

July 2021 | Public Review Draft Initial Study



22690 Stevens Creek Boulevard Project Initial Study

for the City of Cupertino

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Prepared By:

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In addition to these appendices, all documents cited in this report and used in its preparation are hereby incorporated by reference into this Initial Study. Copies of documents referenced herein are available for review at the City of Cupertino Community Development Department at 10300 Torre Avenue, Cupertino, California 95014.

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1. Introduction

This document is an Initial Study for the 22690 Stevens Creek Boulevard Project (proposed project) prepared by the City of Cupertino (City) to determine if the proposed project may have a significant effect on the environment. This Initial Study was prepared pursuant to the California Environmental Quality Act (CEQA) (Public Resources Code sections 21000 et seq.). Pursuant to Section 15051 of the State CEQA Guidelines,¹ the City is the lead agency for the proposed project.

The project site is located on a 0.68-acre site that is proposed for redevelopment by Alan Enterprises (the project applicant). The project site consists of three lots that are assigned Assessor's Parcel Numbers: 342-14-066,-104, and -105. The site is located at 22690 Stevens Creek Boulevard, where Stevens Creek Boulevard and South Foothill Boulevard intersect. The project site is surrounded by residential and office uses to the north, residential uses and a gas service station with an auto repair shop to the east, residential uses to the south, and residential uses and the Monta Vista Fire Station to the west. The site is currently divided into three lots and is developed with a single commercial building occupied by a convenience store and a paved asphalt parking lot on the eastern portion of the site. The remainder of the property is an undeveloped dirt and gravel lot.

The proposed project would involve demolishing the existing commercial building and redeveloping the project site with a residential project. The proposed project would include nine attached single-family dwelling units (one of which would be an affordable housing unit), each with a two-car garage. An accessory dwelling unit (ADU) would be included within one of the single-family buildings. Each building would be three stories, for a maximum height of 30 feet at the roofline.

The General Plan Land Use for the project site is Commercial/Residential. The Commercial/Residential land use designation allows primarily commercial uses and secondarily residential uses, or a combination of the two. The project site is zoned Planned Development with General Commercial permitted (P(CG)) and would require a rezoning to allow residential land uses. The new zoning designation would be (P(CG, Res)). The maximum height for development on the project site is 30 feet.² A detailed description of the proposed project is provided in Chapter 3, Project Description, of this Initial Study.

¹ The CEQA Guidelines are found in California Code of Regulations, Title, 14, Section 15000 et seq.

² City of Cupertino General Plan (Community Vision 2015-2040), Chapter 3, Land Use, Figure LU-2, Community Form Diagram, pages LU-16 and LU-17.

INTRODUCTION

1.1 INITIAL STUDY

Pursuant to CEQA Guidelines Section 15063, an Initial Study is a preliminary environmental analysis that is used by the lead agency as a basis for determining what form of environmental review is required for a project. The CEQA Guidelines require that an Initial Study contain a project description, description of environmental setting, identification of environmental effects by checklist or other similar form, explanation of environmental effects, discussion of mitigation for significant environmental effects, evaluation of the project's consistency with existing and applicable land use controls, and the name of persons who prepared the study.

1.2 TIERING PROCESS

The CEQA concept of "tiering" refers to the evaluation of general environmental matters in a broad program-level EIR, with subsequent focused or project-level environmental documents for individual projects that implement the program. Pursuant to CEQA Guidelines Section 15152 this Initial Study is tiered from the City's General Plan Amendment, Housing Element Update, and associated Rezoning Project Environmental Impact Report (EIR) that was certified by the Cupertino City Council in December 2014,³ and the subsequent addenda to the EIR that were approved by the City Council in October 2015,⁴ August 2019,⁵ and December 2019,⁶ together hereinafter "General Plan EIR."

Pursuant to CEQA Guidelines Section 15150 this Initial Study incorporates by reference the discussions and analysis in the General Plan EIR.⁷ As previously stated, copies of documents referenced herein are available for review at the City of Cupertino Community Development Department at 10300 Torre Avenue, Cupertino, California 95014.

The analysis in this Initial Study concentrates on the project-specific issues pertaining to the proposed 22690 Stevens Creek Boulevard Project. CEQA and the CEQA Guidelines encourage the use of tiered environmental documents to reduce delays and excessive paperwork in the environmental review process. This is accomplished in tiered documents by eliminating repetitive analyses of issues that were adequately addressed in the program EIRs and by incorporating those analyses by reference.

