



# The Forum Senior Community Update Initial Study Checklist

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## INTRODUCTION

The Forum Senior Community Update Project is a “project” under the California Environmental Quality Act (CEQA). This Initial Study was prepared by PlaceWorks for the City of Cupertino (City), Community Development Department. This Initial Study was prepared pursuant to the CEQA (Public Resources Code Sections 21000 et seq.), CEQA Guidelines (Title 14, Section 15000 et seq. of the California Code of Regulations).

1. **Title:** The Forum Senior Community Update Project
2. **Lead Agency Name and Address:** City of Cupertino Community Development Department  
10300 Torre Avenue  
Cupertino, CA 95014
3. **Contact Person and Phone Number:** Catarina Kidd, Senior Planner, (408) 777-3214
4. **Location:** 23500 Cristo Rey Drive  
Cupertino, CA 95014
5. **Applicant’s Name and Address:** Mary Elizabeth O’Connor  
The Forum at Rancho San Antonio  
23500 Cristo Rey Drive  
Cupertino, CA 95014
6. **General Plan Land Use Designations:** Quasi-Public/Institutional
7. **Zoning:** Planned Development - P(Institutional)
8. **Description of Project:** See page 16 of this Initial Study.
9. **Surrounding Land Uses and Setting:** See page 5 of this Initial Study.
10. **Other Required Approvals:** See page 31 of this Initial Study.
11. **Have California Native American Tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code section 21080.3.1? If so, has consultation begun?:** The City has not received any request from any Tribes in the geographic area with which it is traditionally and culturally affiliated with or otherwise to be notified about projects in Cupertino.

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### ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors listed below would be affected by the proposed project, involving at least one impact that is a Potentially Significant Impact, as indicated by the checklist on the following pages.

- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Aesthetics                         | <input type="checkbox"/> Agriculture & Forestry Resources | <input type="checkbox"/> Air Quality                   |
| <input type="checkbox"/> Biological Resources               | <input type="checkbox"/> Cultural Resources               | <input type="checkbox"/> Tribal Cultural Resources     |
| <input type="checkbox"/> Geology & Soils                    | <input type="checkbox"/> Greenhouse Gas Emissions         | <input type="checkbox"/> Hazards & Hazardous Materials |
| <input type="checkbox"/> Hydrology & Water Quality          | <input type="checkbox"/> Land Use                         | <input type="checkbox"/> Mineral Resources             |
| <input type="checkbox"/> Noise                              | <input type="checkbox"/> Population & Housing             | <input type="checkbox"/> Public Services               |
| <input type="checkbox"/> Parks & Recreation                 | <input type="checkbox"/> Transportation & Circulation     | <input type="checkbox"/> Utilities & Service Systems   |
| <input type="checkbox"/> Mandatory Findings of Significance |   |  |

#### Determination:

On the basis of this initial evaluation:

- ☐ I find that the proposed project COULD NOT have a significant effect on the environment and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that, although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the City. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☒ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT (EIR) will be prepared.
- ☐ I find that the proposed project MAY have a “potentially significant impact” or “potentially significant unless mitigated” impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

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Signature

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Date

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Benjamin Fu

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Assistant Director, Community Development

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## OVERVIEW AND BACKGROUND

The Forum Senior Community (The Forum) is a Continuing Care Retirement Community (CCRC) that offers a variety of services within one community that guarantees lifetime housing, social activities, and increased levels of care as needs change. Part independent living, part assisted living, and part skilled nursing home, CCRCs offer a tiered approach to the aging process, accommodating residents' changing needs.

This Initial Study checklist was prepared to assess the environmental effects of The Forum Senior Community Update Project (proposed project). Development at the project site, also referred to as The Forum, began in 1991. In order to remain a viable and responsive continuing care retirement community, the proposed project includes renovations and additions to the existing facilities as well as new buildings. In addition, the proposed project also includes new independent residential units that will allow it to remain competitive with other similar facilities.

This Initial Study consists of a depiction of the existing environmental setting and the project description followed by a discussion of various environmental effects that may result from construction and operation of the proposed project. This Initial Study is a stand-alone document and in no way relies on any previously approved environmental review prepared for The Forum. While no significant impacts are anticipated from the construction and operation of the proposed project as demonstrated in the Environmental Analysis section, to be conservative an Environmental Impact Report will be prepared for some topic areas.

## LOCATION AND SETTING

### REGIONAL LOCATION

Figure 1 shows the relationship of the project site to Cupertino and the greater San Francisco Bay area (Bay Area). The project site is located in the far northwestern portion of Cupertino. Cupertino is approximately 46 miles southeast of San Francisco, and is one of the cities that make up the area commonly known as the Silicon Valley. Cupertino is generally located north of the City of Saratoga, east of unincorporated Santa Clara County, south of the City of Sunnyvale, and west of the City of San Jose. Cupertino also shares a boundary with the City of Los Altos to the north and the City of Los Altos Hills to the northwest.

Regional access to the project site is provided by Interstate 280 (I-280), Foothill Boulevard, the Santa Clara Valley Transportation Authority (VTA) bus service, and by Caltrain via the Mountain View, Sunnyvale, Lawrence, and Santa Clara Caltrain Stations. Caltrain is operated by the Peninsula Corridor Joint Powers Board.

