



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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ADMINISTRATIVE HEARING STAFF REPORT

Meeting Date: June 24, 2021

Subject

Architectural and Site Approval Permit to consider exterior and landscape alteration to an existing office building, and a Tree Removal Permit to allow the removal and replacement of 15 protected trees. (Application No(s): ASA-2021-001, TR-2021-021; Applicant: Brian Bolandi (Rubicon Point Partners); Location 10200 S. De Anza Blvd. and 10201 Torea Ave.: (APNs: 369-01-035, 369-01-995, 369-41-005)

Recommended Action

That the Hearing Officer adopt the draft resolutions (Attachments 1 and 2) to:

1. Find that the proposed actions are exempt from CEQA; and
2. Approve the Architectural and Site Approval Permit (ASA-2021-001) and the Tree Removal Permit (TR-2021-021).

Discussion

Project Data

General Plan Designation:	Commercial/Office/Residential	
Special Area:	City Center Node within Heart of the City Special Area	
Zoning Designation:	P(CG,OP,Res) Mixed Use Planned Development with General Commercial, Professional Office, Residential uses	
	Existing	Proposed
Lot Size:	56,235 sq. ft.	No change
Floor Area:	- 142,650 sq. ft. (total)	No change
	Maximum	Existing
Height:	45 feet	54 feet (<i>legal non-conforming and no change</i>)
Project Consistency with:		
General Plan:	Yes	
Zoning:	Yes	
Environmental Assessment:	Categorically Exempt per Section 15301 (Existing Facilities) of California Quality Act (CEQA)	

Background

The project site is located within the Cupertino City Center on the corner of Cali Avenue and South De Anza Blvd. The surrounding land use are a restaurant, hotel and office building to the north, residential apartments to the west, a commercial bank to the south, and a shopping center across South De Anza Blvd. to the east (see Figure 1).

The proposed project is limited to exterior landscape modifications with a window to door change in the interior facing portion of the building.

The Cupertino City Center sub-area is intended to continue as a predominantly mixed-use area with office, residential, and hotel, with public spaces and neighborhood centers to local residents. The existing site contains a four (4) story office building with underground parking and some common landscaped areas along the perimeter of the building. The common areas are owned and maintained by the Cupertino City Center Owners Association (CCC-OA).

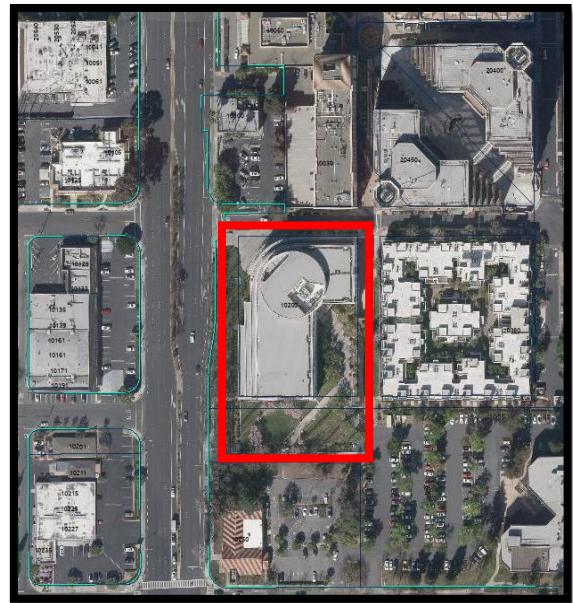


Figure 1: Project Area

Analysis

The applicant is requesting landscape improvements that include new outdoor gathering places, updated landscape areas, and proposes a modification at the rear of the building to replace existing windows with glass folding doors (see Attachment 3). To accommodate the proposed modifications, the applicant proposes the removal and replacement of 15 protected development trees.

The scope of work does not include any changes to existing uses, parking supply or demand, floor area, lot coverage, building height, or building color for the subject site and will not result in an increased intensity of the existing use. Therefore, only an Architectural and Site Approval permit is required for the proposed improvements.

Exterior Modifications

Building modifications: The east (rear) elevation contains several windows on the ground floor that are proposed to be replaced by three (3) folding doors (“nanawall”). Each folding door would measure approximately 9’6” by 26’8”. Figures 2 and 3 shows the

existing building exterior and the proposed change. The folding doors will allow for a transition between the office building and the outdoor space.



Figure 3: Existing Elevation



Figure 2: Proposed Elevation

The proposed project was submitted as the City implemented the new ordinance for Bird-Safe and Dark Sky Regulations, Cupertino Municipal Code (CMC) Chapter 19.102 Glass and Lighting Standards. The project will be required to implement bird-safe treatments as applicable to the project, which shall be verified prior to issuance of building permits.