³ City of Cupertino, certified General Plan Amendment, Housing Element Update, and Associated Rezoning EIR, State Clearinghouse Number 2014032007. December 2014.

⁴ City of Cupertino, approved First Addendum to the General Plan Amendment, Housing Element Update, and Associated Rezoning EIR, State Clearinghouse Number 2014032007. October 2015.

⁵ City of Cupertino, approved Second Addendum to the General Plan Amendment, Housing Element Update, and Associated Rezoning EIR, State Clearinghouse Number 2014032007. August 2019.

⁶ City of Cupertino, approved Third Addendum to the General Plan Amendment, Housing Element Update, and Associated Rezoning, State Clearinghouse Number 2014032007. December 2019.

⁷ Discussion is located in Chapter 3, Project Description, and Chapter 4, Environmental Analysis, of this Initial Study.

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In order to determine whether the proposed project was part of the development that was examined in the General Plan EIR, the following questions must be answered:

- Is the proposed project included in the scope of the development projected and analyzed in the General Plan EIR?
- Is the project site in an area designated for Residential land uses in the General Plan and Planned Development with a Residential Zoning District?
- Are the changes to population and employment associated with the proposed project included within the scope of the projections accounted for in the General Plan EIR?
- Is the proposed project within the scope of the cumulative analysis in the General Plan EIR?

The General Plan EIR included an evaluation of the project site as potential Housing Element Site 8 (Bateh Bros.), although the adopted General Plan did not designate this site as a Priority Housing Element Site. The evaluation in the General Plan EIR assumed potential redevelopment of commercial and residential uses with 35 maximum dwelling units and a maximum building height of 30 feet at the roofline.

The General Plan EIR evaluated a Zoning District change from Planned Development with General Commercial (P(CG)) to Planned Development with General Commercial and Residential (P(CG, Res)) to accommodate the construction of residential uses on-site. The project is consistent with the General Plan land use designation, but because the City Council did not identify this as a Housing Element site, the Zoning Map was not amended following the certification of the General Plan EIR. The approval of the proposed project would require an amendment to the Zoning Map to allow residential uses on the project site as proposed.

The cumulative impacts of past, present, and probable future development, in conjunction with overall General Plan buildout, including residential development of the project site, were evaluated in the General Plan EIR. Accordingly, this Initial Study tiers from the General Plan EIR pursuant to CEQA Guidelines Section 15152 (Public Resources Code Section 21094).

Table 1-1 identifies the development potential that was analyzed for the project site in the General Plan EIR, what type of development the General Plan currently anticipates for the project site, and what is proposed for the site as part of the project.

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TABLE 1-1 GENERAL PLAN EIR, GENERAL PLAN, AND THE PROPOSED PROJECT COMPARISON TABLE

	General Plan EIR ^a	General Plan ^b	Proposed Project
Reference Name	Housing Element Site 8 (Bateh Bros.)	N/A	22690 Stevens Creek Boulevard
General Plan Land Use	Commercial/Residential	Commercial/Residential ^c	Commercial/Residential
Zoning District	Planned Development with General Commercial and Residential (P(CG, Res)) ^d	Planned Development with General Commercial (P(CG))	Planned Development with General Commercial and Residential (P(CG, Res))
Density	35 du/ac	15 du/ac ^e	13.2 du/ac ^f
Maximum Height	30 feet	30 feet ^e	29 feet 10.5 inches
Development Potential	Up to 19 residential units ^g	Up to 11 residential units	9 residential units 1 accessory dwelling unit
Population ^h	56	32	28
Employees	N/A ⁱ	N/A	0 ^j

Notes:

a. Certified General Plan Amendment, Housing Element Update, and Associated Rezoning EIR and Addenda, State Clearinghouse Number 2014032007. December 2014, October 2015, August 2019, and December 2019.

b. City of Cupertino General Plan (Community Vision 2015 – 2040).

c. City of Cupertino Land Use Map adopted November 15, 2005 and amended August 20, 2019.

d. Although the General Plan EIR evaluated an amendment to the Zoning District from Planned Development with General Commercial (P(CG)) to Planned Development with General Commercial and Residential (P(CG, Res)), the City did not change the Zoning Map at that time.

