



COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA
95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333
CUPERTINO.ORG

PLANNING COMMISSION STAFF REPORT

Meeting: November 23, 2021

Subject

Consider a development proposal to demolish and existing commercial building, and construct a new nine (9) unit single-family home development with one (1) home containing an Accessory Dwelling Unit (ADU). (Application No(s): EA-2020-001, Z-2020-001, DP-2020-001, TM-2020-001, ASA-2020-003, and U-2020-001; Applicant(s): Alan Enterprise LLC; Location: 22690 Stevens Creek Boulevard; APN#s 341-14-066, 342-14-104 & 105)

Recommended Actions

Staff recommends that the Planning Commission adopt the draft resolutions (Attachments 1-7), recommending that the City Council:

1. Adopt the Mitigated Negative Declaration (EA-2020-001);
2. Approve the Zoning Map Amendment (Z-2020-001);
3. Approve the Development Permit (DP-2020-001);
4. Approve the Architectural and Site Approval (ASA-2020-003);
5. Approve the Use Permit (U-2020-001);
6. Approve the Tentative Map (TM-2020-001)

Discussion

Project Data:

| | |
|--|--|
| General Plan Land Use Designation | Commercial/Residential |
| Neighborhood Area | Inspiration Heights |
| Zoning Designation | P (CG) Planned Development Zoning with General Commercial Uses |
| Net/Gross Lot Area | 0.63 acres/0.78 acres |

| | Allowed/Required | Proposed |
|-----------------------------------|---|---------------|
| Residential Density | 15 du/acre | 11.5 du/acre |
| Height of Structures | Up to 30 feet | 29'10.5" feet |
| Setbacks | | |
| <i>Stevens Creek Blvd.</i> | | |
| <i>Front* (north)</i> | N/A | 5'7" |
| <i>Side* (west)</i> | N/A | 12'5" |
| <i>Side* (east)</i> | N/A | 10'1" |
| <i>Rear*</i> | N/A | 29' |
| <i>Foothill Blvd.</i> | | |
| <i>Front* (east)</i> | N/A | 5'7" |
| <i>Side* (north)</i> | N/A | 10' |
| <i>Side* (south)</i> | N/A | 29' |
| <i>Rear* (west)</i> | N/A | 81'9" |
| Vehicle Parking | 26 (2.8DU) | 26 |
| Project Consistency | | |
| General Plan Land Use Designation | Yes | |
| Zoning: | Yes, with Zone Map Amendment | |
| Environmental Assessment | Initial Study with a Mitigated Negative Declaration | |

* The site is located in a Planned Development (P) zoning district. Chapter 19.80 of the Municipal Code allows the establishment of specific development standards and regulations with the approval of definitive plans for a site.

Background:

Application Requests

The applicant, Alan Enterprises, is requesting permits to allow the construction of small-lot single family townhomes on a 0.63-acre site currently occupied by a commercial building. The project would demolish the existing commercial building and construct a nine (9) residential unit development with one (1) residential unit containing an accessory dwelling unit (ADU).

The following City permits would be required: Zone Map Amendment, Development Permit, Architectural and Site Approval, and Use Permit. A Vesting Tentative Map is proposed to divide the property from three (3) parcels to ten (10) parcels consisting of the

nine (9) homes and one (1) common parcel. In addition, prior to approval of the permits, the City would need to adopt the Mitigated Negative Declaration as the appropriate environmental document for the project.

Site and Location Description

The project is located at the intersection of Stevens Creek Boulevard and Foothill Boulevard in the Inspiration Heights neighborhood area of the General Plan.

