

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
RECOMMENDING ADOPTION OF A MITIGATED NEGATIVE
DECLARATION AND MITIGATION MONITORING AND REPORTING
PROGRAM FOR THE DEVELOPMENT OF A NEW FIVE (5) STORY, 185 ROOM
HOTEL WITH ASSOCIATED IMPROVEMENTS LOCATED AT
10801 AND 10805 NORTH WOLFE ROAD (APN: 316-45-017 AND 316-05-56)

The Planning Commission recommends that the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, in substantially similar form to the Draft Resolution attached hereto as Exhibit EA.

PASSED AND ADOPTED at a Regular Meeting of the Planning Commission of the City of Cupertino the 11th day of June 2019, by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

Benjamin Fu
Acting Dir. of Community Development

R "Ray" Wang
Chair, Planning Commission

RESOLUTION NO. _____

A RESOLUTION OF THE CUPERTINO CITY COUNCIL
ADOPTING A MITIGATED NEGATIVE DECLARATION AND MITIGATION
MONITORING AND REPORTING PROGRAM FOR THE DEVELOPMENT OF
A NEW FIVE (5) STORY, 185 ROOM HOTEL WITH ASSOCIATED
IMPROVEMENTS LOCATED AT 10801 AND 10805 NORTH WOLFE ROAD
(APN: 316-45-017 AND 316-05-56)

SECTION I: PROJECT DESCRIPTION

Application No.: EA-2017-05
Applicant: Kimco Realty (Michael Strahs)
Property Owner: Cupertino Village, LP
Location: 10801 and 10805 North Wolfe Road (APN: 316-45-017 and 316-05-56)

SECTION II: ENVIRONMENTAL REVIEW PROCESS

WHEREAS, the City of Cupertino received an application on December 8, 2017 for a General Plan Amendment, Development Permit, Development Agreement, Architectural and Site Approval, Use Permit, and Tree Removal permits to allow the development of a new 5-story, 185 room hotel with associated site and landscaping improvements, and associated environmental review ("Project"); and,

WHEREAS, pursuant to the provisions of the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 et seq.) ("CEQA") together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) (hereinafter, "CEQA Guidelines"), the City prepared an Initial Study and proposed Mitigated Negative Declaration for the Project ("IS/MND"); and

WHEREAS, the project is additionally described in the May 30, 2019 "The Cupertino Village Hotel Project" Final Draft Initial Study ("Draft IS/MND"); and

WHEREAS, on November 8, 2018 the City issued a Notice of Intent to Adopt a Mitigated Negative Declaration; and

WHEREAS, on November 8, 2018 the Draft IS/MND for the project was distributed to responsible agencies and the public for review and comment for a 30-day period that ended December 7, 2018; and

WHEREAS, the IS/MND concluded that significant environmental effects on Air Quality, Biological Resources, Cultural Resources, Noise, and Utilities and Service Systems would

be avoided or reduced to less-than-significant levels by mitigation measures (“MM”) identified in the IS/MND; and

WHEREAS, on December 13, 2018, prior to making any recommendation regarding the adoption of the Draft IS/MND, the City of Cupertino’s Environmental Review Committee held a duly noticed public hearing to receive public testimony where it reviewed and considered the information contained in the Draft IS/MND, and voted 5-0-0 to recommend that the City Council adopt the Draft IS/MND (EA-2017-06) and mitigation measures with their motion; and

WHEREAS, the changes made after publication of the IS/MND merely clarify, amplify or make insignificant modifications to the IS/MND, and recirculation of the IS/MND is not required; and

WHEREAS, for all comments received following the close of the public review and comment period, responses have been provided with staff reports;

WHEREAS, the comments received on the IS/MND, along with responses to these comments, are included in the staff report, summarized;

WHEREAS, the Planning Commission independently reviewed and considered the IS/MND together with the comments and the responses to those comments prior to taking action on the Project;

WHEREAS, the comments received by the Planning Commission do not require major revisions to the IS/MND due to new or substantially more severe significant effects on the environment; and