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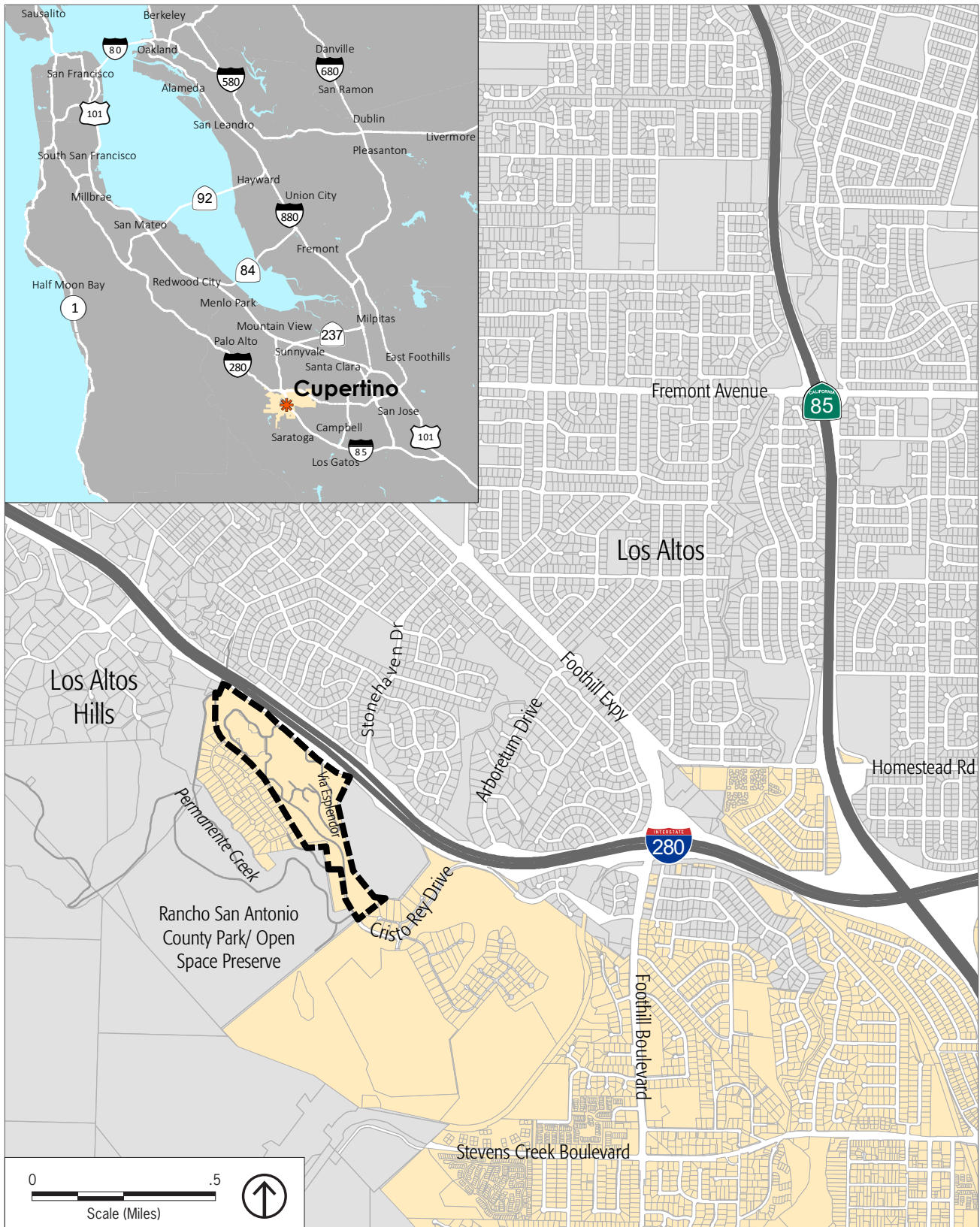


Figure 1  
Regional and Vicinity Map

## LOCAL SETTING

The project site is located at 23500 Cristo Rey Drive and is assigned Assessor's Parcel Number (APN) 342-54-999.<sup>1</sup> As shown on Figure 2, the project site is bounded by I-280 to the north, Maryknoll religious institute to the east, one- and two-story, single-family housing to the south and southwest, and the Rancho San Antonio County Park/Open Space Preserve to the southwest and west.

The project site is accessible from Foothill Boulevard via Cristo Rey Drive. The closest VTA bus stop (Line 81) is located at the Grant Road/Grant Avenue intersection, approximately 1.3 miles to the northeast. The nearest Caltrain station to the project site is the Mountain View station, which is located approximately 7 miles to north of the project site.

The nearest public airports are San Jose International Airport, approximately 11.5 miles to the northeast, and Palo Alto Airport, approximately 10.5 miles to the northwest. The nearest heliports are Mc Candless Towers Heliport, approximately 10 miles to the northeast, and County Medical Center Heliport, approximately 9 miles to the southeast. The nearest private airport is Moffett Federal Airfield, approximately 8.6 miles to the northwest.

## Public Service Providers

The following public service providers would serve the proposed project:

- Santa Clara County Fire District (SCCFD) for fire protection, emergency, medical, and hazardous materials services
- Santa Clara County Sheriff's Office (Sheriff's Office) and West Valley Patrol Division for police protection services
- The Woodland Branch Library located at 1975 Grant Road in Cupertino, approximately 1.5 miles to the northeast of the project site, is the closest library and is operated by Santa Clara County Library District (SCCLD)
- City parks, which are maintained by the City of Cupertino Recreation and Community Services, that are nearest to the project site are Canyon Park, located approximately 1 mile to the southeast; Little Rancho Park, located approximately 0.5 mile to the southeast; and Monta Vista Park, which is located approximately 2 miles to the southeast of the site<sup>2</sup>
- The Rancho San Antonio County Park, which is a regional park within the Santa Clara County Parks system, and the Midpeninsula Regional Open Space District (MROSD) Rancho San Antonio Open Space Preserve, are managed by the Midpeninsula Regional Open Space District MROSD and both share a portion of the project site's southern and western borders