The property is bounded by Stevens Creek Boulevard to the north, South Foothill Boulevard to the east, Camino Vista Drive to the west and residential single-family homes to the south. Other surrounding land uses include an office

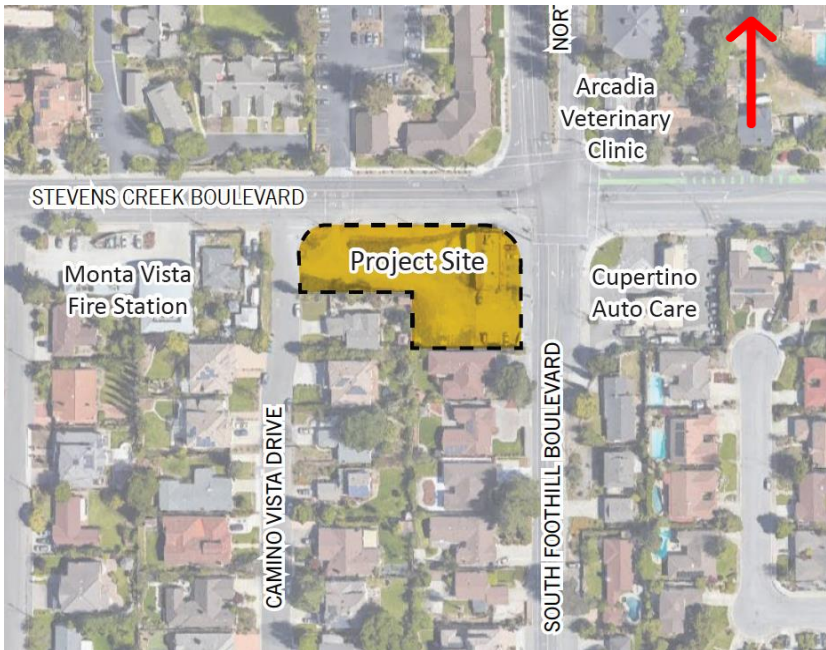


Figure 1: Project Location

development and a town home development across Stevens Creek Boulevard to the north, a Veterinary Clinic and single family uses to the north east, a gas station and single family residential uses across S. Foothill Boulevard to the east, and single family homes and the Monta Vista Fire Station across Camino Vista Drive to the west (see Figure 1).

The site has gross area of 0.78 acres, which after required dedications to accommodate required infrastructure and frontage improvements along Stevens Creek Boulevard and Foothill Boulevard, will have a net area of 0.63 acres. The existing commercial building measures approximately 2,500 square feet.

Analysis:

General Plan and Zoning Compliance

In connection with staff review of the project application, staff determined that the proposed use is consistent with the General Plan Land Use Designation of Commercial/Residential that allows for commercial, residential, or a mixed-use residential commercial project. The site is identified as a neighborhood center that encourages a mixed-use development, but staff determined that the General Plan does

not include mandatory requirements for mixed-use development. The applicant has applied for a Zone Map Amendment (Z-2020-001) to allow development of a mixed-use development. The City's General Plan and Planned Development zoning designation allows flexibility in proposing site specific development standards. Additionally, because the project was not listed as a Priority Housing Site in the City's *General Plan: Community Vision 2015-2040* (General Plan), the project is required to obtain a Use Permit (U-2020-001) as part of the entitlement process.

The General Plan's Community Form Diagram establishes several development standards in the City, including height and density. The proposed development has a maximum height of 30 feet and a proposed density of 11.5 dwelling units per acre (less than the maximum density of 15 dwelling units per acre.)

Staff has evaluated the project's consistency with the General Plan and has concluded that based on the site's General Plan Land Use Designation (*Commercial/Residential*), the proposed Zoning Map Amendment, and the analysis of the Initial Study Mitigated Negative Declaration (further discussed in detail in the Environmental Review section of this Staff Report), the proposed project supports several of the City's other General Plan goals including:

- **Policy LU-2.2: Pedestrian-oriented Public Spaces** - *Require developments to incorporate pedestrian-scaled elements along the street and within the development such as parks, plazas, active uses along the street, active uses, entries, outdoor dining and public art.*
- **Policy LU-3.1: Site Planning** - *Ensure that project sites are planned appropriately to create a network of connected internal streets that improve pedestrian and bicycle access, provide public open space and building layouts that support city goals related to streetscape character for various Planning Areas and corridors.*
- **Policy LU-3.3: Building Design** - *Ensure that building layouts and design are compatible with the surrounding environment and enhance the streetscape and pedestrian activity.*
- **LU-3.3.1: Attractive Design** - *Emphasize attractive building and site design by paying careful attention to building scale, mass, placement, architecture, materials, landscaping, screening of equipment, loading areas, signage and other design considerations.*
- **LU-3.3.5: Building Location** - *Encourage building location and entries closer to the street while meeting appropriate landscaping and setback requirements.*
- **Policy LU-3.4: Parking** - *In surface lots, parking arrangements should be based on the successful operation of buildings; however, parking to the side or rear of buildings is desirable. No visible garages shall be permitted along the street frontage. Above grade*