WHEREAS, on June 11, 2019 prior to taking action on the Project, the Planning Commission held a duly noticed public hearing to receive staff’s presentation and public testimony, and to further consider the information contained in the Final IS/MND, along with all staff reports, other pertinent documents, and all written and oral statements received prior to and at the public hearing;

WHEREAS, the City Council has independently reviewed and considered the IS/MND together with the comments and the responses to those comments prior to taking action on the Project;

WHEREAS, the comments received by the City Council do not require major revisions to the IS/MND due to new or substantially more severe significant effects on the environment; and

WHEREAS, on July 16, 2019 prior to taking action on the Project, the City Council held a duly noticed public hearing to receive staff’s presentation and public testimony, and to further consider the information contained in the Final IS/MND, along with all staff

reports, other pertinent documents, and all written and oral statements received prior to and at the public hearing;

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony, staff reports, public comments, and other evidence submitted in this matter, the City Council:

1. Finds that the Final IS/MND for the Project has been completed in compliance with CEQA and reflects the independent judgment and analysis of the City.
2. Finds that, on the basis of the whole record before it, there is no substantial evidence that the Project as proposed and mitigated will have a significant effect on the environment.
3. Adopts the Final Mitigated Negative Declaration (Final MND) for the Project.
4. Adopts the Mitigation Monitoring and Reporting Program for the Project, as amended, attached hereto as Exhibit EA-1, and incorporated herein by reference, which incorporates all the mitigation measures required under the Final MND. The Planning Commission further makes the mitigation measures required conditions of approval of the Project to the extent they are within the responsibility and jurisdiction of the City as summarized below:

a. AIR QUALITY

Mitigation Measure AQ-1: The project's construction contractor shall comply with the following Bay Area Air Quality Management District best management practices for reducing construction emissions of fugitive dust (PM₁₀ and PM_{2.5}):

- Water all active construction areas at least twice daily, or as often as needed to control dust emissions. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- Pave, apply water twice daily or as often as necessary to control dust, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- Sweep daily (with water sweepers using reclaimed water if possible) or as often as needed all paved access roads, parking areas and staging areas at the construction site to control dust.

- Sweep public streets daily (with water sweepers using reclaimed water if possible) in the vicinity of the project site, or as often as needed, to keep streets free of visible soil material.
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt/sand).
- Limit vehicle traffic speeds on unpaved roads to 15 miles per hour.
- Replant vegetation in disturbed areas as quickly as possible.
- Install sandbags or other erosion control measures to prevent silt runoff from public roadways.

Mitigation Measure AQ-2: Prior to issuance of any grading, demolition and/or building permits, the construction contractor(s) shall demonstrate the following, during construction, on all plans:

- The use of construction equipment fitted with Level 3 Diesel Particulate Filters for all equipment of 50 horsepower or more.
- Maintain a list of all operating equipment in use on the project site for verification by the City of Cupertino Building Division official or his/her designee. The construction equipment list shall state the makes, models, and number of construction equipment on-site. Equipment shall be properly serviced and maintained in accordance with manufacturer recommendations.
- Ensure that all nonessential idling of construction equipment is restricted to 5 minutes or less, which is in compliance with California Air Resources Board Rule 2449.
- Ensure that all construction plans submitted to the City of Cupertino Planning Department and/or Building Division clearly show the requirement for Level 3 Diesel Particulate Filters emissions standards for construction equipment over 50 horsepower.

b. BIOLOGICAL RESOURCES

Mitigation Measure 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 Fish and Game Code. The construction contractor shall indicate the following on all construction plans, if construction activities and any required tree removal occur during the breeding season (February 1 and August 31). Preconstruction surveys shall:

- Be conducted by a qualified biologist prior to tree removal or grading, demolition, or construction activities. Note that preconstruction surveys are not required for tree removal or construction, grading, or demolition activities outside the nesting period.

- Be conducted no more than 14 days prior to the start of tree removal or construction.
- Be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped.
- Document locations of active nests containing viable eggs or young birds.

