect the safety of workers. Site Safety Plans establish policies, practices, and procedures to prevent the exposure of workers and members of the public to hazardous materials originating from the contaminated site or building.

### *California Office of Emergency Services*

The California Office of Emergency Services (Cal OES) was established as part of the Governor's Office on January 1, 2009. It was created pursuant to Assembly Bill 38, which merged the duties, powers, purposes, and responsibilities of the former Governor's Emergency Management Agency with those of the Governor's Office of Homeland Security. Cal OES is responsible for the coordination of overall State agency response to major disasters in support of local government. The agency is responsible for ensuring the State's readiness to respond to and recover from all hazards—natural, human-made, emergencies, and disasters—and for assisting local governments in their emergency preparedness, response, recovery, and hazard mitigation efforts.

### *California Department of Transportation and California Highway Patrol*

The California Department of Transportation (Caltrans) and the California High Patrol (CHP) are the two State agencies that have primary responsibility for enforcing federal and State regulations and responding to hazardous materials transportation emergencies. Caltrans manages more than 50,000 miles of California's highways and freeways, provides intercity rail services, permits more than 400 public-use airports and special-use hospital heliports, and works with local agencies. Caltrans is also the first responder for hazardous material spills and releases that occur on highways, freeways, and intercity rail lines.

The CHP enforces hazardous materials and hazardous waste labeling and packing regulations designed to prevent leakage and spills of materials in transit and to provide detailed information to cleanup crews in the event of an accident. Vehicle and equipment inspection, shipment preparation, container identification, and shipping documentation are all part of the responsibility of the CHP, which conducts regular inspections of licensed transporters to ensure regulatory compliance. In addition, the State of California regulates the transportation of hazardous waste originating or passing through the state.

Common carriers are licensed by the CHP, pursuant to Section 32000 of the California Vehicle Code. This section requires licensing every motor (common) carrier who transports, for a fee, more than 500 pounds of hazardous materials at one time and every carrier, if not for hire, who carries more than 1,000 pounds of hazardous material of the type requiring placards. Common carriers conduct a large portion of the business in the delivery of hazardous materials.

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## HAZARDS AND HAZARDOUS MATERIALS

### *California Building Code*

The State of California provides a minimum standard for building design through Title 24, Part 2, of the California Code of Regulations (CCR), commonly referred to as the California Building Code (CBC). The CBC is updated every three years. It is generally adopted on a jurisdiction-by-jurisdiction basis, subject to further modification based on local conditions. The City of Cupertino regularly adopts each new CBC update under the Cupertino Municipal Code (CMC) Chapter 16.04, *Building Code*. Commercial and residential buildings are plan-checked by local City and County building officials for compliance with the typical fire safety requirements of the CBC, including the installation of sprinklers in all buildings; the establishment of fire-resistance standards for fire doors and building materials; and the clearance of debris and vegetation near occupied structures in wildfire hazard areas.

### *California Health and Safety Code*

California Health and Safety Code Chapter 6.95 and CCR Title 19, Section 2729, set out the minimum requirements for business emergency plans and chemical inventory reporting. These regulations require businesses to provide emergency response plans and procedures, training program information, and a hazardous material chemical inventory disclosing hazardous materials stored, used, or handled on site. A business that uses hazardous materials or a mixture containing hazardous materials must establish and implement a management plan if the hazardous material is handled in certain quantities.

### *California Department of Toxic Substances Control*

DTSC takes a multipronged approach to regulating more than 100,000 entities to prevent the release of hazardous waste, clean-up contamination, and ensure hazardous waste is handled safely. They conduct inspections, provide emergency response, remove waste and update EnviroStor, DTSC's data management system for tracking cleanup, permitting, enforcement, and investigation efforts at hazardous waste facilities and sites with known contamination or sites where there may be reasons to investigate further.

### *State Water Resources Control Board*

The State Water Resources Control Board (SWRCB), along with the nine Regional Water Quality Control Boards, protect California's water quality. The SWRCB has created GeoTracker, a data management system for sites that impact, or have the potential to impact, water quality in California, with emphasis on groundwater. GeoTracker also contains records for various unregulated projects as well as permitted facilities, including Irrigated Lands, Oil and Gas production, operating Permitted USTs, and Land Disposal Sites.

### *California Accidental Release Prevention Program*

The California Accidental Release Prevention Program (CalARP) protects people from the release of "regulated substances" into the environment. Regulated substances are chemicals that pose a major threat to public health and safety or the environment because they are highly toxic, flammable, or explosive; such substances include ammonia, chlorine gas, hydrogen, nitric acid, and propane.

## HAZARDS AND HAZARDOUS MATERIALS

Businesses subject to CalARP must develop a Risk Management Plan (RMP) for handling an accidental release; the RMP ensures that businesses have the proper information to give emergency response teams if an accidental release occurs. RMPs describe impacts to public health and the environment if a regulated substance is released near schools, residential areas, hospitals, and childcare facilities. RMPs must include procedures for keeping employees and customers safe, handling regulated substances, training staff, maintaining equipment, safe storage of substances, and responding to an accidental release.<sup>3</sup>

### Regional Regulations

#### *San Francisco Bay Regional Water Quality Control Board*

The Porter-Cologne Water Quality Control Act established the SWRCB and divided the State into nine regional basins, each under the jurisdiction of a Regional Water Quality Control Board (RWQCB). The San Francisco Bay RWQCB, Region 2, regulates water quality in the Study Area. The San Francisco Bay RWQCB has the authority to require groundwater investigations and/or remedial action if the quality of groundwater or surface waters of the state are threatened.

#### *Bay Area Air Quality Management District*

The Bay Area Air Quality Management District (BAAQMD) has primary responsibility for control of air pollution from sources other than motor vehicles and consumer products. The latter are typically the responsibility of CalEPA and the California Air Resources Board. The BAAQMD is responsible for preparation of attainment plans for non-attainment criteria pollutants, control of stationary air pollutant sources, and issuance of permits for activities, including demolition and renovation activities affecting asbestos-containing materials (District Regulation 11, Rule 2) and lead (District Regulation 11, Rule 1).

#### *Santa Clara County Operational Area Hazard Mitigation Plan*

The purpose of hazard mitigation planning is to reduce the loss of life and property by minimizing the impact of disasters. The *Santa Clara County Operational Area Hazard Mitigation Plan* (HMP) was prepared and adopted in October 2017 for the purpose of identifying, assessing, and reducing the long-term risk to life and property from hazard events. The adopted HMP was approved by FEMA. The document provides more than 344 mitigation actions for implementation by individual planning partners, including the City of Cupertino. The HMP includes a risk assessment and mitigation actions for each of the jurisdictions in the planning partnership. The Cupertino Jurisdictional Annex of the HMP provides an assessment of hazards and vulnerabilities, and a set of mitigation actions for Cupertino specifically while considering the results from the countywide effort. In the context of an HMP, mitigation is an action that reduces or eliminates long-term risk to people and property from hazards, including wildfire.

The HMP must be reviewed and approved by FEMA every five years to maintain eligibility for disaster relief funding. As part of this process, Cal OES reviews all local HMPs in accordance with the Disaster

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<sup>3</sup> San Mateo County Health, 2023, The California Accidental Release Prevention Program (CalARP), <https://www.smchealth.org/cupa/calarp>, accessed May 29, 2023.

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## HAZARDS AND HAZARDOUS MATERIALS

Management Act of 2000 regulations, and coordinates with local jurisdictions to ensure compliance with FEMA's Local Mitigation Plan Review Guide.

### *Santa Clara County Department of Environmental Health*

The routine management of hazardous materials in California is administered under the Unified Hazardous Waste and Hazardous Materials Management Program (Unified Program), and most of the City of Cupertino's hazardous materials programs are administered and enforced under the Unified Program.<sup>4</sup> The CalEPA has granted responsibilities to the Santa Clara County Department of Environmental Health Hazardous Materials Compliance Division (HMCD) for implementation and enforcement of hazardous material regulations under the Unified Program as a CUPA. The HMCD also enforces additional hazardous materials storage requirements in accordance with the Santa Clara County Hazardous Materials Storage Ordinance and Toxic Gas Ordinance.<sup>5</sup>

Under authority from the RWQCB, the Santa Clara County Department of Environmental Health implements the Local Oversight Program (LOP) to oversee the investigation and remediation of leaking underground storage tanks (LUSTs) in Santa Clara County, including the City of Cupertino.

Businesses storing hazardous materials over threshold quantities are required to submit Hazardous Materials Business Plans (HMBPs) to the HMCD. An HMBP must include measures for safe storage, transportation, use, and handling of hazardous materials. An HMBP must also include a contingency plan that describes the facility's response procedures in the event of a hazardous materials release.

## Local Regulations

### *General Plan 2040*

The Health and Safety (HS) Element of the General Plan 2040 contains goals, policies, and strategies that require local planning and development decisions to consider impacts related to hazards and hazardous materials. Applicable policies and strategies that would minimize potential adverse impacts related to hazards and hazardous materials are identified in Section 4.8.3, *Impact Discussion*.

### *Municipal Code*

The CMC includes various directives to minimize adverse impacts to hazards and hazardous materials in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to hazards and hazardous materials are included in Title 6, *Franchises*; Title 9, *Health and Sanitation*; and Title 17, *Environmental Regulations*:

- **Chapter 6.24, *Garbage, Non-Organic Recycling and Organic Waste Recycling Collection and Disposal*.** Section 6.24.100, *Disposal of Explosive or Hazardous Material Restrictions*, states that no person shall deposit in any garbage organic waste or non-organic recycling containing any explosive, highly inflammable, or otherwise hazardous material or substance.

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<sup>4</sup> California Health and Safety Code, Chapter 6.11, Sections 25404-25404.8.

<sup>5</sup> Santa Clara County Ordinance Code, Division B11, Chapters XIII – XIV.

## HAZARDS AND HAZARDOUS MATERIALS

- **Chapter 9.12, *Hazardous Materials Storage*.** This chapter outlines the general provisions for managing and storing hazardous materials, the materials regulated, the containment standards, and requirements for hazardous materials management plans.
- **Chapter 9.20, *Off-Site Hazardous Waste Facilities*.** This chapter establishes standards for controlling the location, design, maintenance, and safety of off-site hazardous waste treatment, storage, transfer, and disposal facilities.
- **Chapter 16.04, *Building Code*.** This chapter adopts the 2022 CBC as the rules, regulations, and standards within the city as to all matters except as modified or amended in the CMC. Provisions of the CBC include ensuring proper hazardous materials storage facilities are used and appropriate permits are obtained when working with potentially hazardous materials.
- **Chapter 16.40, *Fire Code*.** Adopts the 2022 edition of the California Fire Code as the rules, regulations, and standards in the city as to all matters except as modified or amended in the CMC. As stated in Section 16.40.220, *Hazardous Materials – General Provisions*, where required by the fire code official, facilities shall submit a Hazardous Materials Business Plan.
- **Chapter 17.04, *Standard Environmental Protection Requirements*.** The purpose of this chapter is to identify standard environmental protection requirements that all construction projects must meet, including, but not limited to, environmental mitigation measures identified in any environmental documents required as part of a General Plan update.
  - **Section 17.04.040(B), *Hazardous Materials*.** This section includes specific requirements for evaluating and mitigating hazardous materials.
    - B. Hazardous Materials. Manage Soil and/or Groundwater Contamination. Projects that involve tree removal only are not subject to this Section B. For projects that involve a change of land use (e.g., commercial to residential), development of uses that will be occupied or used by sensitive receptors, development of a net new residential unit (not including a Junior Accessory Dwelling unit or Accessory Dwelling unit), new construction of nonresidential and/or mixed-use development, or subdivisions, except as provided for in Section B.3, the project applicant shall complete Sections B.1 and B.2, as required, prior to approval of the project.
      1. Phase I Environmental Site Assessment. Retain the services of a qualified environmental consultant with experience preparing Phase I Environmental Site Assessments (ESAs) to prepare a Phase I ESA in accordance with the American Society for Testing and Materials (ASTM) Standards on Environmental Site Assessments, ASTM E 1527-13 (ASTM 1527-13) and in accordance with the EPA's Standards and Practices for All Appropriate Inquiries (40 Code of Federal Regulations [CFR] 312), published November 2005, as subsequently revised, supplemented, or replaced. The goal of an ASTM Phase I ESA is to evaluate site history, existing observable conditions, current site use, and current and former uses of surrounding properties to identify the potential presence of Recognized Environmental Conditions (RECs) as defined in ASTM E 1527-13, associated with the site. If the Phase I ESA does not identify any RECs, then no further action is needed. If the Phase I ESA identifies RECs, then a Phase II ESA shall be prepared, as described in Section B.2.

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**HAZARDS AND HAZARDOUS MATERIALS**

2. Phase II Environmental Site Assessment. A Phase II ESA shall be prepared by a qualified environmental consultant and signed and stamped by a Professional Geologist or Professional Engineer hired by the project applicant. The Phase II ESA shall include the collection and analysis of samples designed to evaluate RECs identified in the Phase I ESA, in compliance with ASTM standards, and a health risk assessment to evaluate whether the RECs pose an unacceptable or potentially unacceptable health risk to future users of the site. Depending on the health risks identified in the Phase II ESA, the project applicant shall proceed as follows:
    - a. If the Phase II ESA identifies no unacceptable or potentially unacceptable health risk associated with the RECs, then no further action is needed.
    - b. If the Phase II ESA identifies an unacceptable or a potentially unacceptable health risk, the requirements related to soil remediation in Section 17.04.050B shall apply.
  3. Focused Phase I and II ESAs. Projects that are on sites that are known to have current or former orchards or other irrigated agricultural activities that were active in 1950 or later are assumed to contain RECs associated with organic pesticides and are required to prepare a Focused Phase I ESA that addresses only RECs other than those associated with organic pesticides. Depending on the contaminants found in the Focused Phase I ESA, the project applicant shall proceed as follows:
    - a. If the Focused Phase I ESA identifies no other unacceptable or potentially unacceptable health risks, then the project applicant shall prepare a Focused Phase II ESA that addresses only the potential hazards associated with organic pesticides.
    - b. If the Focused Phase I ESA identifies RECs other than organic pesticides, then the project applicant shall prepare the Phase II ESA, as described in Section B.2 to address both the organic pesticides RECs and all other RECs.
- **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.

*Cupertino Emergency Operations Plan*

The City of Cupertino Office of Emergency Management is responsible for coordinating agency response to disasters or other large-scale emergencies in Cupertino. The Cupertino Emergency Operations Plan (EOP) establishes policy direction for emergency planning, mitigation, response, and recovery activities within the city. The EOP addresses interagency coordination, procedures to maintain communications with County and State emergency response teams, and methods to assess the extent of damage and management of volunteers, as well as identifies the location of the Emergency Operations Center. The EOP uses the Standardized Emergency Management System as required by California Government Code

## HAZARDS AND HAZARDOUS MATERIALS

Section 8607(a) for managing responses to multiagency and multi-jurisdiction emergencies in California, including those related to hazardous materials.

### 4.8.1.2 EXISTING CONDITIONS

Chapter 4.7, *Hazards and Hazardous Materials*, of the General Plan Environmental Impact Report (EIR), addresses the impacts to hazardous resources associated with implementation of the Approved Project at a program level. The setting for hazards and hazardous materials is described in detail in General Plan EIR Section 4.7.1.2, *Existing Conditions*. The Fire Prevention division of the Santa Clara County Fire Department (SCCFD) continues to provide hazardous materials inspection, services for building construction, annual building inspection, and hazardous materials regulation.<sup>6</sup>

Since the certification of the General Plan EIR, the City has codified regulations equivalent to the General Plan EIR Mitigation Measure HAZ-4a and HAZ-4b in CMC Chapter 17.04, *Standard Environmental Protection Requirements*, as described under the Municipal Code heading in Section 4.8.1.1, *Regulatory Framework*. CMC Section 17.04.040(B), *Hazardous Materials*, incorporates these mitigation measures into the CMC and requires a Phase I and II ESA to be prepared to evaluate potential residual contamination during new development. Section 17.04.050(B), *Hazardous Materials Permit Requirements*, requires soil remediation if a Phase II ESA identifies an unacceptable health risk on a project site.

Additionally, since the certification of the General Plan EIR, new hazardous waste sites have been identified and some of the previous hazards waste sites have become inactive or closed. Table 4.8-1, *Active Hazardous Material Sites in the Study Area*, identifies the active sites in the Study Area as of July 20, 2023.

**TABLE 4.8-1 ACTIVE HAZARDOUS MATERIAL SITES IN THE STUDY AREA**

Map ID	Site Name	Address	Site Type	Cleanup Status
<b>DTSC EnviroStor Sites</b>				
1	Westwood Elementary School	435 Saratoga Avenue	School Investigation	Active
2	New Laurelwood Elementary School	1095 & 1055 Dunford Way, 1380 Rosalia Avenue	School Investigation	Active
3	Cupertino Village Cleaners	10989 North Wolfe Road	Voluntary Cleanup	Active
4	Delia's Cleaners	7335 Bollinger Road	Voluntary Cleanup	Active
5	Sedgwick Elementary School Expansion Project	10480 Finch Avenue	School Cleanup	Certified
6	Orchard Farm Shopping Center	6150 Bollinger Road	State Response	Certified Operations and Maintenance - Land Use Restrictions Only
7	Hewlett Packard CO	5301 Stevens Creek Blvd	Non-Operating	Protective Filer
8	Anderson Chevrolet Dealership (now Whole Foods)	20955 Stevens Creek Boulevard	Evaluation	Refer: 1248 Local Agency

<sup>6</sup> Santa Clara County Fire Department, Fire Prevention, <https://www.sccfd.org/fire-prevention/fire-prevention-overview/>, accessed on July 19, 2023.

**HAZARDS AND HAZARDOUS MATERIALS****TABLE 4.8-1 ACTIVE HAZARDOUS MATERIAL SITES IN THE STUDY AREA**

Map ID	Site Name	Address	Site Type	Cleanup Status
9	American Microsystems, Inc.	3800 Homestead Road	State Response	Refer: Regional Water Quality Control Board
10	Vallco Building 80 (now Apple)	10432 North Tantau Avenue	Evaluation	Refer: Regional Water Quality Control Board
11	Ampex Cupertino Facility (now Apple)	10435 North Tantau Avenue	Evaluation	Refer: Regional Water Quality Control Board
12	Intersil (now Apple/Panasonic)	10910 North Tantau Avenue	Federal Superfund	Refer: Regional Water Quality Control Board
<b>SWRCB GeoTracker Sites</b>				
13	19720 Stevens Creek Boulevard.	19720 Stevens Creek Boulevard	Cleanup Program Site	Open - Assessment & Interim Remedial Action
14	Apple - Former HP - Wolfe Road	10900 North Wolfe Road	Cleanup Program Site	Open - Remediation
15	Bubb Road Property - The Driving Machine	10100 Bubb Road	Cleanup Program Site	Open - Long Term Management
16	District McClellan Homes	20860 McClellan Road	Cleanup Program Site	Open - Site Assessment
17	East Vallco Mall Site	10123 North Wolfe Road	Cleanup Program Site	Open - Site Assessment
18	Intersil (DTKM) (now Apple)	10900 North Tantau Avenue	Cleanup Program Site	Open - Remediation - Land Use Restrictions
19	McClellan Square Cleaners	10477 South De Anza Boulevard	Cleanup Program Site	Open - Assessment & Interim Remedial Action
20	Residence - 11226 Bubb Road	11226 Bubb Road	Cleanup Program Site	Open - Site Assessment
21	Siemens (SMI Holding Llc) (now Kaiser)	19000 Homestead Road	Cleanup Program Site	Open - Remediation - Land Use Restrictions
22	Vallco Town Center	10123 North Wolfe Road	Cleanup Program Site	Open - Remediation

Sources: Department of Toxic Substances Control, 2022, EnviroStor, <https://www.envirostor.dtsc.ca.gov/public/map/?myaddress=cupertino>, accessed July 20, 2023; State Water Resources Control Board, 2022, GeoTracker, <https://geotracker.waterboards.ca.gov/>, accessed July 20, 2023.

**4.8.2 STANDARDS OF SIGNIFICANCE**

Implementation of the proposed Modified Project would result in significant hazards and hazardous materials impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
HAZ-1. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?	LTS	LTS
HAZ-2. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.?	LTS	LTS
HAZ-3. Emit hazardous emissions or handle hazardous materials, substances, or waste within 0.25 miles of an existing or proposed school?	LTS/M	LTS
HAZ-4. Be located on a site that is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment?	LTS/M	LTS



## HAZARDS AND HAZARDOUS MATERIALS

Implementation of the proposed Modified Project would result in significant hazards and hazardous materials impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
HAZ-5. For a project within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area?	NI	NI
HAZ-6. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	LTS	LTS
HAZ-7. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	LTS	LTS
HAZ-8. Result in a cumulatively considerable impact with respect to hazards and hazardous materials?	LTS/M	LTS

Note: In December 2018, amendments were made to Appendix G, *Environmental Checklist*, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. Because wildfire has been added as a separate impact category to Appendix G, this EA includes a complete description of wildfire impacts in Chapter 4.16, *Wildfire*, of this EA.

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

### 4.8.3 IMPACT DISCUSSION

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<b>HAZ-1</b>	<b>Implementation of the proposed Modified Project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.</b>
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As described in the General Plan EIR, commercially available hazardous materials (e.g., fuels, solvents, paints, and some consumer electronics) would be used at various new construction sites under the Approved Project and may generate small amounts of hazardous waste, but the waste would be handled in accordance with applicable federal, State, and local laws, policies, and regulations. Additionally, the Approved Project has office, commercial, and residential land uses and, therefore, would not include manufacturing or research processes that generate substantial quantities of hazardous materials.

Like the Approved Project, future potential development under the proposed Modified Project would include only residential development and would not include manufacturing or research processes that would generate substantial quantities of hazardous materials. Future potential development under the proposed Modified Project would also use commercially available hazardous materials but would be required to comply with the same federal, State, and local laws and regulations as the proposed Modified Project.

The General Plan EIR also found that the Health and Safety (HS) Element contains policies that require local planning and development decisions to consider impacts that development could have on the routine transport, use, or disposal of hazardous materials. Like the Approved Project, the following existing General Plan 2040 policies, and updated policies as part of the proposed Modified Project, would also serve to minimize potential adverse impacts on the routine transport, use, or disposal of hazardous materials for future potential development:

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- **Policy HS-6.1. *Hazardous Materials Storage and Disposal.*** Require the proper storage and disposal of hazardous materials to prevent leakage, potential explosions, fire or the release of harmful fumes. Maintain information channels to the residential and business communities about the illegality and danger of dumping hazardous material and waste in the storm drain system or in creeks. (General Plan EIR Policies 6-27 and 6-32)
- **Policy HS-6.2. *Proximity of Residents to Hazardous Materials.*** Assess future residents' exposure to hazardous materials when new residential development or sensitive populations are proposed in existing industrial and manufacturing areas. Do not allow residential development or sensitive populations if such hazardous conditions cannot be mitigated to an acceptable level of risk. (General Plan EIR Policy 6-28)
- **Policy HS-6.4. *Educational Programs.*** Continue to encourage residents and businesses to use non- and less hazardous products, especially less toxic pest control products, to slow the generation of new reduce hazardous waste requiring disposal through the county-wide program. (General Plan EIR Policy 6-30).
- **Policy HS-6.5. *Hazardous Waste Disposals.*** Continue to support and facilitate, for residences and businesses, a convenient opportunity to properly dispose of hazardous waste. (General Plan EIR Policy 6-31).

As with the future potential development under the Approved Project, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing the routine transport, use, or disposal of hazardous materials, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe hazards to the public or the environment through the routine transport, use, or disposal of hazardous materials beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>HAZ-2</b>	<b>Implementation of the proposed Modified Project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.</b>
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As described in the General Plan EIR, the Approved Project would facilitate new development, including residential, mixed-use, and commercial uses, within Cupertino. Some of the potential future development could occur on properties that are contaminated and inactive, undergoing evaluation, and/or undergoing corrective action, as indicated in Table 4.7.2, *Hazardous Materials and LUST Sites*, of the General Plan EIR. Demolition of existing structures and construction of new buildings could potentially result in the release of hazardous building materials (e.g., asbestos, lead paint) into the environment. However, compliance with applicable federal, State, and local laws and regulations regarding handling of these materials and compliance with the Stormwater Pollution Prevention Plan and Best Management Practices, would ensure future development under the Approved Project would not create a significant hazard to the public or the environment.

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Like the Approved Project, potential future development under the proposed Modified Project could occur on properties that contaminated and inactive, undergoing evaluation, and/or undergoing corrective action, as indicated in Table 4.8-1, *Active Hazardous Material Sites in the Study Area*. As with the future potential development under the Approved Project, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing the release of hazardous materials into the environment, including the General Plan 2040 policies listed under Impact Discussion HAZ-1 and compliance with the Stormwater Pollution Prevention Plan and Best Management Practices. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe hazards to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>HAZ-3</b>	<b>Implementation of the proposed Modified Project would not emit hazardous emissions or handle hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.</b>
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As described in the General Plan EIR, several public and private schools, including preschools, elementary, middle, and high schools, are within one-quarter mile of known hazardous wastes sites that may be redeveloped as part of the Approved Project. The SCCFD and City of Cupertino Building Division coordinate the review of building permits to ensure that hazardous materials use requirements are met prior to construction, including required separation between hazardous materials and sensitive land uses, and proper hazardous materials storage facilities. Development under the Approved Project would be required by the HMCD and the City of Cupertino to store, manage, and dispose of the materials in accordance with the Unified Program. While compliance with existing regulations would reduce the potential for school children to be exposed to hazardous materials during both construction and operation from future development under the Approved Project, impacts were found to be potentially significant in the General Plan EIR. Thus, the General Plan EIR included the Mitigation Measures HAZ-4a and HAZ-4b to render these impacts to a less-than-significant level. As previously stated in Section 4.8.1.2, *Existing Conditions*, these mitigation measures have been codified in CMC Chapter 17.04 and apply to all potential future development in Cupertino. Specifically, Section 17.04.040(B), *Hazardous Materials*, includes specific requirements for evaluating and mitigating hazardous materials by requiring the preparation of a Phase I Environmental Site Assessment (ESA) to evaluate site history, existing observable conditions, current site use, and current and identify Recognized Environmental Conditions (RECs).

If the Phase I ESA identifies RECs, then a Phase II ESA shall be prepared to mitigate any potential impacts. As with the General Plan Mitigation Measures HAZ-4a and HAZ-4b, the Phase II ESA could require construction at the sites with known contamination to be conducted under a project-specific Environmental Site Management Plan (ESMP) that is prepared in consultation with the Regional Water Quality Control Board (RWQCB) or the Department of Toxic Substances Control (DTSC), or the Santa Clara County Department of Environmental Health (DEH) as determined appropriate by the City and in compliance with the requirements of CMC Chapter 17.04. The purpose of the ESMP is to protect construction workers, the general public, the environment, and future site occupants from subsurface

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## HAZARDS AND HAZARDOUS MATERIALS

hazardous materials previously identified at the site and to address the possibility of encountering unknown contamination or hazards in the subsurface. The ESMP shall summarize soil and groundwater analytical data collected on the project site during past investigations; identify management options for excavated soil and groundwater, if contaminated media are encountered during deep excavations; and identify monitoring, irrigation, or other wells requiring proper abandonment in compliance with local, State, and federal laws, policies, and regulations. The ESMP shall include measures for identifying, testing, and managing soil and groundwater suspected of or known to contain hazardous materials. The ESMP shall: 1) provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively; 2) describe required worker health and safety provisions for all workers potentially exposed to hazardous materials in accordance with State and federal worker safety regulations; and 3) designate personnel responsible for implementation of the ESMP.

For those sites with potential residual contamination in soil, gas, or groundwater that are planned for redevelopment with an overlying occupied building, a vapor intrusion assessment shall be performed by a licensed environmental professional. If the results of the vapor intrusion assessment indicate the potential for significant vapor intrusion into an occupied building, project design shall include vapor controls or source removal, as appropriate, in accordance with regulatory agency requirements. Soil vapor mitigations or controls could include vapor barriers, passive venting, and/or active venting. The vapor intrusion assessment and associated vapor controls or source removal can be incorporated into the ESMP. CMC Section 17.04.040(B), *Hazardous Materials*, and Section 17.04.050, *Hazardous Materials Permit Requirements*, would prohibit all future potential development projects under the Approved Project and Modified Project from emitting hazardous emissions or handle hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

Like the Approved Project, the proposed Modified Project could include potential future development on known hazardous wastes sites within one-quarter mile of a school. Thus, as with the development assessed in the General Plan EIR, potential future development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing the release of hazardous materials into the environment, including the General Plan 2040 policies listed under Impact Discussion HAZ-1 and CMC Sections 17.04.040 (B) and 17.04.050(B). Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe hazards to schools through emitting hazardous emissions or handling hazardous or acutely hazardous materials, substances, or waste beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>HAZ-4</b>	<b>Implementation of the proposed Modified Project would be on a site that is included on a list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and, as a result, would create a significant hazard to the public or the environment.</b>
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Table 4.7-2, *Hazardous Materials and LUST Sites*, of the General Plan EIR identified the LUST sites within the Study Area. Because hazardous materials were known to be present in soil, soil gas, and/or

## HAZARDS AND HAZARDOUS MATERIALS

groundwater due to past land uses at certain sites that may be redeveloped as part of the Approved Project, the direct contact, inhalation, or ingestion of hazardous materials could potentially cause adverse health effects to construction workers and future site users. The severity of health effects would depend on the contaminant(s), concentration, use of personal protective equipment during construction, and duration of exposure. The disturbance and release of hazardous materials during earthwork activities, if present, could pose a hazard to construction workers, nearby receptors, and the environment. Thus, the General Plan EIR included Mitigation Measures HAZ-4a and HAZ-4b. However, as listed under Impact Discussion HAZ-3, the intent of these mitigation measures has been codified into CMC Sections 17.04.040 (B) and 17.04.050(B), and therefore all potential future development under both the Approved Project and proposed Modified Project would be required to comply with these regulations. Like the Approved Project, the proposed Modified Project could include potential future development on known LUST sites, as shown in Table 4.7-1, *Active Hazardous Material Sites in the Study Area*, of this EA. Thus, as with the development assessed under the Approved Project, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing the release of hazardous materials into the environment, including the General Plan 2040 policies listed under Impact Discussion HAZ-1, and CMC Sections 17.04.040 (B) and 17.04.050(B). Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe hazards to the public or the environment beyond what was evaluated in the General Plan EIR.

**Significance with Mitigation:** Less than significant.

<b>HAZ-5</b>	<b>Implementation of the proposed Modified Project would not, for a project within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard or excessive noise for people residing or working in the project area.</b>
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As described in the General Plan EIR, Cupertino is not within two miles of a public airport or within any protected airspace zones defined by the Santa Clara County Airport Land Use Commission (ALUC), and there are no private airstrips or heliports listed by the Federal Aviation Administration in Cupertino. Thus, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts that result in a safety hazard or excessive noise for people residing or working in the project area due to being within an airport land use plan, or, where such a plan has not been adopted, within two miles of a public airport or public use airport, beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** No impact.

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**HAZARDS AND HAZARDOUS MATERIALS**

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**HAZ-6                    Implementation of the proposed Modified Project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.**

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As explained in the General Plan EIR, the City of Cupertino Emergency Management Division is responsible for coordinating agency response to disasters or other large-scale emergencies in the City of Cupertino with assistance from the Santa Clara County Office of Emergency Management and the SCCFD. The Cupertino EOP establishes policy direction for emergency planning, mitigation, response, and recovery activities within the city. The Cupertino EOP addresses interagency coordination, procedures to maintain communications with County and State emergency response teams, and methods to assess the extent of damage and management of volunteers.

The proposed Modified Project would include potential future development and land use activities within the same boundaries as the Approved Project. Furthermore, as shown on Figure 3-3, *Housing Element (2023-2031) Opportunity Sites*, of this EA, the locations of potential future development under the proposed Modified Project would be in similar areas as those of the Approved Project. Future potential development under the Modified Project would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or near existing residential and residential-serving development in already urbanized areas. Thus, the City of Cupertino Office of Emergency Management would still be responsible for coordinating agency response to disasters or other large-scale emergencies.

The General Plan EIR also found that the Health and Safety (HS) Element contains policies and strategies that require local planning and development decisions to consider impacts that interfere with an adopted emergency response plan or emergency evacuation plan. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize potential adverse impacts on projects in an emergency response plan or emergency evacuation plan:

- **Strategy HS-1.1.1. *Monitoring and Budgeting.*** Monitor and evaluate the success of the LHMP, including local strategies provided in the Cupertino Annex Section 11). Working with Santa Clara County, ensure that strategies are prioritized and implemented through the Capital Improvement Program and provide adequate budget for on-going programs and department operations. (Strategy 1 of General Plan EIR Policy 6-1)
- **Policy HS-2.1. *Promote Emergency Preparedness.*** Distribute multi-hazard emergency preparedness information for all threats identified in the emergency plan. Information will be provided through Cardiopulmonary Resuscitation (CPR), First Aid and Community Emergency Response Team (CERT) training, lectures and seminars on emergency preparedness, publication of monthly safety articles in the Cupertino Scene, posting of information on the Emergency Preparedness website and coordination of video and printed information at the library. (General Plan EIR Policy 6-33)
- **Strategy HS-2.2.1. *Emergency Operations Center (EOC).*** Review options to provide functional and seismic upgrades to the EOC facility at City Hall or explore alternative locations for the EOC. (General Plan EIR Policy 6-38)

## HAZARDS AND HAZARDOUS MATERIALS

- **Policy HS- 2.4. *Emergency Public Information.*** Maintain an Emergency Public Information program to be used during emergency situations. (General Plan EIR Policy 6-39)
- **Policy HS-3.3. *Emergency Access.*** Ensure adequate emergency access is provided for all new hillside development.
- **Strategy HS-3.3.1. *Roadway Design.*** Create an all-weather emergency road system to serve rural areas. (General Plan EIR Policy 6-13)
- **Strategy HS- 3.3.2: *Dead-End Street Access.*** Allow public use of private roadways during an emergency for hillside subdivisions that have dead-end public streets longer than 1,000 feet or find a secondary means of access. (General Plan EIR Policy 6-14)
- **Strategy HS-3.3.3. *Hillside Access Routes.*** Require new hillside development to have frequent grade breaks in access routes to ensure a timely response from fire personnel. (General Plan EIR Policy 6-15)
- **Strategy HS-3.3.4. *Hillside Road Upgrades.*** Require new hillside development to upgrade existing access roads to meet Fire Code and City standards. (General Plan EIR Policy 6-16)
- **Policy HS-3.4. *Private Residential Electronic Security Gates.*** Discourage the use of private residential electronic security gates that act as a barrier to emergency personnel. (General Plan EIR Policy 6-17)
- **Policy HS-7.1. *Evacuation Map.*** Prepare and update periodically an evacuation map for the flood hazard areas and distribute it to the general public. (General Plan EIR Policy 6-42)
- **Policy HS-7.2. *Emergency Response to Dam Failure.*** Ensure that Cupertino is prepared to respond to a potential dam failure.

As with the development under the Approved Project, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing adopted emergency response plans or emergency evacuation plans, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to the implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>HAZ-7</b>	<b>Implementation of the proposed Modified Project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires.</b>
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As described in the General Plan EIR, according to CAL FIRE, there are no very high fire hazard severity zones within the Local Responsibility Areas of Cupertino. Additionally, because the development under the Approved Project would be in highly urbanized areas, away from regional open space areas, wildland fires are less likely to occur.

Like the Approved Project, potential future development under the proposed Modified Project would occur in highly developed areas, away from open spaces. Further, the General Plan EIR also found that the

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## HAZARDS AND HAZARDOUS MATERIALS

Health and Safety (HS) Element contains policies and strategies that require local planning and development decisions to consider impacts due to wildland fires. Like the Approved Project, the following existing General Plan 2040 policies would, and updated policies as part of the proposed Modified Project, also serve to minimize potential adverse impacts on people or structures due to wildland fires:

- **Policy HS-3.1. *Regional Coordination.*** Coordinate wildland fire prevention efforts with adjacent jurisdictions. Encourage the County and the Midpeninsula Open Space District to implement measures to reduce fire hazards, including putting into effect the fire reduction policies of the County Public Safety Element, continuing efforts in fuel management, and considering the use of “green” fire break uses for open space lands. (General Plan EIR Policies 6-4, 6-5, 6-6, and 6-7)
- **Policy HS-3.2. *Early Project Review.*** Involve the Fire Department in the early design stage of all projects requiring public review to assure Fire Department input and modifications as needed. (General Plan EIR Policy 6-8)
- **Policy HS- 3.5. *Multi-Story Buildings.*** Ensure that adequate fire protection is built into the design of multi-story buildings and require on-site fire suppression materials and equipment. (General Plan EIR Policy 6-11)

As with the development under the Approved Project, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing fire risk, as necessary. Additionally, wildfire impacts are addressed further in Chapter 4.16, *Wildfire*, of this EA. Based on these considerations and the conclusions in Chapter 4.16, overall impacts from implementation of the proposed Modified Project would not expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>HAZ-8</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to hazards and hazardous materials.</b>
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As described in the General Plan EIR, potential cumulative hazardous impacts could arise from a combination of future potential development of the Approved Project together with the regional growth in the immediate vicinity. Development allowed by the Approved Project would not result in significant impacts from the increased use of hazardous household materials and would not interfere with the implementation of emergency response plans. In addition, potential project-level impacts associated with hazards and hazardous materials would be further reduced through compliance with General Plan policies and strategies; other local, regional, State, and federal regulations; and with implementation of CMC Sections 17.04.040 (B) and 17.04.050(B).

Similar to the Approved Project, potential future development under the proposed Modified Project would not result in significant impacts from the increased use of hazardous household materials and would not interfere with the implementation of emergency response plans. Further, future potential development under the proposed Modified Project and other projects would be required to comply with



## HAZARDS AND HAZARDOUS MATERIALS

applicable laws, policies, design standards, and mitigation measures governing hazards and hazardous materials, as necessary. Therefore, the proposed Modified Project would not result in new or more severe cumulatively considerable impacts to hazards and hazardous materials beyond what was evaluated in the General Plan EIR.

**Significance with Mitigation:** Less than significant.

## HAZARDS AND HAZARDOUS MATERIALS

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## HYDROLOGY AND WATER QUALITY

### 4.9 HYDROLOGY AND WATER QUALITY

This chapter describes the potential impacts related to hydrology and water quality that are associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and existing conditions, identifies criteria used to determine impact significance, provides an analysis of the potential impacts related to hydrology and water quality, and identifies General Plan 2040 policies that could minimize any potentially significant impacts.

#### 4.9.1 Environmental Setting

##### 4.9.1.1 REGULATORY FRAMEWORK

##### Federal Regulations

###### *Clean Water Act*

The United States Environmental Protection Agency (EPA) is the lead federal agency responsible for water quality management and the Clean Water Act (CWA) is the principal statute governing water quality. It establishes the basic structure for regulating discharges of pollutants into the waters of the United States and gives the EPA authority to implement pollution control programs. In California, the authority is delegated to the State Water Resources Control Board (SWRCB) and Regional Water Quality Control Boards (RWQCBs).

The CWA regulates direct and indirect discharge of pollutants; sets water quality standards for all contaminants in surface waters; and makes it unlawful for any person to discharge any pollutant from a point source into navigable waters unless a permit is obtained under its provisions. The CWA mandates permits for wastewater and stormwater discharges; requires states to establish site-specific water quality standards; and regulates other activities that affect water quality, such as dredging and the filling of wetlands. The CWA also provides loans for the construction of wastewater treatment plants as well as nonpoint source pollution control and estuary protection projects through the Clean Water State Revolving Fund.

Under federal law, the EPA has published water quality regulations under Volume 40 of the Code of Federal Regulations (CFR). Section 303 of the CWA requires states to adopt water quality standards for all surface waters of the United States. As defined by the CWA, water quality standards consist of two elements: (1) designated beneficial uses of the water body in question and (2) criteria that protect the designated uses. Section 304(a) requires the EPA to publish advisory water quality criteria that accurately reflect the latest scientific knowledge on the kind and extent of all effects on health and welfare that may be expected from the presence of pollutants in water. Where multiple uses exist, water quality standards must protect the most sensitive use.

When water quality does not meet CWA standards and compromises designated beneficial uses of a receiving water body, Section 303(d) of the CWA requires that water body be identified and listed as “impaired.” Once a water body has been designated as impaired, a Total Maximum Daily Load (TMDL) must be developed for the impairing pollutant(s). A TMDL is an estimate of the total load of pollutants

## HYDROLOGY AND WATER QUALITY

from point, nonpoint, and natural sources that a water body may receive without exceeding applicable water quality standards, with a factor of safety included. Once established, the TMDL allocates the loads among current and future pollutant sources to the water body.

### *National Pollutant Discharge Elimination System*

The National Pollutant Discharge Elimination System (NPDES) permit program was established by the CWA to regulate municipal and industrial discharges to surface waters of the United States, including discharges from municipal separate storm sewer systems (MS4s). Federal NPDES permit regulations have been established for broad categories of discharges, including point-source municipal waste discharges and nonpoint-source stormwater runoff. NPDES permits generally identify effluent and receiving water limits on allowable concentrations and/or mass emissions of pollutants contained in the discharge; prohibitions on discharges not specifically allowed under the permit; and provisions that describe required actions by the discharger, including industrial pretreatment, pollution prevention, self-monitoring, and other activities. Under the NPDES program, all facilities that discharge pollutants into waters of the U.S. are required to obtain an NPDES permit.

Requirements for stormwater discharges are also regulated under this program. In California, the NPDES permit program is administered by the SWRCB through the nine RWQCBs. The City of Cupertino lies within the jurisdiction of the San Francisco Bay RWQCB (Region 2) and is subject to the waste discharge requirements of the Phase I MS4 Permit (Order No. R2-2022-0018; NPDES No. CAS612008) that regulates stormwater discharges from the cities, towns, and agencies within Alameda County, Contra Costa County, Santa Clara County, San Mateo County, and Solano County. The City of Cupertino, in addition to the cities of Campbell, Los Altos, Milpitas, Monte Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale; the towns of Los Altos Hills and Los Gatos; the Santa Clara Valley Water District; and Santa Clara County form the Santa Clara permittees under the MS4 permit.

Under Provision C.3 of the MS4 Permit, New Development and Redevelopment, the permittees use their planning authorities to include appropriate source control, site design, and storm water treatment measures in new development and redevelopment projects to address both soluble and insoluble storm water runoff pollutant discharges and prevent increases in runoff flows from new development and redevelopment projects. The goal is to be accomplished primarily through the implementation of low impact development (LID) techniques. In addition, new development or redevelopment projects that create or replace one acre or more of impervious surfaces are required to comply with hydromodification requirements specified in the C.3.g provisions of the MS4 permit. These requirements include implementing stormwater control measures such that post-development stormwater runoff rates and durations must match pre-project runoff rates and durations from 10 percent of the pre-project 2-year peak flow, up to the pre-project 10-year peak flow.

### *Federal Emergency Management Agency*

The Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program (NFIP) to provide subsidized flood insurance to communities that comply with FEMA regulations limiting development in floodplains. FEMA also issues Flood Insurance Rate Maps (FIRMs) that identify which land areas are subject to flooding. These maps provide flood information and identify flood hazard zones in the

## HYDROLOGY AND WATER QUALITY

community. The design standard for flood protection is established by FEMA. FEMA's minimum level of flood protection for new development is the 100-year flood event, also described as a flood that has a 1-in-100 chance of occurring in any given year. Under the proposed Modified Project, new housing could be placed within a 100-year floodplain.

As required by the FEMA regulations, all development constructed within the 100-year floodplain (as delineated on the FIRM) must be elevated so that the lowest floor is at or above the base flood elevation level. Local cities and counties have the authority to require the lowest floor to be at a higher elevation than the FEMA requirements to account for climate change and sea level rise. The term "development" is defined by FEMA as any human-made change to improved or unimproved real estate, including, but not limited to, buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment or materials. Per these regulations, if development in these areas occurs, a hydrologic and hydraulic analysis must be performed prior to the start of development and must demonstrate that the development does not cause any rise in base flood elevation levels. Following completion of any development that changes existing 100-year floodplain boundaries, the NFIP directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision as soon as practicable, but not later than six months after such data become available.

### State Regulations

#### *Porter-Cologne Water Quality Control Act*

The Porter-Cologne Water Quality Control Act (Water Code Sections 13000 et seq.) is the basic water quality control law for California. This act established the SWRCB and divided the state into nine regional basins, each under the jurisdiction of a RWQCB. The SWRCB is the primary state agency responsible for the protection of California's water quality and groundwater supplies. The RWQCBs carry out the regulation, protection, and administration of water quality in each region. Each regional board is required to adopt a water quality control plan or basin plan that recognizes and reflects the regional differences in existing water quality, the beneficial uses of the region's ground and surface water, and local water quality conditions and problems. As described previously, the City of Cupertino is within the jurisdiction of the San Francisco Bay RWQCB (Region 2).

The Porter-Cologne Act also authorizes the SWRCB and RWQCBs to issue and enforce WDRs, NPDES permits, Section 401 water quality certifications, or other approvals. Other State agencies with jurisdiction over water quality regulation in California include the SWRCB's Division of Drinking Water, which regulates public drinking water systems; the California Department of Fish and Wildlife, which regulates projects that could impact streams and rivers; and the Department of Toxic Substances Control, which oversees cleanup of hazardous waste on contaminated properties.

#### *State Water Resources Control Board*

The SWRCB has broad authority over water quality control issues in California. The SWRCB is responsible for developing statewide water quality policy and exercises the powers delegated to the State by the federal government under the CWA. It also regulates public drinking water systems, NPDES wastewater

## HYDROLOGY AND WATER QUALITY

discharges, water quality monitoring, water recycling programs, landfill disposal, water rights, and implements drought restrictions.

Regional authority for planning, permitting, and enforcement is delegated to the nine RWQCBs. Regional boundaries are based on watersheds and water quality requirements are based on the unique differences in climate, topography, geology, and hydrology for each watershed. Each RWQCB makes water quality decisions for its region, including setting standards, issuing waste discharge requirements, determining compliance with these requirements, and taking appropriate enforcement actions. The regional boards are required to formulate and adopt water quality control plans for all areas in the region and establish water quality objectives in the plans. The City of Cupertino is within the jurisdiction of the San Francisco Bay RWQCB (Region 2), which regulates surface water and groundwater quality in the watershed that encompasses all or part of the following counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma.

### *SWRCB Construction General Permit*

Construction activities that disturb one or more acres of land that could impact hydrologic resources must comply with the requirements of the newly reissued SWRCB Construction General Permit (Order WQ 2022-0057-DWQ; NPDES No. CAS000002), which was adopted on September 8, 2022, and becomes effective on September 1, 2023. Under the terms of the permit, applicants must file Permit Registration Documents (PRD) with the SWRCB prior to the start of construction. The PRDs include a Notice of Intent, risk assessment, site map, Stormwater Pollution Prevention Plan (SWPPP), annual fee, and a signed certification statement. The PRDs are submitted electronically to the SWRCB via the Stormwater Multiple Application and Report Tracking System (SMARTS) website.

Applicants must also demonstrate conformance with applicable best management practices (BMPs) and prepare a SWPPP containing a site map that shows the construction site perimeter, existing and proposed buildings, lots, roadways, stormwater collection and discharge points, general topography both before and after construction, and drainage patterns across the project site. The SWPPP must list BMPs that would be implemented to prevent soil erosion and discharge of other construction-related pollutants that could contaminate nearby water resources. Additionally, the SWPPP must contain a weekly visual monitoring program, a sampling program to ensure compliance with water quality standards, and on-site collection of samples and inspection of BMPs prior to, during, and after qualifying precipitation events. Water quality monitoring has a schedule based on the risk level of the site.

In addition, the City under Municipal Code 16.08.110 has the authority to require submittal of an interim and final Erosion and Sediment Control Plan (ESCP) for projects that require grading permits. The ESCP must describe the location and types of erosion and sediment control measures that will be implemented during the construction phase, vegetative measures such as erosion control planting and seeding, and calculation of maximum surface runoff amounts from the construction site. Projects subject to the SWRCB Construction General Permit may include the ESCP provisions within the SWPPP.

## HYDROLOGY AND WATER QUALITY

### *SWRCB Trash Amendments*

On April 7, 2015, the SWRCB adopted an amendment to *The Water Quality Control Plan for Ocean Waters of California* to control trash. In addition, the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California added Part 1, *Trash Provisions*. Together, they are collectively referred to as “the Trash Amendments.” The Trash Amendments apply to all surface waters of California and include a land-use-based compliance approach to focus trash controls on areas with high trash-generation rates. Areas such as high density residential, industrial, commercial, mixed urban, and public transportation stations are considered priority land uses. There are two compliance tracks for Phase I and Phase II MS4 permittees:

- Track 1: Permittees must install, operate, and maintain a network of certified full capture systems in storm drains that capture runoff from priority land uses.
- Track 2: Permittees must implement a plan with a combination of full capture systems, multi-benefit projects, institutional controls, and/or other treatment methods that have the same effectiveness as Track 1 methods.

The Trash Amendments provide a framework for permittees to implement their provisions. Full compliance must occur within 10 years of the permit, and permittees must also meet interim milestones such as average load reductions of 10 percent per year. The Trash Amendments require municipalities to install certified trash control systems, such as filters, on all catch basins no later than December 2, 2030.<sup>1</sup>

### *Sustainable Groundwater Management Act of 2014*

In the midst of a major drought in 2014, a three-bill legislative package consisting of Assembly Bill (AB) 1739, Senate Bill (SB) 1168, and SB 1319, collectively known as the Sustainable Groundwater Management Act (SGMA), was signed into law on September 16, 2014.<sup>2</sup> The Governor’s signing message states “a central feature of these bills is the recognition that groundwater management in California is best accomplished locally.” Under SGMA, in groundwater basins that are designated as medium and high priority, local public agencies and groundwater sustainability agencies (GSAs) must assess conditions in their local groundwater basins and then prepare groundwater sustainability plans (GSPs).

### *Water Conservation in Landscaping Act of 2006*

The Water Conservation in Landscaping Act includes the State of California’s Model Water Efficient Landscape Ordinance (MWELO), which requires cities and counties to adopt landscape water conservation ordinances. The MWELO was revised in July 2015 via Executive Order B-29-15 to address the ongoing drought and to build resiliency for future droughts. State law requires all land use agencies, which includes cities and counties, to adopt a WELO that is at least as efficient as the MWELO prepared by DWR.

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<sup>1</sup> State Water Resources Quality Control Board, September 2024, Storm Water Program - Trash Implementation Program. [https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/trash\\_implementation.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/trash_implementation.html), accessed January 12, 2024.

<sup>2</sup> Department of Water Resources, 2024, Sustainable Groundwater Management Act (SGMA), <https://water.ca.gov/programs/groundwater-management/sgma-groundwater-management>, accessed January 12, 2024.

## HYDROLOGY AND WATER QUALITY

The 2015 revisions to the MWELo improve water savings in the landscaping sector by promoting efficient landscapes in new developments and retrofitted landscapes. The revisions increase water-efficiency standards for new and retrofitted landscapes through more efficient irrigation systems, greywater usage, and on-site stormwater capture, and by limiting the portion of landscapes that can be covered in turf. New development projects that include landscape areas of 500 square feet or more are subject to these requirements and also rehabilitated landscape projects with an area equal to or greater than 2,500 square feet. This applies to residential, commercial, industrial, and institutional projects that require a permit, plan check, or design review.<sup>3</sup> The City of Cupertino has adopted its own Landscape Ordinance, Chapter 14.15 of the Municipal Code, that complies with and is more stringent than the MWELo.

### *California Department of Fish and Wildlife (CDFW)*

The CDFW protects streams, water bodies, and riparian corridors through the streambed alteration agreement process under Sections 1600 to 1616 of the California Fish and Game Code. The Fish and Game Code stipulates that it is “unlawful to substantially divert or obstruct the natural flow or substantially change the bed, channel or bank of any river, stream or lake” without notifying the CDFW, incorporating necessary mitigation, and obtaining a streambed alteration agreement. CDFW’s jurisdiction extends to the top of banks and often includes the outer edge of riparian vegetation.

## Regional Regulations

### *San Francisco Bay Regional Water Quality Control Board*

As stated previously, the City of Cupertino is within the jurisdiction of the San Francisco Bay RWQCB (Region 2). The San Francisco Bay RWQCB addresses region-wide water quality issues through the creation and triennial update of the *Water Quality Control Plan* for the San Francisco Bay Basin (Basin Plan). The Basin Plan was adopted in 1993 and most recently amended in 2023. The Basin Plan designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters designated in the Basin Plan.<sup>4</sup> The San Francisco Bay RWQCB also administers the MS4 permit for Santa Clara County and the municipalities within the county, including the City of Cupertino.

### *Regional Stormwater MS4 Permit*

Municipal stormwater discharge in the City of Cupertino is subject to the Waste Discharge Requirements (WDRs) of the MS4 Permit (Order No. R2-2022-0018 and NPDES Permit No. CAS612008). Provision C.3 of the MRP requirements applies to all new development that create or replace 5,000 square feet of impervious surfaces and single-family homes that create and/or replace 10,000 square feet of impervious surface. Provision C.3 of the MS4 Permit also mandates that new development and redevelopment projects must: (1) incorporate site design, source control, and stormwater treatment on-site; (2) minimize the discharge of pollutants in stormwater runoff and non-stormwater discharge; and (3) minimize the rate

<sup>3</sup> California Code of Regulations, Title 23, Division 2, Chapter 2.7, Section 490.1, *Applicability*.

<sup>4</sup> San Francisco Bay Regional Water Quality Control Board, 2024, Water Quality Control Plan (Basin Plan) for the San Francisco Bay Basin, [https://www.waterboards.ca.gov/sanfranciscobay/basin\\_planning.html](https://www.waterboards.ca.gov/sanfranciscobay/basin_planning.html), accessed January 11, 2024.



## HYDROLOGY AND WATER QUALITY

and volume of stormwater runoff under post-development conditions. Low-impact development (LID) methods are the primary mechanisms for implementing such controls.

New development projects must design and construct stormwater treatment systems that capture a percentage of the flow rate or volume from a specified storm event based on the sizing criteria described in the C.3 provisions of the MRP. The treatment systems use LID measures that include rainwater harvesting and reuse, infiltration, evapotranspiration, and biotreatment/bioretenion.

In order to comply with Provision C.3 of the MS4 Permit, regulated projects would be required to submit a Stormwater Management Plan (SWMP) and a completed Provision C.3 Data Form with building plans, to be reviewed and approved by the Public Works Department. The SWMP must be prepared under the direction of and certified by a licensed and qualified professional, which includes civil engineers, architects, or landscape architects.

### *Santa Clara Valley Water District (Valley Water)*

The Santa Clara Valley Water District, also known as Valley Water, is a water resources agency responsible for balancing flood protection needs with the protection of natural watercourses and habitat in the Santa Clara Valley. Founded in 1929, the SCVWD serves all of Santa Clara County, including 15 cities and 2 million residents, provides wholesale water supply, groundwater management, operates three water treatment plants and a recycled water purification center, manages ten dams and water reservoirs and 400 acres of groundwater recharge ponds, and provides flood protection along the creeks and rivers in the county.

The Safe, Clean Water and Natural Flood Protection Program was first approved by voters in Santa Clara County in 2000 and renewed in November 2020 and creates a countywide special parcel tax to fund projects that deliver safe, clean water, natural flood protection, and environmental stewardship to all communities within the county. The six priorities are to:<sup>5</sup>

- Ensure a safe, reliable water supply
- Reduce toxins, hazard, and contaminants in our waterways
- Protect our water supply and dams from earthquakes and other natural disasters
- Restore wildlife habitat and provide open space
- Provide flood protection to homes, businesses, schools, streets, and highways
- Support public health and public safety for our community.

Completed projects include programs to restore stream habitats, conduct environmental education seminars, development of trails and open space, and the Berryessa Creek Flood Protection Project. In progress are the Permanente Creek, San Francisquito Creek, and Upper Llagas Creek flood protection projects.

In addition, Valley Water has developed a Water Supply Master Plan, which is updated approximately every five years. This long-range plan assesses future countywide water demands and evaluates and recommends water supply and infrastructure projects to meet those demands. The most recent plan,

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<sup>5</sup> Valley Water, 2024. Safe, Clean Water and Natural Flood Protection Program. <https://www.valleywater.org/safe-clean-water-and-natural-flood-protection-program>, accessed January 11, 2024.

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## HYDROLOGY AND WATER QUALITY

Water Supply Master Plan 2040, was adopted in 2019 and addresses water demands and supply through the year 2040.<sup>6</sup>

Groundwater in the Santa Clara and Llagas Subbasin is also managed by Valley Water as per SGMA requirements. Valley Water is the designated Groundwater Sustainability Agency (GSA) for these groundwater subbasins and has a Department of Water Resources (DWR) approved Alternative to a Groundwater Sustainability Plan (GSP).<sup>7</sup>

Valley Water also prepares Urban Water Management Plans (UWMPs) every five years that provides information on water supply sources, historical water usage, water conservation programs, demand projections, water shortage contingencies, and water quality. The latest Valley Water UWMP is dated 2020.<sup>8</sup>

Valley Water also reviews plans for development projects near streams to ensure that the proposed storm drain systems and wastewater disposal systems will not adversely impact water quality in the streams. In addition, Valley Water reviews projects for conformance to flood control design criteria, stream maintenance and protection plans, and groundwater protection programs.

### *Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP)*

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) is an association of 13 cities and towns in the Santa Clara Valley, together with the County of Santa Clara and Valley Water. The RWQCB has conveyed responsibility for implementation of storm water regulations to the member agencies of SCVURPPP. The SCVURPPP incorporates regulatory, monitoring, and outreach measures aimed at improving the water quality of South San Francisco Bay and the streams of the Santa Clara Valley to reduce pollution in urban runoff to the “maximum extent practicable.” The SCVURPPP maintains compliance with the MS4 Permit and promotes storm water pollution prevention within that context. Participating agencies (including the City of Cupertino) must meet the provisions of the Santa Clara County permit by ensuring that new development and redevelopment mitigate water quality impacts to storm water runoff both during the construction and operation of projects.<sup>9</sup>

The SCVURPPP has also developed the Santa Clara Basin Stormwater Resource Plan that describes a comprehensive plan to identify and prioritize potential stormwater and dry weather runoff capture projects in the Santa Clara Basin. It also provides information for the development and implementation of Green Stormwater Infrastructure (GFI) plans that municipalities within Santa Clara County are required to implement with the help of State grant funding.<sup>10</sup>

In addition, the SCVURPPP has developed the C.3 Stormwater Handbook that provides guidance to developers, builders, and project applicants to ensure compliance with the requirements of the MS4

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<sup>6</sup> Valley Water, 2019. *Water Supply Master Plan*.

<sup>7</sup> Valley Water, 2021. *2020 Urban Water Management Plan*.

<sup>8</sup> Valley Water, 2021. *2020 Urban Water Management Plan*.

<sup>9</sup> Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), 2024. About SCVURPPP. <https://scvurppp.org/about-scvurppp/> accessed on January 13, 2024.

<sup>10</sup> EOA, Paradigm, and Lotus Water, 2019. Santa Clara Basin Stormwater Resource Plan.

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permit and implement appropriate post-construction stormwater control measures for new development and redevelopment projects. The document describes the applicable site design measures, source control measures, and stormwater treatment measures that are required to be implemented for all regulated projects that create and/or replace 5,000 square feet or more of impervious surfaces. In addition, projects that create and/or replace one acre or more of impervious surfaces are required to also implement hydromodification measures.<sup>11</sup> The City's Public Works Department reviews SWMPs to ensure compliance with the C.3. provisions of the MS4 permit.

### *Santa Clara Basin Watershed Management Initiative*

The Watershed Management Initiative (WMI) was initiated in 1996 by the EPA, the SWRCB, and the San Francisco Bay RWQCB to address all sources of pollution that threaten the Bay and to protect water quality throughout Santa Clara Basin watersheds. In the past, specific issues affecting watersheds had been addressed by separate regulatory actions, resulting in a "patchwork" approach. A major aim of the WMI is to coordinate existing regulatory activities on a basin-wide scale, ensuring that problems are addressed efficiently and cost-effectively.

The Santa Clara Basin WMI consists of collaborative groups from regional and local public agencies; civic, environmental, resource conservation and agricultural groups; professional and trade organizations; business and industrial sectors; and the general public. The purpose of the WMI is "to develop and implement a comprehensive watershed management program – one that recognizes that healthy watersheds mean addressing water quality problems and quality of life issues for the people, animals, and plants that live in the watershed." The WMI has continued to develop its foundation by producing a watershed characteristics report (2003), a watershed assessment report (2003), a watershed action plan (2003), a zero litter initiative (2021), plastics pollution prevention summit (2011), impacts of homelessness on creeks (2011), and educational materials to reduce water usage by the general public.<sup>12</sup>

### *Santa Clara County General Plan*

The Santa Clara County General Plan contains the goals, strategies, policies, and implementing actions that guide in the overall land use development of the county. Unincorporated lands within Santa Clara County that are within Cupertino's Sphere of Influence (SOI) are subject to land use jurisdiction and regulatory authority by the County. In addition, the Santa Clara Valley Water District and the Santa Clara Basin Watershed Management Initiative have jurisdiction for streams and watersheds within the city limits and the SOI. Therefore, the Santa Clara County General Plan goals and policies relevant to hydrology and water quality are listed in Table 4.9-1.

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<sup>11</sup> SCVURPPP, 2016. C.3 Stormwater Handbook. Guidance for Implementing Stormwater Requirements for New Development and Redevelopment Projects. Dated June 2016.

<sup>12</sup> Santa Clara Basin Watershed Management Initiative (WMI), 2024. <http://www.scbwmi.org/index.htm> accessed January 13, 2024.

**HYDROLOGY AND WATER QUALITY****TABLE 4.9-1 SANTA CLARA COUNTY GENERAL PLAN POLICIES RELEVANT TO HYDROLOGY AND WATER QUALITY**

<b>Number</b>	<b>Policies and Strategies</b>
Strategy #1	Reduce non-point source pollution.
Policy C-RC 22	Countywide, compliance should be achieved with the requirements of the National Pollution Discharge Elimination System (NPDES) permit for discharges into S.F. Bay, and to that end, the Countywide Nonpoint Source Pollution Control Program should receive the full support and participation of each member jurisdiction.
Policy C-RC 23	The Countywide Storm Water Management Plan should be routinely reviewed and updated as additional information is collected on the effectiveness of prescribed control measures.
Policy C-RC 24	Efforts to increase public awareness and education concerning nonpoint source pollution control should be encouraged.
Strategy #2	Restore wetlands, riparian areas, and other habitats which improve Bay water quality.
Policy C-RC 25	Wetlands restoration for the purpose of enhancing municipal wastewater treatment processes, improving habitat and passive recreational opportunities should be encouraged and developed where cost-effective and practical.
Strategy #3	Prepare and implement comprehensive watershed management plan.
Policy C-RC 26	Comprehensive watershed management plans should be developed and implemented through intergovernmental coordination. Water supply watersheds should receive special consideration and additional protection.

Source: Santa Clara County General Plan, 1994, <https://plandev.sccgov.org/ordinances-codes/general-plan> accessed on January 13, 2024.

*Santa Clara County Multi-Jurisdictional Local Hazard Mitigation Plan*

Santa Clara County, the Santa Clara County Fire Department, and all incorporated cities in Santa Clara County collaborated to prepare a multi-jurisdictional hazard mitigation plan. The Hazard Mitigation Plan focuses on protecting communities and residents in Santa Clara County from risks associated with hazards such as earthquakes, flood, fires, drought, dam failure and other hazards.<sup>13</sup> The City of Cupertino has prepared an annex to the Hazard Mitigation Plan that describes the natural hazard events that have occurred in the past within the City and what actions the City is taking to minimize potential impacts from natural disasters. Flooding is considered a medium risk, and the City is developing a GIS map that shows localized flooding “hot spots” throughout the City.

**Local Regulations***General Plan 2040*

The Environmental Resources and Sustainability (ES), Health and Safety (HS), and Infrastructure Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to hydrology and water quality. Applicable policies and strategies that would minimize potential adverse impacts to hydrology and water quality are identified in Section 4.9.3, *Impact Discussion*.

<sup>13</sup> Office of Emergency Services, County of Santa Clara & Santa Clara County Fire. 2017. Santa Clara County Operational Area Hazard Mitigation Plan.

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### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to minimize adverse impacts to hydrology and water quality and soils in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to hydrology and water quality are included in Title 3, *Revenue and Finance*, Title 9, *Health and Sanitation*, Title 14, *Streets, Sidewalks and Landscaping*, and Title 16, *Building and Construction*, as follows:

- **Chapter 3.36, *Storm Drainage Service Charge***, outlines the requirements for the payment of fees to conserve and protect the City's storm drainage system from the burden placed on it by the increasing flow of nonpoint source runoff and to otherwise meet the requirements developed by the Santa Clara Valley Non-Point Source Control and Storm Water Management Program established to comply with the CWA, California Environmental Protection Agency (CalEPA) regulations and the City's NPDES permits. The specific purpose of the storm drainage service charges established pursuant to this chapter is to derive revenue which shall only be used for the acquisition, construction, reconstruction, maintenance, and operation of the storm drainage system of the City to repay principal and interest on any bonds which may hereafter be issued for said purposes, to repay loans or advances which may hereafter be made for said purposes and for any other purpose set forth in Section 3.36.160. However, said revenue shall not be used for the acquisition or construction of new local street storm sewers or storm laterals as distinguished from main trunk, interceptor, and outfall storm sewers.
- **Chapter 9.18, *Storm Water Pollution Prevention and Watershed Protection***, provides regulations and gives legal effect to the MRP issued to the City of Cupertino and ensures ongoing compliance with the most recent version of the City of Cupertino's NPDES permit regarding municipal storm water and urban runoff requirements. This chapter applies to all water entering the storm drain system generated on any private, public, developed, and undeveloped lands lying within the city. The code contains permit requirements for construction projects and new development or redevelopment projects to minimize the discharge of storm water runoff.
- **Chapter 9.19, *Water Resources Protection***, requires property owners to obtain permits for any modifications to properties adjacent to a stream except when: 1) less than 3 cubic yards of earthwork is planned provided it does not damage, weaken, erode or reduce the effectiveness of the stream to withhold storm and flood waters; 2) a fence 6 feet or less in height; 3) an accessory structure 120 square feet or less in size; 4) interior or exterior modification within the existing footprint; or 5) landscaping on existing single-family lots.
- **Chapter 14.15, *Landscape Ordinance***, implements the California Water Conservation in Landscaping Act of 2006 by establishing new water-efficient landscaping and irrigation requirements. In general, any building or landscape projects that involve more than 2,500 square feet of landscape area are required to submit a Landscape Project Submittal to the Director of Community Development for approval. Existing and established landscapes over 1 acre, including cemeteries, are required to submit water budget calculations and audits of established landscapes.
- **Chapter 16.18, *Interim Erosion and Sediment Control Plan***, requires preparation of an Interim Erosion and Sediment Control Plan. Specifically, Section 16.18.110 states that the Plan shall be either integrated with the site map/grading plan or submitted separately, to the Director of Public Works that calculates the maximum runoff from the site for the 10-year storm event and describes measures

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to be undertaken to retain sediment on the site, a brief description of the surface runoff and erosion control measures to be implemented, and vegetative measures to be undertaken.

- **Chapter 16.52, *Prevention of Flood Damage***, applies to all areas of special flood hazard (i.e. 100-year floodplain) within the City. A development permit must be obtained and reviewed by the Director of Public Works before new construction, substantial improvements or development (including the placement of prefabricated buildings and manufactured homes) begins within any area of special flood hazard. The chapter also contains construction standards that must be implemented within the 100-year floodplain to protect buildings and improvements from flood damage.

### *Storm Drain Master Plan*

The capacity of the storm drain facilities within the City of Cupertino was evaluated and documented in the 2018 Storm Drain Master Plan.<sup>14</sup> While most areas within the City provide adequate stormwater conveyance for the 10-year rainfall event, there are areas that would benefit from improvements to the stormwater conveyance capacity. There are also regions within the City that lack a formal drainage system and would require improvements.

The City collects Storm Drain Fees for new construction projects to fund improvements to the storm drain system. The next storm drain improvements that are scheduled to be implemented, as described in the Capital Improvement Program (2021-2022), include storm drain improvements at Pumpkin Drive, Fiesta Lane, September Drive, and Festival Drive (scheduled to begin in fiscal year 2021-2022).<sup>15</sup> These areas were listed as high priority for improvement in the Storm Drain Master Plan.

### *Joint Stevens Creek Dam Failure Plan*

The Joint Stevens Creek Dam Failure Plan was prepared by the Santa Clara County Fire Department for the City of Cupertino and passed and adopted by the City of Cupertino under Resolution Number 12-124 on October 16, 2012.<sup>16</sup> The Joint Stevens Creek Dam Failure Plan was created pursuant to the Emergency Services Act. In accordance with the intent of the Emergency Services Act, future reviews and/or updates of this plan are to be undertaken every two years or as needed. The Santa Clara County Sheriff's Office, Santa Clara County Fire Department, as well as the Cupertino Disaster Council, will provide reviews and updates to the Joint Stevens Creek Dam Failure Plan.

The Stevens Creek Dam and Reservoir is owned by Valley Water, which is regulated by DWR Division of Safety of Dams (DSOD). Valley Water is required by the Emergency Services Act, Section 8589.5(b) and California Water Code, Division 3, Part 1, Chapter 2, Section 6002 to take all necessary actions to protect life and property in inundation areas and to provide inundation maps to DWR.

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<sup>14</sup> City of Cupertino, 2018. City of Cupertino Storm Drain Master Plan. Prepared by Schaaf & Wheeler. Dated September 2018.

<sup>15</sup> City of Cupertino, 2021. Capital Improvement Program, FY 2021-2022.

<sup>16</sup> Santa Clara Fire Department, 2012. *Joint Stevens Creek Dam Failure Plan*. Adopted by City of Cupertino Resolution No. 12-124.

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The Joint Stevens Creek Dam Failure Plan addresses the potential failures (full or partial) of the Stevens Creek Dam and Reservoir that could impact the cities of Cupertino, Sunnyvale, Mountain View and Los Altos. The plan is designed to:

- Provide guidelines to the cities of Cupertino, Sunnyvale, Los Altos and Mountain View, affected public and private agencies, special districts, non-governmental organizations, and mutual aid emergency organizations in the event of a potential or imminent/actual failure of the dam.
- Assign planning and functional responsibilities.
- Outline public notification and information strategies.
- Identify resources to ensure a swift, coordinated response.
- Outline recovery strategies for psychological and physical health effects, repairing infrastructure, debris removal, and rebuilding.

### 4.9.1.2 EXISTING CONDITIONS

Chapter 4.8, *Hydrology and Water Quality*, of the General Plan EIR, addressed the hydrology and water quality-related impacts associated with buildout of the General Plan 2040 at a program level. Impacts were found to be less than significant, and no mitigation measures were required. The setting for hydrology and water quality is described in detail in General Plan EIR Section 4.8.1.2, *Existing Conditions*.

Since the certification of the General Plan EIR, the City has codified regulations equivalent to the General Plan mitigation measures to reduce impacts in the Cupertino Municipal Code (CMC) Chapter 17.04, *Standard Environmental Protection Requirements*. Although no mitigation measures were included in the Hydrology and Water Quality section of the General Plan EIR, the City has the following requirement in Chapter 17.04.050, *Standard Environmental Protection Permit Submittal Requirements*:

- **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.

Additional CMC code requirements that pertain to hydrology and water quality are provided in the Municipal Code section provided above.

### 4.9.2 Standards of Significance

Implementation of the proposed Modified Project would result in significant hydrology and water quality impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
HYD-1. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality?	LTS	LTS

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	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
<b>Implementation of the proposed Modified Project would result in significant hydrology and water quality impact if it would:</b>		
HYD-2. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?	LTS	LTS
HYD-3. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:		
i) Result in substantial erosion or siltation on- or off-site;		
ii) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site;	LTS	LTS
iii) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or		
iv) Impede or redirect flood flows		
HYD-4. In a flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?	LTS	LTS
HYD-5. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?	LTS	LTS
HYD-6. Result in a cumulatively considerable impact with respect to hydrology and water quality?	LTS	LTS

Notes: In December 2018, amendments were made to Appendix G, *Environmental Checklist*, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. Revisions were made to each of the questions, and as such this EA only analyzes the current questions HYD-1 through HYD-5 shown here.

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

**4.9.3 Impact Discussion**

<b>HYD-1</b>	<b>Implementation of the proposed Modified Project would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality.</b>
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The General Plan 2040 EIR found that future proposed development would not violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or groundwater quality. Water quality in stormwater runoff is regulated locally by the SCVURPPP and the City of Cupertino in compliance with the C.3 provisions of the MS4 permit adopted by the San Francisco Bay RWQCB. The proposed Modified Project would also be required to comply with these regulatory provisions.

Adherence to these permit conditions requires all future potential development or redevelopment projects under the General Plan 2040 and the proposed Modified Project to incorporate stormwater treatment measures, provide ongoing operation and maintenance for perpetuity, and implement other appropriate source control and site design features that reduce pollutants in runoff. Low impact development (LID) practices such as the use of onsite infiltration that reduce pollutant loading. Incorporation of these measures can even improve stormwater quality as compared to existing conditions.



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In addition, future potential development under the proposed Modified Project would be required to comply with the City's Municipal Code, Chapter 9.18, *Stormwater Pollution Prevention and Watershed Protection*, and implement a construction SWPPP that require the incorporation of BMPs to control sedimentation, erosion, and hazardous materials contamination of runoff during construction.

The General Plan EIR also found that the Environmental Resources and Sustainability (ES) Element contains policies and strategies that require local planning and development decisions to consider impacts that development could have on water quality. Like the Approved Project, the following existing General Plan 2040 includes policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also protect water quality and reduce potential impacts to water quality.

- **Policy ES-5.1: *Urban Ecosystem*.** Manage the public and private development to ensure the protection and enhancement of its urban ecosystem.
- **Strategy ES-5.1.1: *Landscaping*.** Ensure that the City's tree planting landscaping and open space policies enhance the urban ecosystem by encouraging medians, pedestrian crossing curb extensions planting that is native, drought tolerant, treats stormwater and enhances urban plant aquatic and animal resources in both private and public development.
- **Strategy ES-5.1.2: *Built Environment*.** Ensure that sustainable landscaping design is incorporated in the development of City facilities, parks, and private projects with the inclusion of measures such as tree protection, stormwater treatment and planting of native, drought tolerant landscaping that is beneficial to the environment.
- **Policy ES-5.2: *Development near Sensitive Areas*.** Encourage the clustering of new development away from sensitive areas such as riparian corridors, wildlife habitat and corridors, public open space preserves and ridgelines. New developments in these areas must have a harmonious landscaping plan approved prior to development.
- **Strategy ES-5.2.1: *Riparian Corridor Protection*.** Require the protection of riparian corridors through the development approval process.
- **Policy ES-5.3: *Landscaping in and Near Natural Vegetation*.** Preserve and enhance existing natural vegetation, landscape features and open space when new development is proposed within existing natural areas. When development is proposed near natural vegetation, encourage the landscaping to be consistent with the palate of vegetation found in the natural vegetation.
- **Strategy ES-5.3.1: *Native Plants*.** Continue to emphasize the planting of native, drought tolerant, pest resistant, non-invasive, climate appropriate plants and ground covers, particularly for erosion control and to prevent disturbance of the natural terrain. (General Plan EIR Policy 5-10)
- **Strategy ES-5.3.2: *Hillsides*.** Minimize lawn area in the hillsides.
- **Strategy ES-5.6.1: *Creek and Water Course Identification*.** Require identification of creeks, water courses and riparian areas on site plans and require that they be protected from adjacent development.
- **Policy ES-7.1: *Natural Water Bodies and Drainage Systems*.** In public and private development, use Low Impact Development (LID) principles to manage stormwater by mimicking natural hydrology, minimizing grading, and protecting or restoring natural drainage systems. (General Plan EIR Policy 5-18)
- **Strategy ES-7.1.1: *Development Plans*.** Continue to require topographical information, identification of creeks, streams, and drainage area; and grading plans for both public and private development proposals to ensure protection and efficient use of water resources.

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- **Policy ES-7.2: *Reduction of Impervious Surfaces.*** Minimize stormwater runoff and erosion impacts resulting from development and use low impact development (LID) designs to treat stormwater or recharge groundwater. (General Plan EIR Policy 5-19)
- **Strategy ES-7.2.1: *Lot Coverage.*** Consider updating lot coverage requirements to include paved surfaces such as driveways and on-grade impervious patios to incentivize the construction of pervious surfaces.
- **Strategy ES-7.2.2: *Pervious Walkways and Driveways.*** Encourage the use of pervious materials for walkways and driveways. If used on public or quasi-public property, mobility and access for the disabled should take preference. (General Plan EIR Policy 5-19)
- **Strategy ES-7.2.3: *Maximize Infiltration.*** Minimize impervious surface areas and maximize on-site filtration and the use of on-site retention facilities.
- **Policy ES-7.3: *Pollution and Flow Impacts.*** Ensure that surface and groundwater quality impacts are reduced through development review and voluntary efforts. (General Plan EIR Policy 5-20)
- **Strategy ES-7.3.1: *Development Review.*** Require LID designs such as vegetated stormwater treatment systems and green infrastructure to mitigate pollutant loads and flows.
- **Strategy ES-7.3.2: *Creek Clean Up.*** Encourage volunteer organizations to help clean creek beds to reduce pollution and help return waterways to their natural state. (General Plan EIR Policy 5-18)
- **Policy ES-7.4: *Watershed Based Planning.*** Review long-term plans and development projects to ensure good stewardship of watersheds.
- **Strategy ES-7.4.1: *Storm Drainage Master Plan.*** Develop and maintain a Storm Drainage Master Plan which identifies facilities needs to previous “10-year” event street flooding and “100-year” event structure flooding and integrate green infrastructure to meet water quality protection needs in a cost effective manner. (General Plan EIR Policy 5-22)
- **Strategy ES-7.4.2: *Watershed Management Plans.*** Work with other agencies to develop broader Watershed Management Plans to model and control the City’s hydrology.
- **Strategy ES-7.4.3: *Development.*** Review development plans to ensure that projects are examined in the context of impacts on the entire watershed, in order to comply with the City’s non-point source Municipal Regional Permit.
- **Policy ES-7.5: *Groundwater Recharge Sites.*** Support the Santa Clara Valley Water District efforts to find and develop groundwater recharge sites within Cupertino and provide public recreation where possible. (General Plan EIR Policy 5-32)
- **Policy ES-7.6: *Other Water Sources.*** Encourage the research of other water sources, including water reclamation.
- **Policy ES-7.8: *Natural Water Courses.*** Retain and restore creek beds, riparian corridors, watercourses and associated vegetation in their natural state to protect wildlife habitat and recreation potential and assist in groundwater percolation. Encourage land acquisition or dedication of such areas.
- **Strategy ES-7.8.1: *Inter-Agency Coordination.*** Work with the Santa Clara Valley Water District and other relevant regional agencies to enhance riparian corridors and provide adequate flood control by use of flow increase mitigation measures, such as hydromodification controls as established by the Municipal Regional Permit.

With implementation of these General Plan policies and strategies, in conjunction with the SCVURPPP and MS4 permit requirements, potential future development pursuant to the proposed Modified Project would not violate any water quality standard or waste discharge requirements for both construction and

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operational phases. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts regarding violating water quality standards or waste discharge requirements beyond what was evaluated in the General Plan EIR. The impact would be *less than significant*.

**Significance without Mitigation:** Less than significant.

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<b>HYD-2</b>	<b>Implementation of the proposed Modified Project would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin.</b>
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The General Plan 2040 EIR found that future potential development would not substantially decrease groundwater supplies or interfere substantially with groundwater recharge. Similarly, the proposed Modified Project, which would only add 3,312 new dwelling units, would not impact groundwater supplies or recharge, as discussed below.

### *Groundwater Recharge*

Most of the potential future development under the proposed Modified Project would occur on infill sites, most of which have already been developed and have a high percentage of impervious surfaces. New projects would be required to implement LID measures, including on-site infiltration, where feasible, which would increase the potential for groundwater recharge. The SCVURPPP guidance document and the MS4 permit require site design measures, source control measures, LID standards, and hydromodification measures to be included in potential future development projects and a SWMP must be submitted to and approved by the City prior to construction. These measures would contribute to groundwater recharge and minimize stormwater runoff by including pervious pavements, drainage to landscaped areas and bioretention areas, and the collection of rooftop runoff in rain barrels or cisterns. Also, compliance with the General Plan policies listed in Impact Discussion HYD-1 and herein would facilitate groundwater recharge efforts:

- **Strategy ES-7.2.3: Maximize Infiltration.** Minimize impervious surface areas and maximize on-site infiltration and the use of on-site retention facilities.
- **Policy ES-7.5: Groundwater Recharge Sites.** Support the Santa Clara Valley Water District efforts to find and develop groundwater recharge sites within Cupertino and provide public recreation where possible.
- **Policy ES-7.8: Natural Water Courses.** Retain and restore creek beds, riparian corridors, watercourses and associated vegetation in their natural state to protect wildlife habitat and recreation potential and assist in groundwater percolation. Encourage land acquisition or dedication of such areas.

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Almost all of Cupertino is within the Santa Clara Subbasin recharge area. The McClellan Ponds recharge facility is in Cupertino, and the creeks that flow through the city provide seepage and natural groundwater recharge. The proposed Modified Project would not place potential new development in close proximity to the McClellan Ponds recharge facility or the creeks and streams that run through the city, as per Chapter 9.19 of the CMC and the General Plan policies.

### *Groundwater Supply*

San Jose Water Company and California Water Service Company are the water purveyors for the City of Cupertino. They obtain their water supplies from groundwater wells and purchases from Valley Water, which is the wholesale water provider and groundwater management agency for Santa Clara County. A detailed discussion of water supply impacts is provided in Chapter 4.15, *Utilities and Service Systems*, of this SEIR.

Valley Water's 2020 Urban Water Management Plan indicates that there is a sufficient supply of water through 2045 during normal years, single-dry years, and multiple-dry years.<sup>17</sup> Groundwater conditions in the Santa Clara Subbasin are sustainable with managed and in-lieu recharge programs maintaining adequate storage to meet annual water supply needs and provide a buffer against drought conditions. Valley Water operates and maintains an active groundwater recharge program with 18 major recharge systems, over 70 off-stream ponds with a combined surface area of more than 320 acres, and over 30 local creeks. Runoff is captured in Valley Water's reservoirs and released into both in-stream and off-stream recharge ponds for percolation into the groundwater basin. In addition, imported water is delivered by the raw water conveyance system to streams and ponds. Because Valley Water has a surplus water supply, even during drought conditions, the proposed Modified Project, which would add only 3,312 new dwelling units, would not substantially interfere with groundwater supplies.

Compliance with the MS4 requirements for new construction and water efficient landscaping, as well as implementation of the General Plan 2040 goals, policies, and strategies, would further protect groundwater resources. Therefore, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to groundwater recharge beyond what was evaluated in the General Plan EIR, and impacts would be *less than significant*.

**Significance without Mitigation:** Less than significant.

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<sup>17</sup> Valley Water, 2021. 2020 Urban Water Management Plan.

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<b>HYD-3</b>	<b>Implementation of the proposed Modified Project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would: i) result in substantial erosion or siltation on- or off-site; ii) substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site; iii) create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff; or iv) impede or redirect flood flows.</b>
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### *Erosion and Siltation*

Potential future development and changes in land use pursuant to the Modified Project could result in an increase in impervious surfaces. This, in turn, could result in an increase in stormwater runoff, higher peak discharges to storm drains, and the potential to cause erosion or siltation in streams. Increases in tributary flows can exacerbate creek bank erosion or cause destabilizing channel incision.

All future potential development pursuant to the Modified Project would be required to implement construction-phase BMPs as well as post-construction site design, source control measures, and treatment controls in accordance with the requirements of the CGP, the CMC, the MS4 Permit, and the City's *Construction Best Management Practices*. Typical construction BMPs include silt fences, fiber rolls, catch basin inlet protection, water trucks, street sweeping, and stabilization of truck entrance/exits. Each new potential development or redevelopment project that disturbs one or more acre of land would be required to prepare and submit a SWPPP to the SWRCB that describes the measures to control erosion and sedimentation due to construction activities.

Once future potential development projects have been constructed, the MS4 permit requirements for new development or redevelopment projects must be implemented and include site design measures, source control measures, LID, and treatment measures that address stormwater runoff and would reduce the potential for erosion and siltation. Site design measures include limits on clearing, grading, and soil compaction; minimizing impervious surfaces; conserving the natural areas of the site as much as possible; complying with stream setback ordinances; and protecting slopes and channels from erosion. LID measures include the use of permeable pavements, directing runoff to pervious areas, and the construction of bioretention areas. The SWMP submitted to the City must also include operation and maintenance procedures and an agreement to maintain any stormwater treatment and control facilities for perpetuity. Adherence to the streambed alteration agreement process under Sections 1601 to 1606 of the California Fish and Game Code would further reduce erosion and siltation impacts that may occur due to streambed alterations. Projects subject to hydromodification must also maintain the pre-project creek erosion potential by implementing various control measures. Compliance with these regional and local regulatory requirements would ensure that erosion and siltation impacts from future potential development and redevelopment projects would be *less than significant*.

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### *Flooding On- and Off-Site*

Future potential development and changes in land uses pursuant to the proposed Modified Project could result in an increase in impervious surfaces, which in turn could result in an increase in stormwater runoff, higher peak discharges to drainage channels, and the potential to cause nuisance flooding in areas without adequate drainage facilities. However, all future potential development must comply with the requirements of the MS4 Permit and the SCVURPPP and City's stormwater requirements for construction and operation. Regulated projects must implement BMPs, including LID measures and site design BMPs, which effectively minimize imperviousness, retain or detain stormwater on-site, decrease surface water flows, and slow runoff rates. Projects that create and/or replace one acre of impervious surface must also adhere to the hydromodification requirements of the MS4 permit and the to ensure that the post-project runoff does not exceed the pre-project runoff by more than 10 percent. In general, new housing units under the proposed Modified Project would replace existing land uses, and compliance with these requirements should result in lower stormwater runoff rates compared to existing conditions. Therefore, future projects under the proposed Modified Project would not result in flooding on- or off-site, and impacts would be *less than significant*.

### *Storm Drain System Capacity*

As stated in the impact discussions above, an increase in impervious surfaces with future potential development pursuant to the proposed Modified Project could result in increases in stormwater runoff, which in turn could exceed the capacity of existing or planned stormwater drainage systems.

Projects that involve the creation and/or replacement of 5,000 square feet or more of impervious surfaces and single-family homes that create and/or replace 10,000 square feet or more of impervious surfaces would trigger the implementation of stormwater treatment measures to reduce stormwater runoff, as per the MS4 Permit and the SCVURPPP requirements. Prior to the issuance of grading permits, the City would require completion and submittal of a SWMP and Provision C.3 Data Form for review and approval to ensure that these requirements are met. Stormwater treatment measures are required to temporarily detain site runoff, using specific numeric sizing criteria based on volume and flow rate. Implementation of these stormwater measures would reduce the amount of stormwater runoff that is ultimately discharged to the City's storm drain system and the creeks that run through Cupertino. Projects that create and/or replace one acre or more of impervious surfaces must also adhere to the hydromodification requirements of the MS4 permit to ensure that post-project runoff does not exceed pre-project runoff by more than 10 percent. Most of the new housing units under the proposed Modified Project would be replacing existing land uses that are already connected to the City's storm drain system. Implementation of these MS4 and County and City stormwater requirements would typically result in less stormwater runoff as compared to existing conditions.

Also, as part of the permitting process, future potential development projects would be required to pay a storm water assessment, as per CMC Chapter 3.36, *Storm Drainage Service Charge*, which is designed to mitigate the impacts of stormwater that is discharged into the creeks and waterways in Cupertino. The assessments are used to evaluate and maintain the storm drain system, implement flood control improvements, respond to flooding issues, and restore creeks and habitat.

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The proposed Modified Project would not create substantial additional sources of polluted runoff. During the construction phase, projects would be required to prepare SWPPPs, thus limiting the discharge of pollutants from the site. During operation, projects must implement BMPs and LID measures that minimize the amount of stormwater runoff and associated pollutants.

With implementation of these provisions for future potential development and redevelopment projects and the construction of regional detention basins, the proposed Modified Project would not result in significant increases in runoff that would exceed the capacity of existing or planned storm drain facilities, and the impact is *less than significant*.

### *Redirecting Flood Flows*

The discussion above regarding on- and off-site flooding is also applicable to the analysis of impeding or redirecting flood flows. Since new development projects are required to comply the MS4 Permit and retain stormwater on-site via the use of bioretention facilities or other stormwater treatment measures, any flood flows would also be retained for a period of time on-site, which would minimize the potential for flooding impacts. Impact Discussion HYD-4 describes the potential for impeding or redirecting flood flows with development in areas within the 100-year floodplain. Based on these discussions, impacts related to impeding or redirecting flood flows would be *less than significant*.

In addition to the General Plan 2040 Elements listed in Impact Discussion HYD-1, the General Plan EIR also found that the Infrastructure (INF) Element contains policies and strategies that require local planning and development decisions to consider impacts that development could have on flood flows and storm drain capacities. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize adverse impacts to flood flows and storm drain capacity:

- **Policy INF-1.1: Infrastructure Planning.** Upgrade and enhance the City's infrastructure through the City's Capital Improvement Program (CIP) and requirements for development.
- **Strategy INF-1.1.1: Capital Improvement Program.** Ensure that CIP projects reflect the goals and policies identified in Community Vision 2040.
- **Strategy INF-1.1.2: Design Capacity.** Ensure that the public infrastructure is designed to meet planned needs and to avoid the need for future upsizing. Maintain a balance between meeting future growth needs and over-sizing of infrastructure to avoid fiscal impacts or impacts to other goals.
- **Strategy INF-1.1.3: Coordination.** Require coordination of construction activity between various providers, particularly in City facilities and rights-of-way, to ensure that the community is not unnecessarily inconvenienced. Require that providers maintain adequate space for all utilities when planning and constructing their infrastructure. (General Plan EIR Policy 5-34)
- **Policy INF-1.2: Maintenance.** Ensure that existing facilities are maintained to meet the community's needs. (General Plan EIR Policy 5-49)
- **Policy INF-1.3: Coordination.** Coordinate with utility and service providers to ensure that their planning and operations meet the City's service standards and future growth.
- **Policy INF-1.4: Funding.** Explore various strategies and opportunities to fund existing and future infrastructure needs.

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- **Strategy INF-1.4.1: Existing Infrastructure.** Require developers to expand or update existing infrastructure to increase capacity, or pay their fair share, as appropriate.
- **Strategy INF-1.4.2: Future Infrastructure Needs.** For new infrastructure, require new development to pay its fair share of, or to extend or construct, improvements to accommodate growth without impacting service levels.
- **Strategy INF-1.4.3: Economic Development.** Prioritize funding of infrastructure to stimulate economic development and job creation in order to increase opportunities for municipal revenue.
- **Policy INF4.1: Planning and Management.** Create plans and operational policies to develop and maintain an effective and efficient stormwater system. (General Plan EIR Policy 5-49)
- **Strategy INF-4.1.1: Management.** Reduce the demand on storm drain capacity through implementation of programs that meet and even exceed on-site drainage requirements.
- **Strategy INF-4.1.2: Infrastructure.** Develop a Capital Improvement Program (CIP) for the City's storm drain infrastructure that meets the current and future needs of the community.
- **Strategy INF-4.1.3: Maintenance.** Ensure that the City's storm drain infrastructure is appropriately maintained to reduce flood hazards through implementation of best practices.
- **Policy INF-4.2: Funding.** Develop permanent sources of funding storm water infrastructure construction and maintenance.
- **Strategy INF-4.2.1: Ongoing Operations.** Review other funding strategies to pay for the ongoing operations and maintenance of the storm drain system per State and regional requirements.

After compliance with the MS4 permit; the City's stormwater requirements; and General Plan 2040 goals, policies, and strategies, future development under the proposed Modified Project would not result in substantial erosion or siltation and would not substantially increase the rate of surface runoff that would result in flooding, impede or redirect flood flows, or exceed the capacity of the drainage system. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to flooding and stormwater flow beyond what was evaluated in the General Plan EIR. Impacts would be *less than significant*.

**Significance without Mitigation:** Less than significant.

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<b>HYD-4</b>	<b>Implementation of the proposed Modified Project would not result in a flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation.</b>
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#### *Pollutant Release in Flood Hazard Zones*

None of the proposed housing sites pursuant to the proposed Modified Project would place residential structures in existing FEMA-designated 100-year floodplains or Special Flood Hazard Areas (SFHAs). Therefore, there would not be the potential for the release of pollutants due to the placement of structures in flood hazard zones.

However, in the unlikely event that new housing units are placed in a SFHA or 100-year floodplain, the construction would be governed by CMC, Chapter 16.52, *Prevention of Flood Damage*. This chapter sets forth construction standards that would minimize flood hazard risks, including anchoring and flood-



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proofing, and the placement of fill to elevate structures above the 100-year floodplain elevation. The creeks that flow through the city pose little risk of flooding as the result of efforts by the City and Valley Water to modify, restore, and improve the flow channels and implement erosion control measures to reduce impacts from flooding. In addition, the General Plan 2040 Strategy HS-7.4.1, Dwellings in Flood Plains, listed below, discourages new residential development in floodplains.

Because the proposed Modified Project would not include the placement of housing in the 100-year floodplain and new construction would require compliance with General Plan policies, the CMC, and Santa Clara County water course protection requirements, which limit construction in close proximity to a stream, the potential for flood hazards would be less than significant.

### *Pollutant Release in Dam Inundation Zones*

The northern portion of Cupertino above Interstate 280 and areas along Stevens Creek are within the dam inundation zone of Stevens Creek Dam. However, the probability of dam failure is low, and the City and Santa Clara County have never been impacted by a major dam failure. In addition, dam owners are required to maintain emergency action plans (EAPs) that include procedures for damage assessment and emergency warnings. An EAP identifies potential emergency conditions at a dam and specifies preplanned actions to help minimize property damage and loss of life should those conditions occur. EAPs contain procedures and information that instruct dam owners to issue early warning and notification messages to downstream emergency management authorities. Santa Clara County in collaboration with the City and others have developed the Stevens Creek Dam Failure Plan, which identifies how the cities in Santa Clara County, public and private agencies, special districts, non-governmental organizations, and mutual aid organizations would prepare, respond, recover, and mitigate a failure of the Stevens Creek Dam. The General Plan 2040 policies HS-7-1 and HS 7-2, listed below, specifically address this possibility. Because the likelihood of catastrophic dam failure is very low, impacts related to the release of pollutants due to dam inundation are not considered to be significant.

### *Pollutant Releases from Tsunamis and Seiches*

Cupertino is more than eight miles south of San Francisco Bay and more than 100 feet above sea level and is not within any mapped tsunami inundation zone. Therefore, there is no potential for the release of pollutants due to a tsunami.

Although seiches could theoretically occur at Stevens Creek Reservoir, the wave heights are usually one foot or less and dams are typically designed with a freeboard height of at least three feet. Therefore, it is unlikely that a seiche would cause overtopping of the dam, resulting in downstream flooding or the release of pollutants. Aboveground water storage tanks in the city could experience a seiche associated with a large earthquake. However, the tanks are constructed to withstand seismic events and would not result in failure that would cause significant flooding or the release of pollutants.

The General Plan EIR also found that the Health and Safety (HS) Element contains policies and strategies that require local planning and development decisions to consider impacts that development could have on flooding. Like the Approved Project, the following existing General Plan 2040 policies and strategies, in addition to those listed in the previous impact discussion, and updated policies and strategies as part of

## HYDROLOGY AND WATER QUALITY

the proposed Modified Project, would also serve to minimize the potential for flooding and the release of pollutants:

- **Policy HS-1.1: *Regional Hazard Risk Reduction Planning.*** Coordinate with Santa Clara County and local agencies to implement the Multi-Jurisdictional Local Hazard Mitigation Plan (LHMP) for Santa Clara County. (General Plan EIR Policy 5-32)
- **Strategy HS-1.1.1: *Monitoring and Budgeting.*** Monitor and evaluate the success of the LHMP, including local strategies provided in the Cupertino Annex (Section 11). Working with Santa Clara County, ensure that strategies are prioritized and implemented through the Capital Improvement Program and provide adequate budget for on-going programs and department operations.
- **Strategy HS-1.1.2: *Mitigation Incorporation.*** Ensure that mitigation actions identified in the LHMP are being incorporated into upcoming City sponsored projects, where appropriate.
- **Strategy HS-1.1.3: *Hazard Mitigation Plan Amendments and Updates.*** Support Santa Clara County in its role as the lead agency that prepares and updates the Local Hazard Mitigation Plan. (General Plan EIR Policy 6-1)
- **Policy HS-1.2: *Sea Level Rise Protection.*** Ensure all areas in Cupertino are adequately protected for the anticipated effects of sea level rise. (General Plan EIR Policy 6-35)
- **Strategy HS-1.2.1: *Monitor Rising Sea Level.*** Regularly coordinate with regional, state and federal agencies on rising sea levels in the San Francisco Bay and major tributaries to determine if additional adaptation strategies should be implemented to address flooding hazards. This includes monitoring FEMA flood map updates to identify areas in the City susceptible to sea level rise, addressing changes to state and regional sea and bay level rise estimates, and coordinating with adjacent municipalities on flood control improvements, as appropriate. (General Plan EIR Policy 6-35)
- **Strategy HS-1.2.2: *Flood Insurance Rate Maps.*** Provide to the public, as available, up-to-date Flood Insurance Rate Maps (FIRMs) that identify rising sea levels and changing flood conditions. (General Plan EIR Policy 6-35)
- **Policy HS-7.1: *Evacuation Map.*** Prepare and update periodically an evacuation map for the flood hazard areas and distribute it to the general public.
- **Policy HS-7.2: *Emergency Response to Dam Failure.*** Ensure that Cupertino is prepared to respond to a potential dam failure. (General Plan EIR Policy 6-43)
- **Strategy HS-7.2.1: *Emergency and Evacuation Plan.*** Maintain and update a Stevens Creek Dam Failure Plan, including alert warning and notification systems and appropriate signage. (General Plan EIR Policy 6-43)
- **Strategy HS-7.2.2: *Inter-Agency Cooperation.*** Continue to coordinate dam-related evacuation plans and alert/notification systems with the City of Sunnyvale, the Santa Clara Valley Water District and Santa Clara County to ensure that traffic management between the agencies facilitates life safety. Also work with other neighboring cities to enhance communication and coordination during a dam-related emergency. (General Plan EIR Policy 6-43)
- **Policy HS-7.3: *Existing Non-Residential Uses in the Flood Plain.*** Allow commercial and recreational uses that are now exclusively within the flood plain to remain in their present use or to be used for agriculture, provided it doesn't conflict with Federal, State, and regional requirements.
- **Policy HS-7.4: *Construction in Flood Plains.*** Continue to implement land use, zoning and building code regulations limiting new construction in the already urbanized flood hazard areas recognized by the Federal Flood Insurance Administrator.

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- **Strategy HS-7.4.1: *Dwelling in Flood Plains*.** Discourage new residential development in regulated flood plains. Regulate all types of redevelopment in natural flood plains. This includes discouraging fill materials and obstructions that may increase flood potential or modify the natural riparian corridors.
- **Strategy HS-7.4.2: *Description of Flood Zone Regulation*.** Continue to maintain and update a map of potential flood hazard areas and a description of flood zone regulations on the City’s website.
- **Strategy HS-7.4.3: *National Flood Insurance Program Community Rating System*.** Continue to participate in the National Flood Insurance Program (NFIP) Community Rating System (CRS).

The General Plan 2040 goals, policies, and strategies listed herein address the potential for flooding, dam inundation, and seiches. In conjunction with the implementation of the City’s floodplain management requirements and activation of the City’s emergency response system in the case of a dam failure, the potential for a release of pollutants from flooding, tsunamis, or seiches would be *less than significant*. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts from the potential for a release of pollutants from flooding, tsunamis, or seiches beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>HYD-5</b>	<b>Implementation of the proposed Modified Project would not conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.</b>
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Adherence to the State CGP, the CMC, the MS4 Permit, and City’s stormwater and water course protection requirements would ensure that surface and groundwater quality are not adversely impacted during construction and operation of future potential development pursuant to the proposed Modified Project. As a result, site development would not obstruct or conflict with the implementation of the San Francisco Bay RWQCB’s Basin Plan. Groundwater conditions in Santa Clara County have been sustainable for many decades due to Valley Water’s activities that protect and augment groundwater supplies. The Santa Clara Subbasin is not in critical overdraft and Valley Water uses local and imported surface water to replenish groundwater through recharge facilities, including ponds and creeks. Valley Water also implements an “in-lieu” recharge program, including treated water deliveries, water conservation, and water recycling. These activities reduce demands on the groundwater subbasin. Valley Water has prepared an Alternative to a Groundwater Sustainability Plan, which has been approved by DWR under the SGMA regulations. And Valley Water’s 2020 UWMP states that there are sufficient water supplies to serve Santa Clara County during normal years, single-dry years, and multiple-dry years. With adherence to the General Plan goals, policies, and strategies listed in Impact Discussion HYD-2, and continued compliance with State, County, and City regulatory requirements, the proposed Modified Project would not obstruct or conflict with a water quality control plan or groundwater management plan and would not result in new or more severe impacts beyond what was evaluated in the General Plan EIR. Impacts would be *less than significant*.

**Significance without Mitigation:** Less than significant.

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**HYDROLOGY AND WATER QUALITY**

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**HYD-6                      Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to hydrology and water quality.**

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The geographic context used for the cumulative assessment to hydrology, drainage, flooding, and water quality is the watersheds that encompass Cupertino and the surrounding areas: Lower Peninsula Watershed and West Valley Watershed. Future potential development in these watersheds could increase impervious areas, thus increasing runoff and flows into the storm drainage systems. Potential future development would be required to comply with the MS4 Permit, implement BMPs that direct drainage to landscaped areas, and integrate bioretention facilities into the site design. Implementation of these BMPs on a regional basis would reduce cumulative impacts to hydrology and drainage to *less than significant*.

All projects would be required to comply with the CMC and various water quality regulations that control construction-related and operational discharge of pollutants into stormwater. The water quality regulations implemented by the San Francisco Bay RWQCB take a basinwide approach and consider water quality impairment in a regional context. For example, the MS4 Permit ties receiving water limitations and basin plan objectives to terms and conditions of the permit, and the MS4 Permit requires all of the municipalities and permittees to manage stormwater systems and be collectively protective of water quality. Projects in these watersheds would implement structural and nonstructural source-control BMPs that reduce the potential for pollutants to enter runoff, and treatment control BMPs that remove pollutants from stormwater. Therefore, cumulative water quality impacts would be *less than significant* after compliance with these permit requirements, and impacts would not be cumulatively considerable.

Projects in the watersheds may be constructed within 100-year flood zones or dam inundation zones. Projects within the 100-year flood zone would be mandated to purchase flood insurance through the National Flood Insurance Program. In addition, Santa Clara County and other municipalities within these watersheds regulate development within flood zones in a similar manner as CMC Chapter 16.52, *Prevention of Flood Damage*, and in compliance with FEMA standards to limit cumulative flood hazard impacts.

There have been no dam failures in Cupertino or Santa Clara County, and the risk of a catastrophic dam failure causing flooding to downstream residents is low. In addition, in the case of an imminent dam failure of Stevens Creek Reservoir, Santa Clara County and Cupertino's Office of Emergency Management would activate the provisions in the Stevens Creek Dam Failure Plan to ensure that residents and businesses are notified and, if necessary, evacuated in a timely manner. Therefore, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe cumulative impacts to hydrology, drainage, and flooding beyond what was evaluated in the General Plan EIR. Cumulative impacts to hydrology, drainage, and flooding would be *less than significant*, and impacts of the proposed Modified Project would not be cumulatively considerable.

**Significance without Mitigation:** Less than significant.

## **4.10 LAND USE AND PLANNING**

This chapter describes the potential impacts related to land use and planning that are associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and existing conditions, identifies criteria used to determine impact significance, provides an analysis of the potential impacts related to land use and planning, and identifies General Plan 2040 policies and/or strategies that could minimize any potentially significant impacts.

### **4.10.1 ENVIRONMENTAL SETTING**

#### **4.10.1.1 REGULATORY FRAMEWORK**

##### **State Regulations**

California Government Code Sections 65580 to 65589.8 contain California Housing Element Law, including provisions related to the requirements for housing elements of local government general plans. Among these requirements, some of the necessary parts include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. Additionally, to ensure that counties and cities recognize their responsibilities for contributing to the attainment of the State housing goals, this section of the Government Code calls for local jurisdictions to plan for and allow the construction of a share of the region's projected housing needs, known as the Regional Housing Needs Allocation. The City of Cupertino Housing Element was adopted in 2015 and integrated into General Plan 2040.

##### **Regional Regulations**

###### *Plan Bay Area*

*Plan Bay Area* is the Regional Transportation Plan/Sustainable Communities Strategy mandated by the Sustainable Communities and Climate Protection Act (Senate Bill 375). *Plan Bay Area* lays out a development scenario for the nine-county Bay Area region that works to align transportation and land use planning to reduce vehicle miles traveled through modified land use patterns. The current *Plan Bay Area* forecasts growth and development patterns through 2050 and was recently adopted in October 2021.<sup>1</sup>

*Plan Bay Area* is prepared and regularly updated by the Metropolitan Transportation Commission and Association of Bay Area Governments, in partnership with Bay Area Air Quality District and the Bay Conservation and Development Commission. *Plan Bay Area* designates Priority Development Areas (PDA) and Transit Priority Areas (TPA) throughout the region. PDAs are areas along transportation corridors that are served by public transit and allow opportunities for development of transit-oriented, infill development in communities that are expected to host most future development. TPAs are similar in that they are formed within one-half mile around an existing or planned major transit stop, designated in a

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<sup>1</sup> Association of Bay Area Governments and Metropolitan Transportation Commission, October 2021, *Plan Bay Area 2050*, accessed March 29, 2023, [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf).

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Regional Transportation Plan, such as a transit center or rail line. As shown on Figure 4-1, *Priority Development Areas and Transit Priority Areas*, of this Environmental Assessment (EA), the Study Area has one PDA—the Santa Clara Valley Transportation Authority City Cores Corridors & Station Areas, which overlays Stevens Creek Boulevard and North De Anza Boulevard. The TPAs in Cupertino are based upon two future transit investments included in *Plan Bay Area 2050*:

- Stops along a future VTA Light Rail route on Stevens Creek at Stelling, DeAnza, and Wolfe (RTP ID 21-T10-088, on page 10 of the Plan’s Project List)
- A future Regional Express bus route stop at Wolfe and 280 (RTP ID 21-T12-126, on p. 14 of the *Plan Bay Area 2050* Project List).

*Plan Bay Area* distributes future growth across the San Francisco Bay Area region to meet its GHG emissions reduction, housing, and other performance targets, but it is not intended to override local land use control. In addition to funding transportation and planning projects in PDAs, *Plan Bay Area* sets the stage for cities and counties to increase the efficiency of the development process, if they choose, for projects consistent with *Plan Bay Area* and other state legislation.<sup>2</sup>

### Local Regulations

#### *General Plan 2040*

Though the City has other local regulations that regulate land use and guide land use decisions, all specific plans, master plans, and zoning in the city must be consistent with the General Plan. The General Plan is the community’s overarching policy document that defines a vision for future change and sets the “ground rules” for locating and designing new projects that enhance the character of the community, expanding the local economy, conserving and preserving environmental resources, improving public services and safety, minimizing hazards, and fostering community health. The General Plan, which includes a vision, guiding principles, goals, policies, and strategies, functions as the City’s primary land use regulatory tool. It provides a basis for judging whether specific development proposals and public projects are in harmony with City goals. It is the constitution for future change in Cupertino. The General Plan must be used as the basis for all planning-related decisions made by City staff, the Planning Commission, and the City Council. Other decision-making bodies that rely on the General Plan to guide future decisions include the Arts and Culture Commission, Bicycle Pedestrian Commission, Housing Commission, Library Commission, Parks and Recreation Commission, Public Safety Commission, Sustainability Commission, and Public Works Department.

The Land Use and Community Design (LU), Mobility (M), Environmental Resources and Sustainability (ES), Health and Safety (HS), and Recreation, Parks, and Community Services (RPC) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to land use and planning. Applicable policies and strategies that would minimize potential adverse impacts to land use and planning are identified in Section 4.10.3, *Impact Discussion*.

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<sup>2</sup> Association of Bay Area Governments and Metropolitan Transportation Commission, 2022, “Frequently Asked Questions: Does *Plan Bay Area* Override Local Land Use Control?” accessed March 29, 2023, <https://www.planbayarea.org/2040-plan/quick-facts/faq-page#n4851>.

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### Municipal Code

Besides the General Plan, the City of Cupertino Municipal Code (CMC) is the primary tool that regulates physical development in Cupertino. The CMC contains all ordinances for the city, and identifies land use categories, site development regulations, and other general provisions that ensure consistency between the General Plan and proposed development projects. The CMC contains all ordinances for the city and is organized by title, chapter, and section. Most provisions related to land use and planning are included in Title 19, Zoning.

- **Title 19, *Zoning*.** This section of the municipal code sets forth the City's Zoning Ordinance, the primary purpose of which is "to promote and protect the public health, safety, peace, morals, comfort, convenience, and general welfare." The City of Cupertino Zoning Ordinance is the mechanism used to implement the land use goals, objectives, and policies of the General Plan and to regulate all land use within the City. The zoning ordinance describes zoning designations and contains development standards for the zoning designations.
- **Section 19.168, *Architectural and Site Review*.** This chapter provides an orderly process to review the architectural and site designs of buildings, structures, signs, lighting, and landscaping for prescribed types of land development within the city to promote the goals and objectives of the General Plan.

### 4.10.1.2 EXISTING CONDITIONS

Chapter 4.9, *Land Use and Planning*, of the General Plan EIR, addresses impacts to land use and planning associated with buildout of the General Plan 2040 at a program level. The setting for land use and planning is described in the General Plan EIR Section 4.9.1.2, *Existing Conditions*. Though the Land Use and Community Design Element has not been updated since the certification of the General Plan EIR, the South Vallco Connectivity Plan was finalized on December 11, 2014, and was not included in General Plan EIR Section 4.9.1.2, *Existing Conditions*. The South Vallco Connectivity Plan is an advisory document that identifies broad goals, objectives, concepts, and design guidelines for the South Vallco Area, Study Area 6 of the General Plan EIR. It includes plans for a bicycle and pedestrian trail in the area and changes in the connectivity of the mall.

### 4.10.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant land use impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
LU-1. Physically divide an established community?	LTS	LTS
LU-2. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?	LTS	LTS
LU-3. Result in a cumulatively considerable impact with respect to land use and planning?	LTS	LTS

## LAND USE & PLANNING

Implementation of the proposed Modified Project would result in significant land use impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
<p>Note: In December 2018, amendments were made to Appendix G, <i>Environmental Checklist</i>, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. The question regarding conflicting with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan is now only evaluated in BIO-6 in Chapter 4.3, <i>Biological Resources</i>, of this EA.</p> <p>Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable</p>		

### 4.10.3 IMPACT DISCUSSION

#### LU-1 Implementation of the proposed Modified Project would not physically divide an established community.

Any potential future development would result in a significant impact if it would lead to new development or physical features that would divide existing communities. The physical division of an established community typically refers to the construction of a physical feature (such as a wall, interstate highway, or railroad tracks) or the removal of a means of access (such as a local road or bridge) that would impair mobility within an existing community, or between a community and outlying areas.

The General Plan EIR concluded that since the development proposed under the Approved Project would be on sites already developed near residential development and would retain the existing roadway patterns, impacts would be less than significant. Additionally, future development would be required to be consistent with the General Plan 2040, including the provision of connections between properties on the same block (Strategy M-3.5.1), to promote cohesive and compatible neighborhoods and prevent new development from dividing existing uses where different land uses abut one another.

The proposed Modified Project would also include potential future development in already developed areas in the form of infill/intensification on sites either already developed and/or underutilized, and/or near existing residential and residential-serving development. Additionally, development under the proposed Modified Project would only include residential development, whereas future potential development under the Approved Project included residential, office, and commercial.

The General Plan EIR also found that the Land Use and Community Design (LU), Mobility (M), Health and Safety (HS), and Recreation, Parks, and Community Service (RPC) Elements contain goals, policies, and strategies that require local planning and development decisions to consider impacts that development could have on dividing the established community. Like the Approved Project, implementation of the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize potential adverse impacts on the established community:

- **Strategy LU-1.3.2. Public and Quasi-Public Uses.** Review the placement of public and quasi- public activities in limited areas in mixed-use commercial and office zones when the following criteria are met:



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1. The proposed use is generally in keeping with the goals for the Planning Area, has similar patterns of traffic, population or circulation of uses with the area and does not disrupt the operations of existing uses.
  2. The building form is similar to buildings in the area (commercial or office forms). In commercial areas, the building should maintain a commercial interface by providing retail activity, storefront appearance or other design considerations in keeping with the goals of the Planning Area. (General Plan EIR Policy 2-63)
- **Strategy LU-3.3.8. Drive-up Services.** Allow drive-up service facilities only when adequate circulation, parking, noise control, architectural features and landscaping are compatible with the expectations of the Planning Area, and when residential areas are visually buffered. Prohibit drive-up services in areas where they would conflict with pedestrian oriented activity, such as Heart of the City, North De Anza Boulevard, Monta Vista Village and neighborhood center. (General Plan EIR Policy 2-35)
  - **Policy LU-4.1. Street and Sidewalks.** Ensure that the design of streets, sidewalks and pedestrian and bicycle amenities are consistent with the vision for each Planning Area and Complete Streets policies.
  - **Strategy LU- 8.3.3. Infrastructure and Streetscape Improvements.** Consider infrastructure and streetscape improvements in areas, such as the Crossroads or South Vallco area to encourage redevelopment as a pedestrian oriented area that meets community design goals. (General Plan EIR Policy 2-26 G)
  - **Policy LU-13.1. Heart of the City Specific Plan.** The Heart of the City Specific Plan provides design standards and guidelines for this area, which promote a cohesive, landscaped boulevard that links its distinct sub-areas and is accessible to all modes of transportation.
  - **Policy LU-23.1. Conceptual Plan.** Create a conceptual plan for the Homestead Road Special Area with a cohesive set of land use and streetscape regulations and guidelines. (General Plan EIR Policy 2-24)
  - **Policy LU- 25.1. Conceptual Plan.** Continue to govern Monta Vista's commercial area through the Monta Vista Design Guidelines. The guidelines provide direction for architecture, landscaping and public improvements. Create a Monta Vista Village Conceptual Plan to with a cohesive set of updated regulations and guidelines for this area. (General Plan EIR Policy 2-30)
  - **Policy LU- 25.2. Land Use.** Require the commercial district to serve as a neighborhood commercial center for Monta Vista Village and its adjoining neighborhoods. Mixed-use with residential is encouraged. The industrial area should be retained to provide small-scale light industrial and service industrial opportunities, while remaining compatible with the surrounding residential and commercial uses. See General Plan Figure LU- 2 for residential densities and criteria. (General Plan EIR Policy 2-30)
  - **Policy LU- 27.1. Compatibility.** Ensure that new development within and adjacent to residential neighborhoods is compatible with neighborhood character. (General Plan EIR Policy 2-18)
  - **Strategy LU-27.1.1 Regulations.** Maintain and update design regulations and guidelines for single family development that address neighborhood compatibility and visual and privacy impacts. (General Plan EIR Policy 2-8)

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- **Strategy LU-27.1.3. Flexibility.** When neighborhoods are in transition, add flexibility for requirements for new development that acknowledge the transition while continuing to respect the existing neighborhood. (General Plan EIR Policy 2-18)
- **Policy LU- 27.7. Compatibility of Lots.** Ensure that zoning, subdivision and lot-line adjustment requests related to lot size or lot design consider the need to preserve neighborhood lot patterns. (General Plan EIR Policy 2-19)
- **Policy M-2.2. Adjacent Land Use.** Design roadway alignments, lane widths, medians, parking and bicycle lanes, crosswalks and sidewalks to complement adjacent land uses in keeping with the vision of the Planning Area. Strive to minimize adverse impacts and expand alternative transportation options for all Planning Areas (Special Areas and Neighborhoods). Improvement standards shall also consider the urban, suburban and rural environments found within the city. (General Plan EIR Policy 4-10)
- **Policy M-3.2. Development.** Require new development and redevelopment to increase connectivity through direct and safe pedestrian connections to public amenities, neighborhoods, shopping and employment destinations throughout the city. (General Plan EIR Policy 2-2)
- **Strategy M-3.5.1. Shared Driveway Access.** Require property owners to use shared driveway access and interconnected roads within blocks, where feasible. Require driveway access closures, consolidations or both when a site is remodeled or redeveloped.
- **Strategy M-3.5.2. Direct Access from Secondary Streets.** Require properties with frontages on major and secondary streets to provide direct pedestrian and vehicular access to driveways from the secondary street.
- **Policy HS-8.5. Neighborhoods.** Review residents' need for convenience and safety and prioritize them over the convenient movement of commute or through traffic where practical. (General Plan EIR Policy 4-16)
- **Policy RPC-2.4. Connectivity and Access.** Ensure that each home is within a half-mile walk of a neighborhood park or community park with neighborhood facilities; ensure that walking and biking routes are reasonably free of physical barriers, including streets with heavy traffic; provide pedestrian links between parks, wherever possible; and provide adequate directional and site signage to identify public parks. (General Plan EIR Policy 2-84)

The proposed Modified Project builds upon the Approved Project, and there are no dividing physical features or removal of access included in the proposed Modified Project. As with the potential future development under the Approved Project, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing land use standards. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts that would physically divide an established community beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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**LU-2                      Implementation of the proposed Modified Project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.**

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As described in the General Plan EIR, the City of Cupertino General Plan 2040 is the primary planning document for Cupertino. Thus, the Approved Project is intended to ensure consistency between the general plan, housing element, zoning ordinance, and State law. Because the General Plan 2040 is the overriding planning document, and because the project involves amending the General Plan or zoning to increase consistency, the impact would be less than significant. Like the Approved Project, the proposed Modified Project would ensure consistency between the general plan, housing element, zoning ordinance, and State law.

The General Plan EIR also found that the Land Use and Community Design (LU), Environmental Resources and Sustainability (ES), and Health and Safety (HS) Elements contain policies that require local planning and development decisions to consider conflicts that development could have on land use planning, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect. Like the Approved Project, the following existing General Plan 2040 policies, and updated policies as part of the proposed Modified Project, would also serve to minimize potential conflicts with any land use plan, policy, or regulation.

- **Policy LU-1.6. *Jobs/Housing Balance.*** Strive for a more balanced ratio of jobs and housing units. (General Plan EIR Policy 2-22)
- **Policy ES- 1.2. *Regional Growth and Transportation Coordination.*** Coordinate with local and regional agencies to prepare updates to regional growth plans and strategies, including the Regional Housing Allocation Needs Allocation (RHNA) One Bay Area Plan, Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS). (General Plan EIR Policy 5-2)

Like the Approved Project, the proposed Modified Project would ensure planning documents are consistent with each other and State law. Future potential development under the proposed Modified Project would be used to meet existing and projected future housing needs for all income levels in the city. For a description of the consistency with *Plan Bay Area* as it relates to greenhouse gas emissions, see Chapter 4.7, *Greenhouse Gas Emissions*, of this EA. For a description of the consistency with the 2018 Cupertino Pedestrian Transportation Plan, see Chapter 4.14, *Transportation*, of this EA.

As with the future potential development under the Approved Project assessed in the General Plan EIR, future potential development under the proposed Modified Project, would be required to comply with applicable laws, policies, and design standards governing land use standards. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more conflicts with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

## LAND USE & PLANNING

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<b>LU-3</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to land use and planning.</b>
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The General Plan EIR considers growth in Cupertino projected by the Approved Project in combination with impacts from projected growth in the rest of Santa Clara County and surrounding region, as forecast by the Association of Bay Area Governments. The General Plan EIR concluded that the project does not divide an established community or conflict with established plans, policies, and regulations in or outside the city. Development is likely to continue to occur in surrounding cities and in the Santa Clara region as well; however, such development is taking place in already urbanized areas as infill development and would not require significant land use changes that would create land use conflicts, nor would it divide communities.

The proposed Modified Project is consistent with the projected growth analyzed in Santa Clara County and does not divide an established community or conflict with established plans, policies, and regulations in or outside the city.

As with the Approved Project, future potential development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards. Based on these considerations, the proposed Modified Project would not result in a cumulatively considerable contribution impact related to land use beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

## 4.11 NOISE

This chapter describes the potential noise impacts associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and existing conditions, identifies criteria used to determine impact significance, provides an analysis of the potential noise, and identifies General Plan 2040 policies and/or strategies that could minimize any potentially significant impacts.

### 4.11.1 ENVIRONMENTAL SETTING

#### 4.11.1.1 TERMINOLOGY

The following are definitions of terminology used in this section:

- **Sound.** A disturbance created by a vibrating object, which when transmitted by pressure waves through a medium such as air, is capable of being detected by the human ear or a microphone.
- **Noise.** Sound that is loud, unpleasant, unexpected, or otherwise undesirable.
- **Decibel (dB).** A measure of sound on a logarithmic scale.
- **A-Weighted Decibel (dBA).** An overall frequency-weighted sound level in decibels that approximates the frequency response of the human ear.
- **Equivalent Continuous Noise Level ( $L_{eq}$ ).** The mean of the noise level, energy averaged over the measurement period.
- **$L_{max}$ .** The maximum root-mean-square noise level during a measurement period.
- **$L_{min}$ .** The minimum, instantaneous noise level experienced during a given period of time.
- **Statistical Sound Level ( $L_n$ ).** The sound level that is exceeded “n” percent of time during a given sample period. For example, the  $L_{50}$  level is the statistical indicator of the time-varying noise signal that is exceeded 50 percent of the time (during each sampling period). This is also called the “median sound level.” The  $L_{10}$  level, likewise, is the value that is exceeded 10 percent of the time (i.e., near the maximum) and this is often known as the “intrusive sound level.” The  $L_{90}$  is the sound level exceeded 90 percent of the time and is often considered the “effective background level” or “residual noise level.”
- **Day-Night Sound Level ( $L_{dn}$  or DNL).** The energy-average of the A-weighted sound levels occurring during a 24-hour period, with 10 dBA added to the sound levels occurring during the period from 10:00 p.m. to 7:00 a.m.
- **Community Noise Equivalent Level (CNEL).** The energy-average of the A-weighted sound levels occurring during a 24-hour period, with 5 dBA added to the levels occurring during the period from 7:00 p.m. to 10:00 p.m. and 10 dBA added to the sound levels occurring during the period from 10:00 p.m. to 7:00 a.m. Note: For general community/environmental noise, CNEL and  $L_{dn}$  values rarely differ by more than 1 dBA. As a matter of practice,  $L_{dn}$  and CNEL values are considered to be equivalent/interchangeable.

## NOISE

- **Peak Particle Velocity (PPV).** The peak rate of speed at which soil particles move (e.g., inches per second) due to ground vibration.
- **Vibration Decibel (VdB).** A unitless measure of vibration, expressed on a logarithmic scale and with respect to a defined reference vibration velocity. In the United States, the standard reference velocity is 1 micro-inch per second ( $1 \times 10^{-6}$  in/sec).
- **Noise-Sensitive Receptor.** Noise- and vibration-sensitive receptors include land uses where quiet environments are necessary for enjoyment and public health and safety. Residences, schools, motels and hotels, libraries, religious institutions, hospitals, and nursing homes are examples.

### 4.11.1.2 SOUND FUNDAMENTALS

Noise can be generally defined as unwanted sound. Sound, traveling in the form of waves from a source, exerts a sound pressure level (referred to as sound level) that is measured in decibels (dB), which is the standard unit of sound amplitude measurement. The dB scale is a logarithmic scale that describes the physical intensity of the pressure vibrations that make up any sound, with 0 dB corresponding roughly to the threshold of human hearing and 120 to 140 dB corresponding to the threshold of pain. Pressure waves traveling through air exert a force registered by the human ear as sound.

Sound pressure fluctuations can be measured in units of hertz (Hz), which correspond to the frequency of a particular sound. Typically, sound does not consist of a single frequency, but rather a broad band of frequencies varying in levels of magnitude. When all the audible frequencies of a sound are measured, a sound spectrum is plotted consisting of a range of frequency spanning 20 to 20,000 Hz. The sound pressure level, therefore, constitutes the additive force exerted by a sound corresponding to the sound frequency/sound power level spectrum.

The typical human ear is not equally sensitive to all frequencies of the audible sound spectrum. Therefore, when assessing potential noise impacts, sound is measured using an electronic filter that de-emphasizes the frequencies below 1,000 Hz and above 5,000 Hz in a manner corresponding to the human ear's decreased sensitivity to extremely low and extremely high frequencies. This method of frequency weighting is referred to as A weighting and is expressed in units of A-weighted decibels (dBA). Frequency A-weighting follows an international standard methodology of frequency de-emphasis and is typically applied to community noise measurements.

### Noise Exposure and Community Noise

Noise exposure is a measure of noise over a period of time. Noise level is a measure of noise at a given instant in time. Community noise varies continuously over a period of time with respect to the contributing sound sources of the community noise environment. Community noise is primarily the product of many distant noise sources, which constitute a relatively stable background noise exposure, with the individual contributors unidentifiable. The background noise level changes throughout a typical day, but does so gradually, corresponding with the addition and subtraction of distant noise sources such as traffic and atmospheric conditions. What makes community noise constantly variable throughout a day, besides the slowly changing background noise, is the addition of short duration single event noise sources (e.g., aircraft flyovers, motor vehicles, sirens), which are readily identifiable to the individual receptor.

These successive additions of sound to the community noise environment vary the community noise level from instant to instant, requiring the measurement of noise exposure over time to legitimately characterize a community noise environment and evaluate cumulative noise impacts. This time-varying characteristic of environmental noise is described using statistical noise descriptors.

Several rating scales have been developed to analyze the adverse effect of community noise on people. Because environmental noise fluctuates over time, these scales consider that the effect of noise on people is largely dependent on the total acoustical energy content of the noise, as well as the time of day when the noise occurs. The noise descriptors most often encountered when dealing with traffic, community, and environmental noise include the average hourly noise level (in  $L_{eq}$ ) and the average daily noise levels/community noise equivalent level (in  $L_{dn}/CNEL$ ). The  $L_{eq}$  is a measure of ambient noise, while the  $L_{dn}$  and CNEL are measures of community noise.

## Sound Measurement

As previously described, sound pressure is measured through the A-weighted measure to correct for the relative frequency response of the human ear. That is, an A-weighted noise level de-emphasizes low and very high frequencies of sound similar to the human ear's de-emphasis of these frequencies.

Unlike linear units such as inches or pounds, decibels are measured on a logarithmic scale, representing points on a sharply rising curve. On a logarithmic scale, an increase of 10 dBA is 10 times more intense than 1 dBA, 20 dBA is 100 times more intense, and 30 dBA is 1,000 times more intense. A sound as soft as human breathing is about 10 times greater than 0 dBA. The decibel system of measuring sound gives a rough connection between the physical intensity of sound and its perceived loudness to the human ear. Ambient sounds generally range from 30 dBA (very quiet) to 100 dBA (very loud). When the standard logarithmic dB is A-weighted (dBA), an increase of 10 dBA is generally perceived as a doubling in loudness. For example, a 70-dBA sound is half as loud as an 80-dBA sound and twice as loud as a 60-dBA sound. When two identical sources are each producing sound of the same loudness, the resulting sound level at a given distance would be 3.0 dB higher than one source under the same conditions.<sup>1</sup> For example, a 65-dBA source of sound, such as a truck, when joined by another 65 dBA source results in a sound amplitude of 68 dBA, not 130 dBA (i.e., doubling the source strength increases the sound pressure by three dBA). Under the decibel scale, three sources of equal loudness together would produce an increase of five dBA.

Time variation in noise exposure is typically expressed in terms of a steady-state energy level equal to the energy content of the time varying period (called  $L_{eq}$ ), or alternately, as a statistical description of the sound level that is exceeded over some fraction of a given observation period. For example, the L50 noise level represents the noise level that is exceeded 50 percent of the time. Half the time the noise level exceeds this level and half the time it is less than this level. This level also represents the level exceeded 30 minutes in an hour. Similarly, the L2, L8 and L25 values represent the noise levels that are exceeded 2, 8, and 25 percent of the time, or 1, 5, and 15 minutes per hour. These "Ln" values are typically used to

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<sup>1</sup> Federal Transit Administration, September 2018, *Transit Noise and Vibration Impact Assessment*, [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](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).

## NOISE

demonstrate compliance for stationary noise sources with a city's noise ordinance. Other values typically noted during a noise survey are the  $L_{\min}$  and  $L_{\max}$ . These values represent the minimum and maximum root-mean-square noise levels obtained over the measurement period.

Because community receptors are more sensitive to unwanted noise intrusion during the evening and at night, State law requires that, for planning purposes, an artificial dB increment be added to quiet time noise levels in a 24-hour noise descriptor called the Community Noise Equivalent Level (CNEL) or Day-Night Noise Level ( $L_{dn}$ ). As described above, the CNEL descriptor requires that an artificial increment of 5 dBA be added to the actual noise level for the hours from 7:00 p.m. to 10:00 p.m. and 10 dBA for the hours from 10:00 p.m. to 7:00 a.m. The  $L_{dn}$  descriptor uses the same methodology but only adds a 10 dBA increment between 10:00 p.m. and 7:00 a.m. Both descriptors give roughly the same 24-hour level, with the CNEL being only slightly more restrictive (i.e., higher).

### Human Response to Noise

The human response to environmental noise is subjective and varies considerably from individual to individual. Noise environments and consequences of human activities are usually well represented by median noise levels during the day or night or over a 24-hour period. Environmental noise levels are generally considered low when the CNEL or  $L_{dn}$  is below 60 dBA, moderate in the 60 to 70 dBA range, and high above 70 dBA. Examples of low daytime levels are isolated, natural settings with noise levels as low as 20 dBA and quiet, suburban, residential streets with noise levels around 40 dBA. Noise levels above 45 dBA at night can disrupt sleep. Examples of moderate-level noise environments are urban residential or semi-commercial areas (typically 55 to 60 dBA) and commercial locations (typically 60 dBA). People may consider louder environments adverse, but most will accept the higher levels associated with noisier urban residential or residential-commercial areas (60 to 75 dBA) or dense urban or industrial areas (65 to 80 dBA). Regarding increases in dBA, the following relationships should be noted in understanding this analysis:

- Except in carefully controlled laboratory experiments, a change of 1 dBA cannot be perceived by humans.
- Outside of the laboratory, a 3-dBA change is considered a just-perceivable difference.
- A change in level of at least 5 dBA is required before any noticeable change in community response is expected. An increase of 5 dBA is typically considered substantial.
- A 10-dBA change is subjectively heard as an approximate doubling in loudness and would almost certainly cause an adverse change in community response.

Table 4.11-1, *Typical Noise Levels*, shows typical noise levels from familiar noise sources.



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**TABLE 4.11-1 TYPICAL NOISE LEVELS**

Common Outdoor Activities	Noise Level (dBA)	Common Indoor Activities
Onset of physical discomfort	120+	
	110	Rock Band (near amplification system)
Jet Flyover at 1,000 feet		
	100	
Gas Lawn Mower at three feet		
	90	
Diesel Truck at 50 feet, at 50 mph		Food Blender at 3 feet
	80	Garbage Disposal at 3 feet
Noisy Urban Area, Daytime		
	70	Vacuum Cleaner at 10 feet
Commercial Area		Normal speech at 3 feet
Heavy Traffic at 300 feet	60	
		Large Business Office
Quiet Urban Daytime	50	Dishwasher Next Room
Quiet Urban Nighttime	40	Theater, Large Conference Room (background)
Quiet Suburban Nighttime		
	30	Library
Quiet Rural Nighttime		Bedroom at Night, Concert Hall (background)
	20	
		Broadcast/Recording Studio
	10	
Lowest Threshold of Human Hearing	0	Lowest Threshold of Human Hearing

Source: Caltrans 2013. *Technical Noise Supplement ("TeNS")*.

## Hearing Loss

While physical damage to the ear from an intense noise impulse is rare, a degradation of auditory acuity can occur even within a community noise environment. Hearing loss occurs mainly due to chronic exposure to excessive noise but may be due to a single event such as an explosion. Natural hearing loss associated with aging may also be accelerated from chronic exposure to loud noise.

The Occupational Safety and Health Administration (OSHA) has a noise exposure standard that is set at the noise threshold where hearing loss may occur from long-term exposures. The maximum allowable level is 90 dBA, averaged over eight hours. If the noise is above 90 dBA, the allowable exposure time is correspondingly shorter.

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### Annoyance

Attitude surveys are used for measuring the annoyance felt in a community for noises intruding into homes or affecting outdoor activity areas. In these surveys, it was determined that causes of annoyance include interference with speech, radio and television, house vibrations, and interference with sleep and rest. The  $L_{dn}$  as a measure of noise has been found to provide a valid correlation between noise level and the percentage of people annoyed. People have been asked to judge the annoyance caused by aircraft noise and ground transportation noise. There continues to be disagreement about the relative annoyance of these different sources.

### Psychological and Physiological Effects of Noise

Physical damage to human hearing begins at prolonged exposure to noise levels higher than 85 dBA. Exposure to high noise levels affects our entire system, with prolonged noise exposure in excess of 75 dBA increasing body tensions, and thereby affecting blood pressure, functions of the heart, and the nervous system. In comparison, extended periods of noise exposure above 90 dBA could result in permanent hearing damage. When the noise level reaches 120 dBA, a tickling sensation occurs in the human ear even with short-term exposure. This level of noise is called the threshold of feeling. As the sound reaches 140 dBA, the tickling sensation is replaced by the feeling of pain in the ear. This is called the threshold of pain.

### Noise Propagation and Attenuation

Noise can be generated by several sources, including mobile sources such as automobiles, trucks, and airplanes, as well as stationary sources such as construction sites, machinery, and industrial operations. Sound spreads (propagates) uniformly outward in a spherical pattern, and the sound level decreases (attenuates) at a rate of approximately 6.0 dB (dBA) for each doubling of distance from a stationary or point source.<sup>2</sup> Sound from a line source, such as a highway, propagates outward in a cylindrical pattern, often referred to as cylindrical spreading. Sound levels attenuate at a rate of approximately 3.0 dBA for each doubling of distance from a line source, such as a roadway, depending on ground surface characteristics.<sup>3</sup> No excess attenuation is assumed for hard surfaces like a parking lot or a body of water. Soft surfaces, such as soft dirt or grass, can absorb sound, so an excess ground-attenuation value of 1.5 dBA per doubling of distance is normally assumed. For line sources, an overall attenuation rate of 3.0 dB per doubling of distance is assumed.<sup>4</sup>

Noise levels may also be reduced by intervening structures; generally, a single row of detached buildings between the receptor and the noise source reduces the noise level by about 5 dBA,<sup>5</sup> while a solid wall or

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<sup>2</sup> Federal Highway Administration, June 2017, *Construction Noise Handbook*,  
[https://www.fhwa.dot.gov/Environment/noise/construction\\_noise/handbook/handbook02.cfm](https://www.fhwa.dot.gov/Environment/noise/construction_noise/handbook/handbook02.cfm).

<sup>3</sup> Federal Highway Administration, June 2017, *Construction Noise Handbook*,  
[https://www.fhwa.dot.gov/Environment/noise/construction\\_noise/handbook/handbook02.cfm](https://www.fhwa.dot.gov/Environment/noise/construction_noise/handbook/handbook02.cfm).

<sup>4</sup> Federal Highway Administration, February 2017, *Effective Noise Control During Nighttime Construction*,  
[http://ops.fhwa.dot.gov/wz/workshops/accessible/schexnayder\\_paper.htm](http://ops.fhwa.dot.gov/wz/workshops/accessible/schexnayder_paper.htm).

<sup>5</sup> Federal Highway Administration, 2006, *Roadway Construction Noise Model*.

berm generally reduces noise levels by 10 to 20 dBA.<sup>6</sup> However, noise barriers or enclosures specifically designed to reduce site-specific construction noise can provide a sound reduction of 35 dBA or greater.<sup>7</sup> To achieve the most potent noise-reducing effect, a noise enclosure/barrier must physically fit in the available space, must completely break the "line of sight" between the noise source and the receptors, must be free of degrading holes or gaps, and must not be flanked by nearby reflective surfaces. Noise barriers must be sizable enough to cover the entire noise source and extend lengthwise and vertically as far as feasibly possible to be most effective. The limiting factor for a noise barrier is not the component of noise transmitted through the material, but rather the amount of noise flanking around and over the barrier. In general, barriers contribute to decreasing noise levels only when the structure breaks the "line of sight" between the source and the receiver.