structures shall not be located along street frontages and shall be lined with active uses on the ground floor on internal street frontages. Subsurface/deck parking is allowed provided it is adequately screened from the street and/or adjacent residential development.

- **Policy LU-27.2: Relationship to the Street:** *Ensure that new development in and adjacent to neighborhoods improve the walkability of neighborhoods by providing inviting entries, stoops and porches along the street frontage, compatible building design and reducing visual impacts of garages.*
- **HE-1.3.4: Flexible Development Standards** - *The City recognizes the need to encourage a range of housing options in the community. The City will continue to:*
 - *Offer flexible residential development standards in planned residential zoning districts, such as smaller lot sizes, lot widths, floor area ratios and setbacks, particularly for higher density and attached housing developments.*
 - *Consider granting reductions in off-street parking on a case-by-case basis for senior housing.*

Should the proposed project be approved, nine (9) units would be allocated from the neighborhood development allocation.

Development Regulations

The project site defers to the development standards of the General Plan, and Planned Development "P" zoning designation. The "P" zoning designation is detailed in Cupertino Municipal Code Chapter 19:80 Planned Development Zones. The "P" zoning designation is intended to provide a means of guiding land development or redevelopment of the City that is uniquely suited for planned coordination of land uses and land development. While in the Planned Development zoning district, development has to adhere to Multifamily (R3) zoning regulations, as an alternative, applicants can apply for a discretionary review of the project and propose alternative standards unique to the site. Once established, the development standards approved as part of the definitive plan for the project become the zoning requirements for the site. The applicant has proposed the alternative standards for the project as indicated below:

| | Allowed/Required | Proposed |
|----------------------------|------------------|----------|
| Setbacks | | |
| <i>Stevens Creek Blvd.</i> | | |
| <i>Front* (north)</i> | N/A | 5'7" |
| <i>Side* (west)</i> | N/A | 12'5" |
| <i>Side* (east)</i> | N/A | 10'1" |
| <i>Rear*</i> | N/A | 26.7' |

| | Allowed/Required | Proposed |
|-----------------------------|-------------------------|---------------------------|
| <i>Foothill Blvd.</i> | | |
| <i>Front* (east)</i> | N/A | 5'7" |
| <i>Side* (north)</i> | N/A | 10' |
| <i>Side* (south)</i> | N/A | 29' |
| <i>Rear* (west)</i> | N/A | 81'9" |
| Private Open Space | 60 square feet per unit | 115 sq. ft. – 639 sq. ft. |
| Height of Structures | Up to 30 feet | 29'10.5" feet |

* The site is located in a Planned Development (P) zoning district. Chapter 19.80 of the Municipal Code allows the establishment of specific development standards and regulations with the approval of definitive plans for a site.

The proposed project provides three (3) different unit models in four (4) separate buildings. Because of the adjacent single family residential uses, the project has been designed to place the proposed structures closer to Stevens Creek Boulevard and South Foothill Boulevard. This has allowed for setback to the closest residential properties to the rear to be between 26'7" and 29'. There are no interior setbacks proposed for the units that are side by side. There is a 13-14 foot setback proposed between the three buildings fronting Stevens Creek Boulevard and a 10-foot setback between the corner building and the building fronting S. Foothill Boulevard.

Because the project will require significant right-of-way dedication to the City, the project incorporates smaller setbacks along the street perimeter. By providing the right-of way dedication, the project is able to incorporate a detached sidewalk, and landscape improvements along the perimeter of the property. (see Figure 2 and 3 below.)