e. Chapter 2, Planning Areas, page PA-22 and PA-23; Chapter 3, Land Use and Community Design Element, page LU-16 and LU-17.

f. A density of 13.2 dwelling units per acre does not account for the density of the accessory dwelling units because an ADU is an accessory use for the purposes of calculating allowable density and would not be counted as an additional unit pursuant to California Government Code Section 68582.2.

g. Although the site could accommodate up to 24 units based the 35 du/ac density, the General Plan EIR evaluated a realistic yield of 19 net units.

h. Estimates are based on the Association of Bay Area Governments (ABAG) 2019 projections that show an average household size of 2.87 persons for Cupertino in 2020. This is the standard approach for population estimates in Cupertino. Note that the 2.94 persons per household rate for year 2040 was applied in the General Plan EIR. Based on a study completed by the Center for Community Innovation at University of California Berkeley in five Bay Area communities, accessory dwelling units have an average household size of 1.5 persons per unit.

i. The General Plan EIR applied a generation rate of 450 square feet of commercial space per employee.

j. The proposed project could provide employment for intermittent staff for landscape, maintenance, childcare, etc., but no permanent employment opportunities would be available on site.

Source: City of Cupertino, PlaceWorks, 2020.

1.3 REPORT ORGANIZATION

This Initial Study is organized into the following chapters:

Chapter 1: Introduction. This chapter provides an introduction and overview of the Initial Study document.

Chapter 2: Executive Summary. A summary of the pertinent details for the proposed project, including lead agency contact information, proposed project location, and General Plan land use designation and Zoning Districts are in this chapter. This chapter also summarizes the significant impacts that could occur

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from construction and operation of the proposed project and identifies the mitigation measures recommended to reduce the impacts to a less-than-significant level.

Chapter 3: Project Description. This chapter describes the location and setting of the proposed project, along with its principal components, as well as a description of the policy setting and implementation process for the proposed project.

Chapter 4: Environmental Analysis. Making use of the CEQA Guidelines Appendix G, Environmental Checklist, this chapter identifies and discusses anticipated impacts from the proposed project, providing substantiation of the findings made.

Chapter 5: Mitigation Monitoring and Reporting Program. This chapter lists the impacts found to be significant and identifies the recommended mitigation measures categorized by impact area.

Chapter 6: Organizations and Persons Consulted. This chapter presents a list of City and other agencies and consultant team members that contributed to the preparation of the Initial Study.

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2. Executive Summary

2.1 INITIAL STUDY CHECKLIST

1. **Project Title:** 22690 Stevens Creek Boulevard 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:** Erick Serrano
Senior Planner
408-777-3205
4. **Location:** 22690 Stevens Creek Boulevard
Cupertino, CA 95014
5. **Applicant's Name and Address:** Alan Enterprises LLC
1177 California Street, Suite 1821
San Francisco, CA 94108
6. **General Plan Land Use Designations:** Commercial/Residential
7. **Zoning:** Planned Development with General Commercial P(CG)
8. **Description of Project:** See Chapter 3, Project Description
9. **Surrounding Land Uses and Setting:** See page 3-1 of Chapter 3, Project Description
10. **Other Required Approvals:** See page 3-36 of Chapter 3, Project Description
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 received a request to be notified about projects in the city of Cupertino from the Tamien Nation on May 28, 2021, because the city is within the geographic area with which they are traditionally and culturally affiliated. The City has initiated the consultation process and the Tamien Nation is included on the notification distribution list for this Initial Study.

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2.2 ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED

The environmental factors checked below would be potentially affected by the proposed project, involving at least one impact that is a potentially significant impact, as shown in Chapter 4, Environmental Analysis, of this Initial Study.

- | | | |
|--|---|---|
| <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"/> Energy |
| <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 & Planning | <input type="checkbox"/> Mineral Resources |
| <input type="checkbox"/> Noise | <input type="checkbox"/> Population & Housing | <input type="checkbox"/> Public Services |
| <input type="checkbox"/> Recreation | <input type="checkbox"/> Transportation | <input type="checkbox"/> Tribal Cultural Resources |
| <input type="checkbox"/> Utilities & Service Systems | <input type="checkbox"/> Wildfire | <input type="checkbox"/> Mandatory Findings of Significance |

2.3 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 project proponent. 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 is required.
- 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.