The manner in which older homes in California were constructed generally provides a reduction of exterior-to-interior noise levels of about 20 to 25 dBA with closed windows.<sup>8</sup> The exterior-to-interior reduction of newer residential units is generally 30 dBA or more.<sup>9</sup> Generally, in exterior noise environments ranging from 60 dBA CNEL to 65 dBA CNEL, interior noise levels can typically be maintained below 45 dBA, a typical residential interior noise standard, with the incorporation of an adequate forced air mechanical ventilation system in each residential building, and standard thermal-pane residential windows/doors with a minimum rating of Sound Transmission Class (STC) 28.<sup>10</sup> In exterior noise environments of 65 dBA CNEL or greater, a combination of forced-air mechanical ventilation and sound-rated construction methods is often required to meet the interior noise level limit. Attaining the necessary noise reduction from exterior to interior spaces is readily achievable in noise environments less than 75 dBA CNEL with proper wall construction techniques following California Building Code (CBC) methods, the selections of proper windows and doors, and the incorporation of forced-air mechanical ventilation systems.

### **4.11.1.3 VIBRATION FUNDAMENTALS**

Vibration is an oscillating motion in the earth. Like noise, vibration is transmitted in waves, but through the earth or solid objects. Unlike noise, vibration is typically of a frequency that is felt rather than heard. Sources of earthborne vibrations include natural phenomena (e.g., earthquakes, volcanic eruptions, sea waves, landslides) or humanmade causes (explosions, machinery, traffic, trains, construction equipment, etc.). Vibration sources may be continuous (e.g., factory machinery) or transient (e.g., explosions).

Ground vibration consists of rapidly fluctuating motions or waves with an average motion of zero. As with noise, vibration can be described by both its amplitude and frequency. Several different methods are typically used to quantify vibration amplitude. One is the peak particle velocity (PPV); another is the root mean square (RMS) velocity. PPV is generally accepted as the most appropriate descriptor for evaluating

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<sup>6</sup> Federal Highway Administration, February 2017, *Effective Noise Control During Nighttime Construction*, [http://ops.fhwa.dot.gov/wz/workshops/accessible/schexnayder\\_paper.htm](http://ops.fhwa.dot.gov/wz/workshops/accessible/schexnayder_paper.htm).

<sup>7</sup> Western Electro-Acoustic Laboratory, Inc. 2000, *Sound Transmission Sound Test Laboratory Report No. TL 96-186*.

<sup>8</sup> California Department of Transportation, 2002, *California Airport Land Use Planning Handbook*.

<sup>9</sup> Harris Miller, Miller & Hanson Inc., 2006, *Transit Noise and Vibration Impact Assessment*, Final Report.

<sup>10</sup> STC is an integer rating of how well a building partition attenuates airborne sound. In the U.S., it is widely used to rate interior partitions, ceilings, floors, doors, windows, and exterior wall configurations.

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the potential for building damage. For human response, however, an average vibration amplitude is more appropriate because it takes time for the human body to respond to the excitation (the human body responds to an average vibration amplitude, not a peak amplitude). Because the average particle velocity over time is zero, the RMS amplitude is typically used to assess human response. The RMS value is the average of the amplitude squared over time, typically a one-second period.<sup>11</sup>

Table 4.11-2, *Human Reaction and Damage to Buildings from Typical Vibration Levels*, displays the reactions of people and the effects on buildings produced by continuous vibration levels. The annoyance levels shown in the table should be interpreted with care since vibration may be found to be annoying at much lower levels than those listed, depending on the level of activity or the sensitivity of the individual. To sensitive individuals, vibrations approaching the threshold of perception can be annoying. Low-level vibrations frequently cause irritating secondary vibration, such as a slight rattling of windows, doors, or stacked dishes. The rattling sound can give rise to exaggerated vibration complaints, even though there is very little risk of actual structural damage. In high-noise environments, which are more prevalent where groundborne vibration approaches perceptible levels, this rattling phenomenon may also be produced by loud airborne environmental noise causing induced vibration in exterior doors and windows.

**TABLE 4.11-2 HUMAN REACTION AND DAMAGE TO BUILDINGS FROM TYPICAL VIBRATION LEVELS**

Peak Particle Velocity (in/sec)	Vibration Velocity Level (VdB)	Human Reaction	Effect on Buildings
0.006–0.019	64-74	Range of threshold of perception	Vibrations unlikely to cause damage of any type
0.08	87	Vibrations readily perceptible	Threshold at which there is a risk of architectural damage to extremely fragile historic buildings, ruins, ancient monuments
0.10	92	Level at which continuous vibrations may begin to annoy people, particularly those involved in vibration sensitive activities	Threshold at which there is a risk of architectural damage to fragile buildings. Virtually no risk of architectural damage to normal buildings
0.25	94	Vibrations may begin to annoy people in buildings	Threshold at which there is a risk of architectural damage to historic and some old buildings
0.3	96	Vibrations may begin to feel severe to people in buildings	Threshold at which there is a risk of architectural damage to older residential structures
0.5	103	Vibrations considered unpleasant by people subjected to continuous vibrations	Threshold at which there is a risk of architectural damage to new residential structures and Modern industrial/commercial buildings

Source: California Department of Transportation, April 2020, *Transportation and Construction Vibration Guidance Manual*, <https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/tcvgm-apr2020-a11y.pdf>. Federal Transit Administration, September 2018, *Transit Noise and Vibration Impact Assessment*, [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](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).

<sup>11</sup> Federal Transit Administration, September 2018, *Transit Noise and Vibration Impact Assessment*, [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](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).

#### **4.11.1.4 REGULATORY FRAMEWORK**

##### **Federal Regulations**

###### *Federal Highway Administration*

Proposed federal or federal-aid highway construction projects at a new location, or the physical alteration of an existing highway that significantly changes either the horizontal or vertical alignment, or increases the number of through-traffic lanes, requires an assessment of noise and consideration of noise abatement pursuant to 23 Code of Federal Regulations Part 772, *Procedures for Abatement of Highway Traffic Noise and Construction Noise*. The Federal Highway Administration (FHWA) has adopted noise abatement criteria for sensitive receivers such as picnic areas, recreation areas, playgrounds, active sport areas, parks, residences, motels, hotels, schools, churches, libraries, and hospitals when “worst-hour” noise levels approach or exceed 67 dBA  $L_{eq}$ . The California Department of Transportation (Caltrans) has further defined approaching the noise abatement criteria to be 1 dBA below the noise abatement criteria for noise sensitive receivers identified as Category B activity areas (e.g., 66 dBA  $L_{eq}$  is considered approaching the noise abatement criteria).<sup>12</sup>

###### *United States Environmental Protection Agency*

In addition to FHWA standards, the United States Environmental Protection Agency (USEPA) has identified the relationship between noise levels and human response. The USEPA has determined that over a 24-hour period, a  $L_{eq}$  of 70 dBA will result in some hearing loss. Interference with activity and annoyance will not occur if exterior levels are maintained at a  $L_{eq}$  of 55 dBA and interior levels at or below 45 dBA. These levels are relevant for planning and design and useful for informational purposes, but they are not land use planning criteria because they do not consider economic cost, technical feasibility, or the needs of the community; therefore, they are not mandated. The USEPA has set 55 dBA  $L_{dn}$  as the basic goal for exterior residential noise intrusion. However, other federal agencies, in consideration of their own program requirements and goals, as well as difficulty of achieving a goal of 55 dBA  $L_{dn}$ , have settled on the 65 dBA  $L_{dn}$  level as their standard. At 65 dBA  $L_{dn}$ , activity interference is kept to a minimum, and annoyance levels are still low. It is also a level that can realistically be achieved.

###### *United States Department of Housing and Urban Development*

The United States Department of Housing and Urban Development (HUD) has set the goal of 65 dBA  $L_{dn}$  as a desirable maximum exterior standard for residential units developed under HUD funding. (This level is also generally accepted in the State of California.) Although HUD does not specify acceptable interior noise levels, standard construction of residential dwellings typically provides 20 dBA or more of attenuation with the windows closed. Based on this premise, the interior  $L_{dn}$  should not exceed 45 dBA.

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<sup>12</sup> California Department of Transportation, April 2020, *Traffic Noise Analysis Protocol for New Highway Construction, Reconstruction, and Retrofit Barrier Projects*.

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### *Federal Interagency Committee on Noise*

The Federal Interagency Committee on Noise (FICON) thresholds of significance assist in the evaluation of increased traffic noise. The 2000 FICON findings provide guidance as to the significance of changes in ambient noise levels due to transportation noise sources. FICON recommendations are based on studies that relate aircraft and traffic noise levels to the percentage of persons highly annoyed by the noise. FICON's measure of substantial increase for transportation noise exposure is as follows:

- If the existing ambient noise levels at existing and future noise-sensitive land uses (e.g., residential, etc.) are less than 60 dBA CNEL and the project creates a readily perceptible 5 dBA CNEL or greater noise level increase and the resulting noise level would exceed acceptable exterior noise standards; or
- If the existing noise levels range from 60 to 65 dBA CNEL and the project creates a barely perceptible 3 dBA CNEL or greater noise level increase and the resulting noise level would exceed acceptable exterior noise standards; or
- If the existing noise levels already exceed 65 dBA CNEL and the project creates a community noise level increase of greater than 1.5 dBA CNEL.

### *National Institute of Occupational Safety and Health*

A division of the US Department of Health and Human Services, the National Institute for Occupational Safety and Health (NIOSH), has established a construction-related noise level threshold as identified in the Criteria for a Recommended Standard: Occupational Noise Exposure prepared in 1998. NIOSH identifies a noise level threshold based on the duration of exposure to the source. The NIOSH construction-related noise level threshold starts at 85 dBA for more than 8 hours per day; for every 3 dBA increase, the exposure time is cut in half. This reduction results in noise level thresholds of 88 dBA for more than 4 hours per day, 92 dBA for more than 1 hour per day, 96 dBA for more than 30 minutes per day, and up to 100 dBA for more than 15 minutes per day. The intention of these thresholds is to protect people from hearing losses resulting from occupational noise exposure.

### *Aircraft Noise Standards*

The Federal Aviation Administration (FAA) Advisory Circular Number 150 5020 2, *Noise Assessment Guidelines for New Helicopters*, recommends the use of a cumulative noise measure, the 24-hour equivalent sound level [ $L_{eq}(24)$ ], so that the relative contributions of the heliport and other sound sources within the community may be compared. The  $L_{eq}(24)$  is similar to the  $L_{dn}$  used in assessing the impacts of fixed wing aircraft. The helicopter  $L_{eq}(24)$  values are obtained by logarithmically adding the single-event level (SEL) values over a 24-hour period. FAA Public Law 96 193 also directs the FAA to identify land uses which are "normally compatible" with various levels of noise from aircraft operations. Because of the size and complexity of many major hub airports and their operations, Federal Aviation Regulation Part 150 identifies many land uses and their attendant noise levels. These recommended noise levels are included in Table 4.11-3, *Federal Aviation Administration Normally Compatible Community Sound Levels*.

**TABLE 4.11-3      FEDERAL AVIATION ADMINISTRATION NORMALLY COMPATIBLE COMMUNITY SOUND LEVELS**

Type of Area	$L_{eq}(24)$
Residential	50
Suburban	57

**NOISE****TABLE 4.11-3 FEDERAL AVIATION ADMINISTRATION NORMALLY COMPATIBLE COMMUNITY SOUND LEVELS**

Type of Area	$L_{eq}$ (24)
Urban	67
City	72
Commercial	72
Industrial	77

Notes: The  $L_{eq}$  is the Equivalent Continuous Noise Level, which describes sound levels that vary over time, resulting in a single decibel value that takes into account the total sound energy over the period of time of interest.

Source: Federal Aviation Administration (FAA) Advisory Circular Number 150 5020 2, 1983.

## State Regulations

### *General Plan Guidelines*

The State of California, through its General Plan Guidelines, describes how ambient noise should influence land use and development decisions and includes a table of normally acceptable, conditionally acceptable, normally unacceptable, and clearly unacceptable uses at different noise levels, expressed in CNEL. A conditionally acceptable designation implies new construction or development should be undertaken only after a detailed analysis of the noise reduction requirements for each land use and needed noise insulation features are incorporated in the design. By comparison, a normally acceptable designation indicates that standard construction can occur with no special noise reduction requirements. The General Plan Guidelines provide cities with recommended community noise and land use compatibility standards that can be adopted or modified at the local level based on conditions and types of land uses specific to that jurisdiction.

### *California Building Code*

The State of California provides a minimum standard for building design through Title 24, Part 2, of the California Code of Regulations (CCR), commonly referred to as the “California Building Code” (CBC). The CBC is updated every three years. It is generally adopted on a jurisdiction-by-jurisdiction basis, subject to further modification based on local conditions. The City of Cupertino regularly adopts each new CBC update under the Cupertino Municipal Code Title 16, *Building and Construction*.

### *Airport Noise Standards*

California Code of Regulations Title 21, Section 5012, establishes 65 dBA CNEL as the acceptable level of aircraft noise for persons living in the vicinity of airports. Noise-sensitive land uses are generally incompatible in locations where the aircraft exterior noise level exceeds 65 dBA CNEL, unless an aviation easement for aircraft noise has been acquired by the airport proprietor. Assembly Bill (AB) 2776 requires any person who intends to sell or lease residential properties in an airport influence area to disclose that fact to the person buying the property.

## NOISE

### Regional Regulations

#### *Santa Clara County Airport Land Use Commission*

The Santa Clara County Airport Land Use Commission was established to provide for appropriate development of areas surrounding public airports in Santa Clara County. The Commission is responsible for promoting land use compatibility around the County's airports in order to minimize the public's exposure to excessive noise and safety hazards, and to ensure that the approaches to airports are kept clear of structures that could pose an aviation safety hazard.

The Santa Clara County Airport Land Use Commission has prepared five comprehensive land use plans to cover all of the public airports in Santa Clara County, including the San Jose International Airport located approximately 4.2 miles northeast of the city's northern limit, the Moffet Federal Airfield located approximately 4.6 miles north of the city's northern limit, the Palo Alto Airport located approximately 9 miles northwest of the city, the Reid-Hillview Airport located approximately 9.6 miles east of the city's eastern limit, and the San Martin Airport, located approximately 27.8 miles south of the city. The Commission's five comprehensive land use plans identify noise compatibility zones in the form of airport noise contour graphics that are intended to prevent development that is incompatible with airport operations.

### Local Regulations

#### *General Plan 2040*

The Land Use and Community Design (LU) and Health and Safety (HS) Elements of General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider noise impacts. Applicable policies and strategies that would minimize potential adverse noise impacts are identified in Section 4.11.3, *Impact Discussion*.



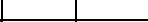


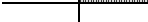


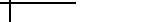



















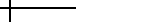

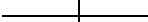












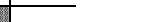






The most basic planning strategy to minimize adverse impacts on new land uses due to noise is to avoid designating certain land uses at locations in the city that would negatively affect noise-sensitive land uses. Uses such as schools, hospitals, childcare, senior care, congregate care, churches, and all types of residential uses should be located outside of any area anticipated to exceed acceptable noise levels as defined by the General Plan 2040 Figure HS-8, *Land Use Compatibility for Community Noise Environments*, or should be protected from noise through sound attenuation measures such as site and architectural design and sound walls.

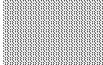
The City has adopted guidelines as a basis for planning decisions and these guidelines are shown in Table 4.11-4, *Land Use Compatibility for Community Noise Environments* (Figure HS-8 of the General Plan). In a case where the noise levels identified at a potential future development project site fall within levels considered normally acceptable, the project is considered compatible with the existing noise environment.

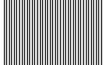


## NOISE


**TABLE 4.11-4 LAND USE COMPATIBILITY FOR COMMUNITY NOISE ENVIRONMENTS**


Land Uses	CNEL or Ldn (dBA)					
	55	60	65	70	75	80
Residential-Low Density Single Family, Duplex, Mobile Homes						
Residential – Multiple Family						
Transient Lodging: Hotels and Motels						
Schools, Libraries, Churches, Hospitals, Nursing Homes						
Auditoriums, Concert Halls, Amphitheaters						
Sports Arena, Outdoor Spectator Sports						
Playground, Neighborhood Parks						
Golf Courses, Riding Stables, Water Recreation, Cemeteries						
Office Buildings, Commercial, and Professional Centers						
Industrial, Manufacturing, Utilities, Agricultural						

 **Normally Acceptable:**  
Specified land use is satisfactory, based on the assumption that any buildings are of normal conventional construction, without any special noise insulation requirements.

 **Conditionally Acceptable:**  
New construction or development should be undertaken only after a detailed analysis of noise reduction requirements is made and needed noise insulation features included in design. Conventional construction, but with closed windows and fresh air supply systems or air conditioning, will normally suffice.

Source: Cupertino General Plan: *Community Vision 2015-2040*.

 **Normally Unacceptable:**  
New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of noise reduction requirements must be made and needed noise insulation features included in design.

 **Clearly Unacceptable:**  
New construction or development should generally not be undertaken.

**NOISE**

The Cupertino Municipal Code (CMC) includes various directives to minimize adverse noise impacts in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to noise are included in Title 10, *Public Peace, Safety and Morals*, and Title 17, *Environmental Regulations*, as follows:

- **Chapter 10.48, *Community Noise Control*.** This chapter includes provisions for the noise control program and provides procedures to implement and enforce the program. It also provides the City's maximum allowable noise levels, as shown in Table 4.11-5, *Daytime and Nighttime Maximum Noise Levels*, unless stated otherwise.

**TABLE 4.11-5 DAYTIME AND NIGHTTIME MAXIMUM NOISE LEVELS**

Land Use at Point of Origin	Maximum Noise Level at Complaint Site of Receiving Property	
	Nighttime	Daytime
Residential	50 dBA	60 dBA
Non-residential	55 dBA	65 dBA

Note: 'Nighttime' is defined as periods of weekdays from 8:00 p.m. to 12:00 midnight, and from midnight to 7:00 a.m., and periods on weekends from 6:00 p.m. to midnight and from midnight to 9:00 a.m. 'Daytime' is defined as the period from 7:00 a.m. to 8:00 p.m. on weekdays, and the period from 9:00 a.m. to 6:00 p.m. on weekends.

Source: City of Cupertino Municipal Code, Section 10.48.040

Chapter 10.48 of the Municipal Code also addresses construction noise, stating that grading, construction, and demolition activities are allowed to exceed the noise limits identified in Table 4.11-5 during daytime hours, provided that the equipment utilized has high-quality noise muffler and abatement devices installed and in good condition, and the activity meets one of the following two criteria:

1. No individual device produces a noise level more than 87 dBA at a distance of 25 feet (7.5 meters); or
2. The noise level on any nearby property does not exceed 80 dBA.

Section 10.48.045, *Interior Noise in Multiple-Family Dwellings*, provides additional requirements for noise from multiple-family units. This includes requirements for not producing noise levels exceeding 45 dBA five feet from any wall in any adjoining unit during the period between seven a.m. and ten p.m. or exceeding 40 dBA during hours from ten p.m. to seven a.m. the following day.

In addition to the requirement to achieve these two criteria; grading, street construction, demolition, or underground utility work within 750 feet of a residential area is prohibited within the city on Saturdays, Sundays, and holidays, and during the nighttime period unless it meets the nighttime standards identified in Table 4.11-5.

- **Chapter 17.04, *Standard Environmental Protection Requirements*.** The purpose of Chapter 17.04 of the Municipal Code is to identify standard environmental protection requirements that all construction projects must meet, including but not limited to environmental mitigation measures identified in any environmental documents required as part of a General Plan update. Chapter 17.04 includes specific requirements for noise and vibration.
- **Section 17.04.040(D)(1). *Vibration Technical Report Requirements*.** Section 17.04.040(D)(1) requires that the project applicant provide a vibration study to determine vibration levels due to

## NOISE

construction to the City, prior to approval of the project, when the following activities would occur within the screening distance to buildings or structures: pile driving within 100 feet, vibratory roller within 25 feet, or other heavy equipment (e.g., bulldozer) within 15 feet; and for historical structures: pile driving within 135 feet, vibratory roller within 40 feet, or other heavy equipment within 20 feet. If vibration levels due to construction activities exceeds 0.2 inches per second peak particle velocity (in/sec PPV) at nearby buildings or structures, or 0.12 in/sec PPV at historical structures, the project shall implement the following alternative methods/equipment:

- a. For pile driving, one of the following options shall be used: caisson drilling (drilled piles), vibratory pile drivers, oscillating or rotating pile installation methods, or jetting or partial jetting of piles into place using a water injection at the tip of the pile.
  - b. For paving, use a static roller in lieu of a vibratory roller.
  - c. For grading and earthwork activities, off-road equipment must be limited to 100 horsepower or less.
- **Section 17.04.050(G)(1). *Notice and Signage.*** Section 17.04.050(G)(1) provides the requirements for notice and signage for noise and vibration permits, as follows:
    - a. At least 10 days prior to the start of any demolition, ground disturbing, or construction activities, the project applicant must send notices of the planned activity by first class mail as follows:
      - i. For projects on sites that are more than 0.5 acres or four or more residential units the notices must be sent to off-site businesses and residents within 500 feet of the project site;
      - ii. For projects on sites between 0.25 to 0.5 acres, or two or three residential units (not including Accessory Dwelling Units) notices are required to be sent to off-site businesses and residents within 250 feet of the project site; or
      - iii. For projects on sites less than 0.25 acres or one residential unit, the notices must be sent to off-site businesses and residents within 100 feet of the project site.

The notification must 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 is required to provide the City with evidence of mailing of the notice, upon request.

- b. At least 10 days prior to the start of construction activities, a sign must 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 are required to investigate, take appropriate corrective action, and report the action to the City within three business days of receiving the complaint.
- **Section 17.04.050(G)(2). *Manage Noise During Construction.*** Projects must implement the following measures to reduce noise during construction and demolition activity:

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**NOISE**

- a. The project applicant and contractors are required to 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 Construction Noise Plan must demonstrate compliance with daytime and nighttime decibel limits pursuant to Chapter 10.48 (Community Noise Control). The details of the Construction Noise Control Plan are required to be included in the applicable construction documents and implemented by the on-site Construction Manager. Noise reduction measures selected and implemented must 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 is required to 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.
- **Section 17.04.050(G)(3). *Manage Vibrations During Construction.*** In the event pile driving is required, the project applicant is required to:
- 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 is required to 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 has to 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.

#### **4.11.1.5 EXISTING CONDITIONS**

Chapter 4.10, *Noise*, of the General Plan Environmental Impact Report (EIR), addresses noise impacts associated with buildout of the General Plan 2040 at a program level. The setting for noise is described in the General Plan EIR Section 4.10.1.3, *Existing Conditions*. Since the certification of the General Plan EIR additional noise surveys have been conducted with the following results.

The dominant noise sources in Cupertino include community noise from automobile traffic. Traffic noise levels depend primarily on the speed of traffic and volume of trucks. The primary source of noise from automobiles is high-frequency tire noise, which increases with speed. Trucks and older automobiles produce engine and exhaust noise, and trucks can also generate wind noise. Tire noise from cars is produced at ground level (i.e., where the tire contacts the road), whereas truck noise can be generated at a height of 10 to 15 feet above the road, depending on the height of the exhaust pipe(s) and engine. As a result, sound walls are not as effective at reducing truck noise unless they are very tall.

As previously described, the dominant noise source within Cupertino is vehicle traffic on its roadways, primarily Stevens Creek Boulevard, De Anza Boulevard, Homestead Road, and Foothill Boulevard. Existing roadway noise levels were calculated for roadway segments throughout Cupertino. This task was accomplished using the FHWA Highway Traffic Noise Prediction Model (FHWA-RD-77-108) (see Appendix D, *Noise*, of this Draft EA) and traffic volumes from Fehr & Peers Transportation Consultants (Appendix E, *Transportation*, of this EA). The model calculates the average noise level at specific locations based on traffic volumes, average speeds, roadway geometry, and site environmental conditions.

The average vehicle noise rates (energy rates) used in the FHWA model have been modified to reflect average vehicle noise rates identified for California by the California Department of Transportation (Caltrans). The Caltrans data shows that California automobile noise is 0.8 to 1.0 dBA higher than national levels and that medium and heavy truck noise is 0.3 to 3.0 dBA lower than national levels. The average daily noise levels along these roadway segments are presented in Table 4.11-6, *Baseline Roadway Noise Levels*.

**NOISE****TABLE 4.11-6 BASELINE ROADWAY NOISE LEVELS**

Roadway Segment	Volume (Average Daily Trips)	CNEL at 50 Feet	Distance to CNEL Contour (feet)			
			70 dBA	65 dBA	60 dBA	55 dBA
Foothill Boulevard						
Between Stevens Creek Boulevard and Alpine Drive	20,878	68.0	-	100 ft	316 ft	1,000 ft
Bubb Road						
Between Stevens Creek Boulevard and Results Way	13,339	63.5	-	-	112 ft	355 ft
Stelling Road						
Between Gardena Drive and Alves Drive	17,493	63.4	-	35 ft	109 ft	345 ft
Between Pepper Tree Lane and McClellan Road	14,710	63.2	-	-	104 ft	329 ft
Between McClellan Road and Orogrande Place	14,710	62.7	-	-	94 ft	297 ft
De Anza Boulevard						
Between Homestead Road and I-280	52,676	71.4	69 ft	218 ft	688 ft	2,176 ft
Between Mariani Avenue and Lazaneo Drive	42,455	72.0	80 ft	252 ft	797 ft	2,522 ft
Between Scofield Drive and Bollinger Road	43,216	70.5	-	179 ft	565 ft	1,785 ft
Between Rainbow Drive and Prospect Road	15,856	67.4	-	86 ft	273 ft	863 ft
Blaney Avenue						
Between Beekman Place and Wheaton Drive	6,294	60.3	-	-	54 ft	171 ft
Wolfe Road						
Between Homestead Road and I-280 Overpass	31,751	68.8	-	120 ft	380 ft	1,202 ft
Overpass at I-280	33,786	70.4	55 ft	173 ft	548 ft	1,732 ft
Between I-280 Overpass and Stevens Creek Boulevard	34,200	69.1	-	129 ft	409 ft	1,295 ft
Miller Avenue						
Between Stevens Creek Boulevard and Bollinger Road	17,379	65.0	-	51 ft	160 ft	506 ft
Tantau Avenue						
Between Homestead Road and I-280 Overpass	6,839	60.7	-	-	59 ft	185 ft
Lawrence Expressway						
Between Stevens Creek Boulevard and Mitty Way	47,363	73.2	105 ft	332 ft	1,048 ft	3,316 ft
Homestead Road						
Between Tantau Avenue and Wolfe Road	18,825	65.4	-	55 ft	175 ft	554 ft
Between Wolfe Road and Canary Drive	22,895	66.3	-	67 ft	213 ft	674 ft

## NOISE

**TABLE 4.11-6 BASELINE ROADWAY NOISE LEVELS**

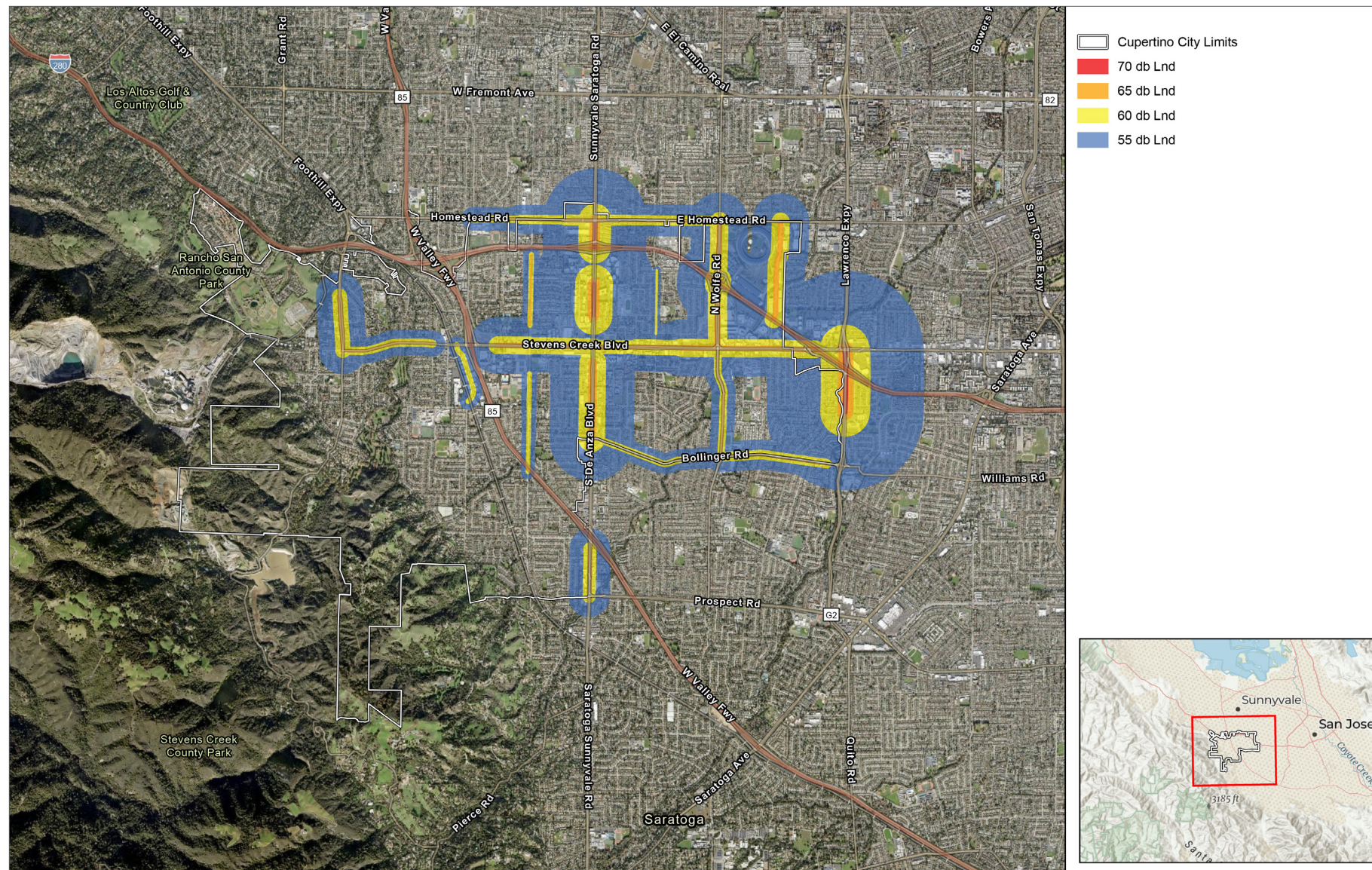
Roadway Segment	Volume (Average Daily Trips)	CNEL at 50 Feet	Distance to CNEL Contour (feet)			
			70 dBA	65 dBA	60 dBA	55 dBA
Between Canary Drive and Franco Court	24,876	66.7	-	73 ft	232 ft	733 ft
Between Franco Court and New Brunswick Avenue	20,933	65.9	-	62 ft	195 ft	616 ft
Between New Brunswick Avenue and Mary Avenue	16,990	65.0	-	50 ft	158 ft	500 ft
<b>Vallico Parkway</b>						
Between Tantau Avenue and Wolfe Road	2,917	56.1	-	-	-	64 ft
<b>Stevens Creek Boulevard</b>						
Between I-280 and Tantau Avenue	27,515	68.7	-	118 ft	373 ft	1,180 ft
Between Tantau and Portal Avenue	25,476	68.8	-	120 ft	378 ft	1,196 ft
Between Portal Avenue and Randy Lane	30,348	68.1	-	103 ft	326 ft	1,032 ft
Between Randy Lane and De Anza Boulevard	24,876	67.7	-	93 ft	293 ft	926 ft
Between De Anza Boulevard and Stelling Road	28,730	68.5	-	12 ft	355 ft	1,123 ft
Between Stelling Road and Mary Avenue	30,587	68.8	-	120 ft	378 ft	1,195 ft
Between Orange Avenue and Foothill Boulevard	20,523	65.4	-	54 ft	172 ft	543 ft
<b>Bollinger Road</b>						
Between Wunderlich Drive and Miller Avenue	21,523	66.0	-	63 ft	200 ft	634 ft
Between Miller Avenue and De Anza Boulevard	15,877	64.4	-	-	139 ft	440 ft

Source: Traffic noise levels were calculated using the FHWA Highway Noise Prediction Model in conjunction with the trip generation rate identified by Fehr & Peers. Refer to Appendix E, *Transportation*, of this EA for traffic noise modeling assumptions and results.

Existing noise contours for the freeways and major arterials in the city are presented on Figure 4.11-1, *Existing Traffic Noise Contours*. The noise contours shown on Figure 4.11-1 represent the predicted noise level based on roadway volumes, the percentage of trucks, speed, and other factors.



# NOISE



Sources: ECRP Consulting, Inc. ESRI, Maxar (2022), TIGER, Butte County.



Figure 4.11-1  
Existing Traffic Noise Contours



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### 4.11.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant noise impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
NOI-1. Generate a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or in other applicable local, state, or federal standard?	SU	LTS
NOI-2. Generate excessive groundborne vibration or groundborne noise levels?	LTS	LTS
NOI-3. For a project located within the vicinity of a private airstrip or an airport land use plan, or where such a plan has not been adopted, within two miles of a public airport or public use airport, expose people residing or working in the project area to excessive noise levels?	NI	NI
NOI-4. Result in a cumulatively considerable impact with respect to noise?	SU	LTS
<p>Note: In December 2018, amendments were made to Appendix G, <i>Environmental Checklist</i>, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. Revisions were made to each of the questions, and as such this EA only analyzes the current questions NOI-1 through NOI-4 shown here.</p> <p>Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable</p>		

### 4.11.3 IMPACT DISCUSSION

<b>NOI-1</b>	<b>Implementation of the proposed Modified Project would not result in generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local General Plan or noise ordinance, or in other applicable local, State, or federal standards.</b>
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#### Land Use Compatibility

By identifying noise-sensitive land uses and establishing compatibility guidelines for those land uses (Figure HS-8 of General Plan 2040 and Table 4.11-4 of this EA), noise considerations would influence the general distribution, location, and intensity of future land uses. The result is that effective land use planning and project design can alleviate the majority of noise problems.

The General Plan EIR found that future development under the Approved Project would be subject to the policies and regulations that would require new residential dwellings, hotels, motels, dormitories, and school classrooms to meet the interior noise level threshold of 45 dBA  $L_{dn}$ . As shown in Health and Safety Element Figure HS-8, *Land Use Noise Compatibility for Community Noise Environments*, of the General Plan 2040, community noise exposure compatible with residential land uses would be less than 60 dBA  $L_{dn}$  for low-density residential development and less than 65 dBA  $L_{dn}$  for multifamily residential development. Community noise exposure would be conditionally acceptable up to 70 dBA  $L_{dn}$  with noise reduction requirements and air conditioning systems for residential uses. Through adherence with the Land Use Noise Compatibility for Community Noise Environment guidelines, residential development would be prohibited in areas over 70 dBA  $L_{dn}$  unless future potential development demonstrates a 45 dBA  $L_{dn}$  noise indoor noise level. Specific land uses that would be prohibited adjacent to residential development

## NOISE

include auditoriums, concert halls, amphitheaters, sports areas, and outdoor spectator sports. This would apply to future development under the proposed Modified Project. Furthermore, maintenance and continued enforcement of the CMC, including the Noise Ordinance and Zoning Code, would work in tandem with and reinforce the policies in the General Plan, and any impact arising from violation of applicable local standards would therefore be less than significant.

The General Plan EIR also found that the Land Use and Community Design (LU) and Health and Safety (HS) Elements contain policies and strategies that require local planning and development decisions to consider policy direction for minimizing noise impacts on the community and establishes noise-control measures for construction and operation of land use projects. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize adverse noise impacts.

- **Policy LU-27.8. *Protection.*** Protect residential neighborhoods from noise, traffic, light and visually intrusive effects from more intense development with landscape buffers, site and building design, setbacks, and other appropriate measures. (General Plan EIR Policy 2-6)
- **Policy HS-8.1. *Land Use Decision Evaluation.*** Use the Land Use Compatibility for Community Noise Environments chart, the Future Noise Contour Map (see Figure D-1 in Appendix D [of the General Plan]) and the City Municipal Code to evaluate land use decisions. (General Plan EIR Policies 6-64, 6-65, and 6-66)
- **Strategy HS-8.2.2. *Noise Control Techniques.*** Require analysis and implementation of techniques to control the effects of noise from industrial equipment and processes for projects near low-intensity residential uses.
- **Strategy HS-8.2.3. *Sound Wall Requirements.*** Exercise discretion in requiring sound walls to be sure that all other measures of noise control have been explored and that the sound wall blends with the neighborhood. Sound walls should be designed and landscaped to fit into the environment.
- **Policy HS-8.4. *Freeway Design and Neighborhood Noise.*** Ensure that roads and development along Highway 85 and Interstate 280 are designed and improved in a way that minimizes neighborhood noise.

A basic planning strategy to minimize adverse impacts on new land uses due to noise is to avoid designating certain land uses at locations in the city that would negatively affect noise-sensitive land uses. Uses such as schools, hotels, hospitals, nursing homes, recreational uses, churches, libraries, cemeteries, and all types of residential uses must be outside of any area anticipated to exceed the noise levels as defined by the Health and Safety Element Figure HS-8, *Land Use Compatibility for Community Noise Environments*. These land uses must also be protected from noise through sound attenuation measures, such as site and architectural design and sound walls (Policy HS-8.1). Under both the Approved Project and proposed Modified Project, General Plan 2040 Figure HS-8, *Land Use Compatibility for Community Noise Environments*, would be used to determine whether the existing noise levels surrounding a potential future development are consistent with the noise limits in General Plan 2040 and to identify where a future proposed land use development project may need to incorporate noise mitigation features. In a case where the noise levels identified at a future potential development project site under both the Approved Project and proposed Modified Project are in levels identified on General Plan 2040

Figure HS-8, *Land Use Compatibility for Community Noise Environments*, the future potential development would be considered compatible with the existing noise environment.

The acoustical analyses potentially triggered by the proposed Modified Project would be similar to that under the Approved Project, and both would be required to conduct an existing conditions noise measurement and comply with CMC Chapter 17.04, *Standard Environmental Protection Requirements*. The location-specific existing noise measurements presented in the acoustical analyses would either demonstrate the noise/land use compatibility between a proposed land use and location or assist with the characterization of the ambient noise environment in a manner that allows for implementation of the appropriate noise attenuation measures necessary to protect the new noise-sensitive land use. Examples of noise attenuation measures include measures such as noise barriers, enhanced insulation, building orientation, or setbacks. Similar to the Approved Project, the need for noise attenuation measures in building construction and project design from any noise source and for all land uses would be determined on a project-by-project basis at the time of future potential development under the proposed Modified Project. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe noise/land use compatibility issues beyond what was evaluated in the General Plan EIR.

## Temporary Construction Noise

As described in the General Plan EIR, noise from construction equipment and various construction-related activities is frequently a cause of temporary or periodic increases in ambient noise levels. Therefore, by restricting hours of construction and directing the City to review project noise impacts as part of the planning process, noise impacts would be reduced.

Under both the Approved Project and proposed Modified Project, the primary source of temporary noise in the city would be demolition and construction activities associated with future potential development projects. Construction activities would involve both off-road construction equipment (e.g., excavators, dozers, cranes) and transport of workers and equipment to and from construction sites. Table 4.11-7, *Reference Construction Equipment Noise Levels (50 Feet from Source)*, shows typical noise levels produced by the types of off-road equipment that would likely be used during future construction in Cupertino.

Construction noise is a substantial source of temporary noise under the Approved Project and would continue to be so under the proposed Modified Project. Noise levels near individual construction sites associated with development and activities under the proposed Modified Project would not be substantially different from what they would be under the Approved Project. Since specific future projects in the city are unknown at this time, it is conservatively assumed that the construction areas associated with these future projects could be within 50 feet of sensitive land uses. As depicted in Table 4.11-7, *Reference Construction Equipment Noise Levels*, noise levels generated by individual pieces of construction equipment typically range from approximately 74 dBA to 101.3 dBA  $L_{max}$  at 50 feet and 67.7 dBA to 94.3 dBA  $L_{eq}$  at 50 feet. During each stage of construction, a different mix of equipment would operate, and noise levels would vary based on the amount of equipment on-site and the location of the activity. Construction noise levels drop off at a rate of about 6 dBA per doubling of distance between the noise source and the receptor. Intervening structures or terrain would result in lower noise levels at distant receivers.

**NOISE****TABLE 4.11-7 REFERENCE CONSTRUCTION EQUIPMENT NOISE LEVELS (50 FEET FROM SOURCE)**

Equipment	Typical Noise Level (dBA) at 50 Feet from Source	
	L <sub>max</sub>	L <sub>eq</sub>
Aerial Lift	74.7	67.7
Air Compressor	77.7	73.7
Backhoe	77.6	73.6
Blasting	94.0	73.0
Boring Jack (Power Unit)	83.0	80.0
Boring Jack (Horizontal)	82.0	76.0
Chain Saw	83.7	76.7
Compactor (Ground)	83.2	76.2
Concrete Mixer Truck	78.8	74.8
Concrete Mixer (Vibratory)	80.0	73.0
Concrete Pump Truck	81.4	79.4
Concrete Saw	89.9	82.6
Crane	80.6	72.6
Dozer	81.7	77.7
Drill Rig	84.4	77.4
Drill Rig Truck	79.1	72.2
Drum Mixer	80.0	77.0
Dump Truck	76.5	72.5
Excavator	80.7	76.7
Front End Loader	79.1	75.1
Generator	80.6	77.6
Grader	85.0	81.0
Hydraulic Break Ram	90.0	80.0
Impact Hammer/Hoe Ram (Mounted)	90.3	83.3
Jackhammer	88.9	81.9
Pavement Scarifier	89.5	82.5
Paver	77.2	74.2
Pile Driver (Impact)	101.3	94.3
Pile Driver (Vibratory)	100.8	93.8
Pneumatic Tools	85.2	82.2
Pumps	80.9	77.9
Rock Drill	81.0	74.0
Roller	80.0	73.0
Scraper	83.6	79.6
Tractor	84.0	80.0
Truck (Flat Bed)	74.3	70.3
Truck (Pick Up)	75.0	71.0
Vacuum Street Sweeper	81.6	71.6
Welder	74.0	70.0

Source: Federal Highway Administration, 2006, Roadway Construction Noise Model.

## NOISE

The General Plan EIR found that the Health and Safety (HS) Element contains policies and strategies that require local planning and development decisions to consider policy direction for minimizing noise impacts on the community and establishes noise-control measures for construction and operation of land use projects. Like the Approved Project, the following General Plan 2040 policy would serve to minimize temporary adverse noise impacts under the proposed Modified Project:

- **Policy HS-8.3. *Construction and Maintenance Activities.*** Regulate construction and maintenance activities. Establish and enforce reasonable allowable periods of the day, during weekdays weekends and holidays for construction activities. Require construction contractors to use the best available technology to minimize excessive noise and vibration from construction equipment such as pile drivers, jack hammers, and vibratory rollers. (General Plan EIR Policies 6-61 and 6-62).

Additionally, Chapters 10.48, *Community Noise Control*, and 17.04, *Standard Environmental Protection Requirements*, of the CMC identify standard noise requirements that all construction projects must meet. These requirements include limiting noise levels during daytime and nighttime hours, providing noise noticing and signage, and managing noise during construction through preparation and implementation of a Noise Control Plan.

Compliance with Chapters 10.48 and 17.04 of the CMC and General Plan 2040 Policy HS-8.3 would be required under both the Approved Project and proposed Modified Project to ensure that noise attenuation during construction of future potential development is provided to minimize temporary noise impacts associated with construction. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe temporary construction noise impacts beyond what was evaluated in the General Plan EIR.

### Traffic Noise

As described in the General Plan EIR, it is anticipated that projected increases in vehicle traffic would result in substantial permanent increases to the ambient noise levels throughout Cupertino. The ambient noise level increases shown in Table 4.10-10, *Increases to Ambient Noise Levels Along Major Roadway Segments- Proposed Project*, of the General Plan EIR demonstrate that there would be multiple major road segments that would experience substantial permanent increases in ambient noise levels, including at sensitive land uses under the Approved Project.

Future potential development under both the Approved Project and proposed Modified Project are expected to affect the community noise environment by generating additional traffic. Transportation-source noise levels were calculated for this EA using the FHWA Highway Noise Prediction Model (FHWA-RD-77-108) with traffic counts provided by Fehr & Peers Transportation Consultants (as shown in Appendix E, *Transportation*, of this EA). The model calculates the average noise level at specific locations based on traffic volumes, average speeds, roadway geometry, and site environmental conditions. The average vehicle noise rates (energy rates) used in the FHWA model have been modified to reflect average vehicle noise rates identified for California by Caltrans. The Caltrans data shows that California automobile noise is 0.8 to 1.0 dBA higher than national levels and that medium and heavy truck noise is 0.3 to 3.0 dBA lower than national levels.

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As previously described, a 5 dBA change is required before any noticeable change in community response is expected. Based on this fact, a significant increase in traffic noise is considered to be an increase in the existing ambient noise environment of at least 5 dBA CNEL. Future traffic noise contours are mapped on Figure 4.11-2, *Future Traffic Noise Contours*. Table 4.11-8, *Future (Modified Project Buildout) Roadway Noise Levels*, shows the calculated off-site roadway noise levels under Approved Project traffic levels compared to future buildout under the proposed Modified Project. As reflected in Table 4.11-8, this analysis included a large sample of local roadway segments but did not include all roadways in Cupertino. The analyzed segments were selected to illustrate potential changes in roadway noise throughout Cupertino. Therefore, additional roadways segments in Cupertino may experience increased traffic noise.

**TABLE 4.11-8 FUTURE (MODIFIED PROJECT BUILDOUT) ROADWAY NOISE LEVELS**

Roadway Segment	CNEL at 50 Feet		Difference	Significant Increase?	Distance to CNEL Contour – General Plan Buildout (feet)			
	Approved Project	Proposed Modified Project			70 dBA	65 dBA	60 dBA	55 dBA
Foothill Boulevard								
Between Stevens Creek Boulevard and Alpine Drive	68.0	68.0	0	No	-	100 ft	318 ft	1,005 ft
Bubb Road								
Between Stevens Creek Boulevard and Results Way	63.5	63.6	+0.1	No	-	-	114 ft	359 ft
Stelling Road								
Between Gardena Drive and Alves Drive	63.4	63.4	0	No	-	35 ft	110 ft	347 ft
Between Pepper Tree Lane and McClellan Road	63.2	63.2	0	No	-	-	104 ft	330 ft
Between McClellan Road and Orogrande Place	62.7	62.8	+0.1	No	-	-	94 ft	298 ft
De Anza Boulevard								
Between Homestead Road and I-280	71.4	71.5	+0.1	No	71 ft	224 ft	707 ft	2,236 ft
Between Mariani Avenue and Lazaneo Drive	72.0	72.2	+0.2	No	82 ft	260 ft	821 ft	2,597 ft
Between Scofield Drive and Bollinger Road	70.5	70.6	+0.1		-	182 ft	576 ft	1,822 ft
Between Rainbow Drive and Prospect Road	67.4	67.4	0	No	-	87 ft	274 ft	867 ft
Blaney Avenue								
Between Beekman Place and Wheaton Drive	60.3	60.4	+0.1		-	-	54 ft	172 ft
Wolfe Road								
Between Homestead Road and I-280 Overpass	68.8	68.8	0	No	-	121 ft	382 ft	1,208 ft
Overpass at I-280	70.4	70.4	0	No	55 ft	174 ft	551 ft	1,742 ft
Between I-280 Overpass and Stevens Creek Boulevard	69.1	69.2	+0.1	No	-	131 ft	413 ft	1,306 ft

## NOISE

**TABLE 4.11-8 FUTURE (MODIFIED PROJECT BUILDOUT) ROADWAY NOISE LEVELS**

Roadway Segment	CNEL at 50 Feet		Difference	Significant Increase?	Distance to CNEL Contour – General Plan Buildout (feet)			
	Approved Project	Proposed Modified Project			70 dBA	65 dBA	60 dBA	55 dBA
Miller Avenue								
Between Stevens Creek Boulevard and Bollinger Road	65.0	65.1	+0.1	No	-	51 ft	161 ft	508 ft
Tantau Avenue								
Between Homestead Road and I-280 Overpass	60.7	60.7	0	No	-	-	59 ft	186 ft
Lawrence Expressway								
Between Stevens Creek Boulevard and Mitty Way	73.2	73.2	0	No	105 ft	333 ft	1,054 ft	3,332 ft
Homestead Road								
Between Tantau Avenue and Wolfe Road	65.4	65.6	+0.2		-	57 ft	180 ft	568 ft
Between Wolfe Road and Canary Drive	66.3	66.4	+0.1	No	-	70 ft	220 ft	697 ft
Between Canary Drive and Franco Court	66.7	66.8	+0.1	No	-	76 ft	240 ft	758 ft
Between Franco Court and New Brunswick Avenue	65.9	66.0	+0.1	No	-	64 ft	201 ft	636 ft
Between New Brunswick Avenue and Mary Avenue	65.0	65.1	+0.1	No	-	51 ft	161 ft	509 ft
Vallco Parkway								
Between Tantau Avenue and Wolfe Road	56.1	57.5	+1.4			-	-	88 ft
Stevens Creek Boulevard								
Between I-280 and Tantau Avenue	68.7	68.9	+0.2	No	-	122 ft	385 ft	1,218 ft
Between Tantau and Portal Avenue	68.8	69.0	+0.2	No	-	124 ft	393 ft	1,242 ft
Between Portal Avenue and Randy Lane	68.1	68.3	+0.2	No	-	106 ft	335 ft	1,060 ft
Between Randy Lane and De Anza Boulevard	67.7	67.8	+0.1			96 ft	303 ft	957 ft
Between De Anza Boulevard and Stelling Road	68.5	68.7	+0.2	No	-	116 ft	367 ft	1,162 ft
Between Stelling Road and Mary Avenue	68.8	68.9	+0.1	No	-	122 ft	386 ft	1,222 ft
Between Orange Avenue and Foothill Boulevard	65.4	65.4	0	No	-	55 ft	173 ft	548 ft
Bollinger Road								
Between Wunderlich Drive and Miller Avenue	66.0	66.1	+0.1	No	-	64 ft	201 ft	637 ft

**NOISE****TABLE 4.11-8 FUTURE (MODIFIED PROJECT BUILDOUT) ROADWAY NOISE LEVELS**

Roadway Segment	CNEL at 50 Feet		Difference	Significant Increase?	Distance to CNEL Contour – General Plan Buildout (feet)			
	Approved Project	Proposed Modified Project			70 dBA	65 dBA	60 dBA	55 dBA
Between Miller Avenue and De Anza Boulevard	64.4	64.5	+0.1	No	-	44 ft	140 ft	444 ft

Source: Traffic noise levels were calculated using the FHWA Highway Noise Prediction Model in conjunction with the trip generation rate identified by Fehr & Peers. Refer to Appendix E, *Transportation*, of this EA for traffic noise modeling assumptions and results.

As shown in Table 4.11-8, no city roadway segment would experience an increase of more than 5.0 dBA CNEL over the Approved Project compared to buildout anticipated under the proposed Modified Project.

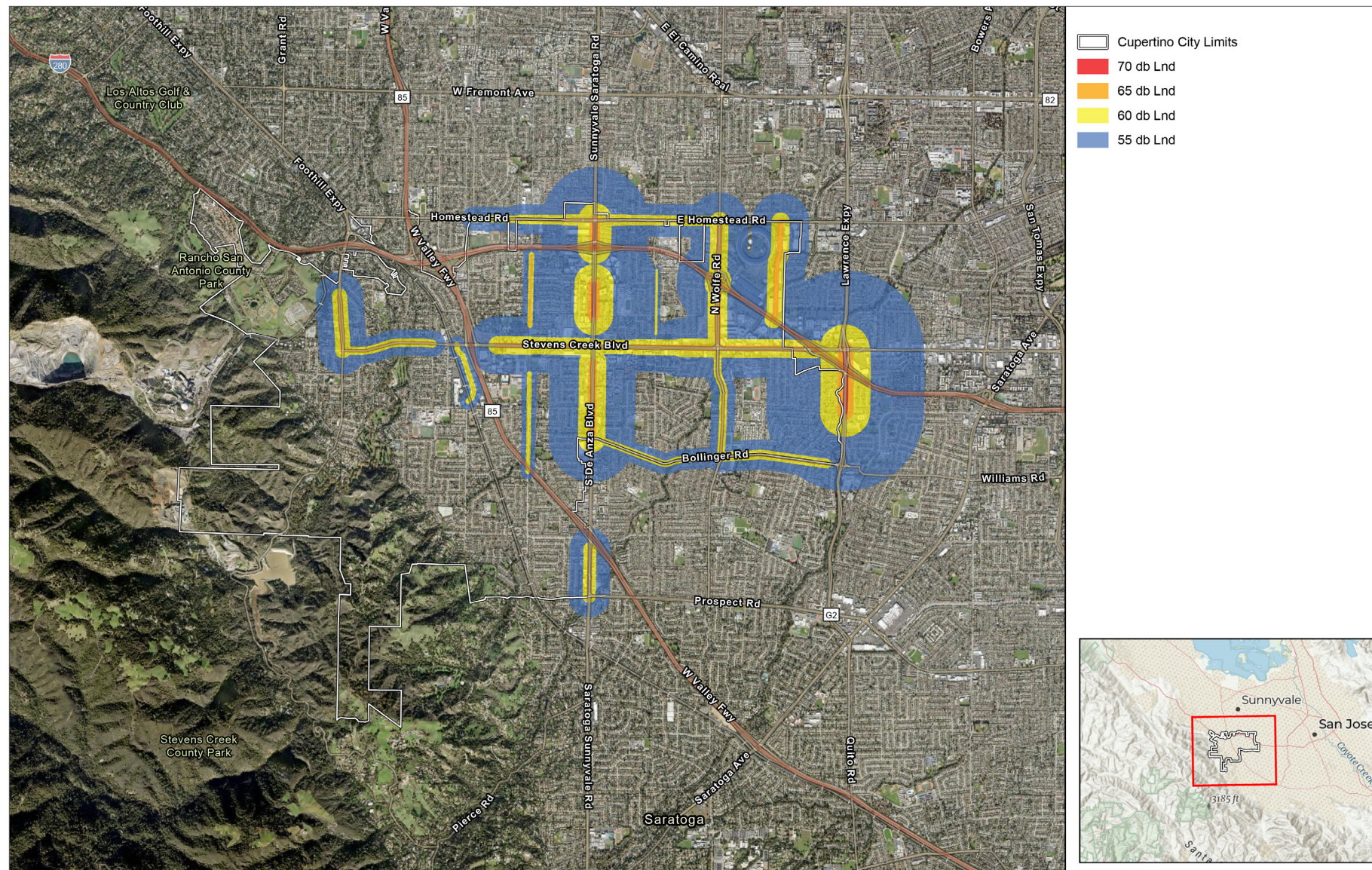
The General Plan EIR also found that the Health and Safety (HS) Element contains policies and strategies that require local planning and development decisions to consider policy direction for minimizing noise impacts on the community and establishes noise-control measures for construction and operation of land use projects. Like the Approved Project, the following existing General Plan 2040 policies and strategy, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize adverse noise impacts.

- **Policy HS-8.4. Freeway Design and Neighborhood Noise.** Ensure that roads and development along Highway 85 and Interstate 280 are designed and improved in a way that minimizes neighborhood noise.
- **Policy HS-8.5. Neighborhoods.** Review residents' needs for convenience and safety and prioritize them over the convenient movement of commute or through traffic where practical.
- **Policy HS-8.6. Traffic Calming Solutions to Street Noise.** Evaluate solutions to discourage through traffic in neighborhoods through enhanced paving and modified street design. (General Plan EIR Policy 6-53)
- **Strategy HS-8.6.1. Local Improvement.** Modify street design to minimize noise impact to neighbors.
- **Policy HS- 8.7. Reduction of Noise from Trucking Operations.** Work to carry out noise mitigation measures to diminish noise along Foothill and Stevens Creek Boulevards from the quarry and cement plant trucking operations. These measures include regulation of truck speed, the volume of truck activity, and trucking activity hours to avoid late evening and early morning. Alternatives to truck transport, specifically rail, are strongly encouraged when feasible. (General Plan EIR Policies 6-54, 6-55, and 6-56)

All future potential projects subject to discretionary review under the proposed Modified Project would be required to be evaluated for noise compatibility, including traffic noise compatibility, similar to the Approved Project. The acoustical analyses potentially triggered by Health and Safety Element policy provisions would include refined evaluation of noise/land use compatibility to more precisely identify the existing ambient noise environment affecting the subject site, typically achieved through conducting baseline noise measurements with a sound level meter, though this can also be achieved in many areas of the city by referring to the General Plan 2040 noise contours (Figures 4.11-1 and 4.11-2 of this EA) and/or Table 4.11-6 or Table 4.11-8 of this EA.



# NOISE



Sources: ECRP Consulting, Inc. ESRI, Maxar (2022), TIGER, Butte County.

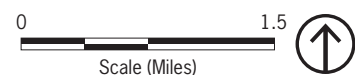


Figure 4.11-2  
Future Traffic Noise Contours



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**NOISE**

As shown in Table 4.11-8, no city roadway segment would experience an increase of more than 5.0 dBA CNEL over the Approved Project when compared with buildout anticipated under the proposed Modified Project. With implementation of General Plan 2040 policies identified, future development of the proposed Modified Project would not result in new or more severe traffic noise impacts beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>NOI-2</b>	<b>Implementation of the proposed Modified Project would not result in the generation of excessive groundborne vibration or groundborne noise levels.</b>
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The General Plan EIR found that without specific development details of projects under the Approved Project, it is not possible to quantify potential construction vibration impacts. Development under both the Approved Project and proposed Modified Project could result in long-term, operations-related vibration impacts to sensitive receptors, if sensitive land uses such as residential, educational facilities, hospitals, or places of worship were to be in close proximity to industrial land uses that could have equipment with the potential to generate significant vibration levels. Despite the potential for vibration impacts from the juxtaposition of sensitive land uses and land uses with the potential to generate vibration, appropriate setbacks, buffers, use restrictions, and/or other measures can largely eliminate these impacts.

Future potential development activities under the proposed Modified Project would occur in a variety of locations throughout the city and may require the use of off-road equipment known to generate some degree of vibration, similar to the Approved Project. Construction activities that generate excessive vibration, such as blasting, would not be expected to occur from future potential development due to the urbanized nature of Cupertino and small number of undeveloped properties, which reduces the likelihood of blasting during construction.

Receptors sensitive to vibration include structures (especially older masonry structures), people (especially residents, the elderly, and the sick), and equipment (e.g., magnetic resonance imaging equipment, high-resolution lithographic, optical, and electron microscopes). Regarding the potential effects of groundborne vibration to people, except for long-term occupational exposure, vibration levels rarely affect human health. Since most construction equipment is moved around a construction site, depending on the specific construction activity, the distance between the equipment and adjacent sensitive receptors varies. Since specific development projects under the proposed Modified Project are unknown, it is conservatively assumed that construction sites could be within 50 feet of sensitive land uses. The primary vibration-generating activities would occur during grading, placement of underground utilities, and construction of foundations. Table 4.11-9, *Representative Vibration Source Levels for Construction Equipment*, shows the typical vibration levels produced by construction equipment at 50 feet.

**NOISE****TABLE 4.11-9 REPRESENTATIVE VIBRATION SOURCE LEVELS FOR CONSTRUCTION EQUIPMENT**

Equipment	Peak Particle Velocity at 50 Feet (inches per second)	Vibration Level Vibration Velocity at 50 Feet (VdB)
Pile Driver (Impact)	0.225	95
Pile Driver (Sonic)	0.059	84
Vibratory Roller	0.073	85
Hoe Ram	0.031	78
Large Bulldozer	0.031	78
Caisson Drilling	0.031	78
Loaded Trucks	0.026	77
Jackhammer	0.012	70
Small Bulldozer	0.001	49

Source: California Department of Transportation, April 2020, *Transportation and Construction Vibration Guidance Manual*, <https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/tcvgm-apr2020-a11y.pdf>, accessed April 11, 2023. Federal Transit Administration, September 2018, *Transit Noise and Vibration Impact Assessment*, [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](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).

As identified in Table 4.11-2, *Human Reaction and Damage to Buildings from Typical Vibration Levels*, the threshold at which there is a risk of architectural damage to historic and some old buildings is 0.25 PPV (in/sec). The threshold at which there is a risk of architectural damage to older residential structures is 0.3 PPV (in/sec). This is also the threshold at which vibrations may begin to feel severe to people in buildings. The threshold at which there is a risk of architectural damage to new residential structures and modern industrial/commercial buildings is 0.5 PPV (in/sec).

The General Plan EIR found that the Land Use and Community Design (LU) and Health and Safety (HS) Elements contain policies that require local planning and development decisions to consider policy direction for minimizing excessive groundborne vibration or groundborne noise levels. Like the Approved Project, the following General Plan 2040 policies would also serve to minimize adverse vibration impacts under the proposed Modified Project.

- **Policy LU-27.8. Protection.** Protect residential neighborhoods from noise, traffic, light and visually intrusive effects from more intense development with landscape buffers, site and building design, setbacks, and other appropriate measures. (General Plan EIR Policy 2-6)
- **Policy HS-8.1. Land Use Decision Evaluation.** Use the Land Use Compatibility for Community Noise Environments chart, the Future Noise Contour Map (see Figure D-1 in Appendix D [of the General Plan]) and the City Municipal Code to evaluate land use decisions. (General Plan EIR Policy 6-49)

Additionally, Chapter 17.04 of the CMC identifies standard vibration protection requirements that all construction projects must meet. Section 17.04.040(D)(1), *Vibration Technical Report Requirements*, requires that the project applicant provide the City with a vibration study to determine vibration levels from construction prior to approval of the project, when the following activities would occur within the screening distance to buildings or structures: pile driving within 100 feet, vibratory roller within 25 feet, or other heavy equipment (e.g., bulldozer) within 15 feet; and for historical structures: pile driving within 135

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**NOISE**

feet, vibratory roller within 40 feet, or other heavy equipment within 20 feet. If vibration levels due to construction activities exceed 0.2 in/sec PPV at nearby buildings or structures, or 0.12 in/sec PPV at historical structures, the project must implement alternative methods/equipment, as described in detail under Section 4.11.1.3, *Vibration Fundamentals*, of this EA. Furthermore, CMC Section 17.04.050(G)(3), *Manage Vibrations During Construction*, contains vibration-limiting performance standards that must be implemented in the event pile driving is required.

Adherence to the vibration-reducing measures in the CMC would ensure that vibration reduction is provided to minimize the temporary impact under the proposed Modified Project. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe vibration-related impacts beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>NOI-3</b>	<b>For a project in the vicinity of a private airstrip or an airport land use plan, or where such a plan has not been adopted, within two miles of a public airport or public use airport, implementation of the proposed Modified Project would not expose people residing or working in the project area to excessive noise levels.</b>
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The General Plan EIR found that the Approved Project was not in the vicinity of a private airstrip or an airport land use plan, or where such a plan has not been adopted, within two miles of a public airport or public use airport and thus would have no impact.

Cupertino receives some aircraft noise from facilities in the region, including San Jose International Airport, Moffett Federal Airfield, and Palo Alto Airport. As previously described, the Santa Clara County Airport Land Use Commission has prepared five comprehensive land use plans to cover all of the public airports in Santa Clara County. The Santa Clara County Airport Land Use Commission is responsible for promoting land use compatibility around the county's airports to minimize public exposure to excessive noise and safety hazards, and the Commission's comprehensive land use plans identify noise compatibility zones in the form of airport noise contour graphics that are intended to prevent development that is incompatible with airport operations. The Cupertino city limit does not fall within the identified noise contours of any airport. Therefore, the proposed Modified Project would not result in new or more airport or aircraft noise impacts beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** No impact.

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<b>NOI-4</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to noise.</b>
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The General Plan EIR addressed cumulative impacts regarding noise, as well as groundborne noise and vibration within the analysis of the Approved Project. Any measurement of sound or ambient noise, whether for the purpose of evaluating land use compatibility, establishing compliance with exterior and

interior noise standards, or determining point-source violations of a noise ordinance, necessarily would incorporate noise from all other nearby perceptible sources. As described in General Plan EIR Impact Discussion NOI-3, transportation-related noise impacts were found to be significant and unavoidable.

## **Cumulative Construction Noise and Vibration**

Construction noise impacts primarily affect the areas immediately adjacent to the construction site. Development that could occur with implementation of the proposed Modified Project and cumulative development in adjacent cities could be constructed contemporaneously and could result in construction noise levels higher than those of development of under the proposed Modified Project alone at some receptor locations. As described previously, noise levels generated by individual pieces of construction equipment typically range from approximately 74 dBA to 101.3 dBA  $L_{max}$  at 50 feet and 67.7 dBA to 94.3 dBA  $L_{eq}$  at 50 feet. The City of Cupertino has established and enforces noise standards for construction activity. Therefore, while the potential exists for construction projects under the proposed Modified Project and other foreseeable development to occur simultaneously and in proximity to one another, construction equipment operations would operate within the constraints of the CMC and General Plan Health and Safety Element, similar to the Approved Project.

The potential for a cumulative vibration-related damage impact is minimal as vibration impacts are based on instantaneous PPV levels. Thus, worst-case groundborne vibration levels from construction are determined by whichever individual piece of equipment generates the highest vibration levels. Unlike the analysis for average noise levels, in which noise levels of multiple pieces of equipment can be combined to generate a maximum combined noise level, instantaneous peak vibration levels do not combine in this manner. Vibration from multiple construction sites, even if they are close to one another, would not combine to raise the maximum PPV. Therefore, vibration impacts resulting from construction of future development under both the Approved Project and proposed Modified Project would not combine with vibration effects from cumulative projects in the vicinity. Therefore, the proposed Modified Project would not result in new or more cumulative construction noise and vibration impacts beyond what was evaluated in the General Plan EIR.

## **Cumulative Traffic Noise**

Cumulative traffic noise levels throughout Cupertino were modeled based on the traffic volumes identified by Fehr & Peers Transportation Consultants (see Appendix E, *Transportation*, of this EA) to determine the noise levels along Cupertino roadways under cumulative conditions. Table 4.11-10, *Cumulative Roadway Noise Levels*, shows the calculated off-site roadway noise levels under cumulative conditions under the Approved Project (Cumulative Plus Approved Project) compared to cumulative conditions plus future buildout of the Modified Project (Cumulative Plus Proposed Modified Project). As previously described, a 5 dBA change is required before any noticeable change in community response is expected. Based on this fact, a significant increase in traffic noise is an increase in the existing ambient noise environment of at least 5 dBA CNEL.

**NOISE****TABLE 4.11-10 CUMULATIVE ROADWAY NOISE LEVELS**

Roadway Segment	CNEL at 50 Feet		Change	Significant Increase?	Distance to CNEL Contour – General Plan Buildout (feet)			
	Cumulative Plus Approved Project	Cumulative Plus Proposed Modified Project			70 dBA	65 dBA	60 dBA	55 dBA
Foothill Boulevard								
Between Stevens Creek Boulevard and Alpine Drive	68.4	68.4	0	No	-	11 ft	350 ft	1,105 ft
Bubb Road								
Between Stevens Creek Boulevard and Results Way	63.9	64.0	+0.1	No	-	40 ft	125 ft	397 ft
Stelling Road								
Between Gardena Drive and Alves Drive	63.8	63.8	0	No	-	38 ft	121 ft	383 ft
Between Pepper Tree Lane and McClellan Road	63.6	63.6	0	No	-	-	115 ft	363 ft
Between McClellan Road and Orogrande Place	63.2	63.2	0	No	-	-	104 ft	328 ft
De Anza Boulevard								
Between Homestead Road and I-280	71.8	71.9	+0.1	No	77 ft	243 ft	770 ft	2,434 ft
Between Mariani Avenue and Lazaneo Drive	72.4	72.5	+0.1	No	89 ft	282 ft	891 ft	2,816 ft
Between Scofield Drive and Bollinger Road	70.9	71.1	+0.2	No	-	202 ft	638 ft	2,018 ft
Between Rainbow Drive and Prospect Road	68.4	68.4	0	No	-	110 ft	347 ft	1,096 ft
Blaney Avenue								
Between Beekman Place and Wheaton Drive	59.4	59.4	0	No	-	-	43 ft	137 ft
Wolfe Road								
Between Homestead Road and I-280 Overpass	68.3	68.3	0	No	-	107 ft	339 ft	1,073 ft
Overpass at I-280	71.3	71.3	0	No	68 ft	215 ft	681 ft	2,153 ft
Between I-280 Overpass and Stevens Creek Boulevard	70.7	70.7	0	No	59 ft	187 ft	591 ft	1,867 ft
Miller Avenue								
Between Stevens Creek Boulevard and Bollinger Road	65.5	65.5	0	No	-	56 ft	177 ft	559 ft

## NOISE

**TABLE 4.11-10 CUMULATIVE ROADWAY NOISE LEVELS**

Roadway Segment	CNEL at 50 Feet		Change	Significant Increase?	Distance to CNEL Contour – General Plan Buildout (feet)			
	Cumulative Plus Approved Project	Cumulative Plus Proposed Modified Project			70 dBA	65 dBA	60 dBA	55 dBA
Tantau Avenue								
Between Homestead Road and I-280 Overpass	61.1	61.1	0	No	-	-	65 ft	205 ft
Lawrence Expressway								
Between Stevens Creek Boulevard and Mitty Way	74.0	74.0	0	No	126 ft	398 ft	1,258 ft	3,977 ft
Homestead Road								
Between Tantau Avenue and Wolfe Road	66.4	66.4	0	No	-	70 ft	221 ft	697 ft
Between Wolfe Road and Canary Drive	66.8	66.9	+0.1	No	-	77 ft	243 ft	769 ft
Between Canary Drive and Franco Court	67.1	67.2	+0.1	No	-	82 ft	261 ft	825 ft
Between Franco Court and New Brunswick Avenue	66.3	66.4	+0.1	No	-	70 ft	221 ft	698 ft
Between New Brunswick Avenue and Mary Avenue	65.4	65.5	+0.1	No	-	56 ft	176 ft	555 ft
Vallico Parkway								
Between Tantau Avenue and Wolfe Road	57.9	56.5	-1.4	No	-	-	-	71 ft
Stevens Creek Boulevard								
Between I-280 and Tantau Avenue	69.9	70.0	+0.1	No	-	157 ft	495 ft	1567 ft
Between Tantau and Portal Avenue	70.3	70.3	0	No	-	170 ft	539 ft	1704 ft
Between Portal Avenue and Randy Lane	68.9	69.0	+0.1	No	-	127 ft	401 ft	1268 ft
Between Randy Lane and De Anza Boulevard	68.6	68.7	+0.1	No	-	118 ft	375 ft	1185 ft
Between De Anza Boulevard and Stelling Road	69.0	69.0	0	No	-	126 ft	399 ft	1263 ft
Between Stelling Road and Mary Avenue	69.4	69.5	+0.1	No	-	142 ft	449 ft	1420 ft
Between Orange Avenue and Foothill Boulevard	65.8	65.8	0	No	-	60 ft	191 ft	603 ft

**NOISE****TABLE 4.11-10 CUMULATIVE ROADWAY NOISE LEVELS**

Roadway Segment	CNEL at 50 Feet		Change	Significant Increase?	Distance to CNEL Contour – General Plan Buildout (feet)			
	Cumulative Plus Approved Project	Cumulative Plus Proposed Modified Project			70 dBA	65 dBA	60 dBA	55 dBA
Bollinger Road								
Between Wunderlich Drive and Miller Avenue	66.4	66.5	0	No	-	70 ft	222 ft	701 ft
Between Miller Avenue and De Anza Boulevard	64.9	64.9	0	No	-	49 ft	154 ft	488 ft

Source: Traffic noise levels were calculated using the FHWA Highway Noise Prediction Model in conjunction with the trip generation rate identified by Fehr & Peers. Refer to Appendix E, *Transportation*, of this EA for traffic noise modeling assumptions and results.

As shown in Table 4.11-10, under cumulative conditions, no city roadway segment would experience an increase of more than 5.0 dBA CNEL when comparing the Approved Project to the proposed Modified Project cumulative conditions. Therefore, the proposed Modified Project would not result in new or more cumulative traffic noise impacts beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.



## POPULATION AND HOUSING

### 4.12 POPULATION AND HOUSING

This chapter describes the potential impacts on population and housing associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework, existing conditions, identifies criteria used to determine impact significance, provides an analysis of the potential population and housing impacts, and identifies General Plan 2040 policies and/or strategies that could minimize any potentially significant impacts.

#### 4.12.1 ENVIRONMENTAL SETTING

##### 4.12.1.1 REGULATORY FRAMEWORK

###### State Regulations

###### *California Government Code Section 65580*

California Government Code Section 65580 to 65589.8 contains California Housing Element Law, which includes provisions related to the requirements for housing elements of local government General Plans. Among these requirements, some of the necessary parts include an assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. Additionally, to assure that counties and cities recognize their responsibilities in contributing to the attainment of the State housing goals, this section of the Government Code calls for local jurisdictions to plan for, and allow the construction of, a share of the region's projected housing needs.

###### *Housing Accountability Act*

The Housing Accountability Act (HAA) was passed in 1982 and amended under Assembly Bill 678 and Senate Bill 167 in 2017 with the aim to limit the ability of local government to restrict the development of new housing. Specifically, the HAA prohibits a local agency from disapproving, or conditioning approval in a manner than renders infeasible, a housing development project for very low, low-, or moderate-income households<sup>1</sup> or an emergency shelter unless the local agency makes specified written findings based on a preponderance of evidence in the record.

###### *Housing Crisis Act*

Senate Bill 330 (SB 330), or the Housing Crisis Act of 2019 aims to address California's housing shortage by expediting the approval process for housing development of all types, particularly in regions suffering the worst housing shortages and highest rates of displacements. To address the crisis, this bill prohibits some local discretionary land use controls currently in place and generally requires cities to approve all housing developments that comply with current zoning codes and general plans. SB 330 requires that a housing

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<sup>1</sup> Very low income in Cupertino is defined as income less than \$93,200; low income is defined as income between \$93,200 to \$149,100; and moderate income is defined as \$149,100 to \$199,200. These three income categories are considered affordable housing.

## POPULATION AND HOUSING

development project only be subject to the ordinances, policies, and standards adopted and in effect when a preliminary application is submitted, notwithstanding the provisions of the HAA or any other law, subject to certain exceptions.

### *State Density Bonus Law*

The State Density Bonus Law (California Government Code Sections 65915 to 65918) encourages the development of housing, by allowing up to a 50 percent increase in project densities for projects that generate at least 5 new units, depending on the amount of affordable housing incorporated into the project. Cities and counties are required to grant a density bonus (market rate units in exchange for affordable units included in a project), waivers (the ability to not have to meet a particular development standard that would preclude the project from being built as designed), incentives or concessions (the ability to not have to comply with certain requirements if it saves the project money), and a reduction of parking standards to housing projects which comply with certain factors. The City of Cupertino has adopted a similar ordinance into the Cupertino Municipal Code to comply with the State Density Bonus in Section 19.56, *Density Bonus*.

### *Assembly Bill 1397*

California's AB 1397 amended Sections 65580, 65583, and 65583.2 of the Government Code, relating to housing by revising what could be included in a local government's inventory of land suitable for residential development. AB 1397 changed the definition of land suitable for residential development to increase the number of multifamily sites. Identified sites must be "available" and "suitable" for residential development and have a "realistic and demonstrated potential" for redevelopment during the planning period. In addition, AB 1397 requires housing element inventory sites to be 0.5 acre to 10 acres, have sufficient infrastructure, or be included in a program to provide such infrastructure, to support and be accessible for housing development. The local government must specify the realistic unit count for each site and whether it can accommodate housing at various income levels.

### *Senate Bill 166*

SB 166 (2017) requires a local government to ensure that its housing element inventory can accommodate its share of the regional housing need throughout the planning period. It prohibits them from reducing, requiring, or permitting the reduction of the residential density to a lower residential density than what was used by the California Department of Housing and Community Development for certification of the housing element, unless the city or county makes written findings supported by substantial evidence that the reduction is consistent with the adopted general plan, including the housing element. In such cases, any remaining sites identified in the housing element update must be adequate to accommodate the jurisdiction's share of the regional housing need. A local government may reduce the residential density for a parcel only if it identifies sufficient sites remaining within the housing element as replacement sites, so that there is no net loss of residential unit capacity.

## POPULATION AND HOUSING

### Regional Regulations

#### *Association of Bay Area Governments (ABAG)*

The Association of Bay Area Governments (ABAG) is the comprehensive regional planning agency and council of governments for the nine-county San Francisco Bay Area Region. Its members include the counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, and Sonoma counties and 101 cities and towns of the San Francisco Bay region.

ABAG determines the distribution of affordable housing in the region through its Regional Housing Needs Allocation process. For the period from 2023 to 2031, HCD has identified a need of more than 441,000 housing units in the Bay Area, more than double the amount from the last eight-year cycle (187,000 units between 2015 and 2023). Housing needs are distributed for very low income, low income, moderate income, and above moderate households.<sup>2</sup>

As described in Chapter 3, *Project Description*, of this EA, jurisdictions in the Bay Area are currently updating their housing elements for the 6th Cycle, representing the eight-year planning period from 2023 to 2031. ABAG adopted the Final Regional Housing Needs Assessment (RHNA) Plan for the region in December 2021.<sup>3</sup> The Cupertino RHNA is 4,588 units, distributed among four income categories. The City's Housing Element must plan for housing that meets this RHNA, plus an appropriate buffer.

#### *Plan Bay Area*

Plan Bay Area is a joint regional planning document prepared jointly by ABAG and the Metropolitan Transportation Commission (MTC) that utilizes a multipronged strategy to address housing affordability, transportation requirements, the region's widening income disparities and economic hardships faced by low- and middle-income workers, and the Bay Area's vulnerabilities to natural disasters such as earthquakes and floods. Three principal issues form the core of the Action Plan:

- *Housing*: Lower the share of income spent on housing and transportation costs, lessen displacement risk, and increase the availability of housing affordable to low- and moderate-income households.
- *Economic Development*: Improve transportation access to jobs, increase middle wage job creation, and maintain the region's infrastructure.
- *Resilience*: Enhance climate protection and adaptation efforts, strengthen open space protections, create healthy and safe communities, and protect communities against natural hazards.

As described previously, based on the RHNA allocations for housing units from ABAG and the City, Cupertino must update their housing element to show the proposed allocations of housing. While the RHNA focuses on the eight-year cycle, *Plan Bay Area* focuses also on the long-term vision for growth

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<sup>2</sup> Association of Bay Area Governments & Metropolitan Transportation Commission (ABAG & MTC). 2021. Plan Bay Area 2050. Adopted October 21, 2021. <https://www.planbayarea.org/digital-library/plan-bay-area-2050>.

<sup>3</sup> Association of Bay Area Governments & Metropolitan Transportation Commission (ABAG & MTC). 2021. Plan Bay Area 2050. Adopted October 21, 2021. <https://www.planbayarea.org/digital-library/plan-bay-area-2050>.

## POPULATION AND HOUSING

through 2040. In October 2021, ABAG and MTC adopted an updated plan; Plan Bay Area 2050.<sup>4</sup> While the plan has been adopted, it will take up to three years for the plan's growth forecast to be integrated into MTC's transportation model, after which updates to each county's transportation model will take place. For these reasons, and for purposes of this SEIR, *Plan Bay Area* 2040 is the regional plan that forms the basis for population, housing, and employment projections in this SEIR.

### Local Regulations

#### *General Plan 2040*

The proposed Land Use and Community Design (LU), Housing (HE), Mobility (M), Environmental Resources (ES), Infrastructure (INF), and Recreation, Parks, and Community Service (RPC) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to population and housing including unplanned population growth, displacement, and indirect impacts. Applicable policies and strategies that would minimize potential adverse impacts related to population and housing are identified in Section 4.12.3, *Impact Discussion*.

#### *Municipal Code*

The Cupertino Municipal Code (CMC) serves as the implementation tool for the General Plan and Housing Element in that it includes various directives to minimize adverse impacts to population and housing in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to population and housing are included in Title 19, *Zoning*, as follows:

- **Title 19, *Zoning*.** This section of the municipal code sets forth the City's Zoning Ordinance, the primary purpose of which is "to promote and protect the public health, safety, peace, morals, comfort, convenience, and general welfare." The City of Cupertino Zoning Ordinance is the mechanism used to implement the land use goals, objectives, and policies of the General Plan and to regulate all land use within the City. The Zoning Ordinance describes Zoning designations and contains the Zoning Map and development standards for the Zoning designations.
- **Section 19.116, *Conversions of Apartment Projects to Common Interest Developments*.** This section regulates the conversion of apartments and other forms of rental housing units to condominiums and other common interest developments in order to provide for the housing needs of all economic segments of the community to ensure that such conversions do not conflict with the goals or policies of the General Plan of the City of Cupertino. It also ensures tenant and buyer protection is provided relating to displacement and relocation of renters.

### 4.12.1.2 EXISTING CONDITIONS

Since the certification of the General Plan EIR, new projections have come out detailing the regional growth in Cupertino and the surrounding area. Table 3-8, *Proposed 2040 Buildout Projections*, in Chapter

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<sup>4</sup> Association of Bay Area Governments & Metropolitan Transportation Commission (ABAG & MTC). 2021. Plan Bay Area 2050. Adopted October 21, 2021. <https://www.planbayarea.org/digital-library/plan-bay-area-2050>.

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3, *Project Description*, of this EA, compares the growth analyzed in the General Plan EIR to the projected growth since the adoption of the General Plan.

Chapter 4.11, *Population and Housing*, of the General Plan EIR, addresses the impacts to population growth and displacement associated with buildout of the General at a program level. The setting for population and housing is described in the General Plan EIR Section 4.11.1, *Existing Conditions*.

As shown in Table 3-8 and described in Chapter 3, *Project Description*, of this EA, the proposed Modified Project would introduce approximately 9,737 new residents<sup>5</sup> to Cupertino. Any additional units that exceed what is evaluated in this EA would require additional CEQA review. These new residents combined with existing conditions would result in 81,037 residents, 29,132 housing units, and 44,242 jobs. As described in the General Plan EIR, according to ABAG, Cupertino's projected 2040 buildout was 71,300 residents, 25,820 housing units, and 44,242 jobs.

### 4.12.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant population impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
POP-1. Induce substantial unplanned population growth or growth for which inadequate planning has occurred, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure?	LTS	LTS
POP-2. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?	LTS	LTS
POP-3. Result in a cumulatively considerable impact with respect to population and housing?	LTS	LTS

Note: In December 2018, amendments were made to Appendix G, *Environmental Checklist*, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. Revisions were made to consolidate the questions in the General Plan EIR (POP-2 and POP-3) regarding the displacement of substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere displacement. This issue is now only addressed in POP-2 of this EA.

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

### 4.12.3 IMPACT DISCUSSION

<b>POP-1</b>	<b>Implementation of the proposed Modified Project would not induce substantial unplanned population growth or growth for which inadequate planning has occurred, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure).</b>
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<sup>5</sup> Population is calculated by applying the City's generation rate used in the General Plan EIR of 2.94 persons per household (2,952 dwelling units x 2.94 persons per unit = 7,620 additional population).

## POPULATION AND HOUSING

As described in the General Plan EIR, a project would result in a significant impact related to population growth if it would lead to substantial unplanned growth either directly or indirectly. The Approved Project was a broad, high-level plan and no specific projects were proposed and therefore, the Approved Project would not result in direct growth; however, implementation of the Approved Project would facilitate growth in the City of Cupertino through 2040. The planned growth under the Approved Project would occur incrementally over approximately 26 years guided by the regulations listed in General Plan EIR Section 4.11.1.1, *Regulatory Framework*, and unplanned growth would not be induced under the Approved Project.

Like the Approved Project, potential future development under the proposed Modified Project would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed, underutilized, and/or in close proximity to existing residential and residential-serving development. The proposed Modified Project would add additional housing opportunity sites to account for the City's predicted growth. Updates to City planning documents under the proposed Modified Project would ensure that there would be adequate planning for the additional growth.

The General Plan EIR also found that the Land Use and Community Design (LU), Housing (HE), Mobility (M), Environmental Resources (ES), Infrastructure (INF), and Recreation, Parks, and Community Service (RPC) Elements contain policies and strategies that require local planning and development decisions to consider impacts that development could have on population growth. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize unplanned population growth:

- **Strategy LU-1.3.2. *Public and Quasi- Public Uses.*** Review the placement of public and quasi-public activities in limited areas in mixed-use commercial and office zones when the following criteria are met:
  1. The proposed use is generally in keeping with the goals for the Planning Area, has similar patterns of traffic, population or circulation of uses with the area and does not disrupt the operations of existing uses.
  2. The building form is similar to buildings in the area (commercial or office forms). In commercial areas, the building should maintain a commercial interface by providing retail activity, storefront appearance or other design considerations in keeping with the goals of the Planning Area. (General Plan EIR Policy 2-63)
- **Policy LU-1.6. *Jobs/Housing Balance.*** Strive for a more balanced ratio of jobs and housing units. (General Plan Policy 2-22)
- **Strategy LU-3.3.8. *Drive-up Services.*** Allow drive-up service facilities only when adequate circulation, parking, noise control, architectural features and landscaping are compatible with the expectations of the Planning Area, and when residential areas are visually buffered. Prohibit drive-up services in areas where pedestrian oriented activity and design are highly encouraged, such as Heart of the City, North De Anza Boulevard, Monta Vista Village and neighborhood centers. (General Plan EIR Policy 2-35)
- **Policy LU- 5.3. *Enhance Connections.*** Look for opportunities to enhance publicly- accessible pedestrian and bicycle connections with new development or redevelopment.

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- **Strategy LU- 9.1.3. *Economic Development and Business Retention.*** Encourage new businesses and retain existing businesses that provide local shopping and services, add to municipal revenues, contribute to economic vitality and enhance the City’s physical environment.
- **Strategy LU-13.7.3. *Connectivity.*** Properties within a block should be inter-connected with shared access drives. Provide pedestrian paths to enhance public access to and through the development. New development, particularly on corner lots, should provide pedestrian and bicycle improvements along side streets to enhance connections to surrounding neighborhoods. (General Plan EIR Policy 2-2)
- **Policy LU-18.2. *South Vallco.*** Retain and enhance the South Vallco area as a mixed-use retail, office and residential district with a pedestrian oriented, downtown atmosphere. (General Plan EIR Policy 2-23)
- **Policy LU-23.1. *Conceptual Plan.*** Create a conceptual plan for the Homestead Road Special Area with a cohesive set of land use and streetscape regulations and guidelines. (General Plan EIR Policy 2-24)
- **Policy LU-25.1. *Conceptual Plan.*** Continue to govern Monta Vista’s commercial area through the Monta Vista Design Guidelines. The guidelines provide direction for architecture, landscaping and public improvements. Create a Monta Vista Village Conceptual Plan to with a cohesive set of updated regulations and guidelines for this area. (General Plan EIR Policy 2-30)
- **Policy LU-27.1. *Compatibility.*** Ensure that new development within and adjacent to residential neighborhoods is compatible with neighborhood character. (General Plan EIR Policy 2-19)
- **Strategy LU-27.1.1. *Regulations.*** Maintain and update design regulations and guidelines for single family development that address neighborhood compatibility and visual and privacy impacts. (General Plan EIR Policy 2-8)
- **Strategy LU-27.1.4. *Late Night Uses.*** Discourage late-evening entertainment activities such as nightclubs in commercial areas where parcels are especially narrow, abut single- family residential development, and cannot adequately provide visual and noise buffers. (General Plan EIR Policy 2-36)
- **Policy LU-27.2. *Relationship to the Street.*** Ensure that new development in and adjacent to neighborhoods improve the walkability of neighborhoods by providing inviting entries, stoops and porches along the street frontage, compatible building design and reducing visual impacts of garages. (General Plan Policy 2-17)
- **Policy LU- 27.6. *Multi-Family Residential Design.*** Maintain an attractive, livable environment for multi-family dwellings. (General Plan Policy 2-17)
- **Strategy LU- 27.6.1. *Provision of Outdoor Areas.*** Provide outdoor areas, both passive and active, and generous landscaping to enhance the surroundings for multi-family residents. Allow public access to the common outdoor areas whenever possible. (General Plan Policy 2-17)
- **Policy HE-1.1. *Provision of Adequate Capacity for New Construction Need.*** Designate sufficient land at appropriate densities to accommodate Cupertino’s Regional Housing Needs Allocation of 4,588 units for the 2023-2031 planning period. (General Plan EIR Policy 1)
- **Policy HE-1.2. *Housing Densities.*** Provide a full range of densities for ownership and rental housing. (General Plan EIR Policy 2)

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**POPULATION AND HOUSING**

- **Policy HE-1.3. *Mixed-Use Development.*** Encourage mixed-use development near transportation facilities and employment centers. (General Plan EIR Policy 3)
- **Strategy HE- 1.3.2. *Rezoning to Achieve RHNA.*** To ensure that the City has sufficient sites zoned appropriately to achieve the City's Regional Housing Needs Allocation (RHNA), rezone sites listed in Table B4-7 and B4-9 (Appendix B4). The rezone will include 33.52 acres of residential land that will allow for a realistic capacity of 1,917 units, and 32.67 acres of commercial/residential land that will allow for a realistic capacity of 1,772 units.

The City will ensure compliance with Government Code Sections 65583 (c)(1) and 65583.2(h) and 65583.2(i), as listed below.

- Permit owner-occupied and rental multifamily uses by right and not require a conditional use permit or other discretionary review or approval for developments in which 20 percent or more of the total units are affordable to lower-income households.
- Ensure that each site can accommodate development of at least 16 units per site and require that all residential development achieve a minimum density of 20 dwelling units per acre on sites designated for lower income housing. Ensure (a) at least 50 percent of the shortfall of low- and very low-income regional housing need can be accommodated on sites designated for exclusively residential uses, or (b) if accommodating more than 50 percent of the low- and very low-income regional housing need on sites designated for mixed uses, all sites designated for mixed uses must allow 100 percent residential use and require residential use to occupy at least 50 percent of the floor area in a mixed-use project.
- Ensure sites will be available for development during the planning periods where water and sewer can be provided.
- **Policy HE-2.1. *Housing Mitigation.*** Ensure that all new developments, including market-rate residential developments, help mitigate project-related impacts on affordable housing needs. (General Plan EIR Policy 4)
- **Policy HE-2.2. *Range of Housing Types.*** Encourage the development of diverse housing stock that provides a range of housing types (including smaller, moderate-cost housing) and affordability levels. Emphasize the provision of housing for lower- and moderate-income households, including wage earners who provide essential public services (e.g., school district employees, municipal and public safety employees, etc.). (General Plan EIR Policy 5)
- **Policy HE-2.3. *Development of Affordable Housing and Housing for Persons with Special Needs.*** Make every reasonable effort to disperse units throughout the community but not at the expense of undermining the fundamental goal of providing affordable units. (General Plan EIR Policy 6)
- **Policy HE-3.1. *Housing Rehabilitation.*** Pursue and/or provide funding for the acquisition/rehabilitation of housing that is affordable to very low-, low-, and moderate-income households. Actively support and assist nonprofit and for-profit developers in producing affordable units. (General Plan EIR Policy 7)
- **Policy HE-3.2. *Maintenance and Repair.*** Assist lower-income homeowners and rental property owners in maintaining and repairing their housing units. (General Plan EIR Policy 8)
- **Policy HE-3.3. *Conservation of Housing Stock.*** The City's existing multifamily units provide opportunities for households of varied income levels. Preserve existing multifamily housing stock,



## POPULATION AND HOUSING

including existing duplexes, triplexes, and fourplexes, by preventing the net loss of multifamily housing units upon remodeling, with new development and the existing inventory of affordable housing units that are at risk of converting to market-rate housing. (General Plan EIR Policy 9)

- **Policy HE-4.1. *Energy and Water Conservation.*** Encourage energy and water conservation in all existing and new residential development. (General Plan EIR Policy 10)
- **Policy HE-6.1. *Housing Discrimination.*** The City will work to eliminate on a citywide basis all unlawful discrimination in housing with respect to age, race, sex, sexual orientation, marital or familial status, ethnic background, medical condition, or other arbitrary factors, so that all persons can obtain decent housing. (General Plan EIR Policy 12)
- **Policy M-2.2. *Adjacent Land Use.*** Design roadway alignments, lane widths, medians, parking and bicycle lanes, crosswalks and sidewalks to complement adjacent land uses in keeping with the vision of the Planning Area. Strive to minimize adverse impacts and expand alternative transportation options for all Planning Areas (Special Areas and Neighborhoods). Improvement standards shall also consider the urban, suburban and rural environments found within the city. (General Plan EIR Policy 4-10)
- **Policy M-2.4. *Community Impacts.*** Reduce traffic impacts and support alternative modes of transportation rather than constructing barriers to mobility. Do not close streets unless there is a demonstrated safety or overwhelming through traffic problem and there are no acceptable alternatives since street closures move the problem from one street to another. (General Plan EIR Policy 4-14)
- **Policy M-9.1. *Efficient Automobile Infrastructure.*** Strive to maximize the efficiency of existing infrastructure by locating appropriate land uses along roadways and retrofitting streets to be accessible for all modes of transportation. (General Plan EIR Policy 4-2)
- **Policy M-9.3. *Street Width.*** Except as required by environmental review for new developments, limit widening of streets as a means of improving traffic efficiency and focus instead on operational improvements to preserve community character. (General Plan EIR Policy 4-2)
- **Policy ES- 1.2. *Regional Growth and Transportation Coordination.*** Coordinate with local and regional agencies to prepare updates to regional growth plans and strategies, including the Regional Housing Allocation Needs Allocation (RHNA), One Bay Area Plan, Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS). (General Plan Policy 5-2)
- **Strategy ES-1.2.1. *Local Plan Consistency with Regional Plans.*** Update and maintain local plans and strategies so they are consistent with One Bay Area Plan to qualify for State transportation and project CEQA streamlining. (General Plan EIR Policy 5-2, Strategy 1)
- **Strategy INF- 1.1.2. *Design Capacity.*** Ensure that public infrastructure is designed to meet planned needs and to avoid the need for future upsizing. Maintain a balance between meeting future growth needs and over-sizing of infrastructure to avoid fiscal impacts or impacts to other goals. (General Plan Policy 7-4)
- **Strategy INF-1.4.2. *Future Infrastructure Needs.*** For new infrastructure, require new development to pay its fair share of, or to extend or construct, improvements to accommodate growth without impacting service levels. (General Plan Policy 7-4)

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- **Policy INF- 2.4. *Undergrounding Utilities.*** Explore undergrounding of utilities through providers, public projects, private development and agency funding programs and grants. (General Plan Policy 7-4)
- **Policy RPC-2.4. *Connectivity and Access.*** Ensure that each home is within a half-mile walk of a neighborhood park or community park with neighborhood facilities; ensure that walking and biking routes are reasonably free of physical barriers, including streets with heavy traffic; provide pedestrian links between parks, wherever possible; and provide adequate directional and site signage to identify public parks. (General Plan EIR Policy 2-84)

As described in Chapter 4.12.1.2, *Existing Conditions*, of this EA, the proposed Modified Project would increase the projected growth that was accounted for in the General Plan EIR by an additional 9,737 people. Implementation of the proposed Modified Project itself would not result in indirect, substantial unplanned population growth in the Study Area and would instead result in planned growth and serve as the overriding policy document that plans for such growth. Additionally, all potential future development would be required to provide site-specific infrastructure improvements and to pay any project-specific impact fees, and as with the development assessed in the General Plan EIR, development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe unplanned population growth beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>POP-2</b>	<b>Implementation of the proposed Modified Project would not displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere.</b>
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Displacement is typically considered substantial in cases where major development, such as a freeway or a large-scale redevelopment, would result in the displacement of large amounts of existing housing, such that the construction of replacement housing is necessary. The General Plan EIR concluded that the Approved Project would result in a net increase in housing units, which would not result in the displacement of housing; therefore, construction of replacement housing elsewhere is not needed.

The buildout under the proposed Modified Project is expected to result in an increase of 3,312 housing units beyond what was evaluated in the General Plan EIR. The locations of potential future development under the proposed Modified Project would be in similar areas as those of the Approved Project and would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed, underutilized, and/or in close proximity to existing residential and residential-serving development in already urbanized areas. The proposed Modified Project does not call for any large-scale development that would be considered to result in substantial displacement of existing housing. To further address displacement, the Housing Element (HE) includes Strategy HE-1.1.1, *Replacement Housing*: To facilitate place-based revitalization for households at risk of displacement due to new development, the City will require replacement housing units subject to the requirements of Government Code, Section 65915(c)(3), on sites identified in the site inventory when any new development (residential, mixed-use, or nonresidential) occurs on a site that has been occupied by or

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restricted for the use of lower-income households at any time during the previous five years. This requirement applies to non-vacant sites and vacant sites with previous residential uses that have been vacated or demolished.

As with the development assessed in the General Plan EIR, development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts from displacing substantial numbers of existing people or housing beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>POP-3</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to population and housing.</b>
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As described in the General Plan EIR, the growth projected by the Approved Project in the Cupertino city limit and Sphere of Influence (SOI) was accounted for, in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by ABAG. Since the Approved Project would not induce a substantial amount of growth that has not been adequately planned for or require the construction of replacement housing elsewhere, cumulative growth would be consistent with regional planning efforts.

Like the Approved Project, the proposed Modified Project would also not induce a substantial amount of growth that has not been adequately planned for or require the construction of replacement housing elsewhere. Thus, cumulative growth would be consistent with regional planning efforts. Therefore, the proposed Modified Project would not result in new or more severe cumulatively considerable impacts with respect to population and housing beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

## POPULATION AND HOUSING

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## PUBLIC SERVICES AND RECREATION

### 4.13 PUBLIC SERVICES AND RECREATION

This chapter describes the potential impact on public services associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and baseline conditions, identifies criteria used to determine impact significance, provides an analysis of the potential public service impacts, and identifies General Plan 2040 policies that could minimize any potentially significant impacts.

#### 4.13.1 FIRE PROTECTION SERVICES

##### 4.13.1.1 ENVIRONMENTAL SETTING

##### Regulatory Framework

###### *State Regulations*

###### California Building Code

The State of California provides a minimum standard for building design through Title 24, Part 2 of the California Code of Regulations (CCR), commonly referred to as the California Building Code (CBC). The CBC is currently updated every three years. It is generally adopted on a jurisdiction-by-jurisdiction basis, subject to further modification based on local conditions. Commercial and residential buildings are plan-checked by City building officials for compliance with the CBC. Sections 13000 et seq. of the California Health and Safety Code include fire regulations for building standards (also in the CBC), fire protection and notification systems, fire protection devices such as extinguishers and smoke alarms, high-rise building and childcare facility standards, and fire suppression training. The newest edition of the California Building Standards Code is the 2022 edition with an effective date of January 1, 2023.

###### California Fire Code

The California Fire Code (CFC) incorporates, by adoption, the International Fire Code of the International Code Council, with California amendments. The CFC is found in Title 24 of the CCR, Part 9, and, like the CBC, it is revised and published every three years by the California Building Standards Commission. The CFC is effective statewide, but a local jurisdiction may adopt more restrictive standards based on local conditions. The CFC is a model code that regulates minimum fire safety regulations for new and existing buildings, facilities, storage, and processes, including emergency planning and preparedness, fire service features, fire protection systems, hazardous materials, fire flow requirements, and fire hydrant locations and distribution. Typical fire safety requirements include installation of sprinklers in all buildings; the establishment of fire-resistance standards for fire doors, building materials, and particular types of construction; and the clearance of debris and vegetation within a prescribed distance from occupied structures in wildfire hazard areas.

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### Unified Hazardous Waste and Hazardous Materials Management Program

The routine management of hazardous materials in California is administered under the Unified Hazardous Waste and Hazardous Materials Management Program (Unified Program). Cupertino's hazardous materials programs are administered and enforced under the Unified Program. The California Environmental Protection Agency has granted the City's responsibilities to the County of Santa Clara, Hazardous Materials Compliance Division, including implementation and enforcement of hazardous material regulations under the Unified Program as a Certified Unified Program Agency (CUPA).

### *Local Regulations*

#### General Plan 2040

The Health and Safety (HS) Element of the General Plan 2040 contains goals, policies, and strategies that require local planning and development decisions to consider impacts to fire protection services. Applicable policies and strategies that would minimize potential adverse impacts to fire protection services are identified in Section 4.13.1.3, *Impact Discussion*.

#### Municipal Code

The Cupertino Municipal Code (CMC) includes various directives pertaining to minimize fire protection services in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to aesthetics and visual character are included in Title 16, *Buildings and Construction*. Title 16 adopts the 2022 California Building Code, 2022 CFC, and the 2021 International Fire Code for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, those certain codes which contain building standards, and fire safety standards. Several local amendments to the CFC have been adopted in the CMC, including requirements for properties in the wildland-urban interface, fire apparatus access roads, hazardous and corrosive materials, and requirements for hydrant upgrades. The Santa Clara County Fire Department typically calculates required fire flow in accordance with Uniform Fire Code guidelines. Peak-load requirements vary based on building construction, size, type, and location, and may be modified by the addition of fire alarm or sprinkler systems.

#### Emergency Operations Plan

Adopted in 2019, the Emergency Operations Plan describes the incident management organization for Cupertino. The purpose of this plan is to maximize the safety of the public, to minimize property and environmental damage, and ensure the continuity of government. This plan allows the city to have an effective response to a variety of emergencies across internal departments throughout the city and external agencies such as Santa Clara County and surrounding jurisdictions.

## Existing Conditions

Chapter 4.12, *Public Services and Recreation*, of the General Plan Environmental Impact Report (EIR), addresses the impacts to fire protection services associated with buildout of General Plan 2040 at a program level. The setting for fire protection services is described in General Plan EIR Section 4.12.1.2, *Existing Conditions*. The district has 15 fire stations and has increased daily staffing to 66 firefighters and

PUBLIC SERVICES AND RECREATION

339 total employees. The stations described in the General Plan EIR remain the three fire stations within the city limit. In 2023, SCCFD received 21,740 total calls with 62 percent of them being for emergency medical services. There were 4,000 calls that came from Cupertino. Presently, response time goals are being met. <sup>1,2</sup>

4.13.1.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant impact to fire protection services if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
PS-1. Result in the need for new or physically altered fire protection and emergency medical facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives?	LTS	LTS
PS-2. Result in significant cumulative impacts with respect to fire protection services?	LTS	LTS

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

4.13.1.3 IMPACT DISCUSSION

PS-1	<b>Implementation of the proposed Modified Project would not result in the need for new or physically altered fire protection and emergency medical facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives.</b>
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The General Plan EIR found that the implementation of the Approved Project would not result in the need for the construction of new or physically altered fire protection facilities. The General Plan EIR concludes that the project would bring as many as 12,998 new residents to Cupertino by 2040 and based on the 2010-2014 SCCFD Business Plan and Strategic Plan, the SCCFD has adequate facilities and equipment for the added residents.

Implementation of the proposed Modified Project would add an additional 9,737 people to the Study Area. There are currently three SCCFD fire stations in the Study Area and therefore the Study Area may require new or expanded facilities with the implementation of the proposed Modified Project. However, the projected buildout would occur over a 15-year horizon, and would result in a gradual increase in demand for fire protection services that would be accommodated by the SCCFD, like under the Approved Project. The 2023-2027 SCCFD Strategic Plan serves as a comprehensive vision that provides strategies for accommodating future growth through the identification of goals and objectives aimed at improving existing fire protection and emergency medical services, as well as to ensure future fire protection and emergency medical services are adequate to accommodate growth. Strategic Goal 2: Anticipate And

<sup>1</sup> Email communications between Jacqueline Protsman Rohr (PlaceWorks) and Chief Hector Estrada, Deputy Chief of Fire Prevention, Santa Clara County Fire Department, April 8, 2024.

<sup>2</sup> Santa Clara County Fire Department 2023 Annual Report, [https://www.sccfd.org/wp-content/uploads/2024/03/2023.3.18\\_SCCFD\\_Annual-Report\\_FINAL-WEB.pdf](https://www.sccfd.org/wp-content/uploads/2024/03/2023.3.18_SCCFD_Annual-Report_FINAL-WEB.pdf), accessed on April 9, 2024.

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Mitigate the Effects Of Increased Service Demands Within The Community While Navigating Economic And Community Uncertainty serves to address fire protection and emergency medical services with the following strategy:

- Strategic Objective 2.3: Prepare for Jurisdictional Population Growth
  - Maintain the annual growth rate of structure fires at or below the annual population growth rate.
  - Maintain the annual growth rate of EMS calls at or below the annual population growth rate.
  - Develop a contingency plan for fire district growth.
  - Develop a contingency plan for additional contracting jurisdictions.
  - Plan for new facilities that align with projected staffing levels, as reflected in the five-year Capital Improvement Plan.
  - Participate in updates to city and county General Plans.
  - Update succession planning and professional development policies.
  - Explore alternative deployment models for high call-volume times and locations.

The General Plan EIR also found that the Health and Safety (HS) Element contains policies and strategies that require local planning and development decisions to consider impacts that development could have on fire protection resources. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize the need for new or physically altered fire protection and emergency medical facilities:

- **Policy HS- 3.1. *Regional Coordination.*** Coordinate wildland fire prevention efforts with adjacent jurisdictions. Encourage the County and the Midpeninsula Open Space District to implement measures to reduce fire hazards, including putting into effect the fire reduction policies of the County Public Safety Element, continuing efforts in fuel management, and considering the use of “green” fire break uses for open space lands. (General Plan EIR Policies 6-4 and 6-8)
- **Policy HS- 3.2. *Early Project Review.*** Involve the Fire Department in the early design stage of all projects requiring public review to assure Fire Department input and modifications as needed. (General Plan EIR Policy 6-13)
- **Policy HS- 3.3. *Emergency Access.*** Ensure adequate emergency access is provided for all new hillside development.
- **Strategy HS- 3.3.3. *Hillside Access Routes.*** Require new hillside development to have frequent grade breaks in access routes to ensure a timely response from fire personnel. (General Plan EIR Policy 6-15).
- **Strategy HS- 3.3.4. *Hillside Road Upgrades.*** Require new hillside development to upgrade existing access roads to meet Fire Code and City standards. (General Plan EIR Policy 6-16)
- **Policy HS- 3.5. *Commercial and Industrial Fire Protection Guidelines.*** Coordinate with the Fire Department to develop new guidelines for fire protection for commercial and industrial land uses. (General Plan EIR Policy 6-9)
- **Policy HS- 3.6. *Commercial and Industrial Fire Protection Guidelines.*** Coordinate with the Fire Department to develop new guidelines for fire protection for commercial and industrial land uses.
- **Policy HS- 3.7. *Multi-Story Buildings.*** Ensure that adequate fire protection is built into the design of multi-story buildings and require on-site fire suppression materials and equipment. (General Plan EIR Policy 6-11)



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- **Policy HS- 3.8. *Extension of Water Service.*** Encourage the water companies to extend water service into the hillside and canyon areas and encourage cooperation between water utility companies and the Fire Department in order to keep water systems in pace with growth and firefighting service needs. (General Plan EIR Policy 6-20 and Policy 6-21)

Similar to the Approved Project, the proposed Modified Project would increase demand on fire protection services, but growth would most likely occur incrementally over the lifetime of both the Approved and proposed Modified Projects. It would be unlikely that the magnitude of increased demands as a result of the full buildout potential of the proposed Modified Project would be placed on facilities immediately at the time of adoption. SCCFD examines project impacts on a case-by-case basis to determine the need for expanded facilities or to hire more staff. Future construction of new or expanded fire stations would be subject to separate project-level CEQA review in order to identify potential environmental impacts and mitigation measures as needed, would also be subject to the mitigation measures contained throughout this EA, would be subject to the proposed Modified Project policies and strategies, and would be required to comply with CMC Section 17.04, *Standard Environmental Protection Requirements*, to reduce potential environmental impacts. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in need for new or physically altered fire protection and emergency medical facilities beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant

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<b>PS-2</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to fire protection services.</b>
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The General Plan EIR considered growth from development under the Approved Project with the estimated growth in the service area of the SCCFD, which includes the cities of Campbell, Los Altos, Monte Sereno, Saratoga, and towns of Los Altos Hills and Los Gatos, and adjacent unincorporated areas. A significant cumulative environmental impact would result if this cumulative growth would exceed the ability of SCCFD to adequately serve their service area, thereby requiring construction of new facilities or modification of existing facilities. The SCCFD provides services to other neighboring cities, and they confirmed that growth under the Approved Project would be adequately served by existing staff, equipment, and facilities.<sup>3</sup>

As described, the proposed Modified Project would not create an immediate need for new or physically altered facilities for SCCFD to provide fire protection services to its service area. Compliance with State and local laws, such as the General Plan 2040 policies listed in Impact Discussion PS-1, would ensure that fire protection services are adequate as future development is proposed as a result of implementation of the proposed Modified Project. The SCCFD provides services to other neighboring cities, and they have confirmed that future growth under the proposed Modified Project would be adequately served by existing staff, equipment, and facilities. Based on these considerations, the proposed Modified Project

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<sup>3</sup> Personal communication between Ricky Caperton (PlaceWorks) and Cheryl Roth of the Santa Clara County Fire Department on April 24, 2014.

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would not result in a cumulatively considerable contribution impact related to the construction of other fire services beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

### 4.13.2 POLICE PROTECTION SERVICES

This section describes regulations, resources, and response times for police law enforcement that apply to the proposed Modified Project.

#### 4.13.2.1 ENVIRONMENTAL SETTING

##### Regulatory Framework

This section summarizes key State and local regulations related to police protection services, concerning the proposed Modified Project. There are no federal or State regulations pertaining to police protection that apply to the proposed Modified Project.

##### *Local Regulations*

##### General Plan 2040

The Health and Safety (HS) Element of the General Plan 2040 contains goals, policies, and strategies that require local planning and development decisions to consider impacts to police protection and emergency services. Applicable policies and strategies that would minimize potential adverse impacts to police protection services are identified in Section 4.13.2.3, *Impact Discussion*.

##### Municipal Code

The CMC includes various directives pertaining to police protection services. Most of the provisions related to police services are located within Chapter 10.26, *Regulation of Police Alarm Systems and Devices*, and Chapter 2.30, *Code Enforcement Officer*.

- **Chapter 2.30, Code Enforcement Officer.** This chapter establishes the code enforcement officer and the powers they have, especially pertaining to arresting a person without a warrant.
- **Chapter 10.26, Regulation of Police Alarm Systems and Devices.** This chapter establishes regulations governing police alarm systems and devices used within the City along with service charges in the event of repeated false alarms.

##### Existing Conditions

Chapter 4.12, *Public Services and Recreation*, of the General Plan EIR, addresses the impacts to law enforcement services associated with buildout of the General Plan 2040 at a program level. The setting for Public Services as it relates to police protection services is described in General Plan EIR Section 4.12.2.1, *Existing Conditions*. Cupertino is still served by the Santa Clara County Sheff's Office West Valley Division. Of the 1,429 sworn personnel in the office, there are 28 deputies allotted to the City. Four

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deputies are assigned to traffic enforcement, two deputies are School Resource Officers, one additional deputy handles all the enforcement incidents that arise at the schools. The remaining 21 deputies perform routine patrol functions, 24 hours a day.<sup>4</sup>

### 4.13.2.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant public services impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
PS-3. Result in the need for new or physically altered police protection facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives?	LTS	LTS
PS-4. Result in significant cumulative impacts with respect to police protection services?	LTS	LTS

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

### 4.13.2.3 IMPACT DISCUSSION

<b>PS-3</b>	<b>Implementation of the proposed Modified Project would not result in the need for new or physically altered police protection facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios, response times, or other performance objectives.</b>
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The General Plan EIR concluded that implementation of the Approved Project would bring as many as 12,998 new residents to Cupertino by 2040. Additionally, it is anticipated that implementation of the Approved Project could result in 4,421 units and 16,855 jobs. However, the West Valley Patrol Division confirmed that future development under General Plan 2040 would not result in the need for expansion or addition of facilities.<sup>5</sup> Additionally, the Santa Clara County Sheriff's Office (Sheriff's Office) confirmed that while the standard service contract is based on a set number of hours for deputies and reserve deputies, buildout under the General Plan throughout the 26-year horizon would not substantially result in an increase in the number of contracted hours as a result of potential increase in calls for police protection services.

Implementation of the proposed Modified Project would add an additional 9,737 people to the Study Area. The projected buildout would occur over a 15-year horizon, which would result in a gradual increase in demand for police protection and emergency services that would be accommodated by the Sheriff's Office and West Valley Patrol Division, like under the Approved Project. According to the Captain Neil Valenzuela, West Valley Patrol Division of the Office of the Sheriff, an increase in population under the proposed Modified Project would increase the calls for service and require an additional 20 deputies to

<sup>4</sup> City of Cupertino website, Cupertino.org, Sheriff's Office, accessed July 14, 2023.

<sup>5</sup> Personal communications between PlaceWorks and Captain Ken Binder, Division Commander, West Valley Patrol, April 11, 2014.

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properly support public safety efforts for the anticipated population growth of 9,737 residents.<sup>6</sup> Additional staffing may require an increase in equipment and office space, which may require relocation of the substation. However, the existing substation is a leased space, and therefore it is likely that an expanded space would also be leased and therefore not result in construction of a new facility that would cause significant environmental impacts.

The General Plan EIR also found that the Health and Safety (HS) Element contains policies and strategies that require local planning and development decisions to consider impacts that development could have on police protection resources. Like the Approved Project, the following existing General Plan 2040 policies and strategy, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize need for new or physically altered police protection and emergency medical facilities:

- **Policy HS- 4.1. *Neighborhood Awareness Programs.*** Continue to support the Neighborhood Watch Program and others similar programs intended to help neighborhoods prevent crime through social interaction. (General Plan EIR Policy 6-22)
- **Policy HS- 4.2. *Crime Prevention through Building and Site Design.*** Consider appropriate design techniques to reduce crime and vandalism when designing public spaces and reviewing development proposals. (General Plan EIR Policy 6-24)
- **Policy HS- 4.3. *Fiscal Impacts.*** Recognize fiscal impacts to the County Sheriff and City of Cupertino when approving various land use mixes. (General Plan EIR Policy 6-25)
- **Strategy HS- 4.2.2. *Development Review.*** Continue to request County Sheriff review and comment on development applications for security and public safety measures. (General Plan EIR Policy 6-26)

As with the development assessed in the General Plan EIR, development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in need for new or physically altered police protection facilities beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant

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<b>PS-4</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to police services.</b>
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The General Plan EIR takes into account growth projected by the General Plan in the Cupertino city limit and Sphere of Influence (SOI), in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by the Association of Bay Area of Governments (ABAG). Cumulative impacts were considered in the context of the growth from development under the General Plan within the city, combined with the estimated growth in the service areas of the Santa Clara County Sheriff's Department, including the cities of Los Altos Hills, Saratoga, and unincorporated areas of

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<sup>6</sup> Email communications between Jacqueline Protsman Rohr (PlaceWorks) and Captain Neil Valenzuela, West Valley Patrol Division, Office of the Sheriff, February 27, 2024.

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Santa Clara County. A significant cumulative environmental impact would result if this cumulative growth would exceed the ability of the Sheriff's Department to adequately serve the vicinity, thereby requiring construction of new facilities or modification of existing facilities. Since police protection services in Cupertino are provided through a memorandum of understanding (MOU) between the City of Cupertino and the Santa Clara County Sheriff's Office, changes and growth anticipated with General Plan 2040 would not have any cumulative impact beyond Cupertino's SOI. Additionally, the surrounding cities of San Jose, Santa Clara, and Sunnyvale have their own police departments and do not rely solely on the Office of the Sheriff for police services. Moreover, the Sheriff's Office has confirmed that in conjunction with the growth anticipated with General Plan 2040, new or physically altered facilities would not be needed.

As described, the proposed Modified Project would not create a need for new or physically altered facilities for police services. Compliance with State and local laws, such as General Plan 2040 policies and the strategy listed previously, would ensure that police protection services are adequate as future development is proposed as a result of implementation of the proposed Modified Project. County Sheriff review and comment on development applications for security and public safety measures would be required. Additionally, many of the sites where development is anticipated are infill sites, thus the development of these infill sites would result in an increase in property tax revenues, which could fund any anticipated changes to contracted hours and personnel in the future for police protection services. Based on these considerations, the proposed Modified Project would not result in a cumulatively considerable contribution impact related to the construction of other police services beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

### 4.13.3 SCHOOLS

#### 4.13.3.1 ENVIRONMENTAL SETTING

##### Regulatory Framework

###### *State Regulations*

###### Senate Bill 50

Senate Bill (SB) 50 (funded by Proposition 1A, approved in 1998) limits the power of cities and counties to require mitigation of school facilities impacts as a condition of approving new development and provides instead for a standardized developer fee. SB 50 also provides for three levels of statutory impact fees. In setting the fees, school districts must prepare nexus studies to demonstrate a reasonable connection between new development and the need for school improvements. The fees may only be used to finance the construction or modernization of school facilities. The fee application level depends on whether State funding is available, whether the school district is eligible for State funding and whether the school district meets certain additional criteria involving bonding capacity, year-round school, and the percentage of moveable classrooms in use.

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### California Government Code and Education Code

SB 50 amended California Government Code Section 65995 and is commonly referred to as this legislative bill number, contains limitations on Education Code Section 17620, the statute that authorizes school districts to assess development fees within school district boundaries. Government Code Section 65995(b)(3) requires the maximum square footage assessment for development to be increased every two years, according to inflation adjustments. The State Allocation Board (SAB) approves the allowable amount of statutory school facilities fees (Level I School Fees) for residential development and commercial/industrial development. According to California Government Code Section 65995(3)(h), the payment of statutory fees is “deemed to be full and complete mitigation of the impacts of any legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization on the provision of adequate school facilities.” Each school district is responsible for implementing the specific methods for mitigating school impacts under the Government Code.

### Mitigation Fee Act (California Government Code 66000-66008)

Assembly Bill (AB) 1600, the Mitigation Fee Act, requires a local agency establishing, increasing, or imposing an impact fee as a condition of development to identify the purpose of the fee and the use to which the fee is to be put.<sup>7</sup> The agency must also demonstrate a reasonable relationship between the fee and the purpose for which it is charged, and between the fee and the type of development project on which it is to be levied. This act became enforceable on January 1, 1989.

### The Mello-Roos Communities Facilities Act of 1982

The Mello-Roos Community Facilities Act, Government Code Section 53311 et seq., provides an alternative method of financing certain public capital facilities and services through special taxes. This law empowers local agencies to establish Community Facilities Districts (CFDs) to levy special taxes for facilities such as public schools.

### *Local Regulations*

### General Plan 2040

The Land Use and Community Design (LU), Housing (HE), and Recreation, Parks and Community Service (RPC) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to schools. Applicable policies and strategies that would minimize potential adverse impacts to schools are identified in Section 4.13.3.3, *Impact Discussion*.

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<sup>7</sup> California Legislative Information, California Law, Code Section Group, Government Code Sections 66000-66008, [https://leginfo.ca.gov/faces/codes\\_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=5.&article=](https://leginfo.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=1.&title=7.&part=&chapter=5.&article=) accessed on April 8, 2020.

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### Municipal Code

The Cupertino Municipal Code (CMC) includes various directives pertaining to schools. The provisions related to schools are in Chapter 18.16, *Subdivision Maps*, and Chapter 18.24, *Dedications and Reservations*.

- **Section 18.16.030, Department of Community Development Action.** This section describes the procedure that the Department of Community Action will take to update affected public agencies about the potential subdivision in the area. Within five days of the tentative map application being deemed complete, the Department of Community Action will send a notice to school districts within the boundaries of which the subdivision is proposed to be located. Within fifteen days of receiving the notice the school district may make recommendations to the City regarding the effects of the proposed subdivision upon the school district. If the school district fails to respond within fifteen days, the failure to respond shall be deemed approval of the proposed subdivision by the school district.
- **Article III, School Site Dedication.** As a condition of approval of a final subdivision map, a subdivider may need to designate land in the subdivision to the local school district so that a school can be constructed for adequate elementary school service.
- **Section 18.24.190, Standards for Reservation of Land.** This section outlines that when a subdivision is built, certain sites of the subdivision may be required to be reserved by the city for community facilities, such as a school.

### Existing Conditions

Chapter 4.12, *Public Services and Recreation*, of the General Plan EIR, addresses the impacts to schools associated with buildout of General Plan 2040 at a program level. The setting for schools is described in General Plan EIR Section 4.12.3.1, *Existing Conditions*. The three school districts described in the General Plan EIR remain the districts serving Cupertino. Table 4.13-1, *Current Capacity and Enrollment for the CUSD*, shows the current (data from 2022-2023) enrollment and capacity for the Cupertino Unified School District (CUSD) schools.

**TABLE 4.13-1      CURRENT CAPACITY AND ENROLLMENT FOR THE CUSD**

Schools	Capacity	Current Enrollment	Capacity Difference
Collins Elementary School	598	473	125
Eaton Elementary School	598	470	128
Faria Elementary School	574	632	-58
Garden Gate Elementary School	598	517	81
Lincoln Elementary School	455	665	-210
Regnart Elementary School	407	0	Closed
Sedwick Elementary School	455	367	88
Stevens Creek Elementary School	574	389	185
Other Elementary Schools in CUSD not located in Cupertino	7,155	5,219	439

**PUBLIC SERVICES AND RECREATION****TABLE 4.13-1 CURRENT CAPACITY AND ENROLLMENT FOR THE CUSD**

Schools	Capacity	Current Enrollment	Capacity Difference
<b>Elementary Schools Total</b>	<b>11,414</b>	<b>8,732</b>	<b>2,680</b>
Cupertino Middle School	1,235	1,099	136
Hyde Middle School	672	778	-106
Kennedy Middle School	954	930	20
Lawson Middle School	1,105	816	289
Other Middle Schools in CUSD not located in Cupertino	932	1,078	-146
<b>Middle Schools Total</b>	<b>4,898</b>	<b>4,701</b>	<b>197</b>

Source: Cupertino Union School District. July 2023.

Since the certification of the EIR, Regnart Elementary School has closed, and most schools have enrollment under capacity based on the 2022-2023 enrollment. Table 4.13-2, *Current Capacity and Enrollment for the FUHSD*, shows the current (data from 2022-2023) enrollment and capacity for the Fremont Union High School District (FUHSD) schools.

**TABLE 4.13-2 CURRENT CAPACITY AND ENROLLMENT FOR THE FUHSD**

Schools	Capacity	Current Enrollment	Capacity Difference
Cupertino High School	2,168	1,997	171
Fremont High School	2,142	2,171	-29
Homestead High School	2,357	2,311	46
Lynbrook High School	1,819	1,741	78
Monta Vista High School	2,410	1,751	659
Other	N/A	49	N/A
<b>District Total</b>	<b>10,634</b>	<b>10,019</b>	<b>615</b>

Source: California Department of Education. July 2023.

The only school above capacity for the 2022-2023 school year in FUHSD is Fremont High School and the district total is far below capacity. Santa Clara Unified School District has 13,919 students enrolled in the 2022-2023 school year.<sup>8</sup> This is less than described in the General Plan EIR. All three districts show that total enrollment has decreased since the certification of the General plan EIR.

<sup>8</sup> California Department of Education, [cde.ca.gov](https://cde.ca.gov), 2022-2023 Enrollment by Grade, Santa Clara Unified Report, accessed July 14, 2023.



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### 4.13.3.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant impact to public schools if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
PS-5. Result in the need for new or physically altered public school facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios or other performance objectives?	LTS	LTS
PS-6. Result in significant cumulatively considerable impact with respect to public school services?	LTS	LTS

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

### 4.13.3.3 IMPACT DISCUSSION

<b>PS-5</b>	<b>Implementation of the proposed Modified Project would not result in the need for new or physically altered school facilities, the construction of which could cause significant environmental impacts to maintain acceptable service ratios or other performance objectives.</b>
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As described in the General Plan EIR, the California State Legislature, under Senate Bill 50 (SB 50), has determined that payment of school impact fees shall be deemed to provide full and complete school facilities mitigation. All new developments under implementation of the Approved Project will be required to pay the school impact fees adopted by each school district, and this requirement is considered to fully mitigate the impacts of the Approved Project on school facilities. The General Plan EIR concluded that with the new housing units CUSD would experience an additional 1,105 students in elementary schools and 309 students in middle school, FUHSD would experience an increase of 309 students, and SCUSD would experience an increase of 220 students (132 elementary schools and 44 students for middle schools and high schools) by 2040. These districts would need to expand existing facilities or construct new ones as student enrollment was already exceeding capacity.

Since the certification of the EIR, enrollment across all districts has decreased, thus there is capacity for the added students from the implementation of the proposed Modified Project. Additionally, like under the Approved Project, SB 50 would continue to require the payment of school impact fees to mitigate the impacts on school facilities from future potential developments under the proposed Modified Project.

The General Plan EIR also found that the Land Use and Community Design (LU), Housing (HE), and Recreation, Parks and Community Service (RPC) Elements contain policies and strategies that require local planning and development decisions to consider impacts that development could have on school resources. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize need for new or physically altered school facilities:

- **Policy HE-7.1. Coordination with Local School Districts.** The Cupertino community places a high value on the excellent quality of education provided by the three public school districts that serve residents. To ensure the long-term sustainability of the schools, teachers, and faculty, in tandem with the

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preservation and development of vibrant residential areas, the City will continue to coordinate with the Cupertino Union School District (CUSD), Fremont Union High School District (FUHSD), and Santa Clara Unified School District (SCUSD).

- **Strategy HE-7.3.2. *Coordination with Local School Districts.*** To ensure the long-term sustainability of public schools, teachers, and faculty, in tandem with the preservation and development of vibrant residential areas, the City will coordinate biennially with the local school districts and colleges to identify housing needs and concerns. The City will discuss potential partnerships for affordable housing developments for school district employees and college students, including on school district properties, which could be assisting with grant applications, incentives, and other incentives listed in Strategy HE-1.3.11.
- **Policy LU-1.6. *Jobs/Housing Balance.*** Strive for a more balanced ratio of jobs and housing units. (General Plan EIR Policy 2-22)
- **Policy LU-11.1. *Connectivity.*** Create pedestrian and bicycle access between new developments and community facilities. Review existing neighborhood circulation to improve safety and access for students to walk and bike to schools, parks, and community facilities such as the library. (General Plan EIR Policy 2-7)
- **Policy RPC- 8.1. *School Districts.*** Partner with school districts to allow community use of their sports fields and facilities. (General Plan EIR Policy 2-61)
- **Strategy RPC- 8.1.1. *Shared Facilities.*** Maintain and enhance arrangements with schools for the use of sports fields, theaters, meeting spaces and other facilities through maintenance agreements and other partnerships. (General Plan EIR Policy 2-93)
- **Strategy RPC- 8.1.2. *School Expansion.*** Encourage schools to meet their expansion needs without reducing the size of their sports fields. (General Plan EIR Policy 2-93)

As with the development assessed in the General Plan EIR, development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards. Based on these considerations and the fact that most schools have not reached enrollment capacity for the 2022-2023 school year, as shown in Tables 4.13-1 and 4.13-2, overall impacts from adoption and implementation of the proposed Modified Project would not result in need for new or physically altered school facilities beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>PS-6</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to public school services.</b>
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The General Plan EIR concluded that regional growth resulting from past, present, and reasonably foreseeable projects would result in increased demand for additional school facilities within all three school districts serving Cupertino. Almost all schools in Cupertino experience capacity deficits, and additional student enrollment would exacerbate the current capacity issue. The schools are expected to

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receive development impact fees from other developments outside of Cupertino, which would mitigate the current and future capacity issues, and would help expand their facilities to accommodate future students.

The proposed Modified Project would contribute to regional growth and result in increased student enrollment and demand on the public school districts. Based on the 2022-2023 school year there is room at most schools to accommodate this expected increase in enrollment. Based on these considerations, the proposed Modified Project would not result in a cumulatively considerable contribution impact related to the construction of other schools beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

### 4.13.4 LIBRARIES

#### 4.13.4.1 ENVIRONMENTAL SETTING

##### Regulatory Framework

###### *State Regulations*

###### The Mello-Roos Communities Facilities Act of 1982

The Mello-Roos Community Facilities Act, Government Code Section 53311 *et seq.*, provides an alternative method of financing certain public capital facilities and services through special taxes. This State law empowers local agencies to establish CFDs to levy special taxes for facilities such as libraries.

###### *Regional Regulations*

###### Santa Clara County Library District Strategic Plan, 2023-2028

The Santa Clara County Library District's (SCCLD) 2023-2028 Strategic Plan sets forth goals and objectives for a 5-year horizon. The goals and objectives identify ways to improve the libraries existing services by providing customer-focused service, looking into partnerships across the library's district, creating a districtwide literacy program plan, and enhancing technology.<sup>9</sup>

###### *Local Regulations*

###### General Plan 2040

The Recreation, Parks and Community Service (RPC) Element of the General Plan 2040 contains goals, policies, and strategies that require local planning and development decisions to consider impacts to libraries. Applicable policies and strategies that would minimize potential adverse impacts to libraries are identified in Section 4.13.4.3, *Impact Discussion*.

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<sup>9</sup> Santa Clara County Library District, 2023, *Santa Clara County Library District Strategic Plan, 2023-2028*.

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### Municipal Code

The Cupertino Municipal Code (CMC) includes various directives pertaining to libraries. Most of the provisions related to libraries are within Chapter 2.68, *Library Commission*, and Chapter 18.24, *Dedications and Reservations*.

- **Chapter 2.68.010, Library Commission.** This chapter establishes the Library Commission and identifies the term of office that they will have and the powers that they will be granted in their term. The duties of this position include consulting with the various city groups and the Santa Clara County Library Joint Powers Authority about the functioning, services, and programs of the Cupertino Library.
- **Section 18.24.190, Standards for Reservation of Land.** This section outlines that when a subdivision is built, certain sites of the subdivision may be required to be reserved by the city for the purpose of a community facilities element, such as a library.

### Existing Conditions

Chapter 4.12, *Public Services and Recreation*, of the General Plan EIR, addresses the impacts to library services associated with buildout of the General Plan 2040 at a program level. The setting for libraries is described in General Plan EIR Section 4.12.4.1, *Existing Conditions*. Cupertino is still in the Santa Clara County Library District as one of the eight libraries in the district. It remains the only public library available in the city. There are 447,541 residents in the library district and 401,497 in-district cardholders.<sup>10</sup> The Cupertino Library was expanded in 2021/2022.

#### 4.13.4.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant public services impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
PS-7. Result in the need for new or physically altered public libraries, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios or other performance objectives.	LTS	LTS
PS-8. Result in significant cumulative impacts with respect to the construction of other public libraries.	LTS	LTS

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

#### 4.13.4.3 IMPACT DISCUSSION

<b>PS-7</b>	<b>Implementation of the proposed Modified Project would not result in the need for new or physically altered library facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios or other performance objectives.</b>
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<sup>10</sup> Santa Clara Library District, 2023-2028 Strategic Plan, <https://player.flipsnack.com/?hash=NkVCQ0NDREQ3NUUrZH05d2N0bzAydg==>, accessed July 20, 2023.

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The General Plan EIR concluded that existing library employees and facilities would be sufficient to accommodate increased demand for library services from implementation of the Approved Project and physical expansion would not be required. The only facility deficiency identified by library staff is a lack of parking; however, communication with library staff has indicated that there is the potential for an expansion of public meeting space with a larger parking lot.<sup>11</sup>

Implementation of the proposed Modified Project would add an additional 9,737 people to the Study Area. This would potentially add thousands of new members to the Santa Clara Public Library system. However, General Plan 2040 includes policies that ensure adequate library services are available for the residents of Cupertino and meet the needs of residents of all ages and its diverse population.

The General Plan EIR also found that the Recreation, Parks and Community Service (RPC) Element contains policies that require local planning and development decisions to consider impacts that development could have on library resources. Like the Approved Project, the following existing General Plan 2040 policies and strategy, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize the need for new or physically altered library facilities:

- **Strategy RPC-1.1.2. Civic Center Master Plan.** Prepare a master plan that addresses the needs of the elements in the Civic Center area including City Hall, Community Hall, Library Field, Library programming, function and meeting space and community gathering space and parking needs.
- **Policy RPC- 6.1. Diverse Programs.** Ensure that the City continues to offer a wide range of programs to serve diverse populations of all ages and abilities. (General Plan EIR Policy 2-60)
- **Policy RPC-6.4. Library Service.** Encourage the library to continue to improve service levels by incorporating new technology and expanding the library collections and services. General Plan EIR Policies 2-58 and 2-60)

As with the development assessed in the General Plan EIR, development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in the need for new or physically altered library facilities beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<sup>11</sup> Personal communications between PlaceWorks and Derek Wolfram, Deputy County Librarian for Community Libraries, April 4, 2014.

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**PS-8                      Implementation of the proposed Modified Project, in combination with past, present, and reasonably foreseeable projects, would not result in significant cumulative impacts with respect to the construction of other library facilities.**

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The General Plan EIR considered growth projected by the Approved Project in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecasted by the Association of Bay Area of Governments (ABAG). Cumulative impacts were considered in the context of the growth from development under the Approved Project combined with the estimated growth in the service areas of the SCCLD, which includes all unincorporated portions of Santa Clara County in addition to the incorporated portions of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Milpitas, Monte Sereno, Morgan Hill, and Saratoga. The Santa Clara County Library Strategic Plan (2008) accounts for the entire SCCLD service area and provides a basis for analyzing the most efficient allocation of funds both for the district as a whole as well as among the different libraries in the SCCLD service area. This and the fact that the increase in service population would occur incrementally over a period of 26 years would ensure the libraries are adequate to fulfill future demand.

Like the Approved Project, the population increase from the proposed Modified Project would occur incrementally. The 2023 Strategic Plan continues to provide an analysis of the most efficient allocation of funds to support their service population. With the General Plan policies in place to ensure all residents have access to public library resources, the proposed Modified Project would not result in significant cumulative impacts due to the construction of other library facilities beyond what was evaluated in the General Plan EIR.

Significance without Mitigation: Less than significant.

## **4.13.5            PARKS AND RECREATION FACILITIES**

### **4.13.5.1        ENVIRONMENTAL SETTING**

#### **Regulatory Framework**

##### *State Regulations*

##### The Quimby Act

The 1975 Quimby Act (California Government Code Section 66477) authorizes cities and counties to adopt ordinances requiring developers to set aside land, donate conservation easements, or pay fees for park improvements. Revenues generated through the Quimby Act cannot be used for operation and maintenance of park facilities.<sup>12</sup> A 1982 amendment (AB 1600) requires agencies to clearly show a reasonable relationship between the public need for the recreation facility or parkland and the type of

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<sup>12</sup> Westrup, Laura, 2002, Quimby Act 101: An Abbreviated Overview, Sacramento: California Department of Parks and Recreation.

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development project upon which the fee is imposed. Cities with a high ratio of park space to inhabitants can set a standard of up to 5 acres per 1,000 persons for new development. Cities with a lower ratio can only require the provision of up to 3 acres of park space per 1,000 persons. The calculation of a city's park space to population ratio is based on a comparison of the population count of the last federal census to the amount of city-owned parkland.

### Mitigation Fee Act

The Mitigation Fee Act allows cities to establish fees that will be imposed on development projects to mitigate the impact on the jurisdiction's ability to provide specified public facilities to serve proposed development projects. In order to comply with the Mitigation Fee Act, a jurisdiction must follow four requirements: 1) Make certain determinations regarding the purpose and use of a fee and establish a nexus or connection between a development project or class of project and the public improvement being financed with the fee; 2) Segregate fee revenue from the general fund in order to avoid commingling of capital facilities fees and general funds; 3) For fees that have been in the possession of the jurisdiction for five years or more and for which the dollars have not been spent or committed to a project, the jurisdiction must make findings each fiscal year describing the continuing need for the money; and 4) Refund any fees with interest for which the findings noted above cannot be made.

### *Regional Regulations*

#### Midpeninsula Regional Open Space District

The Midpeninsula Regional Open Space District (MROSD) is a non-enterprise special district that serves parts of Santa Clara, San Mateo, and Santa Cruz counties in order to form a continuous greenbelt of permanently preserved open space by linking public parklands. As a member of Bay Area Open Space Council, the MROSD participates in cooperative efforts, including Bay Trail, Ridge Trail, and Skyline-to-the-Sea Trail, which are regional Bay Area trails running across the District's jurisdiction. The MROSD's basic policy document includes goals and policies that relate to open space land preservation and management, inter-agency relationships, and public involvement. Lands under MROSD's jurisdiction in Cupertino are designed for low-intensity use to give long-term protection from encroaching urbanization. These lands are acquired according to four principal criteria: scenic preservation, preservation of unique sites, the guidance of urban form, and low intensity recreational opportunities. Most of the MROSD parks are located along both sides of State Route 35, which is a north-south route spanning the counties of San Mateo, Santa Cruz, and Santa Clara. The closest MROSD parks to Cupertino are the Fremont Older, Picchetti Ranch, and Rancho San Antonia, which are located just southwest and west of the city limits, respectively.

