

Fourth Addendum to the 2014 Certified General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR

State Clearinghouse No. 2014032007

Prepared by the City of Cupertino



November 26, 2019

SECTION 1.0 INTRODUCTION AND PURPOSE

This Addendum to the Final Environmental Impact Report (“Final EIR”) for the City of Cupertino General Plan Amendment, Housing Element Update and Associated Rezoning (the “Final EIR project”) (State Clearinghouse Number 2014032007) addresses proposed clarifications to Park Land Dedication requirements in Chapter 13.08 of the Municipal Code and conforming amendments to portions of Chapter 18.24 (Subdivisions, Dedications and Reservations). The City of Cupertino certified the Final EIR in December 2014, adopted the General Plan in December 2014 with subsequent minor edits adopted in October 2015 and amendments adopted in 2019, and adopted the Housing Element in March 2015. The Final EIR analyzed land use alternatives that included citywide development allocations (as well as building heights and densities) for five Special Areas, seven Study Areas, and other Special Areas.

The purpose of this Addendum is to evaluate whether the proposed modifications to the Park Land Dedication requirements, which are described in Section 3.0 Proposed Changes in Circumstances Under which the Final EIR Project is Undertaken below, require major revisions to the Final EIR or a subsequent EIR due to new significant impacts or a substantial increase in the severity of significant impacts previously identified in the Final EIR. This Addendum has been prepared by the City of Cupertino as the Lead Agency, in conformance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the regulations and policies of the City of Cupertino. For the reasons articulated in this Addendum and based on substantial evidence in the record, the City concludes that no revised or subsequent EIR is required.

SECTION 2.0 STANDARD FOR PREPARATION OF AN ADDENDUM

CEQA Guidelines Section 15164 states that the lead agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary, but none of the conditions described in CEQA Guidelines Section 15162 calling for the preparation of a subsequent EIR have occurred.

CEQA Guidelines Section 15162 states that when an EIR has been certified for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:

- (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.

SECTION 3.0 PROPOSED CHANGE IN CIRCUMSTANCES UNDER WHICH THE FINAL EIR PROJECT IS UNDERTAKEN

The proposed amendments clarify the park land dedication requirements for the development of new residential units. The amendments are applicable to all developable property that would be developed with new residential units, with certain limited exceptions. A zoning map of the City showing residential zones is included in Figure 3-1.

The Final EIR analyzed future development in the City in all zoning districts. Much of the City is zoned primarily for single-family or low-density residential uses, with about 70% of the City comprised of single-family development. In 2014 and today, most of the City is already developed, with very few vacant properties. The Final EIR also recognized the significant challenges to redeveloping single family developments with multi-family uses. Therefore, most future development was anticipated to occur on in-fill sites. The overall residential development, analyzed in the Final EIR and certified in 2014, allowed for the development of up to 4,421 residential units at 2040 Build-out, the majority of which were anticipated to be in mixed-use, multi-family residential projects along major corridors within the City.

The Final EIR explained that while buildout of the Final EIR Project would cumulatively increase demand for parks and recreational services in the City, compliance with the City’s Municipal Code—including the park land dedication ordinance—“would ensure that adequate parklands and recreational facilities are provided . . . which would mitigate potential impacts that future development would have on park and recreation services in the city.”¹ Final EIR at 4.12-33.