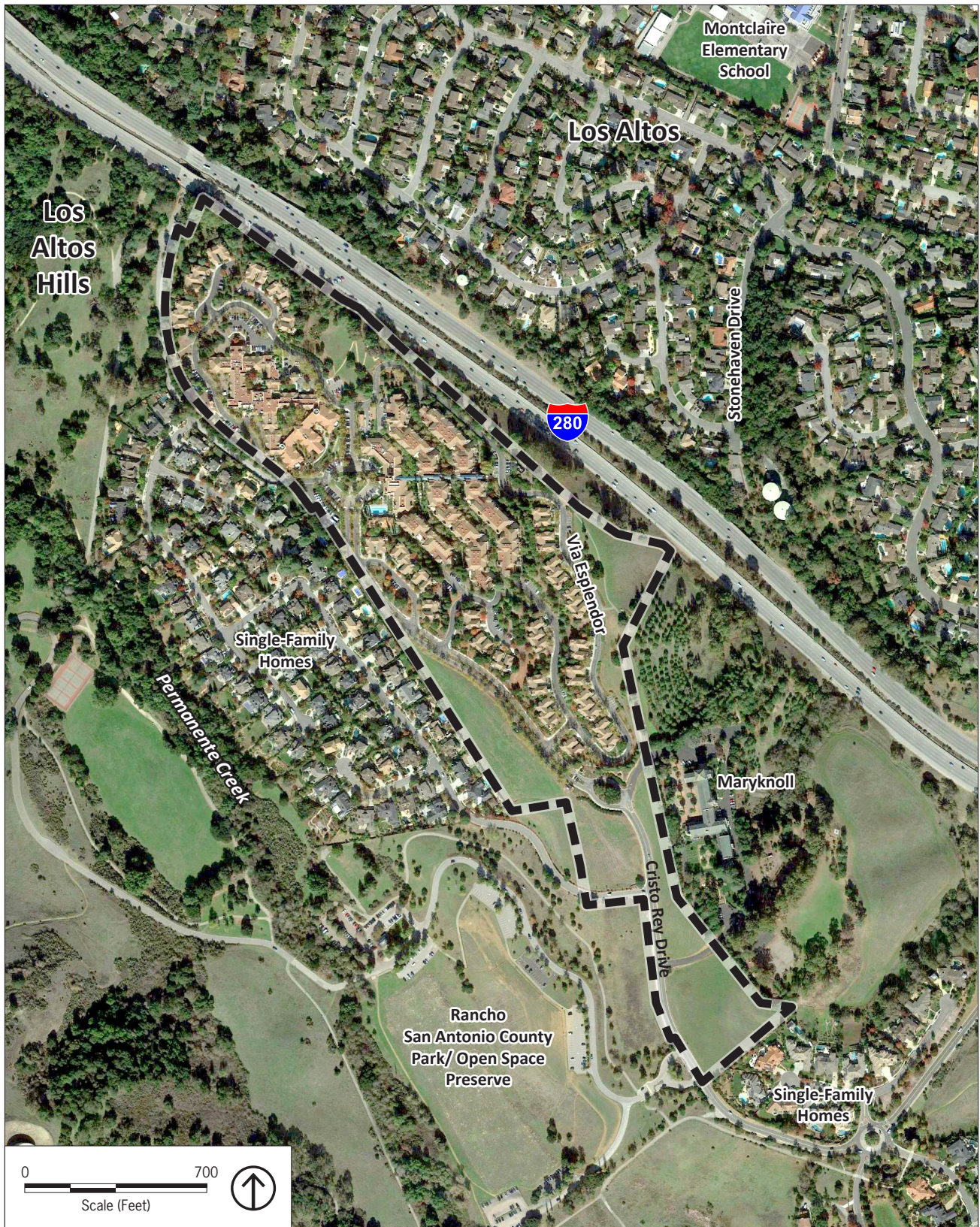
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<sup>1</sup> The on-site health care center uses the address 23600 Via Esplendor. Individual buildings on the project site are assigned Assessor's Parcel Numbers (APNs) as follows: 342-53-001 through 259 (apartments in Buildings 1 to 5); 342-54-001 through 008 (Villas 1 to 8); 342-54-009 through 015 (Villas 9 to 15); 342-55-001 through 045 (Villas 16 to 60); and 342-54-016 (Health Care Center).

<sup>2</sup> City of Cupertino, Recreation and Community Services Department, City Park Finder, <http://gis.cupertino.org/parkfinder>, accessed February 24, 2017.



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Source: Google Earth Professional, 2017; PlaceWorks, 2017.



Figure 2  
Aerial View of Project Site



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As shown in Table 3, the proposed project would generate approximately 48 additional employees, totaling 237 employees, representing both part and full time workers who are on-site during the 24-hour continuum of care service provided at the site.

### REQUIRED PERMITS AND APPROVALS

Following approval of the CEQA-required environmental review and the approval of the proposed project by the Planning Commission, the following discretionary permits and approvals from the City would be required for the proposed project:

- Development Permit
- Architectural and Site Approval Permit
- Tree Removal Permit

In addition, permits for demolition, grading and building, and the certificate of occupancy would also be required from the City. Other agency approvals, such as the San Francisco Regional Water Quality Control Board (RWQCB) for permits related to water quality, may also be required.

### ENVIRONMENTAL ANALYSIS

The California Supreme Court in a December 2015 opinion (*California Building Industry Association [CBIA] v. Bay Area Air Quality Management District [BAAQMD]*, 62 Cal. 4th 369 [No. S 213478]), herein referred to as *CBIA v. BAAQMD*, confirmed that the CEQA, with several specific exceptions, is concerned with the impacts of a project on the environment, and not the effects that the existing environment may have on a project. Therefore, the evaluation of the significance of project impacts under CEQA in the following sections listed below focuses on the impacts of the project on the environment, including whether the project may exacerbate any existing environmental hazards:

- **Air Quality:** Would the project expose sensitive receptors to existing substantial pollutant concentrations?
- **Geology and Soils:** Would the project expose people or structures to potential substantial adverse effects, including the risk of loss, injury or death involving: (i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault; (ii) Strong seismic ground shaking; (iii) Seismic-related ground failure, including liquefaction; (iv) Landslides, mudslides or other similar hazards?
- **Hazards and Hazardous Materials:** Would the project expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildland are adjacent to urbanized areas or where residences are intermixed with wildlands?
- **Hydrology and Water Quality:** Would the project place housing within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map; expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam; or be located in an area that would be inundated by seiche, tsunami, or mudflow?