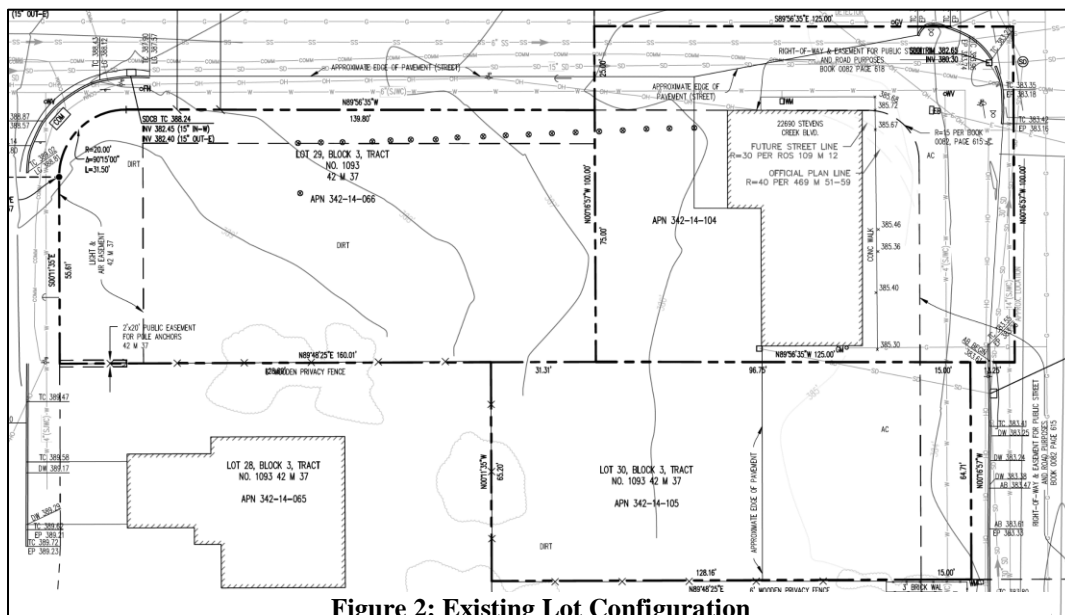


Figure 2: Existing Lot Configuration

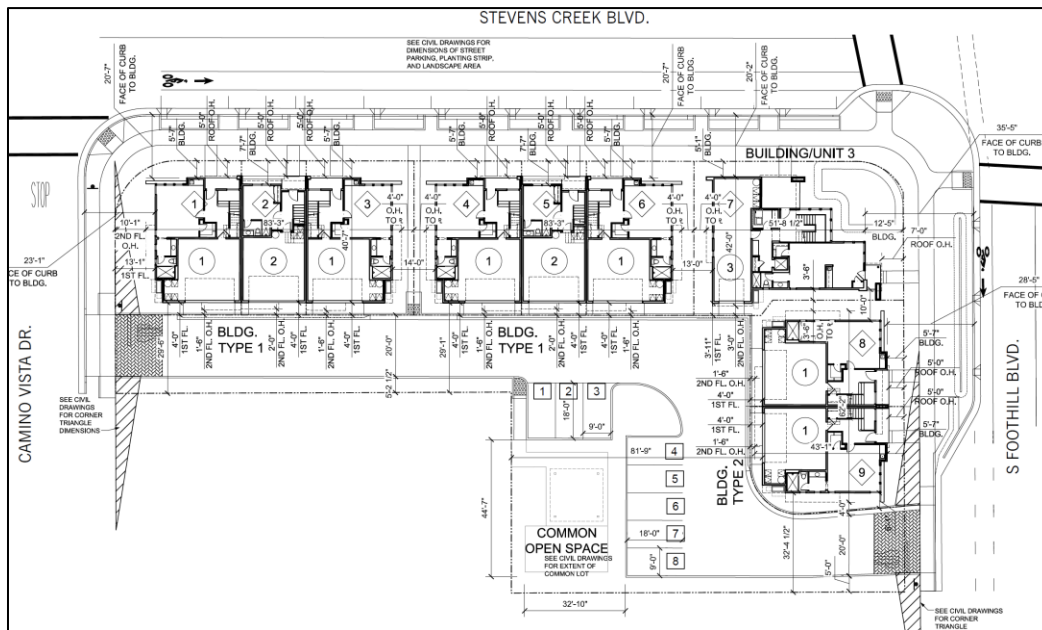


Figure 3: Proposed Lot Configuration

While the setback from the property line is 5'7" along Stevens Creek Boulevard and S. Foothill Boulevard, setback from the face of curb will be 20'2" from Stevens Creek Boulevard and 26'8" from South Foothill Boulevard. Similarly, while the setback from the property line along Camino Vista Drive is 12'5", the setback from the face of curb is 23'1".

To accommodate different engineering standards, the project proposes a new natural grade as part of the grading plan that would establish a lower natural grade. Natural grade may be established (or reestablished, as in this case) as part of an approved grading plan that is part of a subdivision map approval. Building height will be measured from this new natural grade and will remain below the allowed maximum height of 30'.

The project has incorporated open space requirements for those in the Heart of the City Specific Plan. The applicant proposes open space within the project as indicated in the following table:

| | Heart of the City Requirements | Proposed |
|---------------------------|---|---------------------------|
| Common Open Space | 1,350 sq. ft. (150 sq. ft. per unit) | 1,475 sq. ft. |
| Private Open Space | 60 sq. ft./unit and no dimension less than 6 feet | 115 sq. ft. – 639 sq. ft. |

There are three unit types as shown in the following table:

| Unit Type | # of Bedrooms | No. of units |
|--------------------|--------------------------------------|--------------|
| Type 1 | 4 BR | 6 |
| Type 2 | 4 BR | 2 |
| Type 3 | 3 BR plus an Accessory Dwelling Unit | 1 |
| Total units | | 9 |

Site Planning and Architectural Design

The proposed development is located at the southwest corner of Stevens Creek Boulevard and Foothill Boulevard. The site provides vehicle access via Foothill Boulevard and Camino Vista Drive and creates a larger physical separation from the abutting residences. Access to the units is provided by a direct connection to the public sidewalk and/or internally through the garage of each unit. The site also incorporates guest parking as required by the City's parking ordinance.

As shown in the figure below, the project proposes a common outdoor space for residents and guests at the rear of the property. Additionally, the project incorporates tree canopy throughout the perimeter of the site. At the street frontages, the applicant has worked with City staff to create a walkable frontage by providing a detached sidewalk with trees on either side. Along the rear of the property, adjacent to the single-family residences, the applicant has incorporated Saratoga Laurel trees to screen the development.