¹ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Draft EIR*. SCH#

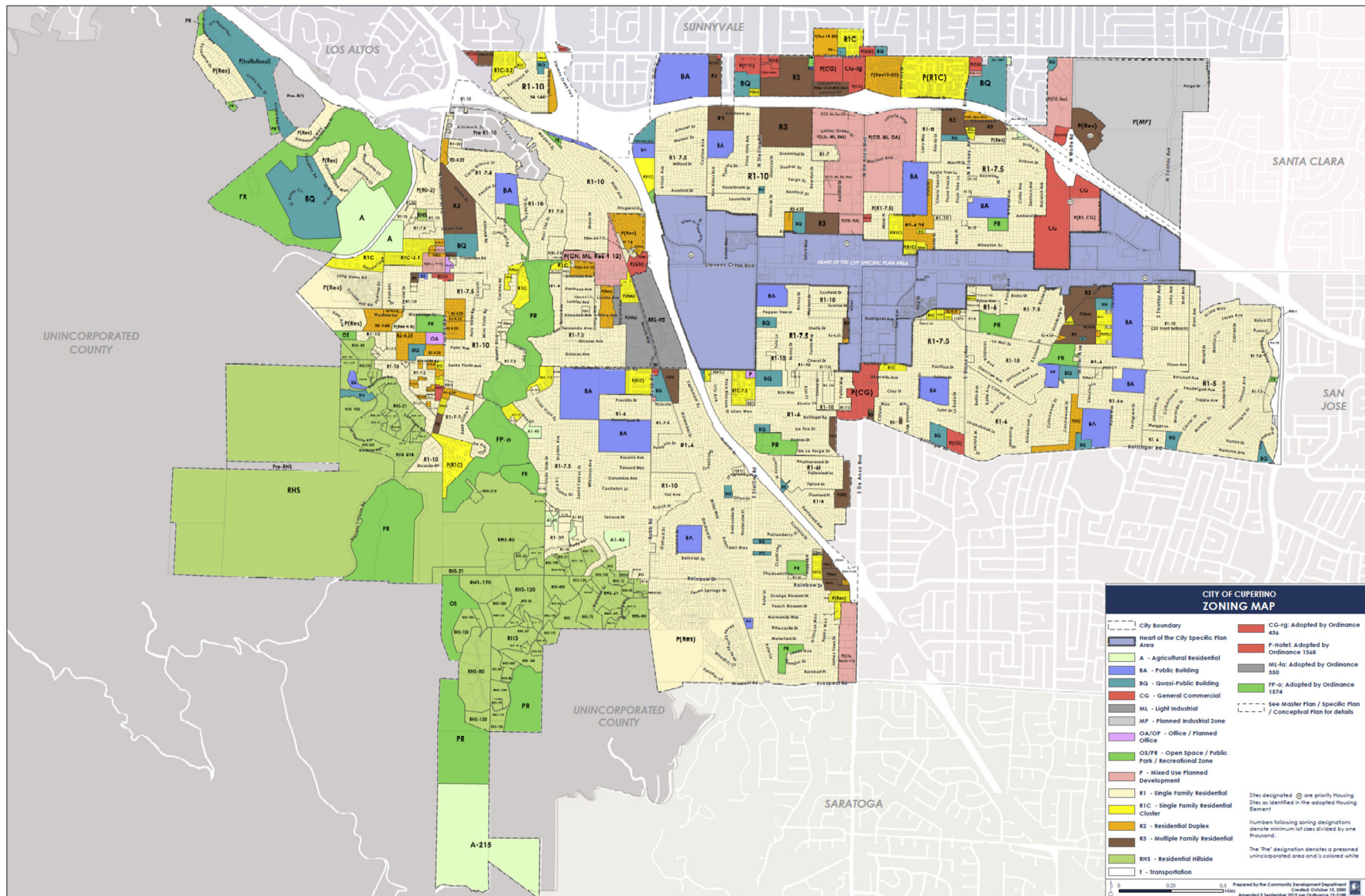
Consequently, the Final EIR concluded that the Final EIR Project would have less than significant impacts to park and recreational services.²

The City proposes clarifications to the park land dedication ordinance, Chapter 13.08 of the Municipal Code and conforming amendments to Chapter 18.24 (Dedications and Reservations for subdivisions). These amendments may be considered a change in the circumstances under which the Final EIR project is undertaken, given that the Final EIR relies on the park land dedication ordinance to evaluate the potential significance of City residential development. Specifically, the City proposes to adopt the following text amendments to the Municipal Code to clarify park land dedication regulations by providing express requirements to:

- Require park land dedications to be at the ground level and in fee simple ownership.
- Require park land dedications to be of a minimum size, width, and slope, as specified.
- Require park land dedications to be located adjacent to a street.
- Require private open space applied towards dedication credits to be accessible to all residents in the development, and other clarifying requirements.
- Add other minor clarifications to improve readability of the ordinance, to clarify existing standards and processes, to correct internal references and cross-references, and to ensure internal consistency.

2014032007. June 18, 2014. Page 4.12-33.

² City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Draft EIR*. SCH# 2014032007. June 18, 2014. Page 4.12-34.