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- **Noise:** Would the project expose people to existing noise levels in excess of standards established in the local general plan or noise ordinance, or other applicable standards including excessive groundborne vibration or ground borne noise levels?

## I. AESTHETICS

Would the proposed project:		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a)	Have a substantial adverse effect on a scenic vista?	■	□	□	□
b)	Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?	□	□	□	■
c)	Substantially degrade the existing visual character or quality of the site and its surroundings?	■	□	□	□
d)	Create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?	□	□	■	□

## EXISTING CONDITIONS

The project site is located in a developed area on the fringe of Cupertino that is adjacent to open space. The site is immediately bordered by I-280 to the north; Maryknoll religious institute to the east; one- and two-story single-family housing to the south and southwest; and the Rancho San Antonio County Park/Open Space Preserve, to the southwest and west. While some portions of the project site are not developed, most of the project site is currently developed with residential and non-residential facilities. The developed area includes one- to three-story healthcare and common area buildings and one- and two-story residential villas with two-car garage parking. These existing buildings are built into the natural hilly topography of the site and generally surrounded by mature trees ranging in height from 15 to 80 feet. As shown on Figure 4, the undeveloped area consists of urban habitat as well as annual grassland habitat located on the northeast, southeast, and south portions of the project site.

The segment of I-280 from the Santa Clara County line on the west to I-880 on the east in Cupertino is not an officially designated State Scenic Highway, but is considered to be eligible to be designated as a State Scenic Highway.<sup>22</sup>

## DISCUSSION

a) *Would the proposed project have a substantial adverse effect on a scenic vista?*

The proposed project would have the potential to affect scenic vistas and/or scenic corridors if the new intensified development on the project site blocked views of areas that provide or contribute to such

<sup>22</sup> California Department of Transportation website, Officially Designated State Scenic Highways, <http://www.dot.ca.gov/hq/LandArch/scenic/schwyt.htm>, accessed February 15, 2017.

vistas. Potential effects could include blocking views of a scenic vista/corridor from specific publically accessible vantage points or the alteration of the overall scenic vista/corridor itself. Such alterations could be positive or negative, depending on the characteristics of the project site and the subjective perception of observers.

Public views of scenic corridors are views seen along a linear transportation route and public views of scenic vistas are views of specific scenic features. Scenic vistas are generally interpreted as long-range views, while scenic corridors are comprised of short-, middle-, and long-range views. The General Plan does not designate any areas in Cupertino as scenic corridors or vistas. However, for purposes of this analysis, the westward views of the foothills and ridgelines of the Santa Cruz Mountains are considered scenic vistas, and the segment of I-280 from Santa Clara County line on the west to I-880 on the east also is considered a scenic corridor.

The proposed project would not increase the height of any building from that of the existing buildings currently on the project site. Some of the existing buildings would be removed and replaced by the proposed buildings that would consist of one- to two-story buildings and would be 26 feet tall at the highest point. A new building for the memory care component of the project would be constructed on the northern portion of the project site. This building would be integrated into the hillside so that only one of the two stories would extend above the hillside. This portion of the building would be within the existing tree canopy. Additionally, some of the existing trees would be removed from the site, but would be replaced to accommodate the new configuration of buildings both internally and along the perimeter of the site. For these reasons, the project would not obstruct the long-range views of the Santa Cruz Mountain Range and foothills.

While the proposed project would not involve any height increases from what is currently on the project site and existing conditions currently limit views of scenic resources, the project site is adjacent to the Rancho San Antonio County Park/Open Space Preserve, which is a public destination viewing location for scenic resources.<sup>23</sup> Therefore, the impacts under this criterion could be *potentially significant* impact. This issue will be discussed further in the EIR.

b) *Would the proposed project substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a State scenic highway?*

A segment of I-280, which is considered to be eligible to be designated as a State Scenic Highway,<sup>24</sup> is located approximately 200 feet to the north of the project site and approximately 41 feet below the project site. Any existing scenic views of the surrounding mountains from this segment of I-280 adjacent to the project site are currently impeded by the natural topography and landscaping along I-280. Similar to the discussion under criterion (a), the proposed project would not involve any height increases from what is currently on the project site and would therefore not obstruct the long-range views of the Santa

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<sup>23</sup> Santa Clara County Parks, Rancho San Antonio Park Map, [https://www.sccgov.org/sites/parks/parkfinder/Documents/pr\\_rancho\\_san\\_antonio.pdf](https://www.sccgov.org/sites/parks/parkfinder/Documents/pr_rancho_san_antonio.pdf), accessed February 16, 2017.

<sup>24</sup> California Department of Transportation website, Officially Designated State Scenic Highways, <http://www.dot.ca.gov/hq/LandArch/scenic/schwy.htm>, accessed February 15, 2017.

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Cruz Mountain Range and foothills from I-280. Therefore, *no impact* would result under this criterion and the issue will not be discussed in the EIR.

