



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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ADMINISTRATIVE HEARING STAFF REPORT

Agenda Date: February 11, 2021

Subject

Tentative Parcel Map application to allow the subdivision of an existing 32,316 square feet (0.74 acre) residential lot into three residential lots ranging between 9,699 square feet and 11,928 square feet. (Application No(s): TM-2018-01, EA-2018-02; Applicant(s): Ray Chen (Lands of Qi); Location: 11226 Bubb Road APN: 362-06-036)

Recommended Action

That the Hearing Officer conduct the public hearing and in accordance with the draft resolutions:

1. Adopt the Mitigated Negative Declaration and incorporate the mitigation measures as conditions of approval of the project (Attachment 1) and
2. Approve the Tentative Parcel Map to subdivide the existing residential parcel into three new residential parcels (Attachment 2).

Discussion

Project Data:

General Plan Designation	Residential Low Density (1-5 DU/ac)		
General Plan Planning Area	South Monta Vista Neighborhood		
Zoning Designation	R1-7.5		
	Allowed	Existing	Proposed
Density	5 du/ac	1.35 du/ac	4.04 du/ac
Lot Size	32,316 sq. ft. (0.74 acres)		
Net lot Area	31,373 sq. ft. (0.72 acres)		
	Lot A	Lot B	Lot C
Gross Lot Area (includes street dedications)	10,335 sq. ft.	10,053 sq. ft.	11,928 sq. ft.
Net Square Feet (min. 7,500 sq. ft.)	9,746 sq. ft.	9,699 sq. ft.	11,928 sq. ft.
Lot Width (min. 60 feet)	83 ft.	63 ft.	74 ft.
Project Consistency with:			
General Plan:	Yes		
Zoning:	Yes		
Environmental Assessment	Mitigated Negative Declaration		

to accommodate required off-site improvements. These consist of a monolithic sidewalk along Krzich Place, a detached sidewalk along Bubba Road, curb, gutter, street trees, and pavement work. The resulting dedication reduces the existing lot size from 32,316 square feet to 31,373 square feet, with an approximately 943 square feet dedication.

The proposed lot widths are approximately 83 feet, 63 feet, and 74 feet, respectively, and meets the minimum lot widths of 60 feet as required in the Single Family (R1) ordinance Section 19.28.060(B). Lot A is proposed to be 9,746 square feet; Lot B is proposed to be approximately 9,699 square feet; and Lot C is proposed to be 11,928 square feet. All three proposed lots meet the minimum lot size of 7,500 square feet in the R1-7.5 single-family residential zoning district.

The proposed subdivision respects the existing neighborhood lot pattern as it proposes to create three new lots consistent in size and configuration to existing surrounding residential parcels.

Two (2) Two Story Permits were originally submitted concurrently with the Tentative Map application. However, these were withdrawn by the applicant in late 2019 since the property owners wished to focus on the tentative map application. Permits for residential development, including associated protected tree removal permits, will be submitted later, and minor adjustments to right-of-way improvements and required easements may be made at that time.

Environmental Review

Phase I and Phase II environment assessments and additional technical reports indicated elevated levels of lead, arsenic, and pesticides in samples taken from the site. The reports conclude these are most likely attributable to prior agricultural and gardening uses. Since this contamination can lead to adverse impacts if not corrected, an Initial Study and Mitigated Negative Declaration was prepared for the project (Attachment 4). The Mitigated Negative Declaration identifies mitigation measures, which have been added as conditions of approval to the draft resolutions, to reduce the potential environmental impacts of the project to less than significant levels, as follows:

- *Biological Resources:*
 - Nesting surveys consistent with the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code are required.
 - Protection measures for active nests under the direction of a qualified biologist during nesting season.
- *Hazards and Hazardous Materials:*
 - Grading plans to reflect the removal of soil within three feet of the structure's foundation to a depth of one foot, hauled off by a licensed hazardous waste

contractor and disposed in accordance to applicable federal, state, and local regulations.

- Grading plans to reflect the removal of soil underneath the foundation to a depth of one foot, hauled off by a licensed hazardous waste contractor and disposed in accordance to applicable federal, state, and local regulations.

On January 21, 2021, the Environmental Review Committee (ERC) recommended that a Mitigated Negative Declaration (EA-2018-02) was the appropriate environmental document for the project per the California Environmental Quality Act (CEQA) (Attachment 5).

Other Department/Agency Review

The City's Public Works Department, Building Division, Environmental Programs Division, County Fire Department, and Cupertino Sanitary have reviewed the project and have no objections. Their 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.