#### Santa Clara County Parks and Recreation Department Strategic Plan

The Santa Clara County Parks (SCCP) system includes 28 regional parks encompassing over 52,000 acres of land. The 2018 Strategic Plan identifies and prioritizes outdoor recreation values and needs in Santa Clara County. The SCCP operates on a voter-approved measure in which a fixed portion of the property taxes collected are set aside from the General Fund to acquire and develop a regional park system.

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### *Local Regulations*

#### General Plan 2040

The Land Use and Community Design (LU), Housing (HE), and Recreation, Parks and Community Service (RPC) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to park and recreation. Applicable policies and strategies that would minimize potential adverse impacts to park and recreation facilities are identified in Section 4.13.5.3, *Impact Discussion*.

#### Municipal Code

The Cupertino Municipal Code (CMC) includes various directives pertaining to parks and recreation. Most of the provisions that are related to parks and recreation are located within Chapter 2.36, *Parks and Recreation Commission*, Chapter 13.08, *Park Land Dedication Fee*, Chapter 18.24, *Dedications and Reservations*, and Chapter 19, *Zoning*.

- **Chapter 2.36, *Parks and Recreation Commission*.** This chapter establishes the parks and recreation commission, outlines the term of office, and the responsibilities that will come with being on the commission. The responsibilities entail holding hearings on matters about planning and development of parks, cultural activities, historical resources, recreation, community services, and capital expenditures related to community activities and facilities. After these hearings, findings are reported to the City Council.
- **Chapter 13.08, *Park Land Dedication Fee*.** This chapter regulates the fees that need to be paid in lieu of park land dedication in accordance with the Recreation, Parks, and Community Service Element of the adopted General Plan.
- **Section 18.24.190, *Standards for Reservation of Land*.** This section outlines when a subdivision is built, certain sites of the subdivision may be required to be reserved by the city for the purpose of a community facilities element, such as a park.
- **Chapter 19.92, *Parks and Recreation (PR) Zones*.** This chapter establishes the parks and recreation zone, its purpose, and the permitted uses in these areas.

#### Parks and Recreation System Master Plan

Adopted in 2020, the citywide Parks and Recreation System Master Plan guides future development, renovation, management, and programming of Cupertino's parks and recreation facilities. The goals of the plan are to increase opportunities to connect with nature, expand trails and connectivity, and enhance parks and recreation access. The Master Plan provides direction for the City and Parks and Recreation Department and improves and enhances parks and recreation through the horizon year of 2040.

#### McClellan Ranch Master Plan

Updated in 2012, this plan looked into capital improvement projects at McClellan Ranch Park in order to create a prioritized list that will inform decision making in the years to come. The goals of this plan are to foster stewardship of the earth by providing environmental education, leadership, and resources; protect



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and preserve for the people of Cupertino the natural habitat and rural property; and utilize this rare riparian environment for enjoyment and study.

### Existing Conditions

Chapter 4.12, *Public Services and Recreation*, of the General Plan EIR, addressed the impacts to parks and recreation facilities and services associated with buildout of the General Plan 2040 at a program level. The setting for Public Services as it relates to parks and recreation facilities is described in General Plan EIR Section 4.12.5.1, *Existing Conditions*. Since the certification of the EIR, there have been an additional 16 public parks created in Cupertino, most notably: Blackberry Farm at 21979 Fernando Avenue, a 38-acre open space with an onsite café, two pools open May through September, a playground, horseshow courts, sand volleyball and bocce ball courts, and a large picnic area adjacent to Stevens Creek Trail and Franco Park at 10981 Franco Court, a 0.61-acre neighborhood park with picnic tables and a playground.

#### 4.13.5.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant public services impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
PS-9. Result in the need for new or physically altered park facilities or other recreational facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, or other performance objectives?	LTS	LTS
PS-10. Increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur, or be accelerated?	LTS	LTS
PS-11. Result in significant cumulative impacts with respect to parks?	LTS	LTS

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

#### 4.13.5.3 IMPACT DISCUSSION

<b>PS-9</b>	<b>Implementation of the proposed Modified Project would not result in the need for new or physically altered park facilities or other recreational facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, or other performance objectives.</b>
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For both the Approved Project and the proposed Modified Project, the City has an adopted parkland dedication standard of three acres of parkland for every 1,000 residents.

The General Plan EIR found that there was a total of approximately 156 acres of parkland in Cupertino, or approximately 2.7 acres per 1,000 residents, based on a population of 58,302 (at the time the General Plan EIR was drafted). The General Plan EIR acknowledges that the City does not meet its adopted standard of providing three acres of parkland per 1,000 residents. Because the Approved Project included a projected growth of 12,998 residents over 26 years, an increase in demand for existing parklands and

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recreation facilities would occur. In order to meet the city standard, 39 acres of new parkland would need to be created. The General Plan EIR concluded that the Approved Project would require the construction of new or expanded recreation facilities however it is not known at what time or location such facilities would be required or what the exact nature of those facilities would be. Thus, it cannot be determined what project-specific environmental impacts would occur from their construction and operation of the new parks. Additionally, such impacts would be project-specific, and would require permitting and review in accordance with CEQA, as necessary, which would ensure that any environmental impacts are disclosed and mitigated to the extent possible.

Since the certification of the General Plan EIR, the City has developed the Regnart Creek Trail (approximately 1.5 acres) which connects the eastern part of the city in an east-west direction, along Regnart Creek in the City Center Special Area and the South Blaney neighborhood. In addition, the City has acquired the 1.56 acre Linda Vista trail in the western part of the city in the South Monta Vista neighborhood, and completed acquisition of the 7.8 acre Lawrence Mitty Park in the Rancho Rinconada neighborhood, which is in the design phase and is anticipated to be completed in the next 5 years. Finally, the City is in the process of designing the 3 mile long (approximately 4.36 acres) Tamien Innu (trail) along the Junipero-Serra channel on Santa Clara Valley Water District property, which would connect the Garden Gate neighborhood on the west to Main Street in the east, which abuts the Rancho Rinconada neighborhood. This additional parkland would increase the total parkland in Cupertino to approximately 171 acres, but in order to meet the city standard, approximately 24 additional acres of parkland would need to be created.

Implementation of the proposed Modified Project would add an additional 9,737 residents to the City's projected growth projections. To meet the standard set by the City of three acres of parkland for every 1,000 residents, an additional 9.7 acres of parkland would need to be included during implementation of the proposed Modified Project, for a total need of 33.48 acres of parkland. As with the Approved Project, the location and exact nature of the future facilities is unknown, so environmental impacts from their construction and operation cannot be determined within this EA.

The General Plan EIR also found that the Housing (HE) and Recreation, Parks and Community Service (RPC) Elements contain policies that require local planning and development decisions to consider impacts that development could have on park facilities or other recreational facilities. Like the Approved Project, the following existing General Plan 2040 policies and strategy, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize the need for new or physically altered park facilities or other recreational facilities:

- **Strategy HE-2.3.9. Review Impact Fees.** To ensure that impact fees are not a constraint on the development of housing,
  - Review and revise impact fees by researching surrounding jurisdictions to determine other possible fee structures, grant funding opportunities and similar funding sources, review of average persons per unit at higher densities of development and will consider:
    - Alternatives, such as privately owned, publicly accessible (POPA) areas, or allowing parkland credit for pedestrian connections and trails.
    - Incorporating priority processing, granting fee waivers or deferrals for 100 percent affordable projects, and modifying development standards.

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- **Strategy HE-3.3.5. *Park Land Ordinance.*** The City will review and revise its Park Land Ordinance to reduce any potential constraints on residential development while maintaining access to quality open space. The City will review requirements for higher-density projects and evaluate the possibility of open space credits.
- **Policy RPC-1.2. *Parkland Standards.*** Continue to implement a parkland acquisition and implementation program that provides a minimum of three acres per 1,000 residents. (General Plan EIR Policy 2-83)
- **Policy RPC- 2.4. *Connectivity and Access.*** Ensure that each home is within a half-mile walk of a neighborhood park or community park with neighborhood facilities; ensure that walking and biking routes are reasonably free of physical barriers, including streets with heavy traffic; provide pedestrian links between parks, wherever possible; and provide adequate directional and site signage to identify public parks. (General Plan EIR Policy 2-84)

As with the development under the Approved Project, potential future development, like future park and recreation facilities under the proposed Modified Project, would be required to comply with applicable laws, policies, and design standards. Further, CMC Chapter 14.05, *Park Maintenance Fee*, requires developers to pay impact fees to maintain existing parks and recreation facilities and Chapter 18.24, *Dedications and Reservations*, requires residential developments to dedicate parklands or pay in-lieu fees to accommodate and offset their fair share of impacts to parklands.

Therefore, the proposed Modified Project would increase population and thus the required acreage of parks and recreation facilities. However, the General Plan policies in place and future development having to comply with the CMC regulations would help the City meet its target of three acres per 1,000 residents. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts from new or physically altered park facilities or other recreational facilities beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>PS-10</b>	<b>Implementation of the proposed Modified Project would not increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur, or be accelerated.</b>
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The General Plan EIR concluded that there was a total of approximately 156 acres of parkland in Cupertino, or approximately 2.7 acres per 1,000 residents, based on a population of 58,302 (at the time the General Plan EIR was drafted). The Approved Project would bring as many as 12,998 new residents to the City by 2040; therefore, increasing use of existing parkland, which could accelerate the physical deterioration of existing facilities. However, future development would comply with CMC Chapter 14.05, *Park Maintenance Fee*, that requires developers to pay impact fees to maintain existing parks and recreation facilities and Chapter 18.24, *Dedications and Reservations*, that requires residential developments to dedicate parklands or pay in-lieu fees to accommodate and offset their fair share of impacts to parklands. This would ensure that potential future development provides its fair-share of parks

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since the Approved Project would increase population, and subsequently the demand on parks and recreation facilities throughout Cupertino.

Like the Approved Project, implementation of the proposed Modified Project would result in an increase in population and therefore the use of existing neighborhood and regional parks or other recreational facilities. Potential future development under the implementation of the proposed Modified Project would be required to comply with the CMC chapters referenced previously that would support the City in maintaining and creating new neighborhood and regional parks or other recreational facilities.

Additionally, along with the General Plan 2040 policies listed in Impact Discussion PS-9, the General Plan EIR also found that the Land Use and Community Design Element and the Recreation, Parks and Community Service (RPC) Element contains policies and strategies that require local planning and development decisions to consider impacts that development could have on park or other recreational facilities. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize substantial physical deterioration of park or other recreational facilities:

- **Policy LU-7.1. *Public Art*.** Stimulate opportunities for the arts through development and cooperation with agencies and the business community. (General Plan EIR Policy 2-75)
- **Policy RPC- 1.1. *Parks and Recreation Master Plan*.** Prepare a citywide Parks and Recreation Master Plan that outlines policies and strategies to plan for the communities open space and recreational needs. (General Plan EIR Policy 2-78)
- **Strategy RPC- 1.1.1. *Stevens Creek Corridor Master Plan*.** Prepare a master plan for the park and open space corridor along Stevens Creek including McClellan Ranch, McClellan Ranch West, Blackberry Farm, the Blackberry Farm golf course, Stockmeir and Blesch properties and the Nathan Hall Tank House area. The plan should address a fiscally sustainable strategy that allows year-round community use of the park system, while preserving the area's natural resources and addressing neighborhood issues including connectivity and buffers. (General Plan EIR Policy 2-78)
- **Strategy RPC- 2.5.1. *Special Needs*.** Extend recreational opportunities for special needs groups (seniors, disabled, visually challenged, etc.) by making improvements to existing facilities and trails. (General Plan EIR Policy 2-79)
- **Policy RPC- 5.1. *Open Space and Trail Linkages*.** Dedicate or acquire open space land along creeks and utility through regional cooperation, grants and private development review. (General Plan EIR Policy 2-82)

As with the development under the Approved Project, potential future development, like future park and recreation facilities under the proposed Modified Project, would be required to comply with applicable laws, policies, and design standards. Further, CMC Chapter 14.05, *Park Maintenance Fee*, requires developers to pay impact fees to maintain existing parks and recreation facilities and Chapter 18.24, *Dedications and Reservations*, requires residential developments to dedicate parklands or pay in-lieu fees to accommodate and offset their fair share of impacts to parklands.

Therefore, the proposed Modified Project would increase population and thus the use of parks and recreation facilities. However, the General Plan policies in place and future development having to comply with the CMC regulations would help the City update and improve park and recreation facilities. Based on

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these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts from use of existing neighborhood and regional parks or other recreational facilities beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>PS-11</b>	<b>Implementation of the proposed Modified Project, in combination with past, present and reasonably foreseeable projects, would/would not result in significant cumulative impacts with respect to parks.</b>
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The EIR considered growth projected by the Approved Project within the Study Area in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecasted by the Association of Bay Area Governments (ABAG). The geographic scope for this discussion includes park and recreation facilities within the Study Area, as well as Santa Clara County, and the Midpeninsula Regional Open Space District. Although buildout would cumulatively increase demand for park and recreation facilities, as described in General Plan EIR Impact Discussion PS-9 and PS-10, the City would require subdivision development to fund park improvements and dedicate land through compliance with CMC Chapter 14.05 and Title 18, which would help to ensure the provision of adequate parklands in compliance with the City standard of providing three acres per 1,000 residents. Further, potential future impacts to Santa Clara County and Midpeninsula Regional Open Space District parks would be mitigated through the contribution of property taxes to ensure facilities at these locations are adequately maintained and sufficient to accommodate growth associated with implementation of the Approved Project.

Like the Approved Project, the proposed Modified Project would further increase population and the demand for parks and recreation facilities. Yet, like the conclusion in the General Plan EIR, compliance with CMC Chapter 14.05 and Title 18 would help to ensure the provision of adequate parklands in compliance with the City standard providing three acres per 1,000 residents. Additionally, General Plan 2040 policies and strategies listed in Impact Discussions PS-9 and PS-10 would ensure park space is maintained and adequate for the residents of Cupertino and the surrounding area. Overall, the proposed Modified Project would not result in significant cumulative impacts due to the park or recreational facilities beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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## 4.14 TRANSPORTATION

This chapter describes the potential impacts to transportation associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and existing conditions, identifies criteria used to determine impact significance, provides an analysis of the potential transportation impacts, and identifies General Plan 2040 policies and/or strategies that could minimize any potentially significant impacts.

### 4.14.1 ENVIRONMENTAL SETTING

#### 4.14.1.1 TERMINOLOGY

The following are definitions for terms used in this chapter:

- **Vehicle Miles Traveled (VMT).** A measure of network use or efficiency that accounts for the number of daily vehicle trips generated, times the length or distance of those trips. VMT is generally expressed as VMT per capita for a typical weekday.
- **Greenhouse gases (GHG).** Gases in the atmosphere that absorb infrared light, thereby retaining heat in the atmosphere and contributing to a greenhouse effect.

#### 4.14.1.2 REGULATORY FRAMEWORK

##### Federal Regulations

Applicable federal regulations pertaining to transportation are addressed in other chapters of this EIR, including Chapter 4.2, *Air Quality*; Chapter 4.7, *Greenhouse Gas Emissions*; and Chapter 4.8, *Hazards and Hazardous Materials*. The federal Clean Air Act, the Fixing America's Surface Transportation Act, and the Americans with Disabilities Act may have some relevance or influence for individual projects or actions as part of potential future projects in the Study Area. Additionally, the Federal Highway Administration (FHWA) is the agency of the United States Department of Transportation (USDOT) responsible for the federally funded roadway system, including the interstate highway network and portions of the primary state highway network, Interstate (I-) 280 and State Route (SR-) 85.

##### State Regulations

###### *Senate Bill 743*

With the passage of Senate Bill (SB) 743 in September 2013, which was codified in Public Resources Code Section 21099, and the subsequent adoption of revised California Environmental Quality Act (CEQA) Guidelines in December 2018, level of service, also referred to as LOS, can no longer be used as a criterion for identifying significant transportation impacts for most projects under CEQA. Level of service is the measure of the average amount of delay experienced by vehicle drivers at an intersection or along a road segment during the most congested time of day, while the new CEQA metric (VMT) measures the total number of daily miles traveled by vehicles on the roadway network and thereby the impacts on the environment from those miles traveled. Level of service is a measure of local vehicle congestion at an

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intersection or on a road segment, and VMT is a measure of the total miles of vehicles travel measured at an area-wide or project-level scale. In other words, SB 743 changed the focus of transportation impact analysis in CEQA from measuring quality-of-life impacts to *drivers*, to measuring the physical impacts of *driving* on the environment.

According to the Governor's Office of Planning and Research (OPR) *Technical Advisory on Evaluating Transportation Impacts in CEQA* (Technical Advisory),<sup>1</sup> land use projects with one or more of the following characteristics would generate lower VMT than conventional development:

- Higher land use densities
- Mix of project uses
- Support of a citywide jobs-housing balance (i.e., provide housing in a job rich area, or vice versa)
- Proximity to the core of a region
- Proximity to high-quality transit service
- Located in highly walkable or bikeable areas

This shift in transportation impact criteria is expected to better align transportation impact analysis and mitigation outcomes with the State's goals to reduce GHG emissions, encourage infill development, and improve public health through more active transportation. Specific to SB 743, CEQA Guidelines Section 15064.3(c) states that, "a lead agency may elect to be governed by the provisions of this section immediately. Beginning on July 1, 2020, the provisions of this section shall apply statewide." However, CEQA Section 21099(b)(2) states that, "upon certification of the guidelines by the Secretary of the Natural Resources Agency pursuant to this section, automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion, shall not be considered a significant impact on the environment pursuant to this division, except in locations specifically identified in the CEQA Guidelines."

Although the OPR provides recommendations for adopting new VMT analysis guidelines, lead agencies have the final say in designing their methodology. Lead agencies must select their preferred method of estimating and forecasting VMT, their preferred significance thresholds for baseline and cumulative conditions, and the mitigation strategies they consider feasible. Lead agencies must prove that their selected analysis methodology aligns with SB 743's goals to promote infill development, reduce GHGs, and reduce VMT.

### *Sustainable Communities and Climate Protection Act*

The Sustainable Communities and Climate Protection Act, commonly referred to by its legislative bill number, Senate Bill 375 (SB 375), provides incentives for cities and developers to bring housing and jobs closer together and to improve public transit. The goal is to reduce the number and length of automobile commuting trips, helping to meet the statewide targets for reducing greenhouse gas emissions set by Assembly Bill (AB) 32.

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<sup>1</sup> *Technical Advisory on Evaluating Transportation Impacts in CEQA*, Governor's Office of Planning and Research, April 2018.



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SB 375 requires each Metropolitan Planning Organization (MPO) to add a broader vision for growth to its transportation plan—called a Sustainable Communities Strategy (SCS). The SCS must lay out a plan to meet the region’s transportation, housing, economic, and environmental needs in a way that enables the area to lower greenhouse gas emissions. The SCS should integrate transportation, land-use, and housing policies to plan for achievement of the emissions target for each region. The Metropolitan Transportation Commission (MTC) and Association of Bay Area Governments (ABAG) Regional Transportation Plan (RTP) and SCS were adopted in 2017 and updated under the title *Plan Bay Area 2050* in 2021.<sup>2</sup> According to MTC/ABAG, *Plan Bay Area 2050+*, which is a limited and focused update that builds upon the strong foundation of *Plan Bay Area 2050*, is currently being prepared.

### *California Complete Streets Act of 2008*

Originally passed in 2008, California’s Complete Streets Act (Assembly Bill 1358) came into effect in 2011 and requires local jurisdictions to plan for land use transportation policies that reflect a “complete streets” approach to mobility. “Complete streets” comprises a suite of policies and street design guidelines that provide for the needs of all road users, including pedestrians, bicyclists, transit operators and riders, children, the elderly, and the disabled. From 2011 onward, any local jurisdiction—county or city—that undertakes a substantive update of the circulation element of its general plan must plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways, (i.e., consider “complete streets” and incorporate corresponding policies and programs).<sup>3</sup>

### *California Department of Transportation*

The California Department of Transportation (Caltrans) is the primary state agency responsible for transportation issues. One of its duties is the construction and maintenance of the state highway system. Caltrans approves the planning, design, and construction of improvements for all State-controlled facilities, including I-280 and SR-85, and the associated interchanges for these facilities in the Study Area. Caltrans has established standards for roadway traffic flow and developed procedures to determine if State-controlled facilities require improvements. For projects that may physically affect facilities under its administration, Caltrans requires encroachment permits before any construction work may be undertaken. For projects that would not physically affect facilities but may influence traffic flow and levels of service at such facilities, Caltrans may recommend measures to mitigate the traffic impacts of such projects.

The following Caltrans procedures and directives are relevant to the proposed Modified Project, particularly to state roadway facilities:

- **Vehicle Miles Traveled-Focused Transportation Impact Study Guide.** The Caltrans *Vehicle Miles Traveled-Focused Transportation Impact Study Guide* (TISG), dated May 20, 2020, was prepared to provide guidance to Caltrans districts, lead agencies, tribal governments, developers, and consultants regarding Caltrans’ review of VMT impact analysis for land use projects and land use plans. Caltrans

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<sup>2</sup> Association of Bay Area Governments and Metropolitan Transportation Commission, October 2021, *Plan Bay Area 2050*, [https://www.planbayarea.org/sites/default/files/documents/Plan\\_Bay\\_Area\\_2050\\_October\\_2021.pdf](https://www.planbayarea.org/sites/default/files/documents/Plan_Bay_Area_2050_October_2021.pdf), accessed July 21, 2023.

<sup>3</sup> California Government Code Section 65302(b)(2)

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seeks to reduce single-occupancy vehicle trips, provide a safe transportation system, reduce per capita VMT, increase accessibility to destinations via cycling, walking, carpooling, and transit, and reduce GHG emissions. The TISG notes that, for land use projects and plans, automobile delay (the level of service metric) is no longer considered a significant impact on the environment under CEQA. Caltrans's primary review focus for a land use project's transportation impact is now VMT. The TISG generally endorses the OPR Technical Advisory, including the thresholds in that document. Caltrans may review VMT thresholds, methodology, and mitigations.

- **Interim Land Development and Intergovernmental Review Safety Review Practitioners Guidance.** The Interim Land Development and Intergovernmental Review (LDIGR) Safety Review Practitioners Guidance (July 2020) was developed to provide immediate direction about the safety review while final guidance is being developed. The Interim LDIGR Safety Review Practitioners Guidance does not establish thresholds of significance for determining safety impacts under CEQA. The Interim LDIGR Safety Review Practitioners Guidance states that the significance of impacts should be determined with careful judgment on the part of a public agency and based, to the greatest extent possible, on scientific and factual data consistent with Caltrans's CEQA guidance in its Standard Environmental Reference. The Interim LDIGR Safety Review Practitioners Guidance states that Caltrans's traffic safety staff will use available data to determine if the project may influence or contribute to locations identified by traffic safety investigations generated by network screening or initiated by Caltrans.
- **Deputy Directive 64-RI: Complete Streets—Integrating the Transportation System.** This directive requires Caltrans to provide for the needs of travelers of all ages and abilities in all planning, programming, design, construction, operations, and maintenance activities and products on the state highway system. Caltrans supports bicycle, pedestrian, and transit travel with a focus on "complete streets" that begins early in system planning and continues through project construction and maintenance and operations.
- **Director's Policy 22.** This policy establishes support for balancing transportation needs with community goals. Caltrans seeks to involve and integrate community goals in the planning, design, construction, and maintenance and operations processes, including accommodating the needs of bicyclists and pedestrians. Director's Policy 22 recognizes that "in towns and cities across California, the State highway may be the only through street or may function as a local street," that "these communities desire that their main street be an economic, social, and cultural asset as well as provide for the safe and efficient movement of people and goods," and that "communities want transportation projects to provide opportunities for enhanced non-motorized travel and visual quality."<sup>4</sup> Director's Policy 22 acknowledges that addressing these needs will ensure that transportation solutions meet more than just traffic and operational objectives.

Caltrans recognizes four classifications of bicycle facilities.

- **Class I.** Commonly referred to as a bike path or bikeway, Class I facilities are separated from automobile traffic for the exclusive use of bicyclists.

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<sup>4</sup> California Department of Transportation. 2001. "Directors Policy DP-22", accessed on February 5, 2024 at <https://dot.ca.gov/-/media/dot-media/programs/transportation-planning/documents/active-transportation-complete-streets/dp-22-a11y.pdf>.

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- **Class II.** Commonly referred to as bike lanes, Class II facilities are dedicated for bicyclists immediately adjacent to automobile traffic.
- **Class III.** Commonly referred to as bike routes, Class III facilities are on-street routes where bicyclists and automobiles share the road.
- **Class IV.** Commonly referred to as cycle tracks or protected bike lanes, Class IV facilities combine elements of Class I and Class II facilities to offer an exclusive bicycle route immediately adjacent to a roadway, similar to a Class II facility, but includes a physical separation from traffic with raised curbs, plastic delineators, or parked automobiles.

### Regional Regulations

#### *Plan Bay Area*

As described in Chapter 4, *Environmental Analysis*, of this Draft EA, and previously in this chapter, *Plan Bay Area* is the RTP/ SCS that works to align transportation and land use planning in order to reduce VMT through modified land use patterns. The current *Plan Bay Area* projects growth and development patterns through 2050 and a limited a focused update for year 2050+ is currently being prepared.

#### *Bay Area Clean Air Plan*

As described in Chapter 4.3, *Air Quality*, of this EA, the Bay Area Air Quality Management District (BAAQMD) adopted the 2017 *Clean Air Plan: Spare the Air, Cool the Climate* (Clean Air Plan) on April 19, 2017. The 2017 Clean Air Plan also lays the groundwork for reducing GHG emissions in the Bay Area to meet the state's 2030 GHG reduction target and 2050 GHG reduction goal. It also includes a vision for the Bay Area in a post carbon year 2050 that encompasses the following:

- Walk, bicycle, and use public transit for most trips and use electric-powered autonomous public transit fleets.
- Incubate and produce clean energy technologies.

A comprehensive multipollutant control strategy has been developed to be implemented in the next three to five years to address public health and climate change and to set a pathway to achieve the 2050 vision. The control strategy includes 85 control measures to reduce emissions of ozone, particulate matter, toxic air contaminants, and GHG from a full range of emission sources. These control measures cover eight sectors that contribute to GHG emissions, including transportation. The control strategy includes the following relevant priorities related to the transportation sector:

- Decrease demand for fossil fuels (gasoline, diesel, and natural gas).
- Increase efficiency of the energy and transportation systems.
- Reduce demand for vehicle travel and high-carbon goods and services.
- Electrify the transportation and building sectors.

#### *Congestion Management Program*

The Santa Clara Valley Transportation Authority (VTA) prepared the 2021 Congestion Management Program (CMP) to reduce traffic congestion and improve land use decision-making and air quality. The

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CMP monitors the level of service on roadway networks. It requires cities/towns and the county to prepare a Transportation Impact Analysis report that documents the impacts that new developments would have on the CMP Roadway Network, as well as other parts of the transportation system.

### *Valley Transportation Plan*

The Valley Transportation Plan (VTP) is the long-term comprehensive plan developed by VTA that provides policies and programs for transportation in Santa Clara County. VTP 2040, adopted in 2014, identifies programs, projects, and policies the VTA will pursue related to efficiency and mobility, sustainability and growth, connectivity and technology, air quality and energy use, and fiscal sustainability and responsibility.

## Local Regulations

### *General Plan 2040*

The Land Use and Community Design (LU), Mobility (M), Environmental Resources and Sustainability, and Health and Safety (HS) Elements, of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider transportation impacts including vehicle miles traveled. The General Plan 2040 policies and strategies that would minimize potential adverse transportation impacts are identified in Section 4.14.3, *Impact Discussion*.

### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to minimize adverse transportation impacts in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to transportation are included in Title 11, *Vehicles and Traffic*, Title 14, *Streets, Sidewalks, and Landscaping*, and Title 17, *Environmental Regulations*, as follows:

- **Title 11, *Vehicles and Traffic*.** This title establishes regulations with respect to parking, traffic, and circulation. Additionally, Title 11 establishes regulations governing roadway design features, such as speed bumps.
- **Chapter 14.04, *Street Improvements*.** This chapter requires that any person who proposes to erect, construct, add to, alter, or repair any building or structure, for which a permit is required, adjacent to land of an unimproved street, must install street improvements. These improvements include, but are not limited to, street signs, curbs and gutters, driveways, sidewalks, street paving, and/or dedications and improvements of service roads, and parking facilities. CMC Section 14.04.110, *Improvements Installed Prior to Permit—Imposition of Street Improvement Reimbursement Charges, Cost of Land and Interest*, requires that when street improvements are made by the City in advance of development of adjacent property, upon development the property owner must reimburse City for all costs advanced.
- **Chapter 17.04, *Standard Environmental Protection Requirements*.** The purpose of this chapter is to identify standard environmental protection requirements that all construction projects must meet, including but not limited to environmental mitigation measures identified in any environmental documents required as part of a General Plan update. This chapter includes specific requirements for VMT.

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- **Section 17.04.040(C), *Vehicle Miles Traveled Technical Report Requirements*.** This section requires that project applicants prepare a vehicle miles traveled (VMT) analysis, which shall include a comparison of existing VMT and project-generated VMT, for review and approval prior to project approval, indicating that the project meets the standards in CMC Section 17.08.040, *Vehicle Miles Traveled (VMT) Standards*.
- **Chapter 17.08, *Evaluation of Transportation Impacts under the California Environmental Quality Act*.** This chapter contains standards relating to the use of VMT in Cupertino for evaluating transportation impacts. As a result of SB 743, the City has implemented the use of VMT in environmental review of new CEQA projects.

  - A. The VMT significance thresholds for land use projects and plans compared to baseline conditions are:
    1. Project Effect: A significant impact would occur if the total project generated VMT per service population for the project would exceed a level of 14.4% below the citywide baseline VMT rate.
    2. Project Effect: A significant impact would occur if the project increases total (boundary) countywide VMT compared to baseline conditions.
  - B. The VMT significance thresholds for land use and transportation projects and plans under cumulative conditions are:
    1. Project Effect: A significant impact would occur if the project increases total (boundary) countywide VMT compared to cumulative no project conditions.
    2. All land use and transportation projects: A significant impact would occur if the project is inconsistent with the Regional Transportation Plan/Sustainable Community Strategy Plan (*Plan Bay Area*).
  - C. The VMT significance thresholds for transportation projects are:
    1. Baseline Transportation Thresholds: A significant impact would occur if a project causes a net increase in total (boundary) citywide VMT compared to baseline conditions or opening year no project conditions.
    2. Cumulative Transportation Thresholds: A significant impact would occur if a project causes a net increase in total (boundary) citywide VMT compared to cumulative no project conditions.

### *Cupertino Bicycle Transportation Plan*

*The City of Cupertino 2016 Bicycle Transportation Plan* (2016 Bicycle Plan) is a citywide plan to encourage bicycling as a safe, practical, and healthy alternative to cars. The 2016 Bicycle Plan includes standards for engineering, encouragement, education, and enforcement intended to improve the bicycle infrastructure in the city to enable and encourage people to bike to work and school, to utilize a bicycle to run errands, and to enjoy the health and environmental benefits that bicycling provides cyclists of every age.

### *Cupertino Pedestrian Transportation Plan*

The 2018 *City of Cupertino Pedestrian Transportation Plan* (2018 Pedestrian Plan) presents goals, policies, and specific recommendations to increase the walkability of Cupertino. The 2018 Pedestrian Plan is a companion document to 2016 Bicycle Plan. It serves as the blueprint for Cupertino to achieve its vision of an inviting, safe, and connected pedestrian network that enhances the quality of life for all community

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members and to establish a guiding framework for the development and maintenance of pedestrian facilities throughout Cupertino. It includes the following types of specific recommendations to improve pedestrian conditions: pedestrian pathway projects, sidewalk improvement locations, traffic calming projects, proposed intersection improvements, and other pedestrian projects.

### 4.14.1.3 EXISTING CONDITIONS

Chapter 4.13, *Transportation and Traffic*, of the General Plan EIR, addresses the impacts regarding transportation and traffic. The setting for transportation is described in General Plan EIR Section 4.13.4, *Existing Conditions and Environmental Setting*. The General Plan EIR found that, for vehicular transportation, development under the Approved Project would result in additional trips and cause 16 intersections to have unacceptable levels of service; thus, conflicting with the City's standards for traffic at that time. Though the City was not able to guarantee improvements, the General Plan EIR included Mitigation Measure TRAF-1 to reduce impacts associated with level of service. As described under subheading "Senate Bill 743" in Section 4.14.1.2, *Regulatory Framework*, since the certification of the General Plan EIR, the method to analyze transportation impacts has changed and level of service is no longer considered an appropriate metric for evaluating impacts under CEQA. Accordingly, Mitigation Measures TRAF-1 does not apply to the proposed Modified Project and this EA. VMT is now used as a metric to analyze project impacts. VMT measures the total number of daily miles traveled by vehicles on the roadway network and thereby the impacts on the environment from those miles traveled. Though no VMT analysis methodologies, standards, or thresholds of significance was established at the time of the General Plan EIR, VMT calculations were provided in Impact Discussion TRAF-1 in Section 4.13.6, *Impact Discussion*, of the General Plan EIR. As shown, the VMT per capita was projected to increase from 10.5 (2000 to 2020 General Plan) to 10.9 (Approved Project). However, Fehr & Peers prepared the *Transportation Analysis for the Environmental Review* (Transportation Analysis) in January 2024, which is included in Appendix E, *Transportation Analysis*, of this EA. Table 9, *Total Project Generated VMT Assessment, of the Transportation Analysis*, shows that using current standards and methodology and the City of Cupertino VMT thresholds, existing conditions without the proposed Modified Project, would generate 36.56 VMT per service population (sum of all residents and employees).

### 4.14.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant transportation impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
TRANS-1. Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?	SU	LTS
TRANS-2. Conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b)?	N/A	SU
TRANS-3. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	LTS	LTS
TRANS-4. Result in inadequate emergency access?	LTS	LTS
TRANS-5. Result in a cumulatively considerable impact with respect to transportation?	SU	SU

Note: In December 2018 amendments were made to Appendix G, *Environmental Checklist*, of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. TRANS-2, regarding CEQA Guidelines Section 15064.3, subdivision (b) was added.

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable; N/A = not a standard of significance in the General Plan EIR

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### 4.14.3 IMPACT DISCUSSION

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<b>TRANS-1</b>	<b>Implementation of the proposed Modified Project would not conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities.</b>
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As discussed in Section 4.14.1.1, *Regulatory Framework*, programs, plans, and policies addressing circulation in Study Area include the Complete Streets Act, *Plan Bay Area*, VTP 2040, 2016 Bike Plan, and 2018 Pedestrian Plan. In general, the overarching goals of these policy documents are to ensure a safe, efficient, and accessible multi-modal transportation network for all users that also reduces VMT to improve air quality and reduce GHG emissions.

Impact Discussion TRAF-5 of the General Plan EIR analyzed impacts related to other modes of transportation (transit, bicycle, and pedestrian) and found that the Approved Project would be consistent with the Complete Streets Act, VTP 2040, *Plan Bay Area*, 2018 Pedestrian Plan, and 2016 Bicycle Plan.

The General Plan EIR also found that the Land Use and Community Design (LU), Mobility (M), and Environmental Resources and Sustainability (ES) Elements contain policies and strategies that require local planning and development decisions to consider impacts that development could have on a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would directly and indirectly result in improving the transportation network and support an increase in alternate modes of transportation, thus supporting regional goals to reduce VMT and GHG emissions, as well as support programs, plans, ordinances, or policies addressing the circulation system:

- **Policy LU-1.1. *Land Use and Transportation*.** Focus higher land use intensities and densities within a half-mile of public transit service, and along major corridors. (General Plan EIR Policy 4-7)
- **Policy LU-3.1. *Site Planning*.** Ensure that project sites are planned appropriately to create a network of connected internal streets that improve pedestrian and bicycle access, provide public open space and building layouts that support city goals related to streetscape character for various Planning Areas and corridors. (General Plan EIR Policy 4-4)
- **Strategy LU-8.3.3. *Infrastructure and Streetscape Improvements*.** Improve infrastructure and streetscape in areas, such as the Crossroads or South Vallco area to encourage redevelopment as a pedestrian-oriented area that meets community design goals. (General Plan EIR Policy 4-12)
- **Strategy LU-12.5.1. *County Development*.** Require development in these areas to comply with Cupertino's hillside policies of low-intensity residential, agricultural, or open space uses, and to preserve the natural environment through clustering and/or dedication of open space. Visual impacts, access, traffic and other impacts, and service demands shall be assessed in consultation with Cupertino's goals and policies.

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- **Policy LU-13.1. *Heart of the City Specific Plan.*** The Heart of the City Specific Plan provides design standards and guidelines for this area, which promote a cohesive, landscaped boulevard that links its distinct sub-areas and is accessible to all modes of transportation. (General Plan EIR Policy 2-26)
- **Policy LU-13.7.4. *Traffic Calming.*** Evaluate options on Stevens Creek Boulevard to improve the pedestrian environment by proactively managing speed limits, enforcement, and traffic signal synchronization.
- **Strategy LU-19.2.2. *Existing Streets.*** Improve Stevens Creek Boulevard and Wolfe Road to become more bike and pedestrian-friendly with bike lanes, wide sidewalks, street trees, improved pedestrian intersections to accommodate the connects to Nineteen800, Main Street, and the surrounding areas. (General Plan EIR Policy 4-9)
- **Policy LU-20.2. *Streetscape and Connectivity.*** Future roadway improvements on Wolfe Road, Homestead Road and Tantau Avenue shall be coordinated with planned improvements to improve pedestrian, bike and transit connections. Streetscape improvements will enhance the pedestrian environment with street trees, attractive bus shelters and street furniture. The campus site should provide an attractive landscaped edge along the street. Future improvements to the Wolfe Road bridge should be coordinated to preserve the vision for this area. (General Plan EIR Policy 4-12)
- **Policy LU-21.3. *Streetscape and Connectivity.*** North De Anza is envisioned as a walkable, bikeable boulevard with wide sidewalks with street trees and roadway improvements for bike lanes and pedestrian crossings. Pedestrian and bike improvements and enhanced pedestrian crossings are also envisioned along other streets in this area to create an interconnected grid. Such improvements will also improve school routes from the Garden Gate neighborhood to Lawson school to the east and provide access to transit routes. (General Plan EIR Policy 4-12)
- **Policy LU-21.4. *Streetscape and Connectivity.*** South De Anza is envisioned as a walkable, bikeable boulevard with sidewalks, street trees and roadway improvements for bike lanes and pedestrian crossings. Side streets are also envisioned with pedestrian and bicycle improvements to ensure walkable connections from adjacent neighborhoods. (General Plan EIR Policy 4-12)
- **Policy LU-24.2. *Streetscape and Connectivity.*** Bubba Road is envisioned as a walkable, bikeable corridor with sidewalks, street trees and roadway improvements for bike lanes and pedestrian crossings. Pedestrian and bike improvements and enhanced pedestrian crossings are also envisioned along other streets in this area to create an interconnected grid. Such improvements will also improve routes from the northern and eastern neighborhood to the tri-school area, parks and services and reduce impacts caused by to school and employment traffic. (General Plan EIR Policy 4-12)
- **Strategy LU-25.4.2. *Residential Streets.*** Residential street improvements may have a semi-rural appearance based on the Municipal Code requirements. Safe routes to school streets, or any others designated by the City Council shall be required to have sidewalks and street trees. (General Plan EIR Policy 4-5)
- **Policy M-1.1. *Regional Transportation Planning.*** Participate in regional transportation planning processes to develop programs consistent with the goals and policies of Cupertino's General Plan and to minimize adverse impacts on the City's circulation system. Work with neighboring cities to address regional transportation and land use issues of mutual interest.



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- **Policy M-1.3. *Regional Trail Development.*** Continue to plan and provide for a comprehensive system of trails and pathways consistent with regional systems, including the Bay Trail, Stevens Creek Corridor and Ridge Trail. (General Plan EIR Policy 4-6)
- **Policy M-2.6. *Traffic Calming.*** Consider the implementation of best practices on streets to reduce speeds and make them user-friendly for alternative modes of transportation, including pedestrians and bicyclists.
- **Policy M-3.1. *Bicycle and Pedestrian Master Plan.*** Adopt and maintain a Bicycle and Pedestrian master plan, which outlines policies and improvements to streets, extension of trails, and pathways to create a safe way for people of all ages to bike and walk on a daily basis, and as shown in Figure M-1.
- **Policy M-3.2. *Development.*** Require new development and redevelopment to increase connectivity through direct and safe pedestrian connections to public amenities, neighborhoods, shopping and employment destinations throughout the city.
- **Policy M-3.3. *Pedestrian and Bicycle Crossings.*** Enhance pedestrian and bicycle crossings and pathways at key locations across physical barriers such as creeks, highways and road barriers.
- **Policy M-3.4. *Street Widths.*** Preserve and enhance citywide pedestrian and bike connectivity by limiting street widening purely for automobiles as a means of improving traffic flow.
- **Policy M-3.5. *Curb Cuts.*** Minimize the number and the width of driveway openings.
- **Policy M-3.6. *Safe Spaces for Pedestrians.*** Require parking lots to include clearly defined paths for pedestrians to provide a safe path to building entrances. (General Plan EIR Policy 4-13)
- **Policy M-3.7. *Capital Improvement Program.*** Plan for improvements to pedestrian and bicycle facilities and eliminate gaps along the pedestrian and bicycle network as part of the City's Capital Improvement Program.
- **Policy M-3.8. *Bicycle Parking.*** Require new development and redevelopment to provide public and private bicycle parking.
- **Policy M-4.1. *Transit Agencies.*** Coordinate with VTA to improve transportation service, infrastructure and access in the city, and to connect to transportation facilities such as Caltrain and VTA light rail stations.
- **Policy M-4.2. *Local Transportation Services.*** Create or partner with transit providers, employers, educational institutions, and major commercial entities to minimize gaps within local transportation services.
- **Policy M-4.3. *Connecting Special Areas.*** Identify and implement new or enhanced transit services to connect all Special Areas as identified in Figure PA-1 (Chapter 2: Planning Areas).
- **Policy M-4.4. *Transit Facilities with New Development.*** Work with VTA and/or major developments to ensure all new development projects include amenities to support public transit including bus stop shelters, space for transit vehicles as appropriate and attractive amenities such as trash receptacles, signage, seating and lighting. (General Plan EIR Policy 4-7)
- **Policy M-4.5. *Access To Transit Services.*** Support right-of-way design and amenities consistent with local transit goals to improve transit as a viable alternative to driving.

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- **Policy M-4.6. *Bus and Shuttle Programs.*** Work with large regional employers and private commuter bus/ shuttle programs to provide safe pick-up, drop-off, and park and rides in order to reduce single occupancy vehicle trips.
- **Policy M-4.7. *Vallco Shopping District Transfer Station.*** Work with VTA and/ or other transportation service organizations to study and develop a transit transfer station that incorporates a hub for alternative transportation services such as, car sharing, bike sharing and/ or other services.
- **Policy M-4.8: *Micro-Transit.*** Continue to support a local micro-transit option, such as the Silicon Valley Hopper or similar service.
- **Policy M-5.1. *Safe Routes To Schools.*** Promote Safe Routes to Schools programs for all schools serving the city.
- **Strategy M-5.1.1. *Coordination with School Districts.*** Coordinate with the School Districts to develop plans and programs that encourage car/van-pooling, stagger hours of adjacent schools, establish drop-off locations, and encourage walking and bicycling to school. (General Plan EIR Policy 4-15)
- **Policy M-7.1. *Multi-Modal Transportation Impact Analysis.*** Follow guidelines set by the VTA related to transportation impact analyses, while conforming to State goals for multi-modal performance targets.
- **Policy M-8.1. *Transportation.*** Promote transportation policies that help to reduce greenhouse gas emissions.
- **Strategy M-8.1.1. *TSM Strategies.*** Employ TSM strategies to improve efficiency of the transportation infrastructure including strategic right-of-way improvements, intelligent transportation systems and optimization of signal timing to coordinate traffic flow.
- **Strategy M-8.1.2. *Major and Large Employers.*** Require major and large employers, including colleges and schools, to develop and maintain TDM programs to reduce vehicle trips generated by their employees and students and develop a tracking method to monitor results.
- **Strategy M-8.1.3. *TDM Ordinance.*** Develop and adopt a TDM ordinance to reduce vehicle trips with specific implementation actions for all development projects and a monitoring and reporting program to ensure implementation.
- **Policy M-8.2. *Land Use.*** Support development and transportation improvements that help reduce greenhouse gas emissions by reducing per service population VMT, reducing impacts on the City's transportation network.
- **Strategy M-8.2.1. *Design of New Development.*** Require new development to include shared amenities that encourage the use of transit, bicycling, or walking as alternative modes of transportation.
- **Strategy M-8.2.2. *Pedestrian Activity.*** Require new development to provide pedestrian pathways to entrances, and orient buildings and entrances to the street, to encourage pedestrian activity.
- **Strategy M-8.2.3. *Commercial Development.*** Require new commercial developments to provide shared office facilities, cafeterias, daycare facilities, lunchrooms, showers, bicycle parking, home offices, shuttle buses to transit facilities and other amenities that encourage the use of transit, bicycling or walking as commute modes to work.

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- **Strategy M-8.2.4. *Residential and Mixed-Use Development.*** Require new residential or mixed-use developments to provide shared bicycle parking and bike repair stations at locations close to entrances.
- **Policy M-9.2. *Reduced Travel Demand.*** Promote effective TDM programs for existing and new development.
- **Strategy M-9.3.2. *Streetscape Design.*** When reviewing the widening of an existing street, consider aesthetically pleasing enhancements and amenities to improve the safe movement of pedestrians and bicyclists in keeping with the vision of the Planning Area. (General Plan EIR Policy 4-12)
- **Policy M-10.1. *Transportation Improvement Plan.*** Develop and implement an updated citywide transportation improvement plan necessary to accommodate vehicular, pedestrian and bicycle transportation improvements to meet the City's needs.
- **Policy M-10.3. *Multi-Modal Improvements.*** Integrate the financing, design and construction of pedestrian and bicycle facilities with street projects. Build pedestrian and bicycle improvements at the same time as improvements for vehicular circulation to enable travelers to transition from one mode of transportation.
- **Policy ES-1.2. *Regional Growth and Transportation Coordination.*** Coordinate with local and regional agencies to prepare updates to regional growth plans and strategies, including the Regional Housing Allocation Needs Allocation (RHNA), One Bay Area Plan, Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS).
- **Strategy ES-1.2.1. *Local Plan Consistency with Regional Plans.*** Update and maintain local plans and strategies so they are consistent with One Bay Area Plan to qualify for State transportation and project CEQA streamlining.
- **Strategy ES-2.1.9. *Energy Efficient Transportation Modes.*** Continue to promote fuel-efficient transportation modes such as alternative fuel vehicles, driverless vehicles, public transit, car and van pooling, community and regional shuttle systems, car and bike sharing programs, safe routes to schools, commuter benefits, and pedestrian and bicycle paths through infrastructure investment, development incentives, and community education. (General Plan EIR Policy 4-3)
- **Strategy ES-4.2.2. *Home Occupations.*** Review and consider expanding the allowable home-based businesses in residentially zoned properties to reduce the need to commute to work.

The Transportation Analysis, which is included in Appendix E, *Transportation Analysis*, of this EA, found that implementation of the proposed Modified Project would not result in modifications to the circulation system that would disrupt existing facilities or services or interfere with the implementation of planned facilities/services contained in adopted programs, plans, policies, or ordinances. However, while the proposed Modified Project would lead to increases in the city's residential population beyond what was evaluated in the General Plan EIR, which would increase the demand on the circulation system, like the Approved Project, future developments would be required to comply with State, VTA, City, and/or other design standards regarding the transportation facilities and services. Further, as with the potential future development assessed in the General Plan EIR, potential future development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing transportation facilities, as necessary. Based on these considerations, and because the 2040

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**TRANSPORTATION**

General Plan policies and strategies would improve the transportation network, and support programs to improve the roadway network and increase travel by transit, bicycles, pedestrians to reduce GHG emissions from automobiles, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities beyond what was evaluated in the General Plan EIR. Impacts under the proposed Modified Project would be less than significant.

**Significance without Mitigation:** Less than significant.

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<b>TRANS-2</b>	<b>Implementation of the proposed Modified Project would conflict or be inconsistent with CEQA Guidelines Section 15064.3, subdivision (b).</b>
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CEQA Guidelines Section 15064.3(b) states for land use projects, “Vehicle miles traveled exceeding an applicable threshold of significance may indicate a significant impact.” CEQA Guidelines Section 15064.3(b)(4) states, “A lead agency has discretion to choose the most appropriate methodology to evaluate a project’s vehicle miles traveled, including whether to express the change in absolute terms, per capita, per household or in any other measure.”

Since the certification of the General Plan EIR, amendments were made to Appendix G, *Environmental Checklist*, of the CEQA Guidelines. Thus, this standard of significance was not included in the General Plan EIR; however, as stated in Section 4.14.1.3, *Existing Conditions*, Impact Discussion TRAF-1 of the General Plan EIR included Table 4.13-16, *VTM Per Capita*, of the General Plan EIR showed that VMT per capita under the 2000 to 2020 General Plan was 10.5, and under the Approved Project was 10.9. However, at the time of the General Plan EIR, the City did not have VMT analysis methodologies, standards, or thresholds of significance. . Therefore, for this EA the existing conditions calculated in the Transportation Analysis prepared for proposed Modified Project is applied to this evaluation. As described in Section 4.14.1.3, *Existing Conditions*, using current standards and methodology and the City of Cupertino VMT thresholds, existing conditions without the proposed Modified Project, would generate 36.56 VMT per service population (sum of all residents and employees).

Table 9, *Total Project Generated VMT Assessment*, of the Transportation Analysis shows that the proposed Modified Project would generate 34.80 VMT per service population, which is 1.76 VMT per service population less than the Approved Project. While less than the Approved Project, implementation of the proposed Modified Project would have an 11 percent increase in VMT over Cupertino’s VMT per service population threshold of 31.30.

VMT reduction measures to decrease the total VMT generated by the proposed Modified Project could be accomplished by implementing a transportation demand management (TDM) plan, physical site design elements, or policies and infrastructure for location efficiency. TDM refers to strategies that incentivize alternatives to automobile travel, either through financial incentives for walking, biking, and riding transit, or through additional costs to automobile use at project sites. The current standard for calculating VMT reduction efficacy from TDM strategies is the *California Air Pollution Control Officers Association (CAPCOA) 2021 Handbook for Analyzing GHG Emission Reductions, Assessing Climate Vulnerabilities, and Advancing*

## TRANSPORTATION

*Health and Equity.* Overall, CAPCOA indicates that projects in suburban areas may be able to achieve up to a 15 percent reduction in VMT. Therefore, a reduction of 11 percent in VMT per service population is feasible.

VMT reduction measures evaluated for the proposed Modified Project are listed below at the project-, community-, and county/regional-level, noting the maximum VMT reduction observed in literature.

### Project-Level Measures

- **Limit parking supply.** When combined with companion TDM measures, reduced parking supply discourages driving by limiting easy and convenient parking options. Implementation of this strategy may require reducing (or removing) minimum parking requirements and allowing developers to use shared parking strategies. (Reduction range: 0 to 13.7%)
- **Unbundle parking costs.** Unbundling separates parking costs from property cost, for instance by not including a parking space in a residential unit's rent, or by requiring employers to lease each parking space separately from the building owner. This strategy ensures that the user understands that the cost of driving includes parking and can encourage people to use an alternative mode to save money. (Reduction range: 0 to 15.7%)
- **Employ marketing and encouragement strategies to promote non-drive-alone travel.** This strategy encompasses the aspects of typical TDM programs that rely on providing customized information and incentives to encourage use of transportation alternatives in place of single occupancy vehicles. The process is typically a residential-based approach for each community. (Reduction range: 0 to 2.3%)

### Community-Level Measures

- **Provide ride-sharing programs:** This strategy focuses on encouraging carpooling and vanpooling by project site/building tenants and has similar limitations to strategy (2) above. The City of Cupertino is currently served by Silicon Valley Hopper, an on-demand rideshare shuttle through Via Transportation, that provides pickup and drop-off transportation services anywhere within the city service area. (Reduction range: 0 to 8%)
- **Implement car-sharing program:** This strategy reduces the need to own a vehicle or reduces the number of vehicles owned by a household by making it convenient to access a shared vehicle for those trips where vehicle use is essential. Examples include programs such as ZipCar, Car2Go, and Gig. (Reduction range: 0 to 0.15%)
- **Implement Bikeshare and Electric Bikeshare Program.** This strategy will establish a bikeshare program. The projects provide users with on-demand access to bicycles, electric pedal assist bicycles, and short-term rentals. They encourage mode shift from vehicles to bicycles, displacing VMT and thus reducing GHG emissions. (Reduction range: 0 to 1%)
- **Implement on-street market pricing for parking.** This strategy focuses on implementing a pricing strategy for parking by pricing all on-street parking in central business districts, employment centers, and retail centers. Priced parking would encourage "park once" behavior and may also result in area-wide mode shifts. (Reduction range: 0 to 30%)

### County/Regional-Level Measures

- **Increase transit service frequency and speed:** This strategy focuses on improving transit service convenience and travel time competitiveness with driving. Given existing land use density in Cupertino, this strategy may be limited to traditional commuter transit where trips can be pooled at the start and end locations, or it may require new forms of demand responsive transit service. A

## TRANSPORTATION

demand-responsive service could be provided as subsidized trips by contracting to private TNCs or taxi companies. Alternatively, a public transit operator could provide the subsidized service but would need to improve on traditional cost effectiveness. Note that implementation of this strategy would require regional or local agency implementation, substantial changes to current transit practices, and would not likely be applicable for individual development projects. (Reduction range: 0 to 4.6%)

The Mobility (M) Element contains policies and strategies that require local planning and development decisions to consider VMT and has been updated to include the VMT reduction measures previously described. Accordingly, in addition to the 2040 General Plan policies and strategies listed under the Impact Discussion TRANS-1, which would serve to promote alternative modes of transportation, indirectly reducing VMT, like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize VMT impacts.

- **Policy M-8.1. *Transportation.*** Promote transportation policies that help to reduce greenhouse gas emissions.
- **Strategy M-8.1.1. *TSM Strategies.*** Employ TSM strategies to improve efficiency of the transportation infrastructure including strategic right-of-way improvements, intelligent transportation systems and optimization of signal timing to coordinate traffic flow.
- **Strategy M-8.1.2. *Major and Large Employers.*** Require major and large employers, including colleges and schools, to develop and maintain TDM programs to reduce vehicle trips generated by their employees and students and develop a tracking method to monitor results.
- **Strategy M-8.1.3. *TDM Ordinance.*** Develop and adopt a TDM ordinance to reduce vehicle trips with specific implementation actions for all development projects and a monitoring and reporting program to ensure implementation.
- **Policy M-8.2. *Land Use.*** Support development and transportation improvements that help reduce greenhouse gas emissions by reducing per service population VMT, reducing impacts on the City's transportation network.
- **Strategy M-8.2.1. *Design of New Development.*** Require new development to include shared amenities that encourage the use of transit, bicycling, or walking as alternative modes of transportation.
- **Strategy M-8.2.2. *Pedestrian Activity.*** Require new development to provide pedestrian pathways to entrances, and orient buildings and entrances to the street, to encourage pedestrian activity.
- **Strategy M-8.2.3. *Commercial Development.*** Require new commercial developments to provide shared office facilities, cafeterias, daycare facilities, lunchrooms, showers, bicycle parking, home offices, shuttle buses to transit facilities and other amenities that encourage the use of transit, bicycling or walking as commute modes to work.
- **Strategy M-8.2.4. *Residential and Mixed-Use Development.*** Require new residential or mixed-use developments to provide shared bicycle parking and bike repair stations at locations close to entrances.
- **Policy M-8.3. *Alternative Fuel Charging Stations.*** Develop a city-wide strategy to encourage the construction of a network of public and private alternative fuel vehicle charging/ fueling stations.

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Table 12, *Total Project Generated VMT with Mitigations Assessment*, of the Transportation Analysis shows that with implementation of the VMT reduction measures that have been incorporated into the Mobility Element, the proposed Modified Project would generate 32.95 VMT per service population, a reduction of 1.85 VMT per service population, which is not enough to reduce VMT to meet the City's 31.30 VMT threshold. However, these VMT-reduction policies and strategies are still important considerations in evaluating the results of this VMT analysis and as appropriate they should be accounted for in subsequent VMT evaluations of specific projects as they are proposed within the city of Cupertino. Additionally, like development under the Approved Project, potential future development under the proposed Modified Project would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or near existing residential and residential-serving development, which would further reduce VMT. Nonetheless, the overall VMT impacts from adoption and implementation of the proposed Modified Project would be *potentially significant*.

**Impact TRANS-2:** Implementation of the proposed Modified Project would exceed the adopted Cupertino vehicle miles traveled (VMT) threshold per service population of 31.30 VMT by 3.5 VMT per service population, due to forecasted growth through 2040.

**Significance without Mitigation:** Significant and unavoidable. The proposed Modified Project prioritizes higher residential densities than those currently allowed in Cupertino. From a land use planning perspective, the City has been very proactive in promoting a land use pattern that provides convenient access to transit, places, jobs, services, and housing in close proximity, and establishes residential densities that provide for dense and walkable neighborhoods. These land use strategies represent some of the most effective tools available to Cupertino to reduce VMT through sound land use planning and as shown, reduce VMT per service population from existing conditions from 36.56 to 34.8 VMT per service population. Accordingly, the proposed Modified Project achieves meaningful reductions in VMT generated by land uses within the city. However, as previously discussed, additional reductions in VMT would be required to achieve the threshold. Implementation of the General Plan policies and strategies would ensure that VMT are reduced to the degree feasible. In addition, as listed under Impact Discussion TRANS-1, the City has numerous policies to promote safe and user-friendly transit and improve the bicycle and pedestrian network in Cupertino, all which would serve to promote alternative forms of transportation and reduce VMT.

Given the lack of specifics that are available for this program-level EIR, it is not possible to fully account for the effect of specific design principles, policies, and improvements that will reduce VMT as part of this analysis. Although many of the VMT-reducing design principles, policies, and improvements that are described may ultimately mitigate and/or potentially reduce the VMT impacts outlined in this evaluation, necessary details to ensure implementation and appropriately evaluate their effect are not yet available. While some of the approaches to VMT reduction described in the prior section are supportive of existing City policies and guidelines, the VMT-reducing approaches cited would require further planning and development as well as committed funding sources, including those from participants in the development community. As such, it is reasonable to conclude that the findings of this analysis reflect a worst-case scenario for this program evaluation.

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## TRANSPORTATION

The City of Cupertino would require VMT reduction measures from new and redevelopment projects through the ongoing implementation of the General Plan and Municipal Code. However, the effectiveness of these VMT reduction measures would vary based on local context, scale of intervention, and availability of non-automotive transportation. For maximum reduction in VMT, potential future development would need to implement many individual project-level strategies and be sited in an efficient, transit-adjacent location. These traits may not be feasible in all locations in Cupertino. Additionally, project-level TDM strategies are often implemented by individuals, so their use requires ongoing monitoring and adjusting to account for changes in personal and travel behavior. Due to these project-specific implementation barriers, ad hoc project-by-project mitigation is less effective for reducing VMT compared with large-scale, program-based approaches, such as an impact fee program that funds transit expansion or land use and zoning changes at a citywide level. As described, it is estimated that incorporating the VMT reduction measures incorporated into the Mobility Element would reduce the VMT per service population to 32.95. Thus, because VMT per service population from the proposed Modified Project would still exceed Cupertino's threshold of 31.30, impacts would remain significant and unavoidable at the program level. This program-level land use impact for VMT does not preclude the finding of less-than-significant impacts for subsequent development projects that achieve applicable VMT thresholds of significance. However, due to the programmatic nature of the proposed project, no mitigation measures are available, and the impact is considered *significant and unavoidable*.

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<b>TRANS-3</b>	<b>Implementation of the proposed Modified Project would not substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).</b>
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As described in the General Plan EIR, the Approved Project is a program-level planning effort; it does not directly address project-level design features or building specifications. Future development under the Approved Project would increase both residential and commercial land uses. As these land uses develop, construction and modifications of new and existing roadways would be necessary to support the growth. The improvements would be designed and reviewed in accordance with the City of Cupertino Standard Details and General Plan 2040.

As with the Approved Project, the proposed Modified Project is a program-level planning effort and would not include specific design features. Thus, like the Approved Project, compliance with the City of Cupertino Standard Details and General Plan 2040 would ensure that any potential future developments from the proposed Modified Project would not increase road and travel hazards.

The General Plan EIR also found that the Land Use and Community Design (LU), Health and Safety (HS), and Mobility (M) Elements contain policies and strategies that require local planning and development decisions to consider impacts that development could have on hazards due to a geometric design feature or incompatible uses. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize potential adverse impacts on those hazards:



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- **Policy LU-20.2. *Streetscape and Connectivity.*** Future roadway improvements on Wolfe Road, Homestead Road and Tantau Avenue should be coordinated with planned improvements to improve pedestrian, bike and transit connections. Streetscape improvements will enhance the pedestrian environment with street trees, attractive bus shelters and street furniture. The campus site should provide an attractive landscaped edge along the street. Future improvements to the Wolfe Road bridge should be coordinated to preserve the vision for this area. (General Plan EIR Policy 4-12)
- **Policy LU-21.3. *Streetscape and Connectivity.*** North De Anza is envisioned as a walkable, bikeable boulevard with wide sidewalks with street trees and roadway improvements for bike lanes and pedestrian crossings. Pedestrian and bike improvements and enhanced pedestrian crossings are also envisioned along other streets in this area to create an interconnected grid. Such improvements will also improve school routes from the Garden Gate neighborhood to Lawson school to the east and provide access to transit routes. (General Plan EIR Policy 4-12)
- **Policy LU-21.4. *Streetscape and Connectivity.*** South De Anza is envisioned as a walkable, bikeable boulevard with sidewalks, street trees and roadway improvements for bike lanes and pedestrian crossings. Side streets are also envisioned with pedestrian and bicycle improvements to ensure walkable connections from adjacent neighborhoods. (General Plan EIR Policy 4-12)
- **Policy LU-24.2. *Streetscape and Connectivity.*** Bubba Road is envisioned as a walkable, bikeable corridor with sidewalks, street trees and roadway improvements for bike lanes and pedestrian crossings. Pedestrian and bike improvements and enhanced pedestrian crossings are also envisioned along other streets in this area to create an interconnected grid. Such improvements will also improve routes from the northern and eastern neighborhood to the tri-school area, parks and services and reduce impacts caused by to school and employment traffic. (General Plan EIR Policy 4-12)
- **Policy M-2.2. *Adjacent Land Use.*** Design roadway alignments, lane widths, medians, parking and bicycle lanes, crosswalks and sidewalks to complement adjacent land uses in keeping with the vision of the Planning Area. Strive to minimize adverse impacts and expand alternative transportation options for all Planning Areas (Special Areas and Neighborhoods). Improvement standards shall also consider the urban, suburban and rural environments found within the city. (General Plan EIR Policy 4-10)
- **Policy M-3.5. *Curb Cuts.*** Minimize the number and the width of driveway openings. (General Plan EIR Policy 4-11)
- **Policy M-3.6. *Safe Spaces for Pedestrians.*** Require parking lots to include clearly defined paths for pedestrians to provide a safe path to building entrances. (General Plan EIR Policy 4-13)
- **Policy M-7.2. *Protected Intersections.*** Consider adopting a Protected Intersection policy, which would identify intersections where improvements would not be considered, which would degrade levels of service for non-vehicular modes of transportation. Potential locations include intersections in Priority Development Areas (PDAs) and other areas where non-vehicular transportation is a key consideration, such as, near shopping districts, schools, parks and senior citizen developments. (General Plan EIR Policy 4-10)
- **Policy HS-3.2. *Early Project Review.*** Involve the Fire Department in the early design stage of all projects requiring public review to assure Fire Department input and modifications as needed. (General Plan EIR Policy 6-13)

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**TRANSPORTATION**

- **Strategy HS-3.3.3. Hillside Road Upgrades.** Require new hillside development to upgrade existing access roads to meet Fire Code and City standards. (General Plan EIR Policy 6-16)
- **Strategy HS-8.7.2. Road Improvements to Reduce Truck Impacts.** Consider road improvements such as medians, landscaping, noise attenuating asphalt and other methods to reduce quarry truck impacts. (General Plan EIR Policy 6-56)

As with the development assessed in the General Plan EIR, potential new development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing transportation hazards, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more substantial hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment) beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>TRANS-4</b>	<b>Implementation of the proposed Modified Project would not result in inadequate emergency access.</b>
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As described in the General Plan EIR and Impact Discussion TRANS-3 of this EA, the Approved Project is a program-level planning effort; it does not directly address project-level design features or building specifications. Ongoing implementation of the General Plan 2040 policies and the City's engineering standards would ensure that adequate emergency access is provided in Cupertino.

As with the Approved Project, the proposed Modified Project is a program-level planning effort and would not include specific design features. Thus, like the Approved Project, compliance with General Plan 2040 policies and the City's engineering standards would ensure that adequate emergency access is provided in Cupertino.

The General Plan EIR also found that the Health and Safety (HS) Element contains policies and strategies that require local planning and development decisions to consider impacts that development could have on emergency access. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize potential adverse impacts on emergency access:

- **Policy HS-2.2. Emergency Operations Center.** Ensure ongoing training of identified City employees on their functions/responsibilities in the EOC and in disaster preparedness, first aid and CPR. (General Plan EIR Policy 6-38)
- **Policy HS-2.4. Emergency Public Information.** Maintain an Emergency Public Information program to be used during emergency situations. (General Plan EIR Policy 6-39)
- **Policy HS-3.2. Early Project Review.** Involve the Fire Department in the early design stage of all projects requiring public review to assure Fire Department input and modifications as needed. (General Plan EIR Policy 6-8 and Policy 6-13)

## TRANSPORTATION

- **Policy HS-3.3. *Emergency Access.*** Ensure adequate emergency access is provided for all new hillside development.
- **Strategy HS-3.3.2. *Dead- End Street Access.*** Allow public use of private roadways during an emergency for hillside subdivisions that have dead-end public streets longer than 1,000 feet or find a secondary means of access. (General Plan EIR Policy 6-14)
- **Strategy HS-3.3.3. *Hillside Access Routes.*** Require new hillside development to have frequent grade breaks in access routes to ensure a timely response from fire personnel. (General Plan EIR Policy 6-15)
- **Policy HS-3.4. *Private Residential Electronic Security Gates.*** Discourage the use of private residential electronic security gates that act as a barrier to emergency personnel. (General Plan EIR Policy 6-18)
- **Policy HS-3.5. *Commercial and Industrial Fire Protection Guidelines.*** Coordinate with the Fire Department to develop new guidelines for fire protection for commercial and industrial land uses. (General Plan EIR Policy 6-9)
- **Policy HS-3.6. *Fire Prevention and Emergency Preparedness.*** Promote fire prevention and emergency preparedness through city-initiated public education programs, the government television channel, the Internet and the Cupertino Scene. (General Plan EIR Policy 6-10)
- **Policy HS- 7.1. *Evacuation Map.*** Prepare and update periodically an evacuation map for the flood hazard areas and distribute it to the general public. (General Plan EIR Policy 6-42)

As with the development assessed in the General Plan EIR, potential future development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards governing emergency access, as necessary. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to emergency access beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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### **TRANS-5      Implementation of the proposed Modified Project would result in a cumulatively considerable impact.**

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The analysis of the Approved Project in the General Plan EIR addressed cumulative impacts to the transportation network in the city and its surroundings. The General Plan EIR found that cumulative impacts would be the same as Approved Project-specific impacts and would be significant and unavoidable even with the mitigation measures described in 4.13.6, *Impact Discussion*, of the General Plan EIR.

Similarly, the transportation analysis conducted for the proposed Modified Project forecasts VMT for the entire service population, which exceeds the City's threshold of 31.3 VMT per service population. This analysis includes a consideration of cumulative impacts and thus impacts would be significant and unavoidable.

## TRANSPORTATION

**Impact TRANS-5:** Implementation of the proposed Modified Project would cumulatively contribute to regional vehicle miles traveled.

**Significance without Mitigation:** Significant and unavoidable. The City of Cupertino would implement the policies and strategies of the proposed Modified Project. However, the effectiveness of these policies and strategies would vary based on local context, scale of intervention, and availability of non-automotive transportation. For maximum reduction in VMT, potential future development would need to implement many individual project-level strategies and be sited in an efficient, transit-adjacent location. These traits may not be feasible in all locations in Cupertino and surrounding communities. Additionally, project-level TDM strategies are often implemented by individuals, so their use requires ongoing monitoring and adjusting to account for changes in personal and travel behavior. Due to these project-specific implementation barriers, ad hoc project-by-project mitigation is less effective for reducing VMT compared with large-scale, program-based approaches, such as an impact fee program that funds transit expansion or land use and zoning changes at a citywide level. Thus, impacts would remain *significant and unavoidable*.

## UTILITIES AND SERVICE SYSTEMS

### 4.15 UTILITIES AND SERVICE SYSTEMS

This chapter describes the potential impacts to the utilities and services systems associated with the adoption and implementation of the proposed Modified Project. This chapter describes the regulatory framework and existing conditions; identifies criteria used to determine impact significance; provides an analysis of the potential impacts related to water, wastewater, stormwater, solid waste, and energy infrastructure; and identifies General Plan 2040 policies and/or strategies that could minimize any potentially significant impacts.

#### 4.15.1 Water

##### 4.15.1.1 REGULATORY FRAMEWORK

###### Federal Regulations

###### *Safe Drinking Water Act*

The Safe Drinking Water Act, the principal federal law intended to ensure safe drinking water to the public, was enacted in 1974 and has been amended several times. The Safe Drinking Water Act authorizes the United States Environmental Protection Agency (USEPA) to set national standards for drinking water, called the National Primary Drinking Water Regulations, to protect against both naturally occurring and human-made contaminants. These standards set enforceable maximum contaminant levels in drinking water and require all water providers in the United States to treat water to remove contaminants, except for private wells serving fewer than 25 people. In California, the State Water Resources Control Board (SWRCB) conducts most enforcement activities. If a water system does not meet standards, it is the water supplier's responsibility to notify its customers.

###### *America's Water Infrastructure Act of 2018*

America's Water Infrastructure Act (AWIA), signed into law on October 23, 2018, authorizes federal funding for water infrastructure projects, expands water storage capabilities, assists local communities in complying with the Safe Drinking Water Act and Clean Water Act (CWA), reduces flooding risks for rural, western, and coastal communities, and addresses significant water infrastructure needs in tribal communities.<sup>1</sup> Additionally, the AWIA requires that drinking water systems that serve more than 3,300 people develop or update risk assessments and emergency response plans. Risk assessments and emergency response plans must be certified by the USEPA within the deadline specified by the AWIA.

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<sup>1</sup> United States Environmental Protection Agency, 2024. *America's Water Infrastructure Act of 2018 (AWIA)*, <https://www.epa.gov/ground-water-and-drinking-water/americas-water-infrastructure-act-2018-awia>, accessed January 14, 2024.

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## UTILITIES AND SERVICE SYSTEMS

### State Regulations

#### *Porter-Cologne Water Quality Control Act*

The Porter-Cologne Water Quality Control Act, which was passed in California in 1969 and amended in 2013, is the basic water quality control law for California. Under this Act, the SWRCB has authority over State water rights and water quality policy. This Act divided the state into nine regional basins, each under the jurisdiction of a Regional Water Quality Control Board (RWQCB) to oversee water quality on a day-to-day basis at the local and regional level. RWQCBs engage in a number of water quality functions in their respective regions. RWQCBs regulate all pollutant or nuisance discharges that may affect either surface water or groundwater. The Study Area is within the jurisdiction of the San Francisco Bay RWQCB (Region 2).

#### *SWRCB Division of Drinking Water*

The California Division of Drinking Water regulates public water systems within California; oversees water recycling projects; permits water treatment devices; and supports and promotes water system security. The Division of Financial Assistance provides funding opportunities for drinking water system improvements; provides support for small water systems and for improving technical, managerial, and financial capacity; and certifies drinking water treatment and distribution operators. The Field Operations Branch of the Division of Drinking Water is responsible for the enforcement of the federal and California Safe Drinking Water Acts and the regulatory oversight of approximately 7,500 public water systems to ensure the delivery of safe drinking water to all Californians. In this capacity, Field Operations Branch staff perform field inspections, issue operating permits, review plans and specifications for new facilities, take enforcement actions for noncompliance with laws and regulations, review water quality monitoring results, and support and promote water system security.

#### *Urban Water Management Planning Act (Senate Bills 610 and 221)*

The California Urban Water Management Planning Act and Section 10620 of the Water Code require that all urban water suppliers in California that provide water to more than 3,000 customers or supply more than 3,000 acre-feet per year (AFY)<sup>2</sup> to prepare and adopt an Urban Water Management Plan (UWMP) and update it every five years. The act is intended to support efficient use of urban water supplies. It requires the UWMP to compare water supply and demand over the next 20 years for normal years, single dry years, and multiple dry years and to determine current and potential recycled water uses.

Senate Bill (SB) 610 and SB 221 were enacted to 1) ensure better coordination between local water supply and land use decisions and 2) confirm that there is an adequate water supply for new development. The following projects that are subject to the California Environmental Quality Act (CEQA) are required to prepare a Water Supply Assessment (WSA):

- Residential developments consisting of more than 500 dwelling units.

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<sup>2</sup> One acre-foot is the amount of water required to cover one acre of ground (43,560 square feet) to a depth of one foot.

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- Shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet of floor space.
- Commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space.
- Hotel or motel, or both, having more than 500 rooms.
- Industrial, manufacturing, or processing plant or industrial park planned to employ more than 1,000 persons, occupying more than 40 acres of land, or having more than 650,000 square feet of floor area.
- Mixed-use project that includes one or more of the projects specified above.
- Project that would demand an amount of water equivalent to, or greater than, the amount of water required for 500 dwelling units.

SB 221 requires written verification that there is sufficient water supply available for new residential subdivisions that include over 500 dwelling units. The verification must be provided before commencement of construction for the project.

### *Sustainable Groundwater Management Act of 2014*

In the midst of a major drought in 2014, a three-bill legislative package was signed into law collectively known as the Sustainable Groundwater Management Act (SGMA). The Governor's signing message states "a central feature of these bills is the recognition that groundwater management in California is best accomplished locally." Under SGMA, local and regional agencies in groundwater basins that are designated as medium and high priority must form groundwater sustainability agencies (GSAs) that oversee the preparation and implementation of groundwater sustainability plans (GSPs).

The City of Cupertino is within the Santa Clara Valley Groundwater Basin, which is further divided into the Santa Clara and Llagas Subbasins. Valley Water is the Groundwater Sustainability Agency (GSA) for this groundwater basin and submitted the 2016 Groundwater Management Plan as an alternative to a Groundwater Sustainability Plan (GSP). This has been approved by the Department of Water Resources (DWR). The Groundwater Management Plan describes the basin setting and conditions, water supplies and groundwater budget, sustainability management criteria, and basin management programs and activities.<sup>3</sup>

### *Water Conservation Act of 2009*

The Water Conservation Act of 2009 (SB X7-7) requires all water suppliers to increase water use efficiency. The legislation sets an overall goal of reducing per capita water use by 20 percent by 2020, with an interim goal of a 10 percent reduction in per capita water use by 2015. Effective in 2016, urban retail water suppliers who do not meet the water conservation requirements established by this bill are not eligible for State water grants or loans. The SB X7-7 requires that urban water retail suppliers determine baseline

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<sup>3</sup> Santa Clara Valley Water District, 2016. Groundwater Management Plan.

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## UTILITIES AND SERVICE SYSTEMS

water use and set reduction targets according to specified standards. Demonstration of compliance with this regulation is a required component of each water purveyor's 2020 UWMP. The two water purveyors with service areas within the City of Cupertino, San Jose Water and California Water Service, are in compliance with their target reductions.

### *2018 Water Conservation Legislation*

In 2018, the California Legislature enacted two policy bills (SB 606 and Assembly Bill [AB] 1668) to establish long-term improvements in water conservation and drought planning to adapt to climate change and longer and more intense droughts in California.<sup>4</sup> The DWR and SWRCB will develop new standards for:

- Indoor residential water use
- Outdoor residential water use
- Commercial, industrial, and institutional water use for landscape irrigation with dedicated meters
- Water loss

Urban water suppliers are required to stay within annual water budgets based on their standards for their service areas, and to calculate and report their urban water use objectives in an annual water use report. Based on recent legislation (SB 1157), the California Water Code defines a 55-gallon-per-person daily standard for indoor residential use until 2025, at which time it decreases to 47 gallons, and further decreases to 42 gallons by 2030.

The legislation also includes changes to UWMP preparation requirements. These changes include additional requirements for Water Shortage Contingency Plans (WSCPs), expansion of dry year supply reliability assessments to a five-year drought period, establishment of annual drought risk assessment procedures and reporting, and new conservation targets referred to "annual water use objectives," which require retailers to continue to reduce water use beyond the 2020 SB X7-7 targets.

### *Mandatory Water Conservation*

Following the declaration of a state of emergency on July 15, 2014, due to drought conditions, the SWRCB adopted Resolution No. 2014-0038 for emergency regulation of statewide water conservation efforts. These regulations, which went into effect on August 1, 2014, were intended to reduce outdoor urban water use and have all California households voluntarily reduce their water consumption by 20 percent. Water companies with 3,000 or more service connections were required to report monthly water consumption to the SWRCB. The SWRCB readopted the regulations several times, most recently requiring local water agencies to implement Level 2 drought contingency plans. In March 2023, Governor Newsom announced the lifting of some of the drought restrictions following a wet winter, including the Level 2 demand reduction actions.

However, there are portions of the water conservation emergency regulations that remain in effect. These include prohibitions of wasteful water use practices: 1) the application of potable water to outdoor landscapes in a manner that causes excess runoff; 2) the washing of vehicles without an automatic shut-

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<sup>4</sup> California Department of Water Resources, 2021, 2018 Water Conservation Legislation, <https://water.ca.gov/Programs/Water-Use-And-Efficiency/2018-Water-Conservation-Legislation>, accessed August 23, 2023.



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off nozzle; 3) the application of potable water to driveways and sidewalks; 4) the use of potable water in nonrecirculating ornamental fountains; and 5) the application of potable water to outdoor landscapes during and within 48 hours after at least 0.25 inch of rainfall. In addition, watering decorative grass in commercial, industrial, and institutional areas is currently prohibited but is set to expire June 2024. However, AB 1572, signed into law on October 13, 2013, would make this ban permanent, unless these areas are using recycled water. Urban water suppliers are still required to submit monthly water monitoring reports to the SWRCB.

### *Water Conservation in Landscaping Act of 2006*

The Water Conservation in Landscaping Act (AB 1881) requires cities and counties to adopt the State of California's Model Water Efficient Landscape Ordinance (MWELo) or adopt a comparable landscape water conservation ordinance that is at least as effective as the State's MWELo in conserving water.

The MWELo was revised in July 2015 via Executive Order B-29-15 to address the ongoing drought and to build resiliency for future droughts. The 2015 revisions to the MWELo increased water efficiency standards for new and retrofitted landscapes through more efficient irrigation systems, greywater usage, and on-site stormwater capture and by limiting the portion of landscapes that can be covered in turf. Each city and county is required to submit annual reports to DWR that document how the agency is achieving compliance with the State MWELo and how many projects were subject to the ordinance during the annual reporting period.

The City of Cupertino adopted its own WELO Ordinance in Cupertino Municipal Code (CMC) Title 14, Chapter 14.15, *Landscape Ordinance*. The ordinance applies to all new and rehabilitated landscape projects that require a building or grading permit, planning permit, or grading permit, and any landscape installation or rehabilitation project. It is more stringent than the State MWELo and complies with the regulation.

### *California Water Code*

The California Water Code states that the water resources of the State must be put to beneficial use and that waste or unreasonable use of water be prevented. The code is divided into several sections that include provisions regarding water quality, formation of irrigation districts and water districts, safe drinking water, and water supply and infrastructure improvements.

### *California Plumbing Code*

The latest version of the California Plumbing Code was issued in 2022 and became effective as of January 1, 2023. The code is updated on a three-year cycle. It specifies technical standards for the design, materials, workmanship, and maintenance of plumbing systems. One of the purposes of the plumbing code is to prevent conflicting plumbing codes within local jurisdictions. Among many topics covered in the code are water fixtures, potable and non-potable water systems, and recycled water systems. The City of Cupertino adopts the California Plumbing Code under CMC Chapter 16.20.010, *Adoption of the 2022 California Plumbing Code*.

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### *California Building Code: CALGreen*

The California Building Standards Commission adopted the nation's first green building standards in July 2008, the California Green Building Standards Code, also known as CALGreen. CALGreen applies to the planning, design, operation, construction, use, and occupancy of every newly constructed building or structure in California. The code establishes building standards for sustainable site development, including water efficiency and water conservation measures that typically reduce water consumption by 20 percent. In addition, pursuant to CALGreen Section 5.408, at least 65 percent of the nonhazardous construction and demolition waste from residential and nonresidential construction operations must be recycled and/or salvaged for reuse.

CALGreen is updated every three years to allow for consideration and possible incorporation of new low flow plumbing fixtures and water efficient appliances. The mandatory provisions of CALGreen became effective January 1, 2011, and the latest 2022 version became effective on January 1, 2023. The building efficiency standards are enforced through the local building permit process. The City of Cupertino has regularly adopted each new CALGreen update under CMC Chapter 16.58, *Green Building Standards Code*.

### *California Health and Safety Code*

A portion of the State Health and Safety Code is dedicated to water issues, including testing and maintenance of backflow prevention devices, coloring of pipes carrying recycled water, and programs addressing cross-connection control by water users.

## Regional Regulations

### *Bay Area Integrated Regional Water Management Plan*

The Bay Area Integrated Regional Water Management Plan (IRWMP) is a nine-county effort to coordinate and improve water supply reliability, protect water quality, manage flood protection, maintain public health standards, protect habitat and watershed resources, and enhance the overall health of San Francisco Bay. Some of the stakeholders and participating agencies in preparing the IRWMP include members of the Santa Clara Basin Watershed Management Initiative, which includes the City of Cupertino and Valley Water. The IRWMP is dated 2019; however, there is an addendum with an updated list of past and current projects dated 2023.<sup>5</sup>

### *Bay Area Regional Reliability Partnership*

Valley Water is one of eight Bay Area water agencies that are working together to develop regional solutions for improving water supply reliability for over six million area residents and thousands of industries and businesses. The Partnership recently completed a Drought Contingency Plan and one of the projects in the plan is expansion of the Los Vaqueros Reservoir. This project would provide Valley Water

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<sup>5</sup> San Francisco Bay Area Region, 2019. San Francisco Bay Area Integrated Regional Water Management Plan. with Updated Project List, dated 2023.

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with emergency storage, alternative conveyance options, and increase flexibility in managing its water supplies. The expansion project is scheduled for completion in 2030.<sup>6</sup>

### *Santa Clara Valley Water District (Valley Water)*

The Santa Clara Valley Water District, also known as Valley Water, is a water resources agency responsible for balancing flood protection needs with the protection of natural watercourses and habitat in the Santa Clara Valley. Founded in 1929, the SCVWD serves all of Santa Clara County, including 15 cities and 2 million residents; provides wholesale water supply and groundwater management; operates three water treatment plants and a recycled water purification center; manages 10 dams and water reservoirs and 276 acres of groundwater recharge ponds; and provides flood protection along the creeks and rivers in the county.

### Water Supply Master Plan

The Water Supply Master Plan (WSMP) is Valley Water's guidance document for long-term water supply investments. Updated approximately every five years, this long-range plan assesses future water demands within Santa Clara County and evaluates and recommends water supply and infrastructure projects to meet those demands.<sup>7</sup> The most recent plan, Water Supply Master Plan 2040, was adopted in 2019. Valley Water has started a two-year process in 2023 to develop the Water Supply Master Plan 2050, which extends the planning horizon to 2050 for reliable water supply in the future. New projects will be identified and evaluated, which will include advanced purified water projects, new supply and storage projects, and improvements to the existing system.<sup>8</sup>

### Groundwater Management Plan

Valley Water has been managing groundwater in the Santa Clara and Llagas Subbasins since 1929 and conditions in these subbasins have been sustainable for decades due to Valley Water's extensive groundwater recharge program. As per SGMA requirements, basins that are designated as medium and high priority must form groundwater sustainability agencies (GSAs) and develop and implement groundwater sustainability plans (GSPs) or alternative plans to achieve sustainability.

Valley Water is the sole designated Groundwater Sustainability Agency (GSA) for these groundwater subbasins and has a Department of Water Resources (DWR) approved Alternative to a Groundwater Sustainability Plan (GSP).<sup>9</sup> The 2021 Groundwater Management Plan for the Santa Clara and Llagas Subbasins describes Valley Water's comprehensive groundwater management programs, including existing and future actions to maintain basin sustainability.<sup>10</sup>

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<sup>6</sup> Valley Water, 2024. Bay Area Regional (BARR) Partnership. <https://www.valleywater.org/your-water/water-supply-planning/bay-area-regional-reliability-partnership> accessed on January 15, 2024.

<sup>7</sup> Valley Water, 2019. Santa Clara Valley Water District Water Supply Master Plan 2040.

<sup>8</sup> Valley Water, 2024. Water Supply Master Plan. <https://www.valleywater.org/your-water/water-supply-planning/water-supply-master-plan> accessed on January 15, 2024.

<sup>9</sup> Valley Water, 2021. *2020 Urban Water Management Plan*.

<sup>10</sup> Valley Water, 2021. Groundwater Management Plan for the Santa Clara and Llagas Subbasins.

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### CVPIA Water Management Plan

Valley Water imports about half of its water supply via contracts with the State Water Project and the federal Central Valley Project (CVP). Every five years, CVP contractors are required by the Bureau of Reclamation to prepare a Water Management Plan (WMP) to meet the requirements of the Central Valley Project Improvement Act (CVPIA). Valley Water has completed its 2022 WMP, which documents the service area characteristics, operation and management of its system, inventory of current water resources, and water conservation and demand management efforts that have been implemented over the past five years.<sup>11</sup>

### One Water Plan

Valley Water has completed the One Water Plan: Santa Clara Countywide Framework, which is an integrated approach to water resources management on a watershed scale. The program integrates flood protection, stream stewardship, and water supply and includes five objectives:<sup>12</sup>

- Protect and maintain water supplies.
- Protect and improve surface water and groundwater quality.
- Reduce flood risk.
- Protect, enhance, and sustain natural ecosystems.
- Mitigate and adapt to climate change.

Metrics that evaluate the effectiveness of meeting the objectives are included in the Countywide Framework Plan. The One Water Coyote Creek Watershed Plan has been completed, the One Water Guadalupe Watershed Plan and the One Water Pajaro Watershed Plan are currently in preparation, and the One Water West Valley Watershed Plan and the One Water Lower Peninsula Watershed Plan are in the planning stage.

### Valley Water 2020 Urban Water Management Plan

Valley Water's 2020 Urban Water Management Plan (UWMP) documents current and projected water supplies and demands over the next 25 years during normal and drought years, as well as water reliability analysis and water conservation efforts. Valley Water is the wholesale water purveyor for Santa Clara County. The 2020 UWMP states that Valley Water has adequate water supplies to serve all of its Countywide demands under normal, single-dry year, and multiple-dry year conditions through 2045. If a five-year drought were to occur, Valley Water would implement its Water Shortage Contingency Plan (WCSP) and employ a range of response actions, including water conservation, using water stored in the Semitropic Groundwater Storage Bank in Kern County, imported water transfers and exchanges, and calling for short-term water use reduction.<sup>13</sup>

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<sup>11</sup> Valley Water, 2024. CVPIA Water Management Plan. <https://www.valleywater.org/your-water/water-supply-planning/cvpia-water-management-plan> accessed on January 15, 2024.

<sup>12</sup> Valley Water, 2022. One Water Plan – Santa Clara Countywide Framework. An Integrated Approach to Water Resources Management.

<sup>13</sup> Valley Water, 2021. 2020 Urban Water Management Plan.

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### *San Jose Water 2020 Urban Water Management Plan*

San Jose Water (SJW) provides potable water to approximately one million residents in Santa Clara County. In addition to its own water system, SJW also operates and maintains the Cupertino Municipal Water System through a lease agreement. Because both systems are operated by SJW and are contiguous, the two systems are reported together in the SJW 2020 UWMP. SJW also provides water to, but does not manage, several small water systems that are adjacent to SJW's service area. The SJW service area spans about 145 square miles, including most of the cities of San Jose and Cupertino, the entire cities of Campbell, Monte Sereno, Saratoga, the Town of Los Gatos, and parts of unincorporated Santa Clara County.<sup>14</sup>

SJW obtains its water supply from groundwater pumped from the Santa Clara Subbasin (managed by Valley Water), purchased surface water from Valley Water, surface water from local watersheds, and recycled water purchased from South Bay Water Recycling. However, SJW's recycled water distribution network does not extend into the City of Cupertino.

The 2020 UWMP states that there are sufficient water supplies to meet existing and future water demands for normal years, single-dry years, and multiple-dry years through 2045. The 2020 UWMP assumes a 34 percent increase in population in SJW's service area between 2020 and 2045. The 2020 UWMP also provides a water shortage contingency plan, demand management measures to increase water use efficiency, and current and planned future water conservation efforts.

### *California Water Service Urban Water Management Plan*

California Water Service, Los Altos Suburban (LAS) District, provides potable water to northern Santa Clara County and primarily serves the City of Los Altos. However, its service area extends to portions of the cities of Cupertino, Los Altos Hills, Mountain View, Sunnyvale, and adjacent unincorporated areas of Santa Clara County.<sup>15</sup> The northeastern portion of Cupertino is within CWS's service area.

Similar to SJW's 2020 UWMP, CWS's 2020 UWMP states that there is sufficient water available to serve all of its customers' needs during normal years, single-dry years, and multiple-dry years through 2045. CWS obtains its water supplies from groundwater pumped from the Santa Clara Subbasin, treated water purchased from Valley Water, and recycled water received from the Sunnyvale Water Pollution Control Plant.

## Local Regulations

### *General Plan 2040*

The Environmental Resources and Sustainability (ES) and the Infrastructure (INF) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to water resources and water conservation measures. Applicable policies and strategies

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<sup>14</sup> San Jose Water, 2021. 2020 Urban Water Management Plan.

<sup>15</sup> California Water Service, 2021. 2020 Urban Water Management Plan, Los Altos Suburban District.

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that would minimize potential adverse impacts to hydrology and water quality are identified in Section 4.15.1.3, *Impact Discussion*.

### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to minimize adverse impacts to water resources in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to water utilities are included in Title 3, *Franchises*, Title 14, *Streets, Sidewalks and Landscaping*, Title 15, *Water and Sewage*, Title 16, *Building and Construction*, and Title 17, *Environmental Regulations*, as follows:

- **Chapter 6.16, *Water: California Water Service***, grants this company the right to operate and distribute water for domestic, agricultural, industrial, commercial, and other uses and purposes within the City of Cupertino with a portion of the annual revenue paid to the City.
- **Chapter 6.20, *Water: San Jose Water Works***, grants this company the right to operate and distribute water for domestic, agricultural, industrial, commercial, and other uses and purposes within the City of Cupertino with a portion of the annual revenue paid to the City.
- **Chapter 14.15, *Landscaping Ordinance***, establishes water-efficient landscaping standards to conserve water use on irrigation. The provisions of this chapter apply to landscaping projects that include irrigated landscape areas exceeding 2,500 square feet, which requires submittal of a Landscape Documentation Package, which includes a water-efficient landscape checklist, water budget calculations, landscape, irrigation, and grading design plans, and soil management report. Also, landscape area less than 500 square feet are required to comply with the Prescriptive Compliance Application (water efficient checklist, landscape design plans and irrigation plans). Landscape areas between 500 and 2,500 square feet may require either a Prescriptive Compliance Application or a Landscape Documentation Package.
- **Chapter 15.04, *Waterworks System: Rates and Charges***, requires that all rates and charges imposed by the water providers upon customers of the water system shall be approved by the City Council and any changes in rates are subject to public notification and hearings.
- **Chapter 15.32, *Water Conservation***, establishes water conservation measures to reduce the consumption of water, prevent water waste, and maximize the efficient use of water in the city. These measures may be implemented by the water purveyors, San Jose Water and California Water Service, or any other water suppliers that serve the city, as well as Valley Water, as the wholesale water supplier. The chapter details prohibited uses of water and restrictions on water use as a result of drought or other supply conditions.
- **Chapter 16.58, *Green Building Standards Code***, includes the CALGreen requirements with provisions for local amendments as needed. This chapter codifies green building techniques, including measures affecting water use efficiency and water conservation. Sections 16.58.100 through 16.58.220 set forth the standards for green building requirements by type of building. As shown on Table 101.10 in Section 16.58.220, single-family homes, multi-family homes with more than nine homes, and buildings larger than 50,000 square feet are required to be Leadership in Energy & Environmental

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Design (LEED)<sup>16</sup> certified, and buildings from 25,000 to 50,000 square feet are required to be Silver certified. Section 16.58.230 permits applicants to apply an alternate green building standard for a project in lieu of the minimum standards outlined in Section 16.58.220 that meet the same intent of conserving resources and reducing solid waste.

- **Chapter 17.04, *Standard Environmental Protection Requirements*.** The purpose of this chapter is to identify standard environmental protection requirements that all construction projects must meet, including but not limited to environmental mitigation measures identified in any environmental documents required as part of a General Plan 2040 update. This chapter includes specific requirements for utilities and service systems permits.
  - **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 layout of water lines and backflow preventers, prior to issuance of the first permit.

### Existing Conditions

Chapter 4.14, *Utilities and Services Systems*, of the General Plan EIR, addressed the impacts to water supply associated with buildout of the General Plan 2040 at a program level for both water purveyors in Cupertino (San Jose Water (SJW), and California Water Service-Los Altos District (Cal Water- LAS). Both water providers have service areas that extend beyond the limits of the City.

The setting for water utilities is described in detail under Existing Conditions in Section 4.14.1, *Water*, of the General Plan EIR.

Since the certification of the General Plan EIR, the City has codified regulations to reduce water utility impacts in CMC Chapter 17.04, *Standard Environmental Protection Requirements*, as described under the Municipal Code heading in Section 4.15.1.1, *Regulatory Framework*. Section 17.04.050 (I)(2) is included to minimize impacts to water resources and ensure adequate water supply and infrastructure.

### 4.15.1.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant impact to water supply if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
UTIL-1. Have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?	LTS	LTS
UTIL-2. Require or result in the construction of new water facilities or expansion of existing facilities, the construction of which would cause significant environmental effects?	LTS	LTS
UTIL-3. Result in a cumulatively considerable impact with respect to water services.	LTS	LTS

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

<sup>16</sup> 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 building are ranked in order of efficiency from Certified, Silver, Gold, and Platinum.

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**UTILITIES AND SERVICE SYSTEMS**

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**4.15.1.3 IMPACT DISCUSSION**


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<b>UTIL-1</b>	<b>Implementation of the proposed Modified Project would have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years.</b>
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The General Plan EIR found that future development under the Approved Project would include the latest technology in water-efficient plumbing fixtures and irrigation systems, as specified in the 2010 California Plumbing Code and the Cal Water's and SJWC's water efficiency measures relevant to new residential and commercial development. Table 4.14-7, *Projected Water Demand Cal Water LAS District + Proposed Project (AFY)*, in the General Plan EIR shows that there is adequate supply for the Approved Project from Cal Water. Additionally, Table 4.14-12, *SJWC 2035 Supply and Demand -- Normal, Single-Dry, and Multiple-Dry Years (acre feet)*, in the General Plan ER shows that there is adequate supply for the 2035 demand levels.

At full buildout, the proposed Modified Project would result in 3,312 net new dwelling units. Based on Figure 3-3, *Housing Element (2023-2031) Opportunity Sites*, the identified housing sites would be about equally split between the two water providers' service areas. Therefore, the following analysis of increased water demand associated with the proposed Modified Project focuses on the service areas of both water purveyors.

Potential future development under the proposed Modified Project would be required to comply with the more stringent requirements of CALGreen, California Plumbing Code, and the City's Landscape Ordinance, as described above in Section 4.15.1.1, *Regulatory Framework*, compared to the requirements described in the General Plan EIR. Although new residential construction typically achieves a reduction in water usage rates of 20 percent through compliance with these regulations,<sup>17</sup> this analysis conservatively assumes that water usage would be similar to the rates provided in the Cal Water LAS and SJW UWMPs. It is assumed for this analysis that all of the new housing units will be multi-family residential, as described in Chapter 3.0, *Project Description*, of this EA.

The water demand factor for multi-family residential was obtained from the SJW 2020 UWMP, which lists typical water usage for multi-family residential land use as 60 gallons/capita/day (gpcd). Assuming 2.94 people per household in Cupertino, this equates to 176 gallons/day per dwelling unit.<sup>18</sup> Table 4.15-1, *Increase in Water Demand with 2040 Buildout*, provides the estimated increase in water demand for the proposed Modified Project.

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<sup>17</sup> As described in Section 4.15.1.1, *Regulatory Framework*, implementation of CALGreen site development standards for water efficiency and water conservation reduce water consumption by 20 percent.

<sup>18</sup> The SJW water usage for multi-family land uses of 60 gallons per day per capita is used for both water districts for consistency in the analysis.



**UTILITIES AND SERVICE SYSTEMS****TABLE 4.15-1 INCREASE IN WATER DEMAND WITH 2040 BUILDOUT**

Water Purveyor	Number (DUs)	Water Use Factor	Increase in Water Demand (gpd) <sup>a</sup>	Increase in Water Demand (AFY)
Cal Water LAS	1,656	176 gpd/DU	291,456	326
San Jose Water	1,656	176 gpd/DU	291,456	326
<b>Total</b>	<b>3,312</b>		<b>582,912</b>	<b>653</b>

Notes: DUs = dwelling units; gpd = gallons per day; AFY = acre feet per year; gpcd = gallons per capita per day

a. Demand calculations do not account for water conservation efforts and the effect of reduced water demand for new construction due to compliance with the CALGreen Building Code and the latest California Plumbing Code.

Source: PlaceWorks, 2024

**Cal Water LAS Water Supply and Demand**

Because Cal Water LAS serves Los Altos, Los Altos Hills, Cupertino, a small portion of Sunnyvale, and unincorporated areas of Santa Clara County, the proportion of 2040 water demand that would be attributed to Cupertino was determined based on the increase in populations of Los Altos, Los Altos Hills, and Cupertino between 2020 and 2040. Cupertino provides the majority of the overall water demand in the Cal Water LAS service area. The population estimates were obtained from the *Plan Bay Area 2040*.<sup>19</sup> The population projections show that 73 percent of the overall growth within the Cal Water LAS service area will be in Cupertino, and the population density is higher in Cupertino. Because approximately half of Cupertino is within the Cal Water LAS service area, it is assumed that 50 percent of the increase in water demand in 2040 in the Study Area will be in the Cal Water LAS service area. A supply and demand analysis is provided in Table 4.15-2, *Increase in Water Demand in Cal Water LAS Service Area with Proposed Modified Project*.

**TABLE 4.15-2 CAL WATER LAS SERVICE AREA WITH PROPOSED MODIFIED PROJECT**

Normal Year	2020 Existing Demand (AFY)	2020 to 2040 Projected Demand Increase (AFY)	2040 Total Water Demand (AFY)	2040 Projected Water Supply (AFY)	2040 Demand Exceeds Supply?
Cal Water Total Service Area, from 2020 UWMP	13,087	414	13,766	13,766	No
Cupertino Service Area, with 2040 Modified Project	6,543.5 <sup>a</sup>	326 <sup>b</sup>	6,870	6,883 <sup>c</sup>	No

Notes: AFY = acre feet per year

a. Assumed to be 50 percent of total water demand as reported in Cal Water's UWMP.

b. Based on projected buildout under the proposed project, as shown in Table 4.17-1, *Increase in Water Demand with 2040 Buildout*.

c. Assumed to be 50 percent of total water supply as reported in Cal Water's UWMP.

Source: Cal Water, 2021, 2020 Urban Water Management Plan; PlaceWorks, 2024.

<sup>19</sup> Association of Bay Area Governments, 2018. Plan Bay Area Projections 2040.

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The sources of water supply for Cal Water LAS are a combination of groundwater, recycled water, and purchased water from Valley Water, which is the wholesale water provider for Santa Clara County and imports water through the South Bay Aqueduct of the California State Water Project and the San Felipe Division of the federal Central Valley Project. Approximately 79 percent of Cal Water LAS's water supply is surface water purchased from Valley Water.

Cal Water LAS also pumps groundwater from the Santa Clara Subbasin to supplement its surface water supplies. In 2020, Cal Water LAS pumped 2,729 AFY for this groundwater basin, which is about 21 percent of the total water supply. The Santa Clara Subbasin is not adjudicated, meaning a court has not issued a ruling over the legal rights to the water of the water users within the basin, and the basin is not in a condition of critical overdraft. Valley Water is the GSA for this subbasin and prepared an Alternative GSP, which has been approved by DWR. The Alternative GSP provides conditions to maintain sustainable groundwater management of the basin.

Cal Water LAS also uses a small amount of recycled water from the Sunnyvale Water Pollution Control Plant. The recycled water infrastructure is limited in Cupertino to the Apple Campus 2 site at this time, but Cal Water LAS is pursuing other potential recycled water service connections.<sup>20</sup> Cal Water LAS supply and demand comparison for normal, single-dry year, and multiple-dry years through 2040 are provided in Table 4.15-3, *Cal Water PAS Supply and Demand Comparison: 2025 to 2040 (AFY)*.

**TABLE 4.15-3 CAL WATER LAS SUPPLY AND DEMAND COMPARISON: 2025 TO 2040 (AFY)**

	2025	2030	2035	2040
<b>Normal Year</b>				
Supply Totals	13,107	13,103	13,424	13,766
Demand Totals	13,107	13,103	13,424	13,766
Difference	0	0	0	0
<b>Single Dry Year</b>				
Supply Totals	13,702	13,698	14,029	14,381
Demand Totals	13,702	13,698	14,029	14,381
Difference	0	0	0	0
<b>Multiple Dry Years</b>				
<b>First Year</b>				
Supply Totals	14,070	14,066	14,404	14,761
Demand Totals	14,070	14,066	14,404	14,761
Difference	0	0	0	0
<b>Second Year</b>				
Supply Totals	14,070	14,066	14,404	14,761
Demand Totals	14,070	14,066	14,404	14,761
Difference	0	0	0	0

<sup>20</sup> Cal Water, 2021, 2020 Urban Water Management Plan.

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**TABLE 4.15-3 CAL WATER LAS SUPPLY AND DEMAND COMPARISON: 2025 TO 2040 (AFY)**

	2025	2030	2035	2040
<i><b>Third Year</b></i>				
Supply Totals	14,070	14,066	14,404	14,761
Demand Totals	14,070	14,066	14,404	14,761
Difference	0	0	0	0
<i><b>Fourth Year</b></i>				
Supply Totals	14,070	14,066	14,404	14,761
Demand Totals	14,070	14,066	14,404	14,761
Difference	0	0	0	0
<i><b>Fifth Year</b></i>				
Supply Totals	14,070	14,066	14,404	14,761
Demand Totals	14,070	14,066	14,404	14,761
Difference	0	0	0	0

Source: Cal Water, 2021, 2020 Urban Water Management Plan.

As can be seen in Table 4.15-3, Cal Water-LAS predicts that there will be sufficient water supplies to meet demand through year 2040 during normal, single-dry, and multiple-dry years. In addition, the table shows that during single-dry years and multiple-dry years, the water demand will increase. However, the supply will meet the demand under normal and drought conditions.

The Cal Water LAS 2020 UWMP also assumes that water conservation efforts would result in a decrease in per capita water demand, even with population increases. The Cal Water LAS 2020 UWMP shows future conservation savings of 474 AFY in 2040. The calculations provided in Table 4.15-1, *Increase in Water Demand with 2040 Buildout*, do not account for water conservation efforts and the effect of reduced water demand for new construction due to compliance with the CALGreen Building Code and the latest California Plumbing Code.

Cal Water LAS will continue to implement water conservation measures, including rebate, give-away, and direct installation programs aimed at plumbing fixture replacement, irrigation equipment, and landscape efficiency. Cal Water LAS has a rebate program for high-efficiency toilet replacement, high-efficiency urinal replacement, and high-efficiency clothes washer replacement. Cal Water LAS also has residential conservation kits that are free, with high-efficiency showerheads, bathroom and kitchen faucet aerators, toilet leak tables, and an outside full-stop hose nozzle. For outdoor water use, Cal Water provides rebates for smart irrigation controllers, high-efficiency sprinkler nozzles, large rotary nozzle replacement, spray bodies with pressure regulation and check valves, and turf replacement. Cal Water also provides landscape audits and sprinkler adjustments at no charge, technical assistance through the residential customer portal, and commercial water surveys. Continued implementation of these programs will ensure that per capita water demand decreases over time, even as the service area population increases. In the event of drought conditions, Cal Water LAS's Water Shortage Contingency Plan would be activated with water restrictions ranging from 10 percent to greater than 50 percent. At a Stage 6 level (demand greater than 50 percent), a moratorium on new water service connections would be implemented.

**UTILITIES AND SERVICE SYSTEMS****San Jose Water Supply and Demand**

San Jose Water (SJW) provides potable water to approximately one million residents in Santa Clara County, including the cities of San Jose, Campbell, Saratoga, Monte Sereno; the town of Los Gatos; and unincorporated areas of Santa Clara County. In addition, SJW operates and maintains the Cupertino Municipal Water System through a lease agreement. Most of the service area is built out and new development is primarily urban infill projects. Most of the future growth in the SJW service area is expected to be multi-family residential.<sup>21</sup>

The proportion of 2040 water demand that would be attributed to Cupertino was determined based on the populations of the cities and towns within SJW's service area, as obtained from the Bay Area Plan Projections 2040.<sup>22</sup> The population of San Jose represents approximately 84 percent of the service area, and Cupertino is the second largest population of the service area at 7 percent. Therefore, it is assumed that 7 percent of the current and future water demand within the SJW service area can be attributed to the Study Area. A supply and demand analysis is provided in Table 4.15-4, *Increase in Water Demand in SJW Area with Proposed Modified Project*.

**TABLE 4.15-4 INCREASE IN WATER DEMAND IN SJW SERVICE AREA WITH PROPOSED MODIFIED PROJECT**

Normal Year	2020 Existing Demand (AFY)	2020 to 2040 Projected Demand Increase (AFY)	2040 Total Water Demand (AFY)	2040 Projected Water Supply (AFY)	2040 Demand Exceeds Supply?
SJW Total Service Area, from 2020 UWMP	123,952	14,626	138,578	138,578	No
Cupertino Service Area, with Proposed Modified Project	8,677 <sup>a</sup>	326 <sup>b</sup>	9,003	9,700 <sup>c</sup>	No

Notes: AFY = acre feet per year

a. Assumed to be 7 percent of total water demand as reported in Cal Water's UWMP.

b. Based on projected buildout under the proposed project, as shown in Table 4.17-1, *Increase in Water Demand with 2040 Buildout*.

c. Assumed to be 7 percent of total water supply as reported in Cal Water's UWMP.

Source: Cal Water, 2021, 2020 Urban Water Management Plan; PlaceWorks, 2023.

SJW has four sources of water supply: purchased surface water from Valley Water, groundwater from the Santa Clara Basin (managed by Valley Water), surface water from local watersheds, and recycled water. SJW's strategy is to maximize the use of local surface water, use up to the maximum of purchased water contract amounts, and supplement the remaining supply needs with groundwater. Purchased water from Valley Water makes up over half of SJW's total water supply. SJW also pumps groundwater from the Santa Clara Basin. In 2020, SJW pumped 53,276 AF for this groundwater basin, which is about 43 percent of the total water supply. The Santa Clara Subbasin is not adjudicated, and the basin is not in a condition of critical overdraft.

<sup>21</sup> San Jose Water, 2021. 2020 Urban Water Management Plan.

<sup>22</sup> Association of Bay Area Governments, 2018. Plan Bay Area Projections 2040.

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SJW also diverts surface water from Saratoga Creek and Los Gatos Creek watershed, which accounts for about 3 percent of the total water supply. Recycled water use has increased over the years, and now makes up about 2 percent of the total water supply.<sup>23</sup> However, SJW does not have a recycled water distribution system that extends into the Study Area.

SJW supply and demand comparison for normal, single-dry year, and multiple-dry years through 2040 are provided in Table 4.15-5, *SJW Supply and Demand Comparison: 2025 to 2040 (AFY)*. The 2020 UWMP has supply and demand values in million gallons per year; these values have been converted to AFY to be consistent with the rest of the analysis.

**TABLE 4.15-5 SJW SUPPLY AND DEMAND COMPARISON: 2025 TO 2040 (AFY)**

	2025	2030	2035	2040
<b>Normal Year</b>				
Supply Totals	135,648	135,875	136,654	139,956
Demand Totals	135,648	135,875	136,654	139,956
Difference	0	0	0	0
<b>Single Dry Year</b>				
Supply Totals	135,648	135,875	136,654	139,956
Demand Totals	135,648	135,875	136,654	139,956
Difference	0	0	0	0
<b>Multiple Dry Years</b>				
<i><b>First Year</b></i>				
Supply Totals	135,648	135,875	136,654	139,956
Demand Totals	135,648	135,875	136,654	139,956
Difference	0	0	0	0
<i><b>Second Year</b></i>				
Supply Totals	135,648	135,875	136,654	139,956
Demand Totals	135,648	135,875	136,654	139,956
Difference	0	0	0	0
<i><b>Third Year</b></i>				
Supply Totals	135,648	135,875	136,654	139,956
Demand Totals	135,648	135,875	136,654	139,956
Difference	0	0	0	0
<i><b>Fourth Year</b></i>				
Supply Totals	135,648	135,875	136,654	139,956
Demand Totals	135,648	135,875	136,654	139,956
Difference	0	0	0	0

<sup>23</sup> San Jose Water, 2021. 2020 Urban Water Management Plan

**UTILITIES AND SERVICE SYSTEMS****TABLE 4.15-5 SJW SUPPLY AND DEMAND COMPARISON: 2025 TO 2040 (AFY)**

	2025	2030	2035	2040
<i>Fifth Year</i>				
Supply Totals	135,648	135,875	136,654	139,956
Demand Totals	135,648	135,875	136,654	139,956
Difference	0	0	0	0

Source: Cal Water, 2021, 2020 Urban Water Management Plan.

As can be seen in Table 4.15-5, SJW has sufficient water supplies to meet demands under normal year, single-dry year, and multiple-dry year conditions. Similarly, Valley Water, which is the wholesale water provider for SJW, states in their 2020 UWMP that they have sufficient water supplies to meet all of their water retailers' demands under normal and drought conditions.

As in the case with Cal Water LAS, SJW would implement its Water Shortage Contingency Plan during drought conditions. SJW has had a consumer water checkup program called "CATCH" since 1991 that provides free water audits to all of its customers and includes irrigation systems. Valley Water also offers many conservation rebates on SJW's behalf, including turf replacement, rain barrels, smart irrigation systems, low-flow showerheads, and graywater laundry-to-landscape systems. These programs and continued consumer water conservation education, as well as new construction compliance with CALGreen and the latest plumbing codes, will continue to reduce per capita water demands in the future.

In summary, there are sufficient water supplies to meet demands under normal years and drought conditions.

The General Plan EIR also found that the Environmental Resources and Sustainability (ES) and the Infrastructure (INF) Elements of General Plan 2040 include policies and strategies that would protect water resources and promote water conservation as a result of future potential development under the proposed Modified Project. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize adverse effects on water services:

- **Policy ES-1.1. Principles of Sustainability.** Incorporate principles of sustainability into Cupertino's planning, infrastructure, and development process in order to improve the environment, reduce greenhouse gas emissions and meet the needs of the community without compromising the needs of future generations. (General Plan EIR Policy 5-1)
- **Strategy ES-1.1.1. Climate Action Plan (CAP).** Adopt, implement, and maintain a Climate Action Plan to attain greenhouse gas emission targets consistent with state law and regional requirements. This qualified greenhouse gas emissions reduction plan, by BAAQMD's definition, will allow for future project CEQA streamlining and will identify measures to:
  - Reduce energy use through conservation and efficiency.
  - Reduce fossil fuel use through multi-modal and alternative transportation.
  - Maximize use of and, where feasible, install renewable energy resources.
  - Increase citywide water conservation and recycled water use.

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- Accelerate Resource Recovery through expanded recycling, composting, extended producer responsibility, and procurement practices, and
- Promote and incentivize each of those efforts to maximize community participation and impacts.
- Integrate multiple benefits of green infrastructure with climate resiliency and adaptation.
- **Strategy ES-1.1.3. *Climate Adaptation and Resiliency.*** Conduct a climate vulnerability assessment and set preparedness goals and strategies to safeguard human health and community assets susceptible to the impacts of a changing climate (e.g., increased drought, wildfires, flooding). Incorporate these into all relevant plans, including Emergency Preparedness Plan, Local Hazard Mitigation Plan, Dam Failure Plan, Climate Action Plan, Watershed Protection Plan, and Energy Assuredness Plan.
- **Policy ES-3.1. *Green Building Design.*** Set standards for the design and construction of energy and resource conserving/efficient building.
- **Strategy ES-3.1.1. *Green Building Program.*** Periodically review and revise the City's Green Building ordinance to ensure alignment with CALGreen requirements for all major private and public buildings projects that ensure reduction in energy and water use for new development through site selection and building design.
- **Strategy ES-3.1.2. *Staff Training.*** Continue to train appropriate City staff in the design principles, costs, and benefits of sustainable building and landscape design. Encourage City staff to attend external trainings on these topics and attain relevant program certifications (e.g., Green Point Rater, Leadership in Energy & Environmental Design (LEED) Accredited Professional).
- **Strategy ES-3.1.3. *Green Buildings Informational Seminars.*** Conduct and/or participate in Green Building informational seminars and workshops for members of the design and construction industry, land development, real estate sales, lending institutions, landscaping and design, the building maintenance industry and prospective project applicants.
- **Strategy ES-3.1.4. *Green Building Demonstration.*** Pursue municipal facility retrofits, through a Green Capital Improvement Program (CIP), and new construction projects that exceed CALGreen and achieve third-party certification criteria (e.g., LEED, Living Building Challenge, Zero Net Energy) as a means of creating demonstration spaces for developer and community enrichment.
- **Policy ES-7.6. *Other Water Sources.*** Encourage the research of other water sources, including water reclamation.
- **Strategy ES-7.8.1. *Inter-Agency Coordination.*** Work with the Santa Clara Valley Water District and other relevant regional agencies to enhance riparian corridors and provide adequate flood control by use of flow increase mitigation measures, such as hydromodification controls as established by the Municipal Regional Permit.
- **Policy ES-7.9. *Inter-Agency Coordination for Water Conservation.*** Continue to coordinate citywide water conservation and regional water supply problem solving efforts with the Santa Clara Valley Water District (SCVWD), San Jose Water Company, and California Water Company. (General Plan EIR Policy 5-29)
- **Strategy ES-7.9.1. *Water Conservation Measures.*** Implement water conservation measures and encourage the implementation of voluntary water conservation measures from the City's water retailers and SCVWD. (General Plan EIR Policy 6-19)
- **Policy ES-7.10. *Public Education Regarding Resource Conservation.*** Provide public information regarding resource conservation.
- **Strategy ES-7.10.1. *Outreach.*** Continue to send educational information and notices to households and businesses with water prohibitions, water allocations, and conservation tips. Continue to offer

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featured articles in the Cupertino Scene and Cupertino Courier. Consider providing Public Service Announcements on the City's Channel and Cupertino Radio.

- **Strategy ES-7.10.2. *Demonstration Gardens.*** Consider including water-wise demonstration gardens in some parks where feasible as they are re-landscaped or improved using drought tolerant native and non-invasive, and non-native plants.
- **Policy ES-7.11. *Water Conservation and Demand Reduction Measures.*** Promote efficient use of water throughout the City in order to meet State and regional water use reduction targets.
- **Strategy ES-7.11.1. *Urban Water Management Plan.*** Collaborate with water retailers serving the City in the preparation of their Urban Water Management Plan, including water conservation strategies and programs.
- **Strategy ES-7.11.2. *Water Conservation Standards.*** Comply with State water conservation standards by either adopting the State standards or alternate standards that are equally efficient.
- **Strategy ES-7.11.3. *Recycled Water System.*** Continue to work with water retailers to promote and expand the availability of recycled water in the City for public and private use.
- **Strategy ES-7.11.4. *Recycled Water in Projects.*** Encourage and promote the use of recycled water in public and private buildings, open space and streetspace planting.
- **Strategy ES-7.11.5. *On-Site Recycled Water.*** Encourage on-site water recycling including rainwater harvesting and gray water use.
- **Strategy ES-7.11.6. *Water Conservation Programs.*** Benchmark and continue to track the City's public and private municipal water use to ensure ongoing accountability and as a means of informing prioritization of future agency water conservation projects.
- **Strategy ES-7.11.7. *Green Business Certification and Water Conservation.*** Continue to support the City's Green Business Certification goals of long-term water conservation within City facilities, vegetated stormwater infiltration systems, parks and medians, including installation of low-flow toilets and showers, parks, installation of automatic shut-off valves in lavatories and sinks and water efficient outdoor irrigation.
- **Policy INF-1.1. *Infrastructure Planning.*** Upgrade and enhance the City's infrastructure through the City's Capital Improvement Program (CIP) and requirements for development.
- **Strategy INF-1.1.1. *Capital Improvement Program.*** Ensure that CIP projects reflect the goals and policies identified in Community Vision 2040.
- **Strategy INF-1.1.2. *Design Capacity.*** Ensure that the public infrastructure is designed to meet planned needs and to avoid the need for future upsizing. Maintain a balance between meeting future growth needs and over-sizing of infrastructure to avoid fiscal impacts or impacts to other goals.
- **Strategy INF-1.1.3. *Coordination.*** Require coordination of construction activity between various providers, particularly in City facilities and rights-of-way, to ensure that the community is not unnecessarily inconvenienced. Require that providers maintain adequate space for all utilities when planning and constructing their infrastructure.
- **Policy INF-1.2. *Maintenance.*** Ensure that existing facilities are maintained to meet the community's needs.
- **Policy INF-1.3. *Coordination.*** Coordinate with utility and service providers to ensure that their planning and operations meet the City's service standards and future growth.
- **Policy INF-1.4. *Funding.*** Explore various strategies and opportunities to fund existing and future infrastructure needs.



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- **Strategy INF-1.4.1. Existing Infrastructure.** Require developers to expand or update existing infrastructure to increase capacity, or pay their fair share, as appropriate.
- **Strategy INF-1.4.2. Future Infrastructure Needs.** For new infrastructure, require new development to pay its fair share of, or to extend or construct, improvements to accommodate growth without impacting service levels.
- **Strategy INF-1.4.3. Economic Development.** Prioritize funding of infrastructure to stimulate economic development and job creation in order to increase opportunities for municipal revenue.
- **Policy INF-2.5. Recycled Water Infrastructure.** Plan for citywide access to recycled water and encourage its use.
- **Strategy INF-2.5.1. Availability.** Expand the availability of a recycled water system through public infrastructure projects and development review.
- **Strategy INF-2.5.2. Use.** Encourage private and public projects to incorporate the use of recycled water for landscaping and other uses.
- **Strategy INF-2.5.3. City Facilities.** Design and retrofit City buildings, facilities and landscaping to use recycled water, to the extent feasible.
- **Policy INF-3.1. Coordination With Providers.** Coordinate with water providers and agencies in their planning and infrastructure process to ensure that the City continues to have adequate supply for current needs and future growth.
- **Strategy INF-3.1.1. Maintenance.** Coordinate with providers to ensure that water and recycled water delivery systems are maintained in good condition.
- **Policy INF-3.2. Regional Coordination.** Coordinate with State and regional agencies to ensure that policies and programs related to water provision and conservation meet City goals.

The City will continue to coordinate with Cal Water LAS and SJW on conservation efforts, demand management measures promoted by the water districts, and implementation of water use restrictions as per the WSCPs. Additionally, future development under the proposed Modified Project would be required to implement the water-efficient requirements specified in the CALGreen and California Plumbing Codes and the WELO requirements for water efficient landscaping. Future potential development under the proposed Modified Project that meet the criteria under California Water Code Section 10912 would be required to prepare a WSA that demonstrates that project water demands would not exceed water supplies. In addition, existing residential, commercial, and industrial land uses can be expected to decrease their water demands in the future as a result of the implementation of water conservation practices.

According to the 2020 UWMPs for Cal Water LAS and SJW, there are sufficient water supplies available to meet the demands of all of their customers during normal, single-dry, and multiple-dry years through 2045. Compliance with the General Plan 2040 goals, policies and strategies, implementation of the WSCPs during dry periods, and continued water conservation efforts would reduce water demand with respect to water supplies. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to shortage of water supplies beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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**UTIL-2                    Implementation of the proposed Modified Project would not require or result in the relocation or construction of new or expanded water facilities, the construction or relocation of which could cause significant environmental effects.**

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As described in the General Plan EIR, the water demand associated with the Approved Project would be served with available and planned water supplies provided by Cal Water LAS and SJW. Additionally, future development under the Approved Project would be located within already developed urban areas and therefore, would connect to an existing water distribution system. Thus, the Approved Project would not result in water demands that would require the construction of new water treatment facilities or the expansion of existing facilities.

As described in Impact Discussion UTIL-1, both Cal Water LAS and SJW have sufficient water supplies to meet the demands of their customers during normal, single-dry, and multiple-dry years. In addition, the WSCPs contain water demand mitigation measures that would be implemented during extended drought periods, and each water agency is required to submit an annual report to DWR to assess whether there will be a water shortage in the coming year and what water demand reduction measures will be adopted to address the shortages.

Future potential development under the proposed Modified Project would be primarily in urban infill areas that are already connected to the water distribution systems of the two water purveyors. Both water agencies that serve the Study Area have existing water distribution systems that can supply the Study Area without the need to expand their facilities. Therefore, no new water facilities or expansions of existing facilities are needed for implementation of the proposed Modified Project.

Both water purveyors that serve the Study Area receive treated water from Valley Water and do not have their own water treatment plants. Valley Water operates three water treatment plants that clean and disinfect imported water that is stored in four local reservoirs. The treatment plants are:

- Rinconada Water Treatment Plant. This facility can treat and deliver up to 80 million gallons of water per day for retailers who supply customers in the West Valley, including the cities of Santa Clara, Campbell, Sunnyvale, Cupertino, Mountain View, Monte Sereno, Saratoga and Los Altos and the towns of Los Gatos and Los Gatos Hills.
- Penitencia Water Treatment Plant. This facility can treat and deliver up to 40 million gallons of water per day and serves an area from Milpitas in the north to Aborn Road in the south.
- Santa Teresa Water Treatment Plant. This facility provides safe drinking water to most of South San Jose-Almaden Valley, Blossom Valley, and Santa Teresa and can treat and deliver up to 100 million gallons per day.

The three treatment plants can provide a combined 220 million gallons per day of safe drinking water. According to Valley Water's 2020 UWMP, there is a surplus of water supplies during normal, single-dry year, and multiple-dry years through the year 2045 and therefore, Valley Water has the capability of

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supplying treated water to all of its retail customers.<sup>24</sup> Therefore, no new water treatment facilities are required.

In summary, no new water treatment or distribution facilities would be needed with implementation of the proposed Modified Project and both water purveyors that serve the Study Area have capital improvement programs to monitor and upgrade their water distribution systems to accommodate future development. As with the future potential development assessed in the General Plan EIR, future potential development under the proposed Modified Project, would be required to comply with the City's requirements for new construction, water-efficient landscaping, and adherence to the General Plan 2040 goals, policies, and strategies listed in Impact Discussion UTIL-1.

Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts with respect to the need for new and/or expanded water facilities beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>UTIL-3</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to water service.</b>
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The General Plan EIR considered the service areas of Cal Water LAS and SJW for cumulative impacts. Cal Water, SJWC, and SCVWD UWMPs determine that the water supply will be sufficient to accommodate future demand in the Cal Water and SJWC service areas through 2035, and by extension through 2040, under normal circumstances. In the multiple dry years, with Cal Water, SJWC and SCVWD drought contingency plans in place, any shortages would be managed through demand reductions and other measures such as increased groundwater pumping.

The area considered for cumulative water supply impacts is the service areas of CalWater LAS and SJW. Other future projects within these service areas would result in increases in water demand. However, cumulative water demands are not anticipated to require building new water treatment facilities or expansion of existing facilities beyond what is currently planned. Both water providers have adequate supplies to meet existing and future demands under normal and drought conditions through the year 2045.

Projects that meet the SB 610 criteria, such as residential projects with more than 500 dwelling units, would be required to prepare WSAs. The City and the water purveyors would review such projects for adequacy of water supply and the water purveyors would update the UWMP every five years to ensure that there are adequate water supplies and contingency plans for future residents and customers. All future potential development under the proposed Modified Project would require implementing water efficiency and water conservation measures, as per the CALGreen Building Code and the WELO irrigation requirements.

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<sup>24</sup> Valley Water, 2021. 2020 Urban Water Management Plan.

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All cumulative projects would require compliance with applicable City ordinances as well as local, State, and federal regulatory requirements. These regulations will result in a reduction in per capita water use over time. Therefore, the proposed Modified Project would not result in new or more severe cumulatively considerable impacts to water supply beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

### 4.15.2 Wastewater

#### 4.15.2.1 REGULATORY FRAMEWORK

##### Federal Regulations

###### *Clean Water Act*

The CWA of 1972 regulates the discharge of pollutants into watersheds throughout the nation. It is the primary federal law that governs water pollution and is implemented by the USEPA. Under the CWA, the USEPA sets wastewater standards and makes it unlawful to discharge pollutants from a point source into any navigable waters without obtaining a permit. Point sources include any conveyances, such as pipes and man-made drainage channels, from which pollutants may be discharged.

###### *National Pollutant Discharge Elimination System*

The National Pollutant Discharge Elimination System (NPDES) permit program was established as part of the CWA to regulate municipal and industrial discharges to surface waters of the United States. Federal NPDES permit regulations have been established for broad categories of discharges, including point-source municipal waste discharges and nonpoint-source stormwater runoff. NPDES permits generally identify effluent and receiving water limits on allowable connections and/or mass emissions of pollutants contained in the discharge; prohibitions on discharges not specifically allowed under the permit; and provisions that describe required actions by the discharger, including industrial pretreatment, pollution prevention, self-monitoring, and other activities. Wastewater discharge is regulated under the NPDES permit program for direct discharges into receiving waters and by the National Pretreatment Program for indirect discharges to a wastewater (sewage) treatment plant.

##### State Regulations

###### *State Water Resources Control Board*

On May 2, 2006, the SWRCB adopted Statewide General Waste Discharge Requirements ([WDRs] Order No. 2006-0003) and a monitoring and reporting program (Order No. WQ-2013-0058-EXEC) for all publicly owned sanitary sewer collection systems in California with more than one mile of sewer pipes. The order provides a consistent statewide approach to reducing sanitary sewer overflows (SSO). The WDRs require public agencies that own or operate sanitary sewer systems to develop and implement sewer system management plans (SSMP) and report all SSOs to the SWRCB's online reporting system. The SWRCB has delegated authority to nine RWQCBs to enforce these requirements within their regions.

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### Regional Regulations

#### *San Francisco Bay Regional Water Quality Control Board*

The San Francisco Bay RWQCB (Region 2) was created as a result of the California Porter-Cologne Act. The RWQCB issues and enforces NPDES permits within Santa Clara County and the City of Cupertino, which includes permits for wastewater treatment plants (WWTPs) and industrial waste discharges. NPDES permits allow the RWQCB to regulate where and how waste is disposed, including the discharge volume and effluent limits of waste and the monitoring and reporting responsibilities of the discharger. The RWQCB is also charged with conducting inspections of permitted discharges and monitoring permit compliance.

### Local Regulations

#### *General Plan 2040*

The Environmental Resources and Sustainability (ES) and the Infrastructure (INF) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to consider impacts to wastewater. Applicable goals, policies and strategies that would minimize potential adverse impacts to wastewater treatment and infrastructure are identified in Section 4.15.2.4, *Impact Discussion*.

#### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives that pertain to wastewater. The CMC is organized by title, chapter, and section. Most provisions related to wastewater utilities are included in Title 15, *Water and Sewage*, Title 16, *Building and Construction*, and Title 17, *Environmental Regulations*, as follows:

- **Chapter 15.20, *Sewage Disposal Systems***, establishes standards for the approval, installation, and operation of individual onsite sewage disposal systems consistent with the California Regional Water Quality Board standards. In addition, this chapter requires that all properties upon issuance of any permit for building or use must be connected to the public sanitary sewer system, with the exception that a private sewage disposal system can be installed with written approval obtained from the Health Officer.
- **Chapter 16.58, *Green Building Standards Code***, adopts the latest 2022 California Green Building Standards Code, also known as CALGreen, with provisions for local amendments as required. The requirements regarding indoor water use and the installation of low-flow plumbing fixtures pertain indirectly to wastewater flow rates, as these water conservation efforts will decrease the amount of wastewater generated.
- **Chapter 17.04, *Standard Environmental Protection Requirements***. The purpose of this chapter is to identify standard environmental protection requirements that all construction projects must meet, including but not limited to environmental mitigation measures identified in any environmental

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documents required as part of a General Plan update. This chapter includes specific requirements for utilities and service systems permits.

- **Section 17.04.050 (I)(1), *Manage Wastewater Inflow and Infiltration to Sewer System***, ensures that project applicants 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
    - 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.

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.

- b. 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.

### *Cupertino Sanitary District Operations Code*

The Cupertino Sanitary District (CSD) Operations Code was adopted in 2016 and has been updated periodically, with the latest update adopting new rates for Fiscal Year 2022 to 2023. The Code provides general rules of construction, operation, and maintenance. Chapter IV of Cupertino Sanitary CSD's Operations Code requires all new buildings within the CSD to be connected to the CSD sewer system and all land development projects to include provisions for future buildings to connect to the CSD's sewer system. Chapter V provides the construction requirements, standard plans and specifications, and payment of inspection fees. Chapter VI of the CSD's Operations Code requires critical users whose wastewater contains priority pollutants to obtain a Wastewater Discharge Permit for before connecting to or discharging into a CSD's sewer and provides requirements for pretreatment of industrial waste. Chapter VII outlines the requirements for connection permits and fees as well as sewer service charges.

### *CSD Sewer System Management Plan*

The latest CSD Sewer System Management Plan (SSMP) was certified in May 2021.<sup>25</sup> The purpose of the SSMP is to provide the framework for properly managing, operating, and maintaining all parts of the sanitary sewer system in order to minimize the number of SSOs and mitigate any SSOs that do occur. The SSMP describes how the sanitary sewer system is operated and maintained, efforts to minimize infiltration

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<sup>25</sup> Cupertino Sanitary District, 2021., *Sewer System Management Plan (SSMP)*, Prepared by Mark Thomas & Company, Inc.

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and inflow, design and performance standards, overflow emergency response plan, a fats, oil and grease control program, and monitoring and audit requirements. As required by law, the SSMP must be updated every five years and must be developed in compliance with the requirements of the SWRCB Waste Discharge Requirements Order No. 2006-003-DWQ, Amended Monitoring and Reporting Program Order No. WQ 2008-002-EXEC, and Order No. WQ 2013-0058-EXEC.

### *CSD Inflow and Infiltration Reduction Program*

CSD has an ongoing program to identify and reduce Inflow and Infiltration (I/I) into the sewer system. Inflow is stormwater that enters the system through illicit connections and infiltration is stormwater and groundwater that enter the system through laterals, sewer mains, and manholes. These flows can limit the capacity of the sewer system to convey wastewater flows, especially during wet weather, where it can contribute up to 50 percent of the peak flow. The program is aimed at reducing the amount of peak flow entering the CSD sewer system to lower the risk of SSOs and decrease the costs of conveying and treating wastewater. CSD uses Sewer System Evaluation Surveys to evaluate the condition of sewer and the likely sources of I/I via smoke testing and closed-circuit television inspections. Once the sources of I/I have been identified, repairs to broken pipes, manholes, and joint connections are made. The program also meters sewer flows during rainfall events to identify areas of high flows. This information is data for running a hydraulic model of the CSD sewer system and assess whether there is sufficient capacity available to accommodate new development.<sup>26</sup>

## Existing Conditions

Chapter 4.14, *Utilities and Services Systems*, of the General Plan EIR, addressed the impacts to wastewater associated with buildout of the General Plan 2040 at a program level. The setting for wastewater is described in detail under Existing Conditions in Section 4.14.2, *Wastewater*, of the General Plan EIR.

Since the certification of the General Plan EIR, the City has codified regulations equivalent to the General Plan EIR mitigation measures to reduce wastewater flow in the CMC Chapter 17.04, *Standard Environmental Protection Requirements*, as described under the Municipal Code heading in Section 4.15.1.1, *Regulatory Framework*. Section 17.04.050 (I)(1) incorporates Mitigation Measures UTIL-6a through UTIL-6c, which require project applicants to work with the City and CSD to ensure projects would not exceed the peak wet weather flow capacity of the Santa Clara sanitary sewer system. Thus, these mitigation measures are no longer necessary.

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<sup>26</sup> Cupertino Sanitary District, 2024. Peak Flow Reduction Program. Cupertino 2021 Annual Report. [https://j.b5z.net/i/u/10207194/f/Annual%20Reports/CSUD\\_2021\\_Annual\\_Report\\_Layout\\_1\\_RS\\_FINAL\\_FOR\\_PRINT.pdf](https://j.b5z.net/i/u/10207194/f/Annual%20Reports/CSUD_2021_Annual_Report_Layout_1_RS_FINAL_FOR_PRINT.pdf) accessed on January 18, 2024.

**UTILITIES AND SERVICE SYSTEMS****4.15.2.2 STANDARDS OF SIGNIFICANCE**

Implementation of the proposed Modified Project would result in significant wastewater impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
UTIL-4. Require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effects?	LTS	LTS
UTIL-5. Result in the determination by the wastewater treatment provider, which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	LTS	LTS
UTIL-6. Result in a cumulatively considerable impact with respect to wastewater services?	LTS	LTS

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

**4.15.2.3 IMPACT DISCUSSION**

<b>UTIL-4</b>	<b>Implementation of the proposed Modified Project would not require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.</b>
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The General Plan EIR concluded that future demands from the Approved Project would not exceed the design or permitted capacity of the wastewater treatment plants serving the Study Area (SJ/SCWPCP and SWPCP). Additionally, the potential impacts to the collection system would be addressed through applicable General Plan policies and the mitigation measures identified in Impact Discussion UTIL-6 of the General Plan EIR.

Cupertino Sanitary District (CSD) provides sanitary sewer service to most of the City of Cupertino, portions of Saratoga, Sunnyvale, Los Altos and surrounding unincorporated areas by maintaining, repairing, replacing, and inspecting all wastewater lines and providing emergency sanitary sewer overflow (SSO) response. However, a small portion in the northeastern section of the City east of Finch Avenue and south of Stevens Creek Boulevard is served by the City of Sunnyvale.

Cupertino does not operate a wastewater treatment plant. The collected wastewater is conveyed to the San Jose/Santa Clara Regional Wastewater Facility (RWF) through sewer mains and interceptor lines shared with both the cities of San Jose and Santa Clara pursuant to a joint use agreement. As of 2020, the RWF treat 110 million gallons per day (mgd) of wastewater, with a permit capacity of 167 mgd.<sup>27</sup>

Future development under the Modified Project would result in an increase in wastewater with the addition of 3,312 new housing units. According to SJW's 2020 UWMP, indoor water use for multi-family residences is 42 gallons per capita per day (gpcd) and there are an average of 2.94 people per household

<sup>27</sup> City of San Jose, 2024. San Jose-Santa Clara Regional Wastewater Facility.  
<https://www.sanjoseca.gov/home/showpublisheddocument/32061/637267825445900000> accessed on January 18, 2024.



## UTILITIES AND SERVICE SYSTEMS

in Cupertino. Wastewater demand is assumed to be 100 percent of the indoor water demand, which is conservative, in that the projected demand is higher than actual conditions.

**TABLE 4.15-6 INCREASE IN WASTEWATER DEMAND WITH PROPOSED MODIFIED PROJECT**

DUs	Number of People Per Household	Wastewater Use Factor (gpcd)	Increase in Wastewater Demand (gpd)	Increase in Wastewater Demand (mgd)
3,312	2.94	42	408,966	0.41

Notes: DUs = dwelling units; gpcd = gallons per capita per day; gpd = gallons per day; mgd – million gallons per day  
Source: PlaceWorks, 2023

The increase in wastewater demand due to future potential development under the proposed Modified Project is estimated to be approximately 0.41 mgd. As of 2020, the RWF 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 proposed Modified Project is only 0.7 percent of the residual capacity.