- c) *Would the proposed project substantially degrade the existing visual character or quality of the site and its surroundings?*

As discussed in criterion (a) above, implementation of the proposed project could result in a substantial change to the existing visual character of the site or its surroundings. The project would construct new one- and two-story residential villas on the undeveloped land located on the southeast portion of the site; however, the uses surrounding the site primarily consist of single-family residential and open space uses. Therefore, impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

- d) *Would the proposed project create a new source of substantial light or glare that would adversely affect day or nighttime views in the area?*

Nighttime illumination and glare impacts are the effects on adjoining uses and areas of a project's exterior lighting. Light and glare impacts are determined through a comparison of the existing light sources with the proposed lighting plan or policies. The project site and surrounding areas contain sources of nighttime illumination, including from street and parking area lights, security lighting, and exterior lighting on existing residential buildings. Overall, interior and exterior lighting provided by the project would be consistent with the surrounding residential context of the project site and would not be considered substantial. The interior and the perimeter of the project site would be planted with trees. The perimeter trees would further screen the buildings and reduce light and glare to any off site receptors. Overall the proposed project would not contribute to substantially increased light and glare and the impact would be *less than significant*. This issue will not be discussed further in the EIR.

## II. AGRICULTURE AND FORESTRY RESOURCES

Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
a) Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d) Result in the loss of forest land or conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>



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Would the project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less-Than-Significant Impact	No Impact
e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use or of conversion of forest land to non-forest use?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- a) *Convert Prime Farmland, Unique Farmland or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?*

The project site is currently designated in the Cupertino General Plan for Quasi-Public/Institutional (Q-P/I) uses and is currently developed with an institutional use, and is classified as Urban and Built-Up Land by the Department of Conservation's Farmland Mapping and Monitoring Program.<sup>25</sup> Therefore, *no impact* would result under this criterion and this issue will not be discussed in the EIR.

- b) *Conflict with existing zoning for agricultural use, or a Williamson Act contract?*

Neither the project site, the adjoining parcels, nor the immediately surrounding area features agricultural zoning designations or properties subject to Williamson Act contracts.<sup>26</sup> Therefore, *no impact* would result in this respect and this issue will not be discussed in the EIR.

- c) *Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?*

Neither the project site, adjoining parcels, nor the immediately surrounding areas feature zoning designations for forest land, timberland, or timber production. Additionally, there are currently no lands within the city of Cupertino zoned for or currently featuring timberland or timber production.<sup>27</sup> Therefore, *no impact* would result under this criterion and this issue will not be discussed in the EIR.

- d) *Result in the loss of forest land or conversion of forest land to non-forest use?*

There is no forest land on the project site or in close proximity to the project site. The project site and surrounding areas currently feature developed, urbanized land uses. Therefore, *no impact* would result under this criterion and this issue will not be discussed in the EIR.

<sup>25</sup> State of California Department of Conservation, Important Farmland Finder, <http://maps.conservation.ca.gov/ciff/ciff.html>, accessed February 16, 2017.

<sup>26</sup> State of California Department of Conservation, Santa Clara County Williamson Act FY 2015/2016 Map, [ftp://ftp.consrv.ca.gov/pub/dlrp/wa/SantaClara\\_15\\_16\\_WA.pdf](ftp://ftp.consrv.ca.gov/pub/dlrp/wa/SantaClara_15_16_WA.pdf), accessed February 16, 2017.

<sup>27</sup> City of Cupertino, Zoning Map, <http://www.cupertino.org/index.aspx?page=291>, accessed February 16, 2017.

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- e) *Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland to non-agricultural use or of conversion of forest land to non-forest use?*

As detailed above, the project site and surrounding areas do not include any zoning, land use designations, or existing land uses relating to forest land, timber production, or agriculture. The project is to renovate an existing mixed use development and construct new independent living villas and associated support structures in an urbanized area, and thus would not impact any agricultural or forest lands. Therefore, *no impact* would result and this issue will not be discussed in the EIR.

## III. AIR QUALITY

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Conflict with or obstruct implementation of the applicable air quality plan?	■	□	□	□
b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?	■	□	□	□
c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project area is in non-attainment under applicable federal or State ambient air quality standards (including releasing emissions which exceed quantitative Standards for ozone precursors or other pollutants)?	■	□	□	□
d) Expose sensitive receptors to substantial pollutant concentrations?	■	□	□	□
e) Create objectionable odors affecting a substantial number of people?	□	□	□	■

## EXISTING CONDITIONS

### Air Pollutants of Concern

#### Criteria Air Pollutants

Pollutants emitted into the ambient air by stationary and mobile sources are regulated by federal and State law under the National and California Clean Air Act, respectively. Air pollutants are categorized as primary and/or secondary pollutants. Primary air pollutants are those that are emitted directly from sources. Carbon monoxide (CO), reactive organic gases (ROG), nitrogen oxides (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), coarse inhalable particulate matter (PM<sub>10</sub>), fine inhalable particulate matter (PM<sub>2.5</sub>), and lead (Pb) are primary air pollutants. Of these, all of them except for ROGs are “criteria air pollutants,” which means that ambient air quality standards (AAQS) have been established for them. The National and California AAQS are the levels of air quality considered to provide a margin of safety in the protection of the public health and welfare. They are designed to protect those “sensitive receptors” most susceptible to further respiratory distress, such as asthmatics, the elderly, very young children, people already weakened by other disease or illness, and persons engaged in strenuous work or exercise. Healthy adults can tolerate

occasional exposure to air pollutant concentrations considerably above these minimum standards before adverse effects are observed.

### *Toxic Air Contaminants*

In addition to criteria air pollutants, both the State and federal government regulate the release of TACs. The California Health and Safety Code define a TAC as “an air pollutant which may cause or contribute to an increase in mortality or in serious illness, or which may pose a present or potential hazard to human health.” A substance that is listed as a hazardous air pollutant pursuant to Section 112(b) of the federal Clean Air Act (42 United States Code Section 7412[b]) is a toxic air contaminant. Under State law, the California Environmental Protection Agency (CalEPA), acting through the California Air Resources Board (CARB), is authorized to identify a substance as a TAC if it determines that the substance is an air pollutant that may cause or contribute to an increase in mortality or serious illness, or may pose a present or potential hazard to human health. Where available, the significance criteria established by the BAAQMD are relied upon to make the determinations discussed below.