Site Features: As part of the project, the applicant proposes to install various outdoor features, such as, several types of seating areas, planter boxes with seat areas, and different outdoor furniture throughout the site. Sheet L1.01 shows the location of the outdoor seating areas, and Sheet L1.02 shows the type of site features proposed by the project (*see Attachment 3*). The proposed site features impact existing landscaped areas and trees. These are discussed below. Some of the proposed improvements are adjacent to the common area parcel and located approximately 40' away from the closest residential use.

Lighting: The applicant is also proposing new lighting fixtures as part of the scope of work, see Sheet L4.01 (*see Attachment 3*). The applicant will include tree up-lights, light poles that measure 15' in height for pedestrian pathways, and ambient lighting in some seating areas. As mentioned before, the application was submitted during the City's transition to a new lighting ordinance, CMC Chapter 19.102 Glass and Lighting Standards. To ensure consistency with the City's ordinance, the City will verify compliance with the applicable provisions of the ordinance prior to issuance of building permits. This includes lighting color, placement, and orientation.

Landscape Improvements: The project seeks to revitalize the landscape areas in conjunction with the proposed site features. The project will decrease the amount of landscape area from 49,083 sq. ft. to 40,748 sq. ft. The landscaping removed is being replaced by a variety of outdoor seating and gathering areas surrounded by decomposed granite and wooden decking. The proposal also includes the removal of trees as discussed below.

Tree Removals/Replacements

Per the Protected Trees Ordinance (Chapter 14.18) of the Cupertino Municipal Code (CMC), all approved development trees (i.e., trees required to be planted or retained as part of a development application, building permit, tree removal permit, or code enforcement action) are considered “protected” and require approval of a Tree Removal Permit prior to removal. Replacements for the removed trees are required.

The applicant is proposing to remove a total of 15 protected development trees as part of the proposed site modifications. No trees adjacent to the public right of way are proposed for removal. The arborist report provided (Attachment 4) assesses the location, size, current condition, and overall health of all trees on the property. Table 1 below lists the trees proposed for removal. The applicant has worked with Staff to minimize the number of trees removed. The trees are proposed for removal are due to poor planting locations, poor health, and due to conflict with the proposed improvements. The arborist report was peer reviewed by the City’s consulting arborist, who agreed with the findings.

Table 1 - Trees to be Removed and Replacements					
Tree Number*	Tree Species	Condition (Scale 1-5)	Suitability for Preservation (Low/Moderate/High)	DBH in Inches	Required Replacement
202	Evergreen Pear	3	Moderate	11	One 24" Box
204	Evergreen Pear	3	Moderate	11	One 24" Box
205	Evergreen Pear	3	Low	11	One 24" Box
207	Evergreen Pear	3	Low	8	One 24" Box
208	Evergreen Pear	2	Low	8	One 24" Box
210	Evergreen Pear	3	Moderate	8	One 24" Box
211	Evergreen Pear	3	Low	7	One 24" Box
216	Purpleleaf Plum	3	Low	3	One 24" Box
218	Purpleleaf Plum	3	Low	2	One 24" Box
201	Evergreen Pear	4	Moderate	12	One 24" Box
203	Evergreen Pear	3	Moderate	8	One 24" Box
206	Evergreen Pear	3	Low	9	One 24" Box
220	Purpleleaf Plum	2	Low	4	One 24" Box
217	Purpleleaf Plum	2	Low	3	One 24" Box
212	Evergreen Pear	3	Moderate	8	One 24" Box

* Note: tree ID # corresponds with the tree inventory provided with the arborist report

The required replacement trees per Chapter 14.18: Protected Trees is one 24" box tree per tree removed, for a total of 15 trees. The applicant is proposing to plant 14 36" box Mission Olive trees, and nine (9) 48" box Coast Live Oak trees, exceeding the required

replacements. Replacement trees are to be planted in the vicinity of the proposed removals, and throughout the site.

Environmental Review

This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) per Section 15301 – Existing Facilities.

Other Department/Agency Review

The City's Building Division, Environmental Programs Division, Public Works Department, and the Santa Clara County Fire Department have no objections to the project.

Public Noticing & 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>) ▪ 14 notices mailed to property owners within 300 feet of 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>five days prior to hearing</i>)

No comments have been received at the time of production of this staff report.

Permit Streamlining Act

This project 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: November 4, 2020; **Deemed Incomplete:** December 4, 2020

Revisions Received: December 16, 2020; **Deemed Incomplete:** January 15, 2021

Revisions Received: January 20, 2021; **Deemed Complete:** February 18, 2021

Revision Received: April 20, 2021; **Deemed Complete:** May 5, 2021

Revisions Received: June 2, 2021; **Deemed Complete:** June 8, 2021

The City has 60 days from when the project is deemed categorically exempt to decide on the project.