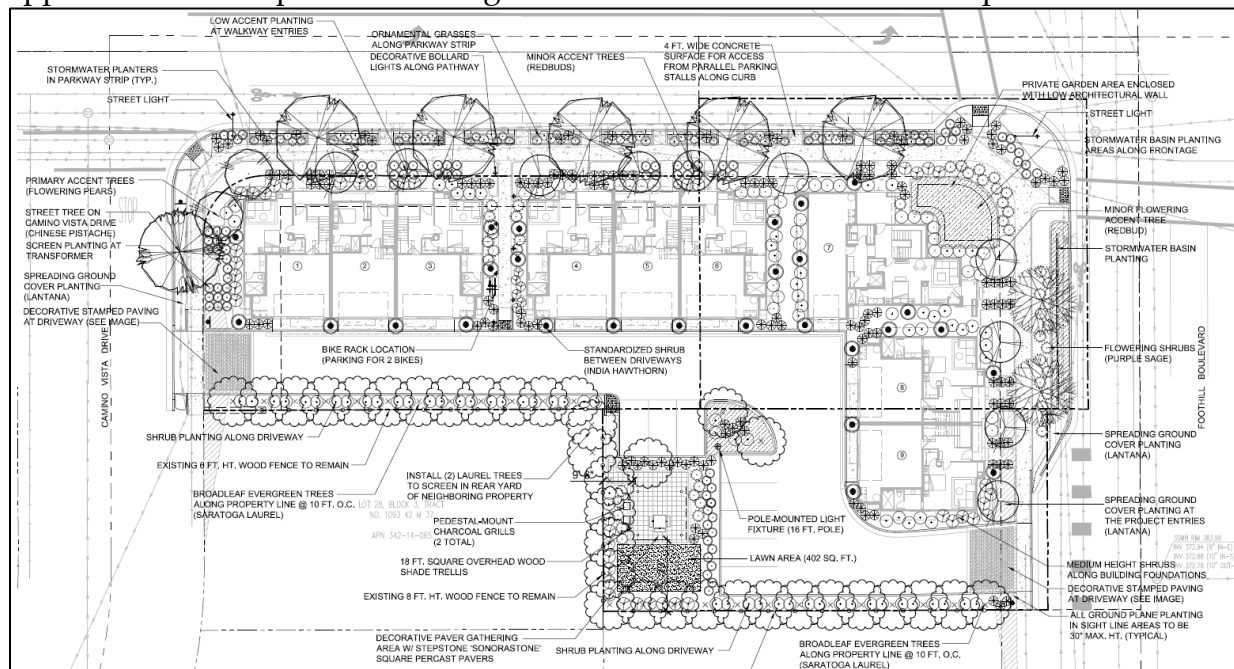


Figure 4: Proposed Landscape Plan

By integrating projecting and recessed wall planes, wall height variation, and roofline variation, the applicant has worked to reduce the massing of the individual buildings. The applicant has introduced different projections along the building frontage that help to reduce the massing of the structure. The applicant has incorporated horizontal masking elements on the first floor of all units, stone materials around the first-floor walls near front doors, and additional horizontal elements added at the second floor of units along Foothill Boulevard.

Traffic, Circulation and Parking Analysis

As part of the environmental analysis, traffic impacts of the proposed projects were evaluated. These impacts were found to be less than significant because the projects would generate 1,744 fewer daily vehicle trips and 3,262 fewer daily Vehicle Miles Traveled (VMT). Additionally, the project would not generate a demand for transit that would exceed the capacity of the system. Coupled with the project being consistent with adopted policies, plans, or programs regarding pedestrian and bicycle facilities that project would have a less than significant impact.

The proposed project development has been parked to meet the City's parking requirements found in Chapter 19.124: Parking Regulations. The nine (9) small lot single-family homes are parked at a parking ratio of 2.8 parking spaces per unit. Two (2) of the spaces are to be located within an enclosed garage, and 0.8 spaces may be open. This has been provided with each unit containing a two (2) car garage and eight (8) open spaces. One of the units is providing two tandem garage spaces while the other units have two side by side parking spaces.

There is no required bicycle parking for the small lot single-family homes.

Vesting Tentative Map

The project proposes ten (10) separate parcels to be created from the three (3) existing parcels. Nine (9) lots for the proposed residential units, and one (1) common lot. A condition of approval has been added to the Tentative Map to require reciprocal access throughout the site and a formation of a property owner's association to aid maintenance of the driveway aisle and common areas.

Below Market Rate Units

The project would provide 15% Below Market Rate (BMR) units consistent with the City's BMR Manual when the project was submitted. To be consistent with the 15% BMR requirements, the applicant would provide one for sale. One (1) for sale unit would be provided to a median income household. The units must be affordable for 99 years.

Signage

Signage details are not included in this permit application. Staff will review the signage proposal with the property owner at the time the applicant applies for a sign permit through the Building Division.

Other Department/Agency Review

The City's Building Division, Public Works Department, Environmental Services Division, Cupertino Sanitary District and the Santa Clara County Fire Department have reviewed and conditioned the project.

Project History

On May 7, 2020 the applicant submitted an application that was deemed complete on July 13, 2021 and evaluated in the Draft Initial Study and Mitigated Negative Declaration. The Final Draft of the Initial Study and Mitigated Negative Declaration is attached, see Attachment 7.

Housing Accountability Act

The Housing Accountability Act (HAA), California Government Code Section 65589.5(j), requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:

1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density; and
2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

Subdivision (j) of the HAA also requires the local agency to identify and provide written documentation of the reasons why a proposed housing development is inconsistent, not in compliance, or not in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other provision within 30 days of the date that the application for the housing development project is determined to be complete if the housing development project contains 150 or fewer housing units.

The proposed project has been determined to comply with applicable, objective general plan and zoning standards, including maximum height, density, minimum setbacks, useable common and private open space, and number of parking spaces. Thus,

subdivision (j) of the Housing Accountability Act applies. Staff is not aware of any basis to make the findings listed above.

Environmental Review

A Draft Initial Study and Mitigated Negative Declaration (IS/MND) has been prepared for the project (See Attachment 7.) The Mitigated Negative Declaration (MND) identifies mitigation measures in the following areas, to reduce the potential environmental impacts of the project to less than significant levels:

- *Air Quality:* Construction shall comply with BAAQMD's recommendations for reducing construction emissions of fugitive dust, and shall ensure construction emissions are reduced.
- *Biological Resources:* The project shall protect nests of raptors and other birds when in active use.
- *Cultural and Tribal Resources:* The project shall incorporate mitigations in the event any cultural resources or archaeological are found on site. This includes consulting with a tribal representative as well as paleontologist.
- *Noise Levels:* Construction shall comply with the Noise Ordinance and best management practices for noise mitigation, and ensure mechanical equipment selected meet the City's noise ordinance.
- *Geology and Soils:* The project shall incorporate mitigation in the event any fossil-bearing deposits are discovered on-site.
- *Utilities:* Demonstrate to the City and Cupertino Sanitary District that the project would not exceed peak wet weather flow capacity of the Santa Clara sanitary sewer system.

As part of the environmental analysis, Staff consulted with the Tamien Nation per the regulations of Assembly Bill 52. As a result of the consultation, Staff updated to the Cultural and Tribal Resources mitigation to include tribal consultation.

The mitigation measures have been added as condition of approval for this project.

The Notice of Intent (NOI) to adopt a MND was placed in the newspaper. In addition, the NOI was mailed to notify neighbors and interested parties that a Draft MND had been prepared which the City intends to adopt. The 20-day Public Review Period for the Draft MND was between July 16, 2021 and August 5, 2021.

The Environmental Review Committee (ERC) heard the item at its October 28, 2021 and after the public hearing, recommended that the City Council adopt a Mitigated Negative

Declaration (EA-2020-001) on a 5-0-0 vote with the identified mitigation measures (Attachment 1 and 7).

Public Outreach and Noticing

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>10 days prior to the hearing</i>)▪ Legal ad placed in newspaper (<i>at least 10 days prior to the hearing</i>)▪ Public hearing notices were mailed to property owners within 300' of the project site (<i>10 days prior to the hearing</i>) | <ul style="list-style-type: none">▪ Posted on the City's official notice bulletin board (<i>one week prior to the hearing</i>)▪ Posted on the City of Cupertino's website (<i>one week prior to the hearing</i>) |

Public Comment

No public comments have been provided.

Conclusion

Staff recommends approval of the project since the project and conditions of approval address all concerns related to the proposed development and all findings for approval of the project, consistent with Chapter 18.28, 19.156, 19.168 of the Cupertino Municipal Code, could be made.

Next Steps

The Planning Commission's recommendation will be forwarded to the City Council for its decision on the project. The City Council's decision will be final unless reconsidered within 10 days of the decision. The applicant may apply for building permits at that time.

Prepared by: Erick Serrano, Senior Planner
Reviewed by: Piu Ghosh, Planning Manager
Approved by: Benjamin Fu, Director of Community Development

ATTACHMENTS:

1 – Draft Resolution for EA-2020-001

- 2 – Draft Resolution for Z-2020-001
- 3 – Draft Resolution for DP-2020-001
- 4 – Draft Resolution for TM-2020-001
- 5 – Draft Resolution for ASA-2020-003
- 6 – Draft Resolution for U-2020-001
- 7 – Initial Study/Mitigated Negative Declaration
- 8 – Environmental Review Committee Recommendation
- 9 – Project Plans