## DISCUSSION

*a) Would the project conflict with or obstruct implementation of the applicable air quality plan?*

The proposed project would involve the construction and subsequent occupancy of new residential units and healthcare rooms as well as new construction, renovation or additions of non-residential facilities. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

*b) Would the project violate any air quality standard or contribute substantially to an existing or projected air quality violation?*

BAAQMD has identified thresholds of significance for criteria pollutant emissions and criteria air pollutant precursors, including ROG, NO<sub>x</sub>, PM<sub>10</sub>, and PM<sub>2.5</sub>. As discussed in criterion (a), the proposed project would involve the construction and subsequent occupancy of new residential units and rooms as well as new construction, renovation or additions of non-residential facilities. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

*c) Would the project result in a cumulatively considerable net increase of any criteria pollutant for which the project area is in non-attainment under applicable federal or State ambient air quality standards (including releasing emissions which exceed quantitative Standards for ozone precursors or other pollutants)?*

The San Francisco Bay Area Air Basin (SFBAAB) is currently designated as a nonattainment area for California and National ambient air quality standards (AAQS) for ozone (O<sub>3</sub>) and for PM<sub>2.5</sub>, and a nonattainment area under the California AAQS for PM<sub>10</sub>.<sup>28</sup> Any project that does not exceed or can be

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<sup>28</sup> California Air Resources Board (CARB), 2014, Area Designations: Activities and Maps, <https://www.arb.ca.gov/desig/desig.htm>, accessed February 27, 2017.

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mitigated to less than the BAAQMD significance levels, used as the threshold for determining major projects, does not add significantly to a cumulative impact.<sup>29</sup>

As discussed in criterion (a), the proposed project would involve the construction and subsequent occupancy of new residential units and healthcare rooms as well as new construction, renovation or additions of non-residential facilities. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

d) *Would the project expose sensitive receptors to substantial pollutant concentrations?*

The project site includes a CCRC development and is adjacent to residential development and the Rancho San Antonio County Park/Open Space Preserve to the south, and therefore, project construction emissions could potentially impact these on-site and adjacent sensitive receptors. Accordingly, the impacts under this criterion could be *potentially* until the need and nature of any required mitigation has been identified as part of the EIR to protect sensitive receptors from risks associated with the levels of pollution associated with construction on the project site.

e) *Would the project create objectionable odors affecting a substantial number of people?*

Construction and operation of residential developments such as the proposed project would not generate substantial odors or be subject to odors that would affect a substantial number of people. The type of facilities that are considered to have objectionable odors include wastewater treatments plants, compost facilities, landfills, solid waste transfer stations, fiberglass manufacturing facilities, paint/coating operations (e.g., auto body shops), dairy farms, petroleum refineries, asphalt batch plants, chemical manufacturing, and food manufacturing facilities. Residential uses are not associated with foul odors that constitute a public nuisance. Therefore, *no impact* would occur under this criterion and this issue will not be discussed in the EIR.

## IV. BIOLOGICAL RESOURCES

Would the proposed project:		Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a)	Have a substantial adverse effect, either directly or through habitat modifications, on a plant or animal population, or essential habitat, defined as a candidate, sensitive or special-status species?	■	□	□	□
b)	Have a substantial adverse effect on any riparian habitat or other sensitive natural community type?	□	□	■	□

<sup>29</sup> Bay Area Air Quality Management District (BAAQMD), 2011 Revised, California Environmental Quality Act Air Quality Guidelines.



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Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act, through direct removal, filling, hydrological interruption, or other means?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species, their wildlife corridors or nursery sites?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
e) Conflict with any local ordinances or policies protecting biological resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f) Conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## EXISTING CONDITIONS

The project site and surrounding area supports an urbanized environment with roadways, structures, other impervious surfaces, areas of turf, and ornamental landscaping. Remnant native trees are scattered throughout these urbanized areas, together with non-native trees, shrubs, and groundcovers. As shown on Figure 5, and using data from the Classification and Assessment with Landsat of Visible Ecological Groupings (CALVEG)<sup>30</sup> habitat mapping program, most of the site is classified as an “urban area” characterized by having low to poor wildlife habitat value due to replacement of natural communities, fragmentation of remaining open space areas and parks, and intensive human disturbance. In addition, the northeast, southeast and south portions of the project site contain land classified as “annual grass” characterized by having optimum habitat for a range of species. The diversity of urban wildlife depends on the extent and type of landscaping and remaining open space, as well as the proximity to natural habitat. Trees and shrubs used for landscaping provide nest sites and cover for wildlife adapted to developed areas. Typical native bird species include the mourning dove, scrub jay, northern mockingbird, American robin, brown towhee, American crow, and Anna’s hummingbird, among others. Introduced species include the rock dove, European starling, house finch, and house sparrow. Urban areas can also provide habitat for several species of native mammals such as the California ground squirrel and striped skunk, as well as the introduced eastern fox squirrel and eastern red fox. Introduced pest species such as the Norway rat, house mouse, and opossum are also abundant in developed areas.

As described in Chapter 4.3, Biological Resources, and presented on Figure 4.3-1, Vegetation and Habitat Types, of the General Plan EIR, wetlands and jurisdictional waters within the city boundary include creek corridors and associated riparian scrub and woodland, and areas of freshwater marsh around ponds, seeps, springs, and other waterbodies. Some remnant stands of riparian scrub and woodland occur along

<sup>30</sup> The CALVEG system was initiated in January 1978 by the Region 5 Ecology Group of the US Forest Service to classify California’s existing vegetation communities for use in statewide resource planning. CALVEG maps use a hierarchical classification on the following categories: forest; woodland; chaparral; shrubs; and herbaceous.