CSD has a contract with the RWF that limits its discharge to 7.875 mgd, of which CSD discharged approximately 4.25 mgd in 2017. Therefore, CSD uses only about 54 percent of its allowable capacity. The RWF would be able to accommodate the wastewater flows from the proposed Modified Project in addition to the current and future flows from other contributors to the RWF's wastewater flow rates.

The trunk interceptors owned by the cities of San Jose and Santa Clara that convey flow from the CSD collection system to the RWF were also assessed to determine if they have the capacity to serve the future potential development under the proposed Modified Project. Approximately 0.56 mgd is conveyed via the San Jose joint interceptor and 3.69 mgd is conveyed via the Santa Clara joint interceptor. The City of Santa Clara concluded that their joint interceptor has adequate capacity; CSD has an allowable maximum wet weather flow capacity of 13.5 mgd in this system. In 2017, the maximum wet weather flow peaked at 9.6 mgd, which leaves a residual capacity of 3.9 mgd.<sup>28</sup> CSD has agreements with these cities for sharing costs related to the construction, operation, and maintenance of the joint use sanitary sewers.<sup>29</sup>

Only one of the proposed housing opportunity sites under the proposed Modified Project is within the Sunnyvale sewer collection system, which is in a small part of the Study Area east of Finch Avenue and south of Stevens Creek Boulevard. Wastewater from this area is conveyed to the Sunnyvale Water Pollution Control Plant (WPCP). The NPDES permit for the WPCP allows inflows to the facility of up to 29.5 mgd. Currently, the WPCP processes about 13.5 mgd.<sup>30</sup> Therefore, there is a residual capacity of 16 mgd, and buildout of one housing opportunity site within the area served by Sunnyvale sewer collection system would not exceed the treatment capacity of the WPCP or adversely affect the capacity of the sewer collection system.

<sup>28</sup> Cupertino Sanitary District, 2018. 10-Year District-Wide Capital Improvement Master Plan

<sup>29</sup> Cupertino Sanitary District, 2018. 10-Year District-Wide Capital Improvement Master Plan.

<sup>30</sup> City of Sunnyvale, 2020. Sunnyvale Water Pollution Control Plant Master Plan – Secondary Treatment and Dewatering Facility Project. Addendum to the Program Environmental Impact Report.

## UTILITIES AND SERVICE SYSTEMS

In addition, the CSD is also implementing sewer collection improvement projects as recommended in the 10-Year District-Wide Capital Improvement Project Master Plan. The goal is to replace and upgrade pump station capacities, upgrade portions of the sewer infrastructure with larger pipe sizes to correct deficiencies and accommodate future growth, improve wet weather capacity, and reduce I/I.

The General Plan EIR also found that the Environmental Resources and Sustainability (ES) and the Infrastructure (INF) Elements of General Plan 2040 include policies and strategies that ensure adequate wastewater treatment capacity and infrastructure under the proposed Modified Project. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize adverse effects on wastewater services:

- **Policy ES-7.7. *Industrial Water Recycling.*** Encourage industrial projects, in cooperation with Cupertino Sanitary District, to have long-term conservation measures, including recycling equipment for manufacturing and water supplies in the plant. (General Plan EIR Policy 5-26)
- **Policy INF-1.1. *Infrastructure Planning.*** Upgrade and enhance the City's infrastructure through the City's Capital Improvement Program (CIP) and requirements for development.
- **Strategy INF-1.1.1. *Capital Improvement Program.*** Ensure that CIP projects reflect the goals and policies identified in Community Vision 2040.
- **Strategy INF-1.1.2. *Design Capacity.*** Ensure that the public infrastructure is designed to meet planned needs and to avoid the need for future upsizing. Maintain a balance between meeting future growth needs and over-sizing of infrastructure to avoid fiscal impacts or impacts to other goals.
- **Strategy INF-1.1.3. *Coordination.*** Require coordination of construction activity between various providers, particularly in City facilities and rights-of-way, to ensure that the community is not unnecessarily inconvenienced. Require that providers maintain adequate space for all utilities when planning and constructing their infrastructure.
- **Policy INF-1.2. *Maintenance.*** Ensure that existing facilities are maintained to meet the community's needs.
- **Policy INF-1.3. *Coordination.*** Coordinate with utility and service providers to ensure that their planning and operations meet the City's service standards and future growth.
- **Policy INF-1.4. *Funding.*** Explore various strategies and opportunities to fund existing and future infrastructure needs.
- **Strategy INF-1.4.1. *Existing Infrastructure.*** Require developers to expand or update existing infrastructure to increase capacity, or pay their fair share, as appropriate.
- **Strategy INF-1.4.2. *Future Infrastructure Needs.*** For new infrastructure, require new development to pay its fair share of, or to extend or construct, improvements to accommodate growth without impacting service levels.
- **Strategy INF-1.4.3. *Economic Development.*** Prioritize funding of infrastructure to stimulate economic development and job creation in order to increase opportunities for municipal revenue.
- **Policy INF-5.1. *Infrastructure.*** Ensure that the infrastructure plans for Cupertino's wastewater system providers continue to meet the City's current and future needs.
- **Strategy INF-5.1.1. *Coordination.*** Coordinate with the Cupertino Sanitary District on their Master Plan and the Sunnyvale Treatment Plant to develop a comprehensive capital improvement program to ensure adequate capacity for future development anticipated with General Plan buildout.

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- **Strategy INF-5.1.2. *Development*.** Require developers to pay their fair share of costs for, or in some cases construct, infrastructure upgrades to ensure that service levels are met. (General Plan EIR Policy 7-4)
- **Policy INF-5.2. *Demand*.** Look for ways to reduce demand on the City's wastewater system through implementation of water conservation measures.

Implementation of the proposed Modified Project would not require the construction or expansion of the wastewater treatment plants or the sewer collection systems beyond what is already planned or under construction under the Approved Project. Adherence to the CMC requirements as well as the General Plan 2040 goals, policies, and strategies would also reduce wastewater generation rates over time. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts associated with the sewer collection and treatment systems beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

<b>UTIL-5</b>	<b>Implementation of the proposed Modified Project would not result in the determination by the wastewater treatment provider, which serves or may serve the project that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.</b>
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As described in the General Plan EIR, specific capacity deficiencies were identified under the Approved Project, including sewer lines serving the City Center area, and lines on Stelling Road and Foothill Boulevard. City Center is the general area at the southeast quadrant of the intersection of De Anza Blvd and Stevens Creek Blvd. Future potential development that substantially increases wastewater capacity, including projects under the Approved Project, could result in wastewater flows that exceed the collection system capacity. To address this possibility, the CSD requires developers of substantial projects to demonstrate that adequate capacity exists, or to identify the necessary mitigations. Further, future potential development in the portion of the Heart of the City Special Area east of Finch Avenue and south of Stevens Creek Boulevard could result in wastewater flows to the City of Sunnyvale that exceed the downstream pipe capacity if large office developments are allowed. This Special Area does allow office use of the entire corridor with appropriate mitigation measures. However, development adjacent to the single-family residences on the east side along Stevens Creek Boulevard would not be large office campuses due to the small size of the properties and the need to maintain compatibility with adjoining single-family residential uses. As far as treatment systems, the projected additional wastewater generated by the Approved Project, over and above the current General Plan 2040 flows, are calculated to be 1.45 mgd and would exceed the contractually available treatment capacity by 0.85 mgd.

As described in Impact Discussion UTIL-4, much of the wastewater generated in the Study Area would be conveyed to the RWF. It is currently permitted to treat up to 29.5 mgd and currently processes about 13.5 mgd. CSD has a contract with the RWF that limits its discharge to 7.875 mgd, of which CSD discharged approximately 4.25 mgd in 2017. Therefore, CSD uses only about 54 percent of its allowed capacity.

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The estimated increase in wastewater flows is conservative because there likely will be declining rates of wastewater generation over time, as new projects would be required to comply with the California Plumbing Code and CALGreen and implement active and passive water conservation measures. This would also reduce the amount of wastewater produced per dwelling unit. Future development would also be required to undergo City review and abide by the City's Standard Environmental Protection Requirements that pertain to wastewater. Additionally, the General Plan 2040 goals, policies, and strategies provided in Impact Discussion UTIL-4 require local planning and development decisions to consider impacts to wastewater collection and treatment systems.

With continued compliance with applicable state and federal regulations and the CMC and Standard Environmental Protection Requirements, wastewater generated by future potential development under the proposed Modified Project would not exceed the capacity of the respective wastewater treatment plants. Therefore, the proposed Modified Project would not result in a new or more severe impact or determination by the wastewater treatment provider that there is not adequate capacity to serve the project's projected demand in addition to the demands of other wastewater dischargers beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>UTIL-6</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to wastewater service.</b>
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The context used for the cumulative assessment is the service area of San Jose Regional Wastewater Facility and the Sunnyvale Pollution Control Treatment Plant. In addition to wastewater discharged to these treatment plants by the City, there are other dischargers. For the RWF, the other dischargers are the cities of San Jose, Santa Clara, and Milpitas, West Valley Sanitation District (Campbell, Los Gatos, Monte Sereno, and Saratoga), County Sanitation Districts 2 and 3, and Burbank Sanitary District. The Sunnyvale PCTP just receives wastewater from Sunnyvale and a small portion of Cupertino.

As described in the General Plan EIR, buildout of the Approved Project would generate a minor increase in the volume of wastewater delivered for treatment at SJ/SCWPCP and SWPCP. This increase represents less than 1 percent of the available treatment capacity at the SJ/SCWPCP and SWPCP, and it would occur incrementally over a period of 26 years. Both the SJ/SCWPCP and SWPCP serving the Study Area currently use less than their design and permitted wastewater treatment capacity. Based on the recent trends of diminishing wastewater treatment demand and the projected population growth in the service areas, cumulative wastewater treatment demand under the Approved Project is far below the excess capacity of the SJ/SCWPCP and SWPCP.

The RWF treats an average of 110 mgd with a capacity of up to 167 mgd. The Sunnyvale PCTP processes about 13.5 mgs with a permitted capacity of up to 29.5 mgd. Therefore, both wastewater treatment facilities have adequate capacity to accommodate existing and future growth within their service areas.

In addition, both facilities have capital improvement programs that are currently under construction. The Sunnyvale Cleanwater Program will upgrade the City's PCTP, which will result in new and more cost-

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effective treatment technologies, more recycled water produced, and a cogeneration plant.<sup>31</sup> The RWF's capital improvement program includes rehabilitation of all stages of the treatment process for greater reliability, new biosolids dewatering and drying processes, and new methods of generating energy. The capital improvement program envisions two billion dollars in facility investments over a 30-year period, according to the RWF's Master Plan.<sup>32</sup>

Future development within the service areas of the wastewater treatment plants would require compliance with all applicable regulations and ordinances. Projects would have to pay wastewater connection fees and monthly sewer service charges, which fund continued improvements to the wastewater collection and treatment systems.

Therefore, with continued compliance with applicable regulations and future reductions in wastewater demands with water conservative efforts, cumulative development would not exceed wastewater collection or treatment capacities. Accordingly, implementation of the proposed Modified Project would not result in new or more severe cumulatively considerable impacts related to wastewater beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

### 4.15.3 Stormwater

#### 4.15.3.1 REGULATORY FRAMEWORK

The regulatory framework for stormwater is described in detail in Chapter 4.9, *Hydrology and Water Quality*, of this EA. The regulatory requirements that pertain solely to storm drain systems are repeated below.

### Federal Regulations

#### *National Pollutant Discharge Elimination System*

Under the NPDES program, all facilities that discharge pollutants into waters of the U.S. are required to obtain an NPDES permit. Requirements for stormwater discharges are also regulated under this program. In California, the NPDES permit program is administered by the SWRCB through the nine RWQCBs. The City of Cupertino lies within the jurisdiction of the San Francisco Bay RWQCB (Region 2) and is subject to the waste discharge requirements of the Phase I MS4 Permit (Order No. R2-2022-0018; NPDES No. CAS612008) that regulates stormwater discharges from the cities, towns, and agencies within Alameda County, Contra Costa County, Santa Clara County, San Mateo County, and Solano County. The Santa Clara permittees under the MS4 permit include cities of Cupertino, Campbell, Los Altos, Milpitas, Monte

<sup>31</sup> City of Sunnyvale, 2024. Sunnyvale Cleanwater Program. <https://www.sunnyvalecleanwater.com/> accessed on January 19, 2024.

<sup>32</sup> City of San Jose, 2024. Capital Improvement Program. <https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/water-utilities/regional-wastewater-facility/capital-improvement-program> accessed on January 19, 2024.

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Sereno, Mountain View, Palo Alto, San Jose, Santa Clara, Saratoga, and Sunnyvale, the towns of Los Altos Hills and Los Gatos, the Santa Clara Valley Water District, and Santa Clara County.

### State Regulations

#### *SWRCB Construction General Permit*

Construction activities that disturb one or more acres of land that could impact hydrologic resources must comply with the requirements of the newly reissued SWRCB Construction General Permit (Order WQ 2022-0057-DWQ; NPDES No. CAS000002), which was adopted on September 8, 2022, and becomes effective on September 1, 2023. Under the terms of the permit, applicants must file Permit Registration Documents (PRD) with the SWRCB prior to the start of construction. The PRDs include a Notice of Intent, risk assessment, site map, Stormwater Pollution Prevention Plan (SWPPP), annual fee, and a signed certification statement. The PRDs are submitted electronically to the SWRCB via the Stormwater Multiple Application and Report Tracking System (SMARTS) website.

Applicants must also demonstrate conformance with applicable best management practices (BMPs) and prepare a SWPPP containing a site map that shows the construction site perimeter, existing and proposed buildings, lots, roadways, stormwater collection and discharge points, general topography both before and after construction, and drainage patterns across the project site. The SWPPP must list BMPs that would be implemented to prevent soil erosion and discharge of other construction-related pollutants that could contaminate nearby water resources. Additionally, the SWPPP must contain a weekly visual monitoring program, a sampling program to ensure compliance with water quality standards, and on-site collection of samples and inspection of BMPs prior to, during, and after qualifying precipitation events. Water quality monitoring has a schedule based on the risk level of the site.

In addition, the City under Municipal Code 16.08.110 has the authority to require submittal of an interim and final Erosion and Sediment Control Plan (ESCP) for projects that require grading permits. The ESCP must describe the location and types of erosion and sediment control measures that will be implemented during the construction phase, vegetative measures such as erosion control planting and seeding, and calculation of maximum surface runoff amounts from the construction site. Projects subject to the SWRCB Construction General Permit may include the ESCP provisions within the SWPPP.

#### *SWRCB Trash Amendments*

On April 7, 2015, the SWRCB adopted an amendment to *The Water Quality Control Plan for Ocean Waters of California* to control trash. In addition, the Water Quality Control Plan for Inland Surface Waters, Enclosed Bays, and Estuaries of California added Part 1, *Trash Provisions*. Together, they are collectively referred to as “the Trash Amendments.” The Trash Amendments apply to all surface waters of California and include a land-use-based compliance approach to focus trash controls on areas with high trash-generation rates. Areas such as high density residential, industrial, commercial, mixed urban, and public transportation stations are considered priority land uses. There are two compliance tracks for Phase I and Phase II MS4 permittees:

- Track 1: Permittees must install, operate, and maintain a network of certified full capture systems in storm drains that capture runoff from priority land uses.

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- Track 2: Permittees must implement a plan with a combination of full capture systems, multi-benefit projects, institutional controls, and/or other treatment methods that have the same effectiveness as Track 1 methods.

The Trash Amendments provide a framework for permittees to implement their provisions. Full compliance must occur within 10 years of the permit, and permittees must also meet interim milestones such as average load reductions of 10 percent per year. The Trash Amendments require municipalities to install certified trash control systems, such as filters, on all catch basins no later than December 2, 2030.<sup>33</sup>

### Regional Regulations

#### *Regional Stormwater MS4 Permit*

Municipal stormwater discharge in the City of Cupertino is subject to the Waste Discharge Requirements (WDRs) of the MS4 Permit (Order No. R2-2022-0018 and NPDES Permit No. CAS612008). Provision C.3 of the Municipal Regional Stormwater Permit (MRP) requirements applies to all new development that create or replace 5,000 square feet of impervious surfaces and single-family homes that create and/or replace 10,000 square feet of impervious surface. Provision C.3 of the MS4 Permit also mandates that new development and redevelopment projects must: (1) incorporate site design, source control, and stormwater treatment on-site; (2) minimize the discharge of pollutants in stormwater runoff and non-stormwater discharge; and (3) minimize the rate and volume of stormwater runoff under post-development conditions. Low-impact development (LID) methods are the primary mechanisms for implementing such controls.

New development projects must design and construct stormwater treatment systems that capture a percentage of the flow rate or volume from a specified storm event based on the sizing criteria described in the C.3 provisions of the MRP. The treatment systems use LID measures that include rainwater harvesting and reuse, infiltration, evapotranspiration, and biotreatment/bioretenion.

To comply with Provision C.3 of the MS4 Permit, regulated projects would be required to submit a Stormwater Management Plan (SWMP) and a completed Provision C.3 Data Form with building plans, to be reviewed and approved by the Public Works Department. The SWMP must be prepared under the direction of and certified by a licensed and qualified professional, which includes civil engineers, architects, or landscape architects.

#### *Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP)*

The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) is an association of 13 cities and towns in the Santa Clara Valley, together with the County of Santa Clara and Valley Water. The RWQCB has conveyed responsibility for implementation of stormwater regulations to the member agencies of SCVURPPP. The SCVURPPP incorporates regulatory, monitoring, and outreach measures aimed at improving the water quality of South San Francisco Bay and the streams of the Santa Clara Valley to

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<sup>33</sup> State Water Resources Quality Control Board, September 2024, Storm Water Program - Trash Implementation Program. [https://www.waterboards.ca.gov/water\\_issues/programs/stormwater/trash\\_implementation.html](https://www.waterboards.ca.gov/water_issues/programs/stormwater/trash_implementation.html), accessed January 12, 2024.

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reduce pollution in urban runoff to the “maximum extent practicable.” The SCVURPPP maintains compliance with the MS4 Permit and promotes storm water pollution prevention within that context. Participating agencies (including the City of Cupertino) must meet the provisions of the Santa Clara County permit by ensuring that new development and redevelopment mitigate water quality impacts to stormwater runoff both during the construction and operation of projects.<sup>34</sup>

The SCVURPPP has also developed the Santa Clara Basin Stormwater Resource Plan that describes a comprehensive plan to identify and prioritize potential stormwater and dry weather runoff capture projects in the Santa Clara Basin. It also provides information for the development and implementation of Green Stormwater Infrastructure (GFI) plans that municipalities within Santa Clara County are required to implement with the help of State grant funding.<sup>35</sup>

In addition, the SCVURPPP has developed the C.3 Stormwater Handbook that provides guidance to developers, builders, and project applicants to ensure compliance with the requirements of the MS4 permit and implement appropriate post-construction stormwater control measures for new development and redevelopment projects. The document describes the applicable site design measures, source control measures, and stormwater treatment measures that are required to be implemented for all regulated projects that create and/or replace 5,000 square feet or more of impervious surfaces. In addition, projects that create and/or replace one acre or more of impervious surfaces are required to also implement hydromodification measures.<sup>36</sup> The City’s Public Works Department reviews SWMPs to ensure compliance with the C.3 provisions of the MS4 permit.

## Local Regulations

### *General Plan 2040*

The Environmental Resources and Sustainability (ES) Element of the General Plan 2040 contains goals, policies, and strategies that require local planning and development decisions to consider stormwater impacts and storm drain infrastructure. Applicable policies and strategies that would minimize potential adverse impacts are identified in Section 4.15.3.3, *Impact Discussion*.

### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to minimize adverse impacts due to stormwater drainage in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to stormwater and storm drains are included in Title 3, *Revenue and Finance*, Title 9, *Health and Sanitation*, Title 14, *Streets, Sidewalks and Landscaping*, Title 16, *Building and Construction*, and Title 17, *Environmental Regulations*, as follows:

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<sup>34</sup> Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), 2024. About SCVURPPP. <https://scvurppp.org/about-scvurppp/> accessed on January 13, 2024.

<sup>35</sup> EOA, Paradigm, and Lotus Water, 2019. Santa Clara Basin Stormwater Resource Plan.

<sup>36</sup> SCVURPPP, 2016. C.3 Stormwater Handbook. Guidance for Implementing Stormwater Requirements for New Development and Redevelopment Projects. Dated June 2016.



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- **Chapter 3.36, Storm Drainage Service Charge**, established in 1992, outlines the requirements for the payment of fees to conserve and protect the City's storm drainage system from the burden placed on it by the increasing flow of nonpoint source runoff and to otherwise meet the requirements developed by the Santa Clara Valley Non-Point Source Control and Storm Water Management Program established to comply with the CWA, California Environmental Protection Agency (CalEPA) regulations and the City's NPDES permits. The specific purpose of the storm drainage service charges established pursuant to this chapter is to derive revenue which shall only be used for the acquisition, construction, reconstruction, maintenance, and operation of the storm drainage system of the City to repay principal and interest on any bonds which may hereafter be issued for said purposes, to repay loans or advances which may hereafter be made for said purposes and for any other purpose set forth in Section 3.36.160. However, said revenue shall not be used for the acquisition or construction of new local street storm sewers or storm laterals as distinguished from main trunk, interceptor, and outfall storm sewers.
- **Chapter 3.38, Clean Water and Storm Protection Fee**, established in 2019, outlines the requirements for the payment of fees to conserve and protect the City's essential values of maintaining aging storm drainage infrastructure, encouraging groundwater replenishment, and maintaining a sustainable environment in accordance with the Clean Water Act, EPA regulations and the City's NPDES permits. The specific purpose of the Clean Water and Storm Protection fee is to derive fee revenue, which shall only be used for the acquisition, construction, reconstruction, maintenance, and operation of the storm drainage system of the City or related green infrastructure or other activities required by the City's NPDES permits, to repay principal and interest on any bonds which may hereafter be issued for said purposes, to repay loans or advances which may hereafter be made for said purposes, and for any other purpose set forth in Section 3.38.160.
- **Chapter 9.18, Storm Water Pollution Prevention and Watershed Protection**, provides regulations and gives legal effect to the MRP issued to the City of Cupertino and ensures ongoing compliance with the most recent version of the City of Cupertino's NPDES permit regarding municipal storm water and urban runoff requirements. This chapter applies to all water entering the storm drain system generated on any private, public, developed, and undeveloped lands lying within the city. The code contains permit requirements for construction projects and new development or redevelopment projects to minimize the discharge of storm water runoff.
- **Chapter 9.19, Water Resources Protection**, requires property owners to obtain permits for any modifications to properties adjacent to a stream except when: 1) less than 3 cubic yards of earthwork is planned provided it does not damage, weaken, erode or reduce the effectiveness of the stream to withhold storm and flood waters; 2) a fence 6 feet or less in height; 3) an accessory structure 120 square feet or less in size; 4) interior or exterior modification within the existing footprint; or 5) landscaping on existing single-family lots.
- **Chapter 14.15, Landscape Ordinance**, implements the California Water Conservation in Landscaping Act of 2006 by establishing new water-efficient landscaping and irrigation requirements. In general, any building or landscape projects that involve more than 2,500 square feet of landscape area are required to submit a Landscape Project Submittal to the Director of Community Development for approval. Existing and established landscapes over 1 acre, including cemeteries, are required to submit water budget calculations and audits of established landscapes.

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- **Chapter 16.18, Interim Erosion and Sediment Control Plan**, requires preparation of an Interim Erosion and Sediment Control Plan. Specifically, Section 16.18.110 states that the Plan shall be either integrated with the site map/grading plan or submitted separately, to the Director of Public Works that calculates the maximum runoff from the site for the 10-year storm event and describes measures to be undertaken to retain sediment on the site, a brief description of the surface runoff and erosion control measures to be implemented, and vegetative measures to be undertaken.
- **Chapter 17.04, *Standard Environmental Protection Requirements***. The purpose of this chapter is to identify standard environmental protection requirements that all construction projects must meet, including but not limited to environmental mitigation measures identified in any environmental documents required as part of a General Plan update. This chapter includes specific requirements for utilities and service systems permits.
  - **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.

### *Storm Drain Master Plan*

The capacity of the storm drain facilities within the City of Cupertino was evaluated and documented in the 2018 Storm Drain Master Plan.<sup>37</sup> While most areas within the City provide adequate stormwater conveyance for the 10-year rainfall event, there are areas that would benefit from improvements to the stormwater conveyance capacity. There are also regions within the city that lack a formal drainage system and would require improvements.

The City collects Storm Drain Fees for new construction projects to fund improvements to the storm drain system. The next storm drain improvements that are scheduled to be implemented as part of the Capital Improvement Program, including Phase two of storm drain improvements near Pumpkin Drive, Fiesta Lane, September Drive, and Festival Drive.<sup>38</sup> These areas are listed as high priority for improvement in the Storm Drain Master Plan. Phase one is complete.<sup>38</sup> These areas were listed as high priority for improvement in the Storm Drain Master Plan.

## Existing Conditions

Chapter 4.8, *Hydrology and Water Quality*, of the General Plan EIR, addressed the impacts to stormwater associated with buildout of the General Plan 2040 at a program level. The setting for stormwater is described in detail in Section 4.8.1.2, *Existing Conditions*, of the General Plan EIR. Since the certification of the General Plan EIR, the City has codified regulations to reduce stormwater utility impacts in the CMC Chapter 17.04, *Standard Environmental Protection Requirements*, as described under the Municipal Code

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<sup>37</sup> City of Cupertino, 2018. City of Cupertino Storm Drain Master Plan. Prepared by Schaaf & Wheeler. Dated September 2018.

<sup>38</sup> City of Cupertino, 2021. Capital Improvement Program, FY 2021-2022.

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heading in Section 4.15.1.1, *Regulatory Framework*. Section 17.04,050 (F) includes measures to minimize stormwater runoff contamination.

### 4.15.3.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant stormwater impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
UTIL-7 Implementation of the proposed project would not require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which would cause significant environmental effects?	LTS	LTS
UTIL-8 Result in significant cumulative impacts with respect to stormwater?	LTS	LTS

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

### 4.15.3.3 IMPACT DISCUSSION

<b>UTIL-7</b>	<b>Implementation of the proposed Modified Project would not require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which would cause significant environmental effects.</b>
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Impact Discussion HYDRO-4, in Chapter 4.8, *Hydrology and Water Quality*, of the General Plan EIR found that new development and redevelopment projects under the Approved Project must be designed such that the stormwater runoff generated from the 10-year storm is conveyed in the storm drainage system (underground pipes or open channels), and the stormwater runoff generated from the 100-year design storm must be safely conveyed away from the site without creating and/or contributing to downstream or upstream flooding conditions. Thus, future development associated with the Approved Project would not be expected to result in downstream flooding but could exacerbate existing conditions of the storm drain system, which is undersized to convey the 10-year storm event at some locations.

The future potential development of 3,312 new housing units as part of the proposed Modified Project would result in an increase in impervious surfaces, which in turn could result in an increase in stormwater runoff, higher peak discharges to drainage channels, and the potential to cause nuisance flooding in areas without adequate drainage facilities. However, most of the Study Area is developed, and future development from the Modified Project would likely replace existing developed areas, including impervious surfaces and pavement. Therefore, new development on previously developed sites should not create a significant increase in impervious surfaces and could result in improved conditions on sites where stormwater retention and pretreatment was not previously required.

Additionally, regulated projects that create and/or replace 5,000 square feet of impervious surfaces and single-family homes that create and/or replace 10,000 square feet of impervious surfaces would trigger the implementation of stormwater treatment and trash collection measures to reduce stormwater runoff, pursuant to the MS4 Permit and the Santa Clara Valley Urban Runoff Pollution Prevention Program's C.3 Stormwater Handbook. Stormwater treatment measures are required to temporarily detain site runoff

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using specific numeric sizing criteria based on volume and flow rate. Implementation of these stormwater measures would reduce the amount of stormwater runoff that is ultimately discharged to the City's storm drain system and the creeks that run through Cupertino. Prior to the issuance of grading permits, the City would require completion and submittal of a Stormwater Management Plan and Provision C.3 Data Form for review and approval to ensure that these requirements are met.

In addition, all future potential development under both the Approved Project and proposed Modified Project would be required to pay stormwater drainage fees, pursuant to CMC Chapter 3.36, which is designed to mitigate the impacts of stormwater that is discharged into the City's storm drain system and creeks in the Study Area. The assessments are used to construct, maintain, and operate the storm drain system and fund improvements in the storm drain infrastructure through the Capital Improvement Plan.

The General Plan EIR also found that the Environmental Resources and Sustainability (ES) Element includes policies and strategies that require local planning and development decisions to consider impacts that development could have on stormwater. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize adverse effects on storm drain systems:

- **Policy ES-7.1. *Natural Water Bodies and Drainage Systems.*** In public and private development, use Low Impact Development (LID) principles to manage stormwater by mimicking natural hydrology, minimizing grading, and protecting or restoring natural drainage systems.
- **Strategy ES-7.1.1. *Development Plans.*** Continue to require topographical information, identification of creeks, streams, and drainage area; and grading plans for both public and private development proposals to ensure protection and efficient use of water resources.
- **Policy ES-7.2. *Reduction of Impervious Surfaces.*** Minimize stormwater runoff and erosion impacts resulting from development and use low impact development (LID) designs to treat stormwater or recharge groundwater. (General Plan EIR Policy 5-34)
- **Strategy ES-7.2.1. *Lot Coverage.*** Consider updating lot coverage requirements to include paved surfaces such as driveways and on-grade impervious patios to incentivize the construction of pervious surfaces.
- **Strategy ES-7.2.2. *Pervious Walkways and Driveways.*** Encourage the use of pervious materials for walkways and driveways. If used on public or quasi-public property, mobility and access for the disabled should take preference.
- **Strategy ES-7.2.3. *Maximize Infiltration.*** Minimize impervious surface areas and maximize on-site infiltration and the use of on-site retention facilities. (General Plan EIR Policy 5-34)
- **Policy ES-7.3. *Pollution and Flow Impacts.*** Ensure that surface and groundwater quality impacts are reduced through development review and voluntary efforts.
- **Strategy ES-7.3.1. *Development Review.*** Require LID designs such as vegetated stormwater treatment systems and green infrastructure to mitigate pollutant loads and flows.
- **Policy ES-7.4. *Watershed Based Planning.*** Review long-term plans and development projects to ensure good stewardship of watersheds. (General Plan EIR Policy 5-22)
- **Strategy ES-7.4.1. *Storm Drainage Master Plan.*** Develop and maintain a Storm Drainage Master Plan which identifies facilities needs to previous "10-year" event street flooding and "100-year" event structure flooding and integrate green infrastructure to meet water quality protection needs in a cost effective manner.

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- **Strategy ES-7.4.2. Watershed Management Plans.** Work with other agencies to develop broader Watershed Management Plans to model and control the City's hydrology.
- **Strategy ES-7.4.3. Development.** Review development plans to ensure that projects are examined in the context of impacts on the entire watershed, in order to comply with the City's non-point source Municipal Regional Permit.
- **Policy ES-7.5. Groundwater Recharge Sites.** Support the Santa Clara Valley Water District efforts to find and develop groundwater recharge sites within Cupertino and provide public recreation where possible.
- **Strategy ES-7.8.1. Inter-Agency Coordination.** Work with the Santa Clara Valley Water District and other relevant regional agencies to enhance riparian corridors and provide adequate flood control by use of flow increase mitigation measures, such as hydromodification controls as established by the Municipal Regional Permit.

Compliance with the MS4 permit; the SCVURPPP C.3 Handbook; the CMC requirements; and the General Plan 2040 goals, policies, and strategies would ensure that future development under the proposed Modified Project would not result in significant increases in runoff and would not contribute to the construction of new storm drain facilities or expansion of existing facilities that would cause significant environmental impacts. In addition, the City would continue to repair, rehabilitate, and upgrade the storm drain system through implementation of the CIP. Therefore, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts with respect to stormwater infrastructure beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>UTIL-8</b>	<b>Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to stormwater.</b>
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The geographic context used for the cumulative impact with respect to stormwater is the two watersheds within the Study Area and the surrounding areas: Lower Peninsula Watershed and West Valley Watershed. New development in these watersheds could increase impervious areas, thus increasing runoff and flows into the storm drainage systems. However, all cumulative projects would be required to comply with the MS4 permit, the SCVURPPP C.3 Handbook, and applicable CMC requirements, which would minimize stormwater runoff.

Impact Discussion HYDRO-9 in Chapter 4.8, *Hydrology and Water Quality*, of the General Plan EIR considered cumulative impacts with respect to all hydrological and water quality impacts. All cumulative projects would be subject to similar permit requirements and would be required to comply with City ordinances and General Plan 2040 policies, as well as numerous water quality regulations that control construction related and operational discharge of pollutants in stormwater. Specifically, potential changes related to stormwater quality, storm water flows, drainage, impervious surfaces, and flooding would be minimized by the implementation of stormwater control measures, retention, infiltration, and LID measures, and review by the City's Public Works Department to integrate measures to reduce potential flooding impacts.

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As described previously, development within the Study Area would require conformance with State and City policies that would reduce stormwater infrastructure impacts to less than significant levels. Any new development within the Study Area would be subject to the General Plan 2040 goals, policies, and strategies listed in Impact Discussion UTIL-7; the SCVURPPP C.3 Handbook; and the City's Standard Environmental Protection Requirements pertaining to stormwater. Therefore, potential changes related to stormwater flows, drainage, impervious surfaces, and flooding would be minimized by the implementation of stormwater control measures, retention, infiltration, and low-impact-development measures and would be reviewed by the City staff for compliance with the Stormwater Management Plans.

All cumulative projects outside of the Study Area but within the watershed boundaries would be subject to similar permit requirements and compliance with the MS4 permit. In combination with past, present, and reasonably foreseeable projects future potential development under the proposed Modified Project would not result in new or more severe cumulatively considerable impacts to stormwater infrastructure within the watersheds beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

### 4.15.4 Solid Waste

#### 4.15.4.1 REGULATORY FRAMEWORK

##### Federal Regulations

###### *Resource Conservation and Recovery Act of 1976*

The Resource Conservation and Recovery Act of 1976 (Title 40 of the Code of Federal Regulations), Part 258, contains regulations for municipal solid waste landfills and requires states to implement their own permitting programs incorporating the federal landfill criteria. The federal regulations address the location, operation, design (liners, leachate collection, run-off control, etc.), groundwater monitoring, and closure of landfills.

##### State Regulations

###### *Integrated Waste Management Act*

The Integrated Solid Waste Management Act of 1989 (AB 939) codified in Public Resources Code 40050 et seq. (AB 939) established an integrated waste-management system that focused on source reduction, recycling, composting, and land disposal of waste. AB 939 required every California city and county to divert 50 percent of its waste from landfills by the year 2000. This act also requires that each city and county prepare a Source Reduction and Recycling Element to be submitted to the Department of Resource Recycling and Recovery (CalRecycle), a department within the California Natural Resources Agency. AB 939 also establishes a goal for all California counties to provide at least 15 years of ongoing landfill capacity.

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In 2007, SB 1016 amended AB 939 to establish a per capita disposal measurement system. The per capita disposal measurement system is calculated as a jurisdiction's reported total disposal of solid waste divided by a jurisdiction's population. CalRecycle sets a target per capita disposal rate for each jurisdiction. Each jurisdiction must submit an annual report to CalRecycle with an update of its progress in implementing diversion programs and its current per capita disposal rate.

### *Mandatory Commercial Recycling Act (AB 341)*

AB 341 (Chapter 476, Statutes of 2011) increased the statewide solid waste diversion goal to 75 percent by 2020 and mandates commercial businesses and public entities that generate four cubic yards or more of waste per week to have a recycling program in place. In addition, multifamily residential properties with five or more units are also required to develop a recycling program. AB 341 is designed to reduce greenhouse gas (GHG) emissions in the state by 5 million metric tons of carbon dioxide equivalents.

### *Mandatory Organics Recycling Act (AB 1826)*

AB 1826, which was enacted in 2014 and took effect in 2016, mandated organic waste recycling for all businesses and multifamily dwellings that consist of five or more units. Starting in January 2020, all generators of two cubic yards or more of garbage, recycling, and compost combined per week must recycle organic waste. Organic waste includes food scraps, food-soiled paper and cardboard waste, green waste and yard trimmings, landscaping materials, and non-hazardous, non-treated wood waste.

### *California Short-Lived Climate Pollutants Act (SB 1383)*

SB 1383 focuses on the elimination of methane gas created by organic materials in landfills and establishes goals to reduce the landfill disposal of organics by achieving a 50 percent reduction in the statewide disposal of organic waste by 2020 and a 75 percent reduction by 2025. Organic waste makes up half of what Californians send to landfills. SB 1383 requires all businesses and residents to divert organic materials from landfills. The regulation took effect on January 1, 2022, and requires that organic collection services be provided to all residents and businesses. The collected organic waste must be recycled into new products, such as compost, mulch, biofuel, and electricity. Each city and county has an annual procurement target amount, based on its population, to use or give away those types of recycled new products. Also, an edible food recovery program had to be established by 2022 with the goal of recovering 20 percent of currently disposed edible food that would otherwise be sent to landfills to feed people in need. Mandated food donors and food recovery organizations and services must keep records of the amount and dates of food donations and acceptances.

### *California Solid Waste Reuse and Recycling Access Act*

The California Solid Waste Reuse and Recycling Access Act requires new commercial and multi-family development projects to set aside areas for collecting and loading recyclable materials. This act required CalRecycle to develop a model ordinance for adoption by any local agency that provides adequate areas for the collection and loading of recyclable materials for development projects. Local agencies are required to adopt the model, or an ordinance of their own, that establishes standards including space allocation for the collection and loading of recyclable materials.

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### *California Green Building Standards Code (CALGreen)*

The 2022 California Green Building Standards Code, also known as CALGreen, became effective on January 1, 2023. Sections 4.408 and 5.408, *Construction Waste Reduction Disposal and Recycling*, mandate that, in the absence of a more stringent local ordinance, a minimum of 65 percent of non-hazardous construction and demolition debris must be recycled or salvaged. CALGreen requires developers to prepare and submit a Construction Waste Management Plan, which must:

- Identify the materials to be diverted from disposal by recycling, reuse on the project, or salvage for future use or sale.
- Specify if materials would be sorted on-site or mixed for transportation to a diversion facility.
- Identify the diversion facility where the material collected can be taken.
- Identify construction methods employed to reduce the amount of waste generated.
- Specify that the amount of materials diverted shall be calculated by weight or by volume but not both.

## Regional Regulations

### *Santa Clara County Department of Environmental Health, Solid Waste Program*

The Santa Clara County, Department of Environmental Health Solid Waste Program is designated as the Local Enforcement Agency (LEA) for all areas of Santa Clara County, including the City of Cupertino, except for the City of San Jose, which serves as its own LEA. The LEA regulates solid waste facilities to ensure compliance with State standards, and includes the following functions:

- Permits and inspects landfills, transfer stations, composting facilities, and refuse collection vehicles and yards.
- Monitors disposal facilities to exclude hazardous wastes, medical wastes, and liquid wastes.
- Provides information to the public and industry regarding the proper disposal of solid wastes.
- Investigates complaints and mitigates problems associated with illegal dumping, disposal, or storage of solid wastes.

### *Santa Clara County Integrated Waste Management Plan*

As described above, the California Integrated Waste Management Act of 1989 required that each County prepare and adopt a Countywide Integrated Waste Management Plan (IWMP). The regulation also requires that each IWMP and its elements be reviewed, revised, if necessary, and submitted to CalRecycle every five years. Cupertino submitted the Source Reduction and Recycling Element (SRRE) to be included in the County's IWMP in 1992. The SRRE contains information of waste generation within the City, source reduction objectives, recycling programs, composting programs, solid waste facility capacities, and public education and information.<sup>39</sup>

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<sup>39</sup> County of Santa Clara, 2024. Santa Clara County Integrated Waste Management Plan.  
<https://reducewaste.santaclaracounty.gov/santa-clara-county-integrated-waste-management-plan> accessed on January 19, 2024.



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### Local Regulations

#### *General Plan 2040*

The Infrastructure (INF) Element of the General Plan 2040 contains goals, policies, and strategies that require local planning and development decisions to address potential solid waste impacts. Applicable policies and strategies that would minimize potential adverse impacts are identified in Section 4.15.4.3, *Impact Discussion*.

#### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to address solid waste issues and encourage recycling efforts. The CMC is organized by title, chapter, and section. Most provisions related to solid waste are included in Title 6, *Franchises*, Title 9, *Health and Sanitation*, and Title 16, *Building and Construction*, as follows:

- **Chapter 6.24, *Garbage, Non-Organic Recycling and Organic Waste Recycling Collection and Disposal*.** This chapter requires the owner of each occupied property to subscribe to and pay for solid waste collection services made available through the City's franchise agreement with the designated solid waste collection company. The chapter specifies requirements for single-family residents and commercial business generators as well as requirements for haulers and facility operators. In addition, commercial edible food generators, as well as food recovery organizations and services, must comply with the mandatory edible food recovery requirements specified in this chapter.
- **Chapter 9.12, *Hazardous Material Storage*.** This chapter establishes regulations to prevent and control unauthorized discharges of hazardous materials. The provisions of the chapters establish regulations for new, existing, and out-of-service storage facilities.
- **Chapter 9.16, *Recycling Areas*.** This chapter requires recycling areas to be located at a convenient location for persons depositing, collecting, loading the recyclable materials, and be adjacent to the solid waste collection area, if feasible. The chapter also requires the recycling areas to comply with the site and design guidelines and be maintained by the property owners to avoid waste accumulation that creates a visual, public health, or safety nuisance.
- **Chapter 9.20, *Off-Site Hazardous Waste Facilities*.** This chapter establishes standards, land use regulations, and a permit review process for the siting and development of hazardous waste treatment, storage, transfer, and disposal facilities.
- **Chapter 16.58, *Green Building Standards Code Adopted*.** This chapter describes the 2022 California Green Building Standards adopted by the City, and any local amendments made with indications of additions or amendments to the State Standards. The CALGreen regulations require that at least 65 percent by weight of construction debris be recycled, reused, or otherwise diverted from landfill disposal.
- **Chapter 16.72, *Recycling and Diversion of Construction and Demolition Waste*.** This chapter establishes regulations to comply with the California Waste Management Act of 1989. The chapter requires all projects within the city that involve construction, demolition, or renovation of that are subject to the Green Building Standards Code to comply with the provisions of the chapter, and the

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compliance with the chapter will be attached as conditions of approval of any building or demolition permit issued. An applicant for a covered project is required to recycle or divert at least 65 percent of all generated construction and demolition (C&D) waste. Prior to the permit issuance, the applicant is required to submit a properly completed Waste Management Plan, which includes the estimated maximum amount of C&D waste that can feasibly be diverted, which facility will handle the waste, and the total amount of C&D waste that will be landfilled.

### Existing Conditions

Chapter 4.14, *Utilities and Services Systems*, of the General Plan EIR, addressed the impacts to solid waste associated with buildout of the General Plan 2040 at a program level. The setting for solid waste utilities is described in detail in Chapter 4.14.3, *Solid Waste*, of the General Plan EIR. The City is required to implement General Plan EIR Mitigation Measure UTIL-8, which was previously adopted and incorporated into the General Plan 2040, to ensure impacts related to solid waste are less than significant. General Plan EIR Mitigation Measure UTIL-8 requires the City to continue current recycling and zero-waste practices, monitor solid waste generation, and seek new landfill sites to replace the Altamont and Newby Island landfills, at such time that these landfills are closed. This mitigation measure would be implemented by the City on an ongoing basis.

#### 4.15.4.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in a significant impact related to solid waste if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
UTIL-9. Generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	LTS/M	LTS
UTIL-10. Would not comply with federal, State, and local statutes and regulations related to solid waste?	LTS	LTS
UTIL-11. Result in cumulatively considerable impact with respect to solid waste?	LTS	LTS

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

#### 4.15.4.3 IMPACT DISCUSSION

<b>UTIL-9</b>	<b>Implementation of the proposed Modified Project would not generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals.</b>
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As described in the General Plan EIR, in 2012, the city of Cupertino's actual disposal rate for residents was 2.6 pounds per person per day (PPD) with the target of 4.3 PPD. Table 4.14-14, *Landfills' Existing Capacity and Estimated Closure Date*, of the General Plan EIR compares the remaining capacity, maximum daily and annual capacity, and estimated closure date for each of the four facilities used in the Study Area. Under the Approved Project, it is anticipated that the development in Cupertino will generate solid waste at a rate of 121,353 tons/year, which equates to approximately 332 tons/day. The General Plan EIR also

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included Mitigation Measure UTIL-8 to ensure the landfills that serve the Study Area have adequate permitted capacity to accommodate future development permitted under the Approved Project.

The proposed Modified Project would add 3,312 new housing units beyond the Approved Project. Assuming an average of 2.94 people per household, this would equate to a residential population increase of 9,737 people. As shown in Table 4.15-7, *Increase in Solid Waste Generation with Proposed Modified Project*, this level of growth would result in an increase in solid waste of approximately 8.5 tons per day, or 3,112 tons per year. These numbers are conservative because, with continued recycling and waste reduction programs implemented by the City and the County, the waste generation rates would be reduced over time. As a demonstration of waste reduction progress, the City's actual disposal rate for residents in 2022 was 2.0 pounds PPD, down 0.6 from 2012.

**TABLE 4.15-7 INCREASE IN SOLID WASTE GENERATION WITH PROPOSED MODIFIED PROJECT**

Increase in Residents	Solid Waste Generation Rate (pounds/day)	Increase in Solid Waste (tons/day)	Increase in Solid Waste (tons/year)
9,737	1.8	8.8	3,199

Source: CalRecycle, 2024. PlaceWorks, 2024

Although the City of Cupertino sent solid waste to 17 different facilities in 2022, the latest year of record, the majority of the solid waste was transported to Newby Island Landfill, which is in the City of Milpitas. The landfill has a maximum permitted throughput of 4,000 tons/day, a remaining capacity of 16.4 million cubic yards, and is estimated to close in 2041. Therefore, the landfill has a remaining capacity of more than 15 years, as required by AB 939. The landfill's information is summarized in Table 4.15-8, *Newby Island Landfill Data*. Any future landfill agreements the City may enter into will also require proof of adequate capacity to meet future growth.

**TABLE 4.15-8 NEWBY ISLAND LANDFILL DATA**

Landfill Name and Location	Maximum Permitted Throughput, tons/day	Average Disposal, tons/day	Residual Disposal Capacity, tons/day	Remaining Capacity, cubic yards	Estimated Closing Year
Newby Island Landfill, Milpitas, CA	4,000	1,920	2,080	16,400,000	2041

Source: CalRecycle, 2023, SWIS Facility Details and Landfill Tonnage Reports.

As shown in Table 4.15-7, an increase of 8.8 tons/day with implementation of the proposed Modified Project would be 0.4 percent of the current residual capacity of Newby Island Landfill. In addition, some of the solid waste from the City of Cupertino is transported to other landfill sites in the Bay Area, and the City is working to divert even more waste from landfill disposal through recycling, composting, and edible food redistribution. The Study Area already has one of the lowest solid waste generation rates in the Bay Area at 1.8 lbs./day per resident. This analysis shows that future potential development under the

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proposed Modified Project would not generate solid waste in excess of the capacity of the landfills that serve the Study Area.

This estimate conservatively assumes that all of the generated waste is landfilled. Future potential development pursuant to the proposed Modified Project would require compliance with CALGreen Sections 4.408 and 5.408, which require that at least 65 percent of nonhazardous construction and demolition waste from residential and nonresidential construction operations be recycled and/or salvaged for reuse. New development would also need to comply with AB 341 and SB 1383 that mandate recycling and organics collection for commercial and multifamily residential land uses. In addition, Recology South Bay provides recycling and yard waste services for all residents in the Study Area. Therefore, solid waste facilities would be able to accommodate project-generated solid waste, and impacts would be less than significant.

The General Plan EIR also found that the Infrastructure (INF) Element includes policies and strategies that require local planning and development decisions to consider impacts that development could have on solid waste. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize adverse effects to solid waste generation and landfill capacity:

- **Policy INF-7.1. Providers.** Coordinate with solid waste system providers to utilize the latest technology and best practices to encourage waste reduction and meet, and even exceed, State targets.
- **Policy INF-7.2. Facilities.** Ensure that public and private developments build new and on-site facilities and/or retrofit existing on-site facilities to meet the City's waste diversion requirements.
- **Policy INF-7.3. Operations.** Encourage public agencies and private property owners to design their operations to exceed regulatory waste diversion requirements.
- **Strategy INF-7.3.1. City Facilities and Events.** Design new City facilities and retrofit existing facilities and event venues with recycling and trash collection bins to facilitate easy disposal of recyclable and compostable waste by staff and the public.
- **Policy INF-7.4. Product Stewardship.** Per the City's Extended Producer Responsibility (EPR) policy, support statewide and regional EPR initiatives and legislation to reduce waste and toxins in products, processes, and packaging.
- **Policy INF-8.1. Reducing Waste.** Meet or exceed Federal, State, and regional requirements for solid waste diversion through implementation of programs.
- **Strategy INF-8.1.1. Outreach.** Conduct and enhance programs that promote waste reduction through partnerships with schools, institutions, businesses, and homes.
- **Strategy INF-8.1.2. Hazardous Waste.** Work with providers and businesses to provide convenient hazardous and e-waste facilities for the community.
- **Strategy INF-8.1.3. Preferential Purchasing.** Maintain and update a City preferential purchasing policy for products that reduce packaging waste, greenhouse gas emissions, toxic contaminants, and are reusable.
- **Strategy INF-8.1.4. Reuse.** Encourage reuse of materials and reusable products. Develop a program for reuse of materials and reusable products in City facilities and outreach programs for community-wide participation by promoting community-wide garage sales and online venues.
- **Strategy INF-8.1.5. Collaboration.** Collaborate with agencies and large businesses or projects to enhance opportunities for community-wide recycling, reuse, and reduction programs.

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- **Strategy INF-8.1.6. *Construction Waste*.** Encourage recycling and reuse of building materials during demolition and construction of City, agency, and private projects.
- **Strategy INF-8.1.7. *Recycled Materials*.** Encourage the use of recycled materials and sustainably harvested materials in City, agency, and private projects.

With continued compliance with the applicable regulations, leading to increased recycling and waste diversion, and adherence to the proposed General Plan 2050 goal, policies, and action listed above, anticipated rates of solid waste disposal from implementation of the proposed Modified Project would be less than significant with respect to permitted landfill capacity. In addition, the Study Area is well below the CalRecycle target disposal rates and meets the regulatory requirements of AB 939. Therefore, implementation of the proposed project would not generate solid waste in excess of State and local standards or in excess of the capacity of the landfills, or otherwise impair the attainment of solid waste reduction goals. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts with respect to solid waste beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>UTIL-10</b>	<b>Implementation of the proposed Modified Project would comply with federal, State, and local statutes and regulations related to solid waste.</b>
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The General Plan EIR found that the City's per capita disposal rate is below the target rate established by CalRecycle. Additionally, implementation of the strategies, programs, and plans referenced in 4.14.3.3, *Impact Discussion*, of the General Plan EIR as well as the Climate Action Plan that launched in May 2014, and the new Climate Action Plan 2.0 that was adopted in 2022, will enable the City to meet ongoing and evolving waste reduction regulations.

As described under Impact Discussion UTIL-9, Recology South Bay, which serves the Study Area, complies with all State requirements to reduce the volume of solid waste through recycling and organic waste diversion. The Study Area per capita disposal rate of 1.8 PPD per resident is well below the CalRecycle target of 4.3 PPD for residents. It is also one of the lowest disposal rates in the Bay Area. In addition, future potential development under the proposed Modified Project would comply with CALGreen Sections 4.408 and 5.408, which requires that at least 65 percent of nonhazardous construction and demolition waste from nonresidential construction operations be recycled and/or salvaged for reuse.

Future potential development under the proposed Modified Project would also comply with AB 341, which mandates recycling for commercial and multifamily residential land uses as well as schools and school districts. All jurisdictions in California are required to provide organic waste collection services to all residents and businesses, beginning in 2022 and in accordance with SB 1383. Recology South Bay and the City currently comply with all applicable federal, State, and local solid waste regulations, and solid waste, recycling, and green waste collection services are available for all residents and commercial businesses. Based on these considerations, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe conflicts with current and future regulatory requirements with respect to solid waste beyond what was evaluated in the General Plan EIR.

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**Significance without Mitigation:** Less than significant.

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**UTIL-11                      Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to solid waste.**

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The General Plan EIR concluded that the Approved Project will increase the quantity of solid waste for disposal. However, General Plan EIR Mitigation Measure UTIL-8 and existing waste reduction programs and diversion requirements would reduce the potential for exceeding existing capacities of landfills.

The area considered for cumulative impacts to solid waste disposal facilities is Santa Clara County. As reported by the California Department of Finance, the total population of Santa Clara County has been decreasing over the past four years, and the expected increase in population between 2020 and 2040 is projected to be approximately 84,000 people.<sup>40</sup> The average solid waste generation rate for Santa Clara County residents is 2.7 lb/day, which would equate to an average disposal rate for the County of about 113 tons/day. This is well within the residual capacity of Newby Island Landfill, which is just over 2,000 tons/day. And this assumes that all of the solid waste generated in Santa Clara County would be transported to this one landfill, when in reality it would be transported to various landfills in the region. In addition, the amount of solid waste generated per resident is expected to decrease over time with continued recycling, composting, and food redistribution.

In addition, new development in the county would comply with CALGreen Sections 4.408 and 5.408, which require that at least 65 percent of nonhazardous construction and demolition waste from residential and nonresidential construction operations be recycled and/or salvaged for reuse. This would also reduce the volume of solid waste transported to the landfills. Continued compliance with the applicable regulations and an increase in recycling and landfill diversion rates would ensure that solid waste cumulative impacts would be less than significant. Therefore, the proposed Modified Project would not result in new or more severe cumulatively considerable impacts to solid waste beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

## **4.15.5            Energy Infrastructure**

### **4.15.5.1        REGULATORY FRAMEWORK**

The regulatory framework for energy is described in detail in Chapter 4.5, *Energy*, of this EA. The regulatory requirements that pertain solely to energy infrastructure are repeated below.

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<sup>40</sup> California Department of Finance, 2024, *Population Projections*, <https://dof.ca.gov/forecasting/demographics/projections/>, accessed January 19, 2024.

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### Federal Regulations

#### *National Energy Policy*

Established in 2001 by the National Energy Policy Development Group, the National Energy Policy is designed to help the private sector and state and local governments promote dependable, affordable, and environmentally sound production and distribution of energy for the future. Key issues addressed by the energy policy are energy conservation, repair and expansion of energy infrastructure, and ways of increasing energy supplies while protecting the environment.

#### *Energy Policy Act of 2005*

Passed by Congress in July 2005, the Energy Policy Act includes a comprehensive set of provisions to address energy issues. This Act includes tax incentives for energy conservation improvements in commercial and residential buildings, fossil fuel production and clean coal facilities, and construction and operation of nuclear power plants, among other things. Subsidies are also included for geothermal, wind energy, and other alternative energy producers.

#### *Energy Independence and Security Act of 2007*

Signed into law in December 2007, the Energy Independence and Security Act contains provisions designed to increase energy efficiency and the availability of renewable energy. The Act contains provisions for increasing fuel economy standards for cars and light trucks, while establishing new minimum efficiency standards for lighting as well as residential and commercial appliance equipment.

#### *National Gas Pipeline Safety Act of 1968*

The Natural Gas Pipeline Safety Act of 1968 authorizes the United States Department of Transportation to regulate pipeline transportation of flammable, toxic, or corrosive natural gas and other gases as well as the transportation and storage of liquefied natural gas. The Pipeline and Hazardous Materials Safety Administration within the Department of Transportation develops and enforces regulations for the safe, reliable, and environmentally sound operation of the nation's 2.6-million-mile pipeline transportation system. The regulations enacted under this act have been updated several times. The latest revision is dated May 2023 and includes additional safety regulations for gas transmission pipelines, including repair criteria, integrity management improvements, cathodic protection, and other inspection and maintenance procedures. The regulations are encoded in 49 Code of Federal Regulations, Part 192.

### State Regulations

#### *Warren-Alquist Act*

Established in 1974, the Warren-Alquist Act created the California Energy Commission (CEC) in response to the energy crisis of the early 1970s and the state's unsustainable growing demand for energy resources. The CEC's core responsibilities include advancing State energy policy, encouraging energy efficiency, certifying thermal power plants, investing in energy innovation, developing renewable energy,

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transforming transportation, and preparing for energy emergencies. The Warren-Alquist Act is updated annually to address current energy needs and issues, and its latest revision is dated January 2023.

### *California Public Utilities Commission Long Term Energy Efficiency Strategy Plan*

Adopted in September 2008 and updated in January 2011, the California Public Utilities Commission (CPUC) Long Term Energy Efficiency Strategic Plan provides a framework for energy efficiency in California through the year 2020 and beyond. It articulates a long-term vision, as well as goals for each economic sector, identifying specific near-, mid-, and long-term strategies to assist in achieving these goals. The plan sets forth the following four goals, known as “Big Bold Energy Efficiency Strategies,” to achieve significant reductions in energy demand:

- All new residential construction in California will be zero net energy by 2020.
- All new commercial construction in California will be zero net energy by 2030.
- Heating, ventilation, and air conditioning will be transformed to ensure that its energy performance is optimal for California’s climate.
- All eligible low-income customers will be given the opportunity to participate in the low-income energy efficiency program by 2020.

The CPUC and CEC have adopted the following goals to achieve zero net energy levels by 2030 in the commercial sector:

- Goal 1: New construction will increasingly embrace zero net energy performance (including clean, distributed generation), reaching 100 percent penetration of new starts in 2030.
- Goal 2: 50 percent of existing buildings will be retrofit to zero net energy by 2030 through achievement of deep levels of energy efficiency and with the addition of clean distributed generation.
- Goal 3: Transform the commercial lighting market through technological advancement and innovative utility initiatives.

### *California Building Energy Code: Title 24, Part 6, Energy Efficiency Standards*

The State of California provides a minimum standard for energy conservation through Title 24, Part 6 California Code of Regulations, commonly referred to as the California Energy Code. The California Energy Code was first adopted by the California Energy Resources Conservation and Development Commission (now the CEC) in June 1977. The standards are updated on a three-year cycle to allow for consideration and possible incorporation of new energy efficiency technologies and methods. In August 2021, the CEC adopted the 2022 California Energy Code, which went into effect on January 1, 2023. The 2022 standards require mixed-fuel single-family homes to be electric ready to accommodate replacement of gas appliances with electric appliances. In addition, the new standards also include prescriptive photovoltaic systems and battery requirements for high-rise, multifamily buildings (i.e., more than three stories) and noncommercial buildings such as hotels, offices, medical offices, restaurants, retail stores, schools, warehouses, theaters, and convention centers.<sup>41</sup>

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<sup>41</sup> California Energy Commission, 2021, Amendments to the Building Energy Efficiency Standards (2022 Energy Code) Draft Environmental Report, CEC-400-2021-077-D.



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### *California Building Code: Title 24, Part 11, Green Building Standards*

On July 17, 2008, the California Building Standards Commission adopted the nation's first green building standards. CALGreen (24 California Code of Regulations, Part 11) was adopted as part of the California Building Standards Code. It includes mandatory requirements for new residential and nonresidential buildings throughout California. CALGreen is intended to (1) reduce greenhouse gas (GHG) emissions from buildings; (2) promote environmentally responsible, cost-effective, healthier places to live and work; (3) reduce energy and water consumption; and (4) respond to the directives by the governor. The latest 2022 CALGreen code became effective on January 1, 2023.

CALGreen includes provisions to reduce construction waste, make buildings more efficient in the use of materials and energy, and reduce environmental impact during and after construction. CALGreen contains requirements for construction site selection, stormwater control during construction, construction waste reduction, indoor water use reduction, material selection, natural resource conservation, site irrigation conservation, etc. The code provides for design options, allowing the designer to determine how best to achieve compliance for a given site or building condition. The code also requires building commissioning, which is a process for verifying that all building systems (e.g., heating and cooling equipment and lighting systems) are functioning at their maximum efficiency.<sup>42</sup>

### *Appliance Efficiency Regulations*

The Appliance Efficiency Regulations (Title 20, California Code of Regulations Sections 1601 through 1608), combined with federal standards, set minimum efficiency levels for energy and water consumption in products, such as consumer electronics, household appliances, and plumbing equipment. The regulations are continually updated with the latest revisions dated 2023. Eighteen categories of appliances are included in the scope of these regulations. The standards within these regulations apply to appliances that are sold or offered for sale in California, except those sold wholesale in California for final retail sale outside the state, and those designed and sold exclusively for use in recreational vehicles or other mobile equipment. These regulations exceed the standards imposed by all other states and they reduce GHG emissions by reducing energy demand.

### *California Energy Benchmarking and Disclosure*

The Building Energy Benchmarking Program is mandated under AB 802 and requires owners of large commercial and multifamily buildings to report energy use to the CEC by June 1 annually. This program applies to all buildings with more than 50,000 square feet of gross floor area and owners of multifamily residential buildings with more than 50,000 square feet and 17 or more utility accounts. The bill requires each utility, upon the request and authorization of the owner, owner's agent, or operator of a building covered under the regulation, to deliver or provide aggregated energy usage data for a covered building. The required energy usage shall be reported to the CEC through the Energy Star Portfolio Manager.

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<sup>42</sup> California Building Standards Commission, 2022, 2022 California Code of Regulations Title 24, Part 11, <https://codes.iccsafe.org/content/CAGBC2022P1>, accessed January 20, 2024.

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### *California Renewable Portfolio Standards*

A major component of California's Renewable Energy Program is the Renewable Portfolio Standards established under SB 1078 (Sher) and SB 107 (Simitian). The standard requires that a specified percentage of the electricity that utilities provide comes from renewable resources. Renewable sources of electricity include wind, small hydropower, solar, geothermal, biomass, and biogas. SB 1020, signed into law on September 16, 2022, requires renewable energy and zero-carbon resources to supply 90 percent of all retail electricity sales by 2035 and 95 percent by 2040. Additionally, SB 1020 requires all State agencies to procure 100 percent of electricity from renewable energy and zero-carbon resources by 2035.

### *CPUC Natural Gas Regulations*

The CPUC regulates natural gas utility rates and services as well as the transportation of natural gas over the extensive transmission and distribution pipeline systems. The CPUC also regulates gas storage facilities. The Gas Safety and Reliability Branch of the CPUC ensures that natural gas pipeline systems are designed, constructed, operated, and maintained according to the safety standards set by the CPUC and the federal government. The regulations are provided in the CPUC General Order No. 112-E and the Natural Gas Pipeline Safety Act of 2011.

## Local Regulations

### *General Plan 2040*

The Environmental Resource and Sustainability (ES) and the Infrastructure (INF) Elements of the General Plan 2040 contain goals, policies, and strategies that require local planning and development decisions to address energy and telecommunications issues. Applicable policies and strategies that would minimize potential adverse impacts are identified in Section 4.15.4.3, *Impact Discussion*.

### *Municipal Code*

The Cupertino Municipal Code (CMC) includes various directives to address energy efficiency and energy conservation. The CMC is organized by title, chapter, and section. Most provisions related to energy and telecommunications are included in Title 2, *Administration and Personnel*, Title 3, *Revenue and Finance*, Title 6, *Franchises*, Title 16, *Building and Construction*, and Title 18, *Subdivisions*, as follows:

- **Chapter 2.74, Cupertino Technology, Information, and Communications Commission.** This chapter establishes the commission, which consists of five members that advise the City Council and City Manager on matters relating to technology, information, and communications within the City. The Commission also evaluates franchise agreements and franchise fees and provides support for community access television.
- **Chapter 3.34, Utility Users Excise Tax.** Under Section 3.34.040, Electricity Users Tax, every person in the City using electrical energy in the City must pay an "electricity users tax" to the service supplier. Similarly, under Section 3.34.050, Gas Users Tax, every person within the City that uses natural gas, which is delivered through mains or pipes or by motor vehicle or by rail, must pay a "gas users tax."

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- **Chapter 3.35, Telecommunication Users Tax.** This chapter imposes a tax upon every person in the City using telecommunications services and is collected from the service user by the telecommunication services provider.
- **Chapter 6.08, Electricity- Pacific Gas and Electric Company.** This chapter establishes PG&E as the franchise that will transmit and distribute electricity to the public within the City. PG&E is responsible for to construction and maintenance of all poles, wires, conduits, and lines along, across, within or under the streets within the City.
- **Chapter 6.12 –Gas – Pacific Gas and Electric Company.** This chapter establishes PG&E as the franchise for installing maintaining all natural gas infrastructure and transmitting and distributing gas to the public within the City.
- **Chapter 6.28, Cable and Video Services.** This chapter states that all entities that construct or operate a cable system or provide video service within the City must have been issued a state franchise and must pay franchise fees to the City as a percent of the gross revenue.
- **Chapter 16.28, Expedited Permit Process for Small Rooftop Solar Systems and Electric Vehicle Charging Systems.** This chapter provides a streamline permitting process for rooftop solar energy systems and electric vehicle charging stations to promote and encourage the use of these alternative energy technologies.
- **Chapter 16.54, Energy Code.** The City adopts the provisions of the 2022 California Energy Code in this chapter.
- **Chapter 16.58, Green Building Standards Code.** This chapter adopts the 2022 California Green Building Standards Code, also known as CALGreen. The City of Cupertino also requires new construction over certain sizes (greater than 9 residential units or 25,000 square feet of non-residential development) to build to Leadership in Energy and Environmental Design (LEED) or alternative reference standards. The LEED construction and/or other types of equivalent green building verification systems typically require enhanced building energy efficiency, which reduces heating and cooling requirements of a building and, therefore, also reduces GHG emissions.
- **Chapter 18.32, Subdivisions.** Section 18.32.110, Energy Conservation requires a subdivision to provide to the extent feasible for future passive or natural heating or cooling opportunities.

### *Climate Action Plan*

The City's Climate Action Plan (CAP) 2.0 was adopted in August 2022 and includes measures and actions for reducing greenhouse gas emissions and achieving carbon neutrality. Chapter 8 of the CAP focuses on steps to increase the percentage of renewable energy used by the City and electrification of new buildings to reduce natural gas usage.<sup>43</sup>

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<sup>43</sup> Rincon Consultants, 2022. Cupertino Climate Action Plan 2.0.

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### Existing Conditions

Chapter 4.14, *Utilities and Services Systems*, of the General Plan EIR, addressed the impacts to energy associated with buildout of the General Plan 2040 at a program level. Impacts were found to be less than significant without mitigation. The setting for energy utilities is described in detail in Chapter 4.14.4 *Energy Conservation*, of the General Plan EIR.

#### 4.15.5.2 STANDARDS OF SIGNIFICANCE

Implementation of the proposed Modified Project would result in significant energy or telecommunications impact if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
UTIL-12 Implementation of the proposed Modified Project would not require or result in the relocation or construction of new or expanded electric power, natural gas, or telecommunications facilities, the construction or relocation of which would cause significant environmental effects?	LTS	LTS
UTIL-13 Implementation of the proposed Modified Project would not, in combination with past, present, and reasonably foreseeable projects, result in a cumulatively considerable impact to electric power, natural gas, or telecommunications facilities.	N/A	LTS

Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable

#### 4.15.5.3 IMPACT DISCUSSION

<b>UTIL-12</b>	<b>Implementation of the proposed Modified Project would not require or result in the relocation or construction of new or expanded electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects.</b>
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As described in the General Plan EIR, the Approved Project, upon buildout, will result in 4,040,231 square feet of additional office space, 1,343,679 square feet of additional commercial space, 1,000 additional hotel rooms, and 4,421 additional housing units. Future new development under the Approved Project would be constructed using energy-efficient modern building materials and construction practices. The new buildings also would use new modern appliances and equipment and would comply with the current CALGreen Building Code. Potential environmental impacts from possible new electrical switches/transformers would be addressed in project-specific reviews. In addition, buildout of the Approved Project would not significantly increase energy demands in the context of the 70,000-square-mile PG&E service territory for electricity and natural gas generation, transmission, and distribution.

Electrical service to the Study Area and the housing opportunity sites would be provided by Pacific Gas and Electric Company (PG&E) and Silicon Valley Clean Energy (SVCE) through connections to existing electrical lines and infrastructure. As shown in Table 4.5.1, *Proposed Modified Project Energy Consumption*, of Chapter 4.5, *Energy*, of this EA, the addition of 3,312 new housing units would result in the annual consumption of 11,636,361 kilowatt hours (kWh) and 37,527,747 British thermal units (BTUs). However, the per-person electricity use would decrease compared to existing conditions due to the

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replacement of existing land uses with new development that meets the California Building Energy Efficiency Standards and CALGreen standards.

These energy consumption rates are modest increases when considered in the context of PG&E and SVCE's service areas. PG&E currently has approximately 5.5 million electricity customers and is projected to have an electricity demand of 133,893 gigawatt-hours in 2035.<sup>44</sup> One gigawatt-hour is equivalent to one million kilowatt-hours. Therefore, future potential development under the proposed Modified Project would consume less than 0.009 percent of the available energy distributed by PG&E. PG&E is expected to meet all of its customers' electrical demands through 2035.

Similarly, the natural gas consumption rates for the proposed Modified Project are modest increases when considered in the context of PG&E's service area. PG&E provides natural gas to approximately 4.5 million customers. Natural gas demand statewide is projected to decline an average of 1.1 percent through 2035 due to the goal of reducing greenhouse gas emissions and the ordinances of some cities for new construction to be all electric.<sup>45</sup> PG&E states that its supplies of natural gas would meet all of its customers' demands through 2035. The increase in natural gas consumption with implementation of the proposed Modified Project is approximately 0.0000021 percent of PG&E's natural gas supply. Therefore, implementation of the proposed Modified Project would not result in the relocation or expansion of electric power or natural gas facilities or infrastructure.

Telecommunications services include wireless internet, cell phone and land line telephone, cable television, and satellite television. There are numerous telecommunication and internet providers that serve the Study Area. Multiple choices give Cupertino residents and businesses a variety of options when choosing telecommunication providers. The current infrastructure in place is sufficient to service existing and future customers within the Study Area. Because most of the new housing units would be in areas with existing telecommunications infrastructure, no new cables or networks would be required with implementation of the proposed Modified Project.

In addition, future development would be required to comply with the current and future updates to the California Energy Code and CALGreen, which would contribute to reducing energy demands. New buildings would also use new energy-efficient appliances and equipment, pursuant to the Appliance Efficiency Regulations, which would ensure the use of efficient electricity and natural gas consumption. New buildings in compliance with these standards would generally have greater energy efficiency than existing buildings.

The General Plan EIR also found that the Environmental Resources and Sustainability (ES) and Infrastructure (INF) Elements contain policies and strategies that require local planning and development decisions to consider impacts that development could have on energy usage. Like the Approved Project,

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<sup>44</sup> California Energy Commission, 2023, California Energy Demand Forecast, 2021-2035, <https://www.energy.ca.gov/data-reports/reports/integrated-energy-policy-report/2021-integrated-energy-policy-report/2021-1>, accessed January 20, 2024.

<sup>45</sup> California Public Utilities Commission, 2022, *2022 California Gas Report*, [https://www.socalgas.com/sites/default/files/Joint\\_Utility\\_Biennial\\_Comprehensive\\_California\\_Gas\\_Report\\_2022.pdf](https://www.socalgas.com/sites/default/files/Joint_Utility_Biennial_Comprehensive_California_Gas_Report_2022.pdf), accessed January 20, 2024.

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the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize adverse effects on energy and promote energy conservation:

- **Policy ES-1.1. *Principles of Sustainability.*** Incorporate principles of sustainability into Cupertino's planning, infrastructure, and development process in order to improve the environment, reduce greenhouse gas emissions and meet the needs of the community without compromising the needs of future generations. (General Plan EIR Policy 5-1)
- **Strategy ES-1.1.1. *Climate Action Plan (CAP).*** Adopt, implement, and maintain a Climate Action Plan to attain greenhouse gas emission targets consistent with state law and regional requirements. This qualified greenhouse gas emissions reduction plan, by BAAQMD's definition, will allow for future project CEQA streamlining and will identify measures to:
  - Reduce energy use through conservation and efficiency.
  - Reduce fossil fuel use through multi-modal and alternative transportation.
  - Maximize use of and, where feasible, install renewable energy resources.
- **Policy ES-2.1. *Conservation and Efficient Use of Energy Resources.*** Encourage the maximum feasible conservation and efficient use of electrical power and natural gas resources for new and existing residences, businesses, industrial and public uses. (General Plan EIR Policy 5-3)
- **Strategy ES-2.1.1. *Coordination.*** Continue to evaluate and revise, as necessary, applicable City plans, codes, and procedures for inclusion of Federal, State, and regional requirements and conservation targets.
- **Strategy ES-2.1.2. *Comprehensive Energy Management.*** Prepare and implement a comprehensive energy management plan for all applicable municipal facilities and equipment to achieve the energy goals established in the City's Climate Action Plan. Track the City's energy use and report findings as part of the Climate Action Plan reporting schedule. Embed this plan into the City's Environmentally Preferable Procurement Policy to ensure measures are achieved through all future procurement and construction practices. (General Plan EIR Strategy 2 under Policy 5-3)
- **Strategy ES-2.1.3. *Energy Efficient Replacements.*** Continue to use life cycle cost analysis to identify City assets for replacement with more energy efficient technology. Utilize available tools to benchmark and showcase City energy efficiency achievements (i.e., EPA Portfolio Manager, statewide Green Business Program). (General Plan EIR Strategy 4 under Policy 5-3)
- **Strategy ES-2.1.4. *Incentive Program.*** Consider incentive programs for projects that exceed mandatory requirements and promote incentives from state, county, and federal governments for improving energy efficiency and expanding renewable energy installations. (General Plan EIR Strategy 5 under Policy 5-3)
- **Strategy ES-2.1.6. *Alternate Energy Sources.*** Promote and increase the use of alternate and renewable energy resources for the entire community through effective policies, programs, and incentives.
- **Strategy ES-2.1.7. *Energy Co-Generation Systems.*** Encourage the use of energy co-generation systems through the provision of an awareness program targeting the larger commercial and industrial users and public facilities. (General Plan EIR Strategy 8 under Policy 5-3)
- **Strategy ES-2.1.8. *Energy Audits and Financing.*** Continue to offer and leverage regional partners' programs to conduct energy audits and/or subvention programs for homes, commercial, industrial and City facilities, and recommend improvements that lead to energy and cost savings opportunities for participants and encourage adoption of alternative energy technologies. Encourage energy audits to include emerging online and applications-based energy analytics and diagnostic tools. Share

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residential and commercial energy efficiency and renewable energy financing tools through outreach events and civic media assets. General Plan EIR Strategy 2 under Policy 5-4)

- **Strategy ES-2.1.10. *Community Choice Energy.*** Collaborate with regional partners to evaluate feasibility for development of a Community Choice Energy Program.
- **Policy ES-3.1. *Green Building Design.*** Set standards for the design and construction of energy and resource conserving/efficient building. (General Plan EIR Policy 5-4)
- **Strategy ES-3.1.1. *Green Building Program.*** Periodically review and revise the City's Green Building ordinance to ensure alignment with CALGreen requirements for all major private and public buildings projects that ensure reduction in energy and water use for new development through site selection and building design. (General Plan EIR Strategy 1 under Policy 5-4)
- **Strategy ES-3.1.2. *Staff Training.*** Continue to train appropriate City staff in the design principles, costs, and benefits of sustainable building and landscape design. Encourage City staff to attend external trainings on these topics and attain relevant program certifications (e.g., Green Point Rater, Leadership in Energy & Environmental Design (LEED) Accredited Professional).
- **Strategy ES-3.1.3. *Green Buildings Informational Seminars.*** Conduct and/or participate in Green Building informational seminars and workshops for members of the design and construction industry, land development, real estate sales, lending institutions, landscaping and design, the building maintenance industry and prospective project applicants.
- **Strategy ES-3.1.4. *Green Building Demonstration.*** Pursue municipal facility retrofits, through a Green Capital Improvement Program (CIP), and new construction projects that exceed CALGreen and achieve third-party certification criteria (e.g., LEED, Living Building Challenge, Zero Net Energy) as a means of creating demonstration spaces for developer and community enrichment.
- **Policy INF-6.1. *Telecommunications Master Plan.*** Maintain and update a Telecommunications Master Plan with regulations and guidelines for wireless and emerging technologies.
- **Policy INF-6.2. *Coordination.*** Coordinate with providers to improve access and delivery of services to businesses and homes.
- **Strategy INF-6.2.1. *Facility Upgrades.*** When possible, require service providers to upgrade existing facilities as part of permit or lease renewals. Encourage use of newer technologies that allow the facility components to be reduced in size or improve screening or camouflaging.
- **Strategy INF-6.2.2. *Improved Access.*** Work with providers to expand service to areas that are not served by telecommunications technologies.
- **Strategy INF-6.2.3. *City Facilities.*** Encourage leasing of City sites to expand access to telecommunications services. Develop standards for the incorporation of telecommunications systems and public use.
- **Strategy INF-6.2.4. *Agency and Private Facilities.*** Encourage the installation of communications infrastructure in facilities owned by other public agencies and private development.
- **Strategy INF-6.2.5. *Communications Infrastructure.*** Support the extension and access to telecommunications infrastructure such as fiber optic cables.
- **Policy INF-6.3. *Emerging Technologies.*** Encourage new and innovative technologies and partner with providers to provide the community with access to these services.
- **Strategy INF-6.3.1. *Strategic Technology Plan.*** Create and update a Strategic Technology Plan for the City to improve service efficiency.

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Compliance with federal, State, and local regulations (e.g., Building Energy Efficiency Standards, CALGreen, and Renewables Portfolio Standards) would increase building energy efficiency and reduce building energy demands. Additionally, the General Plan 2040 goal, policies, and strategies would contribute to minimizing building-related energy demands and demands on nonrenewable sources of energy. Implementation of the proposed General Plan 2040 goals, policies, and strategies in conjunction with and complementary to regulatory requirements, would ensure that energy demand associated with future potential development under the proposed Modified Project would be efficient, therefore avoiding the need for new or expanded electric power and natural gas facilities. In addition, the energy providers and telecommunications providers that currently serve the Study Area indicate that they have the capability to serve future increases in population within their service areas without significant changes to the existing infrastructure. Therefore, implementation of the proposed Modified Project would not require or result in the relocation or construction of new or expanded electric power, natural gas, or telecommunications facilities beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>UTIL-13</b>	<b>Implementation of the proposed Modified Project would not, in combination with past, present, and reasonably foreseeable projects, result in a cumulatively considerable impact to electric power, natural gas, or telecommunications facilities.</b>
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The General Plan EIR found that the Approved Project would not significantly increase energy demands in the context of the 70,000-square-mile PG&E service territory for electricity and natural gas generation, transmission, and distribution.

The area considered for cumulative impacts are the service areas of PG&E and SVCE for electricity and PG&E for natural gas. Other projects within the service areas would increase electricity and natural gas demands.

The CPUC has identified the Integrated Energy Policy Report as “the appropriate venue for considering issues of load forecasting, resource assessment, and scenario analyses, to determine the appropriate level and ranges of resource needs for load serving entities in California.”<sup>46</sup> The latest report shows that California’s electricity sector is leading efforts to reduce GHG emissions and electricity consumption is projected to increase compared to previous energy demand projections, mostly attributable to increased levels of transportation electrification.<sup>47</sup> Natural gas consumption is expected to level out between 2020 and 2026 before decreasing from 2026 to 2035 from new building standards and the implementation of city and county ordinances that require new construction to have all-electric appliances and heating.

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<sup>46</sup> California Energy Commission, February 2023, *Final 2022 Integrated Energy Policy Report Update*, [https://www.energy.ca.gov/sites/default/files/2023-02/Adopted\\_2022\\_IEPR\\_Update\\_with\\_errata\\_ada.pdf](https://www.energy.ca.gov/sites/default/files/2023-02/Adopted_2022_IEPR_Update_with_errata_ada.pdf), accessed January 20, 2024.

<sup>47</sup> California Energy Commission, February 2023, *Final 2022 Integrated Energy Policy Report Update*, [https://www.energy.ca.gov/sites/default/files/2023-02/Adopted\\_2022\\_IEPR\\_Update\\_with\\_errata\\_ada.pdf](https://www.energy.ca.gov/sites/default/files/2023-02/Adopted_2022_IEPR_Update_with_errata_ada.pdf), accessed January 20, 2024.



## UTILITIES AND SERVICE SYSTEMS

In addition, all future projects developed within the PG&E and SVCE service areas would implement the requirements of the California Energy Code and CALGreen. New buildings would also use new energy-efficient appliances and equipment, pursuant to the Appliance Efficiency Regulations. Counties and cities review project design plans against these codes and ensure compliance before issuing construction permits. These measures would reduce the overall consumption of electricity and natural gas.

The energy providers and telecommunications providers that serve the Study Area and Santa Clara County indicate that they have the capability to serve future increases in population within their service areas without significant changes to the existing infrastructure. In addition, the General Plan 2040 includes goals, policies, and strategies that would contribute to minimizing inefficient, wasteful, or unnecessary energy consumption and ensure compliance with State, regional, or local plans for renewable energy, therefore avoiding the need for new or expanded electric power and natural gas facilities. Therefore, implementation of the proposed Modified Project would not result in a significant impact to electric power, natural gas, or telecommunication facilities, and cumulative impacts would be *less than significant*.

**Significance without Mitigation:** Less than significant.

## **UTILITIES AND SERVICE SYSTEMS**

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## **4.16 WILDFIRE**

This chapter describes the potential wildfire impacts associated with the approval and implementation of the proposed Modified Project. This chapter describes the regulatory framework and baseline conditions, identifies criteria used to determine impact significance, provides an analysis of the potential impacts to wildfire, and identifies policies and/or strategies that could mitigate any potentially significant impacts.

### **4.16.1 Environmental Setting**

#### **4.16.1.1 REGULATORY FRAMEWORK**

##### **Federal Regulations**

###### *National Cohesive Wildfire Management Strategy*

In the Federal Land Assistance, Management, and Enhancement Act of 2009 (FLAME Act), Congress mandated the development of a National Cohesive Wildland Fire Management Strategy for all lands in the United States. Wildfire management is guided by the National Cohesive Wildland Fire Management Strategy, which has three primary goals—resilient landscapes, fire adapted communities, and safe and effective wildfire response.<sup>1</sup> These three goals enable land managers to manage vegetation and fuels; protect homes, communities, and other values at risk; manage human-caused ignitions; and effectively and efficiently respond to wildfires. California is part of the Western Regional Strategy Committee, chartered to support and facilitate the implementation of the National Cohesive Wildland Fire Strategy.

###### *National Fire Protection Association Standards*

National Fire Protection Association (NFPA) codes, standards, recommended practices, and guides are developed through a consensus standards development process approved by the American National Standards Institute. NFPA standards are recommended (advisory) guidelines for fire protection that are referenced in the California Fire Code (CFC), which is adopted by the City of Cupertino every three years. Specific standards applicable to wildfire hazards include, but are not limited to:

- **NFPA 1141**, Fire Protection Infrastructure for Land Development in Wildlands
- **NFPA 1142**, Water Supplies for Suburban and Rural Fire Fighting
- **NFPA 1143**, Wildland Fire Management
- **NFPA 1144**, Reducing Structure Ignition Hazards from Wildland Fire
- **NFPA 1710**, Standard for the Organization and Deployment of Fire Suppression Operations, Emergency Medical Operations

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<sup>1</sup> US Department of the Interior and US Department of Agriculture, 2014, *The National Strategy: The Final Phase of Development of the National Cohesive Wildland Fire Management Strategy*, <https://www.forestsandrangelands.gov/documents/strategy/strategy/CSPPhaseIIINationalStrategyApr2014.pdf>.

## WILDFIRE

### State Regulations

#### *California Department of Forestry and Fire Protection*

The California Department of Forestry and Fire Protection (CAL FIRE) is dedicated to the fire protection and stewardship of over 31 million acres of California's wildlands. CAL FIRE provides fire assessment and firefighting services for land in State Responsibility Areas (SRA), conducts educational and training programs, provides fire planning guidance and mapping, and reviews general plan safety elements to ensure compliance with State fire safety requirements. CAL FIRE staff, or a designee, also reviews building permit applications, parcel maps, and use permits for construction or development in SRAs and Local Responsibility Areas (LRA).

The Board of Forestry and Fire Protection is a government-appointed approval body within CAL FIRE. It is responsible for developing the general forest policy of the state, determining the guidance policies of CAL FIRE, and representing the state's interest in federal forestland in California. The Board of Forestry and Fire Protection also promulgates regulations and approves general plan safety elements that are adopted by local governments for compliance with State statutes.

The California Office of the State Fire Marshal supports the mission of CAL FIRE by focusing on fire prevention. These responsibilities include regulating buildings in which people live, congregate, or are confined; controlling substances and products that may, in and of themselves or by their misuse, cause injuries, death, and destruction by fire; providing statewide direction for fire prevention within wildland areas; regulating hazardous liquid pipelines; developing and renewing regulations and building standards; and providing training and education in fire protection methods and responsibilities. These are accomplished through major programs, including engineering, education, enforcement, and support from the Board of Forestry and Fire Protection. For jurisdictions in SRAs or very high fire hazard severity zones (FHSZ), the Land Use Planning Program division of the Office of State Fire Marshal reviews safety elements during the update process to ensure consistency with California Government Code, Section 65302(g)(3).

Together, the Board of Forestry and Fire Protection, Office of State Fire Marshal, and CAL FIRE protect and enhance the forest resources of all wildland areas of California that are not under federal jurisdiction.

#### Fire Hazard Severity Zones and Responsibility Areas

CAL FIRE designates FHSZs as authorized under California Government Code Sections 51175 et seq. FHSZs may be designated Very High, High, or Moderate. CAL FIRE considers many factors when designating FHSZs, including fire history, existing and potential vegetation fuel, flame length, blowing embers, terrain, and weather patterns for the area. CAL FIRE designates FHSZs in two types of areas depending on which level of government is financially responsible for fire protection.

- **Local Responsibility Area (LRA).** Incorporated communities are financially responsible for wildfire protection.
- **State Responsibility Area (SRA).** CAL FIRE and contracted counties are financially responsible for wildfire protection.

### CAL FIRE Strategic Fire Plan

CAL FIRE produced the 2018 *Strategic Fire Plan for California*, with goals, objectives, and policies to prepare for and mitigate the effects of fire on California's natural and built environments.<sup>2</sup> The 2018 Strategic Plan focuses on fire prevention and suppression activities to protect lives, property, and ecosystems in addition to providing natural resource management to maintain state forests as a resilient carbon sink to meet California's climate change goals. A key component of the 2018 *Strategic Fire Plan for California* is the collaboration between communities to ensure fire suppression and natural resource management is successful.<sup>3</sup>

### *2021 California's Wildfire and Forest Resilience Action Plan*

The Governor's Forest Management Task Force developed California's Wildfire and Forest Resilience Action Plan, which is a framework for establishing healthy and resilient forests that can withstand and adapt to wildfire, drought, and climate change. The Wildfire and Forest Resilience Action Plan accelerates efforts to restore the health and resilience of California's forests, grasslands, and natural places; improves the fire safety of communities; and sustains the economic vitality of rural forested areas. CAL FIRE, in partnership with the US Forest Service, intends to scale up forest thinning and prescribed fire; integrate climate adaptation into the statewide network of regional forest and community fire resilience plans; improve the electricity grid resilience, and promote sustainable land use.

### *State Responsibility Area and Very High Fire Hazard Severity Zone Fire Safe Regulations*

California Code of Regulations (CCR) Title 14, Division 1.5, Chapter 7, Subchapter 2, *SRA/Very High FHSZ Fire Safe Regulations*, establishes minimum wildfire protection standards for construction and development in the SRA and Very High FHSZ and requires CAL FIRE to review development proposals and enact recommendations that serve as conditions of approval in these zones. These regulations apply to all residential, commercial, and industrial buildings in the Very High FHSZ and all tentative and parcel maps. These standards include basic emergency access and perimeter wildfire protection measures, signing and building numbering, private water supply resources for emergency fire use, and vegetation modification. Fire Safe Regulations also include a minimum setback of 30 feet for all buildings from property lines and/or the center of a road. Section 1273.08, *Dead-End Roads*, of these standards provides regulations for the maximum lengths of single-access roadways:

- Parcels zoned for less than one acre: 800 feet
- Parcels zoned for 1 acre to 4.99 acres: 1,320 feet
- Parcels zoned for 5 acres to 19.99 acres: 2,640 feet
- Parcels zoned for 20 acres or larger: 5,280 feet

Fire Safe Regulations, Section 1299.03, *Fire Hazard Reduction Around Buildings and Structure Requirements*, provides defensible space requirements for areas within 30 feet of a structure (Zone 1) and

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<sup>2</sup> California State Board of Forestry and Fire Protection, 2018, *2018 Strategic Fire Plan for California*, <https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/fire-plan/>, accessed January 11, 2024.

<sup>3</sup> California State Board of Forestry and Fire Protection, 2018, *2018 Strategic Fire Plan for California*, <https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/fire-plan/>, accessed January 11, 2024.

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between 30 and 100 feet from a structure (Zone 2). In Zone 1, all dead and dying plants must be removed, as must any vegetation that could catch fire. In Zone 2, horizontal and vertical spacing among shrubs and trees must be created and maintained.

### *Public Resources Code Section 4291*

Public Resources Code (PRC) Section 4291, *Mountainous, Forest-, Brush- and Grass-Covered Lands*, is intended for any person who owns, lease, controls, operates, or maintains a building or structure in a mountainous area, forest-covered lands, shrub-covered lands, grass-covered lands, or land that is covered with flammable material, regardless of whether the property is in an SRA or Very High FHSZ. This section requires defensible space to be maintained within 100 feet from each side of a structure. An ember-resistant zone is also required within 5 feet of a structure and more intense fuel reduction between 5 and 30 feet of a structure.

### *California Building Standards Code*

The California Buildings Standards Code (CCR Title 24) provides 12 different codes for construction and buildings in California. This code is updated every three years, with the most recent version effective January 1, 2023. Cupertino regularly adopts the most recent version of the California Building Standards Code, with modifications, into the Cupertino Municipal Code (CMC), Title 16, *Building and Construction*.

### Building Design Standards

The California Building Code (CBC), Part 2 of CCR Title 24, identifies building design standards, including those for fire safety. It is effective statewide, but a local jurisdiction may adopt more restrictive standards based on local conditions under specific amendment rules prescribed by the State Building Standards Commission. Residential buildings are plan checked by local city building officials for compliance with the CBC and any applicable local edits. Typical fire safety requirements of the CBC include the installation of sprinklers in buildings and other facilities; the establishment of fire-resistance standards for fire doors, building materials, and particular types of construction in high FHSZs; requirements for smoke-detection systems; exiting requirements; and the clearance of debris.

### Materials and Methods for Exterior Wildfire Exposure

Chapter 7A of the CBC, *Materials and Methods for Exterior Wildfire Exposure*, prescribes building materials and construction methods for new buildings in an FHSZ or Wildland Interface Fire Area. Chapter 7A contains requirements for roofing; attic ventilation; exterior walls; exterior windows and glazing; exterior doors; decking; protection of underfloor, appendages, and floor projections; and ancillary structures. Other requirements include vegetation management compliance, as prescribed in the CFC Section 4906 and PRC Section 4291.

### *California Fire Code*

The CFC incorporates, by adoption, the International Fire Code of the International Code Council, with California amendments. This is the official fire code for the State and all political subdivisions. It is found in 24 CCR Part 9, and like the CBC, is revised and published every three years by the California Building

Standards Commission. Also like the CBC, the CFC is effective statewide, but a local jurisdiction may adopt more restrictive standards based on local conditions. The City of Cupertino regularly adopts each new CFC update under CMC Section 16.40, *Fire Code*. The CFC is a model code that regulates minimum fire safety regulations for new and existing buildings; facilities; storage; processes, including emergency planning and preparedness; fire service features; fire protection systems; hazardous materials; fire flow requirements; and fire hydrant locations and distribution. Typical fire safety requirements include installation of sprinklers in all buildings; the establishment of fire resistance standards for fire doors, building materials, and particular types of construction; and the clearance of debris and vegetation within a prescribed distance from occupied structures in wildfire hazard areas.

### Fire Safety During Construction and Demolition

Chapter 33 of the CFC, *Fire Safety During Construction and Demolition*, provides requirements for fire safety precautions during construction and demolition of a development project. The purpose of this chapter is to provide reasonable safety to life and property from fire during construction and demolition operations, including those in underground locations. Specific requirements include a prohibition of smoking on-site, except for in approved areas; management of combustible materials and debris; cutting and welding; electrical wiring; and cooking. Additional requirements include the preparation of site safety plans prior to building permit issuance, providing fire watch during nonworking hours, and maintaining water supply for fire protection as soon as combustible materials arrive on a project site.

### Wildland-Urban Interface Areas

Chapter 49, *Requirements for Wildland Urban Interface Fire Areas*, of the CFC applies to any geographical area identified as a FHSZ by CAL FIRE. It defines FHSZs, connects to the SRA/Very High FHSZ Fire Safe Regulation requirements for defensible space, and parallels requirements for wildfire protection building construction and hazardous vegetation fuel management in other sections of the CCR and the PRC. Chapter 49 of the 2022 CFC includes a definition for the wildland-urban interface (WUI) and provides requirements for fire protection plans, landslide plans, long-term vegetation management, and creation and maintenance of defensible space for all new development within the WUI.

### *California Public Utilities Commission*

In 2007, wildfires in southern California were ignited by overhead utility power lines and aerial communication facilities near power lines. In response, the California Public Utilities Commission (CPUC) began considering and adopting regulations to protect the public from fire hazards due to overhead power lines and nearby aerial communication facilities. The CPUC published a Fire-Threat Map under Rulemaking 15-05-006, following procedures in Decision 17-01-009, revised by Decision 17-06-024, which adopted a work plan for the development of a utility high fire-threat district where enhanced fire safety regulations in Decision 17-12-024 apply.<sup>4</sup> The fire regulations require electric utilities to:<sup>5</sup>

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<sup>4</sup> California Public Utilities Commission, accessed on January 11, 2024, <https://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M172/K762/172762082.PDF>.

<sup>5</sup> California Public Utilities Commission, press release: CPUC Adopts New Fire-Safety Regulations, accessed on January 11, 2024, <http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M201/K352/201352402.PDF>.

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- Prioritize the correction of safety hazards.
- Correct nonimmediate fire risks in “Tier 2” (elevated fire threat) areas on the CPUC high fire-threat district within 12 months, and in “Tier 3” (extreme fire threat) areas within 6 months.
- Maintain increased clearances between vegetation and power lines within the high fire-threat district.
- Maintain stricter wire-to-wire clearances for new and reconstructed facilities in Tier 3 areas.
- Conduct annual inspections of overhead distribution facilities in rural areas of Tier 2 and Tier 3 areas.
- Prepare a fire prevention plan annually if overhead facilities exist in the high fire-threat district.

### *California Environmental Quality Act*

In November 2022 the California Attorney General issued the *Best Practices for Analyzing and Mitigating Wildfire Impacts of Development Projects Under the California Environmental Quality Act*. This guidance document was designed to help lead agencies comply with the California Environmental Quality Act (CEQA) (PRC Section 21000 et seq) when considering whether to approve projects in wildfire-prone areas. These areas are often in the WUI area—i.e., the area where the built environment meets or intermingles with the natural environment. This guidance provides suggestions for how best to comply with CEQA when analyzing and mitigating a proposed project’s impacts on wildfire ignition risk, emergency access, and evacuation. The guidance is aimed at proposed development projects, such as residential, recreational, or commercial developments. The extent to which it applies will vary by project based on project design and location. It does not impose additional requirements on local governments or alter any applicable laws or regulations, but is intended to provide guidance on some of the issues, alternatives, and mitigation measures that should be considered during the environmental review process.

## Regional Regulations

### *Santa Clara County Wildfire Protection Plan*

The Santa Clara County Wildfire Protection Plan, developed in August 2023 by the Santa Clara County FireSafe Council, is intended to assist in protecting human life and reduce property loss from wildfire throughout the county.<sup>6</sup> The 2023 update was prepared in compliance with the Federal Healthy Forests Restoration Act of 2003 and achieves three major goals:

1. Provide a countywide scale of wildfire risk and protection needs.
2. Bring together all responsible wildfire management and suppression entities in the planning area to address the identified needs.
3. Provide a framework for future planning and implementation of necessary mitigation measures.

### *Santa Clara County Operational Area Hazard Mitigation Plan*

The purpose of hazard mitigation planning is to reduce the loss of life and property by minimizing the impact of disasters. The *Santa Clara County Operational Area Hazard Mitigation Plan* (HMP) was prepared

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<sup>6</sup> Santa Clara County, 2023, *Santa Clara County Community Wildfire Protection Plan*, accessed January 12, 2024, <https://santa-clara-cwpp-sccfc.hub.arcgis.com/>.



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and adopted in October 2017 for the purpose of identifying, assessing, and reducing the long-term risk to life and property from hazard events. The adopted HMP was approved by the Federal Emergency Management Agency (FEMA) and provides more than 344 mitigation actions for implementation by individual planning partners, including the City of Cupertino. The HMP includes a risk assessment and mitigation actions for each of the jurisdictions in the planning partnership. The Cupertino Jurisdictional Annex of the HMP provides an assessment of hazards and vulnerabilities and a set of mitigation actions for Cupertino specifically while considering the results from the countywide effort. In the context of an HMP, mitigation is an action that reduces or eliminates long-term risk to people and property from hazards, including wildfire.

The HMP must be reviewed and approved by FEMA every five years to maintain eligibility for disaster relief funding. As part of this process, the California Governor’s Office of Emergency Services reviews all local hazard mitigation plans in accordance with the Disaster Mitigation Act of 2000 regulations, and coordinates with local jurisdictions to ensure compliance with FEMA’s Local Mitigation Plan Review Guide.

### *Santa Clara County Fire Department Strategic Plan*

The *Santa Clara County Fire Department Strategic Plan*, adopted in 2023, provides goals and strategies focused on short-term challenges and gaps that impede service. The strategic plan is a comprehensive, living, and active management tool that helps focus organizational resources on achieving short-term, measurable outcomes for the Santa Clara County Fire Department. The *Santa Clara County Fire Department Strategic Plan* includes 12 distinct goals aimed at improving the safety of residents and firefighters, increasing agency resiliency and efficiency, reducing fire-related damage, and preparing the community for disasters.

## Local Regulations

### *General Plan 2040*

The General Plan 2040 the Environmental Resources and Sustainability (ES) and Health and Safety (HS) Elements contain goals, policies, and strategies that require local planning and development decisions to consider wildfire impacts. Applicable policies and strategies that would minimize potential adverse wildfire impacts are identified in Section 4.16.3, *Impact Discussion*.

### *Municipal Code*

The CMC includes various directives to minimize adverse energy impacts from development in Cupertino. The CMC is organized by title, chapter, and section. Most provisions related to energy use and conservation are in Title 14, *Streets, Sidewalks, and Landscaping*, and Title 16, *Buildings and Construction*, as follows:

- **Chapter 14.20, *Underground Utilities; Conversions* and Chapter 14.24, *Undergrounding Utilities – New Development*.** CMC Chapter 14.20 allows the City Council to call public hearings to decide whether designated areas of the city require the removal of existing poles, overhead wires, and associated overhead structures related to utility lines. If approved, these areas become Underground Utility Districts and the Public Works Department, in collaboration with the utility owner, shall work together

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to underground existing utilities. CMC Chapter 14.24 requires new development to underground all utilities during construction.

- **Chapter 16.04, *Building Code*.** This chapter adopts the CBC into the CMC. Additionally, Section 16.04.260, *Fire Protection and Life Safety Systems*, requires all new development to include automatic sprinkler systems and contains regulations for firewalls and fire barriers used to separate building areas.
- **Chapter 16.08, *Excavations, Grading and Retaining Walls*.** This chapter provides regulations for excavation, grading, clearing, and retaining wall construction, and to preserve and enhance water quality by controlling surface runoff, erosion, and sedimentation, as well as establishes procedures by which these requirements may be enforced.
- **Chapter 16.40, *Fire Code*.** This chapter adopts the 2022 CFC and the 2021 International Fire Code into the CMC with modifications specific to Cupertino.
- **Chapter 16.52, *Prevention of Flood Damage*.** This chapter applies to all areas of the special flood hazard zones within the city. This chapter contains requirements for construction, elevation, and floodproofing of buildings within the 100-year floodplain.
- **Chapter 16.74, *Wildland Urban Interface Fire Area Adopted*.** This chapter adopts a map of the Wildland Urban Interface Fire Area into the CMC. This map includes High and Very High FHSZs within the Study Area.

### *Cupertino Emergency Operations Plan*

The City of Cupertino Office of Emergency Management is responsible for coordinating agency response to disasters or other large-scale emergencies in Cupertino. The Cupertino Emergency Operations Plan (EOP) establishes policy direction for emergency planning, mitigation, response, and recovery activities within the city. The EOP addresses interagency coordination, procedures to maintain communications with county and State emergency response teams, and methods to assess the extent of damage and management of volunteers, as well as identifies the location of the Emergency Operations Center. The EOP uses the Standardized Emergency Management System as required by California Government Code Section 8607(a) for managing responses to multiagency and multi-jurisdictional emergencies in California, including those related to hazardous materials.

## 4.16.1.2 EXISTING CONDITIONS

The baseline conditions for wildfire were not discussed in the General Plan EIR, and therefore the following sections contain a comprehensive description of wildfire baseline conditions in the Study Area.

### Wildfire Background

The term “wildfire” refers to fires that usually result from the ignition of dry grass, brush, or timber. Historically, wildfires commonly occurred in steep or heavily vegetated areas, which makes suppression of the fire difficult. More recently, wildfires have been encroaching into more urban areas, that is, the wildland-urban interface, threatening homes, businesses, and essential infrastructure. Though wildfires

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play an important role in the ecology of many natural habitats, risks to human safety and property increase as urban development moves into areas susceptible to wildfire hazards.

### *Types of Wildfires*

There are three basic types of wildland fires:<sup>7</sup>

- **Crown fires** burn trees to their tops; these are the most intense and dangerous wildland fires.
- **Surface fires** burn surface litter and duff. These are the easiest fires to extinguish and cause the least damage to the forest. Brush and small trees enable surface fires to reach treetops and are thus referred to as *ladder fuels*.
- **Underground fires** occur underground in deep accumulations of dead vegetation. These fires move very slowly but can be difficult to extinguish.

Wildfires burn in many types of vegetation—forest, woodland, scrub (including chaparral and sage scrub), and grassland. Many species of native California plants are adapted to fire and habitats such as woodlands, chaparral, and grasslands can recover from fire. For example, some species of chaparral plants, such as ceanothus, require intense heat for germination and therefore have flammable resins on leaves and roots that can quickly sprouts up in burned areas.<sup>8</sup> Between 2010 and 2017, wildfires in California burned about 265,000 acres of forest land, 207,000 acres of scrub vegetation, 99,000 acres of grassland, 18,000 acres of desert vegetation, and 14,000 acres of other vegetation types.<sup>9</sup> Wildfires have been observed to be more frequent and growing in intensity over the past several years, with 4,304,379 acres and 2,569,386 acres burning in 2020 and 2021, respectively.<sup>10</sup>

### *Wildfire Causes*

Although the term *wildfire* suggests natural origins, a 2017 study that evaluated 1.5 million wildfires in the United States between 1992 and 2012 found that humans were responsible for igniting 84 percent of wildfires, accounting for 44 percent of acreage burned.<sup>11</sup> The three most common types of causes of human-caused wildfires are debris burning (logging slash, farm fields, trash, etc.); arson; and equipment

<sup>7</sup> Natural Resources Canada, 2021, Fire Behavior, accessed June 16, 2023, <https://www.nrcan.gc.ca/forests/fire-insects-disturbances/fire/13145>.

<sup>8</sup> National Park Service, 2018, "Wildland Fire in Chaparral: California and Southwestern United States," <https://www.nps.gov/articles/wildland-fire-in-chaparral.htm>.

<sup>9</sup> State Board of Forestry and Fire Protection and California Department of Forestry and Fire Prevention, August 2018, *2018 Strategic Fire Plan for California*, accessed June 16, 2023, [https://osfm.fire.ca.gov/media/5590/2018-strategic-fire-plan-approved-08\\_22\\_18.pdf](https://osfm.fire.ca.gov/media/5590/2018-strategic-fire-plan-approved-08_22_18.pdf).

<sup>10</sup> CAL FIRE, "Acres Burned vs Structures Destroyed," accessed June 16, 2023, <https://34c031f8-c9fd-4018-8c5a-4159cdf6b0d-cdn-endpoint.azureedge.net/-/media/calfire-website/images---misc/acres-burned-vs-structures-destroyed2022.jpg?rev=f043785e8027411caa4a6c8b176a4e26&hash=DDC50776FEF6C19D8619CA6337CF2481>.

<sup>11</sup> Balch, Jennifer, Bethany Bradley, John Abatzoglou, et. al., January 2017, *Human-Started Wildfires Expand the Fire Niche Across the United States*, accessed June 16, 2023, <https://www.pnas.org/content/pnas/114/11/2946.full.pdf>.

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use.<sup>12,13</sup> Lightning is the major natural cause of wildfire in the United States, with more than 40 percent of wildfires in the western United States caused by lightning between 1992 and 2015.<sup>14,15</sup>

Power lines can ignite wildfires several ways, including:<sup>16</sup>

- Downed lines: downed power lines can produce arcing that can cause the powerlines to spark and ignite vegetation.
- Vegetation contact: a branch contacting two conductors for a sufficient duration may ignite the branch; a tree falling on a line can cause a downed line.
- High winds and severe weather: conductors can slap together during high winds and severe weather, creating arcing of the powerlines and ejecting hot metal particles that can ignite flammable matter on the ground.
- Equipment failures: As circuit components deteriorate, they can arc and spark and thus ignite nearby flammable matter.

An analysis of US Forest Service wildfire data from 1986 to 1996 determined that 95 percent of human-caused wildfires, and 90 percent of all wildfires, occurred within 0.5 mile of a road; and that about 61 percent of all wildfires and 55 percent of human-caused wildfires occurred within approximately 650 feet (200 meters) of a road.<sup>17</sup> The study concluded that the increase in human-caused ignition from new roads greatly outweighs the benefits of increased access for firefighters.

Wildfires ignite structures in three ways: burning embers landing on the structure or flammable material next to the structure, direct flame contact, and radiant heat from fire close to the structure. Embers are the most common cause of home ignition. Embers ignite structures by entering through attic vents, igniting flammable materials around the home (litter in the roof gutter; wood stacks; or wood fencing), or finding their way under roofing materials.<sup>18</sup>

CAL FIRE estimated in 2010 that there were about three million housing units in California in FHSZs and potentially at risk from wildland fire—that is, just over 20 percent of the total housing units in the state.<sup>19</sup>

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<sup>12</sup> Pacific Biodiversity Institute, May 2007, *Roads and Wildfires*, accessed June 16, 2023, [http://www.pacificbio.org/publications/wildfire\\_studies/Roads\\_And\\_Wildfires\\_2007.pdf](http://www.pacificbio.org/publications/wildfire_studies/Roads_And_Wildfires_2007.pdf).

<sup>13</sup> Miscellaneous human activities (unspecified) are ranked above equipment use in percentage of wildfires caused.

<sup>14</sup> Balch, Jennifer, Bethany Bradley, John Abatzoglou, et. al., January 2017, *Human-Started Wildfires Expand the Fire Niche Across the United States*, accessed June 16, 2023, <https://www.pnas.org/content/pnas/114/11/2946.full.pdf>.

<sup>15</sup> Cart, Julie, 2023, “Lightning could spark more California fire as world warms,” *CAL MATTERS*, accessed January 12, 2024, <https://calmatters.org/environment/2021/09/california-fires-lightning/>.

<sup>16</sup> Texas Wildfire Mitigation Project, 2014, *How Do Power Lines Cause Wildfires?* accessed June 16, 2023, <https://wildfiremitigation.tees.tamus.edu/faqs/how-power-lines-cause-wildfires>.

<sup>17</sup> Pacific Biodiversity Institute, May 2007, *Roads and Wildfires*, accessed June 16, 2023, [http://www.pacificbio.org/publications/wildfire\\_studies/Roads\\_And\\_Wildfires\\_2007.pdf](http://www.pacificbio.org/publications/wildfire_studies/Roads_And_Wildfires_2007.pdf).

<sup>18</sup> California Chaparral Institute, *Protecting Your Home from Fire*, accessed June 16, 2023, <https://www.californiachaparral.org/fire/protecting-your-home/>.

<sup>19</sup> State Board of Forestry and Fire Protection and California Department of Forestry and Fire Prevention, August 2018, *2018 Strategic Fire Plan for California*, accessed June 16, 2023, [https://osfm.fire.ca.gov/media/5590/2018-strategic-fire-plan-approved-08\\_22\\_18.pdf](https://osfm.fire.ca.gov/media/5590/2018-strategic-fire-plan-approved-08_22_18.pdf).

According to CAL FIRE data, approximately 95 percent of structures seriously damaged in California wildfires from 2013 to 2020 took place in FHSZs in the SRA or LRA or on federal lands.<sup>20</sup>

### *Wildland-Urban Interface Fire Areas*

The Wildland-Urban Interface Fire Area (WUIFA) is any area where structures and other human developments meet or intermingle with wildland vegetative fuels—shrubs, trees, and grasses. Developments in the WUI exacerbate fire occurrence and fire spread in several ways:

- Increased numbers of people near and in wildland areas, creating more frequent human-caused wildfires.
- Wildfires become harder to fight due to simultaneous evacuation and firefighting resources diverted from containing the wildfire to protecting lives and homes.
- Letting natural fires burn becomes impossible, leading to buildup of fuel in brush and forested areas and overgrowth of grasslands, increasing wildfire hazard further.<sup>21</sup>

Properties in the WUIFA are subject to building and property maintenance standards intended to prevent and manage community safety due to brush and forest fires. Planning for such areas also requires attention to the availability of access roads and water for firefighting and evacuation efforts.

### *Secondary Effects of Wildfire*

Secondary effects of wildfire include additional hazards such as landslides, poor air quality, and power outages. This section describes potential secondary hazards.

Post-fire landslide hazards include fast-moving, highly destructive debris flows that can occur in the years immediately after wildfires in response to high-intensity rainfall events, and flows that are generated over longer time periods that are accompanied by root decay and loss of soil strength. Post-fire debris flows are particularly hazardous because they can occur with little warning, exert great impulsive loads on objects in their paths, strip vegetation, block drainage ways, damage structures, and endanger human life. Debris flows differ from mudflows in that debris flows are composed of larger particles.

Fires increase the potential for debris flows in two ways:<sup>22</sup>

- Fires may bake soil into a hard crust that repels water.
- Fires destroy vegetation that would slow and absorb rainfall, and whose roots would help stabilize soil.

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<sup>20</sup> CapRadio, December 2021, “After years of delays, CalFire says updated and expanded wildfire hazard maps are on their way,” accessed June 16, 2023, <https://www.capradio.org/articles/2021/12/20/after-years-of-delays-calfire-says-updated-and-expanded-wildfire-hazard-maps-are-on-their-way/>.

<sup>21</sup> Radeloff, Volker, David Helmers, H. Kramer, et al., February 2018, *Rapid Growth of the US Wildland-Urban Interface Raises Wildfire Risk*, accessed January 12, 2024, <https://www.pnas.org/content/pnas/115/13/3314.full.pdf>.

<sup>22</sup> United States Geological Survey, November 2018, “New post-wildfire resource guide now available to help communities cope with flood and debris flow danger,” accessed January 12, 2024, [https://www.usgs.gov/center-news/post-wildfire-playbook?qt-news\\_science\\_products=1#qt-news\\_science\\_products](https://www.usgs.gov/center-news/post-wildfire-playbook?qt-news_science_products=1#qt-news_science_products).

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Post-fire debris flows are most common in the two years after a fire; they are usually triggered by heavy rainfall. It takes much less rainfall to trigger debris flows from burned basins than from unburned areas. In southern California, as little as 0.3 inches of rainfall in 30 minutes has triggered debris flows, and any storm that has intensities greater than about 0.4 inches per hour can produce debris flows.<sup>23</sup> The burning of vegetation and soil on slopes more than doubles the rate that water will run off into watercourses. As discussed in General Plan EIR Section 4.5.1.2, *Existing Conditions*, landslides and debris flows have the potential to occur in the Study Area, most notably on steeper slopes in the western and southwestern portions of the city. In these areas, landslides are commonly associated with slopes underlain with Franciscan sheared rock (mélange) and pre-existing landslide deposits.<sup>24</sup>

In addition to damaging natural environments, wildfires can injure and kill residents and firefighters as well as damage or destroy structures and personal property. Wildfires also deplete water reserves, down power lines, disrupt communication services, and block evacuation routes, which can isolate neighborhoods. Wildfires can indirectly cause flooding if flood control facilities become inadequate to handle increases in stormwater runoff, sediment, and debris that are likely to be generated from burn scars.

Regionally, smoke from wildfires creates poor air quality that can last for days or weeks, depending on the scale of the wildfire and wind patterns. Smoke itself is made up of a complex mixture of gases and fine particles produced when wood and other organic materials burn. Health risks from smoke inhalation are largely from microscopic particles (PM<sub>2.5</sub>) that can penetrate the lungs and cause a range of health problems, including chronic heart and lung diseases. Exposure to particulate pollution is even linked to premature death. There are some populations that are more sensitive than others to smoke—for instance, people with heart or lung diseases, seniors, children, people with diabetes, people with compromised immune systems, and pregnant women.<sup>25</sup> Through observations of wildfires, experts have determined that the large plumes of smoke from large wildfires can result in that smoke and ash being carried thousands of miles from the burn area of the wildfire. Therefore, air pollution is a major secondary risk from wildfires in the region.<sup>26</sup>

### Wildfire in the Study Area

The Study Area has land in both an LRA and SRA. As shown on Figure 4.16-1, *Fire Hazard Severity Zones*, portions along the northwestern Sphere of Influence are in an SRA and are classified as high and moderate FHSZs. With the city limits, land is within the LRA. A portion of land in the city limits just north of the southern city limit, where Upland Way and Rainbow Drive meet Fremont Older Open Space Preserve, is classified as Very High FHSZ, as shown on Figure 4.16-1.

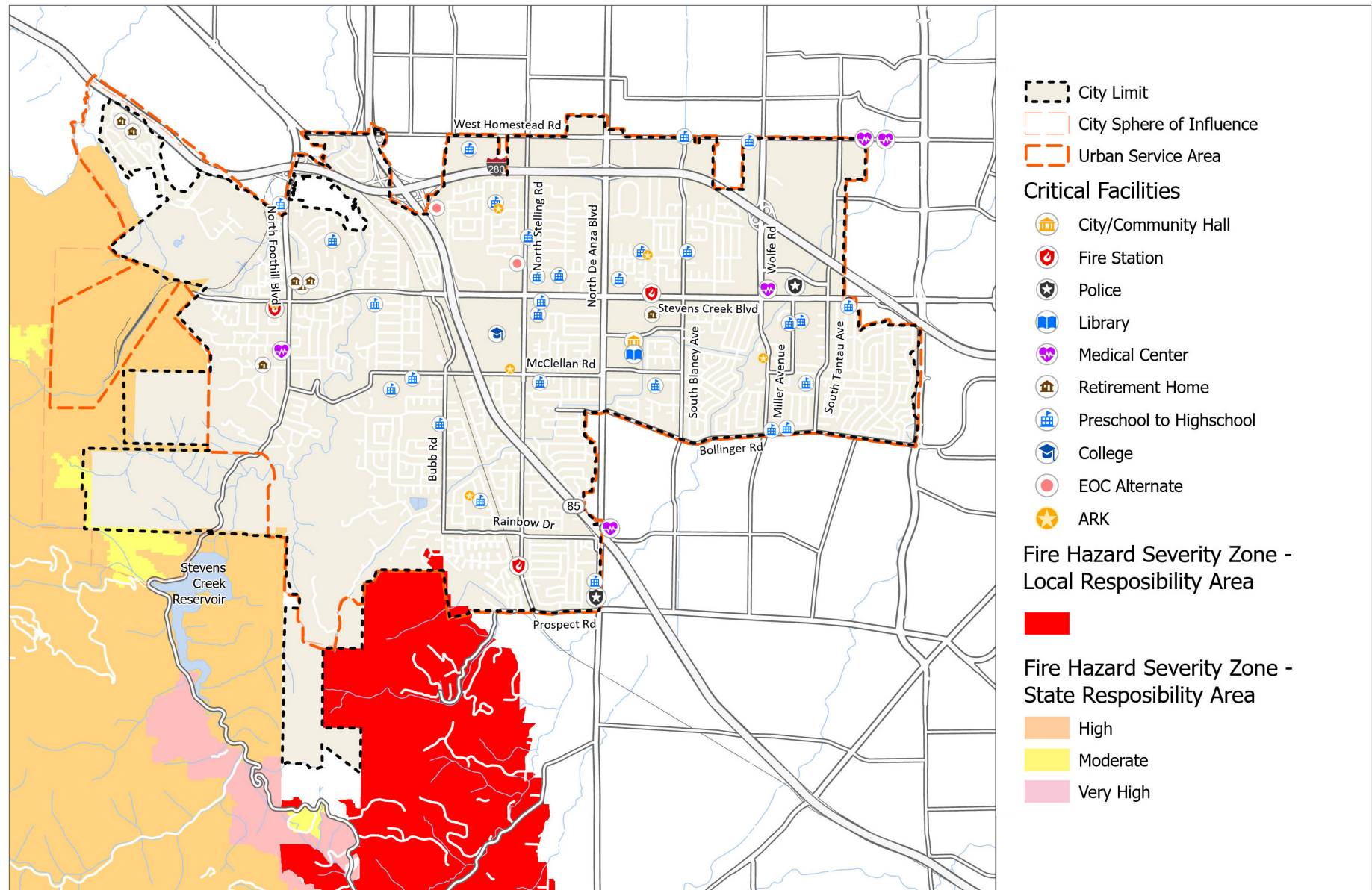
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<sup>23</sup> California Water Science Center, October 2018, Post-Fire Flooding and Debris Flow, United States Geological Survey, accessed June 16, 2023, <https://ca.water.usgs.gov/wildfires/wildfires-debris-flow.html>.

<sup>24</sup> Association of Bay Area Governments, 2023, MTC/ABAG Hazard Viewer Map, Landslide Hazard (Rainfall Induced), accessed June 16, 2023, <https://mtc.maps.arcgis.com/apps/webappviewer/index.html?id=4a6f3f1259df42eab29b35dfcd086fc8>.

<sup>25</sup> US Geological Survey, 2018, How Smoke Fires Can Affect Your Health, accessed on June 16, 2023, <https://www.epa.gov/pm-pollution/how-smoke-fires-can-affect-your-health>.

<sup>26</sup> Nasa Earth Observatory, August 2018, Smoky Skies in North America, accessed on June 16, 2023, <https://earthobservatory.nasa.gov/images/92612/smoky-skies-in-north-america>.

**WILDFIRE**

Source: City of Cupertino, 2023, CAL FIRE, 2022.



Figure 4.16-1

**Fire Hazard Severity Zones**

## WILDFIRE

According to the California Office of Emergency Services, a WUIFA is defined as any area where structures and other human development meet or intermingle within wildland vegetation.<sup>27</sup> Unlike wildfire in wildland areas, fires in WUIFAs are more likely to damage or destroy buildings and infrastructure that support populations, the economy, and key services in the city. The City-adopted WUIFAs are shown on Figure 4.16-2, *Wildland-Urban Interface Fire Areas*. The western and southwestern portions of the city are in high-risk areas, and a small portion of the city on the east border of Fremont Older Open Space Preserve is in a very high risk area. The WUIFA borders unincorporated Santa Clara County. It is zoned as Open Space, Public Park, Recreational Zone (OS/PR), Agricultural Residential (A), and Single Family Residential (R1).

### *Wildfire History*

CAL FIRE maintains a list of historical fires throughout the state. According to CAL FIRE, in the summer of 2007 the Stevens Fire burned 151 acres near Stevens Canyon Reservoir, to the southwest and outside of the Study Area.<sup>28</sup>

### *Factors Influencing Wildfire*

Several factors influence wildfire conditions and facilitate the spread of wildfires, including weather conditions, fuels, topography, and climate change. Human actions are the leading cause of wildfires in California, increasing the risk of wildfire devastating natural lands and communities. This section describes these five factors in the context of Cupertino.

### Weather

The climate in Cupertino is generally referred to as “Mediterranean,” with hot, dry summers and cool, wet winters. The weather is generally mild throughout the year. Due to the proximity of the Pacific Ocean and San Francisco Bay, fog and overcast conditions are common in the morning and evening.<sup>29</sup> The city receives an average of approximately 24 inches of precipitation annually.<sup>30</sup> Because the summer months are generally hot and dry, the risk of wildfires has historically been greatest in summer and fall. Relative humidity is also an important fire-related weather factor. As humidity levels drop, the dry air causes vegetation moisture levels to decrease, thereby increasing the likelihood that plant material will readily ignite and burn; the risk of wildfire increases when lightning strikes occur during dry periods.

Wind is a major weather factor of wildfire behavior. Average wind speeds in Cupertino vary only slightly throughout the year, with the windier part of the year from March to July with average wind speeds of 7.6 miles per hour, and the calmer part of the year from August to March with average wind speeds of

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<sup>27</sup> California Office of Emergency Services, 2018, California State Hazard Mitigation Plan.

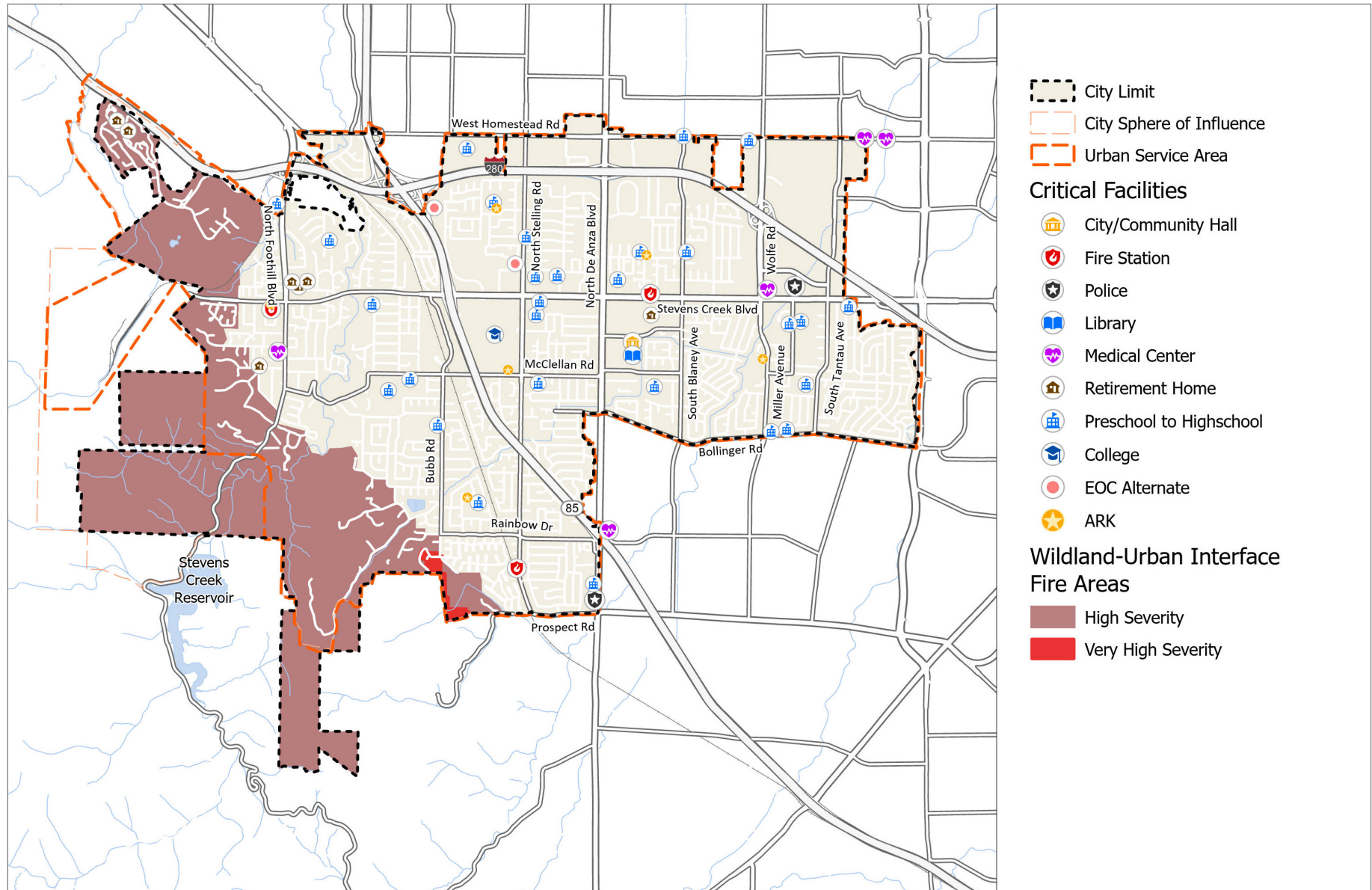
<sup>28</sup> Santa Clara, County of, October 15, 2017, *Santa Clara County Operational Area Hazard Mitigation Plan*, accessed June 19, 2023, <https://emergencymanagement.sccgov.org/sites/g/files/exjcpb261/files/For%20Partners/Local-Hazard-Mitigation-Plan-LHMP-Vol-1.pdf>.

<sup>29</sup> California Department of Forestry and Fire Protection, updated May 2022, *San Mateo – Santa Cruz Unit: 2022 Strategic Fire Plan*, accessed June 16, 2023, <https://osfm.fire.ca.gov/media/lznihvwb/2022-san-mateo-santa-cruz-san-fransisco-unit-fire-plan.pdf>.

<sup>30</sup> Cal-Adapt, 2022, Annual Averages, accessed June 16, 2023, <https://cal-adapt.org/tools/annual-averages/>.



## WILDFIRE



Source: City of Cupertino, 2023.



Figure 4.16-2

Wildland-Urban Interface Fire Areas

## WILDFIRE

6.5 miles per hour.<sup>31</sup> Wind is most commonly from the west from February to November, with winds from the north from November to February.<sup>32</sup>

Diablo winds, which are a type of downslope, warm, northerly to northeasterly wind, flow over the Diablo Mountain range and have had reported speeds of up to 100 miles per hour.<sup>33</sup> As wind speeds increase, the rate of fire spread, intensity, and ember spread potential also increases. Gustly and erratic wind conditions can cause a wildfire to spread irregularly, making it difficult to predict its path and effectively deploy fire suppression forces. Winds from the northeast in the late summer and fall compound with lower relative humidity, creating “red flag” conditions.<sup>34</sup> Diablo winds and low humidity are especially dangerous because low humidity can dry out trees and other fuel that may also be weakened by the winds. This can increase wildfire conditions in the Study Area. Wind shifts can also occur suddenly due to temperature changes and interactions with steep slopes or hillsides, causing fires to spread unpredictably. Fall has historically been one of the most dangerous times for wildfire risk, as periods of very high temperatures, low humidity, and strong wind increase, causing “red flag” warnings and extreme fire danger.

### Fuel

The qualities of vegetation that directly influence fire risk include fuel type and size, loading, arrangement, chemical composition, and dead and live fuel moisture, which contributes to the flammability characteristics of the vegetation. As shown on Figure 4.3-1 of the General Plan EIR, *Vegetation Habitat Types*, the Study Area includes 14 habitat types. Forests make up less than 1 percent of the vegetation cover in the Study Area. The majority of vegetation consists of Coastal Oak Woodland (591 acres), Annual Grass (329 acres), Chamise-Redshank Chaparral (298 acres), and Coastal Scrub (168 acres). Grasslands and scrublands are highly flammable, particularly leaf litter that is left to accumulate, ultimately dries, and provides fuel for potential fires. The fire risk in grassland and scrubland vegetation communities can be reduced through several tactics, primarily controlled burns and annual grazing.<sup>35</sup>

### Topography

Slope is a measure of land steepness, and wildfire intensity and rate of spread increase as slope increases due to the tendency of heat from a fire to rise via convection. For example, as slope increases from 20 to 40 percent, flame heights can double, and rates of fire spread can increase fourfold; from 40 to 60 percent, flame can become three times higher and rates of spread can increase eightfold. The arrangement of vegetation throughout a hillside can also contribute to increased fire activity on slopes. As

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<sup>31</sup> Weatherspark, “Climate and Average Weather Year Round in Cupertino,” accessed January 12, 2024, <https://weatherspark.com/y/504/Average-Weather-in-Cupertino-California-United-States-Year-Round>.

<sup>32</sup> Weatherspark, “Climate and Average Weather Year Round in Cupertino,” accessed January 12, 2024, <https://weatherspark.com/y/504/Average-Weather-in-Cupertino-California-United-States-Year-Round>.

<sup>33</sup> Liu, YC., P. Di, S. H. Chen, et al., November 28, 2020, *Climatology of diablo winds in Northern California and their relationships with large-scale climate variabilities*, accessed June 16, 2023, <https://doi.org/10.1007/s00382-020-05535-5>.

<sup>34</sup> The National Weather Service issues “red flag” weather day warnings when certain weather elements such as low relative humidity and strong winds could lead to increased wildfire risk.

<sup>35</sup> The Nature Conservancy, Restoring Fire to Native Grasslands, accessed January 12, 2024, <https://www.nature.org/en-us/about-us/where-we-work/united-states/minnesota/stories-in-minnesota/restoring-fire-to-native-grasslands/>.

## WILDFIRE

described in Chapter 4.5, *Geology, Soils, & Seismicity*, of the General Plan EIR, the topography of the Study Area is largely flat, with hilly slopes in the western and southwestern portion of the city. The surrounding foothills at the outskirts of the Study Area include a varied, sloped terrain.

### Climate Change

Climate change is likely to increase annual average temperatures in Cupertino from a historical 69.4 degrees Fahrenheit (°F), to 73.5 °F by 2050 and 76.5°F by 2100.<sup>36</sup> This will likely create warmer temperatures earlier and later in the year. Precipitation levels are projected to vary over the course of the century, changing from a historical annual average of 23.7 inches per year, to an annual average of 26.3 inches by 2050 and an annual average of 29.6 inches by 2099.<sup>37</sup> Variations in precipitation patterns will also lead to an increase in frequency and intensity of heavy precipitation events as well as prolonged periods of drought. The combination of extreme heat and droughts can cause soils and vegetation to dry out, creating more fuel for wildfires. These factors are expected to increase wildfire conditions, creating a risk of more frequent and intense wildfires. Because wildfires burn the trees and other vegetation that help stabilize a hillside and absorb water, more areas burned by fire may also lead to an increase in landslides and floods. Historically, an average of 101 acres have burned annually in the Study Area. Wildfires are projected to decrease to an annual average in the Study Area of 88 acres burned by 2050 and an increase in annual average of 105 acres burned by 2100.<sup>38</sup>

### Human Actions

Most wildfires are ignited by human action, the result of direct acts of arson, carelessness, or accidents. Many fires originate in populated areas along roads and around homes and are often the result of careless disposal of cigarettes, mowing of dead grass, electrical equipment malfunction, use of equipment, or burning of debris. Recreation areas with increased human activity that are in fire-prone areas also increase the potential for wildfires.

## Fire Protection Resources

Fire protection services in Cupertino are provided by Santa Clara County Fire Department (SCCFD), which operates three fire stations in Cupertino:

- Cupertino Fire Station at 20215 Stevens Creek Boulevard
- Monta Vista Fire Station at 22620 Stevens Creek Boulevard
- Seven Springs Fire Station at 21000 Seven Springs Parkway

The Fire Prevention Division provides a comprehensive fire/life safety plan review for land development, new building construction, interior remodel projects, fire suppression and fire alarm systems. In addition, periodic construction inspections are performed to ensure that completed projects conform to both state

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<sup>36</sup> Cal-Adapt, 2023, Annual Averages, accessed January 12, 2024, <https://cal-adapt.org/tools/annual-averages/>.

<sup>37</sup> Cal-Adapt, 2023, Annual Averages, accessed January 12, 2024, <https://cal-adapt.org/tools/annual-averages/>.

<sup>38</sup> Cal-Adapt, 2023, Wildfire, accessed January 12, 2024, <https://cal-adapt.org/tools/wildfire>.

## WILDFIRE

and local fire safety regulations. For existing commercial buildings, the Fire Prevention Division provides an annual inspection program that is delivered through both Fire Prevention Division and fire station personnel. Annual inspections are conducted to ensure reasonable compliance with the general and specific fire safety regulations for each occupancy type, as specified in the adopted Fire and Building Codes.

The SCCFD manages and implements a hazardous brush abatement program for hillside areas within its jurisdictional boundaries. In January of each year, homeowners are reminded that they must remove native brush and vegetation from around their homes to create defensible space. The brush abatement program entails inspections of hillside properties by fire crews beginning early April each year. The costs associated with the abatement work are then placed on the property tax bill for that parcel.

Section 4.12, *Public Services and Recreation*, of the General Plan EIR, provides additional details about fire protection resources and services in Cupertino.

## Evacuation and Access

Evacuation routes are designated roadways that allow many people to quickly leave an area due to a potential or imminent disaster. These routes should have sufficient capacity to accommodate the needs of the community, be safely and easily accessible, and allow people to travel far enough away to be safe from emergency conditions.

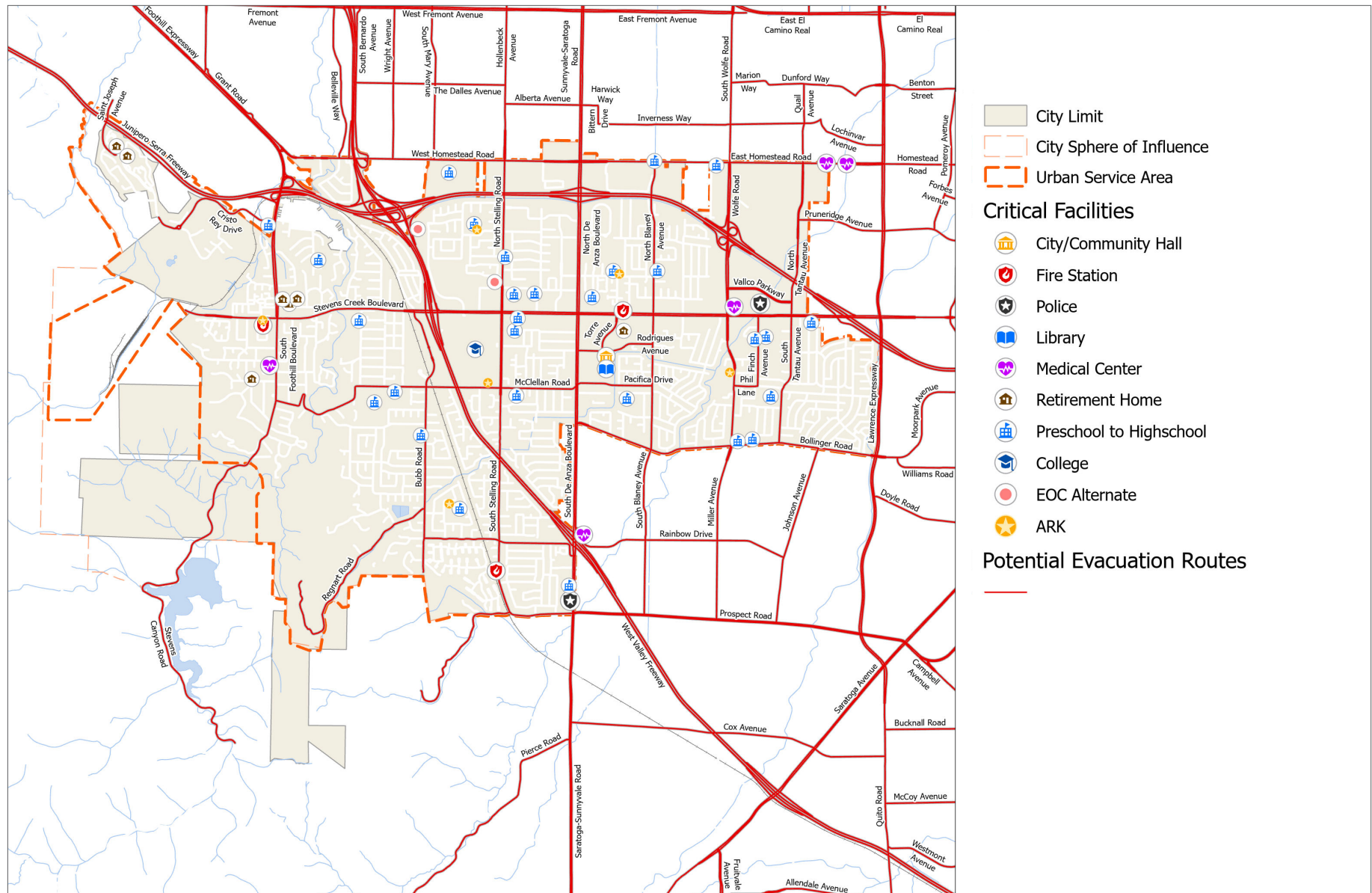
As shown on Figure 4.16-3, *Evacuation Routes*, the primary evacuation routes roads and highways that traverse the city include:

- Interstate 280
- State Route 85
- Bellinger Road
- De Anza Boulevard
- Lawrence Expressway
- McClellan Road
- North Foothill Boulevard
- North Stelling Road
- Prospect Road
- Rainbow Drive
- Stevens Canyon Road
- Stevens Creek Boulevard
- West Homestead Road
- Wolfe Drive

Several residential neighborhoods throughout the Study Area have evacuation constraints, meaning only one road in and out of a neighborhood. Figure 4.16-4, *Evacuation-Constrained Residential Areas*,<sup>39</sup> shows identified evacuation-constrained residential areas throughout the city, including sites within wildfire hazard zones in the western and southwestern portion of the city.