Public Noticing And Community Outreach

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

Notice of Public Hearing	Agenda
<ul style="list-style-type: none"> ▪ Site Signage (<i>at least 10 days prior to hearing</i>) ▪ 56 notices mailed to property owners adjacent to the project site (<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 hearing</i>) ▪ Posted on the City of Cupertino's Web site (<i>three days prior to hearing</i>)

As of the production of this staff report, staff has received one comment from a resident (Attachment 6). Their concerns and staff responses are summarized below:

The applicant should consider duplexes or low-density, multi-family housing instead of single-family homes: This application only considers approval for a tentative map to split the lot into three new zoning compliant parcels and the applicant does not propose development at this time. The issue was discussed with the applicant. However, since development of duplexes and other multi-family housing would require a General Plan Amendment, the

property owner was not interested in such development. It should be noted that single-family residential lots are allowed under state (and local) law to build up to three units: the primary residence, a junior accessory dwelling unit (JADU – a unit less than 500 sq. ft.), and an accessory dwelling unit (ADU).

Permit Streamlining Act

This matter is adjudicatory and is subject to the Permit Streamlining Act (Government Code Section 65920 – 65964). The City has complied with the deadlines found in the Permit Streamlining Act.

Project Received: January 10, 2018; ***Deemed Incomplete:*** February 9, 2018;

Project Resubmitted: September 30, 2019; ***Deemed Incomplete:*** October 30, 2019;

Project Resubmitted: January 31, 2020; ***Deemed Incomplete:*** February 28, 2020;

Project Resubmitted: May 31, 2020; ***Deemed Complete:*** June 30, 2020

Since the project involves a Mitigated Negative Declaration, the City has 180 days from the date of adoption of the Mitigated Negative Declaration to make a decision on the project.

Conclusion

Staff recommends approval of the Tentative Map because the project is consistent with the General Plan, subdivisions, and zoning ordinances, in accordance with Chapters 18.20 and 19.28 of the Cupertino Municipal Code. Additionally, all of the findings for approval of the proposed project, consistent with Chapter 18.20 of the Cupertino Municipal Code, may be made as follows:

- a. That the proposed subdivision map is consistent with the City of Cupertino General Plan.

The subject property is consistent with the General Plan since the property is permitted to have up to three dwelling units based on its land use designation of Low Density (1-5 DU/Ac.). The lot acreage will be consistent with the underlying single family residential standards proposed with a minimum lot square footage of 7,500 square feet. Adjacent land uses include similar developments. The proposed subdivision is compatible with the adjoining land uses and no physical constraints are present that would conflict with anticipated land use development.

- b. That the design and improvements of the proposed subdivision are consistent with the General Plan.

The off-site improvements proposed with the project are identical to the existing improvements adjacent to the subject site. These are consistent with the City's General Plan

policies related to pedestrian safety etc. by separating sidewalks from the street, minimizing curb-cuts and requiring an urban canopy within the public right-of-way.

- c. That the site is physically suitable for the type development contemplated under the approved subdivision.

The proposed subdivision is compatible with the adjoining land uses and no physical constraints are present that would conflict with anticipated land use development. There are no topographical anomalies that differentiate this property from adjacent properties. The site is located on the valley floor and the proposed three lot subdivision is typical of properties in the neighborhood.

- d. That the site is physically suitable for the intensity of development contemplated under the approved subdivision.

The subject property is physically suitable in size and shape in conformance with development standards and is appropriately configured to accommodate single-family dwelling units that can comply with the zoning development standards in Chapter 19.28.

- e. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish and wildlife or their habitat.

The proposed subdivision design and improvements are not likely to cause serious public health problems nor substantially injure fish and wildlife or their habitat because the property is a developed site, not in an ecologically sensitive area or the hillsides, but in an urbanized suburban area where residential land use is allowed.

- f. That the design of the subdivision or the type of improvements associated therewith are not likely to cause serious public health problems.

The proposed development is consistent with the existing adjacent residential development, and the on-site and off-site improvements improve neighborhood walkability through new detached sidewalk construction with size-appropriate driveway cuts and street and private trees planting.

- g. That the design of the subdivision and its associated improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

No easement or right-of-way exists currently that would be impeded or conflict with the proposed subdivision.

Next Steps

If approved, the permit will be effective 14 calendar days from the date of the hearing. The decision of the Administrative Hearing Officer is final, unless appealed within 14

calendar days from the date of the hearing. The applicant team may apply for permits and approval of a Final Map with the City at the end of the appeal period.

This approval is valid until February 11, 2023. The applicant team may apply for a one-time one-year extension before the approval expires.

Prepared by: Jeffrey Tsumura, Associate Planner
Reviewed and Approved for submission by: Piu Ghosh, Planning Manager

ATTACHMENTS

1. Draft Resolution for EA-2018-02
2. Draft Resolution for TM-2018-01
3. Plan Set
4. Initial Study/Mitigated Negative Declaration
5. ERC Recommendation
6. Public Comment