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segments of the numerous creeks through the urbanized valley floor. However, the project site does not encompass these creek corridors or contain other regulated waters.<sup>31</sup> The closest source of fresh water to the project site is Permanente Creek, which is located approximately 0.20 miles (1,000 feet) to the south.

Using data from the California Natural Diversity Database (CNDDB), the project site includes suitable habitat for a type of shrub commonly known as the western leatherwood, which is a special-status plant species. The project site is also adjacent to habitat for the California tiger salamander and near habitat for the California red-legged frog, which are special-status animal species.<sup>32</sup> See Figure 5. Additionally, there is a possibility that birds could nest in trees and other landscaping on the project site. The nests of most bird species are protected under the MBTA when in active use and there is a remote possibility that one or more raptor species protected under the MBTA and California Department of Fish and Game (CDFG) Code could nest on the project site. These include both the Cooper's hawk (*Accipiter cooperi*) and white-tailed kite (*Elanus leucurus*), which have reported CNDDB occurrences within the city boundary, but not on the site, together with more common raptors such as red-tailed hawk, great horned owl, and American kestrel, all of which are protected by the MBTA and CDFG Code when their nests are in active use.

## DISCUSSION

- a) *Would the project have a substantial adverse effect, either directly or through habitat modifications, on a plant or animal population, or essential habitat, defined as a candidate, sensitive or special-status species?*

As stated above in the existing conditions discussion and shown on Figure 5, the project site contains special status plant and animal species that consist of western leatherwood and California tiger salamander. Additionally, there is a possibility that birds that are protected by the MBTA could nest in trees and other landscaping on the project site. Therefore, the impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

- b) *Would the project have a substantial adverse effect on any riparian habitat or other sensitive natural community type?*

The project site is developed with residences, healthcare buildings, and landscaping, and riparian habitat and other sensitive natural community types are absent. As discussed in the existing conditions above and shown on Figure 4, the majority of the site is classified as an "urban" but some smaller portions are classified as "annual grass".<sup>33</sup> The project site does not include any wetlands or jurisdictional waters

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<sup>31</sup> City Of Cupertino General Plan Amendment, Housing Element Update, and Associated Rezoning Project, Chapter 4.3, Biological Resources.

<sup>32</sup> Special-status species are plants and animals that are legally protected under the Endangered Species Act/California Endangered Species Act (ESA/CESA) or other regulations, as well as other species that are considered rare enough by the scientific community and trustee agencies to warrant special consideration, particularly with regard to protection of isolated populations, nesting or denning locations, communal roosts, and other essential habitat

<sup>33</sup> The CALVEG system was initiated in January 1978 by the Region 5 Ecology Group of the US Forest Service to classify California's existing vegetation communities for use in statewide resource planning. CALVEG maps use a hierarchical classification on the following categories: forest; woodland; chaparral; shrubs; and herbaceous.

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including creek corridors and associated riparian areas.<sup>34</sup> Therefore, impacts on sensitive natural communities would be *less than significant*.

- c) *Would the project have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act, through direct removal, filling, hydrological interruption, or other means?*

As discussed in the existing conditions above, there are no wetlands, jurisdictional waters or other regulated waters on the project site; therefore, *no impact* would occur directly.

The closest source of fresh water to the project site is Permanente Creek, which is located approximately 0.20 miles (1,000 feet) to the south. Indirect impacts to wetlands and jurisdictional other waters include: 1) an increase in the potential for sedimentation due to construction grading and ground disturbance, 2) an increase in the potential for erosion due to increased runoff volumes generated by impervious surfaces, and 3) an increase in the potential for water quality degradation due to increased levels in non-point pollutants. However, indirect impacts could be largely avoided through effective implementation of Best Management Practices (BMP) during construction and compliance with water quality controls. As discussed in Section VII, Hydrology and Water Quality, of this Initial Study, water quality in stormwater runoff is regulated locally by the Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP), which includes Provision C.3 of the Municipal Regional Storm Water NPDES Permit (MRP) adopted by the San Francisco Bay Regional Water Quality Control Board (RWQCB). Adherence to these permit conditions requires the project to incorporate treatment measures, an agreement to maintain them, and other appropriate source control and site design features that reduce pollutants in runoff to the maximum extent practicable. Many of the requirements involve low impact development (LID) practices such as the use of onsite infiltration that reduce pollutant loading. Incorporation of these measures can even improve on existing conditions. In addition, future development would be required to comply with the NPDES Permit (CMC Chapter 9.18, Storm Water Pollution Prevention and Watershed Protection) and implement a construction Storm Water Pollution Prevention Plan (SWPPP) that require the incorporation of BMPs to control sedimentation, erosion, and hazardous materials contamination of runoff during construction. The indirect water quality-related issues are discussed further in Section VII, Hydrology and Water Quality, of this Initial Study. As discussed in Impact HYDRO-1, water quality impacts would be *less than significant*. Accordingly, indirect impacts to wetlands and jurisdictional waters would be *less than significant* and no this issue will not be discussed further in the EIR.

- d) *Would the project interfere substantially with the movement of any native resident or migratory fish or wildlife species, their wildlife corridors or nursery sites?*

The project site is located in an urbanized area, bordered by existing roadways and other urban uses which preclude the presence of any important wildlife movement corridors across the site. The site contains no creeks or aquatic habitat that would support fish, and proposed development would not interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nurseries. Wildlife species common in urban habitat would continue to move through the area, both

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<sup>34</sup> City of Cupertino General Plan Amendment, Housing Element Update, and Associated Rezoning Project, Chapter 4.3, Biological Resources.