Approved by: _____
Erick Serrano, Senior Planner

Date

2.4 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Due to the location of the project site, the proposed project would have no impact on Agriculture, Forestry, or Mineral Resources; therefore, these topics are not discussed in detail in the Initial Study. The following lists the potentially significant impacts by topic that could occur from construction and operation of the proposed project and identifies mitigation measures to reduce the impacts to a less-than-significant level. All other topic areas were identified to have less-than-significant impacts. A detailed discussion of the project's impacts is provided in Chapter 4, Environmental Analysis, of this Initial Study.

AIR QUALITY

Impact AQ-1: Fugitive dust (PM₁₀ and PM_{2.5}) generated by the proposed project during construction could potentially result in significant regional short-term air quality impacts without implementation of the Bay Area Air Quality Management District's best management practices related to reducing fugitive dust emissions.

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

- Water all active construction areas at least twice daily, or as often as needed to control dust emissions. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible.
- Pave, apply water twice daily or as often as necessary to control dust, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas, and staging areas at construction sites.
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- Sweep daily (with water sweepers using reclaimed water if possible) or as often as needed all paved access roads, parking areas and staging areas at the construction site to control dust.
- Sweep public streets daily (with water sweepers using reclaimed water if possible) in the vicinity of the project site, or as often as needed, to keep streets free of visible soil material.
- Hydroseed or apply non-toxic soil stabilizers to inactive construction areas.
- Enclose, cover, water twice daily, or apply non-toxic soil binders to exposed stockpiles (dirt/sand).
- Limit vehicle traffic speeds on unpaved roads to 15 miles per hour.
- Vegetative ground cover shall be planted in disturbed areas as soon as possible and watered appropriately until the vegetation is established.

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- Install sandbags or other erosion control measures to prevent silt runoff from public roadways.
- All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

Impact AQ-2: The proposed project could expose sensitive receptors to substantial pollutant concentrations during construction.

Mitigation Measure AQ-2: During construction, the construction contractor(s) shall:

- Use construction equipment that have engines that meet either United State Environmental Protection Agency (USEPA) or California Air Resources Board (CARB) Tier 4 Interim emission standards for off-road diesel-powered construction equipment with more than 25 horsepower, unless it can be demonstrated to the City of Cupertino Building Division that such equipment is not available. Any emissions control device used by the contractor shall achieve emissions reductions that are no less than what could be achieved by Tier 4 Interim emissions standards for a similarly sized engine, as defined by the CARB's regulations.
- Prior to issuance of any construction permit, ensure that all construction plans submitted to the City of Cupertino Planning Department and/or Building Division clearly show the requirement for Tier 4 Interim emission standards for construction equipment more than 25 horsepower.
- Maintain a list of all operating equipment in use on the project site for verification by the City of Cupertino Building Division official or their designee. The construction equipment list shall state the makes, models, and number of construction equipment on-site.
- Ensure that all equipment shall be properly serviced and maintained in accordance with manufacturer recommendations.
- Communicate with all sub-contractors in contracts and construction documents that all nonessential idling of construction equipment is restricted to 5 minutes or less in compliance with CARB Rule 2449 and is responsible for ensuring that this requirement is met.

Impact AQ-3: Development on the project site could expose future residents to potential odors from non-hazardous soil vapor contamination from the neighboring property at 22510 Stevens Creek Boulevard.

Mitigation Measure AQ-3: The project applicant shall install a vapor barrier beneath the concrete foundation slab of the proposed residential buildings at the project site to mitigate potential odor risks associated with concentration of non-hazardous soil vapor contamination. This mitigation measure shall be identified on the permit application drawing set and as part of the construction drawing set, and shall be implemented by the on-site Construction Manager.

BIOLOGICAL RESOURCES

Impact BIO-1: Demolition and construction activities could disturb active nests in trees at the residential properties immediately adjacent to the project site to the south, and/or otherwise interfere with nesting of birds protected under federal and State law.

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Mitigation Measure BIO-1: Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Fish and Game Code. The construction contractor shall indicate the following on all construction plans, if construction activities and any required tree removal occur during the breeding season (February 1 and August 31).

- Preconstruction surveys shall:
 - Be conducted by a qualified biologist prior to tