



OFFICE OF COMMUNITY DEVELOPMENT

CITY HALL

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PLANNING COMMISSION STAFF REPORT

Agenda Date: November 14, 2017

SUBJECT

Tentative Map application to allow the subdivision of 3 parcels (approximately 1.06 acres) into 5 parcels – 4 residential and 1 common (private street), Tree Removal Permit to allow the removal and replacement of seven (7) protected trees and associated environmental review. (Application No(s): TM-2015-01, TR-2016-28 (EA-2015-04) Applicant: Welkin International (Cai Xing Xie); Location: 10234 Scenic Blvd., APN#357-08-014, 047)

RECOMMENDED ACTION

That the Planning Commission adopt resolutions (Attachment 1, 2 and 3) recommending that the City Council:

1. Adopt a Mitigated Negative Declaration and Mitigation Monitoring and Report Program prepared for the proposed project; and,
2. Approve the:
 - a. Tentative Map Application to allow the subdivision of 3 parcels (approximately 1.06 acres) into 5 parcels – 4 residential and 1 common (private road); and,
 - b. Tree Removal Permit to allow the removal and replacement of seven (7) protected trees.

DISCUSSION:

Project Data:

General Plan Planning Area	Monta Vista North Neighborhood
General Plan Designation	Low Density (1-5 DU/Ac.)
Zoning Designation	R1-7.5 (minimum lot size of 7,500 sq. ft.)
Total Gross Lot Area	45,533 sq. ft. (1.045 acres)
Total Net Lot Area	45,240 sq. ft. (1.039 acres) (excluding private road and dedications)
Proposed Lot Areas:	
Parcel 1:	7,512 (0.172 acres)

Parcel 2:	7,501 (0.172 acres)
Parcel 3:	7,500 (0.172 acres)
Parcel 4:	14,456 (0.322 acres)
Parcel 5 (private road):	8,264 (0.189 acres)
On-street Parking Provided	Two per lot
Project Consistency with:	
General Plan:	Yes
Zoning:	Yes
Environmental Assessment	Mitigated Negative Declaration

Background:

The project site encompasses three (3) legal lots that comply with the General Plan land use designation and Zoning – one that fronts Scenic Boulevard and two developable lots, sharing access by a common driveway, behind it. However, only one of the three lots is currently developed with a single-story single-family home. There are a few accessory structures located on one of the other two lots and the third lot is vacant. There are also 73 trees of varying species, size, and health on site. The property was owned by a single property owner for a number of decades and was sold in 2015 to the current property owner. This project necessitates the preparation of a Mitigated Negative Declaration (MND) in compliance with the California Environmental Quality Act (CEQA.)

The applicant, Lei Yuan of Welkin International, representing the current property owner, is seeking entitlements to subdivide three (3) parcels into five (5) parcels, four (4) residential and one (1) private street (See Attachment 4.)

The project site is located approximately 60 feet east of the intersection of Carmen Road and Scenic Boulevard in the Monta Vista North Neighborhood. The property is bounded by Single-Family Residential properties zoned R1-10 on the south, west and north, one property zoned R1-7.5 and the City-owned Blackberry Farm zoned Public Recreation (PR). In addition, a single-family cluster (R1C) development (The Meadows)



is located further east along Scenic Boulevard. Scenic Boulevard begins at Carmen Road, ends in a cul-de-sac with no through access, and serves approximately 20 single-family homes and an additional 28 homes in a cluster development. The properties on the east side of Carmen Road slope down toward Stevens Creek, which runs through Blackberry Farm in a north-south direction roughly parallel to Carmen Road.

Analysis:

General Plan Conformance

The properties have a General Plan Use Designation of Low Density (1-5 DU/Ac.). The existing gross lot area of the site is 45,533 square feet (1.045 acres.) The net lot area (gross lot area minus area of dedications, streets and drainage easements) of the site is 45,240 square feet (1.039 acres) with the residential parcels having an area of 0.85 acres. Therefore, the proposed density of the project based on the net lot area is approximately 4.24 dwelling units/acre. Because the project proposes four (4) residential units, the project is consistent with the General Plan land use designation.

Zoning

The project site was zoned R1-7.5 (Single-Family Residential with a minimum lot size of 7,500 square feet) in 1966. The proposed parcels will range in size from 7,500 square feet to 14,456 square feet, making the project consistent with the minimum lot size. Additionally, the resulting parcels are consistent with the other residential site development regulations for this zoning district, including requiring a minimum lot width of 60 feet measured at the front setback line.

Subdivision Design

The proposed project would create five (5) parcels where three (3) parcels currently exist. All of the existing structures on the site are proposed to be demolished prior to recordation of the final map. The project would result in the development of one additional parcel with access from Scenic Boulevard. Two (2) of the parcels will front Scenic Boulevard with access from the street, while the two (2) remaining parcels will obtain access via a private street. The proposed private street is located in the same location as an existing, unimproved, shared driveway that allows access to two (2) existing, legal, developable lots. The street is designed to be consistent with the Santa Clara County Fire Department standards for access for emergency and other vehicles. In addition, the project has been designed to maintain adequate site lines for driving distances.

A preliminary site plan has been prepared to show how future development on the site would comply with R1 development standards as well as providing all required on- and

off-street parking. Development of the homes are planned for a future time and all appropriate regulations will need to be met when plans are reviewed for permit review.

Geotechnical Analysis

Upon review of the geological stability of the sloped portion of the site, it was found that it needed to be further stabilized. This will be done by constructing retaining walls with drilled piers toward the top of the slope and drilled piers towards the base of the slope. Some of these improvements are shown as off-site improvements, however, a condition of approval has been added to ensure that the proposed drilled piers towards the base of the slope are relocated onto the project site. This has been further discussed in the geological analysis within Appendix A of Attachment 5. The height of each level of retaining wall has been limited to approximately six (6) feet in order to ensure that the mass of the retaining wall is minimized. Landscaping is required to be planted in front of the retaining wall to mask the mass and to provide screening for the walls.

Street Frontage Improvements

Currently, the paved portion of the street in front of the project site is approximately 21 feet wide. New curb and gutter and paving will be installed along the frontage of the property resulting in a 32-foot wide paved street. This will allow two (2) 12-foot wide lanes in each direction for vehicular access and eight (8) feet for on-street parallel parking on the south side of Scenic Boulevard for four (4) vehicles. While some of the properties further east of the project site are within the Stevens Creek Dam Failure Inundation zone, none of the properties are within the flood plain. In order to ensure clear signage in the event of dam failure, Scenic Boulevard has signage to direct people to higher ground (toward Carmen Road.) The project does not propose to remove any of the existing signage. Additionally, none of the proposed improvements or development conflicts with the City's adopted Stevens Creek Dam Failure Plan or any other adopted land use plan, however, it does improve access along Scenic Boulevard by widening the roadway at the project frontage.

Trees

The arborist report reviewed 73 trees on the site (See Attachment 6.) Trees on site are of varying species, size, and height. Of the 73 trees on site, 24 trees, most in direct conflict with the proposed building pads and driveway approaches for the proposed lots, are proposed to be removed by the project. Seven (7) of the 24 trees proposed to be removed are considered protected trees according to the City's Protected Trees ordinance. All seven (7) of the protected trees are Coast Live Oaks, which will be replaced with eleven (11) 24-inch box Coast Live Oak trees, consistent with the City's Ordinance.

Environmental Review

An Initial Study/Mitigated Negative Declaration (IS/MND) has been prepared for the proposed project. The Notice of Intent (NOI) to adopt the MND was placed in the newspaper and mailed to notify neighbors and interested parties that a Draft IS/MND has been prepared and available for review.

The Initial Study (Attachment 5) was presented before the Environmental Review Committee (ERC) at its meeting of October 19, 2017. The ERC voted unanimously to recommend adoption of the IS/MND prepared for the project in accordance with CEQA. Mitigation measures for the project will be added as conditions of approval to reduce the impacts of the project to a less than significant level. They include mitigations for:

- *Air Quality:* Construction shall comply with Bay Area Air Quality Management District (BAAQMD) Best Management Practices for reduction of construction emissions and during construction, the construction contractor(s) shall use construction equipment with Tier 3 Engines with Level 3 Diesel Particulate Filter (DPF) that meet the United States EPA Certified Tier 3 emissions standards for all equipment of 50 horsepower or more.
- *Biological Resources:* Nesting surveys will be required when nests of raptors and other birds are in active use as required by the Federal Migratory Bird Treaty Act and the California Department of Fish and Game.
- *Cultural Resources:* In the event that cultural resources or fossils are discovered during construction, all work shall be halted to determine significance of the discovery as well as necessary mitigations.
- *Geology and Soils:* The project shall be carried out in accordance with recommendations contained in the geotechnical investigations (Civil Plans modified to include final layout easements, and details of the proposed rock catchment fence, shear pen wall, and drainage mitigation measures, as well as the updated Civil Plans and Details to be reviewed by the Project Geotechnical Consultant).
- *Temporary Noise Impacts:* Construction shall comply with the City's Noise Ordinance and implement measures to reduce construction noise and vibration reducing equipment.

Comments were received from the public before, and during, the ERC hearing expressing concerns regarding impacts to the neighboring residences. Most of the comments were not directly related to the environmental effects of the proposed development and have been discussed further in the Public Noticing and Community Outreach section below.

The only comment received that was related to the environmental effects of the proposed project was regarding concerns about the traffic from the proposed project. As part of the environmental analysis, the IS/MND reviewed the traffic impacts associated with the project. The analysis estimated that the proposed project would result in three (3) AM peak hour trips and four (4) PM peak hour trips. This trip generation does not trigger any thresholds for additional traffic review and therefore, the project would have a less than significant impact on circulation (traffic.)

Other Department/Agency Review

The City's Public Works Department, Building Division, Cupertino Sanitary, and the Santa Clara County Fire Department reviewed the project and have no objections. Their pre-hearing comments/conditions have been incorporated as conditions of approval in the draft resolutions.

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

The City's collection and disposal service provider, Recology, has confirmed services can be provided to the development. However, the receptacles for the development must be placed on Scenic Boulevard. The City's Municipal Code requires that all trash containers be placed no more than 24-hours prior to the scheduled collection time, and are removed from the collection area within 12 hours after collection.

PUBLIC NOTICING AND COMMUNITY OUTREACH

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

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none">▪ Site Signage (<i>14 days prior to the hearing</i>)▪ Legal ad placed in newspaper (<i>at least 10 days prior to the hearing</i>)▪ 53 notices mailed to property owners within 300 feet (<i>at least 10 days prior to the hearing</i>)	<ul style="list-style-type: none">▪ Posted on the City's official notice bulletin board (<i>five days prior to the hearing</i>)▪ Posted on the City of Cupertino's Web site (<i>five days prior to the hearing</i>)

In addition to the standard noticing and information on the City's website, the applicant held two outreach meetings on November 5 with the property owners within 300 feet of

the project site in order to provide information to the neighbors, and to conduct public outreach. Eighteen people attended the meeting and voiced their concerns or were supportive of the project.

Staff received comments from neighbors and other interested members of the public. Their concerns and staff responses are summarized below:

- *Concern regarding the number of driveways proposed on Scenic Boulevard:* Currently, the project site has two (2) points of access. One driveway along Scenic Boulevard and a shared driveway that extends to the rear. As previously discussed, the project will result in three (3) points of access, a net increase of one (1). The proposed project is also improving the street conditions for this section of Scenic Boulevard and all improvements are being designed using the Department of Public Works' standards which address issues such as sight lines and distances.
- *Concerns regarding the proposed on-street parking and street width:* As discussed above, the paved portion of the street will be widened from approximately 21 feet to 32 feet. Twenty-four feet of the street will be for vehicular access, consistent with the travel lanes in other parts of the City, with the remaining eight (8) feet used as on-street parking along the project site.
- *Concerns regarding on-street parking for construction vehicles:* As with all construction projects, the applicant is required to prepare a construction management plan which includes a plan to ensure that construction vehicles are parked on the site to the maximum extent possible and that a construction manager be identified on signage on the construction fencing around the site to whom queries and complains regarding construction, including construction parking and noise, can be directed.
- *Concerns about the proposed Tree Removals:* The project will result in the removal of 24 trees on site. As noted above, only seven (7) of the trees proposed for removal are considered protected and will be replaced consistent with the City's ordinance. While the applicant is proposing removal of trees that are either in direct conflict with the proposed building pads, driveway access or in poor health, any of the other trees on the may be removed without permits from the City at any time.

PERMIT STREAMLINING ACT

The application is subject to the California Environmental Quality Act (CEQA), Guideline 15107, which states that the IS/MND must be adopted 180 days after the application is accepted as complete. Sixty days after adoption of the IS/MND, the lead agency must approve, disapprove or conditionally approve the project. In this case, the application and IS/MND are being concurrently presented. The application was deemed completed

on October 19, 2017. Therefore, final action on the project must be completed by April 17, 2018.

CONCLUSION

Staff recommends approval of the project. As detailed in the staff report and the attached resolution, the Project with the proposed conditions of approval address all relevant concerns related to the Project, and all the findings supporting approval of the Project are consistent with Chapter 18.16 and Chapter 14.18 of the Cupertino Municipal Code.

NEXT STEPS

The Commission's recommendations will be forwarded to the City Council for action. Staff will amend the draft resolution to be consistent with Planning Commission recommendation and present them for City Council consideration on December 19, 2017 hearing date. The City Council will review the IS/MND for adequacy and will exercise its independent judgement regarding adoption. The Council will also make a decision on the discretionary permits for the project which include the Tentative Map and Tree Removal permits.

Prepared by: Erick Serrano, Associate Planner

Reviewed by: Piu Ghosh, Principal Planner

Approved by: Benjamin Fu, Assistant Director of Community Development

ATTACHMENTS:

- 1 – Draft Resolution for EA-2015-04
- 2 - Draft Resolution TM-2015-01
- 3 – Draft Resolution for TR-2016-28
- 4 – Plan set
- 5 – ERC Recommendation, IS/MND including Technical Appendix
- 6 – Arborist Report