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during and after construction. Some species common in open grasslands and suburban habitats would most likely be displaced with the elimination of some of the existing non-native grassland cover, scattered trees, and ornamental landscape trees and shrubs on the site, but these are species that are relatively abundant in urban areas, and their loss or displacement would not be considered a significant impact. Therefore, this would be considered a *less-than-significant* impact on wildlife movement and this issue will not be discussed in the EIR.

e) *Would the project conflict with any local ordinances or policies protecting biological resources?*

The proposed project in general would not conflict with any relevant goals and policies in the City of Cupertino General Plan related to protection of biological and wetland resources. However, the City of Cupertino has Protected Tree Ordinance (CMC Chapter 14.12), which provides regulations for the protection, preservation, and maintenance of trees of certain species and sizes. Removal of a protected tree requires a permit from the City. "Protected" trees include trees of a certain species and size in all zoning districts; heritage trees in all zoning districts; any tree required to be planted or retained as part of an approved development application, building permit, tree removal permit, or code enforcement action in all zoning districts; and approved privacy protection planting in R-1 zoning districts. The site contains a number of native oaks and ornamental tree species, many of which qualify as regulated trees under the City's Tree Preservation regulations that could be affected by the proposed project. While several thousand trees exist on the project site, in accordance City practices, the Arborist Report<sup>35</sup> prepared for the project site included a survey of trees in the areas proposed for development, as trees in the areas outside the development area would not be impacted. Out of the trees in the development area, 279 trees representing 23 species were evaluated. The Arborist Report identified 115 trees that would be directly impacted by development and require removal. Of these, 15 trees had low suitability for preservation, 63 were moderate, and 37 were high. Twenty-three (23) trees qualified as *Specimen* trees per the Protected Tree Ordinance. One hundred sixty-four (164) trees were identified for preservation, most of which are outside the development area. Therefore, an assessment of potential impacts on tree resources and the need and nature of any required mitigation will be identified as part of the EIR.

f) *Would the project conflict with an adopted Habitat Conservation Plan, Natural Community Conservation Plan or other approved local, regional, or State habitat conservation plan?*

No adopted Habitat Conservation Plan, Natural Community Conservation Plans encompass the city or the project site. Therefore, *no impact* would result under this criterion and this issue will not be discussed in the EIR.

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<sup>35</sup> Arborist Report, The Forum at Rancho San Antonio, April 20, 2017, HortScience, Inc.



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## V. CULTURAL RESOURCES

Would the proposed project:	Potentially Significant Impact	Less Than Significant With Mitigation Incorporated	Less Than Significant	No Impact
a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d) Disturb any human remains, including those interred outside of formal cemeteries?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## EXISTING CONDITIONS

Development at the project site began in 1991 and no historical architectural resources are located on the project site. Accordingly, the buildings on the project site do not fall within the over 45-year age limits established for historical resources that should be included in the California Department of Historic Preservation (OHP) filing system.<sup>36</sup>

A review of the University of California's Museum of Paleontology's (UCMP) fossil locality database was conducted for the City of Cupertino during the recent General Plan Update process. No paleontological resources have been identified on the project site; however, the presence of Pleistocene deposits that are known to contain fossils indicates that overall the city could contain paleontological resources.

Chapter 4.4, Cultural Resources, of the General Plan EIR, addresses the impacts to cultural resources associated with intensified development of the project site. As shown in Table 4.4-2, *Cultural Resources in the Project Study Area and Vicinity*, and on Figure 4.4-1, *Cultural Resources*, of the General Plan EIR, there are no identified cultural resources on the project site. The conclusion is based on the cultural resources analysis conducted by Tom Origer & Associates on July 24, 2013, included as Appendix D, Cultural Resources Data, of the General Plan EIR. The cultural resources study consists of archival research at the Northwest Information Center at Sonoma State University, examination of the library and files, field inspection, and contact with the Native American community.

<sup>36</sup> Office of Historic Preservation, 1995. Instructions For Recording Historical Resources, page 2.

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### DISCUSSION

- a) *Would the project cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5?*

Under CEQA, both prehistoric and historic-period archaeological sites may qualify as historical resources.<sup>37</sup> Archaeological resources are addressed in criterion (b), and human remains are addressed below in criterion (d), below.

The project site currently includes a residential complex that was developed starting in 1991. As described in the existing conditions above, the existing buildings do not fall within the over 45-year age limits established for historical resources that should be included in the OHP filing system the California Register of Historical Resources.<sup>38</sup> Therefore, *no impact* would result under this criterion and this issue will not be discussed in the EIR.

- b) *Would the project cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5?*

Historical and pre-contact archaeological deposits that meet the definition of historical resource under CEQA Section 21084.1 or CEQA Guidelines Section 15064.5 could be present at the project site and could be damaged or destroyed by ground-disturbing construction activities (e.g., site preparation, grading, excavation, and trenching for utilities) associated with development allowed under the proposed project. Should this occur, the ability of the deposits to convey their significance, either as containing information about prehistory or history, or as possessing traditional or cultural significance to Native American or other descendant communities, would be materially impaired.

Because the project site includes an undeveloped area the site could contain subsurface archaeological deposits, including unrecorded Native American prehistoric archaeological materials. Therefore, any project-related ground-disturbing activities have the potential to affect subsurface prehistoric archaeological resources that may be present. Accordingly, impacts under this criterion could be *potentially significant* until the need and nature of any required mitigation has been identified as part of the EIR.

- c) *Would the project directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?*

As discussed above in existing conditions, while no paleontological resources have been identified within the project site, because the proposed project requires substantial excavation that could reach significant depths below the ground surface where no such excavation has previously occurred, there could be fossils of potential scientific significance and other unique geologic features that have not been recorded. Such ground-disturbing construction associated with development under the proposed project could cause damage to, or destruction of, paleontological resources or unique geologic features. Accordingly, impacts

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<sup>37</sup> California Code of Regulations, Title 14, Chapter 3, Section 15064.5(c), Determining the Significance of Impacts on Historical and Unique Archeological Resources.

<sup>38</sup> Office of Historic Preservation, 1995. Instructions for Recording Historical Resources, page 2.