Protective measures for active nests containing viable eggs or young birds shall be 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 the 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 passerines and other birds.
- Monitoring active nests within an exclusion zone on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status.
- An increase in the radius of an exclusion zone 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.

c. CULTURAL RESOURCES

Mitigation Measure CULT-1: If any prehistoric or historic subsurface cultural resources are discovered during ground-disturbing (including grading, demolition and/or construction) activities:

- All work within 50 feet of the resources shall be halted and a qualified archaeologist shall be consulted.
- If the resource is a non-tribal resource, the archaeologist shall to assess the significance of the find according to CEQA Guidelines Section 15064.5.
- If the resource is a tribal resource – whether historic or prehistoric – the City shall consult with the appropriate tribe(s) to evaluate the resource and determine appropriate avoidance, preservation or mitigation measures.
- If any find is determined to be significant, representatives from the City of Cupertino Building Department and the archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation.
- All significant non-tribal cultural materials recovered shall be, as necessary and at the discretion of the consulting archaeologist, subject to scientific analysis,

- professional museum curation, and documentation according to current professional standards.
- Where the materials are tribal, the City shall consult with the appropriate tribe(s) to determine what types of testing and preservation are acceptable.
 - In considering any suggested mitigation proposed by the consulting archaeologist to mitigate impacts to tribal cultural resources, historical resources or unique archaeological resources, the City, in consultation with the tribe(s) where appropriate, shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, proposed project design, costs, and other considerations.
 - If avoidance is infeasible, other appropriate measures (e.g., data recovery) would may be implemented.
 - Work may proceed on other parts of the project site while mitigation for tribal cultural resources, historical resources or unique archaeological resources is being carried out

Mitigation Measure CULT-2: The construction contractor shall incorporate the following in all grading, demolition, and construction plans:

- In the event that fossils or fossil-bearing deposits are discovered during grading, demolition, or building, excavations within 50 feet of the find shall be temporarily halted or diverted.
- The contractor shall notify the City of Cupertino Building Department and a City-approved qualified paleontologist to examine the discovery.
- The paleontologist shall document the discovery as needed, in accordance with Society of Vertebrate Paleontology standards (Society of Vertebrate Paleontology 1995), evaluate the potential resource, and assess the significance of the finding under the criteria set forth in CEQA Guidelines Section 15064.5.
- The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find.
- If the project applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project based on the qualities that make the resource important. The excavation plan shall be submitted to the City for review and approval prior to implementation.

d. TRIBAL CULTURAL RESOURCES

Mitigation Measure TCR-1: Implement Mitigation Measure CULT-1.

e. NOISE

Mitigation Measure NOISE-1: The following shall be incorporated in all demolition, grading, and construction plans, as required by the CMC, Construction activities shall take place only during daytime hours of 7:00 a.m. and 8:00 p.m. on weekdays, and 9:00 a.m. to 6:00 p.m. on weekends. In addition, the construction crew shall adhere to the following best management practices shall be observed:

- At least 90 days prior to the start of construction activities, all offsite businesses and residents within 300 feet of the project site will be notified of the planned construction activities. The notification will include a brief description of the project, the activities that would occur, the hours when construction would occur, and the construction period's overall duration. The notification should include 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.
- The project applicant and contractors will prepare a Construction Noise Control Plan prior to issuance of any grading, demolition, and/or building permits. The details of the Construction Noise Control Plan, including those details listed herein, will be included as part of the permit application drawing set and as part of the construction drawing set.
- At least 10 days prior to the start of construction activities, a sign will 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, he/she will investigate, take appropriate corrective action, and report the action to the City.
- During the entire active construction period, equipment and trucks used for project construction will utilize the best available noise control techniques (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds), wherever feasible.
- Include noise control requirements for equipment and tools, including concrete saws, to the maximum extent feasible. Such requirements could include, but are not limited to, erecting temporary plywood noise barriers between areas where concrete saws will be used and nearby sensitive receptors; performing work in a manner that minimizes noise; and undertaking the noisiest activities during times of least disturbance to nearby sensitive receptors.
- During the entire active construction period, stationary noise sources will be located as far from sensitive receptors as possible, and they will be muffled and

- enclosed within temporary sheds, or insulation barriers or other measures will be incorporated to the extent feasible.
- During the entire active construction period, noisy operations will be conducted simultaneously to the degree feasible in order to reduce the time periods of these operations.
 - 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.
 - 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.
 - 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 laws.

f. UTILITIES AND SERVICES MITIGATION MEASURE

Mitigation Measure UTIL-1: No building permits shall be issued by the City for the proposed Cupertino Village Hotel Project that would result in exceeding the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system. The project applicant may demonstrate, to the satisfaction of the City of Cupertino and Cupertino Sanitary District (CSD), that the proposed hotel 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:

1. Reduce inflow and infiltration in the CSD system to reduce peak wet weather flows; or
2. 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 proposed project's estimated wastewater generation shall be calculated using the generation rates used by the *San Jose-Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient* table in the May 2007, *City of Santa Clara Sanitary Sewer Capacity Assessment*, unless alternative (i.e., lower) generation rates

achieved by the proposed project are substantiated by the project applicant based on evidence to the satisfaction of the CSD.

PASSED AND ADOPTED this 16th day of July 2019, at a Regular Meeting of the City Council of the City of Cupertino, State of California, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

<p>SIGNED:</p> <p>_____</p> <p>Steven Scharf, Mayor City of Cupertino</p>	<p>_____</p> <p>Date</p>
<p>ATTEST:</p> <p>_____</p> <p>Grace Schmidt, City Clerk</p>	<p>_____</p> <p>Date</p>

Mitigation Monitoring and Reporting Program

Cupertino Village Hotel

10801 and 10805 North Wolfe Road,
APN#s: 316-45-017 and 316-05-056

May 2019

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p>Mitigation Measure AQ-1: The project's construction contractor shall comply with the following Bay Area Air Quality Management District best management practices for reducing construction emissions of fugitive dust (PM10 and PM2.5):</p> <ul style="list-style-type: none"> • Water all active construction areas at least twice daily, or as often as needed to control dust emissions. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible. • Pave, apply water twice daily or as often as necessary to control dust, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites. • Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer). • Sweep daily (with water sweepers using reclaimed water if possible) or as often as needed all paved access roads, parking areas and staging areas at the construction site to control dust. • Sweep public streets daily (with water sweepers using reclaimed water if possible) in the vicinity of the project site, or as often as needed, to keep streets free of visible soil material. • Hydroseed or apply non-toxic soil stabilizers to inactive construction areas. • Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt/sand). • Limit vehicle traffic speeds on unpaved roads to 15 miles per hour. 	<p>During the construction and post-construction phases, the project proponent shall be responsible for implementing these measures, including improvements.</p>	<p>Improvements related to these measures shall be printed on all construction documents, contracts, and project plans and shall be reviewed by the Director of Community Development and the Director of Public Work prior to the issuance of grading and/or building permits.</p>	<p>City of Cupertino Public Works and Building Departments</p>

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<ul style="list-style-type: none"> • Replant vegetation in disturbed areas as quickly as possible. • Install sandbags or other erosion control measures to prevent silt runoff from public roadways. 			
<p>Mitigation Measure AQ-2: Prior to issuance of any grading, demolition and/or building permits, the construction contractor(s) shall demonstrate the following, during construction, on all plans:</p> <ul style="list-style-type: none"> • The use of construction equipment fitted with Level 3 Diesel Particulate Filters for all equipment of 50 horsepower or more. • Maintain a list of all operating equipment in use on the project site for verification by the City of Cupertino Building Division official or his/her designee. The construction equipment list shall state the makes, models, and number of construction equipment on-site. Equipment shall be properly serviced and maintained in accordance with manufacturer recommendations. • Ensure that all nonessential idling of construction equipment is restricted to 5 minutes or less, which is in compliance with California Air Resources Board Rule 2449. • Ensure that all construction plans submitted to the City of Cupertino Planning Department and/or Building Division clearly show the requirement for Level 3 Diesel Particulate Filters emissions standards for construction equipment over 50 horsepower. 	Project proponent to ensure inclusion of these requirements in all contracts and permit documents. Prior to the issuance of any construction permit.	Provide documentation demonstrating compliance (i.e. specifications of vehicles and equipment) and on the construction drawings clearly show the requirement for Level 3 Diesel Particulate Filters emissions standards for construction equipment over 50 horsepower.	City of Cupertino Public Works and Building Departments
<p>Mitigation Measure 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 of Fish and Game Code. The construction contractor shall indicate the following on all construction plans, if construction activities and any required tree removal occur during the breeding season (February 1 and August 31). Preconstruction surveys shall:</p>	Project proponent to add this to all construction plans and contracts to ensure biologist conducts pre-construction surveys as required.	If grading and/or tree removal begins during the stated dates in the mitigation measure, A final report of nesting birds, including any	Community Development Department

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<ul style="list-style-type: none"> • Be conducted by a qualified biologist prior to tree removal or grading, demolition, or construction activities. Note that preconstruction surveys are not required for tree removal or construction, grading, or demolition activities outside the nesting period. • Be conducted no more than 14 days prior to the start of tree removal or construction. • Be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped. • Document locations of active nests containing viable eggs or young birds. <p>Protective measures for active nests containing viable eggs or young birds shall be implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds. Protective measures shall include:</p> <ul style="list-style-type: none"> • 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 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. • Monitoring active nests within an exclusion zone on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. • An increase in the radius of an exclusion zone 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. 		<p>protection measures, shall be submitted to the Director of Community Development prior to the start of demolition.</p>	

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<ul style="list-style-type: none"> 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. 			
<p>Mitigation Measure CULT-1: If any prehistoric or historic subsurface cultural resources are discovered during ground-disturbing (including grading, demolition and/or construction) activities:</p> <ul style="list-style-type: none"> All work within 50 feet of the resources shall be halted and a qualified archaeologist shall be consulted. If the resource is a non-tribal resource, the archaeologist shall to assess the significance of the find according to CEQA Guidelines Section 15064.5. If the resource is a tribal resource – whether historic or prehistoric – the City shall consult with the appropriate tribe(s) to evaluate the resource and determine appropriate avoidance, preservation or mitigation measures. If any find is determined to be significant, representatives from the City of Cupertino Building Department and the archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation. All significant non-tribal cultural materials recovered shall be, as necessary and at the discretion of the consulting archaeologist, subject to scientific analysis, professional museum curation, and documentation according to current professional standards. Where the materials are tribal, the City shall consult with the appropriate tribe(s) to determine what types of testing and preservation are acceptable. In considering any suggested mitigation proposed by the consulting archaeologist to mitigate impacts to tribal cultural resources, historical resources or unique archaeological resources, the City, in consultation with the 	<p>During site excavation, the project proponent shall be responsible for implementation of Archaeological monitoring. Monitoring shall be conducted during earthmoving activities by a qualified archaeologist. During construction, the project proponent and contractor shall be responsible for notification of any discoveries.</p>	<p>All archaeological monitoring and reporting measures shall be included in all construction documents, and construction management plans, contracts, and project plans and shall be reviewed by the Community Development Department</p>	<p>Community Development</p>

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p>tribe(s) where appropriate, shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, proposed project design, costs, and other considerations.</p> <ul style="list-style-type: none"> • If avoidance is infeasible, other appropriate measures (e.g., data recovery) would may be implemented. • Work may proceed on other parts of the project site while mitigation for tribal cultural resources, historical resources or unique archaeological resources is being carried out. 			
<p>Mitigation Measure CULT-2: The construction contractor shall incorporate the following in all grading, demolition, and construction plans:</p> <ul style="list-style-type: none"> • In the event that fossils or fossil-bearing deposits are discovered during grading, demolition, or building, excavations within 50 feet of the find shall be temporarily halted or diverted. • The contractor shall notify the City of Cupertino Building Department and a City-approved qualified paleontologist to examine the discovery. • The paleontologist shall document the discovery as needed, in accordance with Society of Vertebrate Paleontology standards (Society of Vertebrate Paleontology 1995), evaluate the potential resource, and assess the significance of the finding under the criteria set forth in CEQA Guidelines Section 15064.5. • The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. • If the project applicant determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project based on the qualities that make the resource important. The excavation plan shall 	<p>During site excavation, the project proponent shall be responsible for implementation of Archaeological monitoring. Monitoring shall be conducted during earthmoving activities by a qualified archaeologist. During construction, the project proponent and contractor shall be responsible for notification of any discoveries.</p>	<p>All archaeological monitoring and reporting measures shall be printed on all construction documents, contracts, and project plans and shall be reviewed by the Community Development Department</p>	<p>Community Development Department</p>