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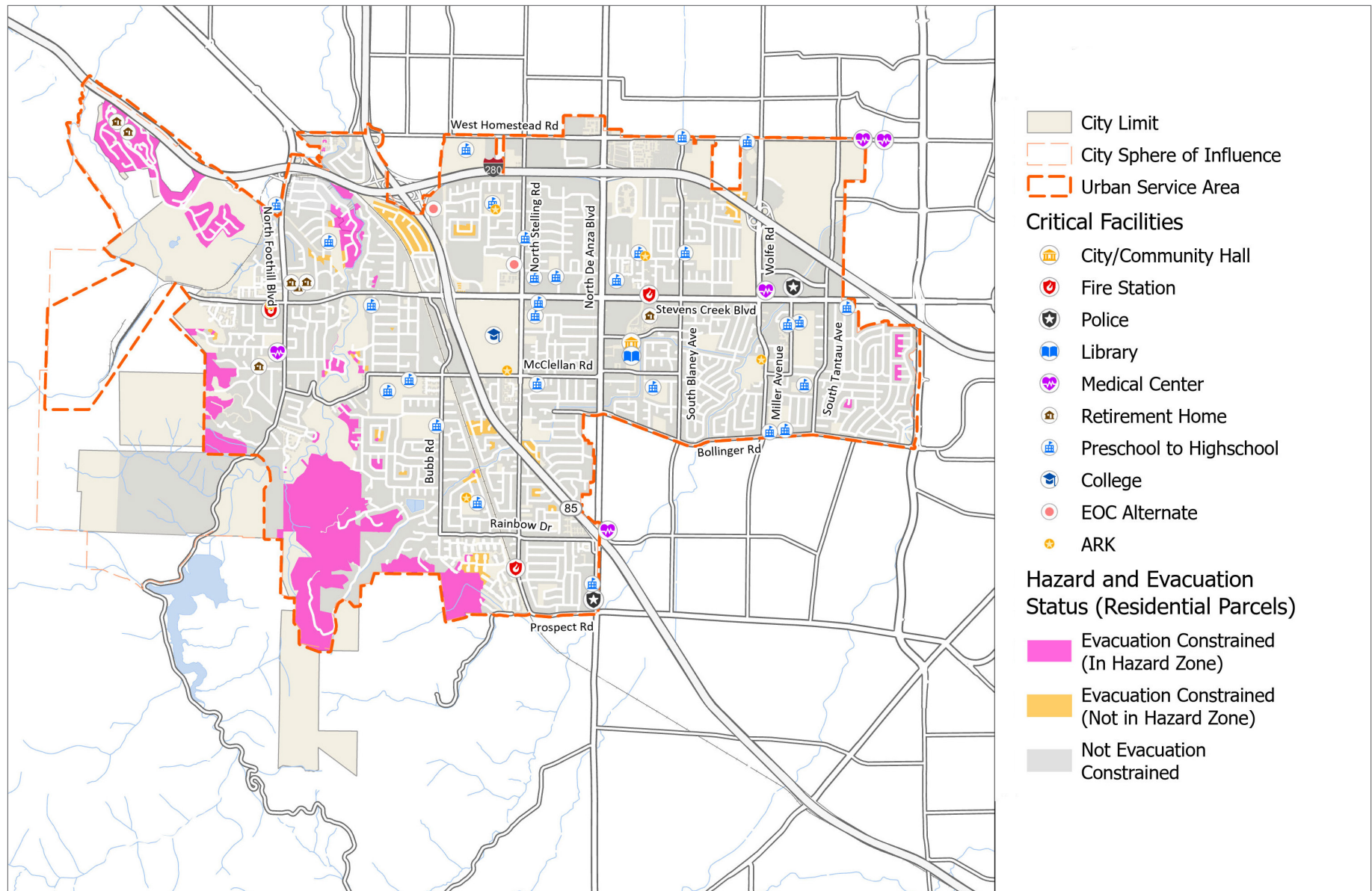
<sup>39</sup> Evacuation-constrained areas mean residential parcels that have fewer than two access routes or residential parcels that are more than 0.5 miles away from the nearest evacuation route. This map was created pursuant to SB 99 and California Government Code Section 65302(g)(5).

**WILDFIRE**

Source: City of Cupertino, 2023, OSM, 2023.

Figure 4.16-3  
Evacuation Routes



**WILDFIRE**

Source: USGS, NASA: OpenStreetMaps, City of Cupertino, 2023.



Figure 4.16-4

**Evacuation-Constrained Residential Areas**

**WILDFIRE****4.16.2 Standards of Significance**

Implementation of the proposed Modified Project would result in significant wildfire impacts if it would:	Impact of the Approved Project (General Plan 2040 EIR)	Impact of the Proposed Modified Project
FIRE-1. Substantially impair an adopted emergency response plan or emergency evacuation plan?	LTS	LTS
FIRE-2. Exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?	N/A	LTS
FIRE-3. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) but would not exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?	N/A	LTS
FIRE-4. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?	N/A	LTS
FIRE-5. Result in a cumulatively considerable impact with respect to wildfire?	N/A	LTS
In December 2018, amendments were made to Appendix G, <i>Environmental Checklist</i> , of the CEQA Guidelines after the certification of the General Plan EIR in 2015. Some of the questions have been added, modified, or removed, while others have been relocated to different chapters of this EA. Wildfire has been added as a separate impact category to Appendix G, thus this EA analyzes the current wildfire questions in addition to FIRE-4, which was included in the General Plan EIR as HAZ-7. In the General Plan EIR, wildfire impacts were included in Chapter 4.8, <i>Hazards and Hazardous Materials</i> . Key: NI = no impact; LTS = less than significant; LTS/M = less than significant with mitigation; SU = significant and unavoidable; N/A = not a standard of significance in the General Plan EIR		

**4.16.3 Impact Discussion**

<b>FIRE-1</b>	<b>Implementation of the proposed Modified Project would not substantially impair an adopted emergency response plan or emergency evacuation plan.</b>
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As described in the General Plan EIR, Section 4.7, *Hazards and Hazardous Materials*, potential future development as a result of implementation of the Approved Project would not substantially impair an adopted emergency response plan or emergency evacuation plan through compliance with applicable federal, State, and local regulations. Impacts to emergency response planning were found to be less than significant and no mitigation measures were required. However, since the certification of the General Plan EIR, the EOP has been updated, and an evacuation plan through Genasys Protection, formerly known as Zonehaven, has been developed for each of the 34 evacuation zones in Cupertino.

The City of Cupertino Emergency Management Division is responsible for coordinating agency response to disasters or other large-scale emergencies in the City of Cupertino with assistance from the Santa Clara County Office of Emergency Services and the SCCFD. The Cupertino EOP is the primary emergency response plan for the city and is described under Section 4.16.1.1, *Regulatory Framework*. In the event of an emergency, the City would activate personnel and mobilize response assets to support the incident response. During a wildfire, the SCCFD would perform firefighting activities and urban search-and-rescue activities, and the Santa Clara County Sheriff's Department would be responsible for conducting

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**WILDFIRE**

evacuations. The routes that would be used in the event of an emergency in the plan area are described in Section 4.16.1.2, *Existing Conditions*.

Section 4.7, *Hazards and Hazardous Materials*, of the General Plan EIR found that the Health and Safety (HS) Element contains policies that require local planning and development decisions to consider impacts of development on an adopted emergency response plan or emergency evacuation plan. Like the Approved Project, the following existing General Plan 2040 policies, and updated policies as part of the proposed Modified Project, would serve to minimize potential adverse impacts on adopted emergency response plans or emergency evacuation plans:

- **Policy HS-2.1. *Promote Emergency Preparedness*.** Distribute multi-hazard emergency preparedness information for all threats identified in the emergency plan. Information will be provided through Cardiopulmonary Resuscitation (CPR), First Aid and Community Emergency Response Team (CERT) training, lectures and seminars on emergency preparedness, publication of monthly safety articles in the Cupertino Scene, posting of information on the Emergency Preparedness website and coordination of video and printed information at the library. (General Plan EIR Policy 6-33)
- **Policy HS-2.2. *Emergency Operations Center*.** Ensure ongoing training of identified City employees on their functions/responsibilities in the EOC and in disaster preparedness, first aid and CPR. (General Plan EIR Policy 6-38)
- **Policy HS-2.4. *Emergency Public Information*.** Maintain an Emergency Public Information program to be used during emergency situations. (General Plan EIR Policy 6-39)
- **Policy HS-3.2. *Early Project Review*.** Involve the Fire Department in the early design stage of all projects requiring public review to assure Fire Department input and modifications as needed. (General Plan EIR Policy 6-8 and Policy 6-13)
- **Strategy HS- 3.3.2. *Dead- End Street Access*.** Allow public use of private roadways during an emergency for hillside subdivisions that have dead-end public streets longer than 1,000 feet or find a secondary means of access. (General Plan EIR Policy 6-14)
- **Strategy HS- 3.3.3. *Hillside Access Routes*.** Require new hillside development to have frequent grade breaks in access routes to ensure a timely response from fire personnel. (General Plan EIR Policy 6-15)
- **Strategy HS- 3.3.4. *Hillside Road Upgrades*.** Require new hillside development to upgrade existing access roads to meet Fire Code and City standards. (General Plan EIR Policy 6-16)
- **Policy HS- 3.4. *Private Residential Electronic Security Gates*.** Discourage the use of private residential electronic security gates that act as a barrier to emergency personnel. (General Plan EIR Policy 6-17)
- **Strategy HS- 3.4.2. *Access to Gates*.** Where electronic security gates area allowed, require the installation of an approved key switch to be accessed by the Fire District.
- **Policy HS-3.5. *Commercial and Industrial Fire Protection Guidelines*.** Coordinate with the Fire Department to develop new guidelines for fire protection for commercial and industrial land uses. (General Plan EIR Policy 6-9)
- **Policy HS-3.6. *Fire Prevention and Emergency Preparedness*.** Promote fire prevention and emergency preparedness through city-initiated public education programs, the government television channel, the Internet and the Cupertino Scene. (General Plan EIR Policy 6-10)

The proposed Modified Project would include potential future development and increased housing densities within the same boundaries as the Approved Project. Additionally, the housing opportunity sites under the proposed Modified Project would not be located in a FHSZ or WUIFA. Furthermore, as shown



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on Figure 4-1, *Priority Development Areas and Transit Priority Areas*, of this EA, the locations of most potential future development under the proposed Modified Project would be in similar areas as those of the Approved Project and would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or near existing residential and residential-serving development in developed areas.

As with the future potential development assessed in the General Plan EIR, development under the proposed Modified Project would be required to comply with applicable laws, policies, and design standards, and would be required to comply with the adopted Cupertino EOP and evacuation plans. Therefore, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or more severe impacts to the implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan beyond what was evaluated in the General Plan EIR.

**Significance without Mitigation:** Less than significant.

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<b>FIRE-2</b>	<b>Implementation of the proposed Modified Project would not, due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to, pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire.</b>
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While the General Plan EIR did not evaluate whether the Approved Project would expose project occupants to pollutant concentrations from a wildfire or uncontrolled spread of a wildfire due to slope, prevailing winds, and other factors, the General Plan EIR does indicate that implementation of Health and Safety Element policies and strategies, along with compliance with State and local requirements, would have less than significant impacts related to wildland fires.

As described in Section 4.16.1.2, *Existing Conditions*, the Study Area varies from flat in the eastern portion of the city to steeply sloped in the western and southwestern portions of the city, experiences Diablo Wind events, and has other factors such as highly flammable grass- and herb-dominated fuels. Under the Approved Project, wildfires and associated smoke could potentially travel to the Study Area and expose residents to the uncontrolled spread of wildfire or pollutant concentrations due to slope, prevailing winds, and highly flammable fuels. However, the potential future development under the proposed Modified Project would not exacerbate these impacts compared to the Approved Project.

As described in Impact Discussion FIRE-1, the proposed Modified Project does not include Housing Opportunity Sites in a FHSZ or a WUIFA. Future potential development under both the Approved Project and the proposed Modified Project would also be required to comply with the California Building Code, California Fire Code, Very High FHSZ Fire Safe Regulations, PRC Section 4291, and the CMC, which provide requirements for vegetation and fuel management and development on slopes that reduce wildfire impacts. Although prevailing winds would not change in the Study Area, future potential development under the proposed Modified Project would be required to comply with Chapter 7A of the CBC, which requires ignition-resistant materials and design that would make the structures less prone to exacerbate wildfire risks than the existing structures in the Study Area. Additionally, these regulations have been updated since the approval of the Approved Project, and therefore the proposed Modified Project would

## WILDFIRE

be required to go beyond the requirements of the Approved Project for vegetation and fuel management in the Study Area to reduce wildfire impacts.

Section 4.7, *Hazards and Hazardous Materials*, of the General Plan EIR also found that the Health and Safety (HS) Element contains policies that require local planning and development decisions to consider impacts that development could have on exacerbating wildfire risks. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize potential for wildfire risk therefore exposing project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire:

- **Policy HS-1.1. Regional Hazard Risk Reduction Planning.** Coordinate with Santa Clara County and local agencies to implement the Multi-Jurisdictional Local Hazard Mitigation Plan (LHMP) for Santa Clara County. (General Plan EIR Policy 6-1)
- **Strategy HS-1.1.1. Monitoring and Budgeting.** Monitor and fund the LHMP program, including local strategies provided in the Cupertino Annex (Section 11). Working with Santa Clara County, ensure that strategies are prioritized and implemented through the Capital Improvement Program and provide adequate budget for on-going programs and department operations. (General Plan EIR Strategy 1)
- **Strategy HS-1.1.2. Mitigation Incorporation.** Ensure that mitigation actions identified in the LHMP are being incorporated into upcoming City sponsored projects, where appropriate. (General Plan EIR Strategy 2)
- **Policy HS- 3.1. Regional Coordination.** Coordinate wildland fire prevention efforts with adjacent jurisdictions. Encourage the County and the Midpeninsula Open Space District to implement measures to reduce fire hazards, including putting into effect the fire reduction policies of the County Public Safety Element, continuing efforts in fuel management, and considering the use of “green” fire break uses for open space lands. (General Plan EIR Policy 6-4, Policy 6-6, and Policy 6-7)
- **Policy HS-3.2. Early Project Review.** Involve the Fire Department in the early design stage of all projects requiring public review to assure Fire Department input and modifications as needed. (General Plan EIR Policy 6-8)
- **Policy HS-3.5. Commercial and Industrial Fire Protection Guidelines.** Coordinate with the Fire Department to develop new guidelines for fire protection for commercial and industrial land uses. (General Plan EIR Policy 6-9)
- **Policy HS- 3.7. Multi-Story Buildings.** Ensure that adequate fire protection is built into the design of multi-story buildings and require on-site fire suppression materials and equipment. (General Plan EIR Policy 6-11)

As with the future potential development assessed in the General Plan EIR, future potential development under the proposed Modified Project would be required to comply with applicable State and local laws, policies, and design standards. Therefore, overall impacts from adoption and implementation of the proposed Modified Project would not result in new or a substantial increase in magnitude of impacts due to slope, prevailing winds, and other factors, that would exacerbate wildfire risks and expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire compared to the Approved Project.

**Significance without Mitigation:** Less than significant.

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<b>FIRE-3</b>	<b>Implementation of the proposed Modified Project would require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities) but would not exacerbate fire risk or that may result in temporary or ongoing impacts to the environment.</b>
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Though the General Plan EIR did not evaluate whether the Approved Project would exacerbate fire risk or result in temporary or ongoing impacts to the environment due to the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines or other utilities), the General Plan EIR does indicate that implementation of the Approved Project would have less than significant impacts related to wildland fires.

Buildout under the Approved Project and proposed Modified Project could require the installation of new roadways, fuel breaks, emergency water sources, power lines, and other utilities to serve development in the Study Area.

- **Roadways.** The proposed Modified Project does not include new roadways in the Very High FHSZ. Potential future development under the proposed Modified Project could, however, create new or expanded roadways in the western, fire-prone areas of the Study Area. Similar to future potential roadways under the Approved Project, State Very High FHSZ Fire Safe Regulations would prevent structures from being placed within 30 feet of a roadway, reducing the potential for new roadways to exacerbate wildfire risks.
- **Fuel Breaks.** As described in Impact Discussion FIRE-2, the Health and Safety (HS) Element of the Approved Project includes Policy HS-3.1 which includes coordination with regional jurisdictions to continue fuel management and use of “green” fire breaks on open space lands. This policy would still be in place as part of the proposed Modified Project.
- **Emergency Water Sources.** The Health and Safety (HS) Element of the Approved Project includes the Policy HS-3.8, which encourages cooperation between the water utility companies and Fire Department to keep water systems in pace with growth and firefighting service needs. This policy would still be in place as part of the proposed Modified Project.
- **Power Lines.** Potential future development under the proposed Modified Project could require electrical line installations and connections to provide power to buildings and infrastructure. However, similar to the Approved Project, the potential future development under the proposed Modified Project would be required to comply with Infrastructure (INF) Element Strategy INF-2.4.2, which requires undergrounding of all utility lines in new developments, which would minimize wildfire risks associated with power lines.
- **Other Utilities.** Potential future development under both the Approved Project and proposed Modified project could also require the installation and maintenance of water systems, sewer systems, internet infrastructure, and stormwater systems. However, the proposed Modified Project does not include land use changes or allow for future potential residential development in wildfire-prone areas.

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These types of improvements would involve temporary construction and result in changes to existing conditions under both the Approved Project and proposed Modified Project. The installation of roadways, power lines, and other utilities could increase the risk of wildfire; however, the proposed Modified Project does not include future potential development in wildfire-prone areas of the Study Area. Additionally, development under the proposed Modified Project would be required to comply with the most recent CBC, CFC, Very High VHSZ Fire Safe Regulations, and Cupertino Municipal Code, which provide specific measures to minimize the ignition and spread of wildfires due to infrastructure. The State and local regulations are stricter than those evaluated under the General Plan EIR.

Given compliance with State and local regulations, the proposed Modified Project would not require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that would result in new or substantially more severe fire risk or result in temporary or ongoing impacts to the environment when compared to the Approved Project.

**Significance without Mitigation:** Less than significant.

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<b>FIRE-4</b>	<b>Implementation of the proposed Modified Project would not expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.</b>
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While the General Plan EIR did not evaluate whether the Approved Project would expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes, the General Plan EIR does indicate that implementation of the Approved Project, specifically in the wildfire-prone areas, would have less than significant impacts related to wildland fires. Additionally, the General Plan EIR indicates the Approved Project would not expose people or structure to a significant risk of loss, injury, or death involving flood hazards, and therefore impacts related to flood hazards were found to be less than significant. The General Plan EIR also indicates that the Approved Project would not expose people or structures to potential substantial adverse effects due to landslides or slope instability.

As described in General Plan EIR Chapter 4.9, *Hydrology and Water Quality*, a small portion of the Study Area is within the 100-year floodplain, including areas immediately adjacent to Permanente Creek, Stevens Creek, Calabazas Creek, and Saratoga Creek. Most of the western and central areas of the Study Area are within the 500-year floodplain. As described in the General Plan EIR, Chapter 4.5, *Geology, Soils, and Seismicity*, the southwestern portion of the Study Area is highly susceptible to landslides. The high landslide susceptibility areas coincide with lands designated as Very High FHSZs.

Both the Approved Project and the proposed Modified Project would include residential development within the 500-year floodplain. Similarly, although the Approved Project would include development in areas of high landslide susceptibility, the proposed Modified Project would not. The proposed Modified Project would also be required to comply with the most recent version of the CBC, CFC, and CMC. These regulations would ensure fire-, floodplain-, and landslide-resilient construction of potential future

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development, and therefore would reduce the potential for post-wildfire flooding or landslides downstream or downslope.

Chapter 4.9, *Hydrology and Water Quality* and Chapter 4.5, *Geology, Soils, and Seismicity*, of the General Plan EIR also found that the Environmental Resources and Sustainability (ES) and Health and Safety (HS) Elements contain policies that require local planning and development decisions to consider impacts that development could have on exposing people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes. Like the Approved Project, the following existing General Plan 2040 policies and strategies, and updated policies and strategies as part of the proposed Modified Project, would also serve to minimize potential adverse impacts due to runoff, post-fire slope instability, or drainage changes:

- **Policy ES-5.3. *Landscaping In and Near Natural Vegetation.*** Preserve and enhance existing natural vegetation, landscape features and open space when new development is proposed within existing natural areas. When development is proposed near natural vegetation, encourage the landscaping to be consistent with the palate of vegetation found in the natural vegetation. (General Plan EIR Policy 5-10)
- **Policy ES-7.2. *Reduction of Impervious Surfaces.*** Minimize storm water flow and erosion impacts resulting from development and use low impact development (LID) designs to treat stormwater or recharge groundwater. (General Plan EIR Policy 5-19)
- **Policy ES-7.3. *Pollution and Flow Impacts.*** Ensure that surface and groundwater quality impacts are reduced through development review and voluntary efforts. (General Plan EIR Policy 5-20)
- **Strategy ES- 7.3.1. *Development Review.*** Require LID designs such as vegetated stormwater treatment systems and green infrastructure to mitigate pollutant loads and flows. (General Plan EIR Strategy 1)
- **Policy ES- 7.5. *Groundwater Recharge Sites.*** Support the Santa Clara Valley Water District efforts to find and develop groundwater recharge sites within Cupertino and provide public recreation where possible. (General Plan EIR Policy 5-23)
- **Strategy ES-7.8.1. *Inter-Agency Coordination.*** Work with the Santa Clara Valley Water District and other relevant regional agencies to enhance riparian corridors and provide adequate flood control by use of flow increase mitigation measures, such as hydromodification controls as established by the Municipal Regional Permit. (General Plan EIR Strategy 2)
- **Policy HS- 7.5. *Hillside Grading.*** Restrict the extent and timing of hillside grading operation to April through October except as otherwise allowed by the City. Require performance bonds during the remaining time to guarantee the repair of any erosion damage. Require all graded slopes must be planted as soon as practical after grading is complete. (General Plan EIR Policy 6-47)

Implementation of future potential development under the proposed Modified Project would not expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes, or result in new impacts or a substantial increase in magnitude of impacts when compared to the Approved Project.

**Significance without Mitigation:** Less than significant.

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### **FIRE-5                      Implementation of the proposed Modified Project would not result in a cumulatively considerable impact with respect to wildfire.**

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The analysis of cumulative wildfire impacts is based on impacts of the proposed Modified Project plus cumulative development in the City of Cupertino and the surrounding region. Future projects proposed within the Very High FHSZ or WUIFA could subject people and structures to wildfire hazards. As described previously, the proposed Modified Project would not result in new impacts or a substantial increase in magnitude of impacts related to interfering with implementation of emergency response or evacuation plans; exacerbating wildfire risks exposing project occupants to pollutant concentrations or the uncontrolled spread of wildfire; exacerbating fire risks or result in temporary or ongoing impacts to the environment due to the installation or maintenance of infrastructure; or exposing people or structures to significant risks as a results of runoff, post-fire slope instability, or drainage changes when compared to the Approved Project.

The addition of other potential future development projects in the Study Area and surrounding region would have the potential to contribute to cumulative wildfire risks. However, future potential development in the Study Area and surrounding region in the Very High FHSZ or WUIFA would be subject to the same State and local regulations, including the CBC, CFC, Very High FHSZ Fire Safe Regulations, and CMC. Potential future development projects would be required to undergo separate CEQA review and identify wildfire impacts and appropriate mitigation measures. Therefore, cumulative wildfire impacts would be less than significant.

**Significance without Mitigation:** Less than significant.

## 5. Alternatives to the Proposed Modified Project

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The following discussion is intended to inform the public and decision makers of feasible alternatives to the proposed Modified Project that would avoid or substantially lessen any of the significant effects of the proposed project. Section 15126.6, *Consideration and Discussion of Alternatives to the Proposed Project*, of the California Environmental Quality Act (CEQA) Guidelines states that:

*An EIR shall describe a range of reasonable alternatives to the project, or the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project and evaluate the comparative merits of the alternatives. An EIR need not consider every conceivable alternative to a project. Rather it must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation. An EIR is not required to consider alternatives, which are infeasible. The lead agency is responsible for selecting a range of project alternatives for examination and must publicly disclose its reasoning for selecting those alternatives. There is no ironclad rule governing the nature or scope of the alternatives to be discussed other than the rule of reason.*

### 5.1 PURPOSE

The alternatives evaluated in this Draft EA were developed consistent with Section 15126.6(b) of the CEQA Guidelines, which states that:

*Because an EIR must identify ways to mitigate or avoid the significant effects that a project may have on the environment (Public Resources Code Section 21002.1), the discussion of alternatives shall focus on alternatives to the project or its location which are capable of avoiding or substantially lessening any significant effects of the project, even if these alternatives would impede to some degree the attainment of the project objectives, or would be more costly.*

### 5.2 PROJECT OBJECTIVES

As stated, the range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the proposed project. As listed in Chapter 3, *Project Description*, of this Draft EA, the City has identified the following objectives, which build on the framework of the Vision and Values and reflect the community's desires for the future of Cupertino and will serve as the project objectives for the EA.

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

- Update the General Plan's Housing Element to comply with State-mandated housing requirements and to address the maintenance, preservation, improvement, and development of housing in the city between 2023 and 2031.
- Include an adequate inventory of housing sites and rezone the sites as necessary to meet the required Regional Housing Needs Allocation (RHNA) and to provide an appropriate buffer.
- To affirmatively further fair housing (AFFH).
- Incentivize the development of housing, particularly affordable housing, suited to special needs and all income levels.
- Promote a healthy and sustainable Cupertino through support of housing at all income levels that minimizes reliance on natural resources and automobile use.
- Update the City's Zoning Code and Land Use and Community Design General Plan Element to be consistent with the Housing Element pursuant to Government Code Section 65300.5 (internal consistency) and Government Code Section 65860 (vertical consistency), respectively.
- Update the City's General Plan Mobility Element to minimize environmental impacts associated with implementation of the Housing Element and be consistent with updated State law and guidance for vehicle miles traveled.
- Update the Heart of the City Specific Plan to be consistent with the Housing Element pursuant to Government Code Section 65860 (vertical consistency).

### 5.3 SELECTION OF A REASONABLE RANGE OF ALTERNATIVES

Section 15126.6(c) of the CEQA Guidelines states:

*The range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects. The EIR should briefly describe the rationale for selecting the alternatives to be discussed. The EIR should also identify any alternatives that were considered by the lead agency but were rejected as infeasible during the scoping process and briefly explain the reasons underlying the lead agency's determination. Additional information explaining the choice of alternatives may be included in the administrative record. Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are: (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts.*

#### 5.3.1 ALTERNATIVE ANALYSIS

Two project alternatives and the comparative merits of the alternatives are described in this chapter in accordance with the CEQA Guidelines. All the potential environmental impacts associated with adoption and implementation of the proposed Modified Project were found to be either less than significant without mitigation or less than significant with mitigation, except for impacts to air quality (AIR), greenhouse gas emissions (GHG), and transportation (TRANS), which were found to be significant and unavoidable at the program level. Although the proposed Modified Project results in significant and unavoidable impacts, the identification of these program-level impacts do not preclude the finding of less-than-significant impacts for subsequent development proposals analyzed at the project level that do not



## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

exceed the applicable project-level thresholds. The program-level significant and unavoidable impacts include the following:

- **Impact AIR-1:** Implementation of the proposed Modified Project would conflict with the growth assumptions under Plan Bay Area 2040 that are applied to the Bay Area Air Quality Management District's (BAAQMD) 2017 Clean Air Plan, the proposed Modified Project would therefore conflict with the air quality emissions forecast in the BAAQMD 2017 Clean Air Plan.
- **Impact AIR-2:** Operation of development projects that could occur from implementation of the proposed Modified Project would generate emissions that would exceed Bay Area Air Quality Management District's regional significance thresholds for Reactive Organic Gases (ROG), nitrogen oxides (NOx), coarse inhalable particulate matter (PM<sub>10</sub>), and fine inhalable particulate matter (PM<sub>2.5</sub>).
- **Impact AIR-5:** The emissions that could occur over the buildout horizon of the proposed Modified Project could generate a substantial increase in emissions that exceeds the Bay Area Air Quality Management District's significance thresholds and cumulatively contribute to the nonattainment designations and health risk in the San Francisco Bay Area Air Basin.
- **Impact GHG-1:** Implementation of the proposed Modified Project would exceed the net zero greenhouse gas emission threshold under Executive Order B-55-18.
- **Impact GHG-2:** The proposed Modified Project would not meet California Green Building Standards Code nonresidential voluntary Tier 2 electric vehicle parking standards and would exceed the City of Cupertino's vehicle miles traveled reduction threshold, and therefore be inconsistent with the California Air Resources Board Scoping Plan.
- **Impact GHG-3:** The proposed Modified Project would result in vehicle miles traveled that would exceed the City of Cupertino's reduction target, and therefore conflict with the California Air Resources Board Scoping Plan and Executive Order B-55-18.
- **Impact TRANS-2:** Implementation of the proposed Modified Project would exceed the adopted Cupertino vehicle miles traveled (VMT) threshold per service population of 31.30 VMT by 3.5 VMT per service population, due to forecasted growth through 2040.
- **Impact TRANS-5:** Implementation of the proposed Modified Project would cumulatively contribute to regional vehicle miles traveled.

The alternatives were selected because of their potential to further reduce and avoid these impacts. The alternatives to be analyzed in comparison to the proposed project include:

- Alternative A: No Project Alternative (Current General Plan 2040) and
- Alternative B: Increased Housing Sites Alternative.

The first alternative is the CEQA-required "No Project" Alternative, which assumes the current General Plan 2040 remains in effect and is not replaced by the proposed Modified Project. Alternative B assumes additional housing units would be allowed on parcels with commercial land uses along Stevens Creek Boulevard and De Anza Boulevard.

### 5.3.2 ASSUMPTIONS AND METHODOLOGY

The alternatives analysis is presented as a comparative analysis to the proposed Modified Project. The development intensity for the alternatives varies from the proposed Modified Project. The estimated growth under each alternative, as well as the proposed Modified Project, is provided in Table 5-1, *Total*

**ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT**

*Forecasted Growth for the Proposed Modified Project and the Alternatives to the Proposed Modified Project.*

**TABLE 5-1 TOTAL FORECASTED GROWTH FOR THE PROPOSED MODIFIED PROJECT AND THE ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT**

Category	Proposed Modified Project	Alternative A: No Project	Alternative B: Increased Housing Sites
Housing Units <sup>a</sup>	29,132	25,820	30,119
Population <sup>b</sup>	81,037	71,300	83,939
Jobs	44,242	44,242	44,242

Notes:

a. Total housing units accommodated under the proposed Modified Project, Alternative A, and Alternative B.

b. Total population accommodated under the proposed Modified Project, Alternative A, and Alternative B.

Source: City of Cupertino, 2024.

The alternatives analysis assumes that all applicable mitigation measures recommended for the proposed project and the proposed General Plan 2040 goals, policies, and strategies would apply to Alternative B, but would not apply to Alternative A. The following discussion compares the environmental impacts of the alternatives with those of the proposed Modified Project for each of the environmental topics analyzed in detail in Chapter 4, *Environmental Analysis*, of this Draft EA. The impacts of each alternative are classified as less than (<), similar or comparable to (=), or greater than (>) the level of impacts associated with the proposed project. Table 5-2, *Comparison of Impacts of the Project Alternatives and the Proposed Modified Project*, summarizes the relative impacts of each of the alternatives compared to the proposed project.

**TABLE 5-2 COMPARISON OF IMPACTS OF THE PROJECT ALTERNATIVES AND THE PROPOSED MODIFIED PROJECT**

Topic	Proposed Project <sup>a</sup>	Alternative A: No Project	Alternative B: Increased Housing Sites
Aesthetics	LTS	=	=
Air Quality	SU	<	<
Biological Resources	LTS	=	=
Cultural and Tribal Cultural Resources	LTS	=	=
Energy	LTS	<	=
Geology and Soils	LTS	=	=
Greenhouse Gas Emissions	SU	<	<
Hazards and Hazardous Materials	LTS	=	=
Hydrology and Water Quality	LTS	<	>
Land Use and Planning	LTS	>	=
Noise	LTS	<	<
Population and Housing	LTS	>	=
Public Services and Recreation	LTS	<	>
Transportation	SU	>	<
Utilities and Service Systems	LTS	<	>
Wildfire	LTS	=	=

Note:

<sup>a</sup>. The impacts listed in this column represent the highest significance determination for each respective standard of significance.

LTS Less Than Significant

LTS/M Less Than Significant with Mitigation

SU Significant and Unavoidable

<

Fewer impact in comparison to the proposed project

=

Similar impact in comparison to the proposed project

>

Greater impact in comparison to the proposed project

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

### 5.4 ALTERNATIVE A: NO PROJECT

#### 5.4.1 DESCRIPTION

Pursuant to CEQA Guidelines Section 15126.6(e)(1), the No Project Alternative is required as part of the “reasonable range of alternatives” to allow decision makers to compare the impacts of approving the proposed project with the impacts of taking no action or not approving the proposed project. Consistent with CEQA Guidelines Section 15126.6(e)(3)(A), when the project is the revision of a plan, as in this case, the no project alternative will be the continuation of the existing plan. Under Alternative A, potential future development in Cupertino would continue to be subject to existing policies, regulations, development standards, and land use designations of the existing General Plan 2040.

#### 5.4.2 IMPACT DISCUSSION

The potential environmental impacts associated with Alternative A when compared to the proposed Modified Project are described herein.

##### 5.4.2.1 AESTHETICS

As described in Chapter 4.1, *Aesthetics*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to aesthetics. Like the proposed Modified Project, potential future development in the Study Area under Alternative A is anticipated to occur in the form of infill/intensification on sites either already developed and/or underutilized, and/or in close proximity to existing development, where future development would have a lesser impact on scenic vistas. General Plan 2040 reinforces existing uses, heights, and densities in most locations, and therefore would not substantially increase building height beyond what is previously accounted for under Approved Project.

The westward views of the foothills and ridgelines of the Santa Cruz Mountains are considered scenic vistas and the Caltrans designated segment of Interstate 280 (I-280) from Santa Clara County line on the west to I-880 on the east, as an eligible State Scenic Highway is a scenic corridor. Potential future development under either scenario would occur in the form of infill/intensification on sites either already developed and/or underutilized. Therefore, implementation of either scenario would not have a substantial adverse effect on a scenic vista or damage existing scenic resources within a state scenic highway and impacts would be *similar*.

Applicable future projects under both scenarios would be subject to the Architectural and Site Review process, in accordance with CMC Chapter 19.168, *Architectural and Site Review*, or would be required to comply with Design Standards outlined in the General Plan, Heart of the City Specific Plan, or other appropriate Conceptual Plans, the Monta Vista Design Guidelines, or the South Vallco Specific Plan. However, Alternative A would not realize the new or modified General Plan 2040 goals, policies, or strategies that were prepared as part of the proposed Modified Project. For example, a new policy requires views of the Montebello foothills to be preserved. Thus, unlike the proposed Modified Project, which includes this new policy, development under this alternative would not provide the same level of design consideration related to the visual character or quality of a project site near Montebello Foothills;

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

thus, aesthetic impacts related to these topics from potential development under Alternative A would be *greater* when compared to the proposed Modified Project.

Similar to the proposed Modified Project, Alternative A would result in new lighting sources that could result in sources of glare. Potential future development under both scenarios would be required to comply with best management practices in CALGreen and Cupertino Municipal Code (CMC) that ensure new land uses do not generate excessive light levels and reduce light and glare spillover from future development to surrounding land uses. Because Alternative A would result in less development than the proposed Modified Project, fewer new light and glare sources would be introduced, and impacts would be *less* when compared to the proposed Modified Project.

Overall, while Alternative A would not realize the new or modified General Plan 2040 goals, policies, or strategies that were prepared as part of the proposed Modified Project, development in the Study Area under Alternative A would be less and would be guided by the current policies and regulations that guide development in Cupertino. Thus, impacts related to aesthetics would be *similar* when compared to the proposed Modified Project.

### 5.4.2.2 AIR QUALITY

As described in Chapter 4.2, *Air Quality*, of this Draft EA, the proposed Modified Project would result in significant and unavoidable impacts even with implementation of the Standard Environmental Protection Requirements. Implementation of the proposed Modified Project would have the potential to exceed Bay Area Air Quality Management District (BAAQMD) significance thresholds for Volatile Organic Compounds (VOC), nitrogen oxides (NO<sub>x</sub>), coarse inhalable particulate matter (PM<sub>10</sub>), and fine inhalable particulate matter (PM<sub>2.5</sub>), as well as conflict with the BAAQMD *2017 Clean Air Plan*.

Alternative A would continue development as allowed under the Approved Project, which would result in less development in the Study Area compared to the proposed Modified Project. Development under both scenarios would be subject to applicable laws and regulations, including those under Cupertino Municipal Code (CMC) Section 17.04.040, *Standard Environmental Protection Technical Report Submittal Requirements*, and Section 17.04.050, *Standard Environmental Protection Permit Submittal Requirements*. Additionally, future development under both scenarios could result in construction activities near residential and other sensitive land uses, thus, temporarily elevating concentrations of toxic air contaminants in the vicinity of sensitive land uses. While the regulatory setting mitigating construction impacts is the same under both scenarios, less development would occur under Alternative A; therefore, construction impacts would be *fewer* when compared to the proposed Modified Project.

Under Alternative A, less development would occur; therefore, fewer direct and indirect criteria air pollutant emissions from energy (e.g., natural gas use) and area sources (e.g., aerosols and landscaping equipment) would occur. Therefore, the operational air quality impacts of Alternative A would be *less* when compared to the proposed Modified Project.

Like the proposed Modified Project, Alternative A is not the type of project that would result in significant impacts from odor and impacts would be *similar* under both scenarios.

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

Overall, air quality impacts under Alternative A would be *fewer* when compared to the proposed Modified Project.

### 5.4.2.3 BIOLOGICAL RESOURCES

As described in Chapter 4.4, *Biological Resources*, of this Draft EA, the proposed Modified Project would result in less-than-significant impacts to biological resources. The Study Area is not within any local, regional, or State Habitat Conservation Plan areas. Therefore, neither scenario would conflict with the conservation strategy in any Habitat Conservation Plan or Natural Community Conservation Plan and impacts would be *similar*.

Potential future development under both scenarios would occur in already urbanized areas on sites either already developed and/or underutilized, and/or near existing development without sensitive natural communities and where special-status species are generally not expected to occur. Accordingly, impacts to these biological resources under Alternative A would be *similar* when compared to the proposed Modified Project.

Impacts to the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors under both scenarios would be mitigated. Under both Alternative A and the proposed Modified Project, potential future development would be required to comply with the Standard Environmental Protection Requirements under CMC Section 17.04.050, *Standard Environmental Protection Permit Submittal Requirements*. Thus, impacts to biological resources from potential future development as allowed under Alternative A would be *similar* when compared to the proposed Modified Project.

### 5.4.2.4 CULTURAL AND TRIBAL CULTURAL RESOURCES

As described in Chapter 4.4, *Cultural and Tribal Cultural Resources*, of this Draft EA, the proposed Modified Project would result in less-than-significant impacts to cultural and tribal cultural resources.

Under Alternative A, new development would continue throughout the city under existing plans and regulations. As explained in Chapter 4.4, there are existing prehistoric, architectural, historical, or archaeological resources in the Study Area that could all be impacted by new demolition, inappropriate modification, or inappropriate new construction under the proposed Modified Project or Alternative A. Like the proposed Modified Project, Alternative A would be subject to the procedures of conduct following the discovery of human remains set forth in California Health and Safety Code, Public Resources Code, and the California Code of Regulations, as well as the policies and strategies in General Plan 2040. Additionally, future potential development under both the proposed Modified Project and Alternative A would be required to comply with CMC Section 17.04.050, *Standard Environmental Protection Permit Submittal Requirements*. Development in both scenarios would occur on previously disturbed sites and/or near existing development where buried cultural and tribal cultural resources may be less common. Though less development would occur under the Alternative A scenario, the development would occur in similar locations as under the proposed Modified Project, and the potential to impact these resources would be *similar* when compared to the proposed project.

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## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

### 5.4.2.5 ENERGY

As described in Chapter 4.5, *Energy*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to energy.

All development that occurs in the state is required to comply with best management practices regulated in the CALGreen and Building and Energy Efficiency Standards, which ensure new development would not result in the wasteful or inefficient use of energy. Additionally, neither the proposed Modified Project nor Alternative A would introduce a level of development and population growth that would be anticipated to necessitate the construction of new energy supply facilities or transmission infrastructure.

Less development would occur under the Alternative A scenario, so energy consumption from construction would be *less* when compared to the proposed Modified Project. The energy efficiency standards in place for new development would ensure that operational energy consumption under the Alternative A scenario would be *similar* to consumption under the proposed Modified Project. Therefore, overall energy demand and consumption would be *less* under Alternative A when compared to the proposed Modified Project.

### 5.4.2.6 GEOLOGY AND SOILS

As described in Chapter 4.6, *Geology and Soils*, of this Draft EA, the proposed Modified Project would result in less-than-significant impacts related to geology and soils.

Future development under both Alternative A and the proposed Modified Project would be subject to the same federal, State, and local regulations that address and prevent hazards associated with geology, soils, and seismicity. Both the Approved Project and proposed Modified Project encourage development in urbanized settings where there is less likelihood for impacts from geologic hazards to occur and include General Plan 2040 policies and strategies that minimize adverse effects to geologic processes, soil erosion, and loss of topsoil. Although Alternative A would result in less overall development, compliance with existing regulations related to geologic and seismic safety would apply similarly to both future development under Alternative A and the proposed Modified Project. Thus, Alternative A would result in *similar* impacts when compared to the proposed Modified Project.

### 5.4.2.7 GREENHOUSE GAS EMISSIONS

As described in Chapter 4.7, *Greenhouse Gas Emissions*, of this Draft EA, the proposed Modified Project would result in significant and unavoidable impacts to greenhouse gas (GHG) emissions and would not be consistent with the GHG emissions thresholds set by Executive Order B-55-18 and the California Air Resources Board Scoping Plan.

There would be less development under the Alternative A scenario, though the development under the proposed Modified Project would be limited to infill/intensification on sites either already developed and/or underutilized, and/or near existing residential and residential-serving development. However, due to the increase in development, exceedance of the vehicle miles traveled (VMT) threshold, and increase in

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

population under the proposed Modified Project, overall impacts from GHG emissions under Alternative A would be *less* when compared to the proposed Modified Project.

### 5.4.2.8 HAZARDS AND HAZARDOUS MATERIALS

As described in Chapter 4.8, *Hazards and Hazardous Materials*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to hazards and hazardous materials. Cupertino is not within two miles of a public airport or within any protected airspace zones defined by the Santa Clara County Airport Land Use Commission (ALUC), and there are no private airstrips or heliports listed by FAA in Cupertino, thus there would be no impact under either scenario.

As described in Chapter 4.8, there are sites within the Study Area that are included on a list of hazardous materials sites. Impact Discussion HAZ-3 and HAZ-4 of this Draft EA concluded that implementation of the proposed Modified Project could result in the release of hazardous materials within one-quarter mile of school and construction and operation activities on sites with known hazardous materials and, as a result, create a significant hazard to the public or the environment. However, compliance with CMC Chapter 17.04.040(B), *Hazardous Materials*, in addition to applicable laws, policies, and design standards governing the release of hazardous materials would result in a less-than-significant impacts under both the Approved Project and the proposed Modified Project. Additionally, implementation of either scenarios would require the routine transport, use, or disposal of hazardous materials.

The proposed Modified Project and Alternative A would include the same General Plan 2040 policies to minimize potential adverse impacts on residential projects within an emergency response plan or emergency evacuation plan. Thus, impacts under the Alternative A scenario would be *similar* to the proposed Modified Project.

Because there is less development potential under Alternative A, the risk associated with construction hazards and hazardous materials is *less* than under the proposed Modified Project. However, overall impacts would be *similar* when compared to the proposed Modified Project.

### 5.4.2.9 HYDROLOGY AND WATER QUALITY

As described in Chapter 4.9, *Hydrology and Water Quality*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to hydrology and water quality. Compliance with existing State and local regulations and procedures would ensure that pre- and post-construction impacts to water quality would be less than significant. These regulations and procedures would be maintained under Alternative A.

Potential future development under both scenarios would occur within previously urbanized areas and would connect to existing drainage systems already in place. Alternative A involves less development potential, less ground disturbance and potential change in drainage patterns, and less water use from groundwater sources. As such, impacts to hydrology and water quality would be *lesser* when compared to the proposed Modified Project.

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## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

### 5.4.2.10 LAND USE AND PLANNING

As described in Chapter 4.10, *Land Use and Planning*, of this Draft EA, the proposed Modified Project would result in less-than-significant impacts to land use and planning.

The Approved Project was adopted with the purpose of harmonizing changes to existing developed areas to better serve community needs. Both the proposed Modified Project and Alternative A would aim to improve connectivity and would not create physical barriers within existing communities. They would also both support the integration of infill development and would not propose physical features that could divide a community. Accordingly, impacts would be *similar* under both scenarios.

Under Alternative A, development would continue to occur throughout the Study Area under Approved Project and would not conflict with these already approved standards. However, Alternative A would not implement new or modified General Plan 2040 goals, policies, and strategies, and would not include the rezoning of parcels to be consistent with the General Plan, included in the proposed Modified Project. Further, the proposed Modified Project includes forecasted housing projection that meets the City's 2023–2031 Regional Housing Needs Allocation (RHNA), as well as additional housing projections that would accommodate the following RHNA cycles throughout the buildout horizon, to support the mandatory future Housing Element updates. The proposed Modified Project would also include the rezoning of properties to increase consistency between the General Plan land use designations and Zoning Code. Thus, continuing the use of only the Approved Project would conflict with applicable the land use plans adopted for the purpose of avoiding or mitigating an environmental effect and impacts would be *greater* when compared to the proposed Modified Project.

### 5.4.2.11 NOISE

As described in Chapter 4.11, *Noise*, of this Draft EA, the proposed Modified Project would result in less-than-significant impacts to noise. The Study Area is not located in the vicinity of a private airstrip or an airport land use plan, and therefore would have no impact related to airport or aircraft noise.

Under Alternative A, development would continue to occur throughout the Study Area under Approved Project, which would include less noise from construction, traffic, or other sources that would increase ambient noise levels. However, both the proposed Modified Project and Alternative A would be required to comply with CMC Chapter 10.48, *Community Noise Control*, Section 17.04.040(D)(1), *Vibration Technical Report Requirements*, and Section 17.04.050(G)(1), *Noise and Vibration Permit Requirements*, as well as federal, State, and local regulations related to temporary and operational noise.

Because there is less development potential under Alternative A, overall temporary and operational noise impacts would be *less* than under the proposed Modified Project.

### 5.4.2.12 POPULATION AND HOUSING

As described in Chapter 4.12, *Population and Housing*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to population and housing.



## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

Alternative A would not include the additional housing opportunity sites included in the proposed Modified Project that are required to meet the 2023-2031 RHNA. Additionally, Alternative A would not include the updated policy framework of the proposed Modified Project that ensure adequate planning occurs to accommodate the project growth of the city. Therefore, impacts under Alternative A would be *greater* when compared to those under the proposed Modified Project.

### 5.4.2.13 PUBLIC SERVICES

As described in Chapter 4.13, *Public Services*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to fire protection services, police services, parks, schools, and libraries.

Alternative A would result in less housing and thus fewer residents in the Study Area. Therefore, the Alternative A scenario would result in less demand for public services provided in the Study Area. Potential future development under Alternative A would be required to comply with all existing City regulations adopted to ensure that development pays its fair share of the cost of delivering services, providing park space and libraries, while payment of property taxes would ensure that future development pays its fair share towards schools. Overall, impacts under Alternative A would be *less* than those of the proposed Modified Project.

### 5.4.2.14 TRANSPORTATION

As described in Chapter 4.14, *Transportation*, of this Draft EA, the proposed Modified Project would not result in significant impacts related to conflicting with a program, plan, ordinance, or policy addressing the circulation system, increasing hazards due to geometric design features or incompatible uses, or inadequate emergency access. However, the proposed Modified Project would result in a significant and unavoidable impact related to an increase in VMT beyond the City's adopted threshold.

Alternative A would result in less housing and thus fewer residents in the Study Area. Therefore, similar to the proposed Modified Project, Alternative A would not result in significant impacts related to conflicting with a program, plan, ordinance, or policy addressing the circulation system, increasing hazards due to geometric design features or incompatible uses, or inadequate emergency access. Additionally, future potential development under both the proposed Modified Project and Alternative A would be required to comply with CMC Section 17.04.040(C), *Vehicle Miles Traveled Technical Report Requirements*, and CMC Chapter 17.08, *Evaluation of Transportation Impacts under the California Environmental Quality Act*, as well as federal, State, regional, and local regulations related to transportation.

As described in Chapter 4.14 of this EA, Table 9, *Total Project Generated VMT Assessment*, of Appendix E, *Transportation Analysis*, of this EA, shows that the proposed Modified Project would generate 34.8 VMT per service population (sum of all residents and employees), which is 1.76 VMT per service population less than the Approved Project. Accordingly, Alternative A would have worse impacts related to VMT compared to the proposed Modified Project. Therefore, overall impacts under Alternative A would be *greater* than those of the proposed Modified Project.

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## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

### 5.4.2.15 UTILITIES AND SERVICE SYSTEMS

As described in Chapter 4.15, *Utilities and Service Systems*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to water, wastewater, stormwater, or energy infrastructure and services.

Demand and consumption trends generally demonstrate that advances in recycling and solid waste reduction requirements, water-efficient regulations in building and landscaping, and stricter stormwater retention requirements, would reduce impacts under both the proposed Modified Project and Alternative A. It is assumed that because Alternative A would result in less overall development than the proposed Modified Project, there would be less overall water demand, wastewater and solid waste generation, and energy use. Future potential development under both the proposed Modified Project and Alternative A would be required to comply with federal, State, regional, and local regulations for managing stormwater during construction and operation of projects, including CMC Section 17.04.050(F), *Control Stormwater Runoff* Contamination. Thus, impacts under Alternative A would be *less* than those of the proposed Modified Project.

### 5.4.2.16 WILDFIRE

As described in Chapter 4.16, *Wildfire*, of this Draft EA, the proposed Modified Project would not result in any significant wildfire impacts. Due to compliance with applicable local, regional, and State regulations, development under both scenarios would not impair the implementation of an emergency response or emergency evacuation plan or be within a Very High Fire Hazard Severity Zone or a Wildland Urban Interface Fire Area, nor would either scenario expose people or structures to significant wildfire risks, including downslope or downstream flooding or landslides. Neither scenario would result in the installation or maintenance of any infrastructure that could exacerbate fire risk or result in impacts to the environment.

Alternative A would continue implementation of the Approved Project, including the General Plan policies and strategies listed in Chapter 4.16. Therefore, potential future development under the Alternative A scenario would have *similar* wildfire impacts when compared to the proposed Modified Project.

## 5.4.3 RELATIONSHIP OF THE ALTERNATIVE TO THE OBJECTIVES

Under Alternative A, the Approved Project would remain in place and the proposed Modified Project would not be implemented; therefore, this alternative would not accomplish any of the project objectives.

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

### 5.5 ALTERNATIVE B: INCREASED HOUSING SITES

#### 5.5.1 DESCRIPTION

The purpose of this alternative is to reduce significant and unavoidable impacts associated with vehicle miles travelled as evaluated in the Chapter 4.14, *Transportation*, of this EA. Alternative B would demonstrate increased compliance with *Plan Bay Area 2050*, the Bay Area's Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS) that identifies the sustainable vision for the Bay Area, than the proposed Modified Project. Alternative B assumes all the proposed amendments to the General Plan 2040 and Zoning Code would occur. The housing sites identified under the proposed Modified Project would remain, but there would be additional housing sites. These sites would include those that comply with the Affordable Housing and High Road Jobs Act, commonly known by its legislative bill number, Assembly Bill 2011 (AB 2011), that was adopted in August 2020. In general, the intent of AB 2011 is to make affordable housing by right on commercially zoned lands, and mixed-income housing by right along commercial corridors. This alternative would focus increased residential density along Stevens Creek Boulevard and South De Anza Boulevard, which are Priority Development Areas (PDA) and Transit Priority Areas (TPA) of *Plan Bay Area 2050*. This would include an additional 18 housing sites totaling 987 additional housing units, as shown in Table 5-3, *Alternative B: Increased Housing Sites*. As shown in Figure 5-1, *Alternative B: Increased Housing Sites*, the majority of the additional housing sites would be within the boundaries of the high-transit corridor along Stevens Creek Boulevard (922 additional dwelling units) and two additional sites would be on South De Anza Boulevard (65 additional dwelling units). The alternatives analysis assumes that all applicable mitigation measures and General Plan goals, policies, and strategies recommended for the proposed Modified Project would apply to Alternative B. The potential environmental impacts associated with Alternative B when compared to the proposed Modified Project are described herein.

#### 5.5.2 IMPACT DISCUSSION

##### 5.5.2.1 AESTHETICS

As described in Chapter 4.1, *Aesthetics*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to aesthetics. Like the proposed Modified Project, potential future development in the Study Area under Alternative B is anticipated to occur in the form of infill/intensification on sites either already developed and/or underutilized, and/or near existing development, where future development would have a lesser impact on scenic vistas. General Plan 2040 reinforces existing uses, heights, and densities in most locations, and therefore would not substantially increase building height beyond what is previously accounted for under Approved Project.

**ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT****TABLE 5-3 ALTERNATIVE B: INCREASED HOUSING SITES**

Site No.	Assessor's Parcel Number	Size (acres)	Neighborhood	General Plan Land Use Designation		Zoning District		Maximum Density (dwelling units/acre) <sup>a</sup>		Maximum Dwelling Units		
				Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Net New <sup>b</sup>
A	36610127	0.86	South De Anza	Commercial/Residential	Very High Density	P(CG, Res 5-15)	P(Res)	15	65	13	56	43
B	36619044	0.44	South De Anza	Commercial/Residential	Very High Density	P(CG, Res 5-15)	P(Res)	15	65	7	29	22
C	36619045	0.07	South De Anza	Commercial/Residential	Very High Density	P(CG, Res 5-15)	P(Res)	15	65	1	5	4
D	31623095	1.14	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(Res)	25	65	29	74	45
E	31624047	1.08	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(Res)	25	65	27	70	43
F	31625042	0.88	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(Res)	25	65	22	57	35
G	31626090	2.2	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(Res)	25	65	55	143	88
H	32631019	3.79	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(Res)	0	65	0	246	246
I	32632051	0.68	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(CG, Res)	25	65	17	44	27
J	36903002	1.05	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(CG, Res)	25	65	26	68	42
K	36905044	1.92	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(CG, Res)	25	65	48	125	77
L	36940038	0.93	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(CG, Res)	25	65	23	60	37

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

**TABLE 5-3      ALTERNATIVE B: INCREASED HOUSING SITES**

Site No.	Assessor's Parcel Number	Size (acres)	Neighborhood	General Plan Land Use Designation		Zoning District		Maximum Density (dwelling units/acre) <sup>a</sup>		Maximum Dwelling Units		
				Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed	Net New <sup>b</sup>
M	37501014	0.51	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(CG, Res)	25	65	13	33	20
N	37501021	1.31	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(CG, Res)	25	65	33	85	52
O	37501022	1.03	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(CG, Res)	25	65	26	67	41
P	37502021	0.84	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(CG, Res)	25	65	21	55	34
Q	37506005	2.31	Heart of the City	Commercial/Office/Residential	Very High Density	P(CG, Res)	P(CG, Res)	25	65	58	150	92
R	36905007	0.46	Heart of the City - Central	Commercial/Office/Residential	Commercial/Residential	P(CG, Res)	P(Res)	25	65	12	30	18
S	3263404, 32634066	5.1	Heart of the City	Commercial	Very High Density	P(CG, Res)	P(CG, Res)	0	65	0	332	332

Notes:

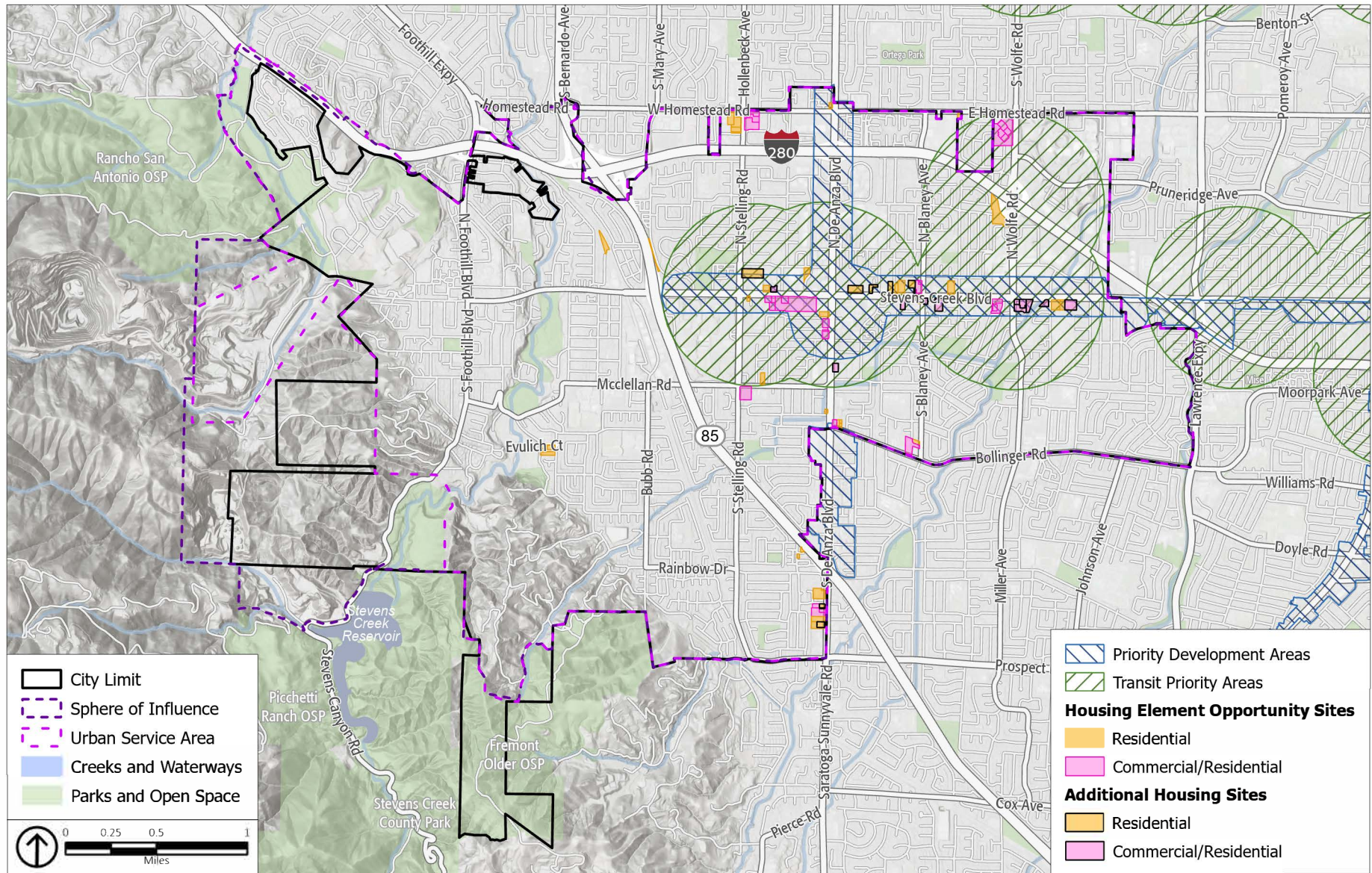
a. Dwelling unit density is expressed as the number of dwelling units permitted per gross acre.

b. The net new is the proposed maximum density minus the existing maximum density.

Source: City of Cupertino, 2023.



## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT



Note: This map is intended to show general locations of identified housing opportunity sites by Assessor Parcel Numbers or APNs, and is not intended to be used to identify project specific development boundaries. Project-specific development boundaries will be determined on a project-by-project basis as future development is proposed.

Source: ESRI, 2022; ABAG, 2022; City of Cupertino, 2023; PlaceWorks, 2023.

Figure 5-1  
Alternative B: Increased Housing Sites

## **ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT**

The westward views of the foothills and ridgelines of the Santa Cruz Mountains are considered scenic vistas and the Caltrans designated segment of Interstate 280 (I-280) from Santa Clara County line on the west to I-880 on the east is an eligible State Scenic Highway is a scenic corridor. Potential future development under either scenario would occur in the form of infill/intensification on sites either already developed and/or underutilized. Therefore, implementation of either scenario would not have a substantial adverse effect on a scenic vista or damage existing scenic resources within a state scenic highway and impacts would be *similar*.

Applicable future projects under both scenarios would be subject to the Architectural and Site Review process, in accordance with CMC Chapter 19.168, *Architectural and Site Review*, or would be required to comply with Design Standards outlined in the General Plan, Heart of the City Specific Plan, or other appropriate Conceptual Plans, the Monta Vista Design Guidelines, or the South Vallco Specific Plan. Additionally, both alternatives would benefit from the new and modified 2040 General Plan goals, policies, and strategies.

Alternative B would result in new lighting sources that could result in sources of glare. Potential future development under both scenarios would be required to comply with best management practices in CALGreen and CMC that ensure new land uses do not generate excessive light levels and reduce light and glare spillover from future development to surrounding land uses. Because Alternative B would increase housing opportunities in commercial corridors beyond what was evaluated in the proposed Modified Project, more new light and glare sources would be introduced, and impacts would be *greater* when compared to the proposed Modified Project.

Though development in the Study Area would be increased, development under Alternative B would follow the new or modified General Plan 2040 goals, policies, or strategies, and regulations that guide development in Cupertino, and would be located on infill sites. Thus, impacts related to aesthetics would be *similar* when compared to the proposed Modified Project.

### **5.5.2.2 AIR QUALITY**

As described in Chapter 4.2, *Air Quality*, of this Draft EA, the proposed Modified Project would result in significant and unavoidable impacts even with implementation of the Standard Environmental Protection Requirements in CMC Chapter 17.04. Implementation of the proposed Modified Project would have the potential to exceed BAAQMD significance thresholds for Volatile Organic Compounds (VOC), nitrogen oxides (NO<sub>x</sub>), coarse inhalable particulate matter (PM<sub>10</sub>), and fine inhalable particulate matter (PM<sub>2.5</sub>), as well as conflict with the BAAQMD 2017 Clean Air Plan.

Alternative B would increase housing opportunities along commercial corridors, which would result in more development in the Study Area compared to the proposed Modified Project. Development under both scenarios would be subject to applicable laws and regulations, including those under Cupertino Municipal Code (CMC) Section 17.04.040, *Standard Environmental Protection Technical Report Submittal Requirements*, and Section 17.04.050, *Standard Environmental Protection Permit Submittal Requirements*. Additionally, future development under both scenarios could result in construction activities near residential and other sensitive land uses, thus, temporarily elevating concentrations of toxic air contaminants in the vicinity of sensitive land uses. While the regulatory setting mitigating construction

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

impacts is the same under both scenarios, more development would occur under Alternative B; therefore, construction impacts would be *greater* when compared to the proposed Modified Project.

Both the proposed Modified Project and Alternative B would result in the introduction of a population growth which goes beyond the growth projections contained in *Plan Bay Area 2040*, which underpins the growth assumptions used for the emissions forecasts in the 2017 Clean Air Plan. Therefore, like the proposed Modified Project, Alternative B would also be considered inconsistent with the applicable AQMP and impacts with regards to attainment of air quality standards would be *similar* under both scenarios.

Like the proposed Modified Project, Alternative B is not the type of project that would result in significant impacts from odor and impacts would be *similar* under both scenarios.

Because emissions from the transportation sector produce the greatest emissions and as discussed in Section 5.5.2.14, *Transportation*, VMT would be less under Alternative B when compared to the proposed Modified Project, overall impacts under Alternative B would be *less* when compared to the proposed Modified Project.

### 5.5.2.3 BIOLOGICAL RESOURCES

As described in Chapter 4.4, *Biological Resources*, of this Draft EA, the proposed Modified Project would result in less-than-significant impacts to biological resources. Alternative B would increase development potential along commercial corridors. The additional potential future development would occur in the form of infill/intensification on sites either already developed and/or underutilized in highly urbanized areas. Additionally, under both Alternative A and the proposed Modified Project, potential future development would be required to comply with the Standard Environmental Protection Requirements under CMC Section 17.04.050, *Standard Environmental Protection Permit Submittal Requirements*. Thus, impacts to biological resources from potential future development as allowed under Alternative B would be *similar* when compared to the proposed Modified Project.

### 5.5.2.4 CULTURAL AND TRIBAL CULTURAL RESOURCES

As described in Chapter 4.4, *Cultural and Tribal Cultural Resources*, of this Draft EA, the proposed Modified Project would result in less-than-significant impacts to cultural and tribal cultural resources.

Under Alternative B, potential future development would occur at similar locations as under the proposed Modified Project with increased development potential along commercial corridors. As explained in Chapter 4.4, there are existing prehistoric, architectural, historical, or archaeological resources in the Study Area that could all be impacted by new demolition, inappropriate modification, or inappropriate new construction under the proposed Modified Project or Alternative B. Like the proposed Modified Project, Alternative B would be subject to the procedures of conduct following the discovery of human remains set forth in California Health and Safety Code, Public Resources Code, and the California Code of Regulations, as well as the policies and strategies in General Plan 2040. Additionally, future potential development under both the proposed Modified Project and Alternative A would be required to comply with CMC Section 17.04.050, *Standard Environmental Protection Permit Submittal Requirements*. Development in both scenarios would occur on previously disturbed sites and/or near existing



## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

development where buried cultural and tribal cultural resources may be less common. Though more development would occur under the Alternative B scenario, the development would occur in similar locations as under the proposed Modified Project, and the potential to impact these resources would be *similar* when compared to the proposed Modified Project.

### 5.5.2.5 ENERGY

As described in Chapter 4.5, *Energy*, of this Draft EIR, the proposed Modified Project would not result in any significant impacts related to energy.

All development that occurs in the state is required to comply with best management practices regulated in the CALGreen and Building and Energy Efficiency Standards, which ensure new development would not result in the wasteful or inefficient use of energy. Additionally, it is assumed that neither the proposed Modified Project nor Alternative B would introduce a level of development and population growth that would be anticipated to necessitate the construction of new energy supply facilities or transmission infrastructure.

More development would occur under the Alternative B scenario, so energy consumption from construction would be *greater* when compared to the proposed Modified Project. However, this development would be on infill sites and near residential serving development, thus decreasing emissions and energy consumption from travel. Therefore, overall energy demand and consumption would be *similar* under Alternative B when compared to the proposed Modified Project.

### 5.5.2.6 GEOLOGY AND SOILS

As described in Chapter 4.6, *Geology and Soils*, of this Draft EA, the proposed Modified Project would result in less-than-significant impacts related to geology and soils.

Future development under both Alternative B and the proposed Modified Project would be subject to the same federal, state, and local regulations that address and minimize hazards associated with geology, soils, and seismicity. Both the Alternative B and proposed Modified Project encourage development in urbanized settings where there is less likelihood for impacts from geologic hazards to occur and include General Plan policies and strategies that minimize adverse effects to geologic processes, soil erosion, and loss of topsoil.

Although Alternative B would result in more overall development, it would be in the form of infill/intensification on sites either already developed and/or underutilized, and/or near existing residential and residential-serving development making impacts to geology and soils less likely. Additionally, compliance with existing regulations related to geologic and seismic safety would apply similarly to both future development under Alternative B and the proposed Modified Project. Thus, Alternative B would result in *similar* impacts when compared to the proposed Modified Project.

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## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

### 5.5.2.7 GREENHOUSE GAS EMISSIONS

As described in Chapter 4.7, *Greenhouse Gas Emissions*, of this Draft EA, the proposed Modified Project would result in significant and unavoidable impacts to GHG emissions and would not be consistent with the GHG emissions thresholds set by Executive Order B-55-18 and the California Air Resources Board Scoping Plan.

There would be more development under the Alternative B scenario, though the additional development potential would be limited to infill/intensification on sites within commercial corridors. This would reduce the need for residents to drive to residential serving businesses and would thus decrease GHG emissions. Additionally, VMT reduction policies and strategies under the proposed Modified Project would also apply to Alternative B.

Though there would be more development potential under Alternative B, because emissions from the transportation sector produce the greatest emissions and as discussed in Section 5.5.2.14, *Transportation*, VMT would be less under Alternative B when compared to the proposed Modified Project, overall impacts under Alternative B would be *less* when compared to the proposed Modified Project.

### 5.5.2.8 HAZARDS AND HAZARDOUS MATERIALS

As described in Chapter 4.8, *Hazards and Hazardous Materials*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to hazards and hazardous materials. Cupertino is not within two miles of a public airport or within any protected airspace zones defined by the Santa Clara County Airport Land Use Commission (ALUC), and there are no private airstrips or heliports listed by FAA in Cupertino, thus there would be no impact under either scenario.

Though potential future development would be increased under the Alternative B scenario, all development that could occur from implementation of the proposed Modified Project or Alternative B would be required to comply with all federal, state, and local regulations pertaining to hazards and hazardous materials. Additionally, and General Plan policies and strategies and compliance with CMC Section 17.04.040(B), *Hazardous Materials*, would further reduce impacts related to hazardous materials. Furthermore, implementation of either scenarios would require the routine transport, use, or disposal of hazardous materials, which would not increase due to additional residential development.

The proposed Modified Project and Alternative B would include the same General Plan 2040 policies to minimize potential adverse impacts on residential projects within an emergency response plan or emergency evacuation plan. Thus, impacts under the Alternative B scenario would be *similar* to the proposed Modified Project.

Thus, though there would be more development potential under Alternative B, the location of this development and the requirement to comply with applicable laws, policies, and design standards would result in a *similar* impact when compared to the proposed Modified Project.

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### 5.5.2.9 HYDROLOGY AND WATER QUALITY

As described in Chapter 4.9, *Hydrology and Water Quality*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to hydrology and water quality. Compliance with existing State and local regulations and procedures would ensure that pre- and post-construction impacts to water quality would be less than significant. These regulations and procedures would be maintained under Alternative B.

Potential future development under both scenarios would occur within previously urbanized areas and would connect to existing drainage systems already in place. Alternative B involves more development potential, more ground disturbance and potential change in drainage patterns, and more water use from groundwater sources. As such, impacts to hydrology and water quality would be *greater* when compared to the proposed Modified Project.

### 5.5.2.10 LAND USE AND PLANNING

As described in Chapter 4.10, *Land Use and Planning*, of this Draft EA, the proposed Modified Project would result in less-than-significant impacts to land use and planning.

Both the proposed Modified Project and Alternative B would aim to improve connectivity and would not create physical barriers within existing communities. They would also both support the integration of infill development, while Alternative B further promotes this by providing additional housing opportunities along commercial corridors. Therefore, implementation of either development scenario would not conflict with any applicable land use plan adopted for the purpose of avoiding or mitigating an environmental effect and impacts would be *similar* when compared to the proposed Modified Project.

### 5.5.2.11 NOISE

As described in Chapter 4.11, *Noise*, of this Draft EA, the proposed Modified Project would result in less-than-significant impacts to noise. The Study Area is not located in the vicinity of a private airstrip or an airport land use plan, and therefore would have no impact related to airport or aircraft noise.

Under Alternative B, development under the proposed Modified Project would be implemented, with additional residential sites along commercial corridors. This would result in additional noise from construction, traffic, and other sources that would increase ambient noise levels. However, both the proposed Modified Project and Alternative B would be required to comply with CMC Section 10.48, *Community Noise Control*, Section 17.04.040(D)(1), *Vibration Technical Report Requirements*, and Section 17.04.050(G)(1), *Noise and Vibration Permit Requirements*, as well as federal, State, and local regulations related to temporary and operational noise.

While there is more development potential under Alternative B and overall temporary noise from more construction would be *greater* than under the proposed Modified Project, because as discussed in Section 5.5.2.14, *Transportation*, VMT would be less under Alternative B when compared to the proposed Modified Project, overall long-term operational noise impacts under Alternative B would be *less* when compared to the proposed Modified Project.

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

### 5.5.2.12 POPULATION AND HOUSING

As described in Chapter 4.12, *Population and Housing*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to population and housing.

Alternative B would include additional housing opportunity sites beyond what is included in the proposed Modified Project required to meet the 2023-2031 RHNA. Additionally, Alternative B would include the updated policy framework of the proposed Modified Project that ensures adequate planning occurs to accommodate the project growth of the city. Therefore, impacts under Alternative B would be *similar* when compared to those under the proposed Modified Project.

### 5.5.2.13 PUBLIC SERVICES

As described in Chapter 4.13, *Public Services*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to fire protection services, police services, parks, schools, and libraries.

Alternative B would result in more housing and thus more residents in the Study Area. Therefore, the Alternative B scenario would result in greater demand for the public services provided in the Study Area. Potential future development under Alternative B would also be required to comply with all existing City regulations adopted to ensure that development pays its fair share of the cost of delivering services, providing park space and libraries, while payment of property taxes would ensure that future development pays its fair share towards schools. Overall, impacts under Alternative B would be *greater* than those of the proposed Modified Project.

### 5.5.2.14 TRANSPORTATION

As described in Chapter 4.14, *Transportation*, of this Draft EA, the proposed Modified Project would not result in significant impacts related to conflicting with a program, plan, ordinance, or policy addressing the circulation system, increasing hazards due to geometric design features or incompatible uses, or inadequate emergency access. However, the proposed Modified Project would result in a significant and unavoidable impact related to an increase in VMT beyond the City's adopted threshold.

Alternative B would result in more infill housing in PDAs and TPAs and thus an increase in residents in the Study Area. However, these additional residents would reside along TPAs and PDAs and provide housing close to walkable or transit-served commercial and office spaces. Like the proposed Modified Project, Alternative B would not result in significant impacts related to conflicting with a program, plan, ordinance, or policy addressing the circulation system, increasing hazards due to geometric design features or incompatible uses, or inadequate emergency access. Additionally, future potential development under both the proposed Modified Project and Alternative B would be required to comply with CMC Section 17.04.040(C), *Vehicle Miles Traveled Technical Report Requirements*, and CMC Section 17.08, *Evaluation of Transportation Impacts under the California Environmental Quality Act*, as well as federal, State, regional, and local regulations related to transportation.

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

However, Alternative B would result in more residents concentrated along TPA and PDA corridors, and therefore less VMT compared to the proposed Modified Project. Therefore, overall impacts under Alternative B would be *less* when compared to the proposed Modified Project.

### 5.5.2.15 UTILITIES AND SERVICE SYSTEMS

As described in Chapter 4.15, *Utilities and Service Systems*, of this Draft EA, the proposed Modified Project would not result in any significant impacts related to water, wastewater, , stormwater, or energy infrastructure and services.

Demand and consumption trends generally demonstrate that advances in recycling and solid waste reduction requirements, water-efficient regulations in building and landscaping, and stricter stormwater retention requirements, would reduce impacts under both the proposed Modified Project and Alternative B. Future potential development under both the proposed Modified Project and Alternative B would be required to comply with federal, State, regional, and local regulations for managing stormwater during construction and operation of projects, including CMC Section 17.04.050(F), *Control Stormwater Runoff Contamination*. However, it is assumed that because Alternative B would result in more overall development than the proposed Modified Project, there would be greater overall water demand, wastewater and solid waste generation, and energy use. Thus, impacts under Alternative B would be *greater* than those of the proposed Modified Project.

### 5.5.2.16 WILDFIRE

As described in Chapter 4.16, *Wildfire*, of this Draft EA, the proposed Modified Project would not result in any significant wildfire impacts. Due to compliance with applicable local, regional, and State regulations, development under both scenarios would not impair the implementation of an emergency response or emergency evacuation plan or be within a Very High Fire Hazard Severity Zone or a Wildland Urban Interface Fire Area, nor would either scenario expose people or structures to significant wildfire risks, including downslope or downstream flooding or landslides. Neither scenario would result in the installation or maintenance of any infrastructure that could exacerbate fire risk or result in impacts to the environment. Therefore, potential future development under the Alternative B scenario would have *similar* wildfire impacts when compared to the proposed Modified Project.

### 5.5.3 RELATIONSHIP OF THE ALTERNATIVE TO THE OBJECTIVES

As listed in Section 5.2, *Project Objectives*, the primary purposes of the proposed Modified Project are to plan for the maintenance, preservation, improvement, and development of housing in the city between 2023 and 2031. This includes rezoning sites to be consistent with the land use designations, affirmatively furthering fair housing, incentivizing development of housing to meet all income levels, and promoting a healthy and sustainable Cupertino that minimizes reliance on natural resources and vehicle use. Because Alternative B would increase opportunities for residential development within PDA and TPA areas of the city, this alternative would both support housing for all income, reduce reliance on vehicle use, and increase housing on previously disturbed sites. Therefore, Alternative B would meet all the project objectives.

## ALTERNATIVES TO THE PROPOSED MODIFIED PROJECT

### 5.6 ENVIRONMENTALLY SUPERIOR ALTERNATIVE

In addition to the discussion and comparison of impacts of the proposed Modified Project and the alternatives, Section 15126.6 of the CEQA Guidelines requires that an “environmentally superior” alternative be selected and the reasons for such a selection be disclosed. In general, the environmentally superior alternative is the alternative to the proposed Modified Project that would be expected to generate the least number of significant impacts. Identification of the environmentally superior alternative is an informational procedure and the alternative to the proposed Modified Project selected may not be the alternative to the proposed Modified Project that best meets the goals or needs of Cupertino. Because CEQA Guidelines Section 15126.6(c) requires an evaluation of a reasonable range of alternatives to the proposed Modified Project, the proposed Modified Project under consideration cannot be identified as the environmentally superior alternative. Additionally, in accordance with CEQA Guidelines Section 15126.6(e)(2), if the environmentally superior alternative is the “No Project” alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.

As shown in Table 5-2, Alternative B would, in comparison to the proposed project, result in reduced environmental impacts related to air quality, greenhouse gas emissions, noise, and transportation. Therefore, as shown in Table 5-2, Alternative B would be the environmentally superior alternative.

## 6. CEQA-Mandated Sections

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This chapter provides an overview of the impacts of the proposed Modified Project based on the analyses presented in Chapters 4.1 through 4.16 of this EA. The topics covered in this chapter include impacts found not to be significant, impacts found to be significant and unavoidable, growth-inducing impacts, and significant irreversible changes to the environment. A detailed analysis of the effects that the proposed Modified Project would have on the environment, and proposed mitigation measures to minimize significant impacts, are provided in Chapters 4.1 through 4.16 of this EA.

### 6.1 IMPACTS FOUND NOT TO BE SIGNIFICANT

CEQA Guidelines Section 15128, *Effects Not Found to Be Significant*, allows environmental issues for which there is no likelihood of significant impact to be “scoped out” and not analyzed further in the environmental analysis. This section explains the reasoning for the determination that the proposed Modified Project would have no effect within an entire environmental topic or under specific criteria within an environmental topic. As shown below, there would be no impacts to agriculture, forestry, or mineral resources as a whole; therefore, these topics are not evaluated in Chapter 4, *Environmental Analysis*, of this EA. Furthermore, there would be no impacts to some of the criteria for biological resources, geology and soils, hazards and hazardous materials, and noise. These specific criteria are identified in the corresponding subsection of this chapter and are not required to be evaluated in Chapter 4.

#### 6.1.1 AGRICULTURE AND FORESTRY RESOURCES

The proposed Modified Project is within the city of Cupertino, which is an urbanized area with no agricultural resources. Maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency categorize land within the Study Area as Urban and Built-Up Land.<sup>1</sup> There are no agricultural lands classified as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) within the Study Area. Potential future development permitted as a result of the proposed Modified Project would not occur within lands zoned for agricultural use in the Study Area. Therefore, there would not be a conflict with existing zoning for agricultural use, or a Williamson Act contract.

According to 2006 mapping data from the California Department of Forestry and Fire Protection, the City does not contain any woodland or forestland cover;<sup>2</sup> hence, the Study Area does not contain land zoned

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<sup>1</sup> California Resources Agency, Farmland Mapping and Monitoring Program. Santa Clara County Important Farmland 2020, accessed on January 8, 2024.

<sup>2</sup> California Department of Forestry and Fire Protection Fire and Resource Assessment Program, Land Cover Map, accessed on January 8, 2024.

## CEQA-MANDATED SECTIONS

for Timberland Production, nor does the Cupertino Zoning Map identify any areas zoned for Timberland Production.<sup>3</sup> Consequently, there would be no impacts to agriculture and forestry resources.

### 6.1.2 MINERAL RESOURCES

Although Cupertino does have mineral resource zones (MRZ) classified as MRZ-2, which are areas where adequate information indicates that significant mineral deposits are present, and MRZ-3, which are areas containing mineral deposits for which the significance cannot be evaluated from available data, the Study Area is largely urbanized. With the exception of the four areas described below, there are no areas in the Study Area identified for protection or conservation with regard to mineral resources, given those areas are already developed and/or not considered suitable for conservation.<sup>4</sup>

There are four mineral resource areas in the general area of Cupertino, including two in unincorporated lands of Santa Clara County but within Cupertino's boundary agreement areas, and two are within the city limit. The Hansen Permanente and Stevens Creek sites have been designated by the State as having mineral deposits of regional or state significance. However, these two sites are under the jurisdiction of Santa Clara County, and the proposed Modified Project does not propose future potential development on these sites.

The two sites in the Study Area that are classified as mineral resource areas for which the State requires policies supporting preservation and extraction are not within the boundaries of the proposed Modified Project; therefore, the proposed Modified Project would have no impact on these areas. Regardless, most of the areas have been developed with residential and other urbanized uses. Consequently, because the mineral resource areas within the Study Area have been developed and are not considered suitable for conservation, there would be no impact to mineral resources.

### 6.1.3 BIOLOGICAL RESOURCES

Impacts to biological resources are evaluated in Chapter 4.3, *Biological Resources*. The following standards of significance were determined to have no impact in Chapter 4.3:

- Conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?
- Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?

Potential future development under the proposed Modified Project, like the Approved Project, would occur outside the boundaries of the Santa Clara Valley Habitat Plan and would not be within any other habitat conservation plan or natural community conservation plan. Additionally, potential future

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<sup>3</sup> City of Cupertino, 2005 General Plan, Zoning Map, <http://www.cupertino.org/index.aspx?page=291>, accessed on January 8, 2024.

<sup>4</sup> City of Cupertino, General Plan 2040, Chapter 5, Environmental Resources and Sustainability Element, pages ES-9-ES-10.



## CEQA-MANDATED SECTIONS

development under the proposed Modified Project would also occur in urbanized areas without sensitive natural communities. Thus, no impact would occur under either criterion.

### 6.1.4 GEOLOGY AND SOILS

Impacts related to geology and soils are evaluated in Chapter 4.6, *Geology and Soils*. The following standard of significance was determined to have no impact in Chapter 4.6:

- Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

Potential future development under the proposed Modified Project, like the Approved Project, would not include the use of septic tanks or alternative wastewater disposal systems. Therefore, no impact would occur regarding soil capability to adequately support the use of septic tanks or alternative wastewater disposal systems. Thus, no impact would occur under this criterion.

### 6.1.5 HAZARDS AND HAZARDOUS MATERIALS

Impacts related to hazards and hazardous materials are evaluated in Chapter 4.8, *Hazards and Hazardous Materials*. The following standard of significance was determined to have no impact in Chapter 4.8:

- For a project within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, result in a safety hazard for people living or working in the project area?

The Study Area is not within two miles of a public airport or within any protected airspace zones defined by the Santa Clara County Airport Land Use Commission, and there are no private airstrips or heliports listed by FAA in Cupertino. Thus, no impact would occur under this criterion.

### 6.1.6 NOISE

Noise-related impacts are evaluated in Chapter 4.11, *Noise*. The following standard of significance was determined to have no impact in Chapter 4.11:

- For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?

The Study Area is not within two miles of a public airport or within any protected airspace zones defined by the Santa Clara County Airport Land Use Commission, and there are no private airstrips or heliports listed by FAA in Cupertino. Thus, no impact would occur under this criterion.

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**CEQA-MANDATED SECTIONS**

## 6.1 SIGNIFICANT AND UNAVOIDABLE IMPACTS

Section 15126.2(b) of the CEQA Guidelines requires that “direct and indirect significant effects of the project on the environment shall be clearly identified and described, giving due consideration to both the short- and long-term effects.” Chapter 2, *Executive Summary*, of this EA, contains Table 2-1, *Summary of Impacts and Mitigation Measures*, which summarizes the significant impacts, mitigation measures, and levels of significance with and without mitigation. The identification of these program-level impacts do not preclude the finding of less-than-significant impacts for subsequent projects analyzed at the project level that do not exceed the thresholds of significance. As detailed in Chapter 4.3, *Air Quality*, Chapter 4.7, *Greenhouse Gas Emissions*, and Chapter 4.14, *Transportation*, of this Draft EA, the following impacts would remain significant and unavoidable after feasible mitigation measures are applied:

- **Impact AIR-1:** Implementation of the proposed Modified Project would conflict with the growth assumptions under Plan Bay Area 2040 that are applied to the Bay Area Air Quality Management District’s (BAAQMD) 2017 Clean Air Plan, the proposed Modified Project would therefore conflict with the air quality emissions forecast in the BAAQMD 2017 Clean Air Plan.
- **Impact AIR-2:** Operation of development projects that could occur from implementation of the proposed Modified Project would generate emissions that would exceed Bay Area Air Quality Management District’s regional significance thresholds for Reactive Organic Gases (ROG), nitrogen oxides (NO<sub>x</sub>), coarse inhalable particulate matter (PM<sub>10</sub>), and fine inhalable particulate matter (PM<sub>2.5</sub>).
- **Impact AIR-5:** The emissions that could occur over the buildout horizon of the proposed Modified Project could generate a substantial increase in emissions that exceeds the Bay Area Air Quality Management District’s significance thresholds and cumulatively contribute to the nonattainment designations and health risk in the San Francisco Bay Area Air Basin.
- **Impact GHG-1:** Implementation of the proposed Modified Project would exceed the net zero greenhouse gas emission threshold under Executive Order B-55-18.
- **Impact GHG-2:** The proposed Modified Project would not meet California Green Building Standards Code nonresidential voluntary Tier 2 electric vehicle parking standards and would exceed the City of Cupertino’s vehicle miles traveled reduction threshold, and therefore be inconsistent with the California Air Resources Board Scoping Plan.
- **Impact GHG-3:** The proposed Modified Project would result in vehicle miles traveled that would exceed the City of Cupertino’s reduction target, and therefore conflict with the California Air Resources Board Scoping Plan and Executive Order B-55-18.
- **Impact TRANS-2:** Implementation of the proposed Modified Project would exceed the adopted Cupertino vehicle miles traveled (VMT) threshold per service population of 31.30 VMT by 3.5 VMT per service population, due to forecasted growth through 2040.
- **Impact TRANS-5:** Implementation of the proposed Modified Project would cumulatively contribute to regional vehicle miles traveled.

## CEQA-MANDATED SECTIONS

### 6.2 SIGNIFICANT IRREVERSIBLE CHANGES DUE TO THE PROPOSED PROJECT

Section 15126.2(c) of the CEQA Guidelines requires an EIR to describe the extent to which the proposed project would commit nonrenewable resources to uses that future generations would probably be unable to reverse. The three CEQA-required categories of irreversible changes are described herein.

#### 6.2.1 CHANGES IN LAND USE THAT COMMIT FUTURE GENERATIONS

As described in detail in Chapter 3, *Project Description*, of this EA, the proposed Modified Project maintains the land use pattern of General Plan 2040. Potential future development under the proposed Modified Project would occur in existing urban areas and would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or near existing residential and residential-serving development. However, some potential future development may occur on vacant non-urban sites that are already designated for development. Once future development under the proposed Modified Project occurs, it would not be feasible to return the developed land to its existing (pre-project) condition. Therefore, there is potential that some of the development allowed under the proposed Modified Project would lead to irreversible changes in land use.

#### 6.2.2 IRREVERSIBLE DAMAGE FROM ENVIRONMENTAL ACCIDENTS

Irreversible changes to the physical environment could occur from accidental release of hazardous materials associated with development activities; however, compliance with the applicable regulations and General Plan 2040 goals, policies, and programs, as described in Chapter 4.8, *Hazards and Hazardous Materials*, would reduce this potential impact to a less-than-significant level. Therefore, irreversible damage is not expected to result from the adoption and implementation of the proposed Modified Project.

#### 6.2.3 LARGE COMMITMENT OF NONRENEWABLE RESOURCES

Implementation of development under the proposed Modified Project would result in the commitment of limited, renewable resources, such as lumber and water. In addition, potential future development under the proposed Modified Project would irretrievably commit nonrenewable resources for the construction of buildings, infrastructure, and roadway improvements. These nonrenewable resources include mined minerals, such as sand, gravel, steel, lead, copper, and other metals. Future buildout under the proposed Modified Project also represents a long-term commitment to the consumption of fossil fuels and gasoline. Increased energy demands would be used for construction, lighting, heating, and cooling of residences, and transportation of people within, to, and from the Study Area. However, as shown in Chapter 4.5, *Energy*, and in Section 4.15.1, *Water*, and Section 4.15.4, *Solid Waste*, of Chapter 4.15, *Utilities and Service Systems*, of this EA, several regulatory measures and General Plan 2040 goals, policies, and strategies encourage energy and water conservation, alternative energy use, waste reduction, alternatives to

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## CEQA-MANDATED SECTIONS

automotive transportation, and green building. Potential future development under the proposed Modified Project would be required to comply with all applicable building and design requirements, including those in Title 24, *California Buildings Standards Code*, relating to energy conservation. In compliance with CALGreen, the State's Green Building Standards Code, future potential development under the proposed Modified Project would be required to reduce water consumption by 20 percent, divert 50 percent of construction waste from landfills, and install low pollutant-emitting materials. Additionally, future potential development under the proposed Modified Project would be fully electric and include EV charging infrastructure. Therefore, while the construction and operation of potential future development under the proposed Modified Project would involve the use of nonrenewable resources, compliance with applicable standards and regulations and implementation of General Plan 2040 goals, policies, and strategies would reduce the use of nonrenewable resources to the maximum extent practicable; therefore, the proposed Modified Project would not represent a large commitment of nonrenewable resources in comparison to a business-as-usual situation.

### 6.3 GROWTH-INDUCING IMPACTS OF THE PROPOSED PROJECT

Section 15126.2(d) of the CEQA Guidelines requires that an EIR describes the ways in which a proposed project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. Typical growth-inducing factors might be the extension of urban services or transportation infrastructure to a previously unserved or under-served area, or the removal of major barriers to development.

This section evaluates the proposed Modified Project's potential to create such growth inducements. As CEQA Guidelines Section 15126.2(d) requires, "[it] must not be assumed that growth in an area is necessarily beneficial, detrimental, or of little significance to the environment." In other words, negative impacts associated with growth inducement occur only where the projected growth would cause significant adverse environmental impacts.

Growth-inducing impacts fall into two general categories: direct or indirect. Direct growth-inducing impacts are generally associated with providing urban services to an undeveloped area. Indirect, or secondary growth-inducing impacts consist of growth induced in the region by additional demands for housing, goods, and services associated with the population increase caused by, or attracted to, a new project.

As described in detail in Chapter 4.12, *Population and Housing*, of this EA, the General Plan is the policy document that plans ahead to accommodate the amount of reasonably foreseeable growth given past growth trends and the ability of existing services and infrastructure to support future growth. Therefore, implementation of the proposed Modified Project would not directly induce growth, but rather is a response to growth that is likely to occur within with Study Area. Because the General Plan 2040 includes recommendations for future development and infrastructure, it has the potential to indirectly induce growth. However, the General Plan itself is the City's effort to adequately plan for this growth.

## CEQA-MANDATED SECTIONS

Furthermore, this additional growth would likely occur incrementally over a period of approximately 8 to 15 years, and a policy framework is in place to ensure adequate planning occurs to accommodate it regardless of the development timeline. The proposed Modified Project results in concentrated and infill development and implements energy and water conservation requirements related to existing and new development, thereby minimizing consumption of non-renewable resources to the extent practicable.

### 6.3.1 DIRECT IMPACTS

The proposed Modified Project is a plan-level document and does not propose any specific development; however, implementation of the proposed Modified Project would induce growth by increasing the development potential in the Study Area, as shown in Table 3-8, *Proposed 2040 Buildout Projections*, in Chapter 3, *Project Description*. As shown in Table 3-8, the 2040 forecast of the proposed Modified Project is approximately 81,037 total population and 29,137 housing units. State law requires the City to promote the production of housing to meet its fair share of the regional housing needs distribution made by ABAG. In addition, implementation of the proposed Modified Project would result in regional benefits by promoting growth that encourages less automobile dependence, which could have associated air quality and GHG benefits. Encouraging infill and concentrated growth would help to reduce development pressures on lands outside the Study Area.

### 6.3.2 INDIRECT IMPACTS

The proposed Modified Project could be considered growth inducing because it includes policies and strategies that encourage new growth in the Study Area. Potential future development would be concentrated on a limited number of parcels and in the form of infill/intensification on sites either already developed and/or underutilized, and/or near existing residential and residential-serving development. However, future potential development and growth would be required to comply with the City's General Plan 2040, zoning regulations, and standards for public services and utilities; secondary effects associated with this growth do not represent a new significant environmental impact that has not already been addressed in the individual resource chapters of this EA. Additionally, population growth would likely occur incrementally over a period of approximately 8 to 15 years and would be consistent with the regional planning objectives established for the Santa Clara County region.

## **CEQA-MANDATED SECTIONS**

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## **7. Organizations and Persons Consulted**

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This Draft EA was prepared by the contributors listed and includes content and information provided by the lead agency, other agencies, consultants, and other contributors.

### **7.1 LEAD AGENCY**

#### **City of Cupertino**

Community Development Department  
Public Works Department  
City Attorney Department

### **7.2 OTHER AGENCIES AND ORGANIZATIONS CONSULTED**

#### **Native American Heritage Commission**

#### **Native American Tribes**

Amah Mutsun Tribal Band  
Amah Mutsun Tribal Band of Mission San Juan Bautista  
Indian Canyon Mutsun Band of Costanoan  
Muwekma Ohlone Indian Tribe of the SF Bay Area  
North Valley Yokuts Tribe  
Tamien Nation  
Ohlone Indian Tribe  
Wuksachi Indian Tribe/Eshom Valley Band

### **7.3 CONSULTANTS**

#### **PlaceWorks: Environmental Prime Consultant**

#### **ECORP: Noise**

#### **Fehr & Peers: Transportation**

## **ORGANIZATIONS & PERSONS CONSULTED**

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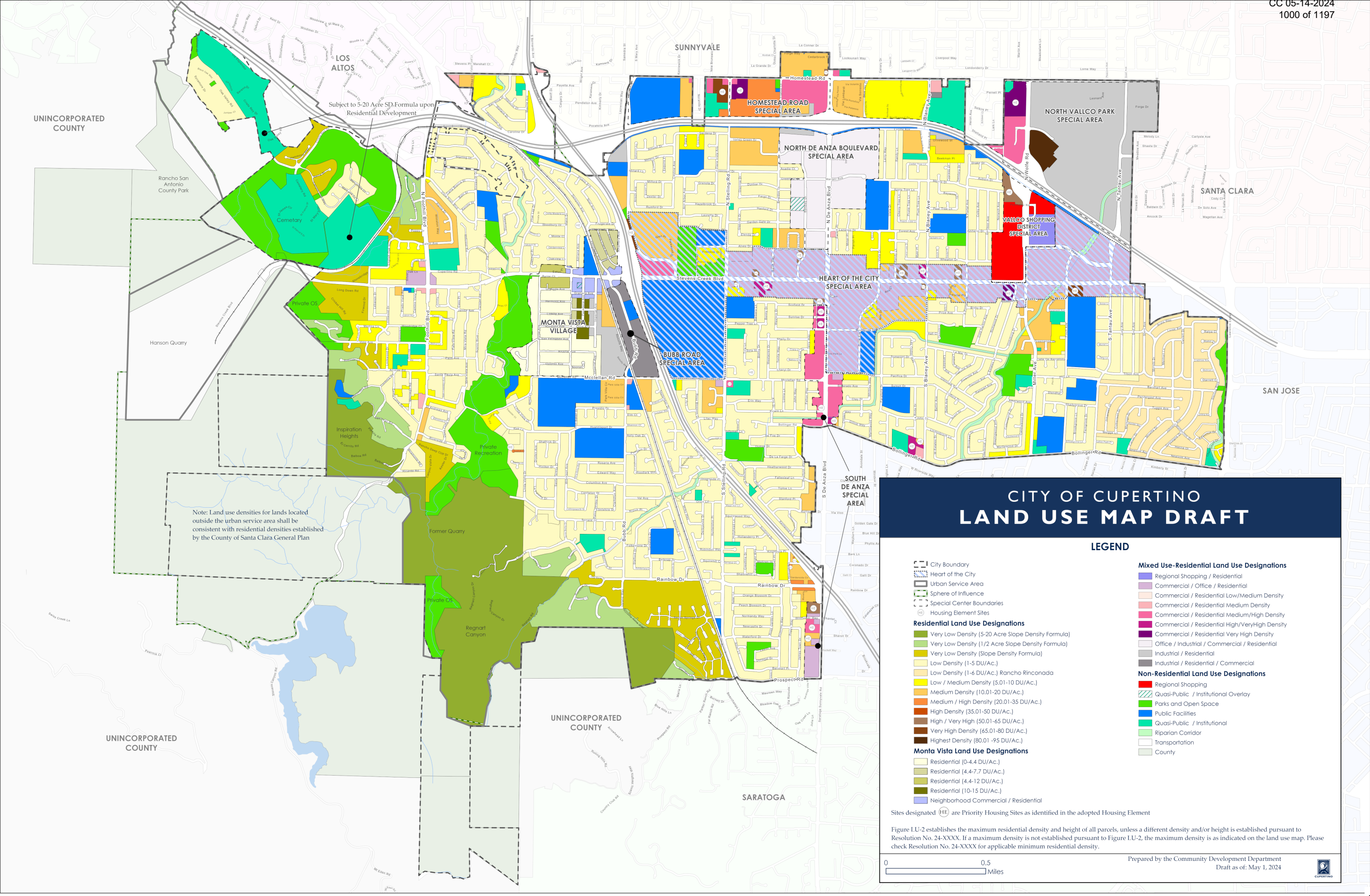






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**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF HOUSING POLICY DEVELOPMENT**

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April 10, 2024

Benjamin Fu, Director  
Department of Community Development  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014

Dear Benjamin Fu:

**RE: City of Cupertino's 6<sup>th</sup> Cycle (2023-2031) Revised Draft Housing Element**

Thank you for submitting the City of Cupertino's (City) revised draft housing element update received for review on February 27, 2024 along with revisions received on March 28, 2024. Pursuant to Government Code section 65585, subdivision (b), the California Department of Housing and Community Development (HCD) is reporting the results of its review. Our review was facilitated by conversations in February 2024 and March 2024 with Luke Connolly, Piu Gosh, and the City's consultant. In addition, HCD considered comments from Lisa Warren, and Building Industry Association pursuant to Government Code section 65585, subdivision (c).

HCD is pleased to find the revised draft housing element meets the statutory requirements of State Housing Element Law (Gov. Code, § 65580 et seq.). However, the housing element cannot be found in substantial compliance until the City has completed necessary rezones to address the shortfall of sites to accommodate the regional housing needs allocation (RHNA) pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021) as described below. The housing element will comply with State Housing Element Law (Article 10.6 of the Gov. Code) when it is adopted, submitted to and approved by HCD, in accordance with Government Code section 65585.

Pursuant to Assembly Bill 1398 (Chapter 358, Statutes of 2021), a jurisdiction that failed to adopt a compliant housing element within one year from the statutory deadline cannot be found in compliance until rezones to accommodate a shortfall of sites pursuant to Government Code section 65583, subdivision (c), paragraph (1), subparagraph (A) and Government Code section 65583.2, subdivision (c) are completed. As this year has passed and Program 1.3.2 (Rezoning to Achieve RHNA) has not been completed, the housing element is out of compliance and will remain out of compliance until the rezoning have been completed.



Benjamin Fu, Director  
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For your information, if the housing element relies upon nonvacant sites to accommodate more than 50 percent of the RHNA for lower-income households, the housing element must demonstrate that the existing use is not an impediment to additional residential development in the planning period (Gov. Code, § 65583.2, subd. (g)(2).). This can be demonstrated by providing substantial evidence that the existing use is likely to be discontinued during the planning period (Gov. Code, § 65583.2, subd. (g)(2).). Absent findings (e.g., adoption resolution) based on substantial evidence, the existing uses will be presumed to impede additional residential development and will not be utilized toward demonstrating adequate sites to accommodate the regional housing need allocation (RHNA). The City must make these findings as part of its adoption resolution. Please see HCD's Guidance memo (p. 27) for additional information: [https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites\\_inventory\\_memo\\_final06102020.pdf](https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sites_inventory_memo_final06102020.pdf).

Public participation in the development, adoption and implementation of the housing element is essential to effective housing planning. Throughout the housing element process, the City must continue to engage the community, including organizations that represent lower-income and special needs households, by making information regularly available while considering and incorporating comments where appropriate. Please be aware, any revisions to the element must be posted on the local government's website and to email a link to all individuals and organizations that have previously requested notices relating to the local government's housing element at least seven days before submitting to HCD.

As a reminder, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at [sitesinventory@hcd.ca.gov](mailto:sitesinventory@hcd.ca.gov) for technical assistance.

Several federal, state, and regional funding programs consider housing element compliance as an eligibility or ranking criteria. For example, the CalTrans Senate Bill (SB) 1 Sustainable Communities grant, the Affordable Housing and Sustainable Communities programs, and HCD's Permanent Local Housing Allocation consider housing element compliance and/or annual reporting requirements pursuant to Government Code section 65400. With a compliant housing element, the City meets housing element requirements for these and other funding sources.

For your information, some general plan element updates are triggered by housing element adoption. HCD reminds the City to consider timing provisions and welcomes the opportunity to provide assistance. For information, please see the Technical Advisories issued by the Governor's Office of Planning and Research at: <https://www.opr.ca.gov/planning/general-plan/guidelines.html>.

Benjamin Fu, Director  
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We are committed to assisting the City in addressing all statutory requirements of State Housing Element Law. If you have any questions or need additional technical assistance, please contact Jose Armando Jauregui, of our staff, at [Jose.Jauregui@hcd.ca.gov](mailto:Jose.Jauregui@hcd.ca.gov).

Sincerely,

A handwritten signature in black ink, appearing to read 'Melinda Coy', with a long horizontal stroke extending to the right.

Melinda Coy  
Proactive Housing Accountability Chief



# CITY OF CUPERTINO

## Agenda Item

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**24-13163**

**Agenda Date: 5/14/2024**  
**Agenda #: 2.**

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Subject: Fiscal Year 2024-25 Fee Schedule (continued from May 7, 2024)

1. Adopt Resolution No. 24-040 approving FY 2024-25 Fee Schedules A, B, C, and D. If adopted, new fees will be effective by July 14, 2024.
2. Adopt Resolution No. 24-041 adopting User Fee Cost Recovery Policy



## ADMINISTRATIVE SERVICES DEPARTMENT

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
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### CITY COUNCIL STAFF REPORT

Meeting: May 14, 2024

#### Subject

Fiscal Year (FY) 2024-25 Fee Schedule Update

#### Recommended Action

1. Adopt Resolution No. 24-XXX approving FY 2024-25 Fee Schedules A, B, C, and D. If adopted, new fees will be effective by July 14, 2024.
2. Adopt Resolution No. 24-XXX adopting User Fee Cost Recovery Policy

#### Reasons for Recommendation

The objective of a Comprehensive Fee Study is to re-evaluate time and cost assumptions and determine the full cost (direct and indirect) of providing City services based on the current organizational structure and processes. A User Fee Cost Recovery policy can support a fee study and aid in establishing clear guidance for determining cost recovery.

A comprehensive Fee Study is typically completed in conjunction with a Cost Allocation Plan (CAP) approximately every seven years. The City last completed a comprehensive fee study with a CAP in 2016. A new study was undertaken in 2023, and the results were presented at the February 6, 2024, City Council meeting. At that meeting, the City Council directed staff to complete the Fee Schedule update and to prepare a draft User Fee Cost Recovery policy for review.

Additionally, Council accepted the Cost Allocation Plan and Fee Study, and staff sought specific direction regarding the level of cost recovery for the proposed Fiscal Year 2024-25 fees, inclusion of new fees, and language in the Cost Recovery Policy. Council direction included staff proposing full cost recovery for most fees except for appeal fees and those fees with the intention to incentivize compliance. Additionally, Council agreed to the inclusion of a *Credit Card Transaction Fee* to offset the merchant costs and a *Technology Fee* to recover costs associated with the permit tracking system. A phased-in approach towards achieving full cost recovery for fees with more significant proportionate increases was also supported. Lastly, Council directed staff to incorporate key elements in the proposed User Fee Cost Recovery Policy, as outlined later in this staff report.



The proposed full cost recovery rates outlined in the recent Fee Study are derived from the following factors: revenue activity in FY 2022-23, current fiscal year cost of service, staff time, and budget. In addition to utilizing the full cost recovery rate, staff recommends applying index-based adjustments, such as the Consumer Price Index (CPI), the Bay Area Construction Cost Index (CCI), or budgeted labor costs, to most FY 2023-24, excluding state regulated fees.

#### New Fees and Substantial Changes

Per Council's direction to prepare full cost recovery fees, staff also presented a list of new fees to be adopted. A summary of these new fees within each schedule is discussed below.

**Schedule A – General:** This schedule includes fees not specific to a department or division that would require a dedicated schedule, such as code enforcement permits, City Clerk services, database requests, business license applications and related fees, and other fees for service.

While no new fees were proposed, the fee schedule includes several modifications, such as consolidating multiple fees, eliminating the 'Microfilm/Microfiche Printout' fee (no longer offered), and modifying enforcement fees to align with services provided.

A CPI adjustment is also proposed for all relevant fees using the full cost recovery rate included in the fee study. The adjustments to these fees are primarily influenced by changes in the cost of materials or external factors beyond the City's control.

**Schedule B – Engineering:** Utilized by the Development Services Division within the Public Works Department, this schedule covers fees necessary for the division to review plans and applications for private developments (onsite grading and drainage operations), issuance of encroachment permits, inspections of work performed within the Public Right of Way, along with other permits, and services. Engineering fees are typically adjusted annually by CCI and Budgeted Labor Costs.

The following proposed new fees aim to recover costs for services already provided by the Public Works Department. Over recent years, these service requests have required increased staff time to complete, in which the current fee schedule did not have an appropriate fee item that correlated to these service requests.

- *Crane Lift Encroachment Permits* have seen a surge in demand due to the rise in prefabricated ADUs, requiring additional plan review and coordination with crane lift companies.
- The *Planning Application Review* fee aims to recover costs for Public Works staff time and coordination required for medium to large development projects. This is in addition to application fees that Community Development Department currently charges.

- Similarly, the *Environmental Programs Plan Review* fees aim to recover costs for plan reviews of planning applications or building permits, a service historically provided without charge.
- *VMT Monitoring Fees* address the new concept of VMT and the City's efforts to ensure compliance with SB 743 and related Municipal Code requirements. These fees cover staff time for evaluating impacts, determining mitigations, and ensuring ongoing compliance throughout a project's lifespan.

In addition to new fees, the schedule incorporates several adjustments, including the implementation of a three-year phase-in period for fees related to a Certificate of Compliance. Furthermore, the schedule continues the practice of not charging for Block Party services but will now begin recovering costs associated with the Bi-Annual Parking Permit. Additionally, Transportation Impact Fees and Park Land Dedication In-Lieu Fees will remain unchanged.

- *Park Land Dedication In-Lieu Fees and Transportation Impact Fees*
  - Park Land Dedication In-Lieu Fees are calculated per Municipal Code section 13.08. On an annual basis, the Public Works Department updates the fair market value of land within the City based on the appraised values of land sales.
  - The Public Works Department continues to evaluate Parkland Dedication and Transportation Impact fees for FY 2024-25. Per Cupertino Municipal Code section 13.08.060, the Director of Public Works had a qualified appraiser evaluate the fair market value of land within the City. The evaluation prepared in March 2024 showed that value of land remained substantially unchanged since the report prepared in 2023, and therefore the Director recommends the Parkland Dedication fee remain the same. Public Works staff recommends that increases to Transportation Impact fees be deferred to allow for further review of potential fee increases.

**Schedule C – Planning:** This schedule is utilized by the Planning Division, which administers all required review and evaluation processes for proposed land use projects and maintains the goals and objectives of the City's General Plan and Zoning Ordinance. Planning fees are typically adjusted annually by CPI and Budgeted Labor Costs.

The following new fees are proposed to address the increased demand for certain specific services and to streamline existing processes. Over recent years, there has been a surge in requests for these services, leading to significant staff time allocation and a backlog in other permit applications. The first four fees—*Project Review Meeting*, *Preliminary Application Review*, *Planning Inspections*, and *Special Events (Large and Small)*—aim to recover costs for complementary services provided by the City that are subsidized by the General Fund. The latter two fees—*Sign Permit* and *Mercury News Ad*—clarify existing procedures.

- *Project Review Meeting* offers preliminary feedback on proposed development but requires substantial staff time and coordination. This service is often requested by the applicant.
- *Preliminary Application Reviews* assess project feasibility to assist the applicant in a more streamlined application review process.
- *Planning Inspections* ensure code compliance and will capture staff costs from excessive rounds of review.
- *Special Events* permits, which assess potential impacts on parking, traffic, and safety, have traditionally been provided at no charge but require significant staff time and coordination.
- *Sign Permit* fees are proposed to establish a fee category for certain signs requiring public meeting review. A new permit type was necessary to align with the existing Municipal Code. This fee, aligning with existing sign exception fees, which have similar processing requirements, is proposed to capture the time associated with processing such permits.
- *Mercury News Ad* fee aims to recover the expenses associated with notices published in the Mercury News instead of the Cupertino Courier to meet public notice deadlines before desired hearing dates. This fee ensures transparency and accountability in the noticing process.

Following Council direction, the schedule purposefully includes decreased cost recovery levels for Reasonable Accommodation by 50% and most tree-related fees by 67%, albeit the fees marginally increased compared to current rates.

**Schedule D – Building:** Utilized by the Building Division of the Community Development Department, this schedule includes fees for providing the following services: plan review and permit issuance of all proposed construction; code, ordinance, requirements, and regulation explanations; building inspection services; and other building and development-related services. Building fees are typically adjusted annually by Budgeted Labor Costs.

The proposed schedule includes fees for services provided but not captured in the current fee schedule, such as inspection and plan review fees for larger *Additions* ranging from 500 to 999 square feet, *Solar Thermal Systems* to heat liquids for water heaters and boilers, and *Accessory Buildings* like sheds. The schedule also consolidated fees in the *Mechanical, Electrical, and Plumbing Fee Table 3* to become more general and inclusive. Additionally, the schedule includes the removal of fees for services no longer offered, such as review of third parties and life safety reports.

The most significant change proposed in this schedule involves the consolidation of the plan review and inspection fees, located in Tables 1 and 2 of Schedule D, where several occupancy subclasses have been averaged into one for enhanced usability by staff and clarity for citizens.

Index-Based Adjustments

Depending on the user fee, the CPI, CCI, or change in budget cost adjustment is applied based on the user fee's underlying cost driver. For FY 2024-25, the CPI increase is 2.37% per Bureau of Labor Statistics, the CCI increase is 0.70% per Engineering News Record, and the labor cost increase is 1.02%, as shown in the table below.

	February 2023	February 2024	Index Increase	Percent Increase
<b>Consumer Price Index for All Urban Consumers (CPI-U)</b>	337.17	345.151	7.978	2.37%
<b>Construction Cost Index (CCI)</b>	15,419.90	15,527.50	107.6	0.70%
<b>Budgeted Labor Costs</b>	\$ 41,187,505 <sup>1</sup>	\$ 41,606,027 <sup>2</sup>	\$418,522	1.02%

<sup>1</sup> Base Salary and Benefits (FY 2023-24 Adopted Budget)

<sup>2</sup> Base Salary and Benefits (FY 2024-25 Estimated Budget)

The net 1% increase in estimated Budget Labor Costs is primarily comprised of approximately a 1% increase to account for employees progressing to higher salary steps, increases in negotiated benefits, and a decrease in staffing levels through attrition. Attrition is the elimination of positions after they become vacant.

The following table summarizes the current year's application of indexes to Schedules A-D, along with the rate increases for the previous four years.

Fiscal Year	Schedule A – General Fees	Schedule B – Engineering Fees	Schedule C – Planning Fees	Schedule D – Building Fees
<b>2024-25 (Proposed)</b>	FY 2023-24 cost-recovery plus 2.4% CPI	FY 2023-24 cost-recovery plus 0.7% CCI, 1.0% Estimated Labor Cost increase	FY 2023-24 cost-recovery plus 2.4% CPI 1.0% Estimated Labor Cost increase	FY 2023-24 cost-recovery plus 1.0% Estimated Labor Cost increase
<b>2023-24</b>	5.3% CPI	7.1% CCI, 9.0% Estimated Labor Cost increase	5.3% CPI 9.0% Estimated Labor Cost increase	9.0% Estimated Labor Cost increase
<b>2022-23</b>	5.2% CPI	9.8% CCI, 1.0% Estimated Labor Cost increase	5.2% CPI 1.0% Estimated Labor Cost increase	1.0% Estimated Labor Cost increase

<b>2021-22</b>	1.6% CPI	2.5% CCI, 5.7% Estimated Labor Cost increase	1.6% CPI 5.7% Estimated Labor Cost increase	5.7% Estimated Labor Cost increase
<b>2020-21</b>	2.9% CPI	6.3% CCI, 17.3% Estimated Labor Cost increase	17.3% Estimated Labor Cost increase	17.3% Estimated Labor Cost increase

Separately and as explained in the February 7 report, Parks and Recreation fees (Schedule E) are not part of the proposed fee increase because they are set by current market rates per Resolutions No. 04-350.

#### User Fee Cost Recovery Policy

Following City Council's direction, staff prepared a User Fee Cost Recovery Policy for adoption to provide general guidelines for establishing and maintaining a comprehensive user fee schedule to ensure the City adequately recovers costs for the provision of services, benefits, or privileges (Services) in an efficient, legal, and accountable manner. The policy incorporates the following:

- Seven-year Cost Allocation Plan and User Fee Study cycle
- Annual fee update following the City's current practice
- A phase-in period for more significant fee increases
- Target cost recovery range by service area

#### Sustainability Impact

No sustainability impact.

#### Fiscal Impact

If Council approves the proposed fee updates, with an effective date of July 14<sup>th</sup>, 2024, the proposed fee schedule adjustments are anticipated to generate additional revenues totaling \$774,680 in the General Fund for Fiscal Year 2024-25. Estimated revenues for Schedules B, C, and D were determined based on the full cost recovery rates established in the fee study, incorporating an application factor where applicable (utilizing the lower rate for schedules employing multiple factors). Anticipated revenue generation from the proposed adjustments in Schedule A is expected to be minimal. Adding new charges, such as the Credit Card Transaction Fee, may deter the use of credit cards for higher-priced permits and bonds, although accurately assessing potential revenue generation remains challenging.

A decision to forego implementing these increases would result in further subsidization of service costs by the General Fund. Consequently, service expenses would compete with other General Fund allocations designated for City services benefiting the broader public.

The recommended increase in fees and estimated revenue are summarized as follows:

Fee Schedule	Additional Revenue	Factor and Basis
<b>Schedule A – General</b>	Nominal change	Cost-recovery plus 2.4% CPI
<b>Schedule B – Engineering</b>	\$60,829	Cost-recovery plus 0.7% CCI, 1.0% Labor Costs
<b>Schedule C – Planning</b>	\$171,190.51	Cost-recovery plus 24% CPI, 1.0% Labor Costs
<b>Schedule D – Building</b>	\$542,659.24	Cost-recovery plus 1.0% Labor Costs

California Environmental Quality Act

Not applicable.

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Prepared by: Jonathan Orozco, Finance Manager

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Matt Morley, Assistant City Manager

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – FY 2024-25 Proposed Fee Schedule A – General (Redline)

B – FY 2024-25 Proposed Fee Schedule B – Engineering (Redline)

C – FY 2024-25 Proposed Fee Schedule C – Planning (Redline)

D – FY 2024-25 Proposed Fee Schedule D – Building (Redline)

E – FY 2024-25 Proposed Fee Schedule A – General (Clean)

F – FY 2024-25 Proposed Fee Schedule B – Engineering (Clean)

G – FY 2024-25 Proposed Fee Schedule C – Planning (Clean)

H – FY 2024-25 Proposed Fee Schedule D – Building (Clean)

I – Draft Resolution No. 24-XXX approving FY 2024-25 Fee Schedules A, B, C, and D

J – User Fee Study 2023

K – Cost Allocation Plan and Fee Study Staff Report

L – User Fee Cost Recovery Policy

M – Draft Resolution No. 24-XXX User Fee Cost Recovery Policy

**CITY OF CUPERTINO**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule A - General**

Fee Description	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
<b>Abatement Fee</b>		<b>Actual Cost ±</b>				
All Municipal Code Parking Violations (including County and State fees)	Each	\$80.90	\$80.90	\$82.81	\$1.91	2.4%
Animal Establishment Permit	Each		\$360.52	\$369.05	\$34.51	10.3%
<del>Commercial Kennel Permit</del>		<del>\$334.54</del>				
<del>Private Kennel</del>		<del>\$334.54</del>				
<del>Pet Shop</del>		<del>\$334.54</del>				
<del>Grooming Business</del>		<del>\$334.54</del>				
<del>Horse Establishment</del>		<del>\$334.54</del>				
Annual Lobbyist Registration Fee	Per Lobbyist	\$198.24	\$290.00	\$296.86	\$98.62	49.7%
Bingo Permit	Annual	\$201.60	\$255.37	\$261.41	\$59.81	29.7%
Business License Database	Each	\$24.39	\$29.72	\$30.42	\$6.03	24.7%
Candidate Statement Fee (County Regulated Fee)	Each	Current County Registrar Cost	Current County Registrar Cost	Current County Registrar Cost		
City Administrative Fee	Each	15%	15%	15%		
Code Enforcement		<b>Actual Cost ±</b>				
Abatement/Graffiti Cleanup	Each	Actual Cost *	Actual Cost *	Actual Cost *		
Hourly rate	Hourly		\$240.35	\$246.04		
Substandard Housing Re-Inspection	Each		\$240.35	\$246.04		
Community Festivals - One-time Business License (correction)	Each	\$12.59	\$12.59	\$12.88	\$0.30	2.4%
Community Festivals - Business Partners	Each	\$64.20	\$64.20	\$65.72	\$1.52	2.4%
Community Festivals - Additional 10' x 10' space (includes an additional table)	Each	\$11.58	\$11.58	\$11.85	\$0.27	2.4%
Community Festivals - Non-profit partners	Each	\$11.58	\$11.58	\$11.85	\$0.27	2.4%
Compilation of New Records	Each	Actual Cost *	Actual Cost *	Actual Cost *		
Credit Card Transaction Fee	Each		3.40%	3.40%		
CVC Parking Citation Dismissals Admin Fee (State Regulated Fee)	Each	\$33.38	\$25.00	\$25.00	-\$8.38	-25.1%
Damage to City Property						
Grounds, Streets, Facilities, Traffic Engineering/Maintenance	Each	Actual Cost *	Actual Cost *	Actual Cost *		
Dangerous Dog Annual Registration Fee	Annual	\$255.53	\$480.70	\$492.07		
Sign	Each		\$24.90	\$24.90		
Duplicate Business Licenses	Each	\$12.84	\$14.86	\$15.21	\$2.37	18.5%
Event Video Taping/Editing	Each	Actual Cost *	Actual Cost *	Actual Cost *		
False Alarms	Each	\$97.60	\$118.86	\$121.68	\$24.08	24.7%
Farmers Market	Each	\$3.21	\$3.21	\$3.29	\$0.08	2.4%
Fingerprinting Processing (State Fee \$32 plus County Fee \$20)	Each	\$66.78	\$71.40	\$73.09	\$6.31	9.4%
Flea Markets	Each	\$13.62	\$13.62	\$13.94	\$0.32	2.4%
Public Requests for GIS Printed Maps						
Standard pre-formatted maps						
Plotted maps	Per Map	\$35.96	\$36.24	\$37.10	\$1.14	3.2%
Printed maps	Per Map	\$2.64	\$4.83	\$4.95	\$2.31	87.6%
Custom request maps	Per Map	Actual Cost *	Actual Cost *	Actual Cost *		
Prints/plots of aerial photography (see Engineering fees)	Per Map	Actual Cost *	Actual Cost *	Actual Cost *		
Handbill Permit	Each	\$158.68	\$240.35	\$246.04	\$87.36	55.1%
Renewals	Each	\$79.34	\$120.17	\$123.02	\$43.68	55.1%
<del>Internet Processing Fee</del>		<del>\$2.64</del>				
Late Payment on 30 Day Delinquent City Invoices	Each	12% per annum	12% per annum	12% per annum		
Massage Establishment Fee (Includes fingerprinting/background check and business start-up inspection)	Each	\$357.04	\$540.79	\$553.58	\$196.55	55.0%
Renewals (Includes two inspections per year)	Each	\$119.42	\$180.26	\$184.53	\$65.10	54.5%
Massage Managing Employee (Includes fingerprint/background check)	Each	\$317.17	\$480.70	\$492.07	\$174.90	55.1%
Renewals	Each	\$119.42	\$180.26	\$184.53	\$65.10	54.5%
Massage Permit Appeal (Denial/Revocation)	Each	\$793.57	\$1,201.75	\$1,230.18	\$436.61	55.0%
<del>Microfilm/Microfiche Printout</del>		<del>\$0.68</del>				
Municipal Code Book	Per Book	Vendor Invoice	Vendor Invoice	Vendor Invoice		
New Business Monthly Reports	Each	\$44.94	\$44.57	\$45.63	\$0.69	1.5%
Noise Variances/Special Exceptions	Each	\$246.54	\$246.54	\$252.38	\$5.83	2.4%
Notary Fee (State Regulated Fee)	Per Signature	\$15.00/signature	\$15.00/signature	\$15.00/signature	\$0.00	0.0%
Outside Agency Review / Services		Vendor Invoice + City Admin Fee	Vendor Invoice + City Admin Fee	Vendor Invoice + City Admin Fee		
Petitions for Reconsideration	Each	\$369.81	\$367.36	\$376.05	\$6.24	1.7%
Permit Update	Each		\$120.17	\$123.02		

**CITY OF CUPERTINO**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule A - General**

Fee Description	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
Photocopies - per sheet						
Standard sizes	Per Page	\$0.29	\$0.29	\$0.30	\$0.01	3.2%
For 11 x 17 sizes or color sheets	Per Page	\$0.67	\$0.67	\$0.69	\$0.01	2.2%
For Large format prints	Per Page	\$33.57	\$33.57	\$34.36	\$0.79	2.4%
Fair Political Practices Commission	Per Page	\$0.12	\$0.10	\$0.10	-\$0.01	-11.6%
Fair Political Practices Commission (older than five (5) years)	Per Page	\$5.79	\$5.00	\$5.12	-\$0.67	-11.6%
Property Liens Administrative Fee	Each	\$53.93	\$240.35	\$246.04	\$192.11	356.2%
Returned Check Charge (State Regulated)		<del>\$33.38</del>				
First returned check	Each		\$25.00	\$25.00		
Subsequent checks	Each		\$35.00	\$35.00		
Sign Removal (Public Right-of-Way) (All except Political Signs)	Each	\$6.42	\$180.26	\$25.00	\$18.58	289.1%
Sign Recovery Fee for Political Signs	Each	\$3.85	\$180.26	\$25.00	\$21.15	549.7%
Small Income Business License	Each	\$89.89	\$89.89	\$92.02	\$2.13	2.4%
Solicitor Permit (Includes fingerprinting)	Each	\$317.37	\$480.70	\$492.07	\$174.70	55.0%
Renewals	Each	\$79.62	\$120.17	\$123.02	\$43.40	54.5%
Taxi Driver Permit (Includes fingerprinting/background check)	Each	\$414.76	\$961.40	\$984.14	\$569.38	137.3%
Renewals	Each	\$79.62	\$120.17	\$123.02	\$43.40	54.5%
Tobacco Retailer (County Regulated Fee)						
Application Fee	Each	Current County Cost	Current County Cost	Current County Cost		
Annual Fee	Annual	Current County Cost	Current County Cost	Current County Cost		
Trash Fees						
—Plan Review – Trash Enclosure		No Charge				
—Plan Review – Trash Management Plan		No Charge				
Williamson Act Filings	Each	\$142.53	\$142.53	\$145.91	\$3.37	2.4%
Use Permit						
—Application / Processing		\$1,289.23				
—Non-Conforming Use		\$344.14				
Video/Audio Service						
DVD/CD	Each	\$26.97	\$25.16	\$25.76	-\$1.21	-4.5%
Flash Drive	Each	\$16.70	\$27.16	\$27.80	\$11.11	66.5%

\* Actual cost is: 1) Fully burdened employee costs as calculated through the 2023 Cost Allocation Plan, Employee hourly rate plus 55% for benefits and overhead, and  
2) cost of materials, contractors, and supplies.



**CITY OF CUPERTINO**  
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**Fees Effective July 14, 2024**  
**Schedule B - Engineering**

FEE DESCRIPTION	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
Encroachment Permits						
- Minor Encroachment Permits (Local Streets)	Each	\$647	\$602	\$608	-\$39.58	-6.1%
- Minor Encroachment Permits (Utility)	Each	\$447	\$416	\$420	-\$26.54	-5.9%
- Major Encroachment Permits (Arterials and Collectors)	Each	\$1,115	\$1,057	\$1,068	-\$47.18	-4.2%
- Work without Permit	Each	Double the permit cost	Double the permit cost	Double the permit cost		
- Small Cell Facility Encroachment Permit	Each	\$2,228	\$2,195	\$2,217	-\$10.96	-0.5%
Street Cuts Miscellaneous						
- Minor Street Cuts	Each	\$1,785	\$1,729	\$1,747	-\$37.61	-2.1%
- Major Street Cuts	Each	\$3,601	\$3,515	\$3,551	-\$50.09	-1.4%
- Special Major Permit (projects in excess of \$30,000 or over 15 working days)	Each/% of Project	5% of Project Costs and/or \$80 per inspection	5% of Project Costs and/or \$254 per inspection	5% of Project Costs and/or \$257 per inspection	\$177.00	221.3%
Permit Extension	Per Permit	\$524	\$523	\$528	\$4.22	0.8%
Crane Lift	Each		\$1,415	\$1,415		
Grading permit						
- <10,000 s.f. lot	Each	\$1,376	\$1,338	\$1,352	-\$24.34	-1.8%
- 10,000 s.f. or greater	Each/% of Improv.	Greater of \$4,015 min. or 6% of cost of improvement	Greater of \$4,842 min. or 6% of cost of improvement	Greater of \$4891 or 6% of cost of improvement		
Parcel Map/Tract Map (Map Checking Fee)						
- Parcel Map (1-4 lots)	Each	\$8,170	\$8,299	\$8,383	\$213.47	2.6%
- Tract Map (> 4 lots)	Each	\$13,413	\$13,549	\$13,687	\$273.39	2.0%
Plan Check and Inspection						
- Review of Building Permit Only Stand Alone Building Permit Review	Each	\$1,218	\$1,289	\$1,302	\$84.44	6.9%
Additional Plan Review - 3 or more reviews	Per Hour	\$279	\$315	\$318	\$39.00	14.0%
Revisions to Plans and Permits	Per Hour	\$279	\$315	\$318	\$39.00	14.0%
Review of Public/Private Improvement Plans:						
- Residential	Each/% of Improv.	greater of \$5,392 min. or 5% of cost of improvement	Greater of \$5,598 min. or 5% of cost of improvement	Greater of \$5655 or 5% of cost of improvement	\$263.00	\$0.05
- Commercial	Each/% of Improv.	greater of \$10,086 min. or 6% of cost of improvement	Greater of \$10,621 min. or 6% of cost of improvement	Greater of \$10729 or 5% of cost of improvement	\$643.00	\$0.06
Planning Application Review	Each		\$1,573	\$1,589		
VMT Monitoring Fee	Per Hour		\$188	\$190		
Professional Services 3rd Party Consultant Review	Each	*Cost of review + City Administrative Fee	*Cost of review + City Administrative Fee	*Cost of review + City Administrative Fee		
*Per Outside Agency Review/Services on Schedule A - General						
Public Works Confirmation	Each	\$542	\$629	\$636	\$93.86	17.3%
Annexation (plus County filing fee)	Each	\$2,948	\$3,486	\$3,522	\$573.30	19.4%
Certificates of Compliance						
- Initial Review	Each	\$1,265	\$3,935	\$2,177	\$911.98	72.1%
- Finalize Certificates	Each	\$1,265	\$3,935	\$2,177	\$911.98	72.1%
Lot Line Adjustment	Each	\$4,069	\$4,173	\$4,216	\$146.67	3.6%
Transportation Impact Fee						
- Single Family	Per Unit	\$6,797/unit	\$6,797/unit	\$6,797	\$0.00	0.0%
- Multi-Family	Per Unit	\$4,215/unit	\$4,215/unit	\$4,215	\$0.00	0.0%
(Includes apartments, condos, and townhomes)						
- Retail	Per s.f.	\$10.94/s.f.	\$10.94/s.f.	\$11	\$0.00	0.0%
- Office	Per s.f.	\$19.15/s.f.	\$19.15/s.f.	\$19	\$0.00	0.0%
- Hotel	Per Room	\$3,728/room	\$3,728/room	\$3,728	\$0.00	0.0%
- Other (per PM trip)	Per trip	\$6,862/trip	\$6,862/trip	\$6,862	\$0.00	0.0%
Transportation Permit (State Regulated Fee)						
- Single	Each	\$16	\$16	\$16	\$0.00	0.0%
- Annual Utility Company	Each	\$90	\$90	\$90	\$0.00	0.0%
- Additional Engineering Investigation or Coordination	Per Hour	\$279/hr	\$315	\$318		

**CITY OF CUPERTINO**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule B - Engineering**

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FEE DESCRIPTION	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
Banners						
- Large Banners Across Stevens Creek Boulevard	Each	\$741	\$730	\$738	-\$3.20	-0.4%
Special Events/Parades	Deposit	\$4,525	\$4,525	\$4,571	\$46.46	1.0%
Block Party	Each	No Charge	\$1,338	No Charge		
Vacation of Public Street ROW/PUE						
- Summary Vacation	Each	\$3,091	\$3,168	\$3,200	\$108.59	3.5%
- Full Vacation	Each	\$4,809	\$4,930	\$4,980	\$171.19	3.6%
Rural/Semi-Rural Classification Application						
- Application Phase	Each	\$2,518	\$2,571	\$2,597	\$78.96	3.1%
- Implementation phase	Each	\$1,540	\$1,594	\$1,610	\$70.00	4.5%
Certificate of Correction	Each	\$1,155	\$1,113	\$1,125	-\$30.21	-2.6%
Floodplain Evaluation/Elevation Certificate Review	Each	\$271	\$297	\$300	\$29.52	10.9%
Permit Parking Study						
- Application Phase	Each	\$1,540	\$1,397	\$1,411	-\$128.75	-8.4%
- Implementation phase	Each	\$1,261	\$1,138	\$1,149	-\$111.43	-8.8%
- Permit Parking Bi-annual Fee	Each	No Charge	\$39	\$40	\$40	-
Streamside Permit	Each	\$494	\$462	\$466	-\$28.09	-5.7%
Master Storm Drain Area Fees:						
Low-Density Residential (Less than one dwelling unit per acre hillside zoning only)	Dwelling unit	\$4,671/dwelling unit	\$4,671/dwelling unit	\$4,706.62	\$35.62	0.8%
Single-Family Residential greater than one dwelling unit per acre and less than 5.2 dwelling units per acre	Per acre	\$6,345/acre	\$6,345/acre	\$6,389.29	\$44.29	0.7%
Multiple Family greater than 5.2 dwelling units per acre	Per acre and Per unit	\$4,552/acre+ \$345/unit*	\$4,552/acre+ \$345/unit*	\$4,583.77 \$347.41	\$31.77 \$2.41	0.7% 0.7%
*Maximum chargeable dwelling units of 20 units per acre.						
Commercial and Industrial	Per acre	\$12,258/acre	\$12,258/acre	\$12,343.56	\$85.56	0.7%
Public Educational Uses	Per acre	\$4,671/acre	\$4,671/acre	\$4,703.60	\$32.60	0.7%
Public Facility Uses	Per acre	\$2,359/acre	\$2,359/acre	\$2,375.47	\$16.47	0.7%
Stormwater Permit Inspections - Commercial						
Initial Inspection		No charge	No charge	No charge		
Re-Inspection for Violations	Each	\$355	\$431	\$434	\$78.36	22.1%
Plan Review Fee						
Single Family	Each		\$157	\$158		
Multi-Family	Each		\$313	\$315		
Storm Management Plan Fee	Each	\$1,789	\$2,202	\$2,217	\$428.42	24.0%
Public Works Staff Time	Hour	\$256/hr	\$288	\$291	\$35.02	13.7%
Technology Fee	Per Permit		5.8%	5.8%		

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FEE DESCRIPTION	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
Park Land Dedication In-Lieu Fee*						
Density of Dwelling Units/Ac						
0 - 5		\$105,000/DU	\$105,000/DU	\$105,000/DU	\$0.00	0.0%
5 - 10		\$60,000/DU	\$60,000/DU	\$60,000/DU	\$0.00	0.0%
10 - 20		\$60,000/DU	\$60,000/DU	\$60,000/DU	\$0.00	0.0%
20+		\$54,000/DU	\$54,000/DU	\$54,000/DU	\$0.00	0.0%
Senior Citizen Housing Dev.		\$30,000/DU	\$30,000/DU	\$30,000/DU	\$0.00	0.0%
ADU 750 SF or more**		\$15,000 or proportional to the size of the main DU, whichever is less	\$15,000 or proportional to the size of the main DU, whichever is less	\$15,000 or proportional to the size of the main DU, whichever is less	\$0.00	0.0%

\* Park Land Dedication Fees are calculated per Municipal Code section 13.08. On an annual basis, Public Works Department updates the fair market value of land based on appraised values of land sales.

\*\* ADU Park Land Dedication Fee is based on the density of the property per Municipal Code section 13.08, or proportionally to the size of the main dwelling unit as stipulated by State ADU mandates.

New Public Tree Cost Schedule:						
Public Tree Planting Cost:						
24" Street Tree	Each	\$515	\$1,018	\$513	-\$2.55	-0.5%
36" Street Tree or Larger	Each	Actual costs	Actual costs	Actual costs		

**PUBLIC TREE DAMAGE OR REMOVAL FEE SCHEDULE:**

This fee schedule is defined in Chapter 14.12 and establishes the fee to be paid to the City for damage to and/or removal of public trees.

1<sup>st</sup> time offenders, as defined in Chapter 14.12, shall be subject to a fee of 10% of the Public Tree Damage Fee or 10% of the Public Tree Removal Fee as defined below or \$600, whichever is higher, per public tree damaged and/or removed. No additional costs, such as stump removal, trimming, or replanting will apply.

Repeat offenders, intentional actors and professionals, as defined in Chapter 14.12, shall be subject to the following fees:

**Public Tree Damage Fee:**

\$100 per cumulative diameter inch of branch or root plus, if any, the actual costs incurred for immediate corrective pruning plus, if any, the calculated costs for future corrective pruning, as may be required to maintain the health of the tree.

**Public Tree Removal Fee:**

The fee for each tree removed shall be based upon the unmodified value of the tree removed (based upon diameter), multiplied by the species rating, multiplied by the condition rating.