ZONING MAP

FIGURE 3-1

SECTION 4.0 ENVIRONMENTAL IMPACTS OF THE PROPOSED CHANGE IN CIRCUMSTANCES UNDER WHICH THE FINAL EIR PROJECT IS UNDERTAKEN

The following discusses the potential effects on the physical environment from implementing the proposed change in circumstances under which the Final EIR project will be undertaken. This analysis has been prepared to determine whether any of the conditions in State CEQA Guidelines Section 15162 (described in Section 2.0 Standards for Preparation of an Addendum, above) would occur as a result of the proposed change in circumstances related to the park land dedication regulations.

4.1 SAME IMPACTS

The analyses in the Final EIR assumed that a majority of new development anticipated in the City would be infill development in mixed-use, multi-family developments as is evidenced in a review of the areas where the residential growth was planned.³ The Final EIR identified General Plan policies and programmatic mitigation measures to reduce the park and recreation impacts from development of multi-family uses in any of the areas that allow such development, including the park land dedication ordinance. The clarifications identified above, if adopted by the City Council as part of the proposed modifications, would not change the less-than-significant impact analyzed and disclosed in the Final EIR because the parkland dedication ordinance, as modified, together with the other requirements and policies identified in the Final EIR, would still adequately mitigate potential impacts that future development would have on park and recreation services. The proposed amendments do nothing to significantly change the application or effectiveness of the park land dedication ordinance or other policies. For this reason, the decision by the City Council as to clarify the park land dedication standards has no effect on the analysis or conclusions in the Final EIR.

The proposed change in circumstances would have no impacts to agriculture, forestry, or mineral resources, because those resources are not found within the City of Cupertino. The proposed change in circumstances, therefore, would not result in any new or substantially more severe significant impacts to agriculture, forestry, or mineral resources than were analyzed and disclosed in the Final EIR.

The proposed change in circumstances do not modify the assumption that infill, mixed-use multi-family development are anticipated within the Special Areas and major corridors. Clarifying the park land dedication standards for development within these areas would not cause a new significant impact or a substantial increase in the severity of the impacts analyzed and disclosed in the Final EIR. For this reason, the proposed change in circumstances would result in the same land use impacts as

³ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Response to Comments Document*. SCH# 2014032007. August 28, 2014. Page 3-29.

disclosed in the Final EIR, and would not result in any new or substantially more severe significant land use impacts than were analyzed and disclosed in the Final EIR.

The physical condition and characteristics of the properties within the City have not substantially changed since the certification of the Final EIR. The urban nature, trees, soil characteristics, seismic potential, and drainage on-site are in the same or similar condition as they were in 2014. The development facilitated by the proposed modifications to parkland dedication ordinance would take place in the same areas and result in the same area of ground disturbance as analyzed in the Final EIR. For this reason, the proposed change in circumstances would result in the same impacts to biological resources, cultural resources, geology and soils, hazards and hazardous materials, and hydrology and water quality as disclosed in the Final EIR and would not result in any new or substantially more severe significant impacts to these resources than were analyzed and disclosed in the Final EIR.

The number of residential units that could be built in the City would not be impacted by the proposed change in circumstances compared to the analysis contained in the Final EIR. The residential densities remain unchanged and no changes are proposed to the residential development allocation in the General Plan. The calculation of parkland dedication acreage and in lieu fee requirements remain unchanged. For this reason, the proposed change in circumstances would have the same population and housing impacts as disclosed in the Final EIR and would not result in any new or substantially more severe significant impacts to these resources than were analyzed and disclosed in the Final EIR.

Since no changes are proposed to the overall development program analyzed in the Final EIR, there would be no changes to the daily or peak hour vehicle trips. For this reason, the change in circumstances would not result in new or substantially more severe significant traffic impacts than were analyzed and disclosed in the Final EIR. In addition, there would be no changes to pollutant emissions, noise and vibration, and energy and utility demand compared to the analysis in the Final EIR.

The Final EIR project identifies height limitations and includes slope line criteria for development; these standards are not impacted by the proposed change in circumstances. Therefore, implementation of the proposed text amendments in the Municipal Code would not result in greater impacts to aesthetics, air quality, energy, greenhouse gas emissions, public services, recreation, transportation, and utilities and service systems than were analyzed and disclosed in the Final EIR because the amount of development analyzed remains the same.