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
be submitted to the City for review and approval prior to implementation.			
Mitigation Measure TCR-1: Implement Mitigation Measure CULT-1.	During site excavation, the project proponent shall be responsible for implementation of Archaeological monitoring. Monitoring shall be conducted during earthmoving activities by a qualified archaeologist. During construction, the project proponent and contractor shall be responsible for notification of any discoveries.	All archaeological monitoring and reporting measures shall be printed on all construction documents, contracts, and project plans and shall be reviewed by the Director of Community Development	Director of Community Development
Mitigation Measure NOISE-1: The following shall be incorporated in all demolition, grading, and construction plans. Construction activities shall take place in compliance with CMC Chapter 10.48. In addition, the construction crew shall adhere to the following best management practices shall be observed: <ul style="list-style-type: none"> • At least 90 days prior to the start of construction activities, all offsite businesses and residents within 300 feet of the project site will be notified of the planned construction activities. The notification will include a brief description of the project, the activities that would occur, the hours when construction would occur, and the construction period's overall duration. The notification should include 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. • The project applicant and contractors will prepare a Construction Noise Control Plan prior to issuance of any 	At the construction phase, the project proponent and contractor shall be responsible for completing all improvements.	All attenuation measures shall be printed on construction documents, contracts, construction management plan, and project plans and reviewed by the Director of Public Works prior to issuance of grading and/or building permits.	Director of Public Works

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p>grading, demolition, and/or building permits. The details of the Construction Noise Control Plan, including those details listed herein, will be included as part of the permit application drawing set and as part of the construction drawing set.</p> <ul style="list-style-type: none"> • At least 10 days prior to the start of construction activities, a sign will 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, he/she will investigate, take appropriate corrective action, and report the action to the City. • During the entire active construction period, equipment and trucks used for project construction will utilize the best available noise control techniques (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds), wherever feasible. • Include noise control requirements for equipment and tools, including concrete saws, to the maximum extent feasible. Such requirements could include, but are not limited to, erecting temporary plywood noise barriers between areas where concrete saws will be used and nearby sensitive receptors; performing work in a manner that minimizes noise; and undertaking the noisiest activities during times of least disturbance to nearby sensitive receptors. • During the entire active construction period, stationary noise sources will be located as far from sensitive receptors as possible, and they will be muffled and enclosed within temporary sheds, or insulation barriers or other measures will be incorporated to the extent feasible. 			

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<ul style="list-style-type: none"> • During the entire active construction period, noisy operations will be conducted simultaneously to the degree feasible in order to reduce the time periods of these operations. • 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. • 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. • 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 laws. 			
<p>Mitigation Measure UTIL-1: No building permits shall be issued by the City for the proposed Cupertino Village Hotel Project that would result in exceeding the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system. The project applicant may demonstrate, to the satisfaction of the City of Cupertino and Cupertino Sanitary District (CSD), that the proposed hotel 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:</p>	<p>Prior to the issuance of any construction permit.</p>	<p>Demonstrate that the proposed hotel would not exceed the peak weather flow capacity of the Santa Clara sanitary sewer.</p>	<p>Department of Public Works and Cupertino Sanitary District</p>

Mitigation Measure	Timeframe and Responsibility for Implementation	Method of Compliance	Oversight of Implementation
<p>1. Reduce inflow and infiltration in the CSD system to reduce peak wet weather flows; or</p> <p>2. 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.</p> <p>The proposed project's estimated wastewater generation shall be calculated using the generation rates used by the San Jose-Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table in the May 2007, City of Santa Clara Sanitary Sewer Capacity Assessment, unless alternative (i.e., lower) generation rates achieved by the proposed project are substantiated by the project applicant based on evidence to the satisfaction of the CSD.</p>			