Conclusion

Staff recommends approval of the Architectural and Site Approval Permit and the Tree Removal Permit as the proposed project will not create adverse impacts to the surrounding area. Additionally, all the findings for approval of the proposed project,

consistent with Chapter 19.168 and 14.18 of the Cupertino Municipal Code, may be made as reflected in the draft resolutions.

With respect to the Architectural and Site Approval Permit, the following findings may be made:

1. The proposal, 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;

The proposal includes exterior and landscape modifications to the existing office building and site. The exterior areas will allow for more outdoor gathering spaces for tenants of the office building. The proposed improvements are approximately 40' from the nearest residential use, and include a landscape buffer between the improvements and the property. Therefore, the exterior and landscape modifications 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 proposal is consistent with the purposes of Chapter 19.168, the General Plan, any specific plan, zoning ordinances, applicable planned development permit, conditional use permits, variances, subdivision maps or other entitlements to use which regulate the subject property including, but not limited to, adherence to the following specific criteria:

- a) Abrupt changes in building scale should be avoided. A gradual transition related to height and bulk should be achieved between new and existing buildings.

The project scope does not include new projects or additional floor area of the existing building. The project will include new seating areas of various heights. The seating areas relatively low, 32" tall", and incorporate various building forms to help alleviate the massing of the structures. Further, the project incorporates trees throughout the perimeter to help break the massing and screen the project from adjacent properties. Therefore, there will be no abrupt changes in building scale related to height and bulk and no new buildings are being proposed.

- b) In order to preserve design harmony between new and existing buildings and in order to preserve and enhance property values, the materials, textures and colors of new building should harmonize with adjacent development by being consistent or compatible with design and color schemes with the future character of the neighborhoods and purposes of the zone in which they are situated. The location, height and materials of walls, fencing, hedges and screen planting should harmonize with adjacent development. Unsightly storage areas, utility installations and unsightly elements of parking lots should be concealed. The planting of ground cover or various types of pavements should be used to prevent

dust and erosion, and the unnecessary destruction of existing healthy trees should be avoided. Lighting for development should be adequate to meet safety requirements as specified by the engineering and building departments and provide shielding to prevent spill-over light to adjoining property owners.

The proposed exterior and landscape are harmonious with the existing building form and compatible with recent design upgrades in the office building located in Cupertino City Center. The materials (wood, planters, and colors) incorporated into the site features harmonize with the proposed wood patio areas, the proposed landscape improvements, and the existing concrete pathway. The proposed tree removals are due to poor health, initial planting locations that are not suitable for the continued maintenance of the trees, and conflict with proposed improvements. The proposed tree replacements exceed the Cupertino Municipal Code requirements and will help improve the aesthetics of the site for its users. Additional landscaping is proposed to enhance existing landscaping at the site and promote lower water use ground cover. The proposed lighting fixtures are designed to prevent spill-over light to adjoining properties and are conditioned to meet the City's lighting standards.

- c) The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures have been designed to minimize traffic hazard, positively affect the general appearance of the neighborhood and harmonize with adjacent development.

No signs are proposed as part of this project.

- d) With respect to new projects within existing residential neighborhoods, new development should be designed to protect residents from noise, traffic, light and visually intrusive effects by use of buffering, setbacks, landscaping, walls and other appropriate design measures.

This application is not a new development project.

With respect to the Tree Removal Permit, the following findings may be made:

- 2. That the location of the trees restricts the economic enjoyment of the property by severely limiting the use of property in a manner not typically experienced by owners of similarly zoned and situated property, and the applicant has demonstrated to the satisfaction of the approval authority that there are no reasonable alternatives to preserve the tree(s).

The trees are proposed for removal due to the poor planting locations, and due to conflict with the proposed improvements. The applicant has worked with Staff to minimize the number of removals to those that are in poor health, direct conflict with proposed improvements, or both.

3. That the protected trees are a detriment to the subject property and cannot be adequately supported according to good urban forestry practices due to the overplanting or overcrowding of trees on the subject property.

The trees are proposed for removal due to poor health, poor planting locations, and due to conflict with the proposed improvements. The applicant has worked with Staff to minimize the number of removals to those that are in poor health, direct conflict with proposed improvements, or both. The City's consulting arborist has reviewed the arborist report and takes no exception to the proposal for removal.

Next Steps

The permit will become 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 building and/or other permits with the City at the end of the appeal period (July 8, 2021 at 5:00pm).

This approval is valid until June 24, 2023. The applicant team may apply for a one-time two-year extension before the approval expires.

Prepared by:

Erick Serrano, Senior Planner

Reviewed and Approved for submission by:

Piu Ghosh, Planning Manager

ATTACHMENTS

1. Draft Resolution for ASA-2021-001
2. Draft Resolution for TR-2021-021
3. Plan Set
4. Arborist Report