The City does not anticipate that the proposed text amendments would result in reduced amounts of development as compared to the Final EIR Project. However, the Final EIR evaluated alternatives to

the Final EIR project that included reduced amounts of development,⁴ and concluded that these alternatives would result in essentially the same impacts as the Final EIR project.⁵

Table 4-1 summarizes the impacts of the proposed modifications to the Final EIR compared to Final EIR project.

⁴ The below table summarizes the citywide development amounts studied as the Final EIR project and alternatives analyzed in the Final EIR. Summary of Citywide Development Studied in the Final EIR.

	Final EIR Project	No Project	Land Use Alternative A	Land Use Alternative B
Office Square Footage	4,040,231	540,231	1,040,231	2,540,231
Commercial Square Footage	1,343,679	701,413	701,413	1,343,679
Hotel Rooms	1,339	339	600	839
Residential Units	4,421	1,895	1,895	3,316

Source: City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Draft EIR*. SCH# 2014032007. June 18, 2014. Page 2-5.

⁵ City of Cupertino. *General Plan Amendment, Housing Element Update and Associated Rezoning Draft EIR*. SCH# 2014032007. June 18, 2014. Page 5-5.

Table 4-1: Comparison of Impacts of the Final EIR Project and Proposed Modifications to the Final EIR Project			
	Compared to Impacts Disclosed in the Final EIR, the Impacts of the Proposed Modifications to the Final EIR Project would be:		
	Same	Lesser	New Significant or More Substantial
Aesthetics	X		
Agricultural and Forestry Resources	X		
Air Quality	X		
Biological Resources	X		
Cultural Resources	X		
Geology, Soils, and Seismicity	X		
Greenhouse Gas Emissions	X		
Hazards and Hazardous Materials	X		
Hydrology and Water Quality	X		
Land Use and Planning	X		
Mineral Resources	X		
Noise and Vibration	X		
Population and Housing	X		
Public Services and Recreation	X		
Transportation and Traffic	X		
Utilities and Service Systems	X		

SECTION 5.0 COMPARISON TO THE CONDITIONS LISTED IN CEQA GUIDELINES SECTION 15162

5.1 SUBSTANTIAL CHANGES TO THE PROJECT

The proposed changes to the park land dedication ordinance are not a change to the project analyzed in the Final EIR. Consequently, there are no substantial changes proposed in the Final EIR project that 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.

5.2 SUBSTANTIAL CHANGES IN CIRCUMSTANCES

As described above in Section 4.0, the proposed change in circumstances related to modifications to the park land dedication ordinance would not result in new significant environmental impacts beyond those identified in the Final EIR, would not substantially increase the severity of significant environmental effects identified in the Final EIR, and thus would not require major revisions to the Final EIR. The proposed change in circumstance, therefore, is not substantial and does not require major revisions to the Final EIR or a subsequent EIR.

In addition, the physical conditions within the City have not changed substantially since the certification of the Final EIR, although some structures have been improved and others have been demolished. Clarifying the applicable parkland standards for some of these modified sites do not result in a new significant environmental effect or a substantial increase in the severity of environmental effects identified in the Final EIR, and, thus, do not require major revisions to the Final EIR or a subsequent EIR.

5.3 NEW INFORMATION

No new information of substantial importance, which was not known and could not have been known when the Final EIR was certified, has been identified which shows that the proposed modifications to circumstances for the Final EIR project would be expected to result in: 1) new significant environmental effects not identified in the Final EIR; 2) substantially more severe environmental effects than shown in the Final EIR; 3) mitigation measures or alternatives previously determined to be infeasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project sponsor declines to adopt the mitigation or alternative; or 4) mitigation measures or alternatives which are considerably different from those identified in the Final EIR would substantially reduce one or more significant effects of the project but the project sponsor declines to adopt the mitigation measure or alternative.

SECTION 6.0 CONCLUSION

For the reasons stated above, and based on the analysis in the Final EIR and the existing conditions in the City, the City has concluded that the proposed change in circumstances would not result in any new impacts not previously identified in the Final EIR; nor would it result in a substantial increase in the severity of any significant environmental impact previously identified in the EIR. For these

reasons, a subsequent EIR is not required and an addendum to the Final EIR is the appropriate CEQA document to address the proposed amendments to the park land dedication ordinance.