FEE = UNMODIFIED TREE VALUE × SPECIES RATING × CONDITION RATING

For inputs, use the following values:

UNMODIFIED TREE	Refer to Unmodified Tree Value Table
SPECIES RATING	Refer to Species Rating Table
CONDITION RATING	Good = 1.00, Fair = 0.75, Poor = 0.50

The fee for trees less than 4 inches in diameter shall not be reduced by species or condition rating.

Trees larger than 40" shall have the fee determined by the most recent edition of the 'Guide for Plant Appraisal', published by the Council of Tree and Landscape Appraisers, using the trunk formula method.

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No additional costs, such as stump removal, trimming or replanting will apply.

Unmodified Tree Value Table:

Tree size (diameter of trunk)	
1" to 2"	\$348
2" to 3"	\$348
3" to 4"	\$1,039
4" to 5"	\$1,039
5" to 6"	\$1,404
6" to 7"	\$1,851
7" to 8"	\$2,378
8" to 9"	\$2,987
9" to 10"	\$3,677
10" to 11"	\$4,449
11" to 12"	\$5,301
12" to 13"	\$6,235
13" to 14"	\$7,249
14" to 15"	\$8,345
15" to 16"	\$9,522
16" to 17"	\$10,780
17" to 18"	\$12,120
18" to 19"	\$13,540
19" to 20"	\$15,042
20" to 21"	\$16,625
21" to 22"	\$18,290
22" to 23"	\$20,036
23" to 24"	\$21,862
24" to 25"	\$23,769
25" to 26"	\$25,758
26" to 27"	\$27,829
27" to 28"	\$29,980
28" to 29"	\$32,212
29" to 30"	\$34,527
30" to 31"	\$36,920
31" to 32"	\$39,396
32" to 33"	\$41,954
33" to 34"	\$44,593
34" to 35"	\$47,312
35" to 36"	\$50,113
36" to 37"	\$52,995
37" to 38"	\$55,958
38" to 39"	\$59,003
39" to 40"	\$62,128

Measurement shall be measured 4.5 feet above the ground level and rounded down to the nearest whole inch.

If the tree is multi-trunk, use 1.5 times the diameter of the largest trunk to determine fee.

If there is tree damage 4-5 feet above the ground, trunk diameter is to be measured 1 foot above ground level and 1 inch is to be subtracted from the diameter to determine fee.

If the tree is removed to the ground, tree inventory data will be used to determine the trunk diameter.

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Species Rating Table

Common Name	Species	Rating%
Acacia	ACACIA	60
Blackwoodacaia	ACACIA MELANOXYLON	60
Trident maple	ACER BUERGERIANUM	90
Big leaf maple	ACER MACROPHYLLUM**	100
Japanese maple	ACER PALMATUM	90
Red maple	ACER REBRUM	70
Silver maple	ACER SACCHARINUM	80
California buckeye	AESCULUS CALIFORNICA**	100
Red hourschesnut	AESCULUS X CARNEA	90
Tree of heaven	AILANTHUS ALTISSIMA	0
Silk tree	ALBIZIA JULIBRISSIN	50
Black Alder	ALNUS GLUTINOSA	80
Strawberry madrone	ARBUTUS MARINA	90
Madrone	ARBUTUS MENZIESII	100
Hong Kong orchid	BAUHINIA BLAKEANA	75
Birch	BETULA ALBA	60
Incense cedar	CALOCEDRUS DECURRENS	80
Horsetail tree	CASUARINA EQUISETIFOLIA	75
Blue atlas cedar	CEDRUS ATLANTICA**	100
Deodora cedar	CEDRUS DEODARA**	100
Chinese hackberry	CELTUS SINENSIS	65
Carob tree	CERATONIA SILIQUA	70
Redbud(eastern)	CERCIS CANADENSIS	75
Camphor tree	CINNAMOMUM CAMPHORA	70
Citrus	CITRUS SP	40
English hawthorn	CRATAEGUS LAEVIGATA	70
Cypress	CUPRESSACEAE	80
Italian cypress	CUPRESSUS SEMPERVIREN	80
Japanese persimmon	DIOSPYROS KAKI	40
Loquat	ERIOPHYTUM DEFLEXA	60
Blue gum tree	EUCALYPTUS GLOBULUS	70
Eucalyptus	EUCALYPTUS SP	60
Misson fig	FICUS CARICA	40
Autumn purple ash	FRAXINUS AMERICANA	80
Raywood ash	FRAXINUS ANGUSTIFOLIA 'RAYWOOD'	80
Moraine ash	FRAXINUS HOLOTRICHA	80
Shamel ash	FRAXINUS UHDEI	80
Modesto ash	FRAXINUS VELUTINA 'MODESTO'	80
Australian willow	GEIJERA PARVIFOLIA	80
Maidenhair	GINKGO BILOBA	80
Honey locust	GLEDTISIA TRIACANTHOS	70
Silk oak tree	GREVILLEA ROBUSTA	70
English holly	ILLEX AQUIFOLIUM	40
Jacaranda	JACARANDA MIMMOSIFOLIA	70
Walnut	JUGLANS	70

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Species Rating Table

Common Name	Species	Rating%
Black walnut	<i>JUGLANS HINDSII</i>	70
Chinese flame tree	<i>KOELREUTERIA BIPINNATA</i>	80
Muskogee crape myrtle	<i>LAGERSTROMIA 'MUSKOGEE'</i>	80
Nanchez crape myrtle	<i>LAGERSTROMIA 'NANCHEZ'</i>	80
Tuscarora crape myrtle	<i>LAGERSTROMIA 'TUSCARORA'</i>	80
Sweet bay	<i>LAURUS NOBILIS</i>	80
Japanese privet	<i>LIGUSTRUM JAPONICUM</i>	30
American sweetgum	<i>LIQUIDAMBER STYRACIFLUA</i>	40
Tulip tree	<i>LIRIODENDRON</i>	60
Brisbane box tree	<i>LOPHOSTEMON CONFERTUS</i>	90
Magnolia	<i>MAGNOLIA GRANDIFOLIA RUSSET</i>	75
Magnolia (dwarf)	<i>MAGNOLIA GRANDIFOLIA ST MARY</i>	75
Saucer magnolia	<i>MAGNOLIA SOLINGIANA</i>	75
Crabapple tree	<i>MALUS FLORIBUNDA</i>	90
Apple	<i>MALUS SP</i>	40
Mayten tree	<i>MAYTENUS</i>	70
Malaleuca(broad leaf)	<i>MELALEUCA LEUCADENDRA</i>	60
Malaleuca(narrow leaf)	<i>MELALEUCA LINARIFOLIA</i>	60
Dawn redwood	<i>METASAQUOIA GLYPTOSTROBOIDES</i>	100
Fruitless mulberry	<i>MORUS ALBA</i>	40
Black mulberry	<i>MORUS NIGRA</i>	40
Myoprum	<i>MYOPORUM LAETUM</i>	70
Oleander tree	<i>NERIUM OLEANDER</i>	40
Olive	<i>OLEA EUROPAEA</i>	70
Devilwood	<i>OSMANTHUS AMERICANUS</i>	0
Palm	<i>PALM*</i>	40
Avocado	<i>PERSEA AMERICANA</i>	60
Red leaf photinia	<i>PHOTINIA GLABRA</i>	60
Spruce	<i>PICEA</i>	80
Colorado spruce	<i>PICEA PUNGENS</i>	80
Colorado blue spruce	<i>PICEA PUNGENS 'GLAUCA'</i>	80
Italian stone pine	<i>PINUS PINEA</i>	90
Pine	<i>PINUS SP</i>	30
Chinese pistacio	<i>PISTACIA CHINENSIS</i>	80
Lemonwood tree	<i>PITTOSPORUM EUGENIOIDES</i>	40
Japanese cheesewood	<i>PITTOSPORUM TOBIRA</i>	40
London plane 'colombiana'	<i>PLATANUS COLUMBIANA</i>	95
Western Sycamore	<i>PLATANUS RACEMOSA**</i>	100
London plane 'bloodgood'	<i>PLATANUS X HISPANICA 'BLOODGOOD'</i>	95
Yew pine	<i>PODOCURPUS MACROPHYLLUS</i>	75
Poplar	<i>POPULUS</i>	60
Flowering cherry	<i>PRUNUS AKEBONO</i>	80
Wild Plum	<i>PRUNUS AMARACANA</i>	40
Almond tree	<i>PRUNUS ALMOND</i>	50
Apricot tree	<i>PRUNUS APRICOT</i>	40

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Species Rating Table

Common Name	Species	Rating%
Fruiting cherry	<i>PRUNUS AVIUM</i>	0
Carolina cherry	<i>PRUNUS CAROLINIANA</i>	60
Purple leaf plum	<i>PRUNUS CERASFERA KRAUTER VESUVIUS</i>	70
Peach tree	<i>PRUNUS PERSICA</i>	40
Douglas fir	<i>PSEUDOTSUGA MENZIESII</i>	80
Guava	<i>PSIDIMUM GUAJAVA</i>	40
Pomegranate	<i>PUNICA GRANATUM</i>	40
Aristocrat Flowering pear tree	<i>PYRUS CALLERYANA 'ARISTOCRAT'</i>	75
Bradford flowering pear	<i>PYRUS CALLERYANA 'BRADFORD'</i>	75
Chanticleer flowering pear	<i>PYRUS CALLERYANA 'CHANTICLEER'</i>	75
Evergreen flowering pear	<i>PYRUS KAWAKAMII</i>	75
Asian pear	<i>PYRUS PYRIFOLIA</i>	40
Oak	<i>QUERCUS</i>	90
Coast live oak	<i>QUERCUS AGRIFOLIA**</i>	100
White oak	<i>QUERCUS ALBA</i>	90
Texas red oak	<i>QUERCUS BUCKEYI</i>	90
Sierra oak	<i>QUERCUS CAMBII</i>	90
Blue oak	<i>QUERCUS DOUGLASII**</i>	100
Forest green oak	<i>QUERCUS FRINETTO</i>	90
Holly oak	<i>QUERCUS ILEX</i>	90
Black oak	<i>QUERCUS KELLOGGII**</i>	100
Valley oak	<i>QUERCUS LOBATA**</i>	100
Red oak	<i>QUERCUS SUBER</i>	90
Cork oak	<i>QUERCUS SUBER</i>	90
Southern live oak	<i>QUERCUS VIRGINIANA</i>	100
Interior live oak	<i>QUERCUS WISLIZENI**</i>	100
African sumac	<i>RHUS LANCIA</i>	70
Weeping willow	<i>SALIX BABYLONICA</i>	40
Wild willow	<i>SALIX SCOULERIANA</i>	0
California pepper tree	<i>SCHINUS MOLE</i>	40
Brazilian pepper tree	<i>SCHINUS TEREBINTHEFOLIUS</i>	40
Coast redwood	<i>SEQUIOA SEMPRIVIRONIS</i>	95
Giant sequoia	<i>SEQUIOIA DENDRON GIGANTEUM</i>	80
Japanese pagoda	<i>SOPHORIA JAPONICA</i>	70
Chinese tallow	<i>TRIADICA SEBIFERA</i>	50
Water gum	<i>TRISTANIA LAURINA</i>	70
Bosque chinese elm	<i>ULMAS PARVIFOLIA 'BOSQUE'</i>	90
Chinese elm	<i>ULMUS PARVIFOLIA</i>	70
Siberian elm	<i>ULMUS PUMILA</i>	60
Bay laurel	<i>UMBELLULARIA CALIFORNICA**</i>	100
Mexican fan palm	<i>WASHINGTON ROBUSTA</i>	0
Spanish dagger yucca	<i>YUCCA GLORIOSA</i>	0
Zelkova	<i>ZELKOVA SERRATA</i>	65

\*All palms on Palm Avenue are protected heritage trees and will be rated @ 100%

\*\*Protected tree species

DEFINITIONS

- A. Parcel Map: Subdivisions, including ministerial subdivisions - up to four (4) parcels (CMC Chapter 18.20).
- B. Tentative map: Subdivisions - five (5) or more parcels (CMC Chapter 18.16).
- C. Minor: for ten thousand square feet or less of commercial and/or industrial and/or office and/or other non-residential use, or six or less residential
- D. Major: for more than ten thousand square feet of commercial and/or industrial and/or office and/or other non-residential use, or greater than six
- E. Minor Architectural and Site Approval - Duplex/Residential: Architectural approval of single family homes in a planned development zoning district.
- F. Minor Architectural and Site Approval: Architectural approval of the following: minor building modifications, landscaping, signs and lighting for
- G. Major Architectural and Site Approval: Architectural approval of all other development projects (CMC Chapter 19.12).
- ~~H~~I. Minor Modification: An application that is administratively reviewed by staff either at an advertised public hearing/meeting or in a non-hearing
- ~~H~~I. Exceptions: An exception to the zoning standards for which an exception process and findings are identified in the Municipal Code. These include
- J. Project Review Meeting: Request for a one hour meeting by an applicant to review a project with City staff without any written feedback.
- K. Preliminary Review: One round of informal review of any proposed project with written feedback from City staff.
- ~~J~~L. Temporary Sign Permit: A review of a temporary sign application for banners, A-frame signs and other temporary signs (CMC Chapter 19.104).
- M. Sign Permit: For signs that require a public meeting such as freeway oriented signage, electronic readerboard signs etc. (CMC Chapter 19.104)
- ~~K~~N. Extension Permit: A one-time one-year extension of the planning permit expiration date (CMC Chapter 19.12).
- ~~L~~O. Appeal: A request from the project applicant or interested party to reverse or amend a decision made by the approval authority. Fee Exemption for:
- ~~M~~P. Legal Noticing Fee: Assessed for all permit applications that require noticing (CMC Chapter 19.12).
- Q. Special Events Permit: A request to host a special event for no more than a total of 12 calendar days in a year including, but not limited to, employee
- ~~N~~R. Housing Mitigation Fee: A fee assessed in accordance with the City's General Plan Housing Element, Municipal Code (CMC 19.172) and the City's
- Note: Mixed use applications will be classified based upon the highest intensity and review process. The Director of Community Development will have discretion to classify projects based upon the above criteria.



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Fee Description <sup>1</sup>	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
Planning Staff Hourly Rate <sup>+2</sup>	Per Hour	\$332	\$287	\$290	(42.00)	-12.7%
<b>General Plan</b>						
Authorization	Deposit	Staff Hourly Rate	Staff Hourly Rate	Staff Hourly Rate		
Amendment	Deposit	Staff Hourly Rate	Staff Hourly Rate	Staff Hourly Rate		
<b>Zoning</b>						
Zoning Map Amendment	Deposit	Staff Hourly Rate	Staff Hourly Rate	Staff Hourly Rate		
Zoning Text Amendment	Deposit	Staff Hourly Rate	Staff Hourly Rate	Staff Hourly Rate		
Single-Story Overlay District	Deposit	Staff Hourly Rate	Staff Hourly Rate	Staff Hourly Rate		
Study Session	Deposit	Staff Hourly Rate	Staff Hourly Rate	Staff Hourly Rate		
<b>Subdivision</b>						
Parcel Map (See Definition A)	Each	\$20,917	\$27,117	\$27,393	6,476.00	31.0%
Tentative Map (See Definition B)	Each	\$34,792	\$46,604	\$47,078	12,286.00	35.3%
<b>Conditional Use/Development Permit</b>						
Temporary Use Permit	Each	\$4,639	\$5,030	\$5,081	442.00	9.5%
Administrative Conditional Use Permit	Each	\$7,682	\$10,614	\$10,722	3,040.00	39.6%
Minor (See Definition C)	Each	\$21,043	\$25,496	\$25,755	4,712.00	22.4%
Major (See Definition D)	Each	\$35,064	\$38,905	\$39,301	4,237.00	12.1%
<b>Amendment to Conditional Use/Development Permit</b>						
Minor (See Definition C)	Each	\$9,666	\$11,501	\$11,618	1,952.00	20.2%
Major (See Definition D)	Each	\$17,654	\$24,819	\$25,071	7,417.00	42.0%
<b>Architectural and Site Approval Permit</b>						
Minor Duplex / Residential (See Definition E)	Each	\$7,393	\$10,584	\$10,692	3,299.00	44.6%
Minor (See Definition F)	Each	\$14,557	\$16,515	\$16,683	2,126.00	14.6%
Major (See Definition G)	Each	\$21,667	\$25,195	\$25,451	3,784.00	17.5%
<b>Single Family (R-1) Residential Permits</b>						
Minor Residential Permit	Each	\$3,796	\$3,983	\$4,024	228.00	6.0%
Two-Story Permit without Design Review	Each	\$4,929	\$4,985	\$5,035	106.00	2.2%
Two-Story Permit with Design Review	Each	\$5,915	\$6,088	\$6,149	234.00	4.0%
Director Minor Modification (See Definition H)	Each	\$5,185	\$5,441	\$5,497	312.00	6.0%
<b>Ministerial Residential Permit</b>						
Miscellaneous Ministerial Permit	Each	\$4,322	\$4,506	\$4,551	229.00	5.3%
<b>Exceptions (See Definition H1)</b>						
Fence Exception - R1 & R2	Each	\$1,411	\$4,626	\$4,673	3,262.00	231.2%
Fence Exception - Other	Each	\$4,749	\$5,132	\$5,184	435.00	9.2%
Sign Exception	Each	\$5,405	\$6,911	\$6,981	1,576.00	29.2%
R-1 Exception	Each	\$7,677	\$7,742	\$7,821	144.00	1.9%
Heart of the City Exception	Each	\$21,460	\$24,873	\$25,126	3,666.00	17.1%
Hillside Exception	Each	\$22,241	\$23,724	\$23,965	1,724.00	7.8%
Exception - Other	Each	\$7,408	\$7,862	\$7,942	534.00	7.2%
Variance	Each	\$8,489	\$8,990	\$9,081	592.00	7.0%
Reasonable Accommodation	Each	\$1,232	\$3,570	\$1,803	571.00	46.3%
<b>Project Review Meeting (See Definition J)</b>	Per Review		\$2,478.98	\$2,504.00		
<b>Preliminary Application Review (See Definition K)</b>						
Single Family	Per Review		\$2,508.49	\$2,534.00		
Non-Residential (Retail/Industrial/Office/Hotel)						
<10,000 sf	Per Review		\$5,435.74	\$5,491.00		
>10,000 sf	Per Review		\$9,454.37	\$9,550.00		
<b>Residential / Mixed Use:</b>						
Duplex	Per Review		\$1,971.46	\$1,991.00		
3-6 Units	Per Review		\$8,688.72	\$8,777.00		
6-50 Units	Per Review		\$13,412.54	\$13,549.00		
>50 Units	Per Review		\$19,359.32	\$19,556.00		

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Fee Description		FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee		
<b>Tree Removal Permit</b>						
Tree Removal Permit (no Arborist review required)						
First Tree	Per Tree	\$328	\$1,260	\$424	96.00	29.3%
Each Additional Tree	Per Tree	\$165	\$276	\$167	2.00	1.2%
Tree Removal Permit (Arborist review required)						
First Tree	Per Tree	\$492	\$2,305	\$776	284.00	57.7%
Each Additional Tree	Per Tree	\$247	\$950	\$250	3.00	1.2%
Retroactive Tree Removal ( <del>per tree</del> )	Per Tree	\$5,464	\$5,464	\$5,520	56.00	1.0%
Heritage Tree Designation	Each	\$411	\$4,182	\$422	11.00	2.7%
Tree Management Plan	Each	\$7,724	\$7,871	\$7,951	227.00	2.9%
<b>Signs</b>						
Temporary Sign Permit (See Definition <del>L</del> )	Each	\$524	\$547	\$553	29.00	5.5%
Sign Permit (See Definition M)	Each	\$5,405	\$6,911	\$7,532	2,127.00	39.4%
Sign Program	Each	\$4,242	\$4,411	\$4,456	214.00	5.0%
Planning Commission Interpretation	Each	\$7,822	\$7,973	\$8,054	232.00	3.0%
Extension of Approved Entitlements (See Definition <del>K</del> N)	Each	\$2,103	\$2,082	\$2,103	0.00	0.0%
<b>Environmental Assessment</b>						
Environmental Impact Report (Plus State & County Filing Fees)	Each	Contract+Admin Fee	Contract+Admin Fee	Contract+Admin Fee		
Negative Declaration - Major (Plus State & County Filing Fees)	Each	Contract+Admin Fee	Contract+Admin Fee	Contract+Admin Fee		
Negative Declaration - Minor (Plus State & County Filing Fees)	Each	Contract+Admin Fee	Contract+Admin Fee	Contract+Admin Fee		
Categorical Exemption (Plus County Filing Fee)	Each	\$379	\$397	\$401	22.00	5.8%
<b>Appeals (See Definition <del>L</del>O)</b>						
Planning Commission	Each	\$379	\$19,006	\$505	126.00	33.2%
City Council	Each	\$379	\$19,294	\$505	126.00	33.2%
<b>Miscellaneous Fees</b>						
Legal Noticing Fee (See Definition <del>M</del> P)	Each	\$440	\$521	\$527	87.00	19.8%
Mercury News Ad	Each	Actual Cost + Admin Fee	Actual Cost + Admin Fee	Actual Cost + Admin Fee		
Zoning Verification Letter	Each	\$555	\$577	\$583	28.00	5.0%
Public Convenience and Necessity Letter (Alcoholic Beverage License)	Each	\$279	\$288	\$291	12.00	4.3%
Short-Term Rental	Each	\$232	\$405	\$409	177.00	76.3%
Mobile Vending Registration Fee	Each	\$332	\$543	\$548	216.00	65.1%
<b>Special Events (See Definition Q)</b>	Sition Qe Def					
Large Event	Each		\$4,836.63	\$4,886.00		
Small Event	Each		\$2,161.79	\$500.00		
Planning Inspection	Per Inspection		\$425.43	\$430.00		
Technology Fee	Per Permit		5.8%	5.8%		
<b>Fees Assessed at Building Permit Issuance with Building Permits</b>						
<b>Wireless Master Plan Fees (at Building Permit Issuance)</b>						
Equipment Mounted on Existing Light/Utility Pole	Each	\$10.18	\$10.18	\$10.28	0.10	1.0%
New Personal Wireless Facility (not mounted on light/utility pole)	Each	\$2,218	\$2,218	\$2,241	23.00	1.0%
<b>Zoning, Planning, Municipal Code Fees (at Building Permit Issuance)</b>						
All Non-Residential and Multi-Family ( <del>per sq-ft</del> )	Per s.f.	\$0.49	\$1.50	\$1.52	1.03	209.4%
Residential Single Family ( <del>per sq-ft</del> )	Per s.f.	\$0.24	\$1.50	\$1.52	1.28	535.4%
General Plan Office Allocation Fee ( <del>per sq-ft</del> )	Per s.f.	\$0.45	\$1.50	\$1.52	1.07	235.8%
Planning Department Review fee (New Construction and Additions) (Payable at permit submittal)	Each		20% of Plan Check and Inspection fees	20% of Plan Check and Inspection fees		

CITY OF CUPERTINO  
Resolution 24-XXX  
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Schedule C - Planning

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<b>FOR INFORMATIONAL PURPOSES ONLY: <sup>2,3</sup></b>						
<b>Housing Mitigation In-Lieu Fees <sup>2</sup> (See Definition N R)</b>						
<b>Residential - Ownership (<del>per-sq.-ft.</del>)</b>						
Detached Single Family Residence	Per s.f.	\$21.36	\$21.36	\$21.87	0.51	2.4%
Small Lot Single Family Residence or Townhome	Per s.f.	\$23.49	\$23.49	\$24.05	0.56	2.4%
Multi-family Attached Townhome, Apartment, or Condominium (up to 35 du/ac)	Per s.f.	\$28.48	\$28.48	\$29.15	0.67	2.4%
Multi-family Attached Townhome, Apartment, or Condominium (over 35 du/ac)	Per s.f.	\$28.48	\$28.48	\$29.15	0.67	2.4%
<b>Residential - Rental (<del>per-sq.-ft.</del>)</b>						
Multi-family Attached Townhome, Apartment, or Condominium (up to 35 du/ac)	Per s.f.	\$28.48	\$28.48	\$29.15	0.67	2.4%
Multi-family Attached Townhome, Apartment, or Condominium (over 35 du/ac)	Per s.f.	\$35.60	\$35.60	\$36.44	0.84	2.4%
<b>Non-Residential (<del>per-sq.-ft.</del>)</b>						
Office, Research and Development, or Industrial	Per s.f.	\$33.76	\$33.76	\$34.55	0.80	2.4%
Hotel	Per s.f.	\$16.88	\$16.88	\$17.28	0.40	2.4%
Self-storage, employee unit provided	Per s.f.	\$0.63	\$0.63	\$0.65	0.01	2.4%
Self-storage, employee unit not provided	Per s.f.	\$1.33	\$1.33	\$1.36	0.03	2.4%
Warehouse	Per s.f.	\$46.89	\$46.89	\$48.00	1.11	2.4%
Commercial/Retail	Per s.f.	\$14.24	\$14.24	\$14.58	0.34	2.4%

<sup>1</sup>Based on 2016~~23~~ Fee and Cost Allocation Plan Study by Matrix Consulting

<sup>1</sup> All application fees except those project subject to the Planning Staff Hourly Rate fee (see note 2) allow for two rounds of review. Any submissions beyond two shall be subject to a fee equal to 50% of the total p

<sup>22</sup> Applications may be subject to a Planning Staff Hourly Rate fee for applicable staff time, and vendor invoice. These fees apply to projects that require a level of staff support greater than the scope of work

<sup>23</sup> All Housing Mitigation Fees are assessed in accordance with the BMR Housing Mitigation Manual. Non-residential Housing Mitigation In-lieu Fees are based on the 2015 and the 2020 Supplement to the Non-

An administrative fee (15%) will be charged for outside agency review/consultant services/~~outside services (ads etc.)~~ per Schedule A - General Fees.

If plans are submitted on paper, these must be sent to an outside agency for scanning. The cost of scanning the plans, plus the administrative fee per Schedule A - General Fees will be charged.

## Fee Effective July 14, 2024

## Schedule D - Table 1 Plan Check and Inspection Fees

Related IBC Class	Building Use (e.g., IBC Occupancy Type)	Sq. Ft.	Base Cost <sup>1</sup>		Cost for each Add. 100 Sq. Ft. <sup>1,2</sup>		
			Permit Cost	Tech Plan Check Cost	Inspection Cost	Plan Check Cost	Inspection Cost
A	Assembly	250	\$117	\$4,162	\$3,918	\$110.97	\$116.14
		1,250	\$233	\$5,271	\$4,962	\$110.97	\$125.36
		2,500	\$233	\$6,658	\$6,529	\$88.78	\$4.67
		5,000	\$350	\$8,878	\$6,529	\$22.19	\$34.82
		12,500	\$350	\$10,542	\$9,141	\$19.98	\$30.18
		25,000	\$467	\$13,039	\$12,797	\$52.16	\$53.06
A	A Occupancy Tenant Improvements	500	\$233	\$3,329	\$3,918	\$41.62	\$76.96
		2,500	\$467	\$4,162	\$5,223	\$44.39	\$73.13
		5,000	\$467	\$5,271	\$7,052	\$38.84	\$4.67
		10,000	\$700	\$7,213	\$7,052	\$7.40	\$19.15
		25,000	\$700	\$8,323	\$9,924	\$7.77	\$16.60
		50,000	\$934	\$10,265	\$13,842	\$20.53	\$29.55
B	Business	1,000	\$233	\$5,271	\$5,746	\$34.68	\$51.54
		5,000	\$467	\$6,658	\$7,574	\$38.84	\$47.01
		10,000	\$467	\$8,600	\$9,924	\$30.52	\$25.84
		20,000	\$700	\$11,652	\$12,275	\$6.47	\$6.09
		50,000	\$700	\$13,594	\$14,103	\$6.66	\$11.44
		100,000	\$934	\$16,923	\$19,588	\$16.92	\$20.52
B	B Occupancy Tenant Improvements	300	\$117	\$4,162	\$3,134	\$92.48	\$118.55
		1,500	\$233	\$5,271	\$4,440	\$92.48	\$69.65
		3,000	\$233	\$6,658	\$5,485	\$83.23	\$3.89
		6,000	\$350	\$9,155	\$5,485	\$15.41	\$26.12
		15,000	\$350	\$10,542	\$7,835	\$16.65	\$19.93
		30,000	\$467	\$13,039	\$10,708	\$43.46	\$37.25
E	Educational	100	\$117	\$4,162	\$3,134	\$277.43	\$290.35
		500	\$233	\$5,271	\$4,179	\$277.43	\$313.40
		1,000	\$233	\$6,658	\$5,746	\$249.69	\$11.67
		2,000	\$350	\$9,155	\$5,746	\$46.24	\$78.35
		5,000	\$350	\$10,542	\$8,096	\$49.94	\$65.02
		10,000	\$467	\$13,039	\$11,230	\$130.39	\$116.97
E	E Occupancy Tenant Improvements	100	\$117	\$3,052	\$3,134	\$208.08	\$225.05
		500	\$233	\$3,884	\$3,918	\$221.95	\$261.17
		1,000	\$233	\$4,994	\$5,223	\$166.46	\$11.67
		2,000	\$350	\$6,658	\$5,223	\$36.99	\$69.65
		5,000	\$350	\$7,768	\$7,313	\$38.84	\$59.79
		10,000	\$467	\$9,710	\$10,186	\$97.10	\$106.52
F	Factory Industrial	1,000	\$233	\$5,826	\$6,007	\$20.81	\$45.01
		5,000	\$467	\$6,658	\$7,574	\$33.29	\$47.01
		10,000	\$467	\$8,323	\$9,924	\$36.07	\$25.84
		20,000	\$700	\$11,930	\$12,275	\$5.55	\$6.09
		50,000	\$700	\$13,594	\$14,103	\$3.33	\$11.44
		100,000	\$934	\$15,259	\$19,588	\$15.26	\$20.52
F	F Occupancy Tenant Improvements	1,000	\$233	\$4,716	\$4,701	\$27.74	\$45.01
		5,000	\$467	\$5,826	\$6,268	\$33.29	\$41.79
		10,000	\$467	\$7,491	\$8,357	\$27.74	\$2.33
		20,000	\$700	\$10,265	\$8,357	\$5.55	\$11.32
		50,000	\$700	\$11,930	\$11,753	\$5.55	\$9.87
		100,000	\$934	\$14,704	\$16,454	\$14.70	\$17.39
H	High Hazard	100	\$117	\$5,826	\$4,179	\$346.79	\$355.64
		500	\$233	\$7,213	\$5,485	\$443.89	\$313.40
		1,000	\$233	\$9,433	\$7,052	\$332.92	\$11.67
		2,000	\$350	\$12,762	\$7,052	\$73.98	\$95.76
		5,000	\$350	\$14,981	\$9,924	\$72.13	\$80.69
		10,000	\$467	\$18,588	\$13,842	\$185.88	\$143.09
H	H Occupancy Tenant Improvements	100	\$117	\$3,329	\$3,134	\$208.08	\$290.35
		500	\$233	\$4,162	\$4,179	\$277.43	\$313.40
		1,000	\$233	\$5,549	\$5,746	\$194.20	\$11.67
		2,000	\$350	\$7,491	\$5,746	\$46.24	\$78.35
		5,000	\$350	\$8,878	\$8,096	\$38.84	\$65.02
		10,000	\$467	\$10,820	\$11,230	\$108.20	\$116.97
I	Institutional	500	\$233	\$6,658	\$4,440	\$83.23	\$90.02
		2,500	\$467	\$8,323	\$6,007	\$99.88	\$73.13
		5,000	\$467	\$10,820	\$7,835	\$77.68	\$4.67
		10,000	\$700	\$14,704	\$7,835	\$16.65	\$22.63
		25,000	\$700	\$17,201	\$11,230	\$16.65	\$17.65
		50,000	\$934	\$21,362	\$15,409	\$42.72	\$32.69
I	I Occupancy Tenant Improvements	100	\$117	\$4,162	\$3,134	\$277.43	\$290.35
		500	\$233	\$5,271	\$4,179	\$277.43	\$261.17
		1,000	\$233	\$6,658	\$5,485	\$249.69	\$11.67

## Fee Effective July 14, 2024

## Schedule D - Table 1 Plan Check and Inspection Fees

		2,000	\$350	\$9,155	\$5,485	\$46.24	\$78.35
		5,000	\$350	\$10,542	\$7,835	\$49.94	\$59.79
		10,000	\$467	\$13,039	\$10,708	\$130.39	\$111.75
M	Mercantile	2,000	\$350	\$7,768	\$6,529	\$27.74	\$27.23
		10,000	\$700	\$9,988	\$8,357	\$27.74	\$28.73
		20,000	\$700	\$12,762	\$11,230	\$22.19	\$1.75
		40,000	\$1,050	\$17,201	\$11,230	\$5.09	\$7.84
		100,000	\$1,050	\$20,253	\$15,931	\$4.99	\$6.62
		200,000	\$1,400	\$25,246	\$22,200	\$12.62	\$11.80
M	M Occupancy Tenant Improvements	300	\$233	\$3,329	\$3,656	\$69.36	\$128.27
		1,500	\$467	\$4,162	\$4,962	\$92.48	\$104.47
		3,000	\$467	\$5,549	\$6,529	\$64.73	\$7.78
		6,000	\$700	\$7,491	\$6,529	\$15.41	\$31.92
		15,000	\$700	\$8,878	\$9,402	\$12.95	\$24.19
		30,000	\$934	\$10,820	\$12,797	\$36.07	\$45.77
R-1	Residential—Hotels & Motels	3,000	\$350	\$9,155	\$7,574	\$20.81	\$22.51
		15,000	\$700	\$11,652	\$9,924	\$22.19	\$20.89
		30,000	\$700	\$14,981	\$13,059	\$17.57	\$1.17
		60,000	\$1,050	\$20,253	\$13,059	\$3.70	\$6.09
		150,000	\$1,050	\$23,582	\$18,543	\$3.88	\$5.11
		300,000	\$1,400	\$29,408	\$25,856	\$9.80	\$9.09
R-2	Residential—Apartment Building	800	\$233	\$7,213	\$6,007	\$60.69	\$64.43
		4,000	\$467	\$9,155	\$7,835	\$69.36	\$58.76
		8,000	\$467	\$11,930	\$10,186	\$52.02	\$2.92
		16,000	\$700	\$16,091	\$10,186	\$11.56	\$17.41
		40,000	\$700	\$18,865	\$14,364	\$11.79	\$14.95
		80,000	\$934	\$23,582	\$20,110	\$29.48	\$26.30
R-2	Residential—Apartment Building - Repeat Unit	800	\$233	\$277	\$6,007	\$0.00	\$64.43
		4,000	\$467	\$277	\$7,835	\$0.00	\$58.76
		8,000	\$467	\$277	\$10,186	\$0.00	\$2.92
		16,000	\$700	\$277	\$10,186	\$1.16	\$17.41
		40,000	\$700	\$555	\$14,364	\$0.00	\$14.95
		80,000	\$934	\$555	\$20,110	\$0.69	\$26.30
R-3	Dwellings—Custom Homes, Models, First Master Plan	1,000	\$233	\$5,271	\$6,268	\$18.50	\$52.23
		2,500	\$233	\$5,549	\$7,052	\$73.98	\$52.23
		4,000	\$233	\$6,658	\$7,835	\$13.87	\$76.96
		6,000	\$467	\$6,936	\$9,141	\$55.49	\$26.12
		8,000	\$467	\$8,046	\$9,663	\$13.87	\$76.96
		10,000	\$700	\$8,323	\$10,969	\$83.23	\$116.69
R-3	Dwellings—Production Phase of Master Plan (Repeats)	1,000	\$117	\$555	\$4,440	\$0.00	\$112.25
		2,500	\$233	\$555	\$6,007	\$18.50	\$121.88
		4,000	\$233	\$832	\$7,835	\$13.87	\$11.67
		6,000	\$467	\$1,110	\$7,835	\$13.87	\$169.76
		8,000	\$467	\$1,387	\$11,230	\$13.87	\$220.61
		10,000	\$700	\$1,665	\$15,409	\$16.65	\$161.09
R-3	Group Care	1,000	\$233	\$6,104	\$6,007	\$41.62	\$58.07
		5,000	\$467	\$7,768	\$8,096	\$44.39	\$47.01
		10,000	\$467	\$9,988	\$10,447	\$36.07	\$2.33
		20,000	\$700	\$13,594	\$10,447	\$7.40	\$14.80
		50,000	\$700	\$15,814	\$14,887	\$7.77	\$11.96
		100,000	\$934	\$19,698	\$20,632	\$19.70	\$21.57
R	R Occupancy Tenant Improvements	80	\$233	\$2,497	\$3,395	\$173.40	\$326.46
		400	\$233	\$3,052	\$4,440	\$208.08	\$326.46
		800	\$233	\$3,884	\$5,746	\$173.40	\$29.18
		1,600	\$467	\$5,271	\$5,746	\$34.68	\$108.82
		4,000	\$467	\$6,104	\$8,357	\$41.62	\$77.66
		8,000	\$700	\$7,768	\$11,230	\$97.10	\$149.13
S	Storage	600	\$233	\$4,716	\$4,179	\$57.80	\$64.14
		3,000	\$467	\$6,104	\$5,485	\$55.49	\$60.94
		6,000	\$467	\$7,768	\$7,313	\$46.24	\$3.89
		12,000	\$700	\$10,542	\$7,313	\$9.25	\$17.41
		30,000	\$700	\$12,207	\$10,447	\$10.17	\$13.84
		60,000	\$934	\$15,259	\$14,364	\$25.43	\$25.50
S	S Occupancy Tenant Improvements	600	\$233	\$3,884	\$3,918	\$46.24	\$64.14
		3,000	\$467	\$4,994	\$5,223	\$46.24	\$60.94
		6,000	\$467	\$6,381	\$7,052	\$36.99	\$3.89
		12,000	\$700	\$8,600	\$7,052	\$7.71	\$15.96
		30,000	\$700	\$9,988	\$9,924	\$8.32	\$13.84
		60,000	\$934	\$12,485	\$13,842	\$20.81	\$24.63
U	Accessory	40					
		200					
		400					

## Fee Effective July 14, 2024

## Schedule D - Table 1 Plan Check and Inspection Fees

	800					
	1,000	\$233	\$2,219	\$3,656	\$27.74	\$168.37
	2,000	\$350	\$2,497	\$5,223	\$41.62	\$110.30
	4,000	\$467	\$3,329	\$7,313	\$83.23	\$194.49
<b>Standard Comm. Foundation w/o Podium</b>	500	\$233	\$2,774	\$3,918	\$27.74	\$76.96
	2,500	\$467	\$3,329	\$5,223	\$44.39	\$62.68
	5,000	\$467	\$4,439	\$6,790	\$33.29	\$4.67
	10,000	\$700	\$6,104	\$6,790	\$5.55	\$19.15
	25,000	\$700	\$6,936	\$9,663	\$6.66	\$15.56
	50,000	\$934	\$8,600	\$13,320	\$17.20	\$28.51
<b>Standard Comm. Foundation with Podium</b>	500	\$233	\$3,052	\$4,179	\$41.62	\$76.96
	2,500	\$467	\$3,884	\$5,485	\$44.39	\$73.13
	5,000	\$467	\$4,994	\$7,313	\$33.29	\$4.67
	10,000	\$700	\$6,658	\$7,313	\$7.40	\$20.89
	25,000	\$700	\$7,768	\$10,447	\$7.77	\$16.60
	50,000	\$934	\$9,710	\$14,364	\$19.42	\$30.60
<b>All Shell Buildings</b>	500	\$233	\$3,329	\$3,656	\$41.62	\$76.96
	2,500	\$467	\$4,162	\$4,962	\$55.49	\$62.68
	5,000	\$467	\$5,549	\$6,529	\$38.84	\$4.67
	10,000	\$700	\$7,491	\$6,529	\$9.25	\$19.15
	25,000	\$700	\$8,878	\$9,402	\$7.77	\$14.51
	50,000	\$934	\$10,820	\$12,797	\$21.64	\$27.46

<sup>1</sup> At Building Permit submittal, a Planning Division Review fee of 20% shall be collected (see Table 3 - Misc. Items)

<sup>2</sup> Each additional 100 square feet, or portion thereof, up to the next highest project size threshold.

CITY OF CUPERTINO, CA  
Resolution 24-XXX  
Fees Effective July 14, 2024  
Schedule D - Table 2 Mechanical, Electrical & Plumbing Fees

FEE DESCRIPTION	UNIT	FY 2023-24	FY 2023-24	FY 2024-25	YOY \$ ▲	YOY % ▲
		Fee	Total Cost	Prop. Fee		

**STAND-ALONE M/E/P PERMIT FEES**

Travel and Documentation	each	\$82				
Permit Issuance	each	\$62				

**MECHANICAL FEES**

Mechanical Permit Fee	per hour	\$82	\$263	\$266	184.00	224.4%
Stand Alone Mechanical Plan Check (hourly rate)	per hour	\$243	\$263	\$266	23.00	9.5%
Other Mechanical Inspections (hourly rate)	per hour	\$243	\$263	\$266	23.00	9.5%
<b>MECHANICAL UNIT FEES:</b>						
<del>Install/Relocate forced air furnace or burner (including attached ducts and vents) up to and including 100,000 Btu/h (each)</del>						
<del>—up to and including 100,000 Btu/h</del>	each	\$243				
<del>—over 100,000 Btu/h</del>	each	\$243				
<del>Install/Relocate floor furnace, including vent (each)</del>	each	\$121				
<del>Install or relocate suspended heater, recessed wall heater, or floor-mounted unit</del>						
<del>Residential</del>	each	\$121				
<del>Commercial</del>	each	\$243				
<del>Install, relocate or replace appliance vent installed and not included in an appliance permit</del>						
<del>Residential</del>	each	\$121				
<del>Commercial</del>	each	\$243				
<del>Repair/Alter/Add heating appliance, refrigeration unit, cooling unit, absorption unit, mini-split system/heat pump, or each heating, cooling, absorption, or evaporative cooling system, including installation of controls and/or ducts</del>						
<del>Residential</del>	each	\$121				
<del>Commercial</del>	each	\$243				
<del>Install or relocate boiler or compressor</del>						
<del>up to and including 3HP, or absorption system up to and including 100,000 Btu/h and up to and including 15 HP, or absorption system over 100,000 Btu/h and up to and including 500,000 Btu/h</del>	each	\$243				
<del>over 15 HP and up to and including 30 HP, or absorption system over 500,000 Btu/h and up to and including 1,000,000 Btu/h</del>	each	\$305				

## CITY OF CUPERTINO, CA

## Resolution 24-XXX

Fees Effective July 14, 2024

## Schedule D - Table 2 Mechanical, Electrical &amp; Plumbing Fees

FEE DESCRIPTION	UNIT	FY 2023-24	FY 2023-24	FY 2024-25	YOY \$ ▲	YOY % ▲
		Fee	Total Cost	Prop. Fee		
<del>over 30 HP and up to and including 50 HP, or absorption system over 1,000,000 Btu/h and up to and including 1,750,000 Btu/h</del>	<del>each</del>	<del>\$305</del>				
<del>over 50 HP, or absorption system over 1,750,000 Btu/h</del>	<del>each</del>	<del>\$364</del>				
<del>Air handling unit, including attached ducts. (Note: this fee shall not apply to an air handling unit that is a portion of a factory-assembled appliance, cooling unit, evaporative cooler, or absorption unit for which a permit is required elsewhere)</del>						
<del>Residential</del>	<del>each</del>	<del>\$121</del>				
<del>Commercial</del>	<del>each</del>	<del>\$364</del>				
<del>Air handling unit over 10,000 CFM</del>	<del>each</del>	<del>\$243</del>				
<del>Ventilation fan connected to a single duct</del>	<del>each</del>	<del>\$121</del>				
<del>Ventilation system that is not a portion of any heating or air conditioning system authorized by a permit</del>	<del>each</del>	<del>\$182</del>				
Install or relocate HVAC system or portion thereof						
Residential	each		\$259	\$261		
Commercial	each		\$388	\$392		
Hood installation that is served by mechanical exhaust, including the ducts for such hood						
Residential	each	\$121	\$129	\$131	10.00	8.3%
Commercial	each	\$364	\$517	\$522	158.00	43.4%
Any other piece of equipment or appliance not listed in Mechanical schedule. Appliance or piece of equipment not classed in other appliance categories, or for which no other fee is listed	each	\$182	\$259	\$261	79.00	43.4%

## ELECTRICAL FEES

Electrical Permit Fee	<del>per hour</del> Each	\$82	\$263	\$266	184.00	224.4%
Electrical Plan Check	per hour	\$243	\$263	\$266	23.00	9.5%
Electrical Inspections	per hour	\$243	\$263	\$266	23.00	9.5%
ELECTRICAL UNIT FEES:						
Residential Whole-House Rewire (up to 2500 sq ft)	each	\$486	\$517	\$522	36.00	7.4%
Each Additional 1000 sq ft	each 1,000 sf	\$243	\$259	\$261	18.00	7.4%
Receptacle, switch, lighting, or other outlets at which current is used or controlled, except services, feeders, and meters						
First 20	first 20	\$82	\$86	\$87	5.00	6.1%
Each Additional	each	\$7	\$9	\$9	2.00	28.6%



## CITY OF CUPERTINO, CA

## Resolution 24-XXX

Fees Effective July 14, 2024

## Schedule D - Table 2 Mechanical, Electrical &amp; Plumbing Fees

FEE DESCRIPTION	UNIT	FY 2023-24	FY 2023-24	FY 2024-25	YOY \$ ▲	YOY % ▲
		Fee	Total Cost	Prop. Fee		
Lighting fixtures, sockets, or other lamp-holding devices						
First 20	first 20	\$121	\$129	\$131	10.00	8.3%
Each Additional	each	\$9	\$9	\$9	0.00	0.0%
Pole or platform-mounted lighting fixtures	each	\$26	\$30	\$30	4.00	15.4%
<del>Theatrical type lighting fixtures or assemblies</del>	<del>each</del>	<del>\$24</del>				
Appliances (Install / Repair / Replace)						
Residential	each		\$44	\$44		
Commercial	each		\$85	\$86		
<del>fixed residential appliances or receptacle outlets for same, including wall-mounted electric ovens; counter mounted cooking tops; electric ranges; self-contained room console or through wall air conditioners; space heaters; food waste grinders; dishwashers; washing machines; water heaters; clothes dryers; or other motor operated appliances not exceeding one horsepower (HP) in rating</del>	<del>each</del>	<del>\$40</del>				
<del>Residential appliances and self-contained factory-wired, nonresidential appliances not exceeding one horsepower (HP), kilowatt (kW), or kilovolt-ampere (kVA) in rating, including medical and dental devices; food, beverage, and ice cream cabinets; illuminated show cases; drinking fountains; vending machines; laundry machines; or other similar types of equipment</del>	<del>each</del>	<del>\$82</del>				
Power Apparatus - Generator/Transformer or Similar (Install/Repair/Replace)						
Residential	each		\$259	\$261		
Commercial	each		\$388	\$392		
<del>Motors, generators, transformers, rectifiers, synchronous converters, capacitors, industrial heating, air conditioners and heat pumps, cooking or baking equipment, and other apparatus. Rating in horsepower (HP), kilowatts (kW), or kilovolt amperes (kVA), or kilovolt amperes reactive (kVAR)</del>	<del>each</del>	<del>\$243</del>				
Busways						
<del>Trolley and plug-in type busways</del>	<del>each 100 lf</del>	<del>\$121</del>				
Signs, Outline Lighting, and Marquees						
<del>Supplied from one branch circuit</del>	<del>each</del>	<del>\$82</del>				
<del>Additional branch circuits within the same sign, outline lighting system, or marquee</del>	<del>each</del>	<del>\$40</del>				
Services (including Temporary Power)						
600 volts or less, up to 200 amperes in rating	each	\$82	\$86	\$87	5.00	6.1%
600 volts or less, 201 to 1000 amperes in rating	each	\$121	\$259	\$261	140.00	115.7%
Over 600 volts or over 1000 amperes in rating	each	\$243	\$388	\$392	149.00	61.3%
<del>Any other Electrical apparatus, conduits, and conductors not listed in Electrical Schedule. Electrical apparatus, conduits, and conductors for which a permit is required, but for which no fee is herein set forth</del>	<del>each</del>	<del>\$243</del>	<del>\$259</del>	<del>\$261</del>	<del>18.00</del>	<del>7.4%</del>

## CITY OF CUPERTINO, CA

## Resolution 24-XXX

Fees Effective July 14, 2024

## Schedule D - Table 2 Mechanical, Electrical &amp; Plumbing Fees

FEE DESCRIPTION	UNIT	FY 2023-24	FY 2023-24	FY 2024-25	YOY \$ ▲	YOY % ▲
		Fee	Total Cost	Prop. Fee		
PLUMBING/GAS FEES						
Plumbing/Gas Permit Fee	<del>per hour</del> Each	\$82	\$263	\$266	184.00	224.4%
Stand Alone Plumbing Plan Check	<del>per hour</del> Each	\$243	\$263	\$266	23.00	9.5%
Other Plumbing and Gas Inspections	<del>per hour</del> Each	\$243	\$263	\$266	23.00	9.5%
PLUMBING/GAS UNIT FEES:						
Residential Whole-House <del>Water Re-Pipelumbing</del> (up to 2500 sq ft)	each	\$486	\$517	\$522	36.00	7.4%
Each Additional 1000 sq ft	each 1,000 sf	\$243	\$259	\$261	18.00	7.4%
<del>Plumbing fixture or trap or set of fixtures on one trap, including water, drainage piping, and backflow protection</del>	<del>each</del>	<del>\$16</del>				
<del>Building sewer lateral (Install / Repair / Replace) or sewer clean-out</del>						
Residential	each	\$62	\$65	\$65	3.00	4.8%
Commercial	each	\$121	\$129	\$131	10.00	8.3%
Sewer Clean-out (Install/Repair/Replace)						
Residential	each		\$65	\$65		
Commercial	each		\$129	\$131		
Building Drain/Waste/Vent Repair						
Residential	per fixture		\$18	\$18		
Commercial	per fixture		\$26	\$26		
<del>Rainwater system inside building</del>	<del>per drain</del>	<del>\$16</del>				
<del>Private sewage disposal system</del>	<del>each</del>	<del>\$243</del>				
Water Heater Replacement / Installation - All Types ( <del>Gas or Solar</del> ) and/or Vent						
Residential	each	\$62	\$65	\$65	3.00	4.8%
Commercial	each	\$182	\$194	\$196	14.00	7.7%
<del>Industrial waste pretreatment interceptor, including its trap and vent, excepting kitchen type grease interceptors functioning as fixture traps</del> Interceptors - Grease/Sand (Install/Repair/Replace)	each	\$182	\$194	\$196	14.00	7.7%
<del>Install, alter or repair water piping and/or water treating equipment</del> Water Treatment System (Install/Repair/Replace)	each	\$82	\$86	\$87	5.00	6.1%
<del>Repair/Alter drainage or vent piping</del>	<del>each fixture</del>	<del>\$82</del>				
<del>Lawn sprinkler system on any one meter, including backflow protection devices</del>	<del>each</del>	<del>\$121</del>				
<del>Backflow devices not included in other fee services (e.g., building/trailer park</del>	<del>each</del>	<del>\$121</del>				
<del>Atmospheric type vacuum breakers not included in other fee services (e.g., building/trailer park sewer)</del>	<del>each 5</del>	<del>\$121</del>				
Gas piping (Install/Repair/Replace) <del>system per outlet</del>	each 4	\$121	\$129	\$131	10.00	8.3%
<del>Water Service</del> Install or Replace Water Meter / Service	each	\$62	\$65	\$65	3.00	4.8%
Partial Water Re-pipe						
Residential	per fixture	\$24	\$26	\$26	2.00	8.3%
Commercial	per fixture	\$15	\$17	\$17	2.00	13.3%
Any other device/fixture not listed in Plumbing Schedule (Install/Repair/Replace)	each		\$129	\$131		

CITY OF CUPERTINO, CA  
Resolution 24-XXX  
Fees Effective July 14, 2024  
Schedule D - Table 3 Miscellaneous Items

Work Item	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
Standard Hourly Rate - Building	Per hour	\$243	\$263	\$266	23.00	9.5%
Accessibility Hardship Exemption	1 hour Each	\$243	\$275	\$277	34.00	14.0%
Acoustical Review						
Single Family Home/Duplex – New	Each	\$608	\$649	\$655	47.00	7.7%
Single Family Home/Duplex – Addition/Alteration	Each	\$364	\$382	\$386	22.00	6.0%
Multi-Family/Commercial	Each	\$608	\$649	\$655	47.00	7.7%
Additions (Non Hillside R3 Occupancy) - Plan Check Fees						
Plan Check Fees (up to 250 sq. ft.)	up to 250 sf Each	\$487	\$2,428	\$1,159	672.00	138.0%
Plan Check Fees (251 - 499 sq. ft.)	251-499 sf Each	\$971	\$4,625	\$2,236	1,265.00	130.3%
Plan Check Fees (500-999 sq. ft.)	Each		\$5,724	\$2,767		
Additions (Non Hillside R3 Occupancy) - Inspection Fees						
Inspection Fees (up to 250 sq. ft.)	up to 250 sf Each	\$1,213	\$3,103	\$1,874	661.00	54.5%
Inspection Fees (251 - 499 sq. ft.)	251-499 sf Each	\$1,456	\$4,137	\$2,392	936.00	64.3%
Inspection Fees (500-999 sq. ft.)	Each		\$5,171	\$2,990		
Accessory Buildings - Residential						
Accessory Buildings (Up to 499 sq. ft.)	Each		\$1,699	\$1,716		
Accessory Buildings (500 - 999 sq. ft.)	Each		\$2,491	\$2,516		
Accessory Dwelling Unit (ADU) - Plan Check Fees						
Plan Check Fees (up to 499 sq. ft.)	up to 499 sf Each	\$971	\$2,428	\$2,453	1,482.00	152.6%
Plan Check Fees (500 - 999 sq. ft.)	500-999 sf Each	\$1,940	\$3,527	\$3,563	1,623.00	83.7%
Accessory Dwelling Unit (ADU) - Inspection Fees						
Inspection Fees (up to 499 sq. ft.)	up to 499 sf Each	\$1,456	\$2,585	\$2,612	1,156.00	79.4%
Inspection Fees (500 - 999 sq. ft.)	500-999 sf Each	\$2,423	\$3,620	\$3,656	1,233.00	50.9%
Address Assignment	Per hour	\$243	\$231	\$233	(10.00)	-4.1%
Board of Appeals	Per hour	\$243	\$263	\$266	23.00	9.5%
Clerical Fee	1/2 hour	\$121	\$116	\$117	(4.00)	-3.3%
Alternate Materials and Methods of Construction	Per hour	\$243	\$253	\$255	12.00	4.9%
Antenna – Telecom Facility						
Radio	Each	\$608	\$454	\$458	(150.00)	-24.7%
Cellular/Mobile Phone, alterations to existing facility	Each	\$486	\$649	\$655	169.00	34.8%
Cellular/Mobile Phone, free-standing	Each	\$1,335	\$2,248	\$2,271	936.00	70.1%
Cellular/Mobile Phone, attached to building	Each	\$1,094	\$1,182	\$1,194	100.00	9.1%
Arbor/Trellis	Each	\$487	\$649	\$655	168.00	34.5%
Awning/Canopy (supported by building)	Each	\$487	\$649	\$655	168.00	34.5%
Balcony Addition	Each	\$1,094	\$1,572	\$1,588	494.00	45.2%
Battery Energy Storage System	up to three (3)	\$243	\$649	\$655	412.00	169.5%
Each Additional	Each	\$121	\$382	\$386	265.00	219.0%
Below Market Rate						
Escrow Inspection	% of Sale Price		0.52%	0.52%		
Carport	Each	\$850	\$907	\$916	66.00	7.8%
Certifications						
Special Inspector Qualifications (initial review)	Each	\$487	\$506	\$511	24.00	4.9%
Special Inspector Qualifications (renewal / update)	Each	\$243	\$231	\$233	(10.00)	-4.1%
Chimney (new)	Each	\$729	\$907	\$916	187.00	25.7%
Chimney Repair	Each	\$487	\$511	\$517	30.00	6.2%

CITY OF CUPERTINO, CA  
Resolution 24-XXX  
Fees Effective July 14, 2024  
Schedule D - Table 3 Miscellaneous Items

Work Item	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
<del>Close Existing Openings</del>						
<del>Interior wall</del>	<del>Each</del>	<del>\$486</del>				
<del>Exterior wall</del>	<del>Each</del>	<del>\$729</del>				
Commercial Coach (per unit)	Each	\$1,094	\$1,182	\$1,194	100.00	9.1%
Covered Porch	Each	\$850	\$907	\$916	66.00	7.8%
Deck (wood)	Each	\$850	\$907	\$916	66.00	7.8%
Deck Railing	Each	\$487	\$511	\$517	30.00	6.2%
Deferred Submittal (2 hour minimum)	based on work item		\$255	\$266		
Demolition						
Multi-Family and Commercial (up to 3,000 sf)	Each base	\$608	\$764	\$772	164.00	27.0%
Multi-Family and Commercial (each additional 3,000 sf)	Each 3,000 sf	\$243	\$267	\$269	26.00	10.7%
Residential (R-3 Occ) (up to 3,000 sf)	Each base	\$487	\$764	\$772	285.00	58.5%
Residential (R-3 Occ) (each additional 3,000 sf)	Each 3,000 sf	\$243	\$267	\$269	26.00	10.7%
Swimming Pool Residential	Each	\$487	\$511	\$517	30.00	6.2%
Swimming Pool Multi-Family and Commercial (up to 3,000 sf)	Each base	\$729	\$770	\$778	49.00	6.7%
Swimming Pool Multi-Family and Commercial (each additional 3,000 sf)	Each 3,000 sf	\$243	\$259	\$261	18.00	7.4%
Disabled Access Compliance Inspection	Per hour	\$243	\$263	\$266	23.00	9.5%
Door						
New door (non structural)	Each	\$364	\$382	\$386	22.00	6.0%
New door (structural shear wall/masonry)	Each	\$487	\$649	\$655	168.00	34.5%
Duplicate / Replacement Job Card	Each	\$121	\$116	\$117	(4.00)	-3.3%
Electric Vehicle Charging Station	Each	\$243	\$382	\$266	23.00	9.5%
Extensions						
Plan Check Applications (within 180 days of Submittal)	1 hour	\$243	\$263	\$266	23.00	9.5%
Permits (within 180 days of Issuance)						
Start construction, without plans	1/2 hour	\$121	\$137	\$139	18.00	14.9%
Resume or complete construction, without plans	1/2 hour	\$121	\$137	\$139	18.00	14.9%
Start construction, with plans	1 hour	\$243	\$275	\$277	34.00	14.0%
Resume or complete construction, with plans	2 hours	\$486	\$549	\$555	69.00	14.2%
Fence						
Non-masonry, over 7 feet in height	up to 100 l.f.	\$487	\$511	\$517	30.00	6.2%
Non-masonry, each additional 100 l.f.	Each 100 l.f.	\$121	\$129	\$131	10.00	8.3%
Masonry, over 7 feet in height	up to 100 l.f.	\$850	\$907	\$916	66.00	7.8%
Masonry, each additional 100 l.f.	Each 100 l.f.	\$487	\$517	\$522	35.00	7.2%
Fireplace						
Masonry	Each	\$850	\$907	\$916	66.00	7.8%
Pre-Fabricated/Metal	Each	\$487	\$511	\$517	30.00	6.2%
Flag pole (over 20 feet in height)	Each	\$487	\$511	\$517	30.00	6.2%
Foundation Repair	Each	\$1,094	\$1,166	\$1,178	84.00	7.7%

CITY OF CUPERTINO, CA  
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Schedule D - Table 3 Miscellaneous Items

Work Item	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
<del>Garage / Agricultural Buildings-</del>						
<del>Wood frame up to 1,000 sf</del>	<del>Each</del>	<del>\$1,577</del>				
<del>Masonry up to 1,000 sf</del>	<del>Each</del>	<del>\$2,066</del>				
<del>Green Building Deposit – Third Party Certification Process</del>						
<del>Single Family Residential</del>	<del>sf</del>	<del>2/sf, \$1,000 max.</del>				
<del>Multi Family Residential</del>	<del>sf</del>	<del>2/sf, \$20,000 min.; \$40,000 max.</del>				
<del>Non-Residential</del>	<del>sf</del>	<del>2/sf, \$35,000 min.; \$75,000 max.</del>				
Inspections						
Pre-Inspection Fee	Per hour	\$243	\$263	\$266	23.00	9.5%
Standard Inspection Hourly Rate	Per hour	\$243	\$263	\$266	23.00	9.5%
Progress Inspection	Per hour	\$243	\$263	\$266	23.00	9.5%
Partial Inspection	Per hour	\$243	\$263	\$266	23.00	9.5%
Courtesy Inspection - 2 hour minimum	Per hour	486 or 2 hr min.	\$256	\$266	23.00	9.5%
Cancelled inspection w/out advance notice	1 Per hour	\$243	\$256	\$266	23.00	9.5%
Reinspection	1 Per hour	\$243	\$256	\$266	23.00	9.5%
Outside of normal business hours (24 hour minimum)	Per hour	486 or 2 hr min.	\$305	\$308	65.00	26.7%
Inspection Supplemental Fee (Projects that require more inspections than average, the Building Official may charge additional inspection fees)						
First 1/2 hour minimum	first 1/2 hour	\$121	\$129	\$131	10.00	8.3%
Each Additional hour	Per hour	\$243	\$259	\$261	18.00	7.4%
<del>Life Safety Report</del>	<del>Each</del>	<del>\$1,456</del>				
Lighting pole	Each	\$608	\$649	\$655	47.00	7.7%
each additional pole	Each	\$243	\$267	\$269	26.00	10.7%
Modular Structures	Each	\$1,094	\$923	\$933	(161.00)	-14.7%
Modification of Technical Code	1 hour	\$243	\$263	\$266	23.00	9.5%
Occupancy						
Certificate of Occupancy/Completion	Each	\$487	\$511	\$517	30.00	6.2%
Temporary Occupancy Permit	Per six months	\$487	\$511	\$517	30.00	6.2%
Partition—Commercial, Interior (up to 30 l.f.)	up to 30 l.f.	\$729	\$778	\$786	57.00	7.8%
Additional partition	Each 30 l.f.	\$243	\$259	\$261	18.00	7.4%
Partition—Residential, Interior (up to 30 l.f.)	up to 30 l.f.	\$487	\$511	\$517	30.00	6.2%
Additional partition	Each 30 l.f.	\$121	\$259	\$261	140.00	115.7%
Patio Cover / Gazebo						
Wood frame	up to 300 sf	\$584	\$923	\$933	349.00	59.8%
Metal frame	up to 300 sf	\$584	\$923	\$933	349.00	59.8%
Other frame	up to 300 sf	\$816	\$923	\$933	117.00	14.3%
Additional patio	Each 300 sf	\$350	\$396	\$400	50.00	14.3%
Enclosed prefabricated Sun Room	up to 300 sf	\$816	\$907	\$916	100.00	12.3%
<del>Additional Sun Rooms</del>	<del>Each 300 sf</del>	<del>\$467</del>				

CITY OF CUPERTINO, CA  
Resolution 24-XXX  
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Schedule D - Table 3 Miscellaneous Items

Work Item	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
Photovoltaic System						
Residential:						
Systems up to 15kW	Each	\$427	\$450	\$450	23.00	5.4%
Each Additional kW Above 15kW	Each Addl kW		\$15	\$15		
Multi-Family and Commercial:						
<del>Multi-Family Res/Commercial, up to 8 kilowatts</del> Systems up to 50kW	up to 8 kW Each	\$608	\$1,000	\$1,000	392.00	64.5%
Multi-Family Res/Commercial, each additional 1 kilowatt	Each 1 addl kW	\$62	\$7	\$7	(55.00)	-88.7%
Each Additional kW Above 250kW	Each addl kW		\$5	\$5		
Thermal System						
Residential:						
Systems up to 10kW	Each		\$450	\$450		
Each Additional kW Above 10kW	Each addl kW		\$15	\$15		
Multi-Family and Commercial:						
Systems up to 30kW	Each		\$1,000	\$1,000		
Each Additional kW between 30kW and 260kW	Each addl kW		\$7	\$7		
Each Additional kW Above 260kW	Each addl kW		\$5	\$5		
Pile Foundation						
Cast in Place Concrete (first 10 piles)	up to 10	\$1,094	\$1,182	\$1,194	100.00	9.1%
Additional Piles (increments of 10)	Each 10	\$729	\$792	\$800	71.00	9.7%
Driven (steel, pre-stressed concrete)	up to 10	\$1,094	\$1,182	\$1,194	100.00	9.1%
Additional Piles (increments of 10)	Each 10	\$729	\$792	\$800	71.00	9.7%
Product Review	Per hour	\$243	\$253	\$255	12.00	4.9%
Plan Review						
Standard Plan Review Hourly Rate	Per hour	\$243	\$275	\$277	34.00	14.0%
Overtime Plan Review (2 4 hour minimum)	Per hour	486 or 2 hr min.	\$321	\$325	82.00	33.7%
Pre-Submittal Plan Review (2 hour minimum)	Per hour	486 or 2 hr min.	\$275	\$277	34.00	14.0%
Expedited Plan Review	Each		1.5x Plan Check Fee	1.5x Plan Check Fee		
Plan Review Supplemental Fee (after 2nd review)						
First 1/2 hour minimum	first 1/2 Per hour	\$121	\$275	\$278	157.00	129.8%
<del>Each Additional hour</del>	<del>Per hour</del>	<del>\$243</del>				
Pre-Construction Meeting	Each	\$460	\$446	\$450	(10.00)	-2.2%
Remodel—Residential						
Kitchen (up to 300 sq. ft.)	<del>up to 300 sf</del> Each	\$971	\$1,028	\$1,039	68.00	7.0%
Bath (up to 300 sq. ft.)	<del>up to 300 sf</del> Each	\$971	\$1,028	\$1,039	68.00	7.0%
Other Remodel (up to 300 sq. ft.)	<del>up to 300 sf</del> Each	\$729	\$907	\$916	187.00	25.7%
Additional remodel (per sq. ft. above 300)	<del>Each 300 sf</del> Per sf	\$364	\$2.26	\$2.29	(361.71)	-99.4%
Other Remodel (1000 sq. ft.)	<del>1000 sf</del> Each	\$2,308	\$2,491	\$2,516	208.00	9.0%
Additional remodel (per sq. ft. above 1000)	<del>Each 300 sf</del> Per sf	\$364	\$0.53	\$0.53	(363.47)	-99.9%
Other Remodel (2500+ sq. ft.)	<del>2500 sf</del> Each	\$3,037	\$3,282	\$3,316	279.00	9.2%
Additional remodel (per sq. ft. above 2500)	<del>Each 300 sf</del> Per sf	\$364.00	\$0.26	\$0.27	(363.73)	-99.9%
Re-roof						
Residential (maximum \$500 per building)	Each 100 sf	\$26	\$25	\$25	(1.00)	-3.8%
Multi-Family Dwelling (maximum \$500 per building)	Each 100 sf	\$26	\$25	\$25	(1.00)	-3.8%
Commercial						
Commercial (first 5,000 sf)	Each	\$608	\$633	\$639	31.00	5.1%
Commercial (each additional 2,500 sf)	Each 2,500 sf	\$243	\$259	\$261	18.00	7.4%
Retaining Wall (concrete or masonry)						
Standard (up to 50 l.f.)	up to 50 l.f.	\$1,094	\$1,182	\$1,194	100.00	9.1%
Additional retaining wall	Each 50 l.f.	\$729	\$792	\$800	71.00	9.7%
Special Design, 3-10' high (up to 50 l.f.)	up to 50 l.f.	\$1,577	\$1,715	\$1,733	156.00	9.9%
Additional retaining wall	Each 50 l.f.	\$971	\$1,050	\$1,061	90.00	9.3%
Special Design, over 10' high (up to 50 l.f.)	up to 50 l.f.	\$1,821	\$1,974	\$1,994	173.00	9.5%
Additional retaining wall	Each 50 l.f.	\$1,213	\$1,309	\$1,322	109.00	9.0%

CITY OF CUPERTINO, CA  
Resolution 24-XXX  
Fees Effective July 14, 2024  
Schedule D - Table 3 Miscellaneous Items

Work Item	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
Gravity/Crib Wall, 0-10' high (up to 50 l.f.)	up to 50 l.f.	\$1,577	\$1,715	\$1,733	156.00	9.9%
Additional Gravity/Crib Wall	Each 50 l.f.	\$971	\$1,050	\$1,061	90.00	9.3%
Gravity/Crib Wall, over 10' high (up to 50 l.f.)	up to 50 l.f.	\$1,821	\$1,974	\$1,994	173.00	9.5%
Additional Gravity/Crib Wall	Each 50 l.f.	\$1,213	\$1,309	\$1,322	109.00	9.0%
Revisions	Per hour	\$608	\$259	\$266		
<del>Commercial (New and Tenant Improvement)</del>	<del>Each</del>	<del>\$1,094</del>				
<del>Single Family Dwelling (New and Additions)</del>	<del>Each</del>	<del>\$608</del>				
<del>Remodel</del>	<del>Each</del>	<del>\$487</del>				
Sauna — steam	Each	\$850	\$907	\$916	66.00	7.8%
Siding						
Stone and Brick Veneer (interior or exterior)	up to 400 sf	\$608	\$633	\$639	31.00	5.1%
All Other	up to 400 sf	\$487	\$503	\$508	21.00	4.3%
Additional siding	Each 400 sf	\$121	\$129	\$131	10.00	8.3%
Signs						
Directional	Each	\$487	\$511	\$517	30.00	6.2%
Each additional Directional Sign	Each	\$243	\$267	\$269	26.00	10.7%
Ground/Roof/Projecting Signs	Each	\$487	\$511	\$517	30.00	6.2%
Master Plan Sign Check	Each	\$487	\$511	\$517	30.00	6.2%
Rework of any existing Ground Sign	Each	\$487	\$511	\$517	30.00	6.2%
Other Sign	Each	\$487	\$511	\$517	30.00	6.2%
Reinspection Fee	Each	\$121	\$122	\$124	3.00	2.5%
Wall/Awning Sign, Non-Electric	Each	\$364	\$382	\$386	22.00	6.0%
Wall/Awning Sign, Electric	Each	\$364	\$511	\$517	153.00	42.0%
<del>Shed over 120 square feet</del>	<del>Each</del>	<del>\$1,094</del>				
Skylight						
50 sf or less (cumulative area)	Each	\$608	\$511	\$517	(91.00)	-15.0%
Greater than 50 sf or structural	Each	\$850	\$267	\$269	(581.00)	-68.4%
Stairs — First Flight	<del>first flight</del> Each	\$487	\$511	\$517	30.00	6.2%
Each additional flight	<del>Per flight</del> Each addl	\$243	\$267	\$269	26.00	10.7%
Storage Racks						
0-8' high (up to 100 l.f.)	first 100 l.f.	\$608	\$649	\$655	47.00	7.7%
each additional 100 l.f.	Each 100 l.f.	\$121	\$129	\$131	10.00	8.3%
over 8' high (up to 100 l.f.)	first 100 l.f.	\$608	\$778	\$786	178.00	29.3%
each additional 100 l.f.	Each 100 l.f.	\$121	\$129	\$131	10.00	8.3%
Stucco Applications						
Base	up to 400 sf	\$487	\$503	\$508	21.00	4.3%
Additional Stucco Application	Each 400 sf	\$121	\$129	\$131	10.00	8.3%

CITY OF CUPERTINO, CA  
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Fees Effective July 14, 2024  
Schedule D - Table 3 Miscellaneous Items

Work Item	Unit	FY 2023-24 Fee	FY 2023-24 Total Cost	FY 2024-25 Proposed Fee	YOY \$ ▲	YOY % ▲
Swimming Pool/Spa						
Vinyl-lined	Each	\$1,094	\$1,182	\$1,194	100.00	9.1%
Fiberglass	Each	\$1,094	\$1,182	\$1,194	100.00	9.1%
Gunitite (up to 800 sf)	Each	\$1,577	\$1,699	\$1,716	139.00	8.8%
Additional pool (over 800 sf)	Each 100 sf	\$364	\$396	\$400	36.00	9.9%
Commercial pool (up to 800 sf)	Each	\$2,672	\$2,881	\$2,910	238.00	8.9%
Additional pool (over 800 sf)	Each 100 sf	\$729	\$792	\$800	71.00	9.7%
Spa or Hot Tub (Pre-fabricated)	Each	\$487	\$511	\$517	30.00	6.2%
Technology Fee	Per Permit		5.8%	5.8%		
Temporary Structures	Each	\$729	\$778	\$786	57.00	7.8%
Tenant Improvement Preparation	Each	\$487	\$511	\$517	30.00	6.2%
Window or Sliding Glass Door						
Replacement (first 8 windows)	first 8	\$364	\$374	\$378	14.00	3.8%
Replacement (each additional 8 windows)	Each 8	\$121	\$129	\$131	10.00	8.3%
New Window (non structural)	Each	\$305	\$320	\$324	19.00	6.2%
New window (structural shear wall/masonry)	Each	\$426	\$454	\$458	32.00	7.5%
Bay Window (structural)	Each	\$426	\$454	\$458	32.00	7.5%
Planning Department Review fee (New Construction and Additions) (Payable at permit submittal)	Each		20% of plan review and inspection fees	20% of plan review and inspection fees		
Planning Hourly Rate (Misc Reviews)	Per hour		Refer to Schedule C	Refer to Schedule C		
Housing Mitigation In-lieu fees (Payable at Building Permit issuance)	Per sq. ft.		Refer to Schedule C	Refer to Schedule C		
Zoning, Planning, Municipal Code fees (Payable at Building Permit issuance)	Per sq. ft.		Refer to Schedule C	Refer to Schedule C		
Wireless Master Plan fee (Payable at Building Permit issuance)	Each		Refer to Schedule C	Refer to Schedule C		
<b>Refunds - Plan Check Fees</b>						
1st review not started (within 3 Business of Submittal)		100% of Plan Review Fees	100% of Plan Review Fees			
Plan review more than 3 Business Days after the Date of Submittal		No refund	No refund			
<b>Refunds - Building Permit Fees</b>						
No inspections and permit is active (not expired)		80% of permit fees	80% of permit fees			
No inspections and permit is expired		No refund	No refund			
Inspections were provided		No refund	No refund			
Work without permit - based on current permit and plan check fees		Double fees	Double fees			
<b>NOTE:</b>						
Fee Adjustments: In instances where the strict application of fees from this schedule would constitute a substantial inequity to an applicant or to the City, the Chief Building Official shall be authorized to adjust such fees on a case-by-case basis. Any such adjustments shall be recorded in writing and entered into the appropriate files.						
Fees identified in this Table consist of 50% Plan Review Fee and 50% Inspection Fee						



**CITY OF CUPERTINO**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule A - General**

Fee Description	Unit	FY 2024-25 Proposed Fee
All Municipal Code Parking Violations (including County and State fees)	Each	\$82.81
Animal Establishment Permit	Each	\$369.05
Annual Lobbyist Registration Fee	Per Lobbyist	\$296.86
Bingo Permit	Annual	\$261.41
Business License Database	Each	\$30.42
Candidate Statement Fee (County Regulated Fee)	Each	Current County Registrar Cost
City Administrative Fee	Each	15%
Code Enforcement		
Abatement/Graffiti Cleanup	Each	Actual Cost *
Hourly rate	Hourly	\$246.04
Substandard Housing Re-Inspection	Each	\$246.04
Community Festivals - One-time Business License (correction)	Each	\$12.88
Community Festivals - Business Partners	Each	\$65.72
Community Festivals - Additional 10' x 10' space (includes an additional table and 2 chairs)	Each	\$11.85
Community Festivals - Non-profit partners	Each	\$11.85
Compilation of New Records	Each	Actual Cost *
Credit Card Transaction Fee	Each	3.40%
CVC Parking Citation Dismissals Admin Fee (State Regulated Fee)	Each	\$25.00
Damage to City Property		
Grounds, Streets, Facilities, Traffic Engineering/Maintenance	Each	Actual Cost *
Dangerous Dog Annual Registration Fee	Annual	\$492.07
Sign	Each	\$24.90
Duplicate Business Licenses	Each	\$15.21
Event Video Taping/Editing	Each	Actual Cost *
False Alarms	Each	\$121.68
Farmers Market	Each	\$3.29
Fingerprinting Processing (State Fee \$32 plus County Fee \$20)	Each	\$73.09
Flea Markets	Each	\$13.94
Public Requests for GIS Printed Maps		
Standard pre-formatted maps		
Plotted maps	Per Map	\$37.10
Printed maps	Per Map	\$4.95
Custom request maps	Per Map	Actual Cost *
Prints/plots of aerial photography (see Engineering fees)	Per Map	Actual Cost *
Handbill Permit	Each	\$246.04
Renewals	Each	\$123.02
Late Payment on 30 Day Delinquent City Invoices	Each	12% per annum
Massage Establishment Fee (Includes fingerprinting/background check and business start-up)	Each	\$553.58
Renewals (Includes two inspections per year)	Each	\$184.53
Massage Managing Employee (Includes fingerprint/background check)	Each	\$492.07
Renewals	Each	\$184.53
Massage Permit Appeal (Denial/Revocation)	Each	\$1,230.18
Municipal Code Book	Per Book	Vendor Invoice
New Business Monthly Reports	Each	\$45.63
Noise Variances/Special Exceptions	Each	\$252.38
Notary Fee (State Regulated Fee)	Per Signature	\$15.00/signature
Outside Agency Review / Services		Vendor Invoice + City Admin
Petitions for Reconsideration	Each	\$376.05
Permit Update	Each	\$123.02
Photocopies - per sheet		
Standard sizes	Per Page	\$0.30
For 11 x 17 sizes or color sheets	Per Page	\$0.69
For Large format prints	Per Page	\$34.36
Fair Political Practices Commission	Per Page	\$0.10
Fair Political Practices Commission (older than five (5) years)	Per Page	\$5.12

**CITY OF CUPERTINO**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule A - General**

Fee Description	Unit	FY 2024-25 Proposed Fee
Property Liens Administrative Fee	Each	\$246.04
Returned Check Charge		
First returned check	Each	\$25.00
Subsequent checks	Each	\$35.00
Sign Removal (Public Right-of-Way) (All except Political Signs)	Each	\$25.00
Sign Recovery Fee for Political Signs	Each	\$25.00
Small Income Business License	Each	\$92.02
Solicitor Permit (Includes fingerprinting)	Each	\$492.07
Renewals	Each	\$123.02
Taxi Driver Permit (Includes fingerprinting/background check)	Each	\$984.14
Renewals	Each	\$123.02
Tobacco Retailer (County Regulated Fee)		
Application Fee	Each	Current County Cost
Annual Fee	Annual	Current County Cost
Williamson Act Filings	Each	\$145.91
Video/Audio Service		
DVD/CD	Each	\$25.76
Flash Drive	Each	\$27.80

\* Actual cost is: 1) Fully burdened employee costs as calculated through the 2023 Cost Allocation Plan, and  
2) cost of materials, contractors, and supplies.

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**Schedule B - Engineering**

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FEE DESCRIPTION	Unit	FY 2024-25 Proposed Fee
Encroachment Permits		
- Minor Encroachment Permits (Local Streets)	Each	\$608
- Minor Encroachment Permits (Utility)	Each	\$420
- Major Encroachment Permits (Arterials and Collectors)	Each	\$1,068
- Work without Permit	Each	Double the permit cost
- Small Cell Facility Encroachment Permit	Each	\$2,217
Street Cuts Miscellaneous		
- Minor Street Cuts	Each	\$1,747
- Major Street Cuts	Each	\$3,551
- Special Major Permit (projects in excess of \$30,000 or over 15 working days)	Each/% of Project	5% of Project Costs and/or \$257 per inspection
Permit Extension	Per Permit	\$528
Crane Lift	Each	\$1,415
Grading permit		
- <10,000 s.f. lot	Each	\$1,352
- 10,000 s.f or greater	Each/% of Improv.	Greater of \$4891 or 6% of cost of improvement
Parcel Map/Tract Map (Map Checking Fee)		
- Parcel Map (1-4 lots)	Each	\$8,383
- Tract Map (> 4 lots)	Each	\$13,687
Plan Check and Inspection		
- Stand Alone Building Permit Review	Each	\$1,302
Additional Plan Review - 3 or more reviews	Per Hour	\$318
Revisions to Plans and Permits	Per Hour	\$318
Review of Public/Private Improvement Plans:		
- Residential	Each/% of Improv.	Greater of \$5655 or 5% of cost of improvement
- Commercial	Each/% of Improv.	Greater of \$10729 or 5% of cost of improvement
Planning Application Review	Each	\$1,589
VMT Monitoring Fee	Per Hour	\$190
Professional Services 3rd Party Consultant Review	Each	*Cost of review + City Administrative Fee
*Per Outside Agency Review/Services on Schedule A - General		
Public Works Confirmation	Each	\$636
Annexation (plus County filing fee)	Each	\$3,522
Certificates of Compliance		
- Initial Review	Each	\$2,177
- Finalize Certificates	Each	\$2,177
Lot Line Adjustment	Each	\$4,216
Transportation Impact Fee		
- Single Family	Per Unit	\$6,797
- Multi-Family	Per Unit	\$4,215
(Includes apartments, condos, and townhomes)		
- Retail	Per s.f.	\$11
- Office	Per s.f.	\$19
- Hotel	Per Room	\$3,728
- Other (per PM trip)	Per trip	\$6,862
Transportation Permit (State Regulated Fee)		
- Single	Each	\$16
- Annual Utility Company	Each	\$90
- Additional Engineering Investigation or Coordination	Per Hour	\$318

**CITY OF CUPERTINO**  
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**Schedule B - Engineering**

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FEE DESCRIPTION	Unit	FY 2024-25 Proposed Fee
Banners		
- Large Banners Across Stevens Creek Boulevard	Each	\$738
Special Events/Parades	Deposit	\$4,571
Block Party	Each	No Charge
Vacation of Public Street ROW/PUE		
- Summary Vacation	Each	\$3,200
- Full Vacation	Each	\$4,980
Rural/Semi-Rural Classification Application		
- Application Phase	Each	\$2,597
- Implementation phase	Each	\$1,610
Certificate of Correction	Each	\$1,125
Floodplain Evaluation/Elevation Certificate Review	Each	\$300
Permit Parking Study		
- Application Phase	Each	\$1,411
- Implementation phase	Each	\$1,149
- Permit Parking Bi-annual Fee	Each	\$40
Streamside Permit	Each	\$466
<u>Master Storm Drain Area Fees:</u>		
Low-Density Residential (Less than one dwelling unit per acre hillside zoning)	Dwelling unit	\$4,707
Single-Family Residential greater than one dwelling unit per acre and less than	Per acre	\$6,389
Multiple Family greater than 5.2 dwelling units per acre	Per acre and	\$4,584
	Per unit	\$347
*Maximum chargeable dwelling units of 20 units per acre.		
Commercial and Industrial	Per acre	\$12,344
Public Educational Uses	Per acre	\$4,704
Public Facility Uses	Per acre	\$2,375
Stormwater Permit Inspections - Commercial		
Initial Inspection		No charge
Re-Inspection for Violations	Each	\$434
Plan Review Fee		
Single Family	Each	\$158
Multi-Family	Each	\$315
Storm Management Plan Fee	Each	\$2,217
Public Works Staff Time	Hour	\$291
Technology Fee	Per Permit	5.8%

**CITY OF CUPERTINO**  
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**Schedule B - Engineering**

<u>Park Land Dedication In-Lieu Fee*</u>		
<u>Density of Dwelling Units/Ac</u>		
	0 - 5	\$105,000/DU
	5 - 10	\$60,000/DU
	10 - 20	\$60,000/DU
	20+	\$54,000/DU
	Senior Citizen Housing Dev.	\$30,000/DU
	ADU 750 SF or more**	\$15,000 or proportional to the size of the main DU, whichever is less

\* Park Land Dedication Fees are calculated per Municipal Code section 13.08.

On an annual basis, Public Works Department updates the fair market value of

\*\* ADU Park Land Dedication Fee is based on the density of the property per  
Municipal Code section 13.08, or proportionally to the size of the main dwelling

<u>New Public Tree Cost Schedule:</u>	
<u>Public Tree Planting Cost:</u>	
24" Street Tree	\$513
36" Street Tree or Larger	Actual costs

PUBLIC TREE DAMAGE OR REMOVAL FEE SCHEDULE:

This fee schedule is defined in Chapter 14.12 and establishes the fee to be paid to the City for damage to and/or removal of public trees.

1<sup>st</sup> time offenders, as defined in Chapter 14.12, shall be subject to a fee of 10% of the Public Tree Damage Fee or 10% of the Public Tree Removal Fee as defined below or \$600, whichever is higher, per public tree damaged and/or removed. No additional costs, such as stump removal, trimming, or replanting will apply.

Repeat offenders, intentional actors and professionals, as defined in Chapter 14.12, shall be subject to the following fees:

Public Tree Damage Fee:

\$100 per cumulative diameter inch of branch or root plus, if any, the actual costs incurred for immediate corrective pruning plus, if any, the calculated costs for future corrective pruning, as may be required to maintain the health of the tree.

Public Tree Removal Fee:

The fee for each tree removed shall be based upon the unmodified value of the tree removed (based upon diameter), multiplied by the species rating, multiplied by the condition rating.

FEE = UNMODIFIED TREE VALUE x SPECIES RATING x CONDITION RATING

For inputs, use the following values:

UNMODIFIED TREE	Refer to Unmodified Tree Value Table
SPECIES RATING	Refer to Species Rating Table
CONDITION RATING	Good = 1.00, Fair = 0.75, Poor = 0.50

The fee for trees less than 4 inches in diameter shall not be reduced by species or condition rating.

Trees larger than 40" shall have the fee determined by the most recent edition of the 'Guide for Plant Appraisal', published by the Council of Tree and Landscape Appraisers, using the trunk formula method.

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No additional costs, such as stump removal, trimming or replanting will apply.

Unmodified Tree Value Table:

<u>Tree size</u> (diameter of trunk)	
1" to 2"	\$348
2" to 3"	\$348
3" to 4"	\$1,039
4" to 5"	\$1,039
5" to 6"	\$1,404
6" to 7"	\$1,851
7" to 8"	\$2,378
8" to 9"	\$2,987
9" to 10"	\$3,677
10" to 11"	\$4,449
11" to 12"	\$5,301
12" to 13"	\$6,235
13" to 14"	\$7,249
14" to 15"	\$8,345
15" to 16"	\$9,522
16" to 17"	\$10,780
17" to 18"	\$12,120
18" to 19"	\$13,540
19" to 20"	\$15,042
20" to 21"	\$16,625
21" to 22"	\$18,290
22" to 23"	\$20,036
23" to 24"	\$21,862
24" to 25"	\$23,769
25" to 26"	\$25,758
26" to 27"	\$27,829
27" to 28"	\$29,980
28" to 29"	\$32,212
29" to 30"	\$34,527
30" to 31"	\$36,920
31" to 32"	\$39,396
32" to 33"	\$41,954
33" to 34"	\$44,593
34" to 35"	\$47,312
35" to 36"	\$50,113
36" to 37"	\$52,995
37" to 38"	\$55,958
38" to 39"	\$59,003
39" to 40"	\$62,128

Measurement shall be measured 4.5 feet above the ground level and rounded down to the nearest whole inch.

If the tree is multi-trunk, use 1.5 times the diameter of the largest trunk to determine fee.

If there is tree damage 4-5 feet above the ground, trunk diameter is to be measured 1 foot above ground level and 1 inch is to be subtracted from the diameter to determine fee.

If the tree is removed to the ground, tree inventory data will be used to determine the trunk diameter.

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**Species Rating Table**

Common Name	Species	Rating%
Acacia	ACACIA	60
Blackwoodacaia	ACACIA MELANOXYLON	60
Trident maple	ACER BUERGERIANUM	90
Big leaf maple	ACER MACROPHYLLUM**	100
Japanese maple	ACER PALMATUM	90
Red maple	ACER REBRUM	70
Silver maple	ACER SACCHARINUM	80
California buckeye	AESCULUS CALIFORNICA**	100
Red hoursechesnut	AESCULUS X CARNEA	90
Tree of heaven	AILANTHUS ALTISSIMA	0
Silk tree	ALBIZIA JULIBRISSIN	50
Black Alder	ALNUS GLUTINOSA	80
Strawberry madrone	ARBUTUS MARINA	90
Madrone	ARBUTUS MENZIESII	100
Hong Kong orchid	BAUHINIA BLAKEANA	75
Birch	BETULA ALBA	60
Incense cedar	CALOCEDRUS DECURRENS	80
Horsetail tree	CASUARINA EQUISETIFOLIA	75
Blue atlas cedar	CEDRUS ATLANTICA**	100
Deodora cedar	CEDRUS DEODARA**	100
Chinese hackberry	CELTUS SINENSIS	65
Carob tree	CERATONIA SILIQUA	70
Redbud(eastern)	CERCIS CANADENSIS	75
Camphor tree	CINNAMOMUM CAMPHORA	70
Citrus	CITRUS SP	40
English hawthorn	CRATAEGUS LAEVIGATA	70
Cypress	CUPRESSACEAE	80
Italian cypress	CUPRESSUS SEMPERVIREN	80
Japanese persimmon	DIOSPYROS KAKI	40
Loquat	ERIOBOTRYA DEFLEXA	60
Blue gum tree	EUCALYPTUS GLOBULUS	70
Eucalyptus	EUCALYPTUS SP	60
Misson fig	FICUS CARICA	40
Autumn purple ash	FRAXINUS AMERICANA	80
Raywood ash	FRAXINUS ANGUSTIFOLIA 'RAYWOOD'	80
Moraine ash	FRAXINUS HOLOTRICHA	80
Shamel ash	FRAXINUS UHDEI	80
Modesto ash	FRAXINUS VELUTINA 'MODESTO'	80
Australian willow	GEIJERA PARVIFOLIA	80
Maidenhair	GINKO BILOBA	80
Honey locust	GLEDITSIA TRIACANTHOS	70
Silk oak tree	GREVILLEA ROBUSTA	70
English holly	ILLEX AQUIFOLIUM	40
Jacaranda	JACARANDA MIMMOSIFOLIA	70
Walnut	JUGLANS	70

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**Species Rating Table**

Common Name	Species	Rating%
Black walnut	<i>JUGLANS HINDSII</i>	70
Chinese flame tree	<i>KOELREUTERIA BIPINNATA</i>	80
Muskogee crape myrtle	<i>LAGERSTROMIA 'MUSKOGEE'</i>	80
Nanchez crape myrtle	<i>LAGERSTROMIA 'NANCHEZ'</i>	80
Tuscarora crape myrtle	<i>LAGERSTROMIA 'TUSCARORA'</i>	80
Sweet bay	<i>LAURUS NOBILIS</i>	80
Japanese privet	<i>LIGUSTRUM JAPONICUM</i>	30
American sweetgum	<i>LIQUIDAMBER STYRACIFLUA</i>	40
Tulip tree	<i>LIRIODENDRON</i>	60
Brisbane box tree	<i>LOPHOSTEMON CONFERTUS</i>	90
Magnolia	<i>MAGNOLIA GRANDIFOLIA RUSSET</i>	75
Magnolia (dwarf)	<i>MAGNOLIA GRANDIFOLIA ST MARY</i>	75
Saucer magnolia	<i>MAGNOLIA SOLINGIANA</i>	75
Crabapple tree	<i>MALUS FLORIBUNDA</i>	90
Apple	<i>MALUS SP</i>	40
Mayten tree	<i>MAYTENUS</i>	70
Malaleuca(broad leaf)	<i>MELALEUCA LEUCADENDRA</i>	60
Malaleuca(narrow leaf)	<i>MELALEUCA LINARIFOLIA</i>	60
Dawn redwood	<i>METASAQUOIA GLYPTOSTROBOIDES</i>	100
Fruitless mulberry	<i>MORUS ALBA</i>	40
Black mulberry	<i>MORUS NIGRA</i>	40
Myoprum	<i>MYOPORUM LAETUM</i>	70
Oleander tree	<i>NERIUM OLEANDER</i>	40
Olive	<i>OLEA EUROPAEA</i>	70
Devilwood	<i>OSMANTHUS AMERICANUS</i>	0
Palm	<i>PALM*</i>	40
Avocado	<i>PERSEA AMERICANA</i>	60
Red leaf photinia	<i>PHOTINIA GLABRA</i>	60
Spruce	<i>PICEA</i>	80
Colorado spruce	<i>PICEA PUNGENS</i>	80
Colorado blue spruce	<i>PICEA PUNGENS 'GLAUCA'</i>	80
Italian stone pine	<i>PINUS PINEA</i>	90
Pine	<i>PINUS SP</i>	30
Chinese pistacio	<i>PISTACIA CHINENSIS</i>	80
Lemonwood tree	<i>PITTOSPORUM EUGENIOIDES</i>	40
Japanese cheesewood	<i>PITTOSPORUM TOBIRA</i>	40
London plane 'colombiana'	<i>PLATANUS COLUMBIANA</i>	95
Western Sycamore	<i>PLATANUS RACEMOSA**</i>	100
London plane 'bloodgood'	<i>PLATANUS X HISPANICA 'BLOODGOOD'</i>	95
Yew pine	<i>PODOCURPUS MACROPHYLLUS</i>	75
Poplar	<i>POPULUS</i>	60
Flowering cherry	<i>PRUNUS AKEBONO</i>	80
Wild Plum	<i>PRUNUS AMARACANA</i>	40
Almond tree	<i>PRUNUS ALMOND</i>	50
Apricot tree	<i>PRUNUS APRICOT</i>	40



**CITY OF CUPERTINO**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule B - Engineering**

**Species Rating Table**

<b>Common Name</b>	<b>Species</b>	<b>Rating%</b>
Fruiting cherry	<i>PRUNUS AVIUM</i>	0
Carolina cherry	<i>PRUNUS CAROLINIANA</i>	60
Purple leaf plum	<i>PRUNUS CERASFERA KRAUTER VESUVIUS</i>	70
Peach tree	<i>PRUNUS PERSICA</i>	40
Douglas fir	<i>PSEUDOTSUGA MENZIESII</i>	80
Guava	<i>PSIDIUM GUAJAVA</i>	40
Pomegranate	<i>PUNICA GRANATUM</i>	40
Aristocrat Flowering pear tree	<i>PYRUS CALLERYANA 'ARISTOCRAT'</i>	75
Bradford flowering pear	<i>PYRUS CALLERYANA 'BRADFORD'</i>	75
Chanticleer flowering pear	<i>PYRUS CALLERYANA 'CHANTICLEER'</i>	75
Evergreen flowering pear	<i>PYRUS KAWAKAMII</i>	75
Asian pear	<i>PYRUS PYRIFOLIA</i>	40
Oak	<i>QUERCUS</i>	90
Coast live oak	<i>QUERCUS AGRIFOLIA**</i>	100
White oak	<i>QUERCUS ALBA</i>	90
Texas red oak	<i>QUERCUS BUCKEYI</i>	90
Sierra oak	<i>QUERCUS CAMBII</i>	90
Blue oak	<i>QUERCUS DOUGLASII**</i>	100
Forest green oak	<i>QUERCUS FRAINETTO</i>	90
Holly oak	<i>QUERCUS ILEX</i>	90
Black oak	<i>QUERCUS KELLOGGII**</i>	100
Valley oak	<i>QUERCUS LOBATA**</i>	100
Red oak	<i>QUERCUS SUBER</i>	90
Cork oak	<i>QUERCUS SUBER</i>	90
Southern live oak	<i>QUERCUS VIRGINIANA</i>	100
Interior live oak	<i>QUERCUS WISLIZENI**</i>	100
African sumac	<i>RHUS LANCIA</i>	70
Weeping willow	<i>SALIX BABYLONICA</i>	40
Wild willow	<i>SALIX SCOULERIANA</i>	0
California pepper tree	<i>SCHINUS MOLE</i>	40
Brazilian pepper tree	<i>SCHINUS TEREBINTHEFOLIUS</i>	40
Coast redwood	<i>SEQUIOA SEMPRIVIRONS</i>	95
Giant sequoia	<i>SEQUIADENDRON GIGANTEUM</i>	80
Japanese pogoda	<i>SOPHORIA JAPONICA</i>	70
Chinese tallow	<i>TRIADICA SEBIFERA</i>	50
Water gum	<i>TRISTANIA LAURINA</i>	70
Bosque chinese elm	<i>ULMAS PARVIFOLIA 'BOSQUE'</i>	90
Chinese elm	<i>ULMUS PARVIFOLIA</i>	70
Siberian elm	<i>ULMUS PUMILA</i>	60
Bay laurel	<i>UMBELLULARIA CALIFORNICA**</i>	100
Mexican fan palm	<i>WASHINGTON ROBUSTA</i>	0
Spanish dagger yucca	<i>YUCCA GLORIOSA</i>	0
Zelkova	<i>ZELKOVA SERRATA</i>	65

\*All palms on Palm Avenue are protected heritage trees and will be rated @ 100%

\*\*Protected tree species

CITY OF CUPERTINO  
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DEFINITIONS

- A. Parcel Map: Subdivisions, including ministerial subdivisions - up to four (4) parcels (CMC Chapter 18.20).
- B. Tentative map: Subdivisions - five (5) or more parcels (CMC Chapter 18.16).
- C. Minor: for ten thousand square feet or less of commercial and/or industrial and/or office and/or other non-residential use, or six or fewer residential units (CMC Chapter 19.12)
- D. Major: for more than ten thousand square feet of commercial and/or industrial and/or office and/or other non-residential use, or greater than six residential units (CMC Chapter 19.12).
- E. Minor Architectural and Site Approval - Duplex/Residential: Architectural approval of single family homes in a planned development zoning district, redevelopment or modification of duplexes, and associated landscaping, where such review is required (CMC Chapter 19.12).
- F. Minor Architectural and Site Approval: Architectural approval of the following: minor building modifications, landscaping, signs and lighting for new development, redevelopment or modification in such zones where such review is required (CMC Chapter 19.12).
- G. Major Architectural and Site Approval: Architectural approval of all other development projects (CMC Chapter 19.12).
- H. Minor Modification: An application that is administratively reviewed by staff either at an advertised public hearing/meeting or in a non-hearing process (CMC Chapter 19.164).
- I. Exceptions: An exception to the zoning standards for which an exception process and findings are identified in the Municipal Code. These include Fence, Sign, Height, Hillside, Parking, R-1, A, A-1, and R1 cluster zone exceptions. This also includes exceptions identified in the City's Specific Plans (CMC Chapter 19.12 and Title 20).
- J. Project Review Meeting: Request for a one hour meeting by an applicant to review a project with City staff without any written feedback.
- K. Preliminary Review: One round of informal review of any proposed project with written feedback from City staff.
- L. Temporary Sign Permit: A review of a temporary sign application for banners, A-frame signs and other temporary signs (CMC Chapter 19.104).
- M. Sign Permit: For signs that require a public meeting such as freeway oriented signage, electronic readerboard signs etc. (CMC Chapter 19.104)
- N. Extension Permit: A one-time one-year extension of the planning permit expiration date (CMC Chapter 19.12).
- O. Appeal: A request from the project applicant or interested party to reverse or amend a decision made by the approval authority. Fee Exemption for: an appointed public official serving on the board that made the decision subject to the appeal, an appointed public official serving on a board that is directly affected by the decision and City Council members. At the conclusion of a City Council appeal hearing, it may choose to, at its sole discretion, refund all, a portion of, or none of the appeal fee (CMC Chapter 19.12).
- P. Legal Noticing Fee: Assessed for all permit applications that require noticing (CMC Chapter 19.12).

## Resolution 24-XXX

Fees Effective July 14, 2024

## Schedule C - Planning

**Q. Special Events Permit:** A request to host a special event for no more than a total of 12 calendar days in a year including, but not limited to, employee holiday party, summer barbeque, any outdoor event where normal operations occur indoors, car sales/show event, events located in parking lots where such uses are not authorized ordinarily. Large events involve an entire shopping center, office or industrial buildings/sites, and other commercial sites. Small events typically involve individual businesses/tenants in a shopping center or building. Staff reserves the right to determine the applicable event type based on the project description provided. Churches/non-profits operating on property in their control are exempt from fees.

**R. Housing Mitigation Fee:** A fee assessed in accordance with the City's General Plan Housing Element, Municipal Code (CMC 19.172) and the City's BMR Housing Mitigation Program Procedural Manual.

Note: Mixed use applications will be classified based upon the highest intensity and review process. The Director of Community Development will have discretion to classify projects based upon the above criteria.

<b>Fee Description<sup>1</sup></b>	<b>Unit</b>	<b>FY 2024-25 Proposed Fee</b>
Planning Staff Hourly Rate <sup>2</sup>	Per Hour	\$290
<b>General Plan</b>		
Authorization	Deposit	Staff Hourly Rate
Amendment	Deposit	Staff Hourly Rate
<b>Zoning</b>		
Zoning Map Amendment	Deposit	Staff Hourly Rate
Zoning Text Amendment	Deposit	Staff Hourly Rate
Single-Story Overlay District	Deposit	Staff Hourly Rate
Study Session	Deposit	Staff Hourly Rate
<b>Subdivision</b>		
Parcel Map (See Definition A)	Each	\$27,393
Tentative Map (See Definition B)	Each	\$47,078
<b>Conditional Use/Development Permit</b>		
Temporary Use Permit	Each	\$5,081
Administrative Conditional Use Permit	Each	\$10,722
Minor (See Definition C)	Each	\$25,755
Major (See Definition D)	Each	\$39,301
<b>Amendment to Conditional Use/Development Permit</b>		
Minor (See Definition C)	Each	\$11,618
Major (See Definition D)	Each	\$25,071
<b>Architectural and Site Approval Permit</b>		
Minor Duplex / Residential (See Definition E)	Each	\$10,692
Minor (See Definition F)	Each	\$16,683
Major (See Definition G)	Each	\$25,451
<b>Single Family (R-1) Residential Permits</b>		
Minor Residential Permit	Each	\$4,024
Two-Story Permit without Design Review	Each	\$5,035
Two-Story Permit with Design Review	Each	\$6,149
Director Minor Modification (See Definition H)	Each	\$5,497
<b>Ministerial Residential Permit</b>		
Miscellaneous Ministerial Permit	Each	\$4,551
<b>Exceptions (See Definition I)</b>		
Fence Exception - R1 & R2	Each	\$4,673
Fence Exception - Other	Each	\$5,184
Sign Exception	Each	\$6,981
R-1 Exception	Each	\$7,821
Heart of the City Exception	Each	\$25,126
Hillside Exception	Each	\$23,965

## Resolution 24-XXX

Fees Effective July 14, 2024

## Schedule C - Planning

Fee Description	Unit	FY 2024-25 Proposed Fee
Exception - Other	Each	\$7,942
Variance	Each	\$9,081
Reasonable Accommodation	Each	\$1,803
Project Review Meeting (See Definition J)	Per Review	\$2,504
Preliminary Application Review (See Definition K)		
Single Family	Per Review	\$2,534
Non-Residential (Retail/Industrial/Office/Hotel)		
<10,000 sf	Per Review	\$5,491
>10,000 sf	Per Review	\$9,550
Residential / Mixed Use:		
Duplex	Per Review	\$1,991
3-6 Units	Per Review	\$8,777
6-50 Units	Per Review	\$13,549
>50 Units	Per Review	\$19,556
<b>Tree Removal Permit</b>		
Tree Removal Permit (no Arborist review required)		
First Tree	Per Tree	\$424
Each Additional Tree	Per Tree	\$167
Tree Removal Permit (Arborist review required)		
First Tree	Per Tree	\$776
Each Additional Tree	Per Tree	\$250
Retroactive Tree Removal	Per Tree	\$5,520
Heritage Tree Designation	Each	\$422
Tree Management Plan	Each	\$7,951
<b>Signs</b>		
Temporary Sign Permit (See Definition L)	Each	\$553
Sign Permit (See Definition M)	Each	\$7,532
Sign Program	Each	\$4,456
Planning Commission Interpretation	Each	\$8,054
Extension of Approved Entitlements (See Definition N)	Each	\$2,103
<b>Environmental Assessment</b>		
Environmental Impact Report (Plus State & County Filing Fees)	Each	Contract+Admin Fee
Negative Declaration - Major (Plus State & County Filing Fees)	Each	Contract+Admin Fee
Negative Declaration - Minor (Plus State & County Filing Fees)	Each	Contract+Admin Fee
Categorical Exemption (Plus County Filing Fee)	Each	\$401
<b>Appeals (See Definition O)</b>		
Planning Commission	Each	\$505
City Council	Each	\$505
<b>Miscellaneous Fees</b>		
Legal Noticing Fee (See Definition P)	Each	\$527
Mercury News Ad		Actual Cost + Admin Fee
Zoning Verification Letter	Each	\$583
Public Convenience and Necessity Letter (Alcoholic Beverage License)	Each	\$291
Short-Term Rental	Each	\$409
Mobile Vending Registration Fee	Each	\$548
Special Events (See Definition Q)		
Large Event	Each	\$4,886
Small Event	Each	\$500
Planning Inspection	Per Inspection	\$430
Technology Fee	Per Permit	5.80%

## Resolution 24-XXX

Fees Effective July 14, 2024

## Schedule C - Planning

Fee Description	Unit	FY 2024-25 Proposed Fee
<i>Fees Assessed with Building Permits</i>		
<i>Wireless Master Plan Fees (at Building Permit Issuance)</i>		
Equipment Mounted on Existing Light/Utility Pole	Each	\$10.28
New Personal Wireless Facility (not mounted on light/utility pole)	Each	\$2,241
<i>Zoning, Planning, Municipal Code Fees (at Building Permit Issuance)</i>		
All Non-Residential and Multi-Family	Per s.f.	\$1.52
Residential Single Family	Per s.f.	\$1.52
General Plan Office Allocation Fee	Per s.f.	\$1.52
Planning Department Review fee (New Construction and Additions) (Payable at permit submittal)	Each	20% of Plan Check and Inspection fees

<b>FOR INFORMATIONAL PURPOSES ONLY: <sup>2</sup></b>		
<i>Housing Mitigation In-Lieu Fees <sup>2</sup> (See Definition R)</i>		
Residential - Ownership		
Detached Single Family Residence	Per s.f.	\$21.87
Small Lot Single Family Residence or Townhome	Per s.f.	\$24.05
Multi-family Attached Townhome, Apartment, or Condominium (up to 35 du/ac)	Per s.f.	\$29.15
Multi-family Attached Townhome, Apartment, or Condominium (over 35 du/ac)	Per s.f.	\$29.15
Residential - Rental		
Multi-family Attached Townhome, Apartment, or Condominium (up to 35 du/ac)	Per s.f.	\$29.15
Multi-family Attached Townhome, Apartment, or Condominium (over 35 du/ac)	Per s.f.	\$36.44
Non-Residential		
Office, Research and Development, or Industrial	Per s.f.	\$34.55
Hotel	Per s.f.	\$17.28
Self-storage, employee unit provided	Per s.f.	\$0.65
Self-storage, employee unit not provided	Per s.f.	\$1.36
Warehouse	Per s.f.	\$48.00
Commercial/Retail	Per s.f.	\$14.58

<sup>1</sup> All application fees except those projects subject to the Planning Staff Hourly Rate fee (see note 2) allow for two rounds of review. Any submissions beyond two shall be subject to a fee equal to 50% of the total permit fees paid initially.

<sup>2</sup> Applications may be subject to a Planning Staff Hourly Rate fee for applicable staff time, and vendor invoice. These fees apply to projects that require a level of staff support greater than the scope of work included in the regular fee schedule and will be based on the time and materials required to process the entire project. The applicant will be notified if these fees are applicable to their project. The applicant will be required to enter into a Reimbursement Agreement with the City for such projects.

<sup>3</sup> All Housing Mitigation Fees are assessed in accordance with the BMR Housing Mitigation Manual. Non-residential Housing Mitigation In-lieu Fees are based on the 2015 and the 2020 Supplement to the Non-Residential Nexus Analysis by Keyser Marsten. Residential Housing Mitigation In-lieu Fees are based on the 2015 Nexus Study. These fees increase automatically annually (on July 1 of each year) by the Consumer Price Index of All Urban Consumers for San Francisco, CA.

An administrative fee (15%) will be charged for outside agency review/consultant services/outside services (ads etc.) per Schedule A - General Fees.

If plans are submitted on paper, these must be sent to an outside agency for scanning. The cost of scanning the plans, plus the administrative fee per Schedule A - General Fees will be charged.

## Fee Effective July 14, 2024

## Schedule D - Table 1 Plan Check and Inspection Fees

Related IBC Class	Building Use (e.g., IBC Occupancy Type)	Sq. Ft.	Base Cost <sup>1</sup>		Cost for each Add. 100 Sq. Ft. <sup>1,2</sup>		
			Permit Cost	Tech Check Cost	Inspection Cost	Plan Check Cost	Inspection Cost
A	Assembly	250	\$117	\$4,162	\$3,918	\$110.97	\$116.14
		1,250	\$233	\$5,271	\$4,962	\$110.97	\$125.36
		2,500	\$233	\$6,658	\$6,529	\$88.78	\$4.67
		5,000	\$350	\$8,878	\$6,529	\$22.19	\$34.82
		12,500	\$350	\$10,542	\$9,141	\$19.98	\$30.18
		25,000	\$467	\$13,039	\$12,797	\$52.16	\$53.06
A	A Occupancy Tenant Improvements	500	\$233	\$3,329	\$3,918	\$41.62	\$76.96
		2,500	\$467	\$4,162	\$5,223	\$44.39	\$73.13
		5,000	\$467	\$5,271	\$7,052	\$38.84	\$4.67
		10,000	\$700	\$7,213	\$7,052	\$7.40	\$19.15
		25,000	\$700	\$8,323	\$9,924	\$7.77	\$16.60
		50,000	\$934	\$10,265	\$13,842	\$20.53	\$29.55
B	Business	1,000	\$233	\$5,271	\$5,746	\$34.68	\$51.54
		5,000	\$467	\$6,658	\$7,574	\$38.84	\$47.01
		10,000	\$467	\$8,600	\$9,924	\$30.52	\$25.84
		20,000	\$700	\$11,652	\$12,275	\$6.47	\$6.09
		50,000	\$700	\$13,594	\$14,103	\$6.66	\$11.44
		100,000	\$934	\$16,923	\$19,588	\$16.92	\$20.52
B	B Occupancy Tenant Improvements	300	\$117	\$4,162	\$3,134	\$92.48	\$118.55
		1,500	\$233	\$5,271	\$4,440	\$92.48	\$69.65
		3,000	\$233	\$6,658	\$5,485	\$83.23	\$3.89
		6,000	\$350	\$9,155	\$5,485	\$15.41	\$26.12
		15,000	\$350	\$10,542	\$7,835	\$16.65	\$19.93
		30,000	\$467	\$13,039	\$10,708	\$43.46	\$37.25
E	Educational	100	\$117	\$4,162	\$3,134	\$277.43	\$290.35
		500	\$233	\$5,271	\$4,179	\$277.43	\$313.40
		1,000	\$233	\$6,658	\$5,746	\$249.69	\$11.67
		2,000	\$350	\$9,155	\$5,746	\$46.24	\$78.35
		5,000	\$350	\$10,542	\$8,096	\$49.94	\$65.02
		10,000	\$467	\$13,039	\$11,230	\$130.39	\$116.97
E	E Occupancy Tenant Improvements	100	\$117	\$3,052	\$3,134	\$208.08	\$225.05
		500	\$233	\$3,884	\$3,918	\$221.95	\$261.17
		1,000	\$233	\$4,994	\$5,223	\$166.46	\$11.67
		2,000	\$350	\$6,658	\$5,223	\$36.99	\$69.65
		5,000	\$350	\$7,768	\$7,313	\$38.84	\$59.79
		10,000	\$467	\$9,710	\$10,186	\$97.10	\$106.52
F	Factory Industrial	1,000	\$233	\$5,826	\$6,007	\$20.81	\$45.01
		5,000	\$467	\$6,658	\$7,574	\$33.29	\$47.01
		10,000	\$467	\$8,323	\$9,924	\$36.07	\$25.84
		20,000	\$700	\$11,930	\$12,275	\$5.55	\$6.09
		50,000	\$700	\$13,594	\$14,103	\$3.33	\$11.44
		100,000	\$934	\$15,259	\$19,588	\$15.26	\$20.52
F	F Occupancy Tenant Improvements	1,000	\$233	\$4,716	\$4,701	\$27.74	\$45.01
		5,000	\$467	\$5,826	\$6,268	\$33.29	\$41.79
		10,000	\$467	\$7,491	\$8,357	\$27.74	\$2.33
		20,000	\$700	\$10,265	\$8,357	\$5.55	\$11.32
		50,000	\$700	\$11,930	\$11,753	\$5.55	\$9.87
		100,000	\$934	\$14,704	\$16,454	\$14.70	\$17.39
H	High Hazard	100	\$117	\$5,826	\$4,179	\$346.79	\$355.64
		500	\$233	\$7,213	\$5,485	\$443.89	\$313.40
		1,000	\$233	\$9,433	\$7,052	\$332.92	\$11.67
		2,000	\$350	\$12,762	\$7,052	\$73.98	\$95.76
		5,000	\$350	\$14,981	\$9,924	\$72.13	\$80.69
		10,000	\$467	\$18,588	\$13,842	\$185.88	\$143.09
H	H Occupancy Tenant Improvements	100	\$117	\$3,329	\$3,134	\$208.08	\$290.35
		500	\$233	\$4,162	\$4,179	\$277.43	\$313.40
		1,000	\$233	\$5,549	\$5,746	\$194.20	\$11.67
		2,000	\$350	\$7,491	\$5,746	\$46.24	\$78.35
		5,000	\$350	\$8,878	\$8,096	\$38.84	\$65.02
		10,000	\$467	\$10,820	\$11,230	\$108.20	\$116.97
I	Institutional	500	\$233	\$6,658	\$4,440	\$83.23	\$90.02
		2,500	\$467	\$8,323	\$6,007	\$99.88	\$73.13
		5,000	\$467	\$10,820	\$7,835	\$77.68	\$4.67
		10,000	\$700	\$14,704	\$7,835	\$16.65	\$22.63
		25,000	\$700	\$17,201	\$11,230	\$16.65	\$17.65
		50,000	\$934	\$21,362	\$15,409	\$42.72	\$32.69
I	I Occupancy Tenant Improvements	100	\$117	\$4,162	\$3,134	\$277.43	\$290.35
		500	\$233	\$5,271	\$4,179	\$277.43	\$261.17
		1,000	\$233	\$6,658	\$5,485	\$249.69	\$11.67

## Fee Effective July 14, 2024

## Schedule D - Table 1 Plan Check and Inspection Fees

		2,000	\$350	\$9,155	\$5,485	\$46.24	\$78.35
		5,000	\$350	\$10,542	\$7,835	\$49.94	\$59.79
		10,000	\$467	\$13,039	\$10,708	\$130.39	\$111.75
M	Mercantile	2,000	\$350	\$7,768	\$6,529	\$27.74	\$27.23
		10,000	\$700	\$9,988	\$8,357	\$27.74	\$28.73
		20,000	\$700	\$12,762	\$11,230	\$22.19	\$1.75
		40,000	\$1,050	\$17,201	\$11,230	\$5.09	\$7.84
		100,000	\$1,050	\$20,253	\$15,931	\$4.99	\$6.62
		200,000	\$1,400	\$25,246	\$22,200	\$12.62	\$11.80
M	M Occupancy Tenant Improvements	300	\$233	\$3,329	\$3,656	\$69.36	\$128.27
		1,500	\$467	\$4,162	\$4,962	\$92.48	\$104.47
		3,000	\$467	\$5,549	\$6,529	\$64.73	\$7.78
		6,000	\$700	\$7,491	\$6,529	\$15.41	\$31.92
		15,000	\$700	\$8,878	\$9,402	\$12.95	\$24.19
		30,000	\$934	\$10,820	\$12,797	\$36.07	\$45.77
R-1	Residential—Hotels & Motels	3,000	\$350	\$9,155	\$7,574	\$20.81	\$22.51
		15,000	\$700	\$11,652	\$9,924	\$22.19	\$20.89
		30,000	\$700	\$14,981	\$13,059	\$17.57	\$1.17
		60,000	\$1,050	\$20,253	\$13,059	\$3.70	\$6.09
		150,000	\$1,050	\$23,582	\$18,543	\$3.88	\$5.11
		300,000	\$1,400	\$29,408	\$25,856	\$9.80	\$9.09
R-2	Residential—Apartment Building	800	\$233	\$7,213	\$6,007	\$60.69	\$64.43
		4,000	\$467	\$9,155	\$7,835	\$69.36	\$58.76
		8,000	\$467	\$11,930	\$10,186	\$52.02	\$2.92
		16,000	\$700	\$16,091	\$10,186	\$11.56	\$17.41
		40,000	\$700	\$18,865	\$14,364	\$11.79	\$14.95
		80,000	\$934	\$23,582	\$20,110	\$29.48	\$26.30
R-2	Residential—Apartment Building - Repeat Unit	800	\$233	\$277	\$6,007	\$0.00	\$64.43
		4,000	\$467	\$277	\$7,835	\$0.00	\$58.76
		8,000	\$467	\$277	\$10,186	\$0.00	\$2.92
		16,000	\$700	\$277	\$10,186	\$1.16	\$17.41
		40,000	\$700	\$555	\$14,364	\$0.00	\$14.95
		80,000	\$934	\$555	\$20,110	\$0.69	\$26.30
R-3	Dwellings—Custom Homes, Models, First Master Plan	1,000	\$233	\$5,271	\$6,268	\$18.50	\$52.23
		2,500	\$233	\$5,549	\$7,052	\$73.98	\$52.23
		4,000	\$233	\$6,658	\$7,835	\$13.87	\$76.96
		6,000	\$467	\$6,936	\$9,141	\$55.49	\$26.12
		8,000	\$467	\$8,046	\$9,663	\$13.87	\$76.96
		10,000	\$700	\$8,323	\$10,969	\$83.23	\$116.69
R-3	Dwellings—Production Phase of Master Plan (Repeats)	1,000	\$117	\$555	\$4,440	\$0.00	\$112.25
		2,500	\$233	\$555	\$6,007	\$18.50	\$121.88
		4,000	\$233	\$832	\$7,835	\$13.87	\$11.67
		6,000	\$467	\$1,110	\$7,835	\$13.87	\$169.76
		8,000	\$467	\$1,387	\$11,230	\$13.87	\$220.61
		10,000	\$700	\$1,665	\$15,409	\$16.65	\$161.09
R-3	Group Care	1,000	\$233	\$6,104	\$6,007	\$41.62	\$58.07
		5,000	\$467	\$7,768	\$8,096	\$44.39	\$47.01
		10,000	\$467	\$9,988	\$10,447	\$36.07	\$2.33
		20,000	\$700	\$13,594	\$10,447	\$7.40	\$14.80
		50,000	\$700	\$15,814	\$14,887	\$7.77	\$11.96
		100,000	\$934	\$19,698	\$20,632	\$19.70	\$21.57
R	R Occupancy Tenant Improvements	80	\$233	\$2,497	\$3,395	\$173.40	\$326.46
		400	\$233	\$3,052	\$4,440	\$208.08	\$326.46
		800	\$233	\$3,884	\$5,746	\$173.40	\$29.18
		1,600	\$467	\$5,271	\$5,746	\$34.68	\$108.82
		4,000	\$467	\$6,104	\$8,357	\$41.62	\$77.66
		8,000	\$700	\$7,768	\$11,230	\$97.10	\$149.13
S	Storage	600	\$233	\$4,716	\$4,179	\$57.80	\$64.14
		3,000	\$467	\$6,104	\$5,485	\$55.49	\$60.94
		6,000	\$467	\$7,768	\$7,313	\$46.24	\$3.89
		12,000	\$700	\$10,542	\$7,313	\$9.25	\$17.41
		30,000	\$700	\$12,207	\$10,447	\$10.17	\$13.84
		60,000	\$934	\$15,259	\$14,364	\$25.43	\$25.50
S	S Occupancy Tenant Improvements	600	\$233	\$3,884	\$3,918	\$46.24	\$64.14
		3,000	\$467	\$4,994	\$5,223	\$46.24	\$60.94
		6,000	\$467	\$6,381	\$7,052	\$36.99	\$3.89
		12,000	\$700	\$8,600	\$7,052	\$7.71	\$15.96
		30,000	\$700	\$9,988	\$9,924	\$8.32	\$13.84
		60,000	\$934	\$12,485	\$13,842	\$20.81	\$24.63
U	Accessory	40					
		200					
		400					

## Fee Effective July 14, 2024

## Schedule D - Table 1 Plan Check and Inspection Fees

	800					
	1,000	\$233	\$2,219	\$3,656	\$27.74	\$168.37
	2,000	\$350	\$2,497	\$5,223	\$41.62	\$110.30
	4,000	\$467	\$3,329	\$7,313	\$83.23	\$194.49
<b>Standard Comm. Foundation w/o Podium</b>	500	\$233	\$2,774	\$3,918	\$27.74	\$76.96
	2,500	\$467	\$3,329	\$5,223	\$44.39	\$62.68
	5,000	\$467	\$4,439	\$6,790	\$33.29	\$4.67
	10,000	\$700	\$6,104	\$6,790	\$5.55	\$19.15
	25,000	\$700	\$6,936	\$9,663	\$6.66	\$15.56
	50,000	\$934	\$8,600	\$13,320	\$17.20	\$28.51
<b>Standard Comm. Foundation with Podium</b>	500	\$233	\$3,052	\$4,179	\$41.62	\$76.96
	2,500	\$467	\$3,884	\$5,485	\$44.39	\$73.13
	5,000	\$467	\$4,994	\$7,313	\$33.29	\$4.67
	10,000	\$700	\$6,658	\$7,313	\$7.40	\$20.89
	25,000	\$700	\$7,768	\$10,447	\$7.77	\$16.60
	50,000	\$934	\$9,710	\$14,364	\$19.42	\$30.60
<b>All Shell Buildings</b>	500	\$233	\$3,329	\$3,656	\$41.62	\$76.96
	2,500	\$467	\$4,162	\$4,962	\$55.49	\$62.68
	5,000	\$467	\$5,549	\$6,529	\$38.84	\$4.67
	10,000	\$700	\$7,491	\$6,529	\$9.25	\$19.15
	25,000	\$700	\$8,878	\$9,402	\$7.77	\$14.51
	50,000	\$934	\$10,820	\$12,797	\$21.64	\$27.46

<sup>1</sup> At Building Permit submittal, a Planning Division Review fee of 20% shall be collected (see Table 3 - Misc. Items)

<sup>2</sup> Each additional 100 square feet, or portion thereof, up to the next highest project size threshold.



**CITY OF CUPERTINO, CA**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule D - Table 2 Mechanical, Electrical & Plumbing Fees**

FEE DESCRIPTION	Unit	FY 2024-25 Proposed Fee
-----------------	------	----------------------------

### MECHANICAL FEES

Mechanical Permit Fee	Each	\$266
Stand Alone Mechanical Plan Check (hourly rate)	Each	\$266
Other Mechanical Inspections (hourly rate)	Each	\$266
<b>MECHANICAL UNIT FEES:</b>		
Install or relocate HVAC system or portion there of		
Residential	Each	\$261
Commercial	Each	\$392
Hood installation that is served by mechanical exhaust, including the ducts for such hood		
Residential	Each	\$131
Commercial	Each	\$522
Any other piece of equipment or appliance not listed in Mechanical schedule.	Each	\$261

### ELECTRICAL FEES

Electrical Permit Fee	Each	\$266
Electrical Plan Check	Each	\$266
Electrical Inspections	Each	\$266
<b>ELECTRICAL UNIT FEES:</b>		
Residential Whole-House Rewire (up to 2500 sq ft)	Each	\$522
Each Additional 1000 sq ft	Each 1,000 sf	\$261
Receptacle, switch, lighting, or other outlets at which current is used or controlled, except services, feeders, and meters		
First 20	First 20	\$87
Each Additional	Each	\$9

## CITY OF CUPERTINO, CA

## Resolution 24-XXX

Fees Effective July 14, 2024

## Schedule D - Table 2 Mechanical, Electrical &amp; Plumbing Fees

FEE DESCRIPTION	Unit	FY 2024-25 Proposed Fee
Lighting fixtures, sockets, or other lamp-holding devices		
First 20	First 20	\$131
Each Additional	Each	\$9
Pole or platform-mounted lighting fixtures	Each	\$30
Appliances (Install / Repair / Replace)		
Residential	Each	\$44
Commercial	Each	\$86
Power Apparatus - Generator/Transformer or Similar (Install/Repair/Replace)		
Residential	Each	\$261
Commercial	Each	\$392
Services (including Temporary Power)		
600 volts or less, up to 200 amperes in rating	Each	\$87
600 volts or less, 201 to 1000 amperes in rating	Each	\$261
Over 600 volts or over 1000 amperes in rating	Each	\$392
Any other Electrical apparatus, conduits, and conductors not listed in Electrical Schedule.	Each	\$261

**PLUMBING/GAS FEES**

Plumbing/Gas Permit Fee	Each	\$266
Stand Alone Plumbing Plan Check	Each	\$266
Other Plumbing and Gas Inspections	Each	\$266
<b>PLUMBING/GAS UNIT FEES:</b>		
Residential Whole-House Re-Plumbing (up to 2500 sq ft)	Each	\$522
Each Additional 1000 sq ft	Each 1,000 sf	\$261
Building sewer lateral (Install / Repair / Replace)		
Residential	Each	\$65
Commercial	Each	\$131
Sewer Clean-out (Install/Repair/Replace)		
Residential	Each	\$65
Commercial	Each	\$131
Building Drain/Waste/Vent Repair		
Residential	Each	\$18
Commercial	Each	\$26
Water Heater Replacement / Installation - All Types		

**CITY OF CUPERTINO, CA**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule D - Table 2 Mechanical, Electrical & Plumbing Fees**

FEE DESCRIPTION	Unit	FY 2024-25 Proposed Fee
Residential	Each	\$65
Commercial	Each	\$196
Interceptors - Grease/Sand (Install/Repair/Replace)	Each	\$196
Water Treatment System (Install/Repair/Replace)	Each	\$87
Gas piping (Install/Repair/Replace)	Each 4	\$131
Install or Replace Water Meter / Service	Each	\$65
Partial Water Re-pipe		
Residential	Per fixture	\$26
Commercial	Per fixture	\$17
Any other device/fixture not listed in Plumbing Schedule (Install/Repair/Replace)	Each	\$131

**CITY OF CUPERTINO, CA**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule D - Table 3 Miscellaneous Items**

Work Item	Unit	FY 2024-25 Proposed Fee
Standard Hourly Rate - Building	Per hour	\$266
Accessibility Hardship Exemption	Each	\$277
Acoustical Review		
Single Family Home/Duplex – New	Each	\$655
Single Family Home/Duplex – Addition/Alteration	Each	\$386
Multi-Family/Commercial	Each	\$655
Additions (Non Hillside R3 Occupancy) - Plan Check Fees		
Plan Check Fees (up to 250 sq. ft.)	Each	\$1,159
Plan Check Fees (251 - 499 sq. ft.)	Each	\$2,236
Plan Check Fees (500-999 sq. ft.)	Each	\$2,767
Additions (Non Hillside R3 Occupancy) - Inspection Fees		
Inspection Fees (up to 250 sq. ft.)	Each	\$1,874
Inspection Fees (251 - 499 sq. ft.)	Each	\$2,392
Inspection Fees (500-999 sq. ft.)	Each	\$2,990
Accessory Buildings - Residential		
Accessory Buildings (Up to 499 sq. ft.)	Each	\$1,716
Accessory Buildings (500 - 999 sq. ft.)	Each	\$2,516
Accessory Dwelling Unit (ADU) - Plan Check Fees		
Plan Check Fees (up to 499 sq. ft.)	Each	\$2,453
Plan Check Fees (500 - 999 sq. ft.)	Each	\$3,563
Accessory Dwelling Unit (ADU) - Inspection Fees		
Inspection Fees (up to 499 sq. ft.)	Each	\$2,612
Inspection Fees (500 - 999 sq. ft.)	Each	\$3,656
Address Assignment	Per hour	\$233
Board of Appeals	Per hour	\$266
Clerical Fee	1/2 hour	\$117
Alternate Materials and Methods of Construction	Per hour	\$255
Antenna – Telecom Facility		
Radio	Each	\$458
Cellular/Mobile Phone, alterations to existing facility	Each	\$655
Cellular/Mobile Phone, free-standing	Each	\$2,271
Cellular/Mobile Phone, attached to building	Each	\$1,194
Arbor/Trellis	Each	\$655
Awning/Canopy (supported by building)	Each	\$655
Balcony Addition	Each	\$1,588
Battery Energy Storage System	up to three (3)	\$655
Each Additional	Each	\$386
Below Market Rate		
Escrow Inspection	% of Sale Price	0.52%

**CITY OF CUPERTINO, CA**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule D - Table 3 Miscellaneous Items**

Work Item	Unit	FY 2024-25 Proposed Fee
Carport	Each	\$916
Certifications		
Special Inspector Qualifications (initial review)	Each	\$511
Special Inspector Qualifications (renewal / update)	Each	\$233
Chimney (new)	Each	\$916
Chimney Repair	Each	\$517
Commercial Coach (per unit)	Each	\$1,194
Covered Porch	Each	\$916
Deck (wood)	Each	\$916
Deck Railing	Each	\$517
Deferred Submittal (2 hour minimum)	Each	\$266
Demolition		
Multi-Family and Commercial (up to 3,000 sf)	Base	\$772
Multi-Family and Commercial (each additional 3,000 sf)	Each 3,000 sf	\$269
Residential (R-3 Occ) (up to 3,000 sf)	Base	\$772
Residential (R-3 Occ) (each additional 3,000 sf)	Each 3,000 sf	\$269
Swimming Pool Residential	Each	\$517
Swimming Pool Multi-Family and Commercial (up to 3,000 sf)	Base	\$778
Swimming Pool Multi-Family and Commercial (each additional 3,000 sf)	Each 3,000 sf	\$261
Disabled Access Compliance Inspection	Per hour	\$266
Door		
New door (non structural)	Each	\$386
New door (structural shear wall/masonry)	Each	\$655
Duplicate / Replacement Job Card	Each	\$117
Electric Vehicle Charging Station	Each	\$266
Extensions		
Plan Check Applications (within 180 days of Submittal)	1 hour	\$266
Permits (within 180 days of Issuance)		
Start construction, without plans	1/2 hour	\$139
Resume or complete construction, without plans	1/2 hour	\$139
Start construction, with plans	1 hour	\$277
Resume or complete construction, with plans	2 hours	\$555
Fence		
Non-masonry, over 7 feet in height	Up to 100 l.f.	\$517
Non-masonry, each additional 100 l.f.	Each 100 l.f.	\$131
Masonry, over 7 feet in height	Up to 100 l.f.	\$916
Masonry, each additional 100 l.f.	Each 100 l.f.	\$522
Fireplace		
Masonry	each	\$916
Pre-Fabricated/Metal	each	\$517

**CITY OF CUPERTINO, CA**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule D - Table 3 Miscellaneous Items**

Work Item	Unit	FY 2024-25 Proposed Fee
Flag pole (over 20 feet in height)	each	\$517
Foundation Repair	each	\$1,178
Inspections		
Pre-Inspection Fee	Per hour	\$266
Standard Inspection Hourly Rate	Per hour	\$266
Progress Inspection	Per hour	\$266
Partial Inspection	Per hour	\$266
Courtesy Inspection - 2 hour minimum	Per hour	\$266
Cancelled inspection w/out advance notice	Per hour	\$266
Reinspection	Per hour	\$266
Outside of normal business hours (2 hour minimum)	Per hour	\$308
Inspection Supplemental Fee (Projects that require more inspections than average, the Building Official may charge additional inspection fees)		
First 1/2 hour minimum	First 1/2 hour	\$131
Each Additional hour	Per hour	\$261
Lighting pole	Each	\$655
each additional pole	Each	\$269
Modular Structures	Each	\$933
Modification of Technical Code	1 hour	\$266
Occupancy		
Certificate of Occupancy/Completion	Each	\$517
Temporary Occupancy Permit	Per six months	\$517
Partition— Commercial, Interior (up to 30 l.f.)	Up to 30 l.f.	\$786
Additional partition	Each 30 l.f.	\$261
Partition— Residential, Interior (up to 30 l.f.)	Up to 30 l.f.	\$517
Additional partition	Each 30 l.f.	\$261
Patio Cover / Gazebo		
Wood frame	Up to 300 sf	\$933
Metal frame	Up to 300 sf	\$933
Other frame	Up to 300 sf	\$933
Additional patio	Each 300 sf	\$400
Enclosed prefabricated Sun Room	Up to 300 sf	\$916
Photovoltaic System		
Residential		
Systems up to 15kW	Each	\$450
Each Additional kW Above 15kW	Each Addl kW	\$15
Multi-Family and Commercial:		
Systems up to 50kW	up to 8 kW Each	\$1,000
Multi-Family Res/Commercial, each additional 1 kilowatt	Each 1 addl kW	\$7
Each Additional kW Above 250kW	Each addl kW	\$5

**CITY OF CUPERTINO, CA**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule D - Table 3 Miscellaneous Items**

Work Item	Unit	FY 2024-25 Proposed Fee
Thermal System		
Residential:		
Systems up to 10kW	Each	\$450
Each Additional kW Above 10kW	Each addl kW	\$15
Multi-Family and Commercial:		
Systems up to 30kW	Each	\$1,000
Each Additional kW between 30kW and 260kW	Each addl kW	\$7
Each Additional kW Above 260kW	Each addl kW	\$5
Pile Foundation		
Cast in Place Concrete (first 10 piles)	Up to 10	\$1,194
Additional Piles (increments of 10)	Each 10	\$800
Driven (steel, pre-stressed concrete)	Up to 10	\$1,194
Additional Piles (increments of 10)	Each 10	\$800
Product Review	Per hour	\$255
Plan Review		
Standard Plan Review Hourly Rate	Per hour	\$277
Overtime Plan Review (2 hour minimum)	Per hour	\$325
Pre-Submittal Plan Review (2 hour minimum)	Per hour	\$277
Expedited Plan Review	Each	1.5x Plan Check Fee
Plan Review Supplemental Fee (after 2nd review)		
First 1/2 hour minimum	First 1/2 hour	\$278
Pre-Construction Meeting	each	\$450
Remodel – Residential		
Kitchen (up to 300 sq. ft.)	Each	\$1,039
Bath (up to 300 sq. ft.)	Each	\$1,039
Other Remodel (up to 300 sq. ft.)	Each	\$916
Additional remodel (per sq. ft. above 300)	Per s.f.	\$2.29
Other Remodel (1000 sq. ft.)	Each	\$2,516
Additional remodel (per sq. ft. above 1000)	Per s.f.	\$0.53
Other Remodel (2500+ sq. ft.)	Each	\$3,316
Additional remodel (per sq. ft. above 2500)	Per s.f.	\$0.27
Re-roof		
Residential (maximum \$500 per building)	Each 100 sf	\$25
Multi-Family Dwelling (maximum \$500 per building)	Each 100 sf	\$25
Commercial		
Commercial (first 5,000 sf)	Each	\$639
Commercial (each additional 2,500 sf)	Each 2,500 sf	\$261
Retaining Wall (concrete or masonry)		
Standard (up to 50 l.f.)	Up to 50 l.f.	\$1,194
Additional retaining wall	Each 50 l.f.	\$800

**CITY OF CUPERTINO, CA**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule D - Table 3 Miscellaneous Items**

Work Item	Unit	FY 2024-25 Proposed Fee
Special Design, 3-10' high (up to 50 l.f.)	Up to 50 l.f.	\$1,733
Additional retaining wall	Each 50 l.f.	\$1,061
Special Design, over 10' high (up to 50 l.f.)	Up to 50 l.f.	\$1,994
Additional retaining wall	Each 50 l.f.	\$1,322
Gravity/Crib Wall, 0-10' high (up to 50 l.f.)	Up to 50 l.f.	\$1,733
Additional Gravity/Crib Wall	Each 50 l.f.	\$1,061
Gravity/Crib Wall, over 10' high (up to 50 l.f.)	Up to 50 l.f.	\$1,994
Additional Gravity/Crib Wall	Each 50 l.f.	\$1,322
Revisions		\$266
Sauna — steam	Each	\$916
Siding		
Stone and Brick Veneer (interior or exterior)	Up to 400 sf	\$639
All Other	Up to 400 sf	\$508
Additional siding	Each 400 sf	\$131
Signs		
Directional	Each	\$517
Each additional Directional Sign	Each	\$269
Ground/Roof/Projecting Signs	Each	\$517
Master Plan Sign Check	Each	\$517
Rework of any existing Ground Sign	Each	\$517
Other Sign	Each	\$517
Reinspection Fee	Each	\$124
Wall/Awning Sign, Non-Electric	Each	\$386
Wall/Awning Sign, Electric	Each	\$517
Skylight		
50 sf or less (cumulative area)	Each	\$517
Greater than 50 sf or structural	Each	\$269
Stairs — First Flight	First flight	\$517
Each additional flight	Per flight	\$269
Storage Racks		
0-8' high (up to 100 l.f.)	First 100 l.f.	\$655
each additional 100 l.f.	Each 100 l.f.	\$131
over 8' high (up to 100 l.f.)	First 100 l.f.	\$786
each additional 100 l.f.	Each 100 l.f.	\$131
Stucco Applications		
Base	Up to 400 sf	\$508
Additional Stucco Application	Each 400 sf	\$131
Swimming Pool/Spa		
Vinyl-lined	Each	\$1,194
Fiberglass	Each	\$1,194



**CITY OF CUPERTINO, CA**  
**Resolution 24-XXX**  
**Fees Effective July 14, 2024**  
**Schedule D - Table 3 Miscellaneous Items**

Work Item	Unit	FY 2024-25 Proposed Fee
Gunite (up to 800 sf)	Each	\$1,716
Additional pool (over 800 sf)	Each 100 sf	\$400
Commercial pool (up to 800 sf)	Each	\$2,910
Additional pool (over 800 sf)	Each 100 sf	\$800
Spa or Hot Tub (Pre-fabricated)	Each	\$517
Technology Fee	Per Permit	5.8%
Temporary Structures	Each	\$786
Tenant Improvement Preparation	Each	\$517
Window or Sliding Glass Door		
Replacement (first 8 windows)	First 8	\$378
Replacement (each additional 8 windows)	Each 8	\$131
New Window (non structural)	Each	\$324
New window (structural shear wall/masonry)	Each	\$458
Bay Window (structural)	Each	\$458
Planning Department Review fee (New Construction and Additions) (Payable at permit submittal)	Each	20% of plan review and inspection fees
Planning Hourly Rate (Misc Reviews)	Per hour	Refer to Schedule C
Housing Mitigation In-lieu fees (Payable at Building Permit issuance)	Per sq. ft.	Refer to Schedule C
Zoning, Planning, Municipal Code fees (Payable at Building Permit issuance)	Per sq. ft.	Refer to Schedule C
Wireless Master Plan fee (Payable at Building Permit issuance)	Each	Refer to Schedule C
<b>Refunds - Plan Check Fees</b>		
1st review not started (within 3 Business of Submittal)		100% of Plan Review Fees
Plan review more than 3 Business Days after the Date of Submittal		No refund
<b>Refunds - Building Permit Fees</b>		
No inspections and permit is active (not expired)		80% of permit fees
No inspections and permit is expired		No refund
Inspections were provided		No refund
<b>Work without permit - based on current permit and plan check fees</b>		Double fees
<b>NOTE:</b>		
Fee Adjustments: In instances where the strict application of fees from this schedule would constitute a substantial inequity to an applicant or to the City, the Chief Building Official shall be authorized to adjust such fees on a case-by-case basis. Any such adjustments shall be recorded in writing and entered into the appropriate files.		
<b>Fees identified in this Table consist of 50% Plan Review Fee and 50% Inspection Fee</b>		

**RESOLUTION NO. 24-XXX**

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL AMENDING  
PREVIOUS FEE SCHEDULES**

WHEREAS, the State of California requires fees charged for service rendered not to exceed the cost of delivering said services; and

WHEREAS, a public hearing has been held to review user fees; and

WHEREAS, in 2023 the City conducted a Cost of Service (User Fee) Study and conducts annual updates pursuant to economic factors discussed in the staff report for this item to ensure that the fees charged do not exceed the cost of delivering the services.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby:

1. Amend the user fees per attached Schedules A, B, C, and D to this resolution effective July 14, 2024.

PASSED AND ADOPTED at a special meeting of the City Council of the City of Cupertino this 14<sup>th</sup> day of May, 2024, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED:  _____ Sheila Mohan, Mayor City of Cupertino	  _____ Date
ATTEST:	

Resolution No. \_\_\_\_\_

Page 2

<div>_____</div> <div>Kirsten Squarcia, City Clerk</div>	<div>_____</div> <div>Date</div>
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# **Report on Cost of Services (User Fee) Study**

CITY OF CUPERTINO, CALIFORNIA

FINAL REPORT

January 2024



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# 1. Introduction and Executive Summary

The report, which follows, presents the results of the Cost of Services (User Fee) Study conducted by the Matrix Consulting Group for the City of Cupertino, California.

## Project Background and Overview

The City of Cupertino last conducted a comprehensive fee analysis in 2016 and has since updated fees based upon annual inflationary factors (Bay Area Consumer Price Index (CPI), Bay Area Construction Cost Index (CCI), or budgeted labor costs). The purpose of this study was to re-evaluate time and cost assumptions from the 2016 analysis and determine the full cost (direct and indirect) of providing City services based upon the current organizational structure and processes. The project team analyzed the cost-of-service relationships that exist between fees for service activities in the following areas: City Clerk, Finance, Building, Code Enforcement, Public Works, Planning, Parks and Recreation, and Emergency Services (OES). The results of this Study provide an updated understanding of current service levels and the max justifiable cost for those services.

## General Project Approach and Methodology

The methodology employed by the Matrix Consulting Group is a widely accepted “bottom up” approach to cost analysis, where time spent per unit of fee activity is determined for each position within a Department or Division. Once time spent for a fee activity is determined, all applicable City costs are then considered in the calculation of the “full” cost of providing each service. The following table provides an overview of the types of costs included in establishing the “full” cost of services provided by the City:

**Table 1: Overview of Cost Components**

Cost Component	Description
<b>Direct</b>	Fiscal Year 2024 Budgeted salaries, benefits, and allowable expenditures.
<b>Indirect</b>	Division, departmental, and Citywide support.

Together, the cost components in the table above comprise the calculation of the total “full” cost of providing any particular service, regardless of whether a fee for that service is charged.

The work accomplished by the Matrix Consulting Group in the analysis of fees for service involved the following steps:

- **Department / Division Staff Interviews:** The project team interviewed department / division staff regarding their needs for clarification to the structure of existing fee items, or for addition of new fee items.
- **Data Collection:** Data was collected for each permit / service, including time estimates. In addition, all budgeted costs and staffing levels for Fiscal Year 2024 were entered into the Matrix Consulting Group's analytical software model.
- **Cost Analysis:** The full cost of providing each service included in the analysis was established.
- **Review and Approval of Results with City Staff:** Department and City management has reviewed and approved these documented results.

A more detailed description of user fee methodology, as well as legal and policy considerations are provided in subsequent chapters of this report.

## Summary of Results

When comparing FY24 fee-related budgeted expenditures with fee-related revenue the City is under-recovering its costs by approximately \$767,000 or recovering 88% of its costs. The following table shows by major service area: the revenue collected, the total annual cost, the resulting difference, and the resulting cost recovery percentage.

**Table 2: Annual Cost Recovery Analysis**

Service Area	Current Revenue	Total Cost	Difference	Cost Recovery %
Planning	\$716,696	\$886,158	(\$169,462)	81%
Public Works	\$1,122,328	\$1,182,734	(\$60,407)	95%
Building	\$3,800,581	\$4,337,761	(\$537,180)	88%
<b>Total</b>	<b>\$5,639,605</b>	<b>\$6,406,653</b>	<b>(\$767,048)</b>	<b>88%</b>

Building at roughly \$537,000 is the primary contributor to the overall deficit. The proposed modifications to their current fee schedules (expanding various flat fees, reorganizing the MEP section, etc.), as well as adding the Planning Review and Inspection fee will help to address the observed cost recovery gap.

The detailed documentation of this study will show an over-collection for some fees (on a per unit basis), and an undercharge for most others. The results of this analysis provide each Department and the City with guidance on how to right-size their fees to ensure that each service unit is set at an amount that does not exceed the full cost of providing that service. The display of the cost recovery figures shown in this report are meant to provide a basis for policy development discussions among Council members and City staff, and

do not represent a recommendation for where or how the Council should act. The setting of the “rate” or “price” for services, whether at 100 percent full cost recovery or lower, is a policy decision to be made only by the Council, with input from City staff and the community.

## Considerations for Cost Recovery Policy and Updates

The Matrix Consulting Group recommends that the City use the information contained in this report to make any necessary updates to their formal Cost Recovery policies and continue with their annual updates to fees for service.

### 1 Adopt a Formal Cost Recovery Policy

The Government Finance Officers Association’s (GFOA) best practices for *Establishing Government Charges and fees* states that governmental entities should adopt formal policies regarding charges and fees which include the jurisdiction’s intention to recover the full cost or partial costs of providing services, sets forth circumstances under which the jurisdiction might set a charge or fee at less than or more than 100% of full cost, and outlines the considerations that might influence the jurisdiction’s pricing decision.

Matrix Consulting Group strongly recommends that the City adopt a formalized, individual cost recovery policy for each service area included in this Study. Whenever a cost recovery policy is established at less than 100% of the full cost of providing services, a known gap in funding is recognized and may then potentially be recovered through other revenue sources. Matrix Consulting Group considers a formalized cost recovery policy for various fees for service an industry Best Management Practice.

### 2 Continue Annual Fee Update / Increase Mechanism

The purpose of a comprehensive update is to completely revisit the analytical structure, service level estimates and assumptions, and to account for any major shifts in cost components or organizational structures that have occurred since the District’s previous analysis.

GFOA best practices for *Establishing Government Charges and Fees* states that governmental entities should review, and update charges and fees periodically based on factors such as the impact of inflation, other cost increases, adequacy of cost recovery, use of services, and the competitiveness of current rates to avoid large infrequent fee increases. Therefore, it is recommended the City continue the practice of conducting comprehensive analyses every three to five years as this practice captures any changes to organizational structure, processes, code amendments, as well as any new service areas.



In between comprehensive updates, the City should continue to utilize published industry economic factors such as Consumer Price Index (CPI) or other regional factors to update the cost calculations established in the Study on an annual basis. Utilizing an annual increase mechanism ensures that the City receives appropriate fee increases that reflect growth in costs.

## 2. Legal Framework and Policy Considerations

This section of the report is intended to provide an overview regarding overall legal rules and regulations as well as general policy considerations for fees for service. A “user fee” is a charge for service provided by a governmental agency to a public citizen or group. In California, several constitutional laws such as Propositions 13, 4, and 218, State Government Codes 66014 and 66016, and more recently Prop 26 and the Attorney General’s Opinion 92-506 set the parameters under which the user fees typically administered by local government are established and administered. Specifically, California State Law, Government Code 66014(a), stipulates that user fees charged by local agencies “...may not exceed the estimated reasonable cost of providing the service for which the fee is charged”.

### General Principles and Philosophies Regarding User Fees

Local governments are providers of many types of general services to their communities. While all services provided by local government are beneficial to constituents, some services can be classified as globally beneficial to all citizens, while others provide more of a direct benefit to a specific group or individual. The following table provides examples of services provided by local government within a continuum of the degree of community benefit received:

**Table 3: Services in Relation to Benefit Received**

“Global” Community Benefit	“Global” Benefit and an Individual or Group Benefit	Individual or Group Benefit
<ul style="list-style-type: none"> <li>• Police</li> <li>• Park Maintenance</li> <li>• Fire Suppression</li> </ul>	<ul style="list-style-type: none"> <li>• Parks and Recreation</li> <li>• Fire Prevention</li> </ul>	<ul style="list-style-type: none"> <li>• Building Permits</li> <li>• Planning and Zoning Approval</li> <li>• Site Plan Review</li> <li>• Engineering Development Review</li> <li>• Facility Rentals</li> </ul>

Funding for local government is obtained from a myriad of revenue sources such as taxes, fines, grants, special charges, user fees, etc. In recent years, alternative tax revenues, which typically offset subsidies for services provided to the community, have become increasingly limited. These limitations have caused increased attention on user fee activities as a revenue source that can offset costs otherwise subsidized (usually) by the general fund. In Table 3, services in the “global benefit” section tend to be funded primarily through voter approved tax revenues. In the middle of the table, one typically finds a mixture of taxes, user fee, and other funding sources. Finally, in the “individual /

group benefit” section of the table, lie the services provided by local government that are typically funded almost entirely by user fee revenue.

The following are two central concepts regarding the establishment of user fees:

- **Fees should be assessed according to the degree of individual or private benefit gained from services.** For example, the processing and approval of a land use or building permit will generally result in monetary gain to the applicant, whereas Police services and Fire Suppression are examples of services that are essential to the safety of the community at large.
- **A profit-making objective should not be included in the assessment of user fees.** In fact, California laws require that the charges for service be in direct proportion to the costs associated with providing those services. Once a charge for service is assessed at a level higher than the actual cost of providing a service, the term “user fee” no longer applies. The charge then becomes a tax subject to voter approval.

Therefore, it is commonly accepted that user fees are established at a level that will recover up to, and not more than, the cost of providing a particular service.

## General Policy Considerations Regarding User Fees

Undoubtedly, there are programs, circumstances, and services that justify a subsidy from a tax based or alternative revenue source. However, it is essential that jurisdictions prioritize the use of revenue sources for the provision of services based on the continuum of benefit received.

Within the services that are typically funded by user fees, the Matrix Consulting Group recognizes several reasons why City staff or the Council may not advocate the full cost recovery of services. The following factors are key policy considerations in setting fees at less than 100 percent of cost recovery:

- **Limitations posed by an external agency.** The State or an outside agency will occasionally set a maximum, minimum, or limit the jurisdiction’s ability to charge a fee at all. An example includes time spent copying and retrieving public documents and / or transportation permits.
- **Encouragement of desired behaviors.** Keeping fees for certain services below full cost recovery may provide better compliance from the community. For example, if the cost of a permit for charging a water heater in residential home is higher than the cost of the water heater itself, many citizens will avoid pulling the permit.

- **Benefit received by user of the service and the community at large is mutual.** Many services that directly benefit a group or individual equally benefit the community as a whole. Examples include Planning Design Review, historical dedications, and certain types of special events.

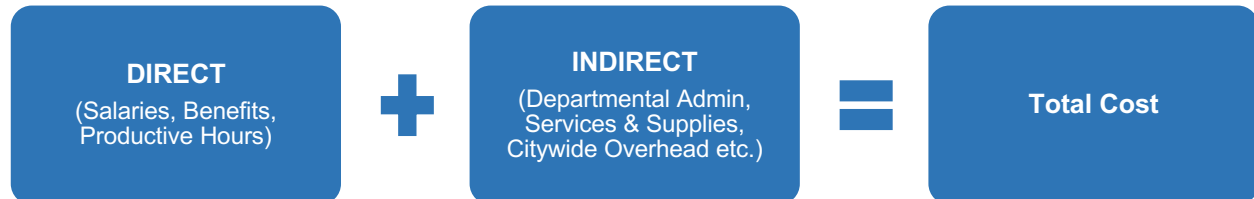
The Matrix Consulting Group recognizes the need for policies that intentionally subsidize certain activities. The primary goals of a User Fee Study are to provide a fair and equitable basis for determining the costs of providing services and ensure that the City complies with State law.

## Summary of Legal Restrictions and Policy Considerations

Once the full cost of providing services is known, the next step is to determine the “rate” or “price” for services at a level which is up to, and not more than the full cost amount. The City Council is responsible for this decision, which often becomes a question of balancing service levels and funding sources. The placement of a service or activity within the continuum of benefit received may require extensive discussion and at times fall into a “grey area”. However, with the resulting cost of services information from a User Fee Study, the City Council can be assured that the adopted fee for service is reasonable, fair, and legal. The City will need to review all fees for service in this analysis and where subsidies are identified increase them to reduce the deficit, and where over-recoveries are identified the fee must be reduced to be in compliance with the law.

### 3. User Fee Study Methodology

The Matrix Consulting Group utilizes a cost allocation methodology commonly known and accepted as the “bottom-up” approach to establishing User Fees. The term means that several cost components are calculated for each fee or service. These components then build upon each other to comprise the total cost for providing the service. The following chart describes the components of a full cost calculation:



The general steps utilized by the project team to determine allocations of cost components to a particular fee or service are:

- Calculate fully burdened hourly rates by position, including direct & indirect costs.
- Develop time estimates for the average time spent to delivery each service included in the study.
- Distribute the appropriate amount of the other cost components to each fee or service based on the staff time allocation basis, or another reasonable basis.

The results of these allocations provide detailed documentation for the reasonable determination of the actual cost of providing each service.

One of the key study assumptions utilized in the “bottom up” approach is the use of time estimate averages for the provision of each fee related service. Utilization of time estimates is a reasonable and defensible approach, especially since experienced staff members who understand service levels and processes unique to the City developed these estimates.

The project team worked closely with City staff in developing time estimates with the following criteria:

- Estimates are representative of average times for providing services. Extremely difficult or abnormally simple projects are not factored in the analysis.

- Estimates reflect the time associated with the position or positions that typically perform a service.
- Estimates provided by staff are reviewed and approved by the department / division, and often involve multiple iterations before a Study is finalized.
- Estimates are reviewed by the project team for “reasonableness” against their experience with other agencies.
- Estimates were not based on time in motion studies, as they are not practical for the scope of services and time frame for this project.
- Estimates match the current or proposed staffing levels to ensure there is no over-allocation of staff resources to fee and non-fee related activities.

The Matrix Consulting Group agrees that while the use of time estimates is not perfect, it is the best alternative available for setting a standard level of service for which to base a jurisdiction’s fees for service and meets the requirements of California law.

The alternative to time estimating is actual time tracking, often referred to billing on a “time and materials” basis. Except in the case of anomalous or sometimes very large and complex projects, the Matrix Consulting Group believes this approach to not be cost effective or reasonable for the following reasons:

- Accuracy in time tracking is compromised by the additional administrative burden required to track, bill, and collect for services in this manner.
- Additional costs are associated with administrative staff’s billing, refunding, and monitoring deposit accounts.
- Customers often prefer to know the fees for services in advance of applying for permits or participating in programs.
- Departments can better predict revenue streams and staff needs using standardized time estimates and anticipated permit volumes.

Situations arise where the size and complexity of a given project warrants time tracking and billing on a “time and materials” basis. The Matrix Consulting Group has recommended taking a deposit and charging Actual Costs for such fees as appropriate and itemized within the current fee schedule.

## 4. Results Overview

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The motivation behind a cost of services (User Fee) analysis is for the City and Departmental staff to maintain services at a level that is both accepted and effective for the community, and also to maintain control over the policy and management of these services.

It should be noted that the results presented in this report are not a precise measurement. In general, a cost-of-service analysis takes a “snapshot in time”, where a fiscal year of financial and operational information is utilized. Changes to the structure of fee names, along with the use of time estimates allow only for a reasonable projection of subsidies and revenue. Consequently, the City and Department staff should rely conservatively upon these estimates to gauge the impact of implementation going forward.

Discussion of results in the following chapters is intended as a summary of extensive and voluminous cost allocation documentation produced during the Study. Each chapter will include detailed cost calculation results for each major permit category including the following:

- **Modifications:** discussions regarding any proposed revisions to the current fee schedule, including elimination or addition of fees.
- **“Per Unit” Results:** comparison of the full cost of providing each unit of service to the current fee for each unit of service (where applicable).
- **Annualized Results:** utilizing volume of activity estimates annual subsidies and revenue impacts were projected.

The full analytical results were provided to City staff under separate cover from this summary report.

## 5. General Fees

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The General Fee category encompasses fees for services which are applied Citywide, such as, photocopies, notary, business licenses, taxicab permits, block parties, etc. While these services can be applied Citywide, the department / division's which are responsible for processing and administering these fees are as follows: City Clerk, Finance, Code Enforcement, and Emergency Service (OES). The following subsections discuss fee schedule modifications and detail per unit results for each major service area.

### Fee Schedule Modifications

In discussions with staff, the following modifications were proposed to the current fee schedule:

- **Eliminated Fees:** The fee for 'Microfilm / Microfiche Printout' was eliminated as this service is no longer offered by the City due to all records being digitized.
- **New Fees:** The following three fees were added as a means to allow staff to accurately charge for their time providing services to the community:
  - 'Code Enforcement Cost Recovery – Hourly Rate'
  - 'Code Enforcement Cost Recovery – Substandard Housing Re-Inspection'
  - 'Permit Update'
  - 'Credit Card Surcharge'
- **Consolidated Fee:** The following fees were consolidated into single fees as a means to streamline the fee schedule
  - 'Abatement Fee' and 'Graffiti Cleanup' were consolidated as both services are abatement related and are charged based on actual costs incurred.
  - 'Commercial Kennel Permit', 'Private Kennel Permit', 'Pet Shop', 'Grooming Business' and 'Horse Establishment' were consolidated under a single 'Animal Establishment Permit' fee.
- **Formatting Modification:** To make it easier for applicants to understand the department / division which is responsible for administering the fee being charged the project team recommends that the City organize their General Fee section by major service area (i.e., City Clerk, Finance, Code Enforcement, etc.).

These modifications ensure that the proposed fee schedule more accurately reflects the services currently being provided while also improving the overall flow of the City's general fee schedule section.



## Detailed Results – City Clerk

The City Clerk Department is responsible for supporting the City Council and City Manager's Office by recording meeting minutes and preparing agenda packets. Additionally, this Department keeps all City record and maintains city archives. The fees examined within this study relate to these responsibilities and encompass lobbyist registration, candidate statement fees, public requests, maps print outs, notary, photocopies, fair political practices, and video / audio services.

The total cost calculated for each service includes direct staff costs and Departmental and Citywide overhead. The following table details the fee name, current fee, total cost, and difference associated with each service offered.

**Table 4: Total Cost Per Unit Results – City Clerk**

Fee Name	Current Fee	Total Cost	Difference
Annual Lobbyist Registration Fee	\$188	\$290	(\$102)
Candidate Statement Fee (County Regulated Fee)	Current County Registrar Cost		
<b>Public Requests for GIS Printed Maps</b>			
<b>Standard pre-formatted maps:</b>			
Plotted maps	\$24	\$36	(\$12)
Printed maps	\$3	\$5	(\$2)
Custom request maps	Actual Cost		
Prints/plots of aerial photography (see Engineering fees)	Actual Cost		
Municipal Code Book	Vendor Invoice		
Notary Fee (State Regulated Fee) <sup>1</sup>	\$15	\$15	\$0
Petitions for Reconsideration	\$351	\$367	(\$16)
<b>Photocopies</b>			
Standard sizes	\$13	\$0.29	\$12.64
For 11 x 17 sizes or color sheets	\$0.64	\$0.67	(\$0.03)
For Large format prints	\$32	\$33.57	(\$1.69)
Fair Political Practices Commission <sup>2</sup>	\$0.11	\$0.10	\$0.01
Fair Political Practices Commission (older than five (5) years) <sup>2</sup>	\$5.50	\$5.00	\$0.50
<b>Video/Audio Service</b>			
DVD/CD	\$26	\$25	\$1
Flash Drive	\$16	\$27	(\$11)

Excluding state set fees, the City Clerk only shows an over-recovery for one fee: 'Photocopies – Standard Size'. This over-recovery is minimal at roughly \$13 and is due to the reduction in material costs associated with DVD / CDs. The largest under-recovery at \$102 is in relation to 'Annual Lobbyist Registration Fee'.

<sup>1</sup> GOV § 8223 (b)

<sup>2</sup> CA Govt Code § 81008(a)

## Detailed Results - Finance

Finance is responsible for fiscal management citywide, including disbursement of funds and payroll, audits, budget and fiscal reporting development, and vendor oversight. The fees examined within this study relate to business licenses duplicates and databases, false alarms, and monthly reports.

The total cost calculated for each service includes direct staff costs and Departmental and Citywide overhead. The following table details the fee name, current fee, total cost, and difference associated with each service offered.

**Table 5: Total Cost Per Unit Results – Finance**

Fee Name	Current Fee	Total Cost	Difference
Business License Database	\$24	\$30	(\$5)
Duplicate Business Licenses	\$13	\$15	(\$2)
False Alarms	\$98	\$119	(\$21)
New Business Monthly Reports	\$45	\$45	\$0

Finance under-recovers for all fees reviewed ranging from a low of \$2 for 'Duplicate Business Licenses' to a high of \$21 for 'False Alarms'.

## Detailed Results – Code Enforcement

Code Enforcement is responsible for ensuring enforcement of and compliance with federal, state, and municipal laws and codes. The fees examined within this study relate to dangerous dog registration, solicitor permits, massage therapist establishment permits, taxicab driver permits, and various others.

The total cost calculated for each service includes direct staff costs and Departmental and Citywide overhead. The following table details the fee name, current fee, total cost, and difference associated with each service offered.

**Table 6: Total Cost Per Unit Results – Code Enforcement**

Fee Name	Current Fee	Total Cost	Difference
Animal Establishment Permit	\$318	\$361	(\$43)
Bingo Permit	\$191	\$255	(\$64)
<b>Code Enforcement Cost Recovery</b>			
Abatement / Graffiti Cleanup	Actual Cost		
Hourly Rate	New	\$240	N/A
Substandard Housing Re-Inspection	New	\$240	N/A

Fee Name	Current Fee	Total Cost	Difference
<b><u>Dangerous Dogs</u></b>			
Registration	\$256	\$481	(\$225)
Sign	\$88	\$25	\$63
Fingerprinting	\$67	\$71	(\$5)
<b><u>Handbill Permit</u></b>			
Initial	\$151	\$240	(\$90)
Renewal	\$75	\$120	(\$45)
Sign Removal (Public Right-of-Way) (All except Political Signs)	\$6	\$180	(\$174)
Sign Recovery Fee for Political Signs	\$4	\$180	(\$177)
Permit Update	New	\$120	N/A
Property Lien	\$54	\$240	(\$186)
<b><u>Solicitor Fee</u></b>			
Initial	\$301	\$481	(\$179)
Renewal	\$76	\$120	(\$45)
<b><u>Massage Therapist Fees</u></b>			
Massage Establishment Permit Fee	\$339	\$541	(\$202)
Massage Establishment - Renewal	\$113	\$180	(\$67)
Massage Managing Employee Permit Fee	\$301	\$481	(\$179)
Massage Managing Employee - Renewals	\$113	\$180	(\$67)
Massage Permit - Appeal	\$794	\$1,202	(\$408)
<b><u>Taxicab Fees</u></b>			
Driver Permit Fee (Valid for 2 years)	\$394	\$961	(\$568)
Driver Permit Fee (Valid for 2 years) - Renewal	\$76	\$120	(\$45)

Except for 'Dangerous Dogs – Sign' which over-recovers by \$63, Code Enforcement under-recovers for all their fees. The largest under-recovery is in relation to 'Taxicab Fees – Driver Permit Fee (Valid for 2 Years)' at \$568; followed by 'Massage Therapist Fees – Massage Permit – Appeal' and 'Dangerous Dogs – Registration' at \$408 and \$225, respectively.

## Detailed Results – Emergency Service (OES)

Emergency Services (OES) is responsible for coordinating the City's disaster response and recovery efforts, as such, OES works within the community to educate on proper disaster preparedness and prevention. The fees examined within this study relate to block party presentations and special event medical standby. OES currently does not charges fees for these services.

The following table provides the Division with an overview of what the total cost for providing these services are. The total cost calculated for each service includes direct staff costs and Departmental and Citywide overhead. The following table details the fee name and total cost associated with each service offered.

**Table 7: Total Cost Per Unit Results – OES**

<b>Fee Name</b>	<b>Total Cost</b>
Block Party Presentation	\$418
First Aid / Medical Stand-by at Special Events	\$215

The \$418 associated with 'Block Party Presentation' relates to serving as the liaison between the community and the requested department providing the presentation, along with assisting in preparation for the presentation by compiling data and visualizations. Likewise, the \$215 associated with 'First Aid / Medical Stand-by at Special Events' relates to processing the permit, along with coordinating volunteers to be on-site during the event.

## Credit Card Surcharge

Many jurisdictions charge applicants a credit card transaction fee for any payments made using a credit card. This surcharge is generally a percentage of the overall fee charged to the city by a bank for processing credit card transactions and acts as a mechanism for recovering costs associated with fees incurred. Currently, the City of Cupertino does not assess a credit card transaction surcharge. Through this study, the project team worked with City staff to determine the appropriate surcharge amount.

In order to calculate the surcharge, the project team divided the total bank fees charged to the City for a year by the same revenue upon which the credit card surcharge was applied. The following table shows this calculation:

**Table 8: Credit Card Transaction Fee Calculation**

<b>Category</b>	<b>Amount</b>
Total Bank Fees	\$432,668
Total Revenue	\$12,566,758
<b>Credit Card Fee Rate</b>	<b>3.44%</b>

Based upon this calculation, the City's full cost associated with credit card fees is 3.44%.

As part of this analysis, the project team conducted a comparative survey of other local jurisdictions and their assessment of the Credit Card Transaction fee. Like other comparative efforts, the survey below simply shows the fees charged by the jurisdiction and does not include the basis upon which the other jurisdictions calculated or developed their fee. The following table shows the results of this comparative analysis:

**Table 9: Credit Card Transaction Fee – Comparative Survey**

<b>Jurisdiction</b>	<b>Fee Amount</b>
Milpitas	2.4% of Fees Paid by Credit Card
Palo Alto	2.7% on Fees over \$5,000 Paid by Credit Card
Mountain View	N/A
Santa Clara	N/A
Sunnyvale	N/A

Palo Alto (2.7%) and Milpitas (2.4%) are the only surveyed jurisdictions that charge this fee as a stand-alone surcharge. Both cities charge the credit card transaction fee based on a percentage of the fees paid and at a lower percentage than Cupertino's calculated full cost of 3.44%. Additionally, Palo Alto only charges their surcharge on fees over \$5,000.

## Annual Revenue Impact

Due various fees being set by the state and no current tracking methods for general fee-related services, no annual revenue impacts were calculated specific to these fees.

## 6. Building

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The Building division is responsible for ensuring all new construction and modification or additions to existing building are in compliance with federal, state, and local laws and regulations. The fees examined within this study relate to structural, mechanical, electrical, and plumbing plan review and inspections. The following subsections discuss fee schedule modifications and detailed per unit results for the fee-related services provided by Building.

### Fee Schedule Modifications

In an effort to streamline the square footage tables, Building staff proposed the following modifications:

- Consolidate the two tables for Plan Check and Inspection into a singular table which encompasses Plan Check and Inspection.
- Consolidate the three construction type categories into a single construction type based on the most common type for the IBC Class.
- Consolidate the IBC Classes into two general categories based on IBC Occupancy type – New Construction and Tenant Improvement. The only exception was for the R IBC Classes which were left expanded.
- Remove the IBC Occupancy Types ‘Deferred Submittal – All Except R-3 and ‘Deferred Submittal – R3’.
- Add a 1,000 sq. ft. project size threshold for IBC Class U Accessory.

In discussions with staff, the following modifications were proposed to the current flat and MEP fee schedule:

- **Eliminated Fees:** The following fees were eliminated as the City no longer offers these services
  - ‘Close Existing Openings – Interior Wall’
  - ‘Close Existing Openings – Exterior Wall’
  - ‘Garage / Agricultural Buildings - Wood frame up to 1,000 sf’
  - ‘Garage / Agricultural Buildings - Masonry up to 1,000 sf’
  - ‘Green Building Deposit – Third Party Certification Process – Single Family Residential (\$1,000 max.)’
  - ‘Green Building Deposit – Third Party Certification Process – Multi-Family Residential (\$20,000 min, \$40,000 max.)’

- 'Green Building Deposit – Third Party Certification Process – Non-Residential (\$35,000 min, \$75,000 max.)'
- 'Life Safety Report'
- 'Enclosed prefabricated Sun Room – Additional Sun Rooms'
- 'Plan Review Supplemental Fee (after 2nd review) – Each Additional Hour'
- 'Standalone MEP Permit Fees - Travel and Documentation'
- 'Standalone MEP Permit Fees - Permit Issuance'
- 'Install / Relocate forced air furnace or burner (including attached ducts and vents) – up to and including 100,000 Btu/h'
- 'Install / Relocate forced air furnace or burner (including attached ducts and vents) – over 100,000 Btu/h'
- 'Install / Relocate floor furnace, including vent'
- 'Install or relocate suspended heater, recessed wall heater, or floor-mounted unit – Residential'
- 'Install or relocate suspended heater, recessed wall heater, or floor-mounted unit – Commercial'
- 'Repair/Alter/Add heating appliance, refrigeration unit, cooling unit, absorption unit, mini-split system/heat pump, or each heating, cooling, absorption, or evaporative cooling system, including installation of controls and/or ducts – Residential'
- 'Repair/Alter/Add heating appliance, refrigeration unit, cooling unit, absorption unit, mini-split system/heat pump, or each heating, cooling, absorption, or evaporative cooling system, including installation of controls and/or ducts – Commercial'
- 'Install or relocate boiler or compressor - up to and including 3HP, or absorption system up to and including 100,000'
- 'Install or relocate boiler or compressor - over 3HP and up to and including 15 HP, or absorption system over 100,000 Btu/h and up to and including 500,000 Btu/h'
- 'Install or relocate boiler or compressor - over 15 HP and up to and including 30 HP, or absorption system over 500,000 Btu/h and up to and including 1,000,000 Btu/h'
- 'Install or relocate boiler or compressor - over 30 HP and up to and including 50 HP, or absorption system over 1,000,000 Btu/h and up to and including 1,750,000 Btu/h'
- 'Install or relocate boiler or compressor - over 50 HP, or absorption system over 1,750,000 Btu/h'
- 'Air-handling unit, including attached ducts – Residential'
- 'Air-handling unit, including attached ducts – Commercial'
- 'Air-handling unit, including attached ducts – Air-handling unit over 10,000 CFM'

- 'Ventilation fan connected to a single duct'
  - 'Ventilation system that is not a portion of any heating or air-conditioning system authorized by a permit'
  - 'Lighting fixtures, sockets, or other lamp-holding devices – Theatrical-type lighting fixtures or assemblies'
  - 'Appliances - Fixed residential appliances or receptacle outlets for same, including wall- mounted electric ovens; counter mounted cooking tops; electric ranges; self- contained room console or through-wall air conditioners; space heaters; food waste grinders; dishwashers; washing machines; water heaters; clothes dryers; or other motor-operated appliances not exceeding one horsepower (HP) in rating'
  - 'Appliances - Residential appliances and self-contained factory-wired, nonresidential appliances not exceeding one horsepower (HP), kilowatt (kW), or kilovolt- ampere (kVA) in rating, including medical and dental devices; food, beverage, and ice cream cabinets; illuminated show cases; drinking fountains; vending machines; laundry machines; or other similar types of equipment'
  - 'Busway – Trolley and plug-in type busways'
  - 'Signs, Outline Lighting, and Marquees - Supplied from one branch circuit'
  - 'Signs, Outline Lighting, and Marquees - Additional branch circuits within the same sign, outline lighting system, or marquee'
  - 'Plumbing fixture or trap or set of fixtures on one trap, including water, drainage piping, and backflow protection'
  - 'Rainwater system inside building'
  - 'Private sewage disposal system'
  - 'Repair/Alter drainage or vent piping'
  - 'Lawn sprinkler system on any one meter, including backflow protection devices'
  - 'Backflow devices not included in other fee services (e.g., building/trailer park)'
  - 'Atmospheric-type vacuum breakers not included in other fee services (e.g., building/trailer park sewer)'
- **New Fees:** The following fees were proposed for addition to address new services offered by the City or to capture services already offered but not listed on the current fee schedule
    - 'Additions (Non-Hillside R3 Occupancy) - Plan Check Fees (500-999 sq. ft.)'
    - 'Additions (Non-Hillside R3 Occupancy) - Inspection Fees (500-999 sq. ft.)'
    - 'Accessory Buildings (Up to 499 sq. ft.)'
    - 'Accessory Buildings (500-999 sq. ft.)'
    - 'Below Market Rate – Escrow Inspection'
    - 'Photovoltaic System – Residential – Each Additional kW Above 15kW'



- 'Thermal System – Residential – Systems up to 10kW'
  - 'Thermal System – Residential – Each Additional kW Above 10kW'
  - 'Thermal System – Multi-Family and Commercial – Systems up to 30kW'
  - 'Thermal System – Multi-Family and Commercial – Each Additional kW between 20kW and 260kW'
  - 'Thermal System – Multi-Family and Commercial – Each Additional kW Above 260kW'
  - 'Expedited Plan Review'
  - 'Install or relocate HVAC system or portion there of – Residential'
  - 'Install or relocate HVAC system or portion there of – Commercial'
  - 'Appliances (Install / Repair / Replace) – Residential'
  - 'Appliances (Install / Repair / Replace) – Commercial'
  - 'Building Drain/Waste/Vent Repair – Residential'
  - 'Building Drain/Waste/Vent Repair – Commercial'
  - 'Any other device/fixture not listed in Plumbing Schedule (Install/Repair/Replace)'
  - 'Planning Review and Inspection of Building Permits'
- **Condensed Fees:** In an effort to streamline the fee schedule 'Revisions – Commercial Projects (2hr. Min.)', 'Revisions – Single Family Dwelling Projects (2hr. Min.)', and 'Revisions – Remodel' were condensed into a singular per hour fee called 'Revisions'
  - **Expanded Fees:** The following fees were expanded as a means to define the services being provided more accurately:
    - 'Power Apparatus - Generator/Transformer or Similar (Install/Repair/Replace)' was expanded into two categories: 'Residential' and 'Commercial'
    - 'Building sewer lateral or sewer clean-out' was expanded into two fee categories 'Building sewer lateral (Install / Repair / Replace)' and 'Sewer Clean-out (Install/Repair/Replace)' each with a 'Residential' and 'Commercial' sub-category.
    - 'Photovoltaic System – Multi-family Res/Commercial, each additional 1 kilowatt' was expanded into two fees: 'Photovoltaic System – Multi-Family and Commercial – Each Additional kW between 50kW and 250kW' and 'Photovoltaic System – Multi-Family and Commercial – Each Additional kW Above 250kW'.
  - **Fee Name Changes:** In an effort to clearly define what services are associated with fees the following name changes were proposed:
    - 'Deferred Submittal (2 hour minimum)' was changed to 'Deferred Submittal'

- 'Garage / Agricultural Buildings' was changed to 'Accessory Building – Residential'
- 'Photovoltaic System – Residential' was changed to 'Photovoltaic System – Residential – Systems up to 15kW'
- 'Photovoltaic System – Multi-Family Res/Commercial, up to 8 kilowatts' was changed to 'Photovoltaic System – Multi-Family and Commercial – Systems up to 50kW'
- 'Overtime Plan Review (2 hour minimum)' was changed to 'Overtime Plan Review (4 hour minimum)'
- 'Plan Review Supplemental Fee (after 2nd review)' was changed to 'Supplemental Plan Review (After 2nd Review)'
- 'Skylight – 50 sf or less (cumulative area)' was changed to 'Skylight – First (3) Skylights'
- 'Skylight – Greater than 50 sf or structural' was changed to 'Skylight – Each Additional Skylight'
- 'Appliance or piece of equipment not classed in other appliance categories, or for which no other fee is listed' was changed to 'Any other piece of equipment or appliance not listed in Mechanical schedule.'
- 'Power Apparatus - Motors, generators, transformers, rectifiers, synchronous converters, capacitors, industrial heating, air conditioners and heat pumps, cooking or baking equipment, and other apparatus. Rating in horsepower (HP), kilowatts (kW), or kilovolt-amperes (kVA), or kilovolt-amperes-reactive (kVAR)' was changed to 'Power Apparatus - Generator/Transformer or Similar (Install/Repair/Replace)'
- 'Electrical apparatus, conduits, and conductors for which a permit is required, but for which no fee is herein set forth' was changed to 'Any other Electrical apparatus, conduits, and conductors not listed in Electrical Schedule'
- 'Residential Whole-House Re-Plumbing (up to 2500 sq ft)' was changed to 'Residential Whole-House Water Re-Pipe (up to 2500 sq ft)'
- 'Partial Re-pipe' was changed to 'Partial Water Re-pipe'
- 'Water Service' was changed 'Install or Replace Water Meter / Service'
- 'Install, Alter, or Repair Water Treatment System' was changed to 'Water Treatment System (Install/Repair/Replace)'
- 'Industrial waste pretreatment interceptor, including its trap and vent, excepting kitchen-type grease interceptors functioning as fixture traps' was changed to 'Interceptors - Grease/Sand (Install/Repair/Replace)'
- 'Water Heater (Gas or Solar) and/or Vent' was changed to 'Water Heater Replacement / Installation - All Types'
- Gas Piping system per outlet' was changed to 'Gas Piping (Install/Repair/Replace)'

- **Unit Changes:** Since the minimum time for 'Supplemental Plan Review (After 2nd Review)' is one hour the unit was changed from 'First 1/2 hour minimum' to 'Per Hour'

These modifications ensure that the proposed fee schedule not only more accurately reflects the services currently being provided by Building but also will make it easier for applicants to understand fees being charged and for staff to administer and apply fees.

## Detailed Results – Fees Based on Square Footage

Building currently utilizes two tables to collect various fees based on occupancy type, construction material, and square footage of the project. As outlined in the modifications section, updates to these tables were proposed by Building staff. After integrating the changes, the project team then calculated total costs for each service which includes direct staff costs and Departmental and Citywide overhead. The following table details the IBC Class, IBC Occupancy Type, project size threshold (square footage), current fee, total cost calculated, and the resulting difference for plan review and inspection services.

**Table 10: Total Cost Per Unit Results – Building – Square Footage Based Fees**

IBC Class	IBC Occupancy Type	Project Threshold Size (Sq. Ft.)	Current Fee		Total Cost		Difference	
			Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *	Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *	Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *
<b>A</b>	<b>Assembly</b>	250	\$8,195	\$237.12	\$8,113	\$224.83	\$81	\$12.29
		1,250	\$10,566	\$261.70	\$10,362	\$233.96	\$204	\$27.74
		2,500	\$13,837	\$164.53	\$13,286	\$92.51	\$551	\$72.02
		5,000	\$17,950	\$39.37	\$15,599	\$56.44	\$2,352	(\$17.08)
		12,500	\$20,903	\$50.88	\$19,832	\$49.66	\$1,071	\$1.22
		25,000	\$27,263	\$109.05	\$26,039	\$104.16	\$1,224	\$4.89
<b>A</b>	<b>A Occupancy Tenant Improvements</b>	500	\$7,331	\$108.04	\$7,405	\$117.39	(\$74)	(\$9.34)
		2,500	\$9,491	\$118.91	\$9,753	\$116.34	(\$261)	\$2.57
		5,000	\$12,464	\$71.27	\$12,661	\$43.07	(\$197)	\$28.19
		10,000	\$16,027	\$17.51	\$14,815	\$26.28	\$1,213	(\$8.77)
		25,000	\$18,654	\$23.62	\$18,757	\$24.13	(\$103)	(\$0.50)
		50,000	\$24,560	\$49.12	\$24,789	\$49.58	(\$229)	(\$0.46)
<b>B</b>	<b>Business</b>	1,000	\$10,806	\$97.03	\$11,137	\$85.35	(\$331)	\$11.68
		5,000	\$14,688	\$93.07	\$14,551	\$84.99	\$136	\$8.08
		10,000	\$19,341	\$53.80	\$18,801	\$55.79	\$540	(\$1.99)
		20,000	\$24,721	\$13.89	\$24,380	\$12.44	\$341	\$1.45
		50,000	\$28,889	\$18.61	\$28,112	\$17.91	\$777	\$0.70
		100,000	\$38,196	\$38.20	\$37,068	\$37.07	\$1,127	\$1.13

IBC Class	IBC Occupancy Type	Project Threshold Size (Sq. Ft.)	Current Fee		Total Cost		Difference	
			Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *	Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *	Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *
<b>B</b>	<b>B Occupancy Tenant Improvements</b>	300	\$6,895	\$166.93	\$7,338	\$208.90	(\$443)	(\$41.97)
		1,500	\$8,898	\$184.16	\$9,845	\$160.49	(\$947)	\$23.67
		3,000	\$11,660	\$114.55	\$12,252	\$86.24	(\$592)	\$28.31
		6,000	\$15,097	\$27.56	\$14,839	\$41.11	\$258	(\$13.55)
		15,000	\$17,577	\$35.99	\$18,539	\$36.21	(\$962)	(\$0.21)
		30,000	\$22,977	\$76.59	\$23,971	\$79.90	(\$994)	(\$3.31)
<b>E</b>	<b>Educational</b>	100	\$7,122	\$514.67	\$7,338	\$562.07	(\$216)	(\$47.40)
		500	\$9,180	\$568.17	\$9,586	\$584.90	(\$405)	(\$16.73)
		1,000	\$12,021	\$358.05	\$12,510	\$258.73	(\$489)	\$99.32
		2,000	\$15,602	\$85.54	\$15,098	\$123.34	\$504	(\$37.80)
		5,000	\$18,168	\$110.33	\$18,798	\$113.80	(\$630)	(\$3.46)
		10,000	\$23,685	\$236.85	\$24,488	\$244.88	(\$803)	(\$8.03)
<b>E</b>	<b>E Occupancy Tenant Improvements</b>	100	\$6,022	\$439.09	\$6,239	\$428.77	(\$217)	\$10.31
		500	\$7,778	\$484.12	\$7,954	\$478.26	(\$176)	\$5.87
		1,000	\$10,199	\$298.17	\$10,346	\$176.34	(\$147)	\$121.83
		2,000	\$13,181	\$72.16	\$12,109	\$105.56	\$1,072	(\$33.40)
		5,000	\$15,346	\$95.05	\$15,276	\$97.64	\$70	(\$2.59)
		10,000	\$20,098	\$200.98	\$20,158	\$201.58	(\$60)	(\$0.60)
<b>F</b>	<b>Factory Industrial</b>	1,000	\$11,857	\$57.72	\$11,945	\$65.16	(\$88)	(\$7.44)
		5,000	\$14,166	\$70.48	\$14,551	\$79.49	(\$385)	(\$9.02)
		10,000	\$17,690	\$53.46	\$18,526	\$61.28	(\$836)	(\$7.83)
		20,000	\$23,036	\$10.91	\$24,654	\$11.53	(\$1,619)	(\$0.61)
		50,000	\$26,310	\$13.13	\$28,112	\$14.62	(\$1,802)	(\$1.49)
		100,000	\$32,873	\$32.87	\$35,420	\$35.42	(\$2,548)	(\$2.55)
<b>F</b>	<b>F Occupancy Tenant Improvements</b>	1,000	\$9,141	\$66.90	\$9,554	\$72.02	(\$413)	(\$5.12)
		5,000	\$11,817	\$73.70	\$12,435	\$74.32	(\$618)	(\$0.63)
		10,000	\$15,502	\$44.98	\$16,151	\$29.77	(\$649)	\$15.21
		20,000	\$20,000	\$10.93	\$19,128	\$16.70	\$871	(\$5.77)
		50,000	\$23,279	\$14.56	\$24,137	\$15.26	(\$859)	(\$0.71)
		100,000	\$30,556	\$30.56	\$31,769	\$31.77	(\$1,212)	(\$1.21)
<b>H</b>	<b>High Hazard</b>	100	\$9,564	\$687.16	\$10,020	\$695.37	(\$455)	(\$8.20)
		500	\$12,313	\$759.28	\$12,801	\$749.68	(\$488)	\$9.60
		1,000	\$16,110	\$485.55	\$16,550	\$341.12	(\$440)	\$144.43
		2,000	\$20,965	\$115.05	\$19,961	\$168.04	\$1,004	(\$52.99)
		5,000	\$24,416	\$146.42	\$25,002	\$151.28	(\$586)	(\$4.86)
		10,000	\$31,738	\$317.38	\$32,566	\$325.66	(\$828)	(\$8.28)
<b>H</b>	<b>H Occupancy Tenant Improvements</b>	100	\$6,723	\$488.44	\$6,514	\$493.41	\$210	(\$4.97)
		500	\$8,677	\$538.85	\$8,487	\$584.90	\$190	(\$46.05)
		1,000	\$11,371	\$334.97	\$11,412	\$203.80	(\$41)	\$131.17
		2,000	\$14,721	\$80.62	\$13,450	\$123.34	\$1,271	(\$42.72)
		5,000	\$17,140	\$105.34	\$17,150	\$102.81	(\$10)	\$2.53
		10,000	\$22,406	\$224.06	\$22,291	\$222.91	\$116	\$1.16
<b>I</b>	<b>Institutional</b>	500	\$10,327	\$148.76	\$11,218	\$171.51	(\$891)	(\$22.75)
		2,500	\$13,302	\$164.30	\$14,648	\$171.26	(\$1,346)	(\$6.97)
		5,000	\$17,410	\$104.43	\$18,930	\$81.52	(\$1,520)	\$22.91
		10,000	\$22,632	\$24.82	\$23,006	\$38.89	(\$374)	(\$14.06)
		25,000	\$26,355	\$31.79	\$28,838	\$33.95	(\$2,483)	(\$2.16)
		50,000	\$34,302	\$68.60	\$37,326	\$74.65	(\$3,024)	(\$6.05)

IBC Class	IBC Occupancy Type	Project Threshold Size (Sq. Ft.)	Current Fee		Total Cost		Difference	
			Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *	Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *	Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *
<b>I</b>	<b>I Occupancy Tenant Improvements</b>	100	\$6,659	\$483.13	\$7,338	\$562.07	(\$679)	(\$78.94)
		500	\$8,591	\$533.03	\$9,586	\$533.19	(\$995)	(\$0.16)
		1,000	\$11,256	\$332.51	\$12,252	\$258.73	(\$996)	\$73.78
		2,000	\$14,581	\$79.88	\$14,839	\$123.34	(\$258)	(\$43.46)
		5,000	\$16,978	\$104.07	\$18,539	\$108.63	(\$1,562)	(\$4.55)
		10,000	\$22,181	\$221.81	\$23,971	\$239.71	(\$1,789)	(\$17.89)
<b>M</b>	<b>Mercantile</b>	2,000	\$13,877	\$50.21	\$14,500	\$54.42	(\$623)	(\$4.21)
		10,000	\$17,894	\$55.43	\$18,854	\$55.90	(\$960)	(\$0.48)
		20,000	\$23,436	\$34.81	\$24,444	\$23.70	(\$1,008)	\$11.11
		40,000	\$30,399	\$8.31	\$29,185	\$12.79	\$1,214	(\$4.48)
		100,000	\$35,386	\$10.78	\$36,860	\$11.50	(\$1,474)	(\$0.72)
		200,000	\$46,163	\$23.08	\$48,355	\$24.18	(\$2,192)	(\$1.10)
<b>M</b>	<b>M Occupancy Tenant Improvements</b>	300	\$7,007	\$171.55	\$7,146	\$195.64	(\$139)	(\$24.09)
		1,500	\$9,066	\$188.92	\$9,494	\$194.97	(\$428)	(\$6.04)
		3,000	\$11,900	\$114.23	\$12,419	\$71.79	(\$519)	\$42.44
		6,000	\$15,327	\$27.91	\$14,572	\$46.86	\$754	(\$18.95)
		15,000	\$17,839	\$37.44	\$18,789	\$36.76	(\$951)	\$0.68
		30,000	\$23,455	\$78.18	\$24,304	\$81.01	(\$849)	(\$2.83)
<b>R-1</b>	<b>Residential—Hotels &amp; Motels</b>	3,000	\$21,538	\$15.25	\$16,908	\$42.88	\$4,631	(\$27.63)
		15,000	\$23,368	\$24.76	\$22,053	\$42.65	\$1,315	(\$17.90)
		30,000	\$27,082	\$8.10	\$28,451	\$18.55	(\$1,369)	(\$10.45)
		60,000	\$29,512	\$3.68	\$34,016	\$9.69	(\$4,504)	(\$6.01)
		150,000	\$32,824	\$1.91	\$42,741	\$8.90	(\$9,917)	(\$7.00)
		300,000	\$35,682	\$11.89	\$56,094	\$18.70	(\$20,412)	(\$6.80)
<b>R-2</b>	<b>Residential—Apartment Building</b>	800	\$18,400	\$47.41	\$13,318	\$123.86	\$5,082	(\$76.44)
		4,000	\$19,918	\$80.63	\$17,282	\$126.83	\$2,636	(\$46.20)
		8,000	\$23,143	\$24.89	\$22,355	\$54.38	\$788	(\$29.50)
		16,000	\$25,134	\$12.13	\$26,706	\$28.68	(\$1,572)	(\$16.54)
		40,000	\$28,046	\$5.75	\$33,589	\$26.47	(\$5,543)	(\$20.72)
		80,000	\$30,346	\$37.93	\$44,177	\$55.22	(\$13,831)	(\$17.29)
<b>R-2</b>	<b>Residential—Apartment Building - Repeat Unit</b>	800	\$7,774	\$29.92	\$6,452	\$63.78	\$1,321	(\$33.85)
		4,000	\$8,731	\$24.72	\$8,493	\$58.17	\$238	(\$33.45)
		8,000	\$9,720	\$17.87	\$10,820	\$2.89	(\$1,100)	\$14.99
		16,000	\$11,150	\$2.83	\$11,051	\$18.38	\$99	(\$15.55)
		40,000	\$11,828	\$4.34	\$15,462	\$14.80	(\$3,634)	(\$10.46)
		80,000	\$13,563	\$16.95	\$21,381	\$26.73	(\$7,818)	(\$9.77)
<b>R-3</b>	<b>Dwellings—Custom Homes</b>	1,000	\$11,253	\$64.77	\$11,654	\$70.02	(\$401)	(\$5.25)
		2,500	\$12,225	\$113.41	\$12,705	\$124.95	(\$480)	(\$11.53)
		4,000	\$13,926	\$66.83	\$14,579	\$89.92	(\$653)	(\$23.09)
		6,000	\$15,262	\$72.88	\$16,377	\$80.78	(\$1,115)	(\$7.91)
		8,000	\$16,720	\$78.97	\$17,993	\$89.92	(\$1,273)	(\$10.95)
		10,000	\$18,299	\$182.99	\$19,791	\$197.91	(\$1,492)	(\$14.92)
<b>R-3</b>	<b>Dwellings - Production Phase of Master Plan (Repeats)</b>	1,000	\$7,937	\$55.97	\$5,060	\$111.12	\$2,877	(\$55.15)
		2,500	\$8,777	\$78.14	\$6,727	\$138.96	\$2,050	(\$60.82)
		4,000	\$9,949	\$60.26	\$8,811	\$25.29	\$1,138	\$34.97
		6,000	\$11,154	\$46.39	\$9,317	\$181.79	\$1,837	(\$135.39)
		8,000	\$12,082	\$72.42	\$12,953	\$232.12	(\$871)	(\$159.70)
		10,000	\$13,530	\$135.30	\$17,595	\$175.95	(\$4,065)	(\$40.65)

IBC Class	IBC Occupancy Type	Project Threshold Size (Sq. Ft.)	Current Fee		Total Cost		Difference	
			Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *	Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *	Base Cost @ Threshold Size	Cost for Each Addl. 100 sf *
R-3	Group Care	1,000	\$16,739	\$36.10	\$12,220	\$98.68	\$4,519	(\$62.58)
		5,000	\$18,183	\$57.17	\$16,167	\$90.48	\$2,016	(\$33.31)
		10,000	\$21,041	\$19.29	\$20,691	\$38.01	\$350	(\$18.73)
		20,000	\$22,970	\$8.45	\$24,492	\$21.97	(\$1,523)	(\$13.53)
		50,000	\$25,505	\$4.48	\$31,085	\$19.53	(\$5,580)	(\$15.04)
		100,000	\$27,747	\$27.75	\$40,849	\$40.85	(\$13,102)	(\$13.10)
R	R Occupancy Tenant Improvements	80	\$7,225	\$215.54	\$6,064	\$494.83	\$1,161	(\$279.29)
		400	\$7,914	\$288.79	\$7,647	\$529.16	\$267	(\$240.37)
		800	\$9,069	\$119.63	\$9,764	\$200.54	(\$695)	(\$80.90)
		1,600	\$10,026	\$40.71	\$11,368	\$142.06	(\$1,342)	(\$101.34)
		4,000	\$11,004	\$28.40	\$14,778	\$118.07	(\$3,774)	(\$89.67)
		8,000	\$12,140	\$151.75	\$19,501	\$243.76	(\$7,361)	(\$92.01)
S	Storage	600	\$9,006	\$108.76	\$9,037	\$120.71	(\$31)	(\$11.95)
		3,000	\$11,616	\$120.04	\$11,934	\$115.26	(\$318)	\$4.79
		6,000	\$15,217	\$75.11	\$15,391	\$49.62	(\$174)	\$25.48
		12,000	\$19,724	\$18.02	\$18,369	\$26.39	\$1,355	(\$8.37)
		30,000	\$22,967	\$23.36	\$23,119	\$23.77	(\$153)	(\$0.41)
		60,000	\$29,975	\$49.96	\$30,250	\$50.42	(\$275)	(\$0.46)
S	S Occupancy Tenant Improvements	600	\$7,364	\$90.22	\$7,954	\$109.26	(\$590)	(\$19.05)
		3,000	\$9,530	\$99.39	\$10,577	\$106.10	(\$1,047)	(\$6.71)
		6,000	\$12,511	\$59.91	\$13,760	\$40.47	(\$1,248)	\$19.44
		12,000	\$16,106	\$14.68	\$16,188	\$23.43	(\$82)	(\$8.75)
		30,000	\$18,748	\$19.68	\$20,405	\$21.94	(\$1,657)	(\$2.26)
		60,000	\$24,652	\$41.09	\$26,986	\$44.98	(\$2,334)	(\$3.89)
U	Accessory	> 1,000	See Flat Fee Schedule					
		1,000	\$7,283	\$0.00	\$6,048	\$665.77	\$1,235	(\$665.77)
		2,000	\$7,283	\$122.74	\$7,989	\$294.99	(\$707)	(\$172.26)
		4,000	\$9,737	\$243.43	\$10,997	\$274.93	(\$1,260)	(\$31.49)
	Standard Comm. Foundation w/o Podium	500	\$10,404	\$50.22	\$6,856	\$103.65	\$3,548	(\$53.43)
		2,500	\$11,408	\$66.00	\$8,929	\$105.99	\$2,480	(\$39.99)
		5,000	\$13,058	\$28.01	\$11,579	\$37.58	\$1,480	(\$9.57)
		10,000	\$14,459	\$9.26	\$13,457	\$24.45	\$1,001	(\$15.19)
		25,000	\$15,848	\$6.63	\$17,125	\$21.99	(\$1,277)	(\$15.36)
		50,000	\$17,506	\$35.01	\$22,624	\$45.25	(\$5,118)	(\$10.24)
	Standard Comm. Foundation with Podium	500	\$8,072	\$21.51	\$7,389	\$117.39	\$683	(\$95.88)
		2,500	\$9,793	\$41.57	\$9,737	\$116.34	\$56	(\$74.77)
		5,000	\$12,586	\$9.91	\$12,645	\$37.58	(\$58)	(\$27.67)
		10,000	\$14,702	\$6.47	\$14,524	\$28.01	\$178	(\$21.54)
		25,000	\$17,075	\$3.74	\$18,725	\$24.13	(\$1,650)	(\$20.39)
		50,000	\$21,836	\$15.88	\$24,757	\$49.51	(\$2,920)	(\$33.64)
	All Shell Buildings	500	\$7,402	\$108.12	\$7,146	\$117.39	\$255	(\$9.26)
		2,500	\$9,564	\$119.19	\$9,494	\$116.98	\$70	\$2.21
		5,000	\$12,544	\$73.09	\$12,419	\$43.07	\$125	\$30.02
		10,000	\$16,198	\$17.74	\$14,572	\$28.11	\$1,626	(\$10.37)
		25,000	\$18,860	\$23.46	\$18,789	\$22.06	\$70	\$1.40
		50,000	\$24,724	\$49.45	\$24,304	\$48.61	\$420	\$0.84

Overall, Building shows an under-recovery for square footage-based fees. The majority of over-recoveries are within the 'A – Assembly' and 'All Shell Building' categories. The reevaluation of time estimates ensures that each project is paying for their fair share of plan check and inspection costs.

## Detailed Results – Flat and MEP Fees

Building collects flat fees for various structural, mechanical, electrical, and plumbing plan reviews and inspections. The total cost calculated for each service includes direct staff costs and Departmental and Citywide overhead. The following table details the fee name, current fee, total cost, and difference associated with each service offered.

**Table 11: Total Cost Per Unit Results – Building – Flat & MEP Fees**

Fee Name	Current Fee	Total Cost	Difference
<b>Miscellaneous Fees</b>			
Standard Hourly Rate - Building	\$243	\$263	(\$20)
Planning Review and Inspection of Building Permits	New	15%	N/A
Accessibility Hardship Exemption	\$243	\$275	(\$32)
<b>Acoustical Review</b>			
Single Family Home/Duplex—New	\$608	\$649	(\$41)
Single Family Home/Duplex—Addition/Alteration	\$364	\$382	(\$18)
Multi-Family/Commercial	\$608	\$649	(\$41)
<b>Additions (Non-Hillside R3 Occupancy) - Plan Check Fees</b>			
Plan Check Fees (up to 150 sq. ft.)	\$487	\$2,428	(\$1,941)
Plan Check Fees (251 - 499 sq. ft.)	\$971	\$4,625	(\$3,654)
Plan Check Fees (500-999 sq. ft.)	New	\$5,724	N/A
<b>Additions (Non-Hillside R3 Occupancy) - Inspection Fees</b>			
Inspection Fees (up to 150 sq. ft.)	\$1,213	\$3,103	(\$1,890)
Inspection Fees (251 - 499 sq. ft.)	\$1,456	\$4,137	(\$2,681)
Inspection Fees (500-999 sq. ft.)	New	\$5,171	N/A
<b>Accessory Buildings - Residential</b>			
Accessory Buildings (Up to 499 sq. ft.)	New	\$1,699	N/A
Accessory Buildings (500 - 999 sq. ft.)	New	\$2,491	N/A
Shed over 120 square feet	\$1,094	\$1,311	(\$217)
<b>Accessory Dwelling Unit (ADU) - Plan Check Fees</b>			
Plan Check Fees (up to 499 sq. ft.)	\$971	\$2,428	(\$1,457)
Plan Check Fees (500-999 sq. ft.)	\$1,940	\$3,527	(\$1,587)
<b>Accessory Dwelling Unit (ADU) - Inspection Fees</b>			
Inspection Fees (up to 499 sq. ft.)	\$1,456	\$2,585	(\$1,129)
Inspection Fees (500-999 sq. ft.)	\$2,423	\$3,620	(\$1,197)
Address Assignment	\$243	\$231	\$12
Alternate Materials and Methods of Construction	\$243	\$253	(\$10)
<b>Antenna—Telecom Facility</b>			
Radio	\$608	\$454	\$154
Cellular/Mobile Phone, alterations to existing facility	\$486	\$649	(\$163)
Cellular/Mobile Phone, free-standing	\$1,335	\$2,248	(\$913)
Cellular/Mobile Phone, attached to building	\$1,094	\$1,182	(\$88)
Arbor/Trellis	\$487	\$649	(\$162)



Fee Name	Current Fee	Total Cost	Difference
Awning/Canopy (supported by building)	\$487	\$649	(\$162)
Balcony Addition	\$1,094	\$1,572	(\$478)
<b>Battery Energy Storage System</b>			
First 3	\$243	\$649	(\$406)
Each Additional	\$121	\$382	(\$261)
<b>Below Market Rate</b>			
Escrow Inspection	New	0.52%	N/A
Board of Appeals	\$243	\$263	(\$20)
Carport	\$850	\$907	(\$57)
<b>Certifications</b>			
Special Inspector Qualifications (initial review)	\$487	\$506	(\$19)
Special Inspector Qualifications (renewal / update)	\$243	\$231	\$12
Chimney (new)	\$729	\$907	(\$178)
Chimney Repair	\$487	\$511	(\$24)
Clerical Fee	\$121	\$116	\$5
Commercial Coach (per unit)	\$1,094	\$1,182	(\$88)
Covered Porch	\$850	\$907	(\$57)
Deck (wood)	\$850	\$907	(\$57)
Deck Railing	\$487	\$511	(\$24)
Deferred Submittal	Actual Cost	\$255	
<b>Demolition</b>			
Multi-Family and Commercial (up to 3,000 sf)	\$608	\$764	(\$156)
Multi-Family and Commercial (each additional 3,000 sf)	\$243	\$267	(\$24)
Residential (R-3 Occ) (up to 3,000 sf)	\$487	\$764	(\$277)
Residential (R-3 Occ) (each additional 3,000 sf)	\$243	\$267	(\$24)
Swimming Pool Residential	\$487	\$511	(\$24)
Swimming Pool Multi-Family and Commercial (up to 3,000 sf)	\$729	\$770	(\$41)
Swimming Pool Multi-Family and Commercial (each additional 3,000 sf)	\$243	\$259	(\$16)
Disabled Access Compliance Inspection	\$243	\$263	(\$20)
<b>Door</b>			
New door (nonstructural)	\$364	\$382	(\$18)
New door (structural shear wall/masonry)	\$487	\$649	(\$162)
Duplicate / Replacement Job Card	\$121	\$116	\$5
Electric Vehicle Charging Station	\$243	\$382	(\$139)
<b>Extensions</b>			
Plan Check Applications (within 180 days of Submittal)	\$243	\$263	(\$20)
<b>Permits (within 180 days of Issuance):</b>			
Start construction, without plans	\$121	\$137	(\$16)
Resume or complete construction, without plans	\$121	\$137	(\$16)
Start construction, with plans	\$243	\$275	(\$32)
Resume or complete construction, with plans	\$486	\$549	(\$63)
<b>Fence</b>			
Non-masonry, over 7 feet in height	\$487	\$511	(\$24)
Non-masonry, each additional 100 l.f.	\$121	\$129	(\$8)
Masonry, over 7 feet in height	\$850	\$907	(\$57)
Masonry, each additional 100 l.f.	\$487	\$517	(\$30)
<b>Fireplace</b>			
Masonry	\$850	\$907	(\$57)



Fee Name	Current Fee	Total Cost	Difference
Pre-Fabricated/Metal	\$487	\$511	(\$24)
Flag pole (over 20 feet in height)	\$487	\$511	(\$24)
Foundation Repair	\$1,094	\$1,166	(\$72)
<b>Inspections</b>			
Pre-Inspection Fee	\$243	\$263	(\$20)
Standard Inspection Hourly Rate	\$243	\$263	(\$20)
Progress Inspection	\$243	\$263	(\$20)
Partial Inspection	\$243	\$263	(\$20)
Courtesy Inspection - 2 hour minimum	\$243	\$256	(\$13)
Cancelled inspection w/out advance notice	\$243	\$256	(\$13)
Reinspection	\$243	\$256	(\$13)
Outside of normal business hours (4 hour minimum)	\$243	\$305	(\$62)
<b>Inspection Supplemental Fee (Projects that require more inspections than average, the Building Official may charge additional inspection fees)</b>			
First 1/2 hour minimum	\$121	\$129	(\$8)
Each Additional hour	\$243	\$259	(\$16)
<b>Lighting pole</b>	\$608	\$649	(\$41)
Each additional pole	\$243	\$267	(\$24)
Modular Structures	\$1,094	\$923	\$171
Modification of Technical Code	\$243	\$263	(\$20)
<b>Occupancy</b>			
Certificate of Occupancy/Completion	\$487	\$511	(\$24)
Temporary Occupancy Permit	\$487	\$511	(\$24)
<b>Partition—Commercial, Interior (up to 30 I.f.)</b>	\$729	\$778	(\$49)
Additional partition	\$243	\$259	(\$16)
<b>Partition—Residential, Interior (up to 30 I.f.)</b>	\$487	\$511	(\$24)
Additional partition	\$243	\$259	(\$16)
<b>Patio Cover / Gazebo</b>			
Wood frame	\$584	\$923	(\$339)
Metal frame	\$584	\$923	(\$339)
Other frame	\$816	\$923	(\$107)
Additional patio	\$350	\$396	(\$46)
Enclosed prefabricated Sun Room	\$816	\$907	(\$91)
<b>Photovoltaic System</b>			
<b>Residential:</b>			
Systems up to 15kW	\$427	\$450	(\$23)
Each Additional kW Above 15kW	New	\$15	
<b>Multi-Family and Commercial:</b>			
Systems up to 50kW	\$608	\$1,000	(\$392)
Each Additional kW between 50kW and 250kW	\$62	\$7	\$55
Each Additional kW Above 250kW	\$62	\$5	\$57
<b>Thermal System</b>			
<b>Residential:</b>			
Systems up to 10kW	New	\$450	N/A
Each Additional kW Above 10kW	New	\$15	N/A
<b>Multi-Family and Commercial:</b>			
Systems up to 30kW	New	\$1,000	N/A
Each Additional kW between 30kW and 260kW	New	\$7	N/A
Each Additional kW Above 260kW	New	\$5	N/A
<b>Pile Foundation</b>			
Cast in Place Concrete (first 10 piles)	\$1,094	\$1,182	(\$88)

Fee Name	Current Fee	Total Cost	Difference
Additional Piles (increments of 10)	\$729	\$792	(\$63)
Driven (steel, pre-stressed concrete)	\$1,094	\$1,182	(\$88)
Additional Piles (increments of 10)	\$729	\$792	(\$63)
Product Review	\$243	\$253	(\$10)
<b>Plan Review</b>			
Standard Plan Review Hourly Rate	\$243	\$275	(\$32)
Overtime Plan Review (4 hour minimum)	\$243	\$321	(\$78)
Pre-Submittal Plan Review (2 hour minimum)	\$243	\$275	(\$32)
Expedited Plan Review	New	1.5x Plan Check Fee	
Supplemental Plan Review (After 2nd Review)	\$242	\$275	(\$33)
Pre-Construction Meeting	\$460	\$446	\$14
<b>Remodel—Residential</b>			
Kitchen (up to 300 sq. ft.)	\$971	\$1,028	(\$57)
Bath (up to 300 sq. ft.)	\$971	\$1,028	(\$57)
Other Remodel (up to 300 sq. ft.)	\$729	\$907	(\$178)
Additional remodel (each 300 sq. ft.)	\$364	\$679	(\$315)
Other Remodel (1000 sq. ft.)	\$2,308	\$2,491	(\$183)
Additional remodel (each 300 sq. ft.)	\$364	\$158	\$206
Other Remodel (2500+ sq. ft.)	\$3,037	\$3,282	(\$245)
Additional remodel (each 300 sq. ft.)	\$364	\$79	\$285
<b>Re-roof</b>			
Residential (maximum \$500 per building)	\$26	\$25	\$1
Multi-Family Dwelling (maximum \$500 per building)	\$26	\$25	\$1
<b>Commercial:</b>			
Commercial (first 5,000 sf)	\$608	\$633	(\$25)
Commercial (each additional 2,500 sf)	\$243	\$259	(\$16)
<b>Retaining Wall (concrete or masonry)</b>			
Standard (up to 50 l.f.)	\$1,094	\$1,182	(\$88)
Additional retaining wall	\$729	\$792	(\$63)
Special Design, 3-10' high (up to 50 l.f.)	\$1,577	\$1,715	(\$138)
Additional retaining wall	\$729	\$1,050	(\$321)
Special Design, over 10' high (up to 50 l.f.)	\$1,821	\$1,974	(\$153)
Additional retaining wall	\$729	\$1,309	(\$580)
Gravity/Crib Wall, 0-10' high (up to 50 l.f.)	\$1,577	\$1,715	(\$138)
Additional Gravity/Crib Wall	\$971	\$1,050	(\$79)
Gravity/Crib Wall, over 10' high (up to 50 l.f.)	\$1,821	\$1,974	(\$153)
Additional Gravity/Crib Wall	\$971	\$1,309	(\$338)
Revisions	\$608	\$259	\$349
Sauna—steam	\$850	\$907	(\$57)
<b>Siding</b>			
Stone and Brick Veneer (interior or exterior)	\$608	\$633	(\$25)
All Other (up to 400 sq. ft.)	\$487	\$503	(\$16)
Additional siding (up to 400 sq. ft.)	\$121	\$129	(\$8)
<b>Signs</b>			
Directional	\$487	\$511	(\$24)
Each additional Directional Sign	\$243	\$267	(\$24)
Ground/Roof/Projecting Signs	\$487	\$511	(\$24)
Master Plan Sign Check	\$487	\$511	(\$24)
Rework of any existing Ground Sign	\$487	\$511	(\$24)
Other Sign	\$487	\$511	(\$24)
Reinspection Fee	\$121	\$122	(\$1)

Fee Name	Current Fee	Total Cost	Difference
Wall/Awning Sign, Non-Electric	\$364	\$382	(\$18)
Wall/Awning Sign, Electric	\$364	\$511	(\$147)
<b>Skylight</b>			
First (3) Skylights	Modified	\$511	N / A
Each Additional Skylight	Modified	\$267	N / A
<b>Stairs—First Flight</b>			
Each additional flight	\$243	\$267	(\$24)
<b>Storage Racks</b>			
0-8' high (up to 100 l.f.)	\$608	\$649	(\$41)
each additional 100 l.f.	\$121	\$129	(\$8)
over 8' high (up to 100 l.f.)	\$608	\$778	(\$170)
each additional 100 l.f.	\$121	\$129	(\$8)
<b>Stucco Applications</b>			
Base	\$487	\$503	(\$16)
Additional Stucco Application	\$121	\$129	(\$8)
<b>Swimming Pool/Spa</b>			
Vinyl-lined	\$1,094	\$1,182	(\$88)
Fiberglass	\$1,094	\$1,182	(\$88)
Gunite (up to 800 sf)	\$1,577	\$1,699	(\$122)
Additional pool (over 800 sf)	\$364	\$396	(\$32)
Commercial pool (up to 800 sf)	\$2,672	\$2,881	(\$209)
Additional pool (over 800 sf)	\$729	\$792	(\$63)
Spa or Hot Tub (Pre-fabricated)	\$487	\$511	(\$24)
Temporary Structures	\$729	\$778	(\$49)
Tenant Improvement Preparation	\$487	\$511	(\$24)
<b>Window or Sliding Glass Door</b>			
Replacement (first 8 windows)	\$364	\$374	(\$10)
Replacement (each additional 8 windows)	\$121	\$129	(\$8)
New Window (nonstructural)	\$305	\$320	(\$15)
New window (structural shear wall/masonry)	\$426	\$454	(\$28)
Bay Window (structural)	\$426	\$454	(\$28)
<b>Mechanical, Electrical, and Plumbing (MEP) Fees</b>			
<b>Mechanical Fees</b>			
Mechanical Permit Fee	\$82	\$263	(\$181)
Stand Alone Mechanical Plan Check	\$243	\$263	(\$20)
Other Mechanical Inspections	\$243	\$263	(\$20)
<b>Mechanical Unit Fees</b>			
<b>Install or relocate HVAC system or portion thereof</b>			
Residential	New	\$259	N/A
Commercial	New	\$388	N/A
<b>Hood installation that is served by mechanical exhaust, including the ducts for such hood</b>			
Residential	\$121	\$129	(\$8)
Commercial	\$364	\$517	(\$153)
Any other piece of equipment or appliance not listed in Mechanical schedule.	\$182	\$259	(\$77)
<b>Electrical Fees</b>			
Electrical Permit Fee	\$82	\$263	(\$181)
Electrical Plan Check	\$243	\$263	(\$20)
Electrical Inspections	\$243	\$263	(\$20)

Fee Name	Current Fee	Total Cost	Difference
<b>Electrical Unit Fees</b>			
<b>Residential Whole-House Rewire (up to 2500 sq ft)</b>	\$486	\$517	(\$31)
Each Additional 1000 sq ft	\$243	\$259	(\$16)
<b><u>Receptacle, switch, lighting, or other outlets at which current is used or controlled, except services, feeders, and meters</u></b>			
First 20	\$82	\$86	(\$4)
Each Additional	\$7	\$9	(\$2)
<b><u>Lighting fixtures, sockets, or other lamp-holding devices</u></b>			
First 20	\$121	\$129	(\$8)
Each Additional	\$9	\$9	\$0
Pole or platform-mounted lighting fixtures	\$26	\$30	(\$4)
<b><u>Appliances (Install / Repair / Replace)</u></b>			
Residential	New	\$44	N/A
Commercial	New	\$85	N/A
<b><u>Power Apparatus - Generator/Transformer or Similar (Install/Repair/Replace)</u></b>			
Residential	\$243	\$388	(\$145)
Commercial	\$243	\$259	(\$16)
<b><u>Services (including Temporary Power)</u></b>			
600 volts or less, up to 200 amperes in rating	\$82	\$86	(\$4)
600 volts or less, 201 to 1000 amperes in rating	\$121	\$259	(\$138)
Over 600 volts or over 1000 amperes in rating	\$243	\$388	(\$145)
Any other Electrical apparatus, conduits, and conductors not listed in Electrical Schedule	\$243	\$0	\$243
<b>Plumbing / Gas Fees</b>			
Plumbing/Gas Permit Fee	\$82	\$263	(\$181)
Stand Alone Plumbing Plan Check	\$243	\$263	(\$20)
Other Plumbing and Gas Inspections	\$243	\$263	(\$20)
<b>Plumbing / Gas Unit Fees</b>			
<b>Residential Whole-House Water Re-Pipe (up to 2500 sq ft)</b>	\$486	\$517	(\$31)
Each Additional 1000 sq ft	\$243	\$259	(\$16)
<b><u>Partial Water Re-pipe</u></b>			
Residential	\$24	\$517	(\$493)
Commercial	\$15	\$259	(\$244)
Install or Replace Water Meter / Service	\$62	\$17	\$45
Water Treatment System (Install/Repair/Replace)	\$82	\$0	\$82
<b><u>Building sewer lateral (Install / Repair / Replace)</u></b>			
Residential	\$62	\$65	(\$3)
Commercial	\$121	\$129	(\$8)
<b><u>Sewer Clean-out (Install/Repair/Replace)</u></b>			
Residential	\$62	\$65	(\$3)
Commercial	\$121	\$129	(\$8)
<b><u>Building Drain/Waste/Vent Repair</u></b>			
Residential	New	\$26	N/A
Commercial	New	\$18	N/A
Interceptors - Grease/Sand (Install/Repair/Replace)	\$182	\$194	(\$12)
<b><u>Water Heater Replacement / Installation - All Types</u></b>			
Residential	\$62	\$65	(\$3)
Commercial	\$182	\$194	(\$12)

Fee Name	Current Fee	Total Cost	Difference
Gas Piping (Install/Repair/Replace)	\$121	\$129	(\$8)
Any other device/fixture not listed in Plumbing Schedule (Install/Repair/Replace)	New	\$129	N/A

Generally, Building under-recovers for their Flat and MEP fees. The largest deficit at \$580 is in relation to 'Retaining Wall (concrete or masonry) – Special Design, over 10' high – Additional retaining wall', followed by 'Partial Water Re-Pipe - Residential' and 'Partial Water Re-Pipe – Commercial' at \$493 and \$244, respectively. The largest over-recoveries are in relation to 'Remodel – Residential' and 'Skylights' as both of these fee categories not only have proposed unit changes but the staff effort captured within the fees were modified.

Currently, the City does not capture time associated with the Planning Division's review and inspection on Building permits. It was determined that a fee based on a percentage of the building permit would be added to Building's fee schedule to account for Planning support provided during the construction phase. This percentage was calculated at 15% of the building permit fee.

## Annual Revenue Impacts

Based on the prior year's workload information, and current budgeted expenditures, annual cost recovery was evaluated. The following table shows by major fee category: revenue at current fee, total projected annual cost, and the resulting difference.

**Table 12: Annual Results – Building**

Fee Category	Revenue at Current Fee	Annual Cost	Difference
Flat & MEP Fees	\$1,290,973	\$1,567,052	(\$276,079)
Sq. Ft.	\$2,509,608	\$2,577,404	(\$67,796)
Planning Cross-Dept Support	\$0	\$193,305	(\$193,305)
<b>Total</b>	<b>\$3,800,581</b>	<b>\$4,337,761</b>	<b>(\$537,180)</b>

Building has an annual cost recovery of 88%, which translates to roughly a \$537,000 subsidy. The majority of the difference is due to Flat and MEP fees, primarily due to 'Additions (Non-Hillside R3 Occupancy) – Plan Check' and 'Additions (Non-Hillside R3 Occupancy) – Inspections'. The next largest subsidy is due to lack of recovery for Planning support on building plan checks and permits. The City should consider implementing a separate fee to allow for greater cost recovery.

## 7. Public Works Department

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The Public Works Department is responsible for the daily upkeep and maintenance of City owned and operated facilities and infrastructure. The fees examined within this study relate to oversight and permitting of improvements that affect the public right of way and public infrastructure, including, encroachments, map services, public improvements, tree planting, and more. The following subsections discuss fee schedule modifications and detailed per unit results for the fee-related services provided by Public Works.

### Fee Schedule Modifications

In discussions with staff, the following modifications were proposed to the current fee schedule:

- **Fee Name Changes:** The following fee names were updated to more accurately reflect the services provided:
  - 'Grading Permit - <10,000 s.f. lot' is now 'Grading Permit - <10,000 s.f.'
  - 'Review of Building Permit Only' is now 'Stand Alone Building Permit Review'
- **Eliminated Fee:** The following fees are proposed for elimination from the Public Works fee schedule:
  - The 'Stormwater Permit -Initial Inspection' fee was eliminated as the City seldomly charged the fee and instead is working towards voluntary cooperation and compliance
  - 'Trash Enclosure' fees were eliminated as these fees are now captured under Environmental Plan Review.
- **New Fees:** The following fees are proposed for addition to the Public Works fee schedule:
  - Environmental Plan Review
  - Construction and Demolition Diversion Compliance Review
  - Development Project Review
  - Planning Application Review
  - VMT Monitoring Fee

These modifications ensure that the proposed fee schedule provides a clear and concise list of Public Works services.

## Detailed Results

The Public Works Department collects fees for encroachments, map services, public improvements, tree planting, etc. The total cost calculated for each service includes direct staff costs, Departmental and Citywide overhead, and cross-departmental support<sup>3</sup>. The following table details the fee name, current fee, total cost, and difference associated with each service offered.

**Table 13: Total Cost Per Unit Results – Public Works**

Fee Name	Current Fee	Total Cost	Difference
<b>Encroachment Permits</b>			
Minor Encroachment Permits (Local Streets)	\$647	\$602	\$45
Minor Encroachment Permits (Utility)	\$447	\$416	\$31
Major Encroachment Permits (Arterials and Collectors)	\$1,115	\$1,057	\$58
Work without Permit	Double the permit cost		
Small Cell Facility Encroachment Permit	\$2,228	\$2,195	\$33
Minor Street Cuts	\$1,785	\$1,729	\$56
Major Street Cuts	\$3,601	\$3,515	\$86
Special Major Permit (projects in excess of \$30,000 or over 15 working days)	5%	5%	0%
Special Major Permit (projects in excess of \$30,000 or over 15 working days)	\$80	\$254	(\$174)
Permit Extension	\$524	\$523	\$1
Crane Lift	New	\$1,415	N/A
<b>Grading Permit</b>			
<10,000 s.f.	\$1,376	\$1,338	\$38
10,000 s.f. or greater - Min.	\$4,015	\$4,842	(\$827)
10,000 s.f. or greater - % of Improvement	6.00%	7.24%	(1.24%)
<b>Mapping Services</b>			
Parcel Map (1-4 lots)	\$8,170	\$8,299	(\$129)
Tract Map (> 4 lots)	\$13,413	\$13,549	(\$136)
Certificate of Correction	\$1,155	\$1,113	\$42
Certificate of Compliance - Initial Review	\$1,265	\$3,935	(\$2,670)
Certificate of Compliance - Finalize Certificates	\$1,265	\$3,935	(\$2,670)
Lot Line Adjustment	\$4,069	\$4,173	(\$104)
Annexation (plus County filing fee)	\$2,948	\$3,486	(\$538)
<b>Plan Check and Inspection</b>			
Stand Alone Building Permit Review	\$1,218	\$1,289	(\$71)
Additional Plan Review - 3 or more reviews	\$279	\$315	(\$36)
Revisions to Plans and Permits	\$279	\$315	(\$36)
Floodplain Evaluation/Elevation Certificate Review	\$271	\$297	(\$26)
Streamside Permit	\$494	\$462	\$32
Storm Management Plan Review	\$1,789	\$2,202	(\$413)
Professional Services 3rd Party Consultant Review	Cost of Review + City Administrative Fee		
Public Works Confirmation	\$542	\$629	(\$87)
<b>Review of Public/Private Improvement Plans</b>			
Residential - Minimum	\$5,392	\$5,598	(\$206)

<sup>3</sup> Planning, City Attorney, City Clerk, Maintenance, GIS, and Environmental provide cross-departmental support on various Public Works fees.



Fee Name	Current Fee	Total Cost	Difference
Residential - Cost of Improvement	5.00%	5.19%	(0.19%)
Commercial - Minimum	\$10,086	\$10,621	(\$535)
Commercial - Cost of Improvement	6.00%	6.32%	(0.32%)
Planning Application Review	New	\$1,573	N/A
VT Monitoring Fee	New	\$188	N/A
<b>Transportation Permit (State Regulated Fee)<sup>4</sup></b>			
Single	\$16	\$16	\$0
Annual Utility Company	\$90	\$90	\$0
<b>Miscellaneous</b>			
Large Banners Across Stevens Creek Boulevard	\$741	\$730	\$11
Block Party	\$0	\$1,338	(\$1,338)
Additional Engineering Investigation or Coordination	\$279	\$315	(\$36)
Public Works Staff Time	\$256	\$288	(\$32)
<b>Vacation of Public Street ROW/PUE</b>			
Summary Vacation	\$3,091	\$3,168	(\$76)
Full Vacation	\$4,809	\$4,930	(\$121)
<b>Rural/Semi-Rural Classification Application</b>			
Application Phase	\$2,518	\$2,571	(\$53)
Implementation Phase	\$1,540	\$1,594	(\$54)
<b>Permit Parking Study</b>			
Application Phase	\$1,540	\$1,397	\$143
Implementation phase	\$1,261	\$1,138	\$123
Permit Parking Bi-annual Fee	\$0	\$39	(\$39)
<b>Environmental Programs</b>			
Stormwater Permit - Re-Inspection for Violations	\$355	\$431	(\$76)
<b>Plan Review Fee:</b>			
Single Family	New	\$157	N/A
Multi-Family	New	\$313	N/A
Construction and Demolition Diversion Compliance Review	New	\$106	N/A
Development Project Review	New	\$271	N/A
<b>Public Tree Planting Cost</b>			
24" Street Tree	\$515	\$1,018	(\$503)
36" Street Tree or larger	Actual Costs		

Public Works generally under-recovers on fees for service. Under-recoveries range from a low of \$26 for 'Floodplain Evaluation/Elevation Certificate Review' to a high of \$2,670 for 'Certificate of Compliance – Initial Review' and 'Certificate of Compliance – Finalize Certificates'. Due to a policy decision, the City currently does not charge for 'Block Party' permits; as such, the \$1,338 cost associated with this activity documents the full-cost subsidy provided to applicants by the City.

<sup>4</sup> Cal. Code Regs. tit. 21 § 1411.3 (a)



## Annual Revenue Impacts

Utilizing the prior year's workload information, the project team compared the revenue at current fee to the revenue at the calculated full cost. This analysis provides a 'per unit' difference and a cost recovery percentage which can be used to estimate the fiscal impact of implementing the results from this fee study. The following table shows by major fee category: revenue at current fee, revenue at calculated full cost, and the resulting difference.

**Table 14: Annual Results – Public Works**

Fee Category	Revenue at Current Fee	Revenue at Calculated Full-Cost	Difference
Encroachment Permits	\$660,932	\$664,363	(\$3,431)
Mapping Services	\$25,652	\$26,020	(\$368)
Plan Check and Inspection	\$133,510	\$144,898	(\$11,388)
Review of Public/Private Improvement Plans	\$13,042	\$13,540	(\$498)
Transportation Permit (State Regulated Fee)	\$834	\$834	\$0
Miscellaneous	\$288,358	\$333,080	(\$44,722)
<b>Total</b>	<b>\$1,122,328</b>	<b>\$1,182,734</b>	<b>(\$60,407)</b>

Public Works has an annual cost recovery of 95%, which represents a roughly \$60,000 deficit. The largest deficit is in the Miscellaneous fee category associated with services billed out at the public works staff hourly rate. Reviewing and updating this rate will allow the department to achieve greater cost recovery.

## 8. Planning

The Planning division is responsible for ensuring current and future development aligns with the City's general and master plan. As such, the fees examined within this study relate to zoning, subdivisions, exceptions, appeals, etc. The following subsections discuss fee schedule modifications and detailed per unit results for the fee-related services provided by Planning.

### Fee Schedule Modifications

In discussions with staff, the following modifications to the fee schedule were proposed.

- **New Fees:** The following fees were proposed for addition to the Planning fee schedule:
  - 'Project Review Meeting'
  - 'Preliminary Application Review – Single Family'
  - 'Preliminary Application Review – Non-Residential (Retail / Industrial / Office / Hotel): <10,000 sf'
  - 'Preliminary Application Review – Non-Residential (Retail / Industrial / Office / Hotel): >10,000 sf'
  - 'Preliminary Application Review – Residential / Mixed Use: Duplex'
  - 'Preliminary Application Review – Residential / Mixed Use: 3-6 Units'
  - 'Preliminary Application Review – Residential / Mixed Use: 6-50 Units'
  - 'Preliminary Application Review – Residential / Mixed Use: >50 Units'
  - 'Planning Inspection'
  - 'Application Revisions (after 2nd Review)'
  - 'Mercury News Ad'
  - 'Special Events'
  - 'Sign Permit'

The proposed addition of new fees ensure that the proposed fee schedule more accurately reflects the services currently being provided by Planning staff.

### Detailed Results – Flat Fees

Planning collects flat fees for subdivisions, exceptions, appeals, and more. The total cost calculated for each service includes direct staff costs, Departmental and Citywide overhead, and cross-departmental support<sup>5</sup>. The following table details the fee name, current fee, total cost, and difference associated with each service offered.

<sup>5</sup> Traffic Engineering, Environmental, and Building provide cross-departmental support on various Planning fees.

Table 15: Total Cost Per Unit Results – Planning Flat Fees

Fee Name	Current Fee	Total Cost	Difference
Planning Staff Hourly Rate	\$332	\$287	\$45
<b>Subdivision</b>			
Tentative Map (Five or More Parcels)	\$34,792	\$46,604	(\$11,812)
Parcel Map (0-4 Parcels)	\$20,917	\$27,117	(\$6,200)
<b>Conditional Use/Development Permit</b>			
Temporary Use Permit	\$4,639	\$5,030	(\$391)
Administrative Conditional Use Permit	\$7,682	\$10,614	(\$2,932)
Minor	\$21,043	\$25,496	(\$4,453)
Major	\$35,064	\$38,905	(\$3,841)
<b>Amendment to Conditional Use Permit/Development Permit</b>			
Minor	\$9,666	\$11,501	(\$1,835)
Major	\$17,654	\$24,819	(\$7,165)
<b>Architectural and Site Approval Permit</b>			
Minor Duplex/Residential	\$7,393	\$10,584	(\$3,191)
Minor	\$14,557	\$16,515	(\$1,958)
Major	\$21,667	\$25,195	(\$3,528)
<b>Single Family (R-1) Residential Permits</b>			
Minor Residential Permit	\$3,796	\$3,983	(\$187)
Two-Story Permit without Design Review	\$4,929	\$4,985	(\$56)
Two-Story Permit with Design Review	\$5,915	\$6,088	(\$173)
Director Minor Modification	\$5,185	\$5,441	(\$256)
<b>Ministerial Residential Permit</b>			
Miscellaneous Ministerial Permit	\$4,322	\$4,506	(\$184)
<b>Exceptions</b>			
Fence Exception - R1 and R2	\$1,411	\$4,626	(\$3,215)
Fence Exception - Other	\$4,749	\$5,132	(\$383)
Sign Exception	\$5,405	\$6,911	(\$1,506)
R-1 Exception	\$7,677	\$7,742	(\$65)
Heart of the City Exception	\$21,460	\$24,873	(\$3,413)
Hillside Exception	\$22,241	\$23,724	(\$1,483)
Exception - Other	\$7,408	\$7,862	(\$454)
Variance	\$8,489	\$8,990	(\$501)
Reasonable Accommodation	\$1,232	\$3,570	(\$2,338)
<b>Tree Removal Permit</b>			
<b>Tree Removal Permit (no Arborist review required):</b>			
First Tree	\$328	\$1,260	(\$932)
Each Additional Tree	\$165	\$276	(\$111)
<b>Tree Removal Permit (Arborist review required):</b>			
First Tree	\$492	\$2,305	(\$1,813)
Each Additional Tree	\$247	\$950	(\$703)
Retroactive Tree Removal Permit	\$5,464	\$5,464	\$0
Heritage Tree Designation	\$411	\$4,182	(\$3,771)
Tree Management Plan	\$7,724	\$7,871	(\$147)
<b>Signs</b>			
Temporary Sign Permit	\$524	\$547	(\$23)
Sign Program	\$4,242	\$4,411	(\$169)
Planning Commission Interpretation	\$7,822	\$7,973	(\$151)
Extension of Approved Entitlements	\$2,103	\$643	\$1,460
<b>Environmental Assessment</b>			

Fee Name	Current Fee	Total Cost	Difference
Categorical Exemption (Plus County Filing Fee)	\$379	\$397	(\$18)
<b>Appeals</b>			
Planning Commission	\$379	\$19,006	(\$18,627)
City Council	\$379	\$19,294	(\$18,915)
<b>Miscellaneous Fees</b>			
Legal Noticing Fee	\$440	\$521	(\$81)
Zoning Verification Letter	\$555	\$577	(\$22)
Public Convenience & Necessity Letter (Alcohol Beverage License)	\$279	\$288	(\$9)
Short-Term Rental	\$232	\$405	(\$173)
Mobile Vending Registration Fee	\$332	\$543	(\$211)
<b>Proposed New Fees</b>			
Project Review Meeting	New	\$5,106	N/A
<b>Preliminary Application Review</b>			
Single Family	New	\$4,042	N/A
<b>Non-Residential (Retail / Industrial / Office / Hotel):</b>			
<10,000 sf	New	\$9,421	N/A
>10,000 sf	New	\$12,999	N/A
<b>Residential / Mixed Use:</b>			
Duplex	New	\$3,428	N/A
3-6 Units	New	\$14,776	N/A
6-50 Units	New	\$18,427	N/A
>50 Units	New	\$23,213	N/A
Planning Inspection	New	\$860	N/A
Application Revision (after 2nd review)	New	\$10,400	N/A
		Actual Cost + 15% Admin Charge	
Mercury News Ad	New		
Special Events	New	\$7,779	N/A
Sign Permit	New	\$6,911	N/A

Planning under-recovers for all their fees. The largest under-recoveries are within the Appeals category, at \$18,627 for 'Appeals – Planning Commission' and \$18,915 for 'Appeals – City Council'. It is common to see large subsidies in relation to appeals due to the understanding that the benefit to the community having access to the appeal process outweighs the benefit of recovering the full cost to the City. There are also several new fees being proposed to be added to help recover costs for services currently being provided but for which there is no fee on the fee schedule.

## Detailed Results – Deposit Based Fees

The Planning division currently collects several deposit-based fees associated with general plan and zoning amendments. These fees are billed at the staff fully burdened hourly rate. The following lists all deposit-based fees assessed by the Planning division:

- General Plan Authorization
- General Plan Amendment
- Zoning Map Amendment

- Zoning Text Amendment
- Zoning – Single Story Overlay District
- Study Session

These fees would continue to remain deposit-based and should be billed out at the updated fully burdened staff hourly rate of \$287 to ensure that there is full cost recovery.

## Annual Revenue Impacts

Utilizing the prior year's workload information, the project team compared the revenue at current fee to the revenue at the calculated full cost. This analysis provides a 'per unit' difference and a cost recovery percentage, which can be used to estimate the fiscal impact of implementing the results from this fee study. The following table shows by major fee category: revenue at current fee, revenue at calculated full cost, and the resulting difference.

**Table 16: Annual Results – Planning**

Fee Category	Revenue at Current Fee	Revenue at Calculated Full Cost	Difference
Subdivision - Tentative Map (Five or More Parcels)	\$69,584	\$93,209	(\$23,625)
Conditional Use/Development Permit	\$107,471	\$125,455	(\$17,984)
Architectural and Site Approval Permit	\$94,452	\$107,772	(\$13,320)
Single Family (R-1) Residential Permits	\$272,286	\$277,093	(\$4,807)
Director Minor Modification	\$119,255	\$125,149	(\$5,894)
Exceptions	\$23,652	\$28,350	(\$4,698)
Tree Removal Permit	\$22,960	\$103,144	(\$80,184)
Signs	\$1,048	\$1,094	(\$46)
Extension of Approved Entitlements	\$2,103	\$643	\$1,460
Zoning Verification Letter	\$3,885	\$4,037	(\$152)
Preliminary Application Review - Single Family	\$0	\$20,212	(\$20,212)
<b>Total</b>	<b>\$716,696</b>	<b>\$886,158</b>	<b>(\$169,462)</b>

Planning has an annual cost recovery of 81%, which represent a roughly \$169,000 deficit. Roughly \$80,000 of the \$169,000 difference is due to 'Tree Removal Permits', primarily 'Tree Removal Permit (Arborist review required)'. The City currently charges this fee at \$492 per tree, the full cost was calculated to be \$2,305 per tree, resulting in a \$1,813 per unit deficit. While Tree Removal Permits are often subsidized to mitigate impacts to the community, due to the large annual volume of these permits even a small adjustment to the fee would have a significant impact on bridging Planning's cost recovery gap.

## 9. Parks & Recreation

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Within the Parks and Recreation Department, the Recreation Services Organization is responsible for providing residents and visitors with recreational and leisure activities. The Department coordinates, promotes, and oversees recreation services across various programs. The following dot points provide an overview of each program:

- **Cultural Events** is responsible for facilitating City hosted events and acting as liaison for community sponsored special events.
- **Facilities** is responsible for managing daily operations and overseeing the rental of the Community Hall, Quinlan Community Center, and the Creekside Park building.
- **Youth Teen Recreation** is responsible for developing and overseeing fee-based youth and teen programs (i.e. summer camps, preschool, enrichment classes, etc.).
- **Senior Center** is responsible for developing and overseeing activities at the Senior Center (i.e., enrichment classes, group trips, social events, etc.).
- **Youth and Teen Programs** is responsible for supporting the Youth Activity Board, coordinating the teen summer volunteer program, producing on youth specific special events, and managing daily operations of the Monta Vista Recreation Center.
- **Neighborhood Events** is responsible for scheduling summer events at neighborhood parks (i.e., outdoor concerts and movies, fitness programs, performances, etc.).
- **Park Facilities** is responsible for the operations of Blackberry Farm which provides open spaces for various recreational activities (i.e., swimming, picnics, etc.) along with overseeing and managing the McClellan Ranch Preserve and the Community Garden.
- **Blackberry Farms Golf Course** is responsible for managing the daily operations of the City's nine-hole golf facility.
- **Sports Center Operations** is responsible for managing the daily operations of the Cupertino Sports Center, along with providing various wellness and sport related activities (i.e., tennis, pickleball, fitness classes, etc.).

- **Outdoor Recreation** is responsible for providing the community with various sports, fitness, and outdoor activities (i.e., swim classes, sports leagues, nature, and science programs, etc.).

Like most cities, Cupertino assess most of their fees within each program on a tiered basis, proportionate to the benefit provided to the community. Depending on where the applicant falls on the tiered system their fee(s) will vary based on the associated cost recovery goal for that group. Cupertino classifies applicants into four groups: Cupertino Non-Profit, Non-Profit, Resident, and Non-Resident. Grants, special funding, or general fund subsidies are then used to offset the difference in cost recovery to ensure that the community and visitors have equitable access to programs and facilities.

Recreation fees are classified as market driven due to their optional nature. Residents have the choice of utilizing the programs and facilities within their own community or those of a neighboring city. Given this, while the project team worked with parks and recreation staff to review costs associated with individual program fees, this report focuses and highlights overall programmatic cost recoveries.

The following subsections provide an overview of the legal framework for recreational fees along with a cost recovery analysis of Cupertino's Park and Recreation services at the programmatic level.

## Parks & Recreation Legal Framework

There are specific rules and regulations within California State Law that impact Parks and Recreation related activities directly. These can be separated into two categories – rental rates and recreation programs. The following points provide further information regarding these items:

1. **Rental Rates:** One of the exceptions to the tax category under proposition 26 is a charge imposed for entrance to or use of local government property, or the purchase, or rental, or lease of local government property<sup>6</sup>. There is no requirement that these rates must be limited to the cost of service, as they can be dependent upon a variety of features of the facility or park being rented.
2. **Recreation Programs:** Under Proposition 26, the exception to the tax category is a charge that is "imposed". Based upon the League of California Cities implementation guide for Proposition 26, as well as other legal opinions, recreation classes, youth sports, adult sports, are not a charge that is "imposed upon residents". Rather residents have the option to voluntarily participate in those

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<sup>6</sup> Proposition 26 Article XIII C(1)(e)(4)

programs and utilize a private entity (non-governmental entity) for those activities. Therefore, these rates are allowed to be set based upon the market options within the area rather than being restricted to the cost of service being provided.

Utilizing these two principals is key to understanding the results generated through this analysis. As such, when setting fees specific to Parks and Recreation fees do not need to be set at or under the cost of service, rather, fee amount(s) can and should be based upon the rates that the market can bear.

## Cost Recovery Analysis – Direct Expenses

The typical cost recovery for Parks and Recreation services is between 20-50%. The low-cost recovery for these services is due to the belief that these services primarily benefit the community at large, and as such are providing a direct benefit to residents and the community. The Parks and Recreation Department recovers approximately 54% of its direct costs, which is slightly above the average seen in other jurisdictions. This cost recovery percentage equates to an annual subsidy of approximately \$4.4 million. In order to assess cost recovery, the project team compared FY24 budgeted expenditures with FY22 actual revenue to assess the direct cost recovery. The following table shows by program: expenditures, revenue, and the resulting cost recovery percentage.

**Table 17: Annual Parks & Recreation Program Cost Recovery – Direct Costs**

Program	Revenue	Budget	Difference	Cost Recovery %
Cultural Events	\$1,221	\$437,794	(\$436,573)	0.28%
Facilities	\$203,173	\$390,211	(\$187,038)	52%
Youth Teen Recreation	\$854,411	\$1,703,251	(\$848,840)	50%
Senior Center	\$70,129	\$812,264	(\$742,135)	9%
Youth and Teen Programs	\$0	\$278,895	(\$278,895)	0%
Neighborhood Events	\$0	\$92,872	(\$92,872)	0%
Park Facilities	\$195,207	\$1,270,364	(\$1,075,157)	15%
BBF Golf Course	\$602,779	\$642,342	(\$39,563)	94%
Sports Center Operations	\$2,796,329	\$2,840,279	(\$43,950)	98%
Outdoor Recreation	\$439,717	\$1,086,993	(\$647,276)	40%
<b>Total</b>	<b>\$5,162,966</b>	<b>\$9,555,265</b>	<b>(\$4,392,299)</b>	<b>54%</b>

The primary contributor to the Department's deficit is Park Facilities at \$1.1 million; followed by 'Youth Teen Recreation' and 'Senior Center' at \$849,000 and \$742,000, respectively. These large differences align with programs which offer a higher community benefit, as such, they are subsidized. While the programs which have a more individual benefit (BBF Golf Course, Sports Center, etc.) have less of a difference and their individual cost recovery percentages are closer to 100%.



## Cost Recovery Analysis – Direct & Indirect Expenses

In the previous section, the cost recovery only incorporated direct budgeted expenditures for the Department. However, various indirect costs are associated with the daily operations within the Department. The following dot points summarize the indirect cost components included in this analysis:

- **Citywide:** consists of indirect costs from other City departments, such as, Finance, Human Resources, City Manager, etc., who do not deal directly with recreation fees but do support the staff who spend direct time on fees.
- **Departmental / Administrative:** consists of indirect support from the administrative programs within the Parks and Recreation Department who provide administrative and managerial support to staff who spend direct time on fees.
- **Parks & Recreation Maintenance:** consists of costs from programs which act as budgetary centers for the continued maintenance and upkeep of open spaces and facilities.

The result of adding the direct and indirect costs together creates “fully burdened” expenditures, allowing for a more accurate comparison of cost recovery. The following table shows the cost recovery percentages at the programmatic level based upon comparing FY22 Actual Revenue to the calculated “fully burdened” expenditures.

**Table 18: Annual Parks & Recreation Program Cost Recovery – Total Costs**

Program	Revenue	Direct & Indirect Exp	Difference	Cost Recovery %
Cultural Events	\$1,221	\$768,430	(\$767,209)	0.16%
Facilities	\$203,173	\$802,246	(\$599,073)	25%
Youth Teen Recreation	\$854,411	\$2,827,397	(\$1,972,986)	30%
Senior Center	\$70,129	\$1,437,067	(\$1,366,938)	5%
Youth and Teen Programs	\$0	\$503,414	(\$503,414)	0%
Neighborhood Events	\$0	\$179,317	(\$179,317)	0%
Park Facilities	\$195,207	\$2,536,875	(\$2,341,668)	8%
BBF Golf Course	\$602,779	\$1,217,291	(\$614,512)	50%
Sports Center Operations	\$2,796,329	\$5,116,163	(\$2,319,834)	55%
Outdoor Recreation	\$439,717	\$1,880,645	(\$1,440,928)	23%
<b>Total</b>	<b>\$5,162,966</b>	<b>\$17,268,845</b>	<b>(\$12,105,879)</b>	<b>30%</b>

With the inclusion of indirect expenses, the Department’s cost recovery percentage decreases from 54% to 30% and the dollar value of the deficit increases from \$4.4 million to \$12.1 million. At \$2.3 million each, Park Facilities and Sports Center Operations are the largest contributors to the Department’s deficit. Since both programs have fees which are primarily based on market-rate it is imperative that staff and management evaluate these

fees and adjust appropriately to not only align with established cost recovery policies and targets but also to lessen the cost recovery gap.

## Summary

Certain Parks and Recreation programs tend to achieve higher cost recovery (i.e., rentals and Golf Course); whereas other programs (i.e., neighborhood events and senior activities), due to their benefit to the community, have lower cost recovery. The following table compares both cost recovery percentages at the programmatic level.

**Table 19: Programmatic Cost Recovery Comparison**

Program	Direct Exp Cost Recovery %	Direct & Indirect Exp Cost Recovery %
Cultural Events	0.28%	0.16%
Facilities	52%	25%
Youth Teen Recreation	50%	30%
Senior Center	9%	5%
Youth and Teen Programs	0%	0%
Neighborhood Events	0%	0%
Park Facilities	15%	8%
BBF Golf Course	94%	50%
Sports Center Operations	98%	55%
Outdoor Recreation	40%	23%
<b>Total</b>	<b>54%</b>	<b>30%</b>

By incorporating the indirect costs associated with parks and recreation operations the Departmental cost recovery percentage of 54% decreases to 30%, which is within the typical cost recovery range of 20% – 50%. The following dot points provide a summary of each programs cost recovery comparison:

- **Cultural Events** recovers 0.28% of its costs providing an annual subsidy of \$437,000 in relation to its direct costs. When indirect costs are factored in this program recovers 0.16% off its costs providing an annual subsidy of \$767,000.
- **Facilities** recovers 52% of its costs providing an annual subsidy of \$187,000 in relation to its direct costs. When indirect costs are factored in this program recovers 25% off its costs providing an annual subsidy of \$599,000.
- **Youth Teen Recreation** recovers 50% of its costs providing an annual subsidy of \$848,000 in relation to its direct costs. When indirect costs are factored in this program recovers 30% off its costs providing an annual subsidy of \$1.97 million.

- **Senior Center** recovers 9% of its costs providing an annual subsidy of \$742,000 in relation to its direct costs. When indirect costs are factored in this program recovers 5% off its costs providing an annual subsidy of \$1.4 million.
- **Youth and Teen Programs** recovers 0% of its costs providing an annual subsidy of \$279,000 in relation to its direct costs. When indirect costs are factored in this program recovers 0% off its costs providing an annual subsidy of \$503,000.
- **Neighborhood Events** recovers 0% of its costs providing an annual subsidy of \$93,000 in relation to its direct costs. When indirect costs are factored in this program recovers 0% off its costs providing an annual subsidy of \$179,000.
- **Park Facilities** recovers 15% of its costs providing an annual subsidy of \$1.1 million in relation to its direct costs. When indirect costs are factored in this program recovers 8% off its costs providing an annual subsidy of \$2.3 million.
- **Blackberry Farms Golf Course** recovers 94% of its costs providing an annual subsidy of \$40,000 in relation to its direct costs. When indirect costs are factored in this program recovers 50% off its costs providing an annual subsidy of \$615,000
- **Sports Center Operations** recovers 98% of its costs providing an annual subsidy of \$44,000 in relation to its direct costs. When indirect costs are factored in this program recovers 55% off its costs providing an annual subsidy of \$2.3 million.
- **Outdoor Recreation** recovers 40% of its costs providing an annual subsidy of \$647,000 in relation to its direct costs. When indirect costs are factored in this program recovers 23% off its costs providing an annual subsidy of \$1.4 million.

Overall, the Department should continue their practice of evaluating cost recovery levels. The nature of Parks and Recreation services means that fee structures are dynamic, adjusting to economic shifts and public demand. Administrators often develop and approve fee increases, with an aim to maintain the quality and accessibility of park facilities and recreational services. Fee adjustments must balance affordability for users with generating enough revenue to support ongoing operations and improvements. Program and city management continuously navigate this cycle, considering factors like inflation, facility upgrades, and program popularity to ensure the long-term success of parks and recreation programs and services in the community.

## 10. Development Services Surcharges

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There are two typical surcharges assessed as part of the development review process – General Plan Maintenance Fee and Technology fee. Currently, the City of Cupertino charges a tiered General Plan Maintenance fee; and does not charge a Technology fee. As part of this study the City requested the project team calculate the full cost of permit-related technology services for the City. The following subsections discuss the calculation of the General Plan Maintenance Fee and Technology Fee.

### General Plan Maintenance Fee

A General Plan Maintenance fee is meant to account for updates to the general plan, zoning ordinance, housing elements, and other long-range planning activities that are part of the larger General Plan.

The General Plan Maintenance fee is governed by Government Code Section 66014(b) which states that fees “may include the costs reasonably necessary to prepare and revise the plans and policies that a local agency is required to adopt before it can make any necessary findings and recommendations.” This code states that fees can be charged against zoning changes, zoning variances, use permits, building inspections, and filing applications.

More typically, the fee is charged during the building permit phase so as to ensure any development project, which gets to that phase, makes enough of an impact to require the need for an update to the Zoning Code or the General Plan. This fee should only be applied to major building permits (i.e., new or remodel / tenant improvements) rather than standalone permits for water heaters or electrical outlets.

The three most common methodologies for assessing a General Plan Maintenance fee are:

- **Cost Per Square Foot:** the fee is assessed based upon the total potential square footage based upon which it would be assessed.
- **Percentage of Valuation:** the fee is assessed based upon the total project valuation.
- **Percentage of Building Permit Fee:** the fee is assessed as a percentage of the total building permit fee assessed to a project.

The project team calculated and evaluated the full cost of General Plan Maintenance based upon all three methodologies.

## 1 Annual Long Term Planning Costs

The City of Cupertino has a Long-Term Planning cost center housed within their Planning Division. This Division houses staff dedicated to making updates to the City's General Plan and Housing Element. In order to determine the full cost of Long Term Planning, the project team calculated the full cost associated with the division, including direct and indirect costs. The following table shows cost component the full annual cost associated with Long Term Planning:

**Table 20: Annual Cost – Long-Term Planning**

Position	Total Cost
Direct Costs	\$982,428
Indirect Costs	\$201,639
<b>Annual Cost</b>	<b>\$1,184,067</b>

Direct costs consist of salaries and benefits associated with division staff, as well as divisional services and supplies. The indirect costs account for managerial and administrative support provided by other Community Development programs, as well as citywide overhead. The roughly \$1.18 million in annual division cost was used as the numerator while calculating the three options.

## 2 General Plan Maintenance Full Cost Calculation

Currently, the City assesses its General Plan Maintenance fee based on project square footage by occupancy type (All Non-Residential and Multi-Family, Residential Single Family, and General Plan Office Allocation). The project team calculated full cost General Plan Maintenance fee options based on the three most common methodologies noted previously. The following table shows General Plan Maintenance costs based on total square footage, total valuation, and total building permit revenue.

**Table 21: General Plan Maintenance Calculation**

Category	Total Square Footage	Total Valuation	Total Building Permit Revenue
Total Annual Cost	\$1,184,067	\$1,184,067	\$1,184,067
General Plan Fee Basis	788,270	\$276,621,670	\$4,337,761
<b>General Plan Maintenance Fee</b>	<b>\$1.50</b>	<b>0.43%</b>	<b>27%</b>

If the City wishes to continue using the square footage methodology the full cost fee would be \$1.50 per square foot. The City could simplify its current fee structure and use the singular rate of \$1.5 per square foot, or proportionately reduce the \$1.50 based on

occupancy type. Alternatively, the City could look at changing its methodology, and implementing either a fee based on project valuation (0.43%) or building permit cost (27%).

### 3 Comparison to Surveyed Jurisdictions

As part of this analysis, the project team conducted a comparative survey of other local jurisdictions and their assessment of the General Plan Maintenance Fee. Like other comparative efforts, the survey below simply shows the fees charged by the jurisdiction and does not include the basis upon which the other jurisdictions calculated or developed their fee. The following table shows the results of this comparative analysis:

**Table 22: General Plan Maintenance Fee – Comparative Survey**

<b>Jurisdiction</b>	<b>Fee Amount</b>
Milpitas	5% of Building Permit
Mountain View	0.26% of Building Valuation
Palo Alto	0.00117% of Building Valuation
Santa Clara	12.39% of Building Permit & Plan Check Fee
Sunnyvale	0.15% of Building Valuation

The General Plan Maintenance fees charged by surveyed jurisdictions are either based on building valuation or building permit. None of the surveyed jurisdictions charge fees like Cupertino - based on square footage.

### Technology Surcharge Fee

A Technology Fee allows the City to support the costs associated with the City's permitting system, staff time for managing the systems, acquiring the system, mobile devices used for permitting, etc. The City currently does not assess this fee.

The project team used the annual technology costs of the City's permit tracking system and divided that by the prior year's total annual revenue for Building, Planning, and Public Works permits and applications. The following table shows this calculation:

**Table 23: Technology Fee Calculation**

<b>Category</b>	<b>Amount</b>
Total Technology Annual Cost	\$372,860
Total Projected Development Annual Cost	\$6,406,653
<b>Technology Fee as % of Permit Fee</b>	<b>5.8%</b>

Based upon this calculation, the City's full cost Technology fee would be 5.8% of the permit fee. Therefore, if a permit fee was \$100, the Technology fee collected would be \$5.80; whereas if a permit fee was \$1,000; the Technology fee collected would be \$58.

This type of structure enables the Technology fee to be more proportionately distributed based upon the projects and their impact upon the system.

As part of this analysis, the project team conducted a comparative survey of other local jurisdictions and their assessment of a Technology Fee. Like other comparative efforts, the survey below simply shows the fees charged by the jurisdiction and does not include the basis upon which the other jurisdictions calculated or developed their fee. The following table shows the results of this comparative analysis:

**Table 24: Technology Fee – Comparative Survey**

<b>Jurisdiction</b>	<b>Fee Amount</b>
Milpitas	3.8% of Permit Fee
Mountain View	4.0% of Permit Fee
Santa Clara	3.37% of Permit Fee
Sunnyvale	5.00% of Permit Fee
Palo Alto	N/A

With the exception of Palo Alto, which does not individually charge a technology fee, all surveyed jurisdictions charge their technology fee as a percentage of the permit. The City of Sunnyvale at 5% most closely matches the City's full cost calculated at 5.8%.

## Surcharge Funds

It is a best practice to collect and account for General Plan Maintenance and Technology surcharges in separate accounts. The City of Cupertino already follows this best practice for General Plan Maintenance and should continue to collect these fees separately, along with establishing a fund for fees collected in association with the proposed Technology fee.

# 11. Cost Recovery Considerations

The following sections provide guidance regarding how and where to increase fees, determine annual update factors, and develop cost recovery policies and procedures.

## Fee Adjustments

This study has documented and outlined on a fee-by-fee basis where the City is under and over collecting for its fee-related services. City and Department management will now need to review the results of the study and adjust fees in accordance with Departmental and City philosophies and policies. The following dot points outline the major options the City has in adjusting its fees.

- **Over-Collection:** Upon review of the fees that were shown to be over-collecting for costs of services provided, the City should reduce the current fee to be in line with the full cost of providing the service.
- **Immediate Increase to Full Cost Recovery:** For fees that show an under-collection for costs of services provided, the City may decide to increase the fee to either (1) full cost recovery, or (2) the policy-driven fee cost recovery level of less than 100% of cost recovery.
- **Phased Increase:** For fees with significantly low-cost recovery levels, or which would have a significant impact on the community, the City could choose to increase fees gradually over a set period to either (1) full cost recovery, or (2) the policy-driven fee cost recovery level of less than 100% of cost recovery.

The City will need to review the results of the fee study and associated cost recovery levels and determine how best to adjust fees. While decisions regarding fees that currently show an over-recovery are fairly straight forward, the following subsections, provide further detail on why and how the City should consider either implementing Full Cost Recovery or a Phased Increase approach to adjusting its fees.

### 1 Full Cost Recovery

Based on the permit or review type, the City may wish to increase the fee to cover the full cost of providing services. Certain permits may be close to cost recovery already, and an increase to full cost may not be significant. Other permits may have a more significant increase associated with full cost recovery.



Increasing fees associated with permits and services that are already close to full cost recovery can potentially bring a Department's overall cost recovery level higher. Often, these minimal increases can provide necessary revenue to counterbalance fees which are unable to be increased.

The City should consider increasing fees for permits for which services are rarely engaged to full cost recovery. These services often require specific expertise and can involve more complex research and review due to their infrequent nature. As such, setting these fees at full cost recovery will ensure that when the permit or review is requested, the City is recovering the full cost of its services.

## **2      Phased Increases**

Depending on current cost recovery levels some current fees may need to be increased significantly in order to comply with established or proposed cost recovery policies. Due to the type of permit or review, or the amount by which a fee needs to be increased, it may be best for the City to use a phased approach to reaching their cost recovery goals.

As an example, you may have a current fee of \$200 with a full cost of \$1,000, representing 20% cost recovery. If the current policy is 80% cost recovery, the current fee would need to increase by \$600, bringing the fee to \$800, in order to be in compliance. Assuming this particular service is something the City provides quite often, and affects various members of the community, an instant increase of \$600 may not be feasible. Therefore, the City could take a phased approach, whereby it increases the fee annually over a set period until cost recovery is achieved.

Raising fees over a set period of time not only allows the City to monitor and control the impact to applicants, but also ensure that applicants have time to adjust to significant increases. Continuing with the example laid out above, the City could increase the fee by \$150 for the next four years, spreading out the increase. Depending on the desired overall increase, and the impact to applicants, the City could choose to vary the number of years by which it chooses to increase fees. However, the project team recommends that the City not phase increases for periods greater than five years, as that is the maximum window for which a comprehensive fee assessment should be completed.

## **Annual Adjustments**

Conducting a comprehensive analysis of fee-related services and costs annually would be quite cumbersome and costly. The general rule of thumb for comprehensive fee analyses is between three and five years. This allows for jurisdictions to ensure they

account for organizational changes such as staffing levels and merit increases, as well as process efficiencies, code or rule changes, or technology improvements.

The City of Cupertino already utilizes an annual update factor, that is based on the Consumer Price Index (CPI). This practice should continue to ensure that the City continues to achieve its expected cost recovery goals.

## Policies and Procedures

This study has identified areas where the City is under-collecting the cost associated with providing services. This known funding gap is therefore being subsidized by other City revenue sources. Development of cost recovery policies and procedures will serve to ensure that current and future decision makers understand how and why fees were determined and set, as well as provide a road map for ensuring consistency when moving forward. The following subsections outline typical cost recovery ranges and discuss the benefits associated with developing cost recovery goals and procedures for achieving and increasing cost recovery.

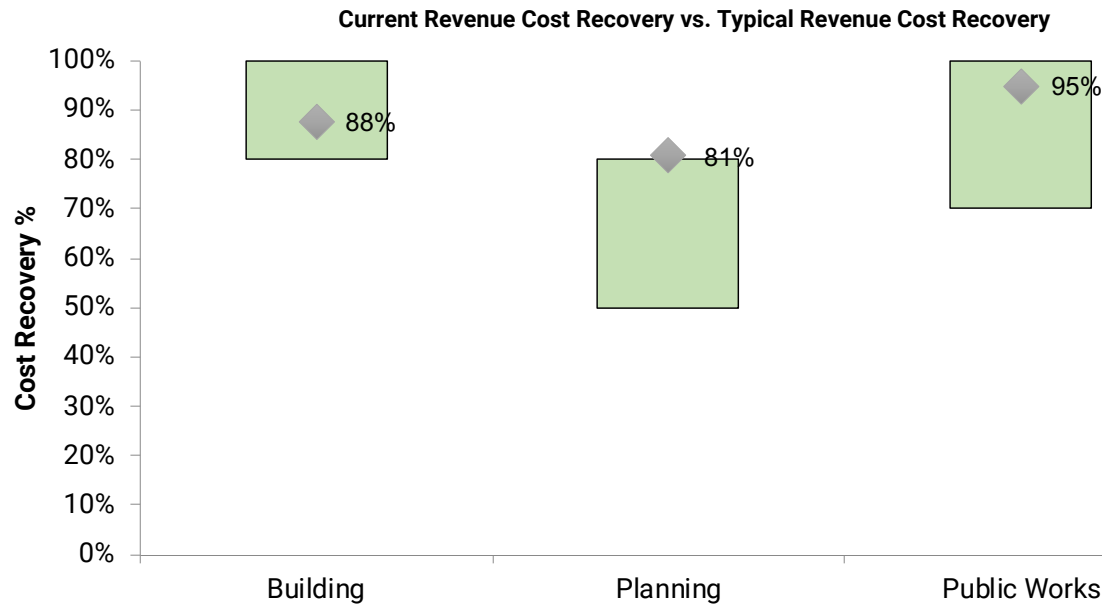
### 1 Typical Cost Recovery

The Matrix Consulting Group has extensive experience in analyzing local government operations across the United States and has calculated typical cost recovery ranges. The following table outlines these cost recovery ranges by major service area.

**Table 25: Typical Cost Recovery Ranges by Major Service Area**

Service Areas	Typical Cost Recovery Ranges
Building	80-100%
Planning	50-80%
Public Works	70-100%

Information presented in the table above is based on the Matrix Consulting Group's experience in analyzing local governments' operations across the United States and within California and reflects *typical* cost recovery ranges observed by local adopting authorities. The following graph depicts how Cupertino compares to industry cost recovery range standards.



Public Works and Building fall within the typical cost recovery ranges, while Planning at 81% is just above the typical cost recovery range.

## 2 Development of Cost Recovery Policies and Procedures

The City should review the current cost recovery levels and adopt a formal policy regarding cost recovery. This policy can be general in nature and can apply broadly to the City as a whole, or to each department and division specifically. A department specific cost recovery policy would allow the City to better control the cost recovery associated with different types of services being provided and the community benefit received.

## Appendix – Comparative Survey

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As part of the Cost of Services (User Fee) Study for the City of Cupertino, the Matrix Consulting Group conducted a comparative survey of various fees citywide. The City identified five (5) California jurisdictions to be included in the comparative survey: Milpitas, Mountain View, Palo Alto, Santa Clara, and Sunnyvale. The project team then reviewed public documents (i.e., agenda items, staff reports, budgets, fee schedules, and ordinances), and or contacted jurisdictions to get comparative information.

The following sections outline key factors to consider when reviewing the comparative survey, as well as graphical comparisons of current fees and total calculated costs for various permits issued or services provided.

### Factors to Consider When Reviewing Comparative Survey Results

While this report provides a reasonable estimate and understanding of the true costs of providing services, many jurisdictions also wish to consider the local “market rates” for services as a means for assessing what types of changes in fee levels their community can bear. A comparative survey does not provide adequate information regarding the relationship of a jurisdiction’s cost to its fees. The following points highlight various factors to consider when reviewing comparative survey results.

- **Economic Factors:** Three important economic factors to consider when comparing fees across multiple jurisdictions are: population, budget, and workforce size. These factors can impact how and when fees are administered, as a jurisdiction with a smaller population may choose to not charge a fee, or a smaller workforce size may inhibit their ability to administer a fee.
- **Recency Factors:** Recency is two-fold; when did a jurisdiction last update their fee schedule and when did they last undergo a comprehensive fee analysis. It is important to note that even though jurisdictions may have conducted fee studies, fees are not always adopted at full cost recovery. The comparative results only show the adopted fee for the surveyed jurisdiction, not necessarily the full cost associated with the comparable service.
- **Cost Recovery Factors:** Each jurisdiction and its fees are different, and many are not based on the actual cost of providing services as various policy decision may subsidize services.

- **Fee Variance Factors:** The same “fee” with the same name may include different steps or sub-activities. In addition, jurisdictions provide varying levels of service and have varying levels of costs associated with providing services such as staffing levels, salary levels, indirect overhead costs, etc.

In addition to the factors noted, market surveys can also run the risk of creating a confusing excess of data that will obscure rather than clarify policy issues. Because each jurisdiction is different, the Matrix Consulting Group recommends that the information contained in the market comparison of fees be used as supporting information, rather than a tool for establishing an acceptable price point for services.

The following two subsections provide contextual information regarding the jurisdictions included in the comparative survey.

## 1 Economic Factors

To provide additional context to the comparative survey information, the project team collected economic factors for the jurisdictions included. The following tables rank each jurisdiction from smallest to largest based on population, budget, and FTE.

**Table 26: Ranking of Jurisdictions by Population**

Jurisdiction	Population <sup>7</sup>
<b>Cupertino</b>	<b>60,381</b>
Palo Alto	66,680
Milpitas	79,066
Mountain View	81,516
Santa Clara	127,151
Sunnyvale	152,258

**Table 27: Ranking of Jurisdictions by Citywide Total Budget<sup>8</sup>**

Jurisdiction	FY24 Budget
<b>Cupertino</b>	<b>\$121,765,857</b>
Milpitas	\$231,719,202
Sunnyvale	\$308,422,779
Mountain View	\$477,721,195
Palo Alto	\$965,945,000
Santa Clara	\$11,224,306,187

<sup>7</sup> The population values used are from the 2021 US Census.

<sup>8</sup> To ensure appropriate comparisons, full operating budget (all funds) has been used for all jurisdictions.

**Table 28: Ranking of Jurisdictions by FTE**

Jurisdiction	FY24 FTE
<b>Cupertino</b>	<b>212</b>
Milpitas	455
Mountain View	698
Sunnyvale	936
Palo Alto	1,018
Santa Clara	22,205

When compared to the surveyed jurisdictions the City of Cupertino ranks the lowest in terms of budget, staffing, and population. Milpitas, Sunnyvale, and Mountain View tend to be in the bottom middle, while Santa Clara tends to be the highest in most categories.

## 2 Recency Factor

While the previous comparative information provides some perspective when comparing the City of Cupertino's population, budget, and staffing with surveyed jurisdictions, other key factors to consider are when a jurisdiction's fee schedule was last updated and when the last comprehensive analysis was completed. The following tables detail when each surveyed jurisdiction last updated their fee schedule and last conducted a fee study.

**Table 29: Last Fee Schedule Updated**

Jurisdiction	Response
Milpitas	2023
Mountain View	2023
Palo Alto	2023
Santa Clara	2023
Sunnyvale	2023

**Table 30: Last Fee Study Conducted**

Jurisdiction	Response
Sunnyvale	2010
Palo Alto	2013
Mountain View	2018
Milpitas	2019
Santa Clara	2022

All of the surveyed jurisdictions have published new fees within the past year; however, of those surveyed only Santa Clara has conducted a fee study in the last five years.

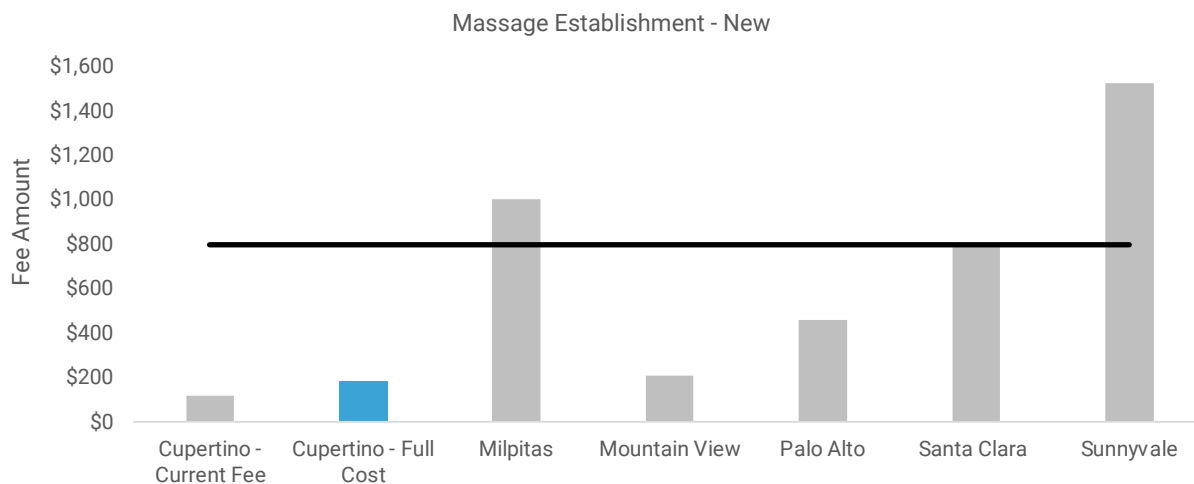
It is important to note that even though jurisdictions may have conducted fee studies, fees are not always adopted at full cost recovery. The following comparative analysis will only show the adopted fees for the surveyed jurisdictions, not necessarily the full cost associated with the comparable service.

## Comparative Survey Results

As part of this study, the project team conducted a survey of how the Cupertino's current user fees and calculated full cost compare to other identified jurisdictions. The following subsections summarize the analysis.

### 1 Massage Establishment - New

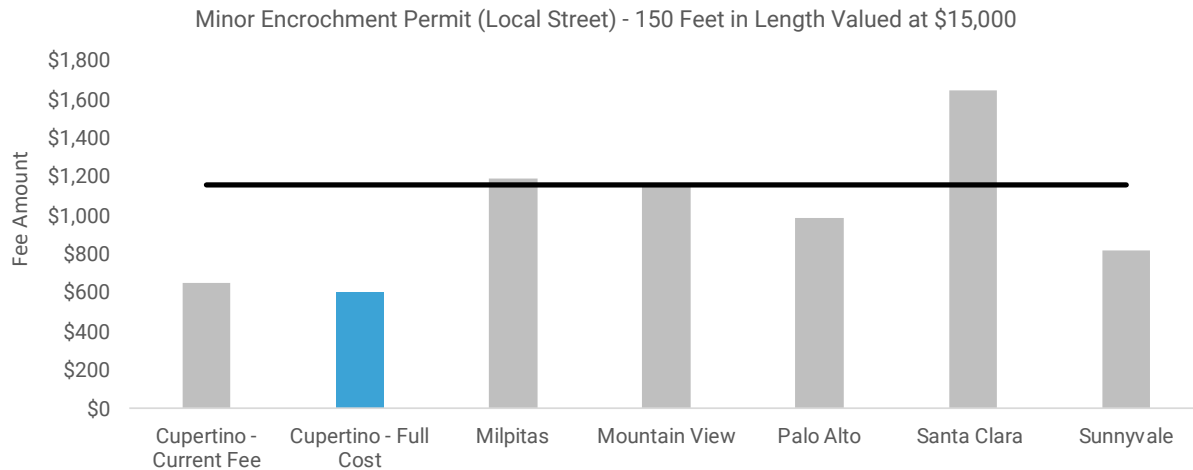
The current fee for a new Massage Establishment permit is \$113 per permit. Through this study, the project team calculated the full cost of this permit to be \$180. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are well below the jurisdictional average of \$795. Cupertino's current fee is closest to Mountain View's fee at \$204. Sunnyvale (\$1,522) and Milpitas (\$1,000) both charge fees above the jurisdictional average.

### 2 Minor Encroachment Permit (Local Street)

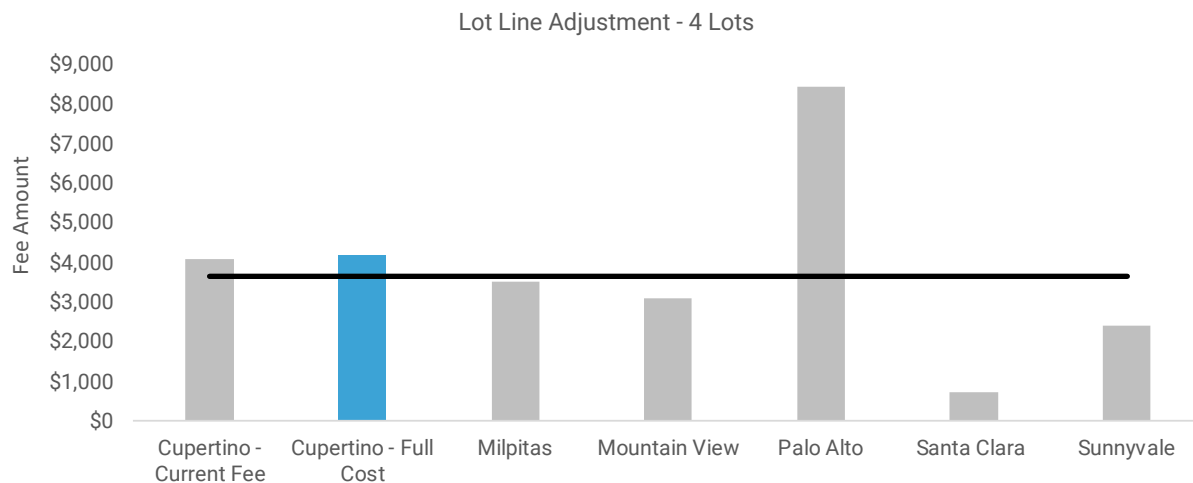
The current fee for a 150-foot Minor Encroachment permit of a local street valued at \$15,000 is \$647 per permit. Through this study, the project team calculated the full cost of this permit to be \$602. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are well below the jurisdictional average of \$1,158. Cupertino's current fee is closest to Sunnyvale's fee at \$817. Santa Clara charges the highest fee at \$1,647.

### 3 Lot Line Adjustment

The current fee for a Lot Line Adjustment of four lots is \$4,069 per permit. Through this study, the project team calculated the full cost of this permit to be \$4,173. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.

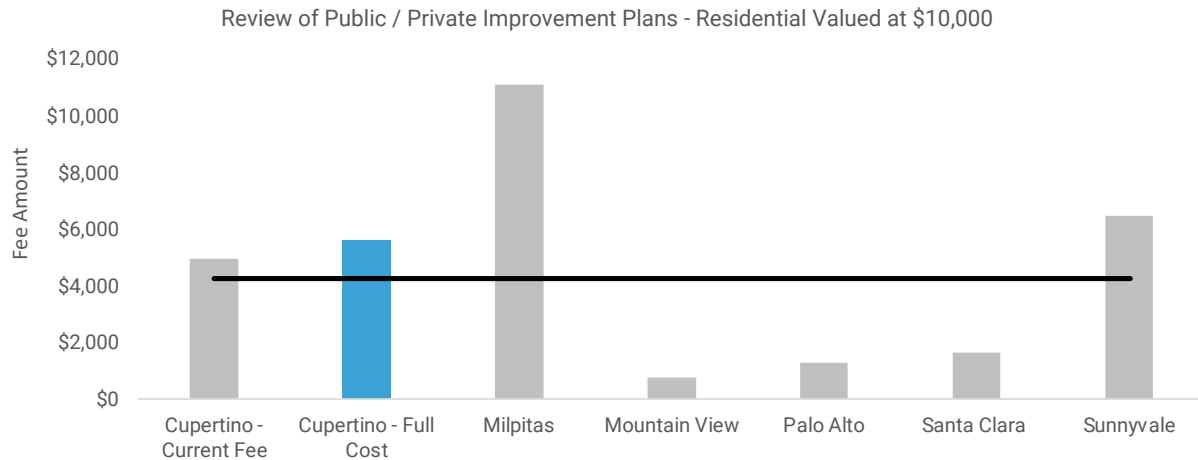


The current fee and calculated full cost are slightly above the jurisdictional average of \$3,628. Cupertino's current fee is closest to Milpitas' fee at \$3,500. Palo Alto doesn't have a specific fee for lot line adjustment, however, for 15 hours of plan check and inspection (which is the amount of time used to calculate Cupertino's full cost) Palo Alto charges \$8,415.



#### 4 Review of Public / Private Improvement Plans

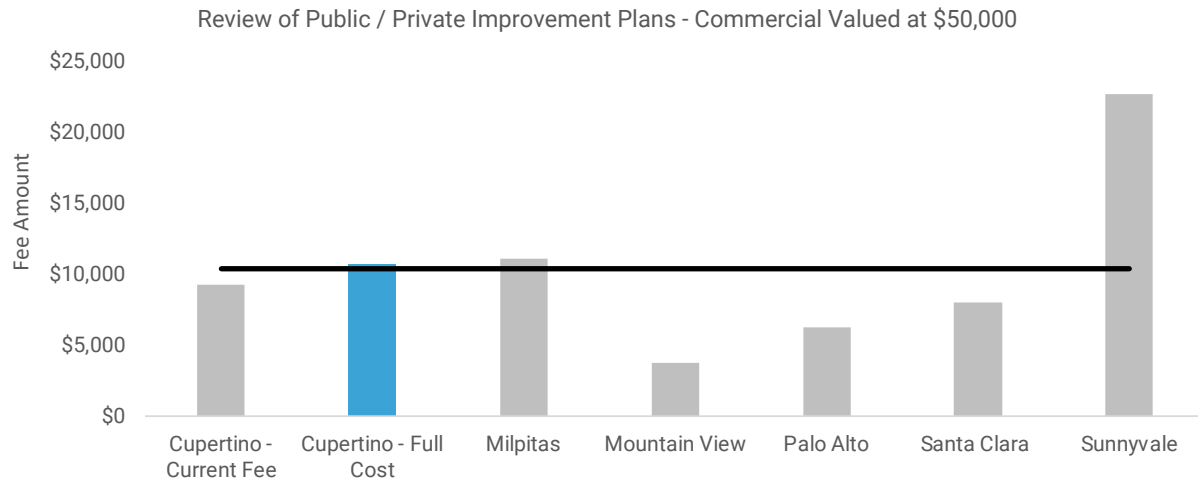
The current fee for a Review of Public / Private Improvement plans for a residential project valued at \$10,000 is \$4,947 per permit. Through this study, the project team calculated the full cost of this permit to be \$5,598. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are slightly above the jurisdictional average of \$4,239. Sunnyvale (\$6,453) and Milpitas (\$11,084) are the only comparable jurisdictions which charge more than the jurisdictional average.

#### 5 Review of Public / Private Improvement Plans

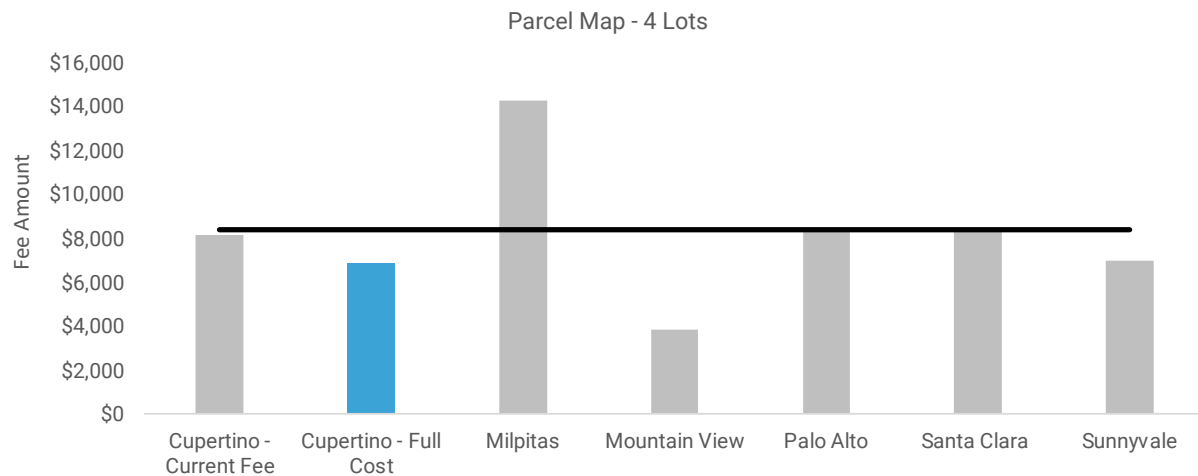
The current fee for a Review of Public / Private Improvement plans for a commercial project valued at \$50,000 is \$9,254 per permit. Through this study, the project team calculated the full cost of this permit to be \$10,621. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are slightly above the jurisdictional average of \$10,340. Sunnyvale (\$22,627) and Milpitas (\$11,084) are the only comparable jurisdictions which charge more than the jurisdictional average.

## 6 Parcel Map

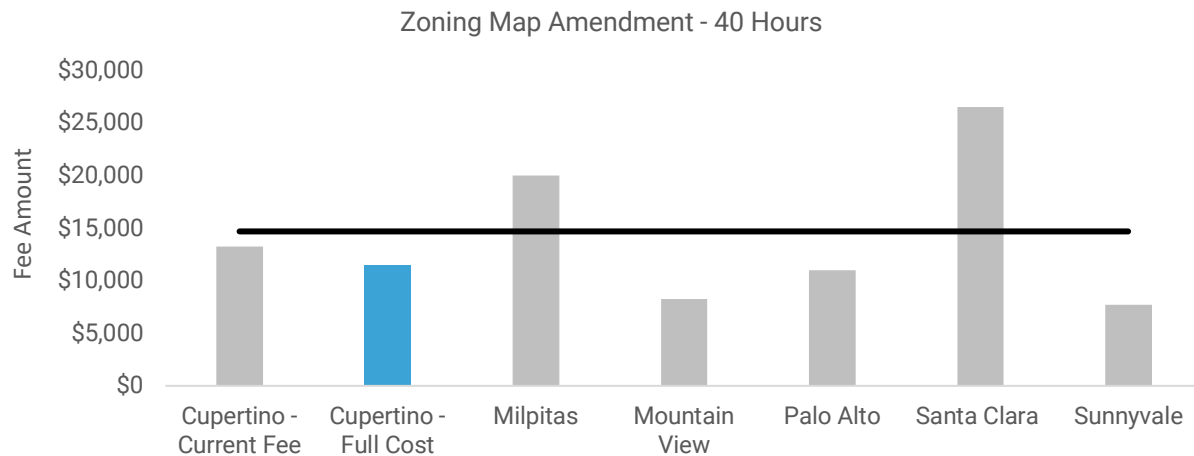
The current fee for a Parcel Map of four lots is \$8,170 per permit. Through this study, the project team calculated the full cost of this permit to be \$6,885. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are below the jurisdictional average of \$8,370. Cupertino's current fee is closest to Santa Clara's fee at \$8,361, while Cupertino's calculated full cost is closest to Sunnyvale's fee at \$6,995. At \$14,255, Milpitas charges the highest fee.

## 7 Zoning Map Amendment

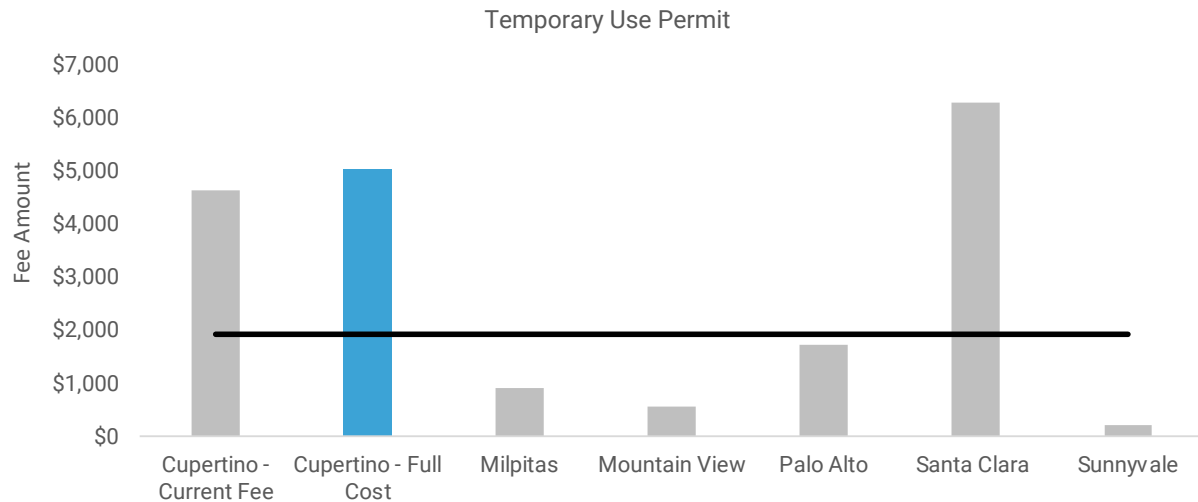
The current fee for 40 hours of Zoning Map Amendment is \$13,280. Through this study, the project team calculated the full cost of this service to be \$11,467. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current and full cost is below the jurisdictional average of \$14,693. Milpitas (\$20,000) and Palo Alto (\$10,976) both charge this fee as a deposit. Of the comparable jurisdictions Santa Clara charges the most for this service at \$26,550.

## 8 Temporary Use Permit

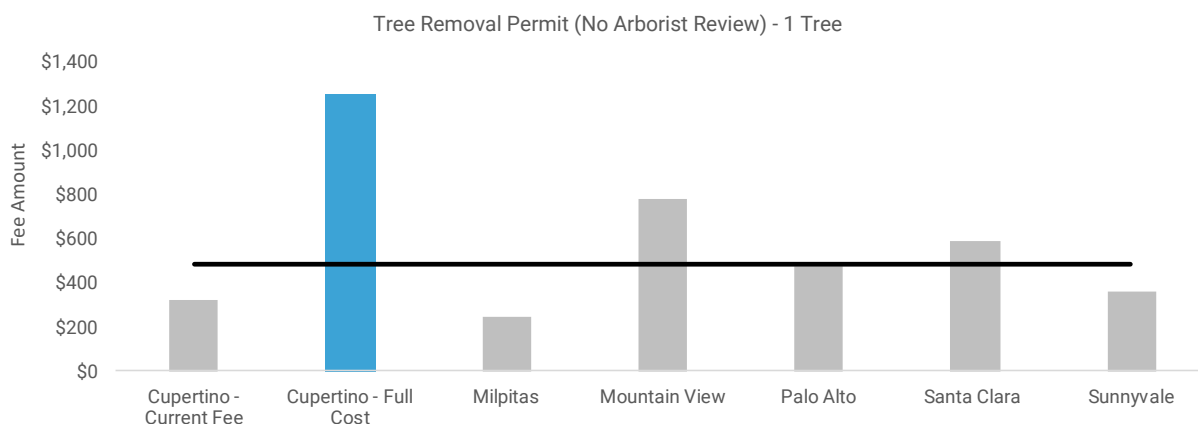
The current fee for a Temporary Use Permit is \$4,639 per permit. Through this study, the project team calculated the full cost of this permit to be \$5,030. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are well above the jurisdictional average of \$1,927. At \$6,288, Santa Clara charges the highest fee and the closets to Cupertino's current fee. All other jurisdictions charge below the average.

## 9 Tree Removal Permit – No Arborist Review

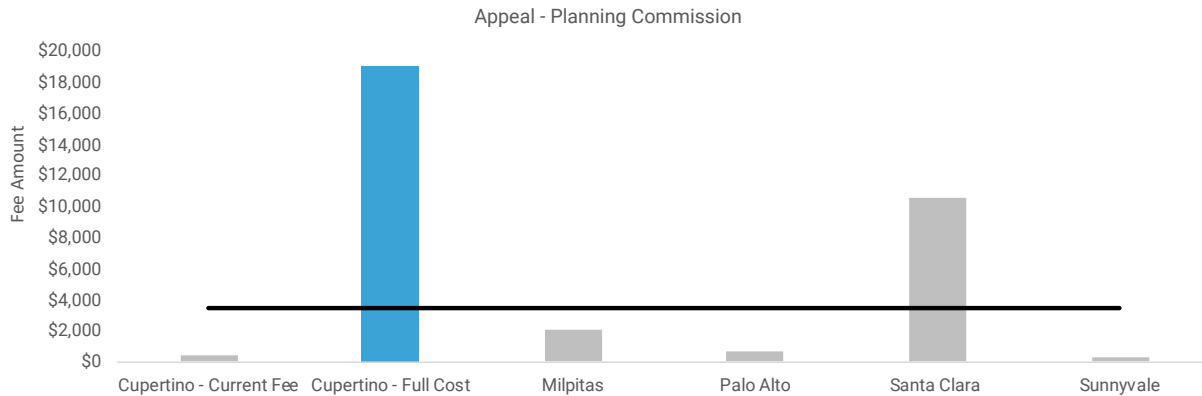
The current fee for a single Tree Removal Permit without arborist review is \$328 per permit. Through this study, the project team calculated the full cost of this permit to be \$1,260. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee is below the jurisdictional average of \$490, while the calculated full cost is well above the average. Cupertino's current fee is closest to what Sunnyvale charges at \$358. It should be noted that these permits are often subsidized to mitigate impacts to the community.

## 10 Appeal – Planning Commission

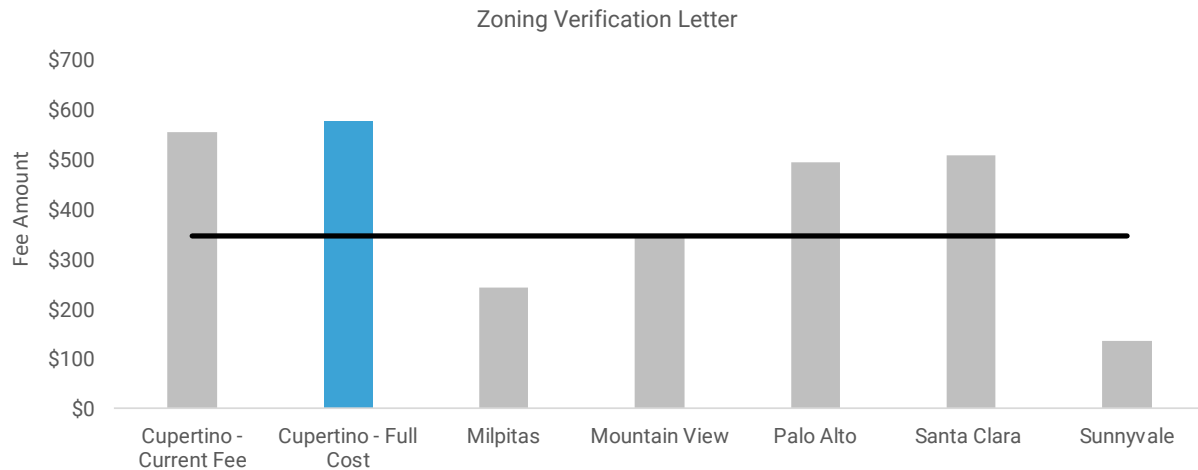
The current fee for an Appeal to the Planning Commission is \$379 per appeal. Through this study, the project team calculated the full cost of this type of appeal to be \$19,006. The following graph compares Cupertino’s current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee is below the jurisdictional average of \$880, while the calculated full cost is well above the average. Cupertino’s current fee is closest to what Sunnyvale charges at \$238, while Palo Alto at \$700 charges the closest to the jurisdictional average. Of the comparable jurisdictions, Santa Clara charges the highest fee at \$10,428. There is a separate fee that they assess for appeals from non-applicant, which is significantly lower (\$523). It should be noted that these permits are often subsidized to mitigate impacts to the community.

## 11 Zoning Verification Letter

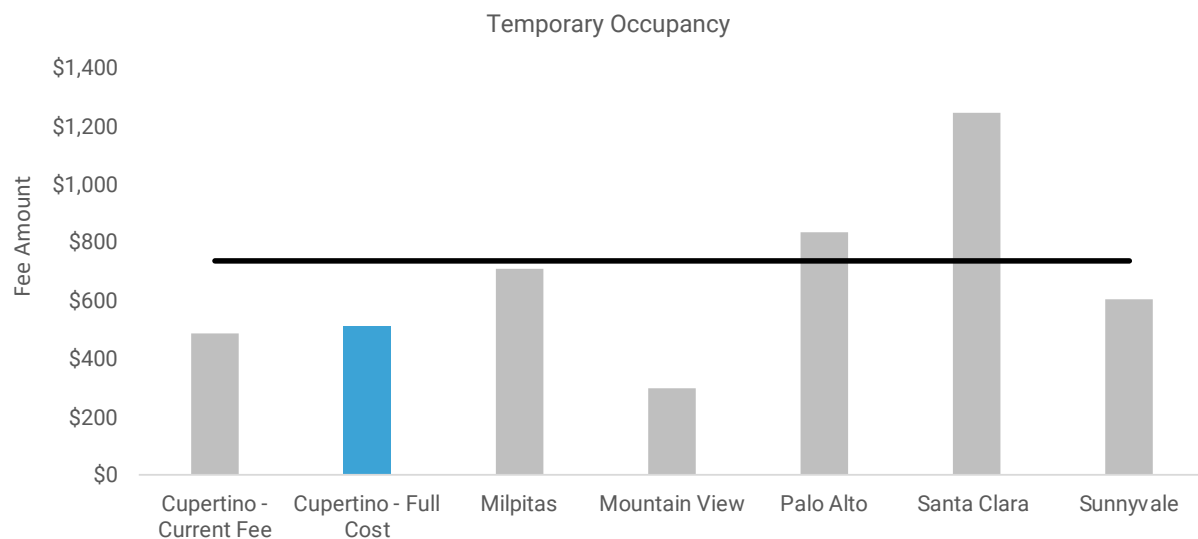
The current fee for a Zoning Verification Letter is \$555 per letter. Through this study, the project team calculated the full cost to be \$577 per letter. The following graph compares Cupertino’s current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are above the jurisdictional average of \$347. Cupertino's current fee is closest to what Santa Clara charges at \$508. Palo Alto doesn't have a specific fee for zoning verification letters, however, for 2 hours of staff time (which is the amount of time used to calculate Cupertino's full cost) Palo Alto charges \$495.

## 12 Temporary Occupancy

The current fee for a Temporary Occupancy permit is \$487. Through this study, the project team calculated the full cost to be \$511 per permit. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.

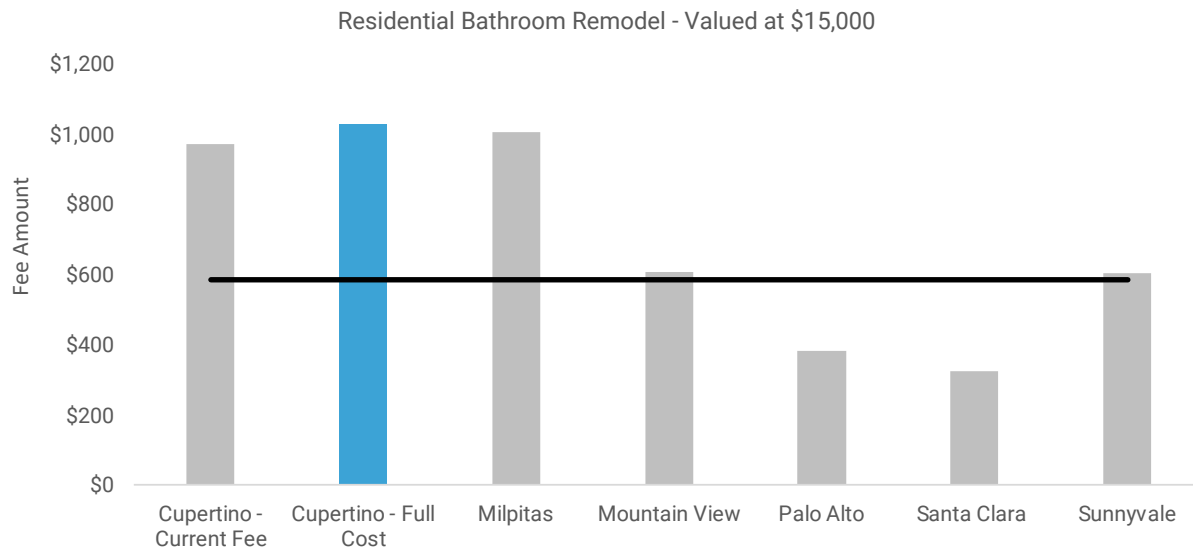


The current fee and calculated full cost are below the jurisdictional average of \$738. At \$606, Sunnyvale charges the closest to Cupertino's current fee and full cost calculated. Mountain View doesn't have a specific fee for temporary occupancy, however, for 2 hours

of staff time (which is the amount of time used to calculate Cupertino's full cost) Mountain View's fee would be \$298.

### 13 Residential Bathroom Remodel

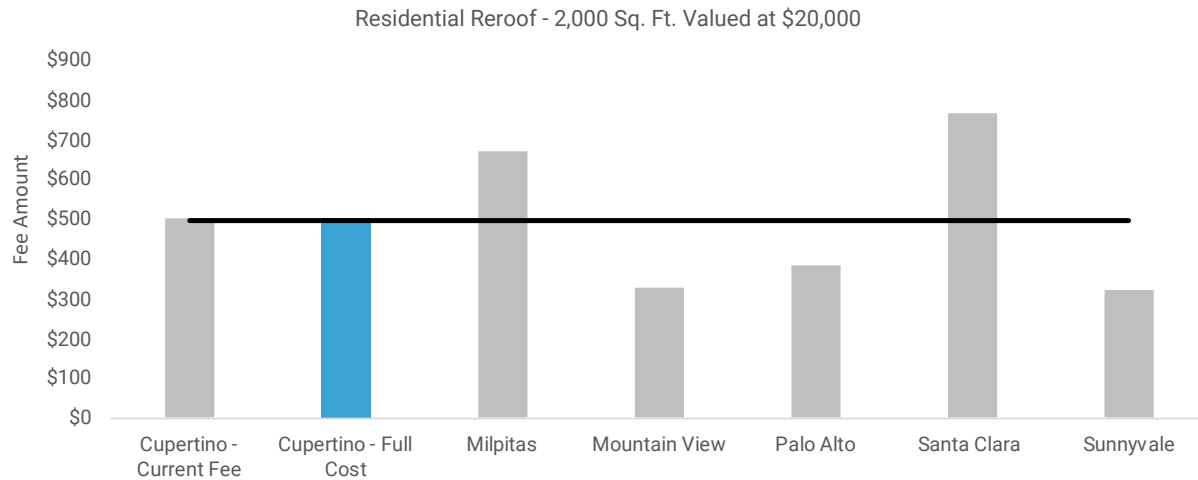
The current fee for a Residential Bathroom Remodel is \$971. Through this study, the project team calculated the full cost to be \$1,028. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are well above the jurisdictional average of \$585. At \$1,007, Milpitas charges the closest to Cupertino's current fee and full cost calculated. Rather than charging a flat fee, Mountain View (\$606) and Sunnyvale (\$603) charge their fees based on valuation.

### 14 Residential Reroof

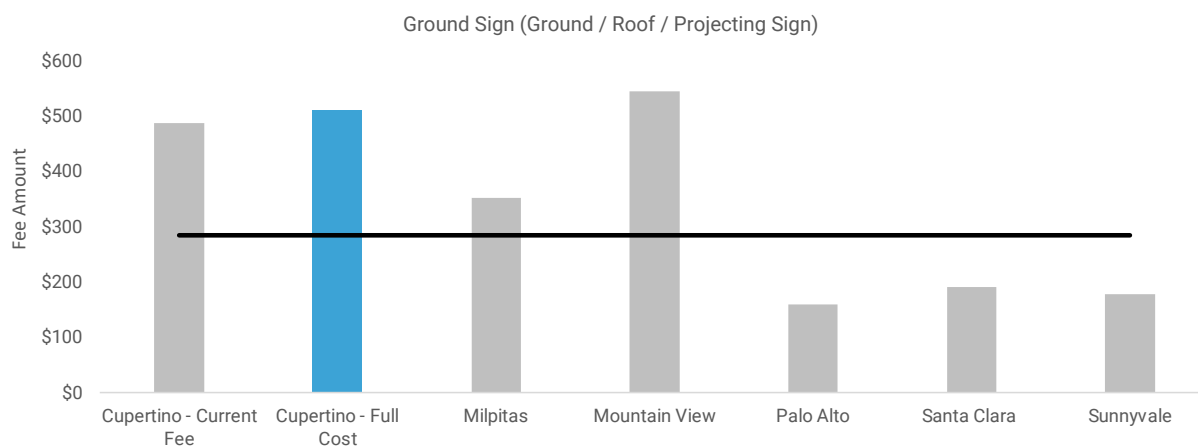
The current fee for a Residential Reroof is \$26 per 100 square feet, with a \$500 maximum fee. Through this study, the project team calculated the full cost to be \$25 per 100 square feet. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are in-line with the jurisdictional average of \$493. Santa Clara charges the most at \$766 followed by Milpitas at \$668. All jurisdictions, with the exception of Mountain View (\$324) which charges based on valuation, charge residential reroofs as a flat fee.

## 15 Ground Sign

The current fee for a Ground Sign is \$487. Through this study, the project team calculated the full cost to be \$511. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.

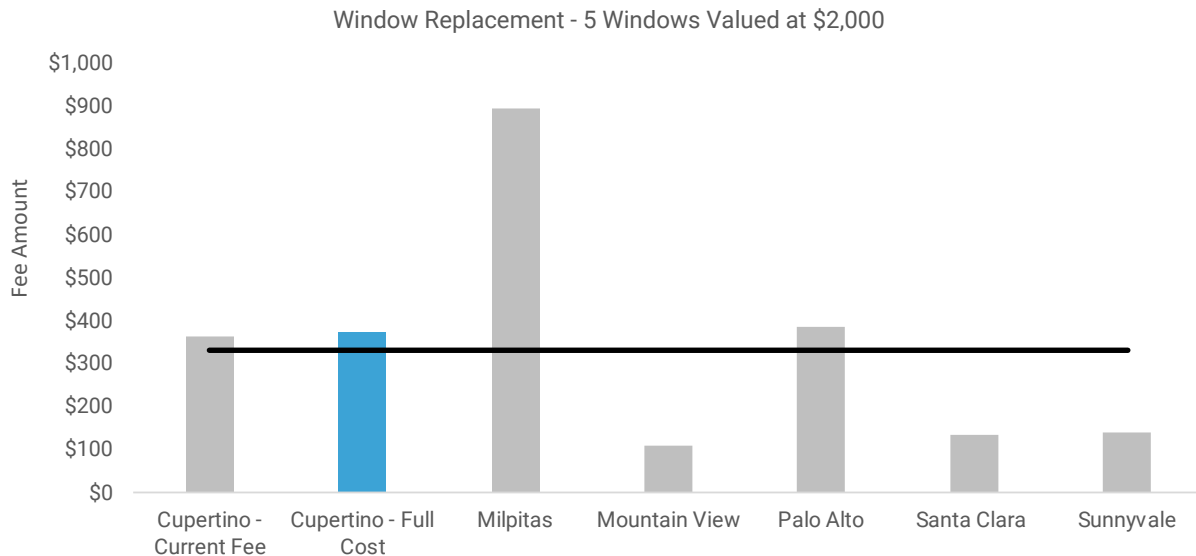


The current fee and calculated full cost are well above the jurisdictional average of \$284. At \$544, Mountain View charges the closest to Cupertino's current fee and full cost calculated.



## 16 Window Replacement

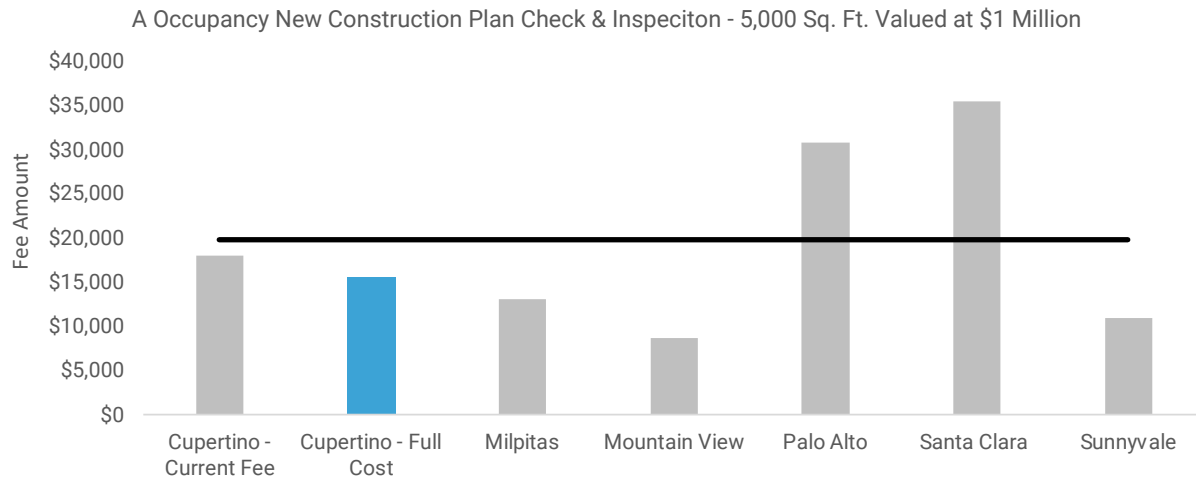
The current fee for a Window Replacement of five windows is \$364. Through this study, the project team calculated the full cost to be \$374. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are in alignment with the jurisdictional average of \$332. Milpitas charges the most at \$893. Unlike Cupertino, Sunnyvale (\$140), Santa Clara (\$134), and Mountain View (\$107) all charge their fees based on valuation.

## 17 A-Occupancy New Construction Plan Check & Inspection – 5,000 Square Feet

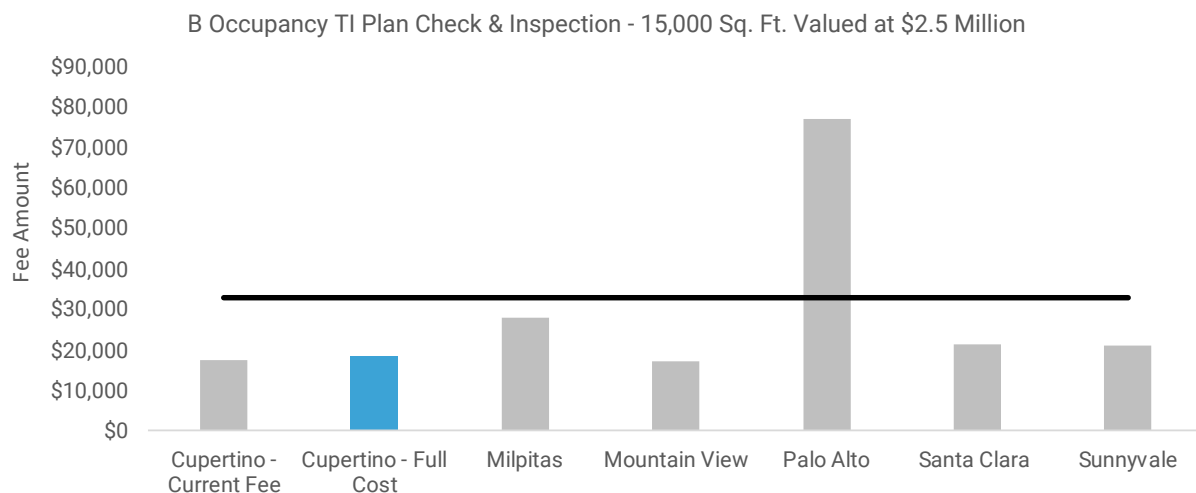
The current fee for a 5,000 square foot A-Occupancy new construction plan check and inspection is \$17,950. Through this study, the project team calculated the full cost to be \$15,599. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are below the jurisdictional average of \$19,811. Santa Clara (\$35,500) and Palo Alto (\$30,800) charge the highest fees and are the only jurisdictions which charge above the average.

## 18 B-Occupancy TI Plan Check & Inspection – 15,000 Square Feet

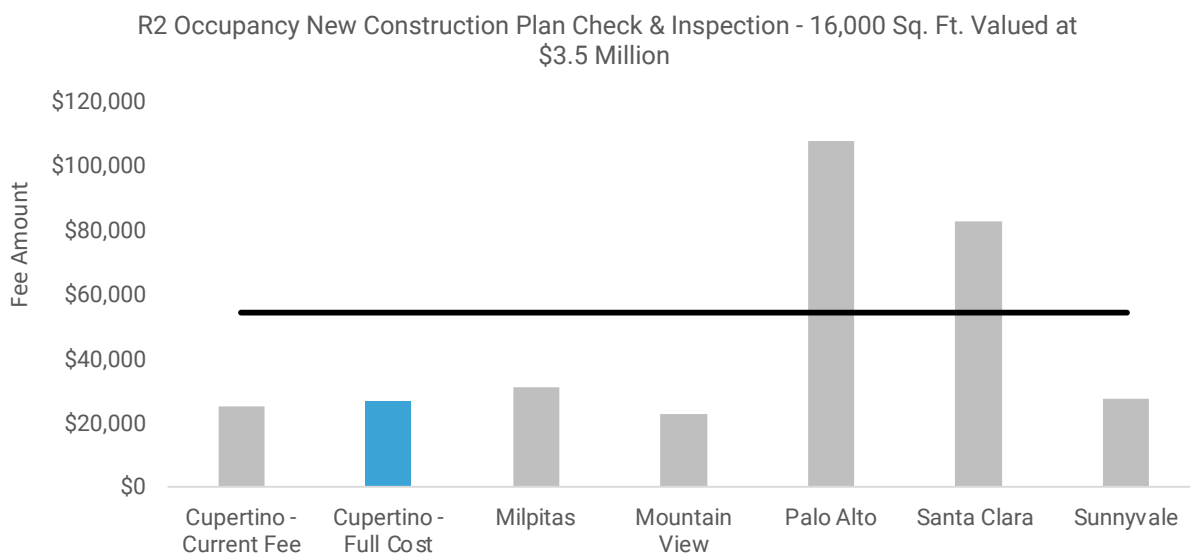
The current fee for a 15,000 square foot B-Occupancy tenant improvement plan check and inspection is \$17,577. Through this study, the project team calculated the full cost to be \$18,539. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are significantly below the jurisdictional average of \$32,950. Palo Alto at \$77,000 charge the highest fee and is the only jurisdictions which charge above the average.

## 19 R2 Occupancy New Construction Plan Check & Inspection – 16,000 Square Feet

The current fee for a 16,000 square foot R2 Occupancy new construction plan check and inspection is \$17,577. Through this study, the project team calculated the full cost to be \$18,539. The following graph compares Cupertino's current fee and calculated full cost to those of the surrounding jurisdictions.



The current fee and calculated full cost are significantly below the jurisdictional average of \$54,405. Palo Alto (\$107,800) and Santa Clara (\$82,688) charge the highest fees and are the only jurisdictions which charge above the average.

## Results Summary

Overall, the City of Cupertino's current fees are on the lower end of fees being surveyed and, in most cases, the full cost helps bring the City more in alignment with other jurisdictions. It is important to note that the results of this survey only show the fees adopted by council, not the cost recovery policy decisions for departments or a jurisdiction. As such, the results of this survey should be used as a secondary decision-making tool.



## ADMINISTRATIVE SERVICES DEPARTMENT

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### CITY COUNCIL STAFF REPORT

Meeting: February 6, 2024

#### Subject

Cost Allocation Plan, User Fee Study, and Cost Recovery Policy

#### Recommended Action

Receive and File Cost Allocation Plan and User Fee Study and provide direction on the components of a Cost Recovery Policy

#### Reasons for Recommendation

A comprehensive Fee Study is completed in conjunction with a Cost Allocation Plan (CAP) in approximately seven-year cycles. The City last completed a fee study and CAP in 2016. The objective of the fee study is to re-evaluate time and cost assumptions and determine the full cost (direct and indirect) of providing City services based on the current organizational structure and processes. The intent of this item is to provide a review of the fee study and to obtain City Council direction towards further review and adoption of the fee schedule later this fiscal year.

#### Background

Local governments are providers of many types of general services to their communities. While all services provided by local government are beneficial to constituents, some services can be classified as globally beneficial to all citizens, while others provide more of a direct benefit to a specific group or individual. The following table provides examples of services provided by local government within a continuum of the degree of community benefit received:

"Global" Community Benefit	"Global" Benefit and an Individual or Group Benefit	Individual or Group Benefit
<ul style="list-style-type: none"> <li>• Police</li> <li>• Park Maintenance</li> <li>• Fire Suppression</li> </ul>	<ul style="list-style-type: none"> <li>• Parks and Recreation</li> <li>• Fire Prevention</li> </ul>	<ul style="list-style-type: none"> <li>• Building Permits</li> <li>• Planning and Zoning Approval</li> <li>• Site Plan Review</li> <li>• Engineering Development Review</li> <li>• Facility Rentals</li> </ul>

Services in the “global benefit” section tend to be funded primarily through voter-approved tax revenues. In the middle of the table, one typically finds a mixture of taxes, user fees, and other funding sources. Finally, in the “individual or group benefit” section of the table, lie the services provided by local government that are typically funded almost entirely by user fee revenue. The following are two central concepts regarding the establishment of user fees:

- *Fees should be assessed according to the degree of individual or private benefit gained from services.* For example, the processing and approval of a land use or building permit will generally result in monetary gain to the applicant, as opposed to the community at large.
- *A profit-making objective should not be included in the assessment of user fees.* California laws require that charges for service should generally not exceed the costs associated with providing those services. Once a charge for service is assessed at a level higher than the actual cost of providing a service, the term “user fee” no longer applies. The charge then becomes a tax subject to voter approval.

Therefore, it is commonly accepted that user fees are established at a level that will recover up to, and not more than, the cost of providing a particular service. The fee study provides the analysis to validate the City’s current fees and cost recovery rate, ensuring the fee does not result in a tax.

### Discussion

The City sets fees for services considering how those fees could or do recover the full cost of those services. Recreation fees are generally market-based in order to be competitive with public and private entities that offer competing services. While user fees are generally updated each year, comprehensive user fee studies and CAP are conducted in approximate seven-year cycles, with the last study and plan performed in 2016 by Matrix Consulting Group. The CAP is a document that defines the indirect costs of an organization and equitably and fairly distributes them to the beneficiaries of that service. The results of that analysis help determine the indirect costs that are used to calculate the full cost of providing fee-related services. For example, in order to issue a building permit, a building inspector has the direct cost and time to conduct the inspections, but in order for that inspector to do their inspections, they had to be hired by HR, and payroll needed to be processed by Finance, etc. That level of indirect support is captured through the CAP.

Between studies, common practice is to adjust fees by the change in the Consumer Price Index (CPI) or to leave them unchanged. Council approves changes to the City’s Fees and Charges. The last revision of the City’s Fees and Service Charges schedule occurred in July 2023 with the understanding that the fee study and CAP were planned for completion in the current year.

Matrix analyzed the cost of service relationships that exist between internal service divisions (e.g. City Council, City Manager, City Attorney, and Administrative Services) and fees for service activities related to building permits, planning applications, public works, general services, and parks and recreation. The analysis includes a review of actual revenue, budgeted expenditures, staff time estimates, costs of materials, and overhead. The results of the CAP and User Fee Study provide the City with a tool for understanding current service levels, the cost and demand for those services, and what fees for service can and should be charged.

The following is a discussion of the study methodology, study results, and potential areas where changes might occur.

#### Methodology

Matrix first developed a cost allocation plan (CAP) to account for the full cost of providing specific services to the community by determining indirect (overhead) costs associated with operations. Using time estimates and data, the Matrix analytical model spreads costs from central service departments to those divisions, programs, and/or funds that receive services in support of conducting their operations (see Attachment A). The model is based on many of the methods of indirect cost allocation defined by the federal Office of Management and Budget's (OMB) Circular A-87 and Generally Accepted Accounting Principles (GAAP).

The methodology employed by the Matrix Consulting Group is a widely accepted "bottom up" approach to cost analysis, where time spent per unit of fee activity is determined for each position within a Department or Division. Once time spent for a fee activity is determined, all applicable City costs are then considered in the calculation of the "full" cost of providing each service. The following table provides an overview of the types of costs included in establishing the "full" cost of services.

Cost Component	Description
<b>Direct</b>	Fiscal Year 2024 Budgeted salaries, benefits, and allowable expenditures.
<b>Indirect</b>	Division, departmental, and Citywide support.

#### Current Cost Recovery

When comparing FY24 fee-related budgeted expenditures with fee-related revenue the City is under-recovering its costs by approximately \$767,000 or recovering 88% of its costs associated with services that provide direct benefits to individuals or groups. The following table outlines this by major service area, including the revenue collected, the total annual cost, the resulting difference, and the resulting cost recovery percentage.

Service Area	Current Revenue	Total Cost	Difference	Cost Recovery %
Planning	\$716,696	\$886,158	(\$169,462)	81%
Public Works	\$1,122,328	\$1,182,734	(\$60,407)	95%
Building	\$3,800,581	\$4,337,761	(\$537,180)	88%
<b>Total</b>	<b>\$5,639,605</b>	<b>\$6,406,653</b>	<b>(\$767,048)</b>	<b>88%</b>

Building at roughly \$537,000 is the primary contributor to the overall deficit. Potential modifications to the current fee schedules in this program (expanding various flat fees, reorganizing the Mechanical, Electrical, and Plumbing (MEP) fees section, etc.), as well as adding a fee for Planning Review and Inspection will help to address the cost recovery gap.

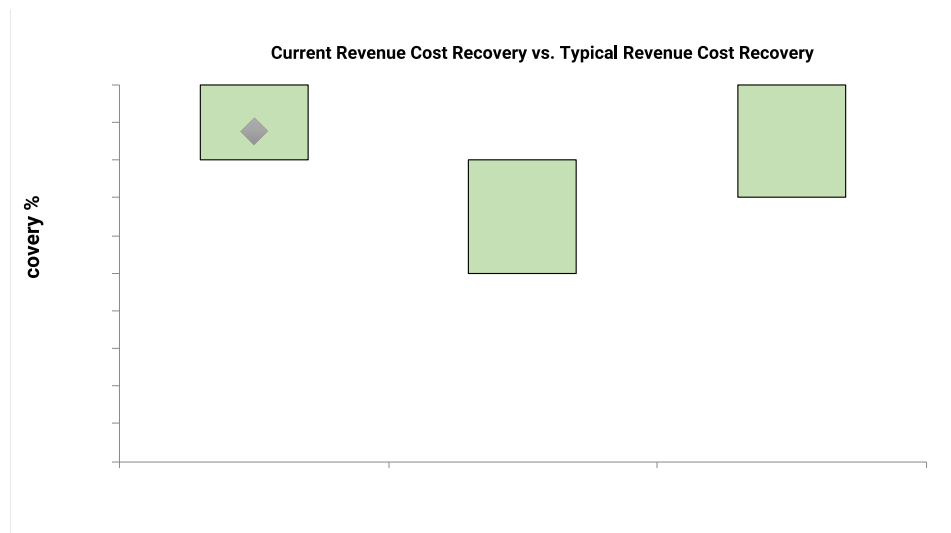
It is important to note that it may not be advantageous to bring all fees to full cost recovery as higher fees may discourage, for example, the application for a permit. Staff will utilize some discretion as the fee schedule is created and proposed for Council.

#### Market Comparison and Cost Recovery Policy

Cost recovery levels in Cupertino were also compared to levels typically seen in other jurisdictions. The following table reflects the *typical* cost recovery levels observed by local adopting authorities.

Service Areas	Typical Cost Recovery Ranges
Building	80-100%
Planning	50-80%
Public Works	70-100%

Information presented in the table above is based on the Matrix Consulting Group's experience in analyzing local governments' operations across the United States and within California and reflects typical cost recovery ranges observed by local adopting authorities. The following graph depicts how Cupertino compares to industry cost recovery range standards.



Public Works and Building fall within the typical cost recovery ranges, while Planning at 81% is just above the typical cost recovery range.

The City will benefit from adopting a formal Cost Recovery Policy, which can be general in nature and can apply broadly to the City as a whole, or to each department and division specifically. A department specific cost recovery policy would allow the City to better control the cost recovery associated with different types of services being provided and the community benefit received. Proposed Cost Recovery Policy components are included later in this staff report.

#### General Fees

The General Fee category encompasses fees for services which are applied Citywide, such as, photocopies, notary, business licenses, taxi driver permits, block party presentations, etc. Where applicable, fees are proposed to fully recover the cost of service. Exceptions include state regulated fees, penalties, and services with community benefit. Additionally, changes provided in the report include consolidating several fees, eliminating 'Microfilm/Microfiche Printout' (service no longer offered), and the following new fees:

Fee Name	Unit	Total Cost	Difference
<b>Code Enforcement Cost Recovery</b>			
Abatement / Graffiti Cleanup	Actual Cost		
Hourly Rate	Per Hour	\$240	N/A
Substandard Housing Re-Inspection	Per Hour	\$240	N/A
<b>Handbill Permit</b>			
Permit Update	Each	\$120	N/A
<b>Finance - General</b>			
Credit Card Transaction Fees		3.4%	N/A
<b>Emergency Service - General</b>			
Block Party Presentation	Each	\$418	N/A
First Aid / Medical Stand-by at Special Events	Each	\$215	N/A



Public Works Department (Engineering Division)

The Engineering Division is responsible for the daily upkeep and maintenance of City owned and operated facilities and infrastructure. The fees examined within this study relate to oversight and permitting of improvements that affect the public right of way and public infrastructure, including, encroachments, map services, public improvements, tree planting, and other fees associated with tasks performed by the Engineering Division.

Like *General Fees*, fees reflect full cost recovery with the exception of state-regulated fees. Block Parties, with a current cost of approximately \$1,338, have historically been fully subsidized at the direction of City Council. Two fees are proposed for deletion, with the 'Stormwater Permit -Initial Inspection' fee rarely used and the 'Trash Enclosure' being captured elsewhere. Staff is recommending the following new fees:

Fee Name	Unit	Total Cost	Difference
<b>Encroachment Permits</b>			
Crane Lift	Each	\$1,415	N/A
<b>Review of Public/Private Improvement Plans</b>			
Planning Application Review	Each	\$1,573	N/A
VMT Monitoring Fee	Per Hour	\$188	N/A
<b>Environmental Programs</b>			
<b>Plan Review Fee:</b>			
Single Family	Each	\$157	N/A
Multi-Family	Each	\$313	N/A
Construction and Demolition Diversion			
Compliance Review	Each	\$106	N/A
Development Project Review	Each	\$271	N/A

Community Development Department (Planning Division)

The Planning division is responsible for ensuring current and future development aligns with the City's General Plan, Zoning Plan, and specific plans. As such, the fees examined within this study relate to zoning, subdivisions, exceptions, appeals, etc.

Planning under recovers a majority of its fees, with the largest variance category being Appeals; fees 'Appeals – Planning Commission' and 'Appeals – City Council' are below full cost recovery by \$18,627 and \$18,915, respectively. It is common to see large subsidies in relation to appeals due to the understanding that the benefit to the community having access to the appeal process outweighs the benefit of recovering the full cost to the City.

The following new proposed fees will help recover costs for services currently being provided but for which there is no fee on the fee schedule.

Fee Name	Unit	Total Cost	Difference
<b>Appeals</b>			
Project Review Meeting	Each	\$5,106	N/A
<b>Preliminary Application Review</b>			
Single Family	Each	\$4,042	N/A
<b>Non-Residential (Retail / Industrial / Office / Hotel):</b>			
<10,000 sf	Each	\$9,421	N/A
>10,000 sf	Each	\$12,999	N/A
<b>Residential / Mixed Use:</b>			
Duplex	Each	\$3,428	N/A
3-6 Units	Each	\$14,776	N/A
6-50 Units	Each	\$18,427	N/A
>50 Units	Each	\$23,213	N/A
Planning Inspection	Each	\$860	N/A
Application Revision (after 2nd review)	Each	\$10,400	N/A
Actual Cost + 15% Admin Charge			
Mercury News Ad			
Special Events	Each	\$7,779	N/A

Community Development Department (Building Division)

The Building Division is committed to safeguarding life, health, property and public welfare through the administration and enforcement of the uniform building codes and adopted City ordinances and policies. Specifically, the Building division provides the following services:

- Plan review and permit issuance of all proposed construction to assure compliance with all state and local building codes.
- Explaining codes, ordinances, requirements and regulations that apply to individual building projects.
- Assisting the public with their concerns about public safety within their homes or places of business.
- Providing building inspection services for all privately funded development.

The fees included for examination in this study relate to plan review and inspection of buildings and structures.

All Building Fees are presented at full cost recovery based on CAP and Fee Study results. Staff worked with Matrix to alter time estimates for all building fees to better reflect current Building Division processes and requirements. Through this process, numerous fees were identified as services no longer offered by the City, and will be removed from future fee schedules. Additionally, staff is proposing the addition of fees for services provided but not captured in the current fee schedule, such as Additions, Thermal

Systems, and Appliances. A comprehensive list is provided in section six, "Building," in Attachment B.

*Parks and Recreation—Cost Recovery and Fees*

The Parks and Recreation Department strives to enhance the leisure lifestyle and quality of life of both residents of and visitors to the City by providing affordable, fun, integrated, and safe recreational activities for people of all ages and abilities. The Department organizes, markets, and oversees recreation and leisure services in a variety of programs, including a Sports Center, Senior Programs, Youth and Teen activities and classes, trips, facility rentals, and other recreation activities.

Currently, the Department sets and updates class fees internally on a seasonal basis. Membership and facility fees are studied on an annual basis. The primary methodology used for fee-setting is to determine the demand of a program based upon participation, conducting market inquiries, and determining the benefit of the program to the community. These are typically the most important components of determining parks and recreation fees. Changes recommended in the Recreation fee schedule are historically driven by demand and market comparisons of similar services as residents have a choice between utilizing programs offered in their own city or those of a neighboring city. Grants, special funding, or General Fund subsidies often offset programs and services provided by recreation departments in order to ensure that all citizens have equal opportunity and choice of participation.

Recreation fees were not assessed in the User Fee Study. As such, Matrix determined cost recovery levels at the department level only. The typical cost recovery for Parks and Recreation services is between 20-50%. The low-cost recovery for these services is due to the belief that these services primarily benefit the community at large and, as such, are providing a direct benefit to residents and the community, leading to a substantial General Fund subsidy.

Program	Revenue	Direct & Indirect Exp	Difference	Cost Recovery %
Cultural Events	\$1,221	\$768,430	(\$767,209)	0.16%
Facilities	\$203,173	\$802,246	(\$599,073)	25%
Youth Teen Recreation	\$854,411	\$2,827,397	(\$1,972,986)	30%
Senior Center	\$70,129	\$1,437,067	(\$1,366,938)	5%
Youth and Teen Programs	\$0	\$503,414	(\$503,414)	0%
Neighborhood Events	\$0	\$179,317	(\$179,317)	0%
Park Facilities	\$195,207	\$2,536,875	(\$2,341,668)	8%
BBF Golf Course	\$602,779	\$1,217,291	(\$614,512)	50%
Sports Center Operations	\$2,796,329	\$5,116,163	(\$2,319,834)	55%
Outdoor Recreation	\$439,717	\$1,880,645	(\$1,440,928)	23%
<b>Total</b>	<b>\$5,162,966</b>	<b>\$17,268,845</b>	<b>(\$12,105,879)</b>	<b>30%</b>

At \$2.3 million each, Park Facilities and Sports Center Operations are the largest contributors to the Department's deficit. Since both programs have fees which are primarily based on market-rate, it is imperative that staff and management evaluate these fees and adjust appropriately to not only align with established cost recovery policies and targets but also to lessen the cost recovery gap.

Staff has committed to evaluating business practices with respect to these facilities to maximize the return within the competitive market. The cost recovery study provides the opportunity for the Council to identify specific programs in which there is an interest to explore alternative service delivery models.

#### Cost Recovery Policy Components

The Government Finance Officers Association's (GFOA) best practices for Establishing Government Charges and Fees states that governmental entities should adopt formal policies regarding charges and fees which include the jurisdiction's intention to recover the full cost or partial costs of providing services, sets forth circumstances under which the jurisdiction might set a charge or fee at less than or more than 100% of full cost, and outlines the considerations that might influence the jurisdiction's pricing decision.

The City is currently developing a cost recovery policy addressing the following three primary components:

- Comprehensive fee study and CAP – Staff is recommending maintaining the current seven-year cycle.
- *Cost recovery target ranges* – Staff is recommending the following ranges:

Service Area	Cost Recovery Range
General	100%
Building	80-100%
Public Works	75-100%
Planning	50-80%
Recreation	Market-driven

- *Annual fee update/increase mechanism* – Continuing the City's current process, user fees (Schedules A-D) will be updated by CPI or to state-regulated limits.
- *Phase-in period* – fees with greater differences between current and full cost recovery rates will gradually increase over multiple years to reach full cost recovery.
- *Parks and Recreation Fees exclusion* – fees will be administratively updated per Resolutions No. 04-350, authorizing the City Manager to set all recreation fees.

#### Next Steps

City Staff will return to City Council in April with the Fiscal Year 2024-25 Proposed Fee Schedules (A-D) and Cost Recovery Policy for adoption.

Sustainability Impact

No sustainability impact.

Fiscal Impact

There is no direct fiscal impact from this agenda item. Adjustments that derive from the fee study may lead to increased revenue up to \$767,048 that could provide direct General Fund relief to the structural budget deficit.

California Environmental Quality Act

Not applicable.

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Prepared by: Jonathan Orozco, Finance Manager


Reviewed by: Kristina Alfaro, Director of Administrative Services

Approved for Submission by: Matt Morley, Assistant City Manager

Attachments:

A - Cost Allocation Plan

B - User Fee Study Final Report

<div><div><div>CITY OF</div><div></div><div>CUPERTINO</div></div><div><div>USER FEE COST</div><div>RECOVERY POLICY</div></div></div>	<div>Citywide Policy Manual</div>
	<div>Attachments: N/A</div>
<div><div>Effective Date:</div><div>July 14, 2024 per Resolution 24-XX</div></div>	<div><div>Responsible Department:</div><div>Administrative Services</div></div>
<div>Related Policies &amp; Notes:</div>	

### Purpose

To provide general guidelines for establishing and maintaining a comprehensive user fee schedule to ensure the City adequately recovers costs for the provision of services, benefits, or privileges (Services) in an efficient, legal, and accountable manner.

### Background

The City conducts comprehensive Cost Allocation Plans (CAP) and Fee Studies on a seven-year cycle to assess the alignment of current fees with the actual cost of providing each service. CAP establishes a data-driven methodology for distributing administrative and overhead charges to programs and services, while a Fee Study determines the full cost of services for which fees are charged. The most recent study, presented during the February 6, 2024, City Council Meeting, recommended the adoption of a formal cost recovery policy across all service sectors, including General, Engineering, Building, Planning, and Parks and Recreation. The CAP and Fee Study guided the crafting of the policy by City staff, aligning closely with Council directives and recommendations.

Between CAP and fee studies, the City adjusts fee schedules annually to reflect changes in the Consumer Price Index (CPI), the Bay Area Construction Cost Index (CCI), or changes in budgeted labor costs. These adjustments require annual review and approval by the City Council to ensure fees accurately reflect current service costs, accommodate new City services, and eliminate fees for discontinued services.

### Policy

The policy has three main components:

- Provision for ongoing review
- Process of establishing cost recovery levels
  - Factors to be Considered
- Target Cost Recovery Levels
  - General ranges
  - Target cost recovery by service area

### **Provision for ongoing review**

Fees will undergo annual reviews to ensure they remain aligned with changes in the cost of living and evolving methods or levels of service delivery. To facilitate an evidence-based approach to this review process, the City will conduct a CAP and Fee Study every seven years. During the interim periods, fee adjustments will be made based on annual cost factors, such as the Consumer Price Index (CPI), the Bay Area Construction Cost Index (CCI), or changes in budgeted labor costs.

Furthermore, should a significant fee increase be warranted after the completion of the study, the fee structure may be phased in over a period of 2-3 years to reach the desired cost recovery rate.

This proactive approach ensures that our fee structures remain fair, transparent, and reflective of current economic conditions and service standards.

### **Process of establishing user fee cost recovery levels**

The following factors will be considered when setting service fees and cost recovery levels:

1. Community-wide vs. private benefit
  - a. The use of general purpose revenue is appropriate for community-wide services while user fees are appropriate for services that are of private benefit to individuals or groups. Full cost recovery is not always appropriate.
2. Service recipient vs. service driver
  - a. Particularly for services associated with regulated activities (development review, code enforcement), from which the community eventually benefits, cost recovery from the "driver" of the need for the service (applicant, violator) is appropriate.
3. Consistency with City public policies and objectives
  - a. City policies and Council goals focused on long-term improvements to community quality of life may also impact desired fee levels, as fees can be used to change community behaviors, promote certain activities, or provide funding for the pursuit of specific community goals, for example, health and safety, environmental stewardship.
4. Impact on demand (elasticity)
  - a. Pricing of services can significantly impact demand. At full cost recovery, for example, the City is providing services for which there is a genuine market not over-stimulated by artificially low prices. Conversely, high-cost recovery may negatively impact lower-income groups, and this can work against public policy outcomes, especially if the services are specifically designed to serve particular groups.
5. Discounted Rates and Surcharges
  - a. Rates may be discounted to accommodate lower income groups or groups who are the target of the service, such as senior citizens or residents.
  - b. Higher rates are considered appropriate for non-residents to further reduce general fund subsidization of services.

## 6. Feasibility of Collection

- a. It may be impractical or too costly to establish a system to appropriately identify and charge each user for the specific services received. The method of assessing and collecting fees should be as simple as possible in order to reduce the administrative cost of collection.

### Target cost recovery levels

1. Low-cost recovery levels (0% - 30%) are appropriate if:
  - a. There is no intended relationship between the amount paid and the benefit received
  - b. Collecting fees is not cost-effective
  - c. There is no intent to limit the use of the service
  - d. The service is non-recurring
  - e. Collecting fees would discourage compliance with regulatory requirements
  - f. The public at large benefits even if they are not the direct users of the service
2. Services having factors associated with both cost recovery levels would be subsidized at a mid-level of cost recovery (31% - 80%).
3. High-cost recovery levels (81% - 100%) are appropriate if:
  - a. The individual user or participant receives the benefit of the service
  - b. Other private or public sector alternatives could or do provide the service
  - c. For equity or demand management purposes, it is intended that there be a direct relationship between the amount paid and the level and cost of the service received
  - d. The use of the service is specifically discouraged
  - e. The service is regulatory in nature

Schedule/Service Area	Target Cost Recovery Range
Schedule A – General	100%
Schedule B – Engineering (PW)	75-100%
Schedule C – Building	80-100%
Schedule D – Planning	50-80%
Schedule E – Recreation*	Market-driven

*\*Parks and Recreation Fees exclusion – fees will be administratively updated per Resolutions No. 04-350, authorizing the City Manager to set all recreation fees.*

### Revisions:





**RESOLUTION NO. 24-\_\_\_\_\_**

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL ADOPTING  
USER FEE COST RECOVERY POLICY**

WHEREAS, the Cupertino City Council has identified a need to adopt a policy governing general guidelines for establishing and maintaining a comprehensive user fee schedule to ensure the City adequately recovers costs for the provision of services, benefits, or privileges (Services) in an efficient, legal, and accountable manner; and

WHEREAS, on May 14, 2024, the City Council considered proposed policy at a duly noticed special meeting of the City Council.

NOW, THEREFORE, BE IT RESOLVED that:

1. The City Council hereby adopts the User Fee Cost Recovery Policy attached hereto as Exhibit A. The Policy shall be effective on July 14, 2024.

PASSED AND ADOPTED at a special meeting of the City Council of the City of Cupertino this 14<sup>th</sup> day of May, 2024, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED:  _____ Sheila Mohan, Mayor City of Cupertino	  _____ Date
ATTEST:  _____	  _____

Resolution No. \_\_\_\_\_

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Kirsten Squarcia, City Clerk	Date
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# CITY OF CUPERTINO

## Agenda Item

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**23-12761**

**Agenda Date: 5/14/2024**  
**Agenda #: 3.**

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Subject: Consider accepting the City's Investment Policy

**Adopt Resolution No. 24-042 accepting the City's Investment Policy**



## ADMINISTRATIVE SERVICES DEPARTMENT

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### CITY COUNCIL STAFF REPORT

Meeting: May 14, 2024

#### Subject

Consider the City's Investment Policy

#### Recommended Action

Adopt Resolution No. 24-XXX accepting the City's Investment Policy

#### Reasons for Recommendation

##### **Background**

To ensure the City's investment policy is up-to-date and aligned with its investment objectives, the Audit Committee conducts an annual review before presenting it to the City Council. The most recent review and acceptance of the investment policy by the Audit Committee occurred on April 22, 2024, and awaiting approval from the City Council on May 14, 2024.

The investment policy is the foundation of the City's investment goals and priorities. It can help protect the City's assets if it is carefully researched, effectively drafted, and regularly reviewed to ensure that it continues to meet the City's investment objectives. The existence of an approved investment policy demonstrates that the City is performing its fiduciary responsibilities, thereby inspiring trust and confidence among the public that it serves.

The policy also provides guidance on the proper management of the City's temporary idle cash, outlining protocols to maximize cash efficiency.

California Government Code (Code) section 53646(a)(2) states:

[T]he treasurer or chief fiscal officer of the local agency may annually render to the legislative body of that local agency and any oversight committee of that local agency a statement of investment policy, which the legislative body of the local agency shall consider at a public meeting. Any change in the policy shall also be considered by the legislative body of the local agency at a public meeting.

Assembly Bill 2853 (Chapter 889, Statutes of 2004) amended section 53646(a)(2) to make presentation of the investment policy to the City Council optional. While no longer required by Code, the City annually presents the investment policy to the Audit Committee before submitting it to City Council for approval.

### **Chandler Asset Management**

In FY 2018-19, the City conducted a Request for Proposal (RFP) for investment management services and selected Chandler Asset Management. Under the City's Treasurer's direction, Chandler Asset Management manages the City's investment portfolio in accordance with the City's investment objectives. The City's investment objectives, in order of priority, are to provide:

- Safety to ensure the preservation of capital in the overall portfolio
- Sufficient liquidity for cash needs
- A market rate of return consistent with the investment program

The performance objective is to earn a total rate of return through a market cycle equal to or above the return on the benchmark index. To achieve the objective, Chandler Asset Management invests in high-quality fixed-income securities consistent with the City's investment policy and Code.

### **Investment Policy Review**

Chandler Asset Management reviewed the City's investment policy. The review of the policy focused on compliance with the statutes of Code that govern the investment of public funds, as well as on the inclusion of current best practices.

There was a change to Code Section 53601 for 2023 that Chandler Asset Management recommends the City adopt. Pursuant to Senate Bill 1489, effective January 1, 2023, the Code specified that an investment's term or remaining maturity shall be measured from the settlement date to final maturity rather than from the trade date. Chandler Asset Management has added the change in the Maximum Maturities and Mitigating Market Risk in the Portfolio sections. The City's policy continues to be effective as written.

Additionally, language was included in the policy clarifying the Treasurer's existing authority for investing City funds as it relates to Government Code Section 53607.

Following the Audit Committee meeting on April 22, staff extended the effective date to encompass the entire Fiscal Year 2024-25. Moving forward, the Investment Policy will undergo review by the Audit Committee and subsequent approval by the City Council annually, with an effective date corresponding to the preceding fiscal year. This approach aligns with standard practices observed in other agencies and is consistent with the relevant municipal code.

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

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Prepared by: Jonathan Orozco, Finance Manager

Reviewed by: Kristina Alfaro, Director of Administrative Services and City Treasurer

Approved for Submission by: Matt Morley, Assistant City Manager


Attachments:

A – Cupertino Investment Policy (clean)

B – Cupertino Investment Policy (redline)

C – Cupertino Investment Policy Statement Review Memo

D – Draft Resolution

 <b>City Investment Policy</b>	<b>Citywide Policy Manual</b>
<b>Effective Date:</b> May 14, 2024 through June 30, 2025	<b>Attachments:</b> N/A
<b>Related Policies &amp; Notes:</b> Pension Investment Policy, OPEB Investment Policy	<b>Responsible Department:</b> Administrative Services

## POLICY

Under authority granted by the City Council, the City Treasurer and Deputy Treasurer are responsible for investing the surplus funds of the City.

The investment of the funds of the City of Cupertino is directed to the goals of safety, liquidity and yield. The authority governing investments for municipal governments is set forth in the California Government Code, Sections 53600 et seq. By adopting this Policy, the City Council delegates to the City Treasurer the authority to invest or to reinvest City funds, or to sell or exchange securities so purchased pursuant to Government Code Section 53607.

The primary objective of the investment policy of the City of Cupertino is SAFETY OF PRINCIPAL. Investments shall be placed in those securities as outlined by type and maturity sector in this document. Effective cash flow management and resulting cash investment practices are recognized as essential to good fiscal management and control. The City's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with state and local law. Portfolio management requires continual analysis and as a result the balance between the various investments and maturities may change in order to give the City of Cupertino the optimum combination of necessary liquidity and optimal yield based on cash flow projections.

## SCOPE

The investment policy applies to all financial assets of the City of Cupertino as accounted for in the Annual Comprehensive Financial Report (ACFR). Policy statements outlined in this document focus on the City of Cupertino's pooled, surplus funds, but will also apply to all other funds under the City Treasurer's span of control unless specifically exempted by statute or ordinance. This policy is applicable, but not limited to all funds listed below:

- General Fund
- Special Revenue Funds
- Capital Project Funds
- Enterprise Funds



- Internal Service Funds
- Trust and Agency Funds
- Any new fund unless specifically exempted

Investments of bond proceeds shall be governed by the provisions of the related bond indentures and/or cash flow requirements and therefore may extend beyond the maturity limitations as outlined in this document. Other post-employment benefit (OPEB) and Pension trust investments are governed by California Government Code Sections 53620 through 53622 and trust documents. The trusts are governed by separate investment policies entitled Investment Policy Statement City of Cupertino Investment Trust that were reviewed by the City of Cupertino Audit Committee on October 23, 2023 and City Council on December 5, 2023.

### PRUDENCE

Pursuant to California Government Code, Section 53600.3, all persons authorized to make investment decisions on behalf of the City are trustees and therefore fiduciaries subject to the Prudent Investor Standard:

“...all governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the Agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law.”

It is the City’s intent, at the time of purchase, to hold all investments until maturity to ensure the return of all invested principal dollars. However, it is realized that market prices of securities will vary depending on economic and interest rate conditions at any point in time. It is further recognized that in a well-diversified investment portfolio, occasional measured losses are inevitable due to economic, bond market, or individual security valuation fluctuations. These occasional losses must be considered within the context of the overall investment program objectives and the resultant long-term rate of return. The City Treasurer and Deputy Treasurer, acting within the intent and scope of the investment policy and other written procedures and exercising due diligence, shall be relieved of personal responsibility and liability for an individual security’s credit risk or market price changes, provided deviations from expectations are reported in a timely manner and appropriate action is taken to control adverse developments.

### OBJECTIVES

The primary objectives, in order of priority, of the City of Cupertino's investment activities shall be:

A. Safety of Principal

Safety of principal is the foremost objective of the City of Cupertino. Investments will be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, the City will diversify its investments by investing funds among a variety of securities with independent returns.

B. Liquidity

The City's investment portfolio will remain sufficiently liquid to meet all operating requirements which might be reasonably anticipated and provide the City with adequate cash flows to pay its obligations over the next six months. Additionally, the portfolio should consist largely of securities with active secondary resale markets.

C. Return

The City's investment portfolio shall be designed with the objective of attaining a rate of return throughout budgetary and economic cycles, commensurate with Cupertino's investment risk constraints and cash flow characteristics of the portfolio.

### MAXIMUM MATURITIES

Maturities of investments will be selected based on liquidity requirements to minimize interest rate risk and maximize earnings. Investment of surplus funds shall comply with the maturity limits as set forth in the California Government Code 53600, et seq. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security that at the time of the investment has a term remaining to maturity in excess of five years from date of trade settlement, unless the Council has granted express authority to make that investment either specifically or as a part of an investment program approved by the Council no less than three months prior to the investment. Reserve funds may be invested in securities exceeding five years if the maturity of such investments is made to coincide as nearly as practicable with the expected use of the funds.

### PERFORMANCE EVALUATION

Investment performance is continually monitored and evaluated by the City Treasurer. Investment performance statistics and activity reports are generated on a quarterly basis for presentation to the oversight (audit) committee, City Manager and City Council. Yield on the City's investment portfolio is of secondary importance compared to the safety and liquidity objectives described above. The City's investment portfolio shall be designed to attain a market average rate of return through economic cycles. The Treasurer shall monitor and evaluate the portfolio's performance relative to the chosen market benchmark(s), which will be included in the Treasurer's quarterly report. The Treasurer shall select an appropriate, readily available index to use as a market benchmark. Whenever possible, and consistent with risk limitations as defined herein and prudent investment principles, the Treasurer shall seek to augment return above the

market average rate of return. The City may select alternative benchmarks for identified pools of City funds that have different objectives.

#### DELEGATION OF AUTHORITY

Authority to manage the City's investment program is derived from California Government Code, Sections 41006 and 53600 et seq. The Treasurer is responsible for investment management decisions and activities per City Council Resolution.

The Treasurer shall designate a staff person as a liaison/deputy in the event circumstances require timely action and the Treasurer is not present.

No officer or designee may engage in an investment transaction except as provided under terms of this policy and the procedures by the Treasurer and approved by the City Manager/Council. The Treasurer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

If an investment adviser is retained by the City, the investment adviser, registered under the Investment Advisers Act of 1940, must have at least five years' experience investing in the securities and obligations authorized by California Government Code 53601 subdivisions (a) to (k), inclusive, and subdivisions (m) to (q), inclusive, and with assets under management in excess of five hundred million dollars (\$500,000,000). External investment advisers may be granted discretion to purchase and sell investment securities in accordance with this investment policy.

The City's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The City recognizes that in a diversified portfolio, occasional measured losses may be inevitable and must be considered within the context of the overall portfolio's return and the cash flow requirements of the City.

#### OVERSIGHT COMMITTEE

An audit committee consisting of appropriate internal and external members, appointed by the City Council, shall be established to provide general oversight and direction concerning the policies related to management of the City's investment pool, OPEB trust, and Pension Rate Stabilization Program trust. The City Treasurer shall serve in a staff and advisory capacity. The committee shall meet at least quarterly to review policy changes, new legislation and portfolio status.

#### ETHICS AND CONFLICTS OF INTEREST

Officers and employees involved in the investment process shall refrain from personal business activity that conflicts with proper execution of the investment program, or impairs their ability to make impartial investment decisions. Additionally the City Treasurer and the Deputy Treasurer are required to annually file applicable financial disclosures as required by the Fair Political Practices Commission (FPPC).

## SAFEKEEPING OF SECURITIES

To protect against fraud or embezzlement or losses caused by collapse of an individual securities dealer, all securities owned by the City shall be held in safekeeping by a third party custodian acting as agent for the City under the terms of a custody agreement. All trades executed by a dealer will settle delivery versus payment (DVP) through the City's safekeeping agent. In order to verify investment holdings, an external auditor, on an annual basis, shall independently verify securities held in custody for the City. Additionally, the City Treasurer shall include a listing of holdings provided by the City's custodian to the quarterly investment report as verification between annual reviews by the external auditor.

The only exceptions to the foregoing shall be depository accounts and securities purchases made with: (i) local government investment pools; (ii) time certificates of deposit, and, (iii) money mutual funds, since the purchased securities are not deliverable. All other exceptions to this safekeeping policy must be approved by the City Treasurer in written form and included in the quarterly report to City Council.

## INTERNAL CONTROL

Separation of duties between the Treasurer's function and Finance is designed to provide proper internal controls to prevent the potential for converting assets or concealing transactions. Dual transaction controls, separate and independent notifications, and reports provided by financial institutions shall be used to help implement these controls.

Wire transfers shall be approved prior to being submitted to the financial institution. Wire transfers initiated by Treasury staff must be reconfirmed by the appropriate financial institution to Finance staff. Proper documentation is required for each investment transaction and must include a broker trade confirmation and a cash disbursement wire transfer confirmation. Timely bank reconciliation is conducted to ensure proper handling of all transactions. The investment portfolio and all related transactions are reviewed and balanced to appropriate general ledger accounts by Finance staff on a monthly basis.

An annual agreed-upon procedures engagement in accordance with the attestation standards established by the American Institute of Certified Public Accountants shall be conducted by an auditor solely to assist management in determining the City's compliance with this investment policy. At the conclusion of such engagement, the agreed-upon procedures report detailing all procedures performed and findings noted (if applicable) shall be provided to the Audit Committee of the City.

## REPORTING

Monthly transaction reports will be submitted by the Treasurer to the City Council within 30 days of the end of the reporting period in accordance with California Government Code Section 53607.

The City Treasurer shall also prepare a quarterly investment report, including a succinct management summary that provides a clear picture of the status of the current investment portfolio. The report will be prepared in a manner that will report all information required under this policy and as recommended by California Government Code. The Treasurer will submit the report to Council no later than the second regular council meeting, or approximately 45 days following the end of the quarter covered by the report.

#### AUTHORIZED FINANCIAL INSTITUTIONS, DEPOSITORIES, AND QUALIFIED BROKER/DEALERS

To the extent practicable, the Treasurer shall endeavor to complete investment transactions using a competitive bid process whenever possible. The City's Treasurer will determine which financial institutions are authorized to provide investment services to the City. It shall be the City's policy to purchase securities only from authorized institutions and firms.

The Treasurer shall maintain procedures for establishing a list of authorized broker/dealers and financial institutions which are approved for investment purposes that are selected through a process of due diligence as determined by the City. Due inquiry shall determine whether such authorized broker/dealers, and the individuals covering the City are reputable and trustworthy, knowledgeable and experienced in Public Agency investing and able to meet all of their financial obligations. These institutions may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (uniform net capital rule).

In accordance with Section 53601.5, institutions eligible to transact investment business with the City include:

- Primary government dealers as designated by the Federal Reserve Bank and non-primary government dealers.
- Nationally or state-chartered banks.
- The Federal Reserve Bank.
- Direct issuers of securities eligible for purchase.

Selection of financial institutions and broker/dealers authorized to engage in transactions will be at the sole discretion of the City, except where the City utilizes an external investment adviser in which case the City may rely on the adviser for selection.

All financial institutions which desire to become qualified bidders for investment transactions (and which are not dealing only with the investment adviser) must supply the Treasurer with audited financials and a statement certifying that the institution has reviewed the California Government Code, Section 53600 et seq. and the City's investment policy. The Treasurer will conduct an annual review of the financial condition and registrations of such qualified bidders.

Public deposits will be made only in qualified public depositories as established by State law. Deposits will be insured by the Federal Deposit Insurance Corporation, or, to the extent the amount exceeds the insured maximum, will be collateralized in accordance with State law.

Selection of broker/dealers used by an external investment adviser retained by the City will be at the sole discretion of the adviser. Where possible, transactions with broker/dealers shall be selected on a competitive basis and their bid or offering prices shall be recorded. If there is no other readily available competitive offering, best efforts will be made to document quotations for comparable or alternative securities. When purchasing original issue instrumentality securities, no competitive offerings will be required as all dealers in the selling group offer those securities at the same original issue price.

### COLLATERAL REQUIREMENTS

CERTIFICATES OF DEPOSIT (CDS). The City shall require any commercial bank or savings and loan association to deposit eligible securities with an agency of a depository approved by the State Banking Department to secure any uninsured portion of a Non-Negotiable Certificate of Deposit. The value of eligible securities as defined pursuant to California Government Code, Section 53651, pledged against a Certificate of Deposit shall be equal to 150% of the face value of the CD if the securities are classified as mortgages and 110% of the face value of the CD for all other classes of security.

COLLATERALIZATION OF BANK DEPOSITS. This is the process by which a bank or financial institution pledges securities, or other deposits for the purpose of securing repayment of deposited funds. The City shall require any bank or financial institution to comply with the collateralization criteria defined in California Government Code, Section 53651.

REPURCHASE AGREEMENTS. The City requires that Repurchase Agreements be collateralized only by securities authorized in accordance with California Government Code:

- The securities which collateralize the repurchase agreement shall be priced at Market Value, including any Accrued Interest plus a margin. The Market Value of the securities that underlie a repurchase agreement shall be valued at 102% or greater of the funds borrowed against those securities.
- Financial institutions shall mark the value of the collateral to market at least monthly and increase or decrease the collateral to satisfy the ratio requirement described above.
- The City shall receive monthly statements of collateral.

### AUTHORIZED INVESTMENTS

Investment of City funds is governed by the California Government Code Sections 53600 et seq. Within the context of the limitations, the following investments are authorized, subject to the restrictions below. In the event a discrepancy is found between this policy and the Code, the more restrictive parameters will take precedence. Percentage holding limits listed in this section apply at the time the security is purchased.

Any investment currently held at the time the policy is adopted which does not meet the new policy guidelines can be held until maturity and shall be exempt from the current policy. At the time of the investment's maturity or liquidation, such funds shall be reinvested only as provided in the current policy.

An appropriate risk level shall be maintained by primarily purchasing securities that are of high quality, liquid, and marketable. The portfolio shall be diversified by security type and institution to avoid incurring unreasonable and avoidable risks regarding specific security types or individual issuers.

1. United States Treasury Bills, Bonds, and Notes or those for which the full faith and credit of the United States are pledged for payment of principal and interest. There is no percentage limitation of the portfolio that can be invested in this category, although a five-year maturity limitation is applicable.
2. Obligations issued by Federal agencies or United States Government-Sponsored Enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. There are no limits on the dollar amount or percentage that the City may invest in Federal Agency or Government-Sponsored Enterprises (GSEs), provided that:
  - No more than 25% of the portfolio may be invested in any single Agency/GSE issuer.
  - The maximum maturity does not exceed five (5) years.
  - The maximum percent of agency callable securities in the portfolio will be 20%.
3. Banker's Acceptances (bills of exchange or time drafts drawn on and accepted by commercial banks) may not exceed 180 days to maturity or 40% of the portfolio.
  - They are issued by institutions which have short-term debt obligations rated "A-1" or its equivalent or better by at least one NRSRO; or long-term debt obligations which are rated in a rating category of "A" or its equivalent or better by at least one NRSRO.
  - No more than 5% of the portfolio may be invested in any single issuer.
4. Local Agency Investment Fund (LAIF), which is a State of California managed investment pool, may be used up to the maximum permitted by California state law. LAIF's investments in instruments prohibited by or not specified in the City's policy do not exclude the investment in LAIF itself from the City's list of allowable investments, provided LAIF's reports allow the Treasurer to adequately judge the risk inherent in LAIF's portfolio..
5. Commercial paper issued by corporations organized and operating in the United States having assets in excess of \$500,000,000, ranked "A-1" or its equivalent or better by at least one Nationally Ranked Statistical Rating Organization (NRSRO), issued by corporations which have long-term obligations rated in a rating category of "A" or its equivalent or better by one NRSRO. Purchases of eligible commercial paper may not exceed 270 days to maturity nor represent more than 10% of the outstanding paper of the issuing corporation.

Purchases of commercial paper may not exceed 25% of the portfolio. Under a provision sunsetting on January 1, 2026, no more than 40% of the City's portfolio may be invested in Commercial Paper if the City's investment assets under management are greater than \$100,000,000. No more than 10% of the total investments may be invested in commercial paper and medium term notes of any single issuer.

6. Negotiable Certificates of Deposits issued by nationally or state-chartered banks, state or federal savings associations, or state or federal credit unions, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of Negotiable Certificates of Deposit may not exceed 30% of the portfolio. No more than 5% of the portfolio may be invested in any single issuer. A maturity limitation of five years is applicable. The amount of the NCD insured up to the FDIC limit does not require any credit ratings. Any amount above the FDIC insured limit must be issued by institutions which have short-term debt obligations rated "A-1" or its equivalent or better by at least one NRSRO; or long-term obligations rated in a rating category of "A" or its equivalent or better by at least one NRSRO.
7. Repurchase agreements that specify terms and conditions may be transacted with banks and broker dealers. The maturity of the repurchase agreements shall not exceed one year. The market value of the securities used as collateral for the repurchase agreements shall be monitored by the investment staff and shall not be allowed to fall below 102% of the value of the repurchase agreement. A PSA Master Repurchase Agreement is required between the City of Cupertino and the broker/dealer or financial institution for all repurchase agreements transacted.
8. Reverse repurchase agreements are not authorized.
9. Certificates of Deposit (time deposits), non-negotiable and collateralized in accordance with the California Government Code, may be purchased through banks, savings and loan associations, or credit unions. Within a limit of 30% of the portfolio, these institutions may use a private sector entity to assist in the placement of the time deposits under the conditions specified by the Government Code.
10. Medium Term Corporate Notes issued by corporations organized and operating in the United States or by depository institutions licensed by the United States or any state and operating within the United States, with a maximum maturity of five years may be purchased. Securities eligible for investment shall be rated in the rating category of "A" or better by at least one NRSRO. Purchase of medium term notes may not exceed 30% of the portfolio. No more than 10% of the total investments may be invested in the commercial paper and medium term notes of any single issuer.
11. Municipal securities, including obligations of the City, the State of California, and any local agency within the State of California, provided that:



- The securities are rated in a rating category of “A” or its equivalent or better by at least one NRSRO.
  - No more than 5% of the portfolio may be invested in any single issuer.
  - No more than 30% of the portfolio may be in Municipal Securities.
  - The maximum maturity does not exceed five (5) years.
12. Municipal securities (Registered Treasury Notes or Bonds) of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.
- The securities are rated in a rating category of “A” or its equivalent or better by at least one nationally recognized statistical rating organization (“NRSRO”).
  - No more than 5% of the portfolio may be invested in any single issuer.
  - No more than 30% of the portfolio may be in Municipal Securities.
  - The maximum maturity does not exceed five (5) years.
13. Asset-backed, mortgage-backed, mortgage pass-through securities, and collateralized mortgage obligations, provided that:
- The securities are rated in a rating category of “AA” or its equivalent or better by a NRSRO.
  - No more than 20% of the total portfolio may be invested in these securities.
  - No more than 5% of the portfolio may be invested in any single Asset-Backed or Commercial Mortgage security issuer. There is no issuer limitation on any Mortgage security where the issuer is the US Treasury or a Federal Agency/GSE.
  - The maximum legal final maturity does not exceed five (5) years.
14. Supranationals, provided that:
- Issues are US dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank.
  - The securities are rated in a rating category of “AA” or its equivalent or better by a NRSRO.
  - No more than 30% of the total portfolio may be invested in these securities.
  - No more than 10% of the portfolio may be invested in any single issuer.
  - The maximum maturity does not exceed five (5) years.

15. Various daily money market funds administered for or by trustees, paying agents and custodian banks contracted by the City of Cupertino may be purchased as allowed under State of California Government Code. Only funds holding U.S. Treasury obligations, Government agency obligations, or repurchase agreements collateralized by U.S. Treasury or Government agency obligations can be utilized and may not exceed 20% of the cost value of the portfolio.
16. Ineligible investments are those that are not described herein, including but not limited to, common stocks and long-term (over five years in maturity) notes and bonds are prohibited from use in this portfolio. It is noted that special circumstances arise that necessitate the purchase of securities beyond the five-year limitation. On such occasions, requests must be approved by City Council prior to purchase. Additionally:
- State law notwithstanding, any investments not specifically described herein are prohibited, including, but not limited to futures and options.
  - In accordance with Government Code, Section 53601.6, investment in inverse floaters, range notes, or mortgage derived interest-only strips is prohibited.
  - Investment in any security that could result in a zero-interest accrual if held to maturity is prohibited. Under a provision sunseting on January 1, 2026, securities backed by the U.S. Government that could result zero- or negative-interest accrual if held to maturity are permitted.
  - Trading securities for the sole purpose of speculating on the future direction of interest rates is prohibited.
  - Purchasing or selling securities on margin is prohibited.
  - The use of reverse repurchase agreements, securities lending or any other form of borrowing or leverage is prohibited.
  - The purchase of foreign currency denominated securities is prohibited.

## RISK MANAGEMENT AND DIVERSIFICATION

### Mitigating Credit Risk in the Portfolio

Credit risk is the risk that a security or a portfolio will lose some or all its value due to a real or perceived change in the ability of the issuer to repay its debt. The City will mitigate credit risk by adopting the following strategies:

The diversification requirements included in the “Authorized Investments” section of this policy are designed to mitigate credit risk in the portfolio.

- No more than 5% of the total portfolio may be deposited with or invested in securities issued by any single issuer unless otherwise specified in this policy.
- The City may elect to sell a security prior to its maturity and record a capital gain or loss in order to manage the quality, liquidity or yield of the portfolio in

response to market conditions or City's risk preferences.

- If the credit ratings of any security owned by the City are downgraded to a level below the quality required by this investment policy, it will be the City's policy to review the credit situation and make a determination as to whether to sell or retain such securities in the portfolio.
- If a security is downgraded, the Treasurer will use discretion in determining whether to sell or hold the security based on its current maturity, the economic outlook for the issuer, and other relevant factors.
- If a decision is made to retain a downgraded security in the portfolio, its presence in the portfolio will be monitored and reported monthly to the City Council.

### Mitigating Market Risk in the Portfolio

Market risk is the risk that the portfolio value will fluctuate due to changes in the general level of interest rates. The City recognizes that, over time, longer-term portfolios have the potential to achieve higher returns. On the other hand, longer-term portfolios have higher volatility of return. The City will mitigate market risk by providing adequate liquidity for short-term cash needs, and by making longer-term investments only with funds that are not needed for current cash flow purposes.

The City further recognizes that certain types of securities, including variable rate securities, securities with principal paydowns prior to maturity, and securities with embedded options, will affect the market risk profile of the portfolio differently in different interest rate environments. The City, therefore, adopts the following strategies to control and mitigate its exposure to market risk:

- The City will maintain a minimum of six months of budgeted operating expenditures in short term investments to provide sufficient liquidity for expected disbursements.
- The maximum stated final maturity of individual securities in the portfolio will be five (5) years as measured from trade settlement date, except as otherwise stated in this policy.
- The duration of the portfolio will generally be approximately equal to the duration (typically, plus or minus 20%) of a Market Benchmark, an index selected by the City based on the City's investment objectives, constraints and risk tolerances.

### DEPOSITS

To be eligible to receive local agency money, a bank, savings association, federal association, or federally insured industrial loan company shall have received an overall rating of not less than "satisfactory" in its most recent evaluation by the appropriate federal financial supervisory agency of its record of meeting the credit needs of California's communities.

### INTEREST EARNINGS

All moneys earned and collected from investments authorized in this policy shall be allocated monthly to various fund accounts based on the cash balance in each fund as a percentage of the entire pooled portfolio.

### REVIEW OF INVESTMENT PORTFOLIO

The Treasurer shall periodically, but no less than quarterly, review the portfolio to identify investments that do not comply with this investment policy and establish protocols for reporting major and critical incidences of noncompliance to the City Council.

### POLICY REVIEW

The City of Cupertino's investment policy shall be adopted by resolution of the City Council on an annual basis. This investment policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity, and yield, and its relevance to current law and financial and economic trends.

## GLOSSARY OF INVESTMENT TERMS

**AGENCIES.** Shorthand market terminology for any obligation issued by a government-sponsored entity (GSE), or a federally related institution. Most obligations of GSEs are not guaranteed by the full faith and credit of the US government. Examples are:

**FFCB.** The Federal Farm Credit Bank System provides credit and liquidity in the agricultural industry. FFCB issues discount notes and bonds.

**FHLB.** The Federal Home Loan Bank provides credit and liquidity in the housing market. FHLB issues discount notes and bonds.

**FHLMC.** Like FHLB, the Federal Home Loan Mortgage Corporation provides credit and liquidity in the housing market. FHLMC, also called “FreddieMac” issues discount notes, bonds and mortgage pass-through securities.

**FNMA.** Like FHLB and Freddie Mac, the Federal National Mortgage Association was established to provide credit and liquidity in the housing market. FNMA, also known as “Fannie Mae,” issues discount notes, bonds and mortgage pass-through securities.

**GNMA.** The Government National Mortgage Association, known as “Ginnie Mae,” issues mortgage pass-through securities, which are guaranteed by the full faith and credit of the US Government.

**PEFCO.** The Private Export Funding Corporation assists exporters. Obligations of PEFCO are not guaranteed by the full faith and credit of the US government.

**TVA.** The Tennessee Valley Authority provides flood control and power and promotes development in portions of the Tennessee, Ohio, and Mississippi River valleys. TVA currently issues discount notes and bonds.

**ASKED.** The price at which a seller offers to sell a security.

**ASSET BACKED SECURITIES.** Securities supported by pools of installment loans or leases or by pools of revolving lines of credit.

**AVERAGE LIFE.** In mortgage-related investments, including CMOs, the average time to expected receipt of principal payments, weighted by the amount of principal expected.

**BANKER’S ACCEPTANCE.** A money market instrument created to facilitate international trade transactions. It is highly liquid and safe because the risk of the trade transaction is transferred to the bank which “accepts” the obligation to pay the investor.

**BENCHMARK.** A comparison security or portfolio. A performance benchmark is a partial market index, which reflects the mix of securities allowed under a specific investment policy.

**BID.** The price at which a buyer offers to buy a security.

**BROKER.** A broker brings buyers and sellers together for a transaction for which the broker receives a commission. A broker does not sell securities from his own position.

**CALLABLE.** A callable security gives the issuer the option to call it from the investor prior to its maturity. The main cause of a call is a decline in interest rates. If interest rates decline since an issuer issues securities, it will likely call its current securities and reissue them at a lower rate of interest. Callable securities have reinvestment risk as the investor may receive its principal back when interest rates are lower than when the investment was initially made.

**CERTIFICATE OF DEPOSIT (CD).** A time deposit with a specific maturity evidenced by a certificate. Large denomination CDs may be marketable.

**CERTIFICATE OF DEPOSIT ACCOUNT REGISTRY SYSTEM (CDARS).** A private placement service that allows local agencies to purchase more than \$250,000 in CDs from a single financial institution (must be a participating institution of CDARS) while still maintaining FDIC insurance coverage. CDARS is currently the only entity providing this service. CDARS facilitates the trading of deposits between the California institution and other participating institutions in amounts that are less than \$250,000 each, so that FDIC coverage is maintained.

**COLLATERAL.** Securities or cash pledged by a borrower to secure repayment of a loan or repurchase agreement. Also, securities pledged by a financial institution to secure deposits of public monies.

**COLLATERALIZED MORTGAGE OBLIGATIONS (CMO).** Classes of bonds that redistribute the cash flows of mortgage securities (and whole loans) to create securities that have different levels of prepayment risk, as compared to the underlying mortgage securities.

**COMMERCIAL PAPER.** The short-term unsecured debt of corporations.

**COST YIELD.** The annual income from an investment divided by the purchase cost. Because it does not give effect to premiums and discounts which may have been included in the purchase cost, it is an incomplete measure of return.

**COUPON.** The rate of return at which interest is paid on a bond.

**CREDIT RISK.** The risk that principal and/or interest on an investment will not be paid in a timely manner due to changes in the condition of the issuer.

**CURRENT YIELD.** The annual income from an investment divided by the current market value. Since the mathematical calculation relies on the current market value rather than the investor's cost, current yield is unrelated to the actual return the investor will earn if the security is held to maturity.

**DEALER.** A dealer acts as a principal in security transactions, selling securities from and buying securities for his own position.

**DEBENTURE.** A bond secured only by the general credit of the issuer.

**DELIVERY VS. PAYMENT (DVP).** A securities industry procedure whereby payment for a security must be made at the time the security is delivered to the purchaser's agent.

**DERIVATIVE.** Any security that has principal and/or interest payments which are subject to uncertainty (but not for reasons of default or credit risk) as to timing and/or amount, or any security which represents a component of another security which has been separated from other components ("Stripped" coupons and principal). A derivative is also defined as a financial instrument the value of which is totally or partially derived from the value of another instrument, interest rate, or index.

**DISCOUNT.** The difference between the par value of a bond and the cost of the bond, when the cost is below par. Some short-term securities, such as T-bills and banker's acceptances, are known as discount securities. They sell at a discount from par, and return the par value to the investor at maturity without additional interest. Other securities, which have fixed coupons, trade at a discount when the coupon rate is lower than the current market rate for securities of that maturity and/or quality.

**DIVERSIFICATION.** Dividing investment funds among a variety of investments to avoid excessive exposure to any one source of risk.

**DURATION.** The weighted average time to maturity of a bond where the weights are the present values of the future cash flows. Duration measures the price sensitivity of a bond to changes in interest rates. (See modified duration).

**FEDERAL FUNDS RATE.** The rate of interest charged by banks for short-term loans to other banks. The Federal Reserve Bank through open-market operations establishes it.

**FEDERAL OPEN MARKET COMMITTEE.** A committee of the Federal Reserve Board that establishes monetary policy and executes it through temporary and permanent changes to the supply of bank reserves.

**LEVERAGE.** Borrowing funds in order to invest in securities that have the potential to pay earnings at a rate higher than the cost of borrowing.

**LIQUIDITY.** The speed and ease with which an asset can be converted to cash.

**LOCAL AGENCY INVESTMENT FUND (LAIF).** A voluntary investment fund open to government entities and certain non-profit organizations in California that is managed by the State Treasurer's Office.

**LOCAL GOVERNMENT INVESTMENT POOL.** Investment pools that range from the State Treasurer's Office Local Agency Investment Fund (LAIF) to county pools, to Joint Powers Authorities (JPAs). These funds are not subject to the same SEC rules applicable to money market mutual funds.

**MAKE WHOLE CALL.** A type of call provision on a bond that allows the issuer to pay off the remaining debt early. Unlike a call option, with a make whole call provision, the issuer makes a

lump sum payment that equals the net present value (NPV) of future coupon payments that will not be paid because of the call. With this type of call, an investor is compensated, or "made whole."

MARGIN. The difference between the market value of a security and the loan a broker makes using that security as collateral.

MARKET RISK. The risk that the value of securities will fluctuate with changes in overall market conditions or interest rates.

MARKET VALUE. The price at which a security can be traded.

MARKING TO MARKET. The process of posting current market values for securities in a portfolio.

MATURITY. The final date upon which the principal of a security becomes due and payable.

MEDIUM TERM NOTES. Unsecured, investment-grade senior debt securities of major corporations which are sold in relatively small amounts on either a continuous or an intermittent basis. MTNs are highly flexible debt instruments that can be structured to respond to market opportunities or to investor preferences.

MODIFIED DURATION. The percent change in price for a 100 basis point change in yields. Modified duration is the best single measure of a portfolio's or security's exposure to market risk.

MONEY MARKET. The market in which short-term debt instruments (T-bills, discount notes, commercial paper, and banker's acceptances) are issued and traded.

MORTGAGE PASS-THROUGH SECURITIES. A securitized participation in the interest and principal cash flows from a specified pool of mortgages. Principal and interest payments made on the mortgages are passed through to the holder of the security.

MUNICIPAL SECURITIES. Securities issued by state and local agencies to finance capital and operating expenses.

MUTUAL FUND. An entity which pools the funds of investors and invests those funds in a set of securities which is specifically defined in the fund's prospectus. Mutual funds can be invested in various types of domestic and/or international stocks, bonds, and money market instruments, as set forth in the individual fund's prospectus. For most large, institutional investors, the costs associated with investing in mutual funds are higher than the investor can obtain through an individually managed portfolio.

NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION (NRSRO).

A credit rating agency that the Securities and Exchange Commission in the United States uses for regulatory purposes. Credit rating agencies provide assessments of an investment's risk. The issuers of investments, especially debt securities, pay credit rating agencies to provide them with ratings. The three most prominent NRSROs are Fitch, S&P, and Moody's.



**NEGOTIABLE CD.** A short-term debt instrument that pays interest and is issued by a bank, savings or federal association, state or federal credit union, or state-licensed branch of a foreign bank. Negotiable CDs are traded in a secondary market and are payable upon order to the bearer or initial depositor (investor).

**PREMIUM.** The difference between the par value of a bond and the cost of the bond, when the cost is above par.

**PREPAYMENT SPEED.** A measure of how quickly principal is repaid to investors in mortgage securities.

**PREPAYMENT WINDOW.** The time period over which principal repayments will be received on mortgage securities at a specified prepayment speed.

**PRIMARY DEALER.** A financial institution (1) that is a trading counterparty with the Federal Reserve in its execution of market operations to carry out U.S. monetary policy, and (2) that participates for statistical reporting purposes in compiling data on activity in the U.S. Government securities market.

**PRUDENT PERSON (PRUDENT INVESTOR) RULE.** A standard of responsibility which applies to fiduciaries. In California, the rule is stated as "Investments shall be managed with the care, skill, prudence and diligence, under the circumstances then prevailing, that a prudent person, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims to accomplish similar purposes."

**REALIZED YIELD.** The change in value of the portfolio due to interest received and interest earned and realized gains and losses. It does not give effect to changes in market value on securities, which have not been sold from the portfolio.

**REGIONAL DEALER.** A financial intermediary that buys and sells securities for the benefit of its customers without maintaining substantial inventories of securities and that is not a primary dealer.

**REPURCHASE AGREEMENT.** Short-term purchases of securities with a simultaneous agreement to sell the securities back at a higher price. From the seller's point of view, the same transaction is a reverse repurchase agreement.

**SAFEKEEPING.** A service to bank customers whereby securities are held by the bank in the customer's name.

**STRUCTURED NOTE.** A complex, fixed income instrument, which pays interest, based on a formula tied to other interest rates, commodities or indices. Examples include inverse floating rate notes which have coupons that increase when other interest rates are falling, and which fall when other interest rates are rising, and "dual index floaters," which pay interest based on the relationship between two other interest rates - for example, the yield on the ten-year Treasury note minus the Libor rate. Issuers of such notes lock in a reduced cost of borrowing by purchasing interest rate swap agreements.

**SUPRANATIONAL.** A Supranational is a multi-national organization whereby member states transcend national boundaries or interests to share in the decision making to promote economic development in the member countries.

**TOTAL RATE OF RETURN.** A measure of a portfolio's performance over time. It is the internal rate of return, which equates the beginning value of the portfolio with the ending value; it includes interest earnings, realized and unrealized gains, and losses in the portfolio.

**U.S. TREASURY OBLIGATIONS.** Securities issued by the U.S. Treasury and backed by the full faith and credit of the United States. Treasuries are considered to have no credit risk, and are the benchmark for interest rates on all other securities in the US and overseas. The Treasury issues both discounted securities and fixed coupon notes and bonds.

**TREASURY BILLS.** All securities issued with initial maturities of one year or less are issued as discounted instruments, and are called Treasury bills. The Treasury currently issues three- and six-month T-bills at regular weekly auctions. It also issues "cash management" bills as needed to smooth out cash flows.

**TREASURY NOTES.** All securities issued with initial maturities of two to ten years are called Treasury notes, and pay interest semi-annually.

**TREASURY BONDS.** All securities issued with initial maturities greater than ten years are called Treasury bonds. Like Treasury notes, they pay interest semi-annually.

**VOLATILITY.** The rate at which security prices change with changes in general economic conditions or the general level of interest rates.

**YIELD TO MATURITY.** The annualized internal rate of return on an investment which equates the expected cash flows from the investment to its cost.


City Manager's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Director of Administrative Services' signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Revisions:**

 <b>City Investment Policy</b>	<b>Citywide Policy Manual</b>
<b>Effective Date:</b> May <del>16, 2023</del> 14, 2024 through June 30, 2025	<b>Attachments:</b> N/A
<b>Related Policies &amp; Notes:</b> Pension Investment Policy, OPEB Investment Policy	<b>Responsible Department:</b> Administrative Services

## POLICY

Under authority granted by the City Council, the City Treasurer and Deputy Treasurer are responsible for investing the surplus funds of the City.

The investment of the funds of the City of Cupertino is directed to the goals of safety, liquidity and yield. The authority governing investments for municipal governments is set forth in the California Government Code, Sections 53600 et seq. By adopting this Policy, the City Council delegates to the City Treasurer the authority to invest or to reinvest City funds, or to sell or exchange securities so purchased pursuant to Government Code Section 53607.

The primary objective of the investment policy of the City of Cupertino is SAFETY OF PRINCIPAL. Investments shall be placed in those securities as outlined by type and maturity sector in this document. Effective cash flow management and resulting cash investment practices are recognized as essential to good fiscal management and control. The City's portfolio shall be designed and managed in a manner responsive to the public trust and consistent with state and local law. Portfolio management requires continual analysis and as a result the balance between the various investments and maturities may change in order to give the City of Cupertino the optimum combination of necessary liquidity and optimal yield based on cash flow projections.

## SCOPE

The investment policy applies to all financial assets of the City of Cupertino as accounted for in the Annual Comprehensive Financial Report (ACFR). Policy statements outlined in this document focus on the City of Cupertino's pooled, surplus funds, but will also apply to all other funds under the City Treasurer's span of control unless specifically exempted by statute or ordinance. This policy is applicable, but not limited to all funds listed below:

- General Fund
- Special Revenue Funds
- Capital Project Funds
- Enterprise Funds

- Internal Service Funds
- Trust and Agency Funds
- Any new fund unless specifically exempted

Investments of bond proceeds shall be governed by the provisions of the related bond indentures and/or cash flow requirements and therefore may extend beyond the maturity limitations as outlined in this document. Other post-employment benefit (OPEB) and Pension trust investments are governed by California Government Code Sections 53620 through 53622 and trust documents. The trusts are governed by separate investment policies entitled Investment Policy Statement City of Cupertino Investment Trust that were reviewed by the City of Cupertino Audit Committee on October ~~24, 2022~~ 23, 2023 and City Council on December ~~6, 2022~~ 5, 2023.

## PRUDENCE

Pursuant to California Government Code, Section 53600.3, all persons authorized to make investment decisions on behalf of the City are trustees and therefore fiduciaries subject to the Prudent Investor Standard:

“...all governing bodies of local agencies or persons authorized to make investment decisions on behalf of those local agencies investing public funds pursuant to this chapter are trustees and therefore fiduciaries subject to the prudent investor standard. When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the Agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the Agency. Within the limitations of this section and considering individual investments as part of an overall strategy, investments may be acquired as authorized by law.”

It is the City’s intent, at the time of purchase, to hold all investments until maturity to ensure the return of all invested principal dollars. However, it is realized that market prices of securities will vary depending on economic and interest rate conditions at any point in time. It is further recognized that in a well-diversified investment portfolio, occasional measured losses are inevitable due to economic, bond market, or individual security valuation fluctuations. These occasional losses must be considered within the context of the overall investment program objectives and the resultant long-term rate of return. The City Treasurer and Deputy Treasurer, acting within the intent and scope of the investment policy and other written procedures and exercising due diligence, shall be relieved of personal responsibility and liability for an individual security’s credit risk or market price changes, provided deviations from expectations are reported in a timely manner and appropriate action is taken to control adverse developments.

## OBJECTIVES

The primary objectives, in order of priority, of the City of Cupertino's investment activities shall be:

A. Safety of Principal

Safety of principal is the foremost objective of the City of Cupertino. Investments will be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. To attain this objective, the City will diversify its investments by investing funds among a variety of securities with independent returns.

B. Liquidity

The City's investment portfolio will remain sufficiently liquid to meet all operating requirements which might be reasonably anticipated and provide the City with adequate cash flows to pay its obligations over the next six months. Additionally, the portfolio should consist largely of securities with active secondary resale markets.

C. Return

The City's investment portfolio shall be designed with the objective of attaining a rate of return throughout budgetary and economic cycles, commensurate with Cupertino's investment risk constraints and cash flow characteristics of the portfolio.

### MAXIMUM MATURITIES

Maturities of investments will be selected based on liquidity requirements to minimize interest rate risk and maximize earnings. Investment of surplus funds shall comply with the maturity limits as set forth in the California Government Code 53600, et seq. Where this section does not specify a limitation on the term or remaining maturity at the time of the investment, no investment shall be made in any security that at the time of the investment has a term remaining to maturity in excess of five years from date of trade settlement, unless the Council has granted express authority to make that investment either specifically or as a part of an investment program approved by the Council no less than three months prior to the investment. Reserve funds may be invested in securities exceeding five years if the maturity of such investments is made to coincide as nearly as practicable with the expected use of the funds.

### PERFORMANCE EVALUATION

Investment performance is continually monitored and evaluated by the City Treasurer. Investment performance statistics and activity reports are generated on a quarterly basis for presentation to the oversight (audit) committee, City Manager and City Council. Yield on the City's investment portfolio is of secondary importance compared to the safety and liquidity objectives described above. The City's investment portfolio shall be designed to attain a market average rate of return through economic cycles. The Treasurer shall monitor and evaluate the portfolio's performance relative to the chosen market benchmark(s), which will be included in the Treasurer's quarterly report. The Treasurer shall select an appropriate, readily available index to use as a market benchmark. Whenever possible, and consistent with risk limitations as defined herein and prudent investment principles, the Treasurer shall seek to augment return above the

market average rate of return. The City may select alternative benchmarks for identified pools of City funds that have different objectives.

#### DELEGATION OF AUTHORITY

Authority to manage the City's investment program is derived from California Government Code, Sections 41006 and 53600 et seq. The Treasurer is responsible for investment management decisions and activities per City Council Resolution.

The Treasurer shall designate a staff person as a liaison/deputy in the event circumstances require timely action and the Treasurer is not present.

No officer or designee may engage in an investment transaction except as provided under terms of this policy and the procedures by the Treasurer and approved by the City Manager/Council. The Treasurer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

If an investment adviser is retained by the City, the investment adviser, registered under the Investment Advisers Act of 1940, must have at least five years' experience investing in the securities and obligations authorized by California Government Code 53601 subdivisions (a) to (k), inclusive, and subdivisions (m) to (q), inclusive, and with assets under management in excess of five hundred million dollars (\$500,000,000). External investment advisers may be granted discretion to purchase and sell investment securities in accordance with this investment policy.

The City's overall investment program shall be designed and managed with a degree of professionalism that is worthy of the public trust. The City recognizes that in a diversified portfolio, occasional measured losses may be inevitable and must be considered within the context of the overall portfolio's return and the cash flow requirements of the City.

#### OVERSIGHT COMMITTEE

An audit committee consisting of appropriate internal and external members, appointed by the City Council, shall be established to provide general oversight and direction concerning the policies related to management of the City's investment pool, OPEB trust, and Pension Rate Stabilization Program trust. The City Treasurer shall serve in a staff and advisory capacity. The committee shall meet at least quarterly to review policy changes, new legislation and portfolio status.

#### ETHICS AND CONFLICTS OF INTEREST

Officers and employees involved in the investment process shall refrain from personal business activity that conflicts with proper execution of the investment program, or impairs their ability to make impartial investment decisions. Additionally the City Treasurer and the Deputy Treasurer are required to annually file applicable financial disclosures as required by the Fair Political Practices Commission (FPPC).

## SAFEKEEPING OF SECURITIES

To protect against fraud or embezzlement or losses caused by collapse of an individual securities dealer, all securities owned by the City shall be held in safekeeping by a third party custodian acting as agent for the City under the terms of a custody agreement. All trades executed by a dealer will settle delivery versus payment (DVP) through the City's safekeeping agent. In order to verify investment holdings, an external auditor, on an annual basis, shall independently verify securities held in custody for the City. Additionally, the City Treasurer shall include a listing of holdings provided by the City's custodian to the quarterly investment report as verification between annual reviews by the external auditor.

The only exceptions to the foregoing shall be depository accounts and securities purchases made with: (i) local government investment pools; (ii) time certificates of deposit, and, (iii) money mutual funds, since the purchased securities are not deliverable. All other exceptions to this safekeeping policy must be approved by the City Treasurer in written form and included in the quarterly report to City Council.

## INTERNAL CONTROL

Separation of duties between the Treasurer's function and Finance is designed to provide proper internal controls to prevent the potential for converting assets or concealing transactions. Dual transaction controls, separate and independent notifications, and reports provided by financial institutions shall be used to help implement these controls.

Wire transfers shall be approved prior to being submitted to the financial institution. Wire transfers initiated by Treasury staff must be reconfirmed by the appropriate financial institution to Finance staff. Proper documentation is required for each investment transaction and must include a broker trade confirmation and a cash disbursement wire transfer confirmation. Timely bank reconciliation is conducted to ensure proper handling of all transactions. The investment portfolio and all related transactions are reviewed and balanced to appropriate general ledger accounts by Finance staff on a monthly basis.

An annual agreed-upon procedures engagement in accordance with the attestation standards established by the American Institute of Certified Public Accountants shall be conducted by an auditor solely to assist management in determining the City's compliance with this investment policy. At the conclusion of such engagement, the agreed-upon procedures report detailing all procedures performed and findings noted (if applicable) shall be provided to the Audit Committee of the City.

## REPORTING

Monthly transaction reports will be submitted by the Treasurer to the City Council within 30 days of the end of the reporting period in accordance with California Government Code Section 53607.

The City Treasurer shall also prepare a quarterly investment report, including a succinct management summary that provides a clear picture of the status of the current investment portfolio. The report will be prepared in a manner that will report all information required under this policy and as recommended by California Government Code. The Treasurer will submit the report to Council no later than the second regular council meeting, or approximately 45 days following the end of the quarter covered by the report.

#### AUTHORIZED FINANCIAL INSTITUTIONS, DEPOSITORIES, AND QUALIFIED BROKER/DEALERS

To the extent practicable, the Treasurer shall endeavor to complete investment transactions using a competitive bid process whenever possible. The City's Treasurer will determine which financial institutions are authorized to provide investment services to the City. It shall be the City's policy to purchase securities only from authorized institutions and firms.

The Treasurer shall maintain procedures for establishing a list of authorized broker/dealers and financial institutions which are approved for investment purposes that are selected through a process of due diligence as determined by the City. Due inquiry shall determine whether such authorized broker/dealers, and the individuals covering the City are reputable and trustworthy, knowledgeable and experienced in Public Agency investing and able to meet all of their financial obligations. These institutions may include "primary" dealers or regional dealers that qualify under Securities and Exchange Commission (SEC) Rule 15c3-1 (uniform net capital rule).

In accordance with Section 53601.5, institutions eligible to transact investment business with the City include:

- Primary government dealers as designated by the Federal Reserve Bank and non-primary government dealers.
- Nationally or state-chartered banks.
- The Federal Reserve Bank.
- Direct issuers of securities eligible for purchase.

Selection of financial institutions and broker/dealers authorized to engage in transactions will be at the sole discretion of the City, except where the City utilizes an external investment adviser in which case the City may rely on the adviser for selection.

All financial institutions which desire to become qualified bidders for investment transactions (and which are not dealing only with the investment adviser) must supply the Treasurer with audited financials and a statement certifying that the institution has reviewed the California Government Code, Section 53600 et seq. and the City's investment policy. The Treasurer will conduct an annual review of the financial condition and registrations of such qualified bidders.

Public deposits will be made only in qualified public depositories as established by State law. Deposits will be insured by the Federal Deposit Insurance Corporation, or, to the extent the amount exceeds the insured maximum, will be collateralized in accordance with State law.



Selection of broker/dealers used by an external investment adviser retained by the City will be at the sole discretion of the adviser. Where possible, transactions with broker/dealers shall be selected on a competitive basis and their bid or offering prices shall be recorded. If there is no other readily available competitive offering, best efforts will be made to document quotations for comparable or alternative securities. When purchasing original issue instrumentality securities, no competitive offerings will be required as all dealers in the selling group offer those securities at the same original issue price.

### COLLATERAL REQUIREMENTS

CERTIFICATES OF DEPOSIT (CDS). The City shall require any commercial bank or savings and loan association to deposit eligible securities with an agency of a depository approved by the State Banking Department to secure any uninsured portion of a Non-Negotiable Certificate of Deposit. The value of eligible securities as defined pursuant to California Government Code, Section 53651, pledged against a Certificate of Deposit shall be equal to 150% of the face value of the CD if the securities are classified as mortgages and 110% of the face value of the CD for all other classes of security.

COLLATERALIZATION OF BANK DEPOSITS. This is the process by which a bank or financial institution pledges securities, or other deposits for the purpose of securing repayment of deposited funds. The City shall require any bank or financial institution to comply with the collateralization criteria defined in California Government Code, Section 53651.

REPURCHASE AGREEMENTS. The City requires that Repurchase Agreements be collateralized only by securities authorized in accordance with California Government Code:

- The securities which collateralize the repurchase agreement shall be priced at Market Value, including any Accrued Interest plus a margin. The Market Value of the securities that underlie a repurchase agreement shall be valued at 102% or greater of the funds borrowed against those securities.
- Financial institutions shall mark the value of the collateral to market at least monthly and increase or decrease the collateral to satisfy the ratio requirement described above.
- The City shall receive monthly statements of collateral.

### AUTHORIZED INVESTMENTS

Investment of City funds is governed by the California Government Code Sections 53600 et seq. Within the context of the limitations, the following investments are authorized, subject to the restrictions below. In the event a discrepancy is found between this policy and the Code, the more restrictive parameters will take precedence. Percentage holding limits listed in this section apply at the time the security is purchased.

Any investment currently held at the time the policy is adopted which does not meet the new policy guidelines can be held until maturity and shall be exempt from the current policy. At the time of the investment's maturity or liquidation, such funds shall be reinvested only as provided in the current policy.

An appropriate risk level shall be maintained by primarily purchasing securities that are of high quality, liquid, and marketable. The portfolio shall be diversified by security type and institution to avoid incurring unreasonable and avoidable risks regarding specific security types or individual issuers.

1. United States Treasury Bills, Bonds, and Notes or those for which the full faith and credit of the United States are pledged for payment of principal and interest. There is no percentage limitation of the portfolio that can be invested in this category, although a five-year maturity limitation is applicable.
2. Obligations issued by Federal agencies or United States Government-Sponsored Enterprise obligations, participations, or other instruments, including those issued by or fully guaranteed as to principal and interest by federal agencies or United States government-sponsored enterprises. There are no limits on the dollar amount or percentage that the City may invest in Federal Agency or Government-Sponsored Enterprises (GSEs), provided that:
  - No more than 25% of the portfolio may be invested in any single Agency/GSE issuer.
  - The maximum maturity does not exceed five (5) years.
  - The maximum percent of agency callable securities in the portfolio will be 20%.
3. Banker's Acceptances (bills of exchange or time drafts drawn on and accepted by commercial banks) may not exceed 180 days to maturity or 40% of the portfolio.
  - They are issued by institutions which have short-term debt obligations rated "A-1" or its equivalent or better by at least one NRSRO; or long-term debt obligations which are rated in a rating category of "A" or its equivalent or better by at least one NRSRO.
  - No more than 5% of the portfolio may be invested in any single issuer.
4. Local Agency Investment Fund (LAIF), which is a State of California managed investment pool, may be used up to the maximum permitted by California state law. LAIF's investments in instruments prohibited by or not specified in the City's policy do not exclude the investment in LAIF itself from the City's list of allowable investments, provided LAIF's reports allow the Treasurer to adequately judge the risk inherent in LAIF's portfolio..
5. Commercial paper issued by corporations organized and operating in the United States having assets in excess of \$500,000,000, ranked "A-1" or its equivalent or better by at least one Nationally Ranked Statistical Rating Organization (NRSRO), issued by corporations which have long-term obligations rated in a rating category of "A" or its equivalent or better by one NRSRO. Purchases of eligible commercial paper may not exceed 270 days to maturity nor represent more than 10% of the outstanding paper of the issuing corporation.

Purchases of commercial paper may not exceed 25% of the portfolio. Under a provision sunsetting on January 1, 2026, no more than 40% of the City's portfolio may be invested in Commercial Paper if the City's investment assets under management are greater than \$100,000,000. No more than 10% of the total investments may be invested in commercial paper and medium term notes of any single issuer.

6. Negotiable Certificates of Deposits issued by nationally or state-chartered banks, state or federal savings associations, or state or federal credit unions, or by a federally licensed or state-licensed branch of a foreign bank. Purchases of Negotiable Certificates of Deposit may not exceed 30% of the portfolio. No more than 5% of the portfolio may be invested in any single issuer. A maturity limitation of five years is applicable. The amount of the NCD insured up to the FDIC limit does not require any credit ratings. Any amount above the FDIC insured limit must be issued by institutions which have short-term debt obligations rated "A-1" or its equivalent or better by at least one NRSRO; or long-term obligations rated in a rating category of "A" or its equivalent or better by at least one NRSRO.
7. Repurchase agreements that specify terms and conditions may be transacted with banks and broker dealers. The maturity of the repurchase agreements shall not exceed one year. The market value of the securities used as collateral for the repurchase agreements shall be monitored by the investment staff and shall not be allowed to fall below 102% of the value of the repurchase agreement. A PSA Master Repurchase Agreement is required between the City of Cupertino and the broker/dealer or financial institution for all repurchase agreements transacted.
8. Reverse repurchase agreements are not authorized.
9. Certificates of Deposit (time deposits), non-negotiable and collateralized in accordance with the California Government Code, may be purchased through banks, savings and loan associations, or credit unions. Within a limit of 30% of the portfolio, these institutions may use a private sector entity to assist in the placement of the time deposits under the conditions specified by the Government Code.
10. Medium Term Corporate Notes issued by corporations organized and operating in the United States or by depository institutions licensed by the United States or any state and operating within the United States, with a maximum maturity of five years may be purchased. Securities eligible for investment shall be rated in the rating category of "A" or better by at least one NRSRO. Purchase of medium term notes may not exceed 30% of the portfolio. No more than 10% of the total investments may be invested in the commercial paper and medium term notes of any single issuer.
11. Municipal securities, including obligations of the City, the State of California, and any local agency within the State of California, provided that:

- The securities are rated in a rating category of “A” or its equivalent or better by at least one NRSRO.
  - No more than 5% of the portfolio may be invested in any single issuer.
  - No more than 30% of the portfolio may be in Municipal Securities.
  - The maximum maturity does not exceed five (5) years.
12. Municipal securities (Registered Treasury Notes or Bonds) of any of the other 49 states in addition to California, including bonds payable solely out of the revenues from a revenue-producing property owned, controlled, or operated by a state or by a department, board, agency, or authority of any of the other 49 states, in addition to California.
- The securities are rated in a rating category of “A” or its equivalent or better by at least one nationally recognized statistical rating organization (“NRSRO”).
  - No more than 5% of the portfolio may be invested in any single issuer.
  - No more than 30% of the portfolio may be in Municipal Securities.
  - The maximum maturity does not exceed five (5) years.
13. Asset-backed, mortgage-backed, mortgage pass-through securities, and collateralized mortgage obligations, provided that:
- The securities are rated in a rating category of “AA” or its equivalent or better by a NRSRO.
  - No more than 20% of the total portfolio may be invested in these securities.
  - No more than 5% of the portfolio may be invested in any single Asset-Backed or Commercial Mortgage security issuer. There is no issuer limitation on any Mortgage security where the issuer is the US Treasury or a Federal Agency/GSE.
  - The maximum legal final maturity does not exceed five (5) years.
14. Supranationals, provided that:
- Issues are US dollar denominated senior unsecured unsubordinated obligations issued or unconditionally guaranteed by the International Bank for Reconstruction and Development, International Finance Corporation, or Inter-American Development Bank.
  - The securities are rated in a rating category of “AA” or its equivalent or better by a NRSRO.
  - No more than 30% of the total portfolio may be invested in these securities.
  - No more than 10% of the portfolio may be invested in any single issuer.
  - The maximum maturity does not exceed five (5) years.

15. Various daily money market funds administered for or by trustees, paying agents and custodian banks contracted by the City of Cupertino may be purchased as allowed under State of California Government Code. Only funds holding U.S. Treasury obligations, Government agency obligations, or repurchase agreements collateralized by U.S. Treasury or Government agency obligations can be utilized and may not exceed 20% of the cost value of the portfolio.
16. Ineligible investments are those that are not described herein, including but not limited to, common stocks and long-term (over five years in maturity) notes and bonds are prohibited from use in this portfolio. It is noted that special circumstances arise that necessitate the purchase of securities beyond the five-year limitation. On such occasions, requests must be approved by City Council prior to purchase. Additionally:
  - State law notwithstanding, any investments not specifically described herein are prohibited, including, but not limited to futures and options.
  - In accordance with Government Code, Section 53601.6, investment in inverse floaters, range notes, or mortgage derived interest-only strips is prohibited.
  - Investment in any security that could result in a zero-interest accrual if held to maturity is prohibited. Under a provision sunseting on January 1, 2026, securities backed by the U.S. Government that could result zero- or negative-interest accrual if held to maturity are permitted.
  - Trading securities for the sole purpose of speculating on the future direction of interest rates is prohibited.
  - Purchasing or selling securities on margin is prohibited.
  - The use of reverse repurchase agreements, securities lending or any other form of borrowing or leverage is prohibited.
  - The purchase of foreign currency denominated securities is prohibited.

## RISK MANAGEMENT AND DIVERSIFICATION

### Mitigating Credit Risk in the Portfolio

Credit risk is the risk that a security or a portfolio will lose some or all its value due to a real or perceived change in the ability of the issuer to repay its debt. The City will mitigate credit risk by adopting the following strategies:

The diversification requirements included in the “Authorized Investments” section of this policy are designed to mitigate credit risk in the portfolio.

- No more than 5% of the total portfolio may be deposited with or invested in securities issued by any single issuer unless otherwise specified in this policy.
- The City may elect to sell a security prior to its maturity and record a capital gain or loss in order to manage the quality, liquidity or yield of the portfolio in

response to market conditions or City's risk preferences.

- If the credit ratings of any security owned by the City are downgraded to a level below the quality required by this investment policy, it will be the City's policy to review the credit situation and make a determination as to whether to sell or retain such securities in the portfolio.
- If a security is downgraded, the Treasurer will use discretion in determining whether to sell or hold the security based on its current maturity, the economic outlook for the issuer, and other relevant factors.
- If a decision is made to retain a downgraded security in the portfolio, its presence in the portfolio will be monitored and reported monthly to the City Council.

### Mitigating Market Risk in the Portfolio

Market risk is the risk that the portfolio value will fluctuate due to changes in the general level of interest rates. The City recognizes that, over time, longer-term portfolios have the potential to achieve higher returns. On the other hand, longer-term portfolios have higher volatility of return. The City will mitigate market risk by providing adequate liquidity for short-term cash needs, and by making longer-term investments only with funds that are not needed for current cash flow purposes.

The City further recognizes that certain types of securities, including variable rate securities, securities with principal paydowns prior to maturity, and securities with embedded options, will affect the market risk profile of the portfolio differently in different interest rate environments. The City, therefore, adopts the following strategies to control and mitigate its exposure to market risk:

- The City will maintain a minimum of six months of budgeted operating expenditures in short term investments to provide sufficient liquidity for expected disbursements.
- The maximum stated final maturity of individual securities in the portfolio will be five (5) years as measured from trade settlement date, except as otherwise stated in this policy.
- The duration of the portfolio will generally be approximately equal to the duration (typically, plus or minus 20%) of a Market Benchmark, an index selected by the City based on the City's investment objectives, constraints and risk tolerances.

### DEPOSITS

To be eligible to receive local agency money, a bank, savings association, federal association, or federally insured industrial loan company shall have received an overall rating of not less than "satisfactory" in its most recent evaluation by the appropriate federal financial supervisory agency of its record of meeting the credit needs of California's communities.

### INTEREST EARNINGS

All moneys earned and collected from investments authorized in this policy shall be allocated monthly to various fund accounts based on the cash balance in each fund as a percentage of the entire pooled portfolio.

### REVIEW OF INVESTMENT PORTFOLIO

The Treasurer shall periodically, but no less than quarterly, review the portfolio to identify investments that do not comply with this investment policy and establish protocols for reporting major and critical incidences of noncompliance to the City Council.

### POLICY REVIEW

The City of Cupertino's investment policy shall be adopted by resolution of the City Council on an annual basis. This investment policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity, and yield, and its relevance to current law and financial and economic trends.

## GLOSSARY OF INVESTMENT TERMS

**AGENCIES.** Shorthand market terminology for any obligation issued by a government-sponsored entity (GSE), or a federally related institution. Most obligations of GSEs are not guaranteed by the full faith and credit of the US government. Examples are:

**FFCB.** The Federal Farm Credit Bank System provides credit and liquidity in the agricultural industry. FFCB issues discount notes and bonds.

**FHLB.** The Federal Home Loan Bank provides credit and liquidity in the housing market. FHLB issues discount notes and bonds.

**FHLMC.** Like FHLB, the Federal Home Loan Mortgage Corporation provides credit and liquidity in the housing market. FHLMC, also called “FreddieMac” issues discount notes, bonds and mortgage pass-through securities.

**FNMA.** Like FHLB and Freddie Mac, the Federal National Mortgage Association was established to provide credit and liquidity in the housing market. FNMA, also known as “Fannie Mae,” issues discount notes, bonds and mortgage pass-through securities.

**GNMA.** The Government National Mortgage Association, known as “Ginnie Mae,” issues mortgage pass-through securities, which are guaranteed by the full faith and credit of the US Government.

**PEFCO.** The Private Export Funding Corporation assists exporters. Obligations of PEFCO are not guaranteed by the full faith and credit of the US government.

**TVA.** The Tennessee Valley Authority provides flood control and power and promotes development in portions of the Tennessee, Ohio, and Mississippi River valleys. TVA currently issues discount notes and bonds.

**ASKED.** The price at which a seller offers to sell a security.

**ASSET BACKED SECURITIES.** Securities supported by pools of installment loans or leases or by pools of revolving lines of credit.

**AVERAGE LIFE.** In mortgage-related investments, including CMOs, the average time to expected receipt of principal payments, weighted by the amount of principal expected.

**BANKER’S ACCEPTANCE.** A money market instrument created to facilitate international trade transactions. It is highly liquid and safe because the risk of the trade transaction is transferred to the bank which “accepts” the obligation to pay the investor.

**BENCHMARK.** A comparison security or portfolio. A performance benchmark is a partial market index, which reflects the mix of securities allowed under a specific investment policy.

**BID.** The price at which a buyer offers to buy a security.



**BROKER.** A broker brings buyers and sellers together for a transaction for which the broker receives a commission. A broker does not sell securities from his own position.

**CALLABLE.** A callable security gives the issuer the option to call it from the investor prior to its maturity. The main cause of a call is a decline in interest rates. If interest rates decline since an issuer issues securities, it will likely call its current securities and reissue them at a lower rate of interest. Callable securities have reinvestment risk as the investor may receive its principal back when interest rates are lower than when the investment was initially made.

**CERTIFICATE OF DEPOSIT (CD).** A time deposit with a specific maturity evidenced by a certificate. Large denomination CDs may be marketable.

**CERTIFICATE OF DEPOSIT ACCOUNT REGISTRY SYSTEM (CDARS).** A private placement service that allows local agencies to purchase more than \$250,000 in CDs from a single financial institution (must be a participating institution of CDARS) while still maintaining FDIC insurance coverage. CDARS is currently the only entity providing this service. CDARS facilitates the trading of deposits between the California institution and other participating institutions in amounts that are less than \$250,000 each, so that FDIC coverage is maintained.

**COLLATERAL.** Securities or cash pledged by a borrower to secure repayment of a loan or repurchase agreement. Also, securities pledged by a financial institution to secure deposits of public monies.

**COLLATERALIZED MORTGAGE OBLIGATIONS (CMO).** Classes of bonds that redistribute the cash flows of mortgage securities (and whole loans) to create securities that have different levels of prepayment risk, as compared to the underlying mortgage securities.

**COMMERCIAL PAPER.** The short-term unsecured debt of corporations.

**COST YIELD.** The annual income from an investment divided by the purchase cost. Because it does not give effect to premiums and discounts which may have been included in the purchase cost, it is an incomplete measure of return.

**COUPON.** The rate of return at which interest is paid on a bond.

**CREDIT RISK.** The risk that principal and/or interest on an investment will not be paid in a timely manner due to changes in the condition of the issuer.

**CURRENT YIELD.** The annual income from an investment divided by the current market value. Since the mathematical calculation relies on the current market value rather than the investor's cost, current yield is unrelated to the actual return the investor will earn if the security is held to maturity.

**DEALER.** A dealer acts as a principal in security transactions, selling securities from and buying securities for his own position.

**DEBENTURE.** A bond secured only by the general credit of the issuer.

**DELIVERY VS. PAYMENT (DVP).** A securities industry procedure whereby payment for a security must be made at the time the security is delivered to the purchaser's agent.

**DERIVATIVE.** Any security that has principal and/or interest payments which are subject to uncertainty (but not for reasons of default or credit risk) as to timing and/or amount, or any security which represents a component of another security which has been separated from other components ("Stripped" coupons and principal). A derivative is also defined as a financial instrument the value of which is totally or partially derived from the value of another instrument, interest rate, or index.

**DISCOUNT.** The difference between the par value of a bond and the cost of the bond, when the cost is below par. Some short-term securities, such as T-bills and banker's acceptances, are known as discount securities. They sell at a discount from par, and return the par value to the investor at maturity without additional interest. Other securities, which have fixed coupons, trade at a discount when the coupon rate is lower than the current market rate for securities of that maturity and/or quality.

**DIVERSIFICATION.** Dividing investment funds among a variety of investments to avoid excessive exposure to any one source of risk.

**DURATION.** The weighted average time to maturity of a bond where the weights are the present values of the future cash flows. Duration measures the price sensitivity of a bond to changes in interest rates. (See modified duration).

**FEDERAL FUNDS RATE.** The rate of interest charged by banks for short-term loans to other banks. The Federal Reserve Bank through open-market operations establishes it.

**FEDERAL OPEN MARKET COMMITTEE.** A committee of the Federal Reserve Board that establishes monetary policy and executes it through temporary and permanent changes to the supply of bank reserves.

**LEVERAGE.** Borrowing funds in order to invest in securities that have the potential to pay earnings at a rate higher than the cost of borrowing.

**LIQUIDITY.** The speed and ease with which an asset can be converted to cash.

**LOCAL AGENCY INVESTMENT FUND (LAIF).** A voluntary investment fund open to government entities and certain non-profit organizations in California that is managed by the State Treasurer's Office.

**LOCAL GOVERNMENT INVESTMENT POOL.** Investment pools that range from the State Treasurer's Office Local Agency Investment Fund (LAIF) to county pools, to Joint Powers Authorities (JPAs). These funds are not subject to the same SEC rules applicable to money market mutual funds.

**MAKE WHOLE CALL.** A type of call provision on a bond that allows the issuer to pay off the remaining debt early. Unlike a call option, with a make whole call provision, the issuer makes a

lump sum payment that equals the net present value (NPV) of future coupon payments that will not be paid because of the call. With this type of call, an investor is compensated, or "made whole."

MARGIN. The difference between the market value of a security and the loan a broker makes using that security as collateral.

MARKET RISK. The risk that the value of securities will fluctuate with changes in overall market conditions or interest rates.

MARKET VALUE. The price at which a security can be traded.

MARKING TO MARKET. The process of posting current market values for securities in a portfolio.

MATURITY. The final date upon which the principal of a security becomes due and payable.

MEDIUM TERM NOTES. Unsecured, investment-grade senior debt securities of major corporations which are sold in relatively small amounts on either a continuous or an intermittent basis. MTNs are highly flexible debt instruments that can be structured to respond to market opportunities or to investor preferences.

MODIFIED DURATION. The percent change in price for a 100 basis point change in yields. Modified duration is the best single measure of a portfolio's or security's exposure to market risk.

MONEY MARKET. The market in which short-term debt instruments (T-bills, discount notes, commercial paper, and banker's acceptances) are issued and traded.

MORTGAGE PASS-THROUGH SECURITIES. A securitized participation in the interest and principal cash flows from a specified pool of mortgages. Principal and interest payments made on the mortgages are passed through to the holder of the security.

MUNICIPAL SECURITIES. Securities issued by state and local agencies to finance capital and operating expenses.

MUTUAL FUND. An entity which pools the funds of investors and invests those funds in a set of securities which is specifically defined in the fund's prospectus. Mutual funds can be invested in various types of domestic and/or international stocks, bonds, and money market instruments, as set forth in the individual fund's prospectus. For most large, institutional investors, the costs associated with investing in mutual funds are higher than the investor can obtain through an individually managed portfolio.

NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION (NRSRO).

A credit rating agency that the Securities and Exchange Commission in the United States uses for regulatory purposes. Credit rating agencies provide assessments of an investment's risk. The issuers of investments, especially debt securities, pay credit rating agencies to provide them with ratings. The three most prominent NRSROs are Fitch, S&P, and Moody's.

**NEGOTIABLE CD.** A short-term debt instrument that pays interest and is issued by a bank, savings or federal association, state or federal credit union, or state-licensed branch of a foreign bank. Negotiable CDs are traded in a secondary market and are payable upon order to the bearer or initial depositor (investor).

**PREMIUM.** The difference between the par value of a bond and the cost of the bond, when the cost is above par.

**PREPAYMENT SPEED.** A measure of how quickly principal is repaid to investors in mortgage securities.

**PREPAYMENT WINDOW.** The time period over which principal repayments will be received on mortgage securities at a specified prepayment speed.

**PRIMARY DEALER.** A financial institution (1) that is a trading counterparty with the Federal Reserve in its execution of market operations to carry out U.S. monetary policy, and (2) that participates for statistical reporting purposes in compiling data on activity in the U.S. Government securities market.

**PRUDENT PERSON (PRUDENT INVESTOR) RULE.** A standard of responsibility which applies to fiduciaries. In California, the rule is stated as "Investments shall be managed with the care, skill, prudence and diligence, under the circumstances then prevailing, that a prudent person, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of like character and with like aims to accomplish similar purposes."

**REALIZED YIELD.** The change in value of the portfolio due to interest received and interest earned and realized gains and losses. It does not give effect to changes in market value on securities, which have not been sold from the portfolio.

**REGIONAL DEALER.** A financial intermediary that buys and sells securities for the benefit of its customers without maintaining substantial inventories of securities and that is not a primary dealer.

**REPURCHASE AGREEMENT.** Short-term purchases of securities with a simultaneous agreement to sell the securities back at a higher price. From the seller's point of view, the same transaction is a reverse repurchase agreement.

**SAFEKEEPING.** A service to bank customers whereby securities are held by the bank in the customer's name.

**STRUCTURED NOTE.** A complex, fixed income instrument, which pays interest, based on a formula tied to other interest rates, commodities or indices. Examples include inverse floating rate notes which have coupons that increase when other interest rates are falling, and which fall when other interest rates are rising, and "dual index floaters," which pay interest based on the relationship between two other interest rates - for example, the yield on the ten-year Treasury note minus the Libor rate. Issuers of such notes lock in a reduced cost of borrowing by purchasing interest rate swap agreements.

**SUPRANATIONAL.** A Supranational is a multi-national organization whereby member states transcend national boundaries or interests to share in the decision making to promote economic development in the member countries.

**TOTAL RATE OF RETURN.** A measure of a portfolio's performance over time. It is the internal rate of return, which equates the beginning value of the portfolio with the ending value; it includes interest earnings, realized and unrealized gains, and losses in the portfolio.

**U.S. TREASURY OBLIGATIONS.** Securities issued by the U.S. Treasury and backed by the full faith and credit of the United States. Treasuries are considered to have no credit risk, and are the benchmark for interest rates on all other securities in the US and overseas. The Treasury issues both discounted securities and fixed coupon notes and bonds.

**TREASURY BILLS.** All securities issued with initial maturities of one year or less are issued as discounted instruments, and are called Treasury bills. The Treasury currently issues three- and six-month T-bills at regular weekly auctions. It also issues "cash management" bills as needed to smooth out cash flows.

**TREASURY NOTES.** All securities issued with initial maturities of two to ten years are called Treasury notes, and pay interest semi-annually.

**TREASURY BONDS.** All securities issued with initial maturities greater than ten years are called Treasury bonds. Like Treasury notes, they pay interest semi-annually.

**VOLATILITY.** The rate at which security prices change with changes in general economic conditions or the general level of interest rates.

**YIELD TO MATURITY.** The annualized internal rate of return on an investment which equates the expected cash flows from the investment to its cost.

City Manager's signature: \_\_\_\_\_

Date: \_\_\_\_\_

Director of Administrative Services' signature: \_\_\_\_\_

Date: \_\_\_\_\_

**Revisions:**



April 18<sup>th</sup>, 2024

Ms. Kristina Alfaro  
Director of Administrative Services  
City of Cupertino

Dear Kristina,

The Chandler Team has completed our review of City of Cupertino's investment policy. Our review of the policy focused on compliance with the statutes of California Government Code (Code) that govern the investment of public funds, as well as on inclusion of current best practices. There were changes to Code for 2024, but the changes involve practices that the City already follows. No changes to the policy are needed for this year. The City's policy continues to be effective as written.

Please do not hesitate to contact us with any questions you may have, or if further review is needed.

Sincerely,

Carlos Oblites  
Senior Portfolio Strategist  
Chandler Asset Management

**RESOLUTION NO. 23-\_\_\_\_\_**

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL ACCEPTING THE  
CITY INVESTMENT POLICY**

WHEREAS, the City has available funds to invest in accordance with principles of sound treasury management; and

WHEREAS, the City invests funds in accordance with provisions of California Government Code Section 53600 et seq.; and

WHEREAS, the California Government Code requires a statement of investment policy to be reviewed and adopted by the City Council on at least an annual basis; and

WHEREAS, the City's Audit Committee reviewed and accepted the attached City Investment Policy on April 22, 2024.

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby accept the attached City Investment Policy dated May 7, 2024.

BE IT FURTHER RESOLVED that this Resolution is not a project under the requirements of the California Environmental Quality Act, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment. In the event that this Resolution is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility that the action approved may have a significant effect on the environment. CEQA applies only to actions which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the proposed action to accept the City's Investment Policy would have no or only a de minimis effect on the environment. The foregoing determination is made by the City Council in its independent judgment.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 7<sup>th</sup> day of May, 2024, by the following vote:

Resolution No. \_\_\_\_\_

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Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p>  <p>_____ Sheila Mohan, Mayor City of Cupertino</p>	<p>_____ Date</p>
<p>ATTEST:</p>  <p>_____ Kirsten Squarcia, City Clerk</p>	<p>_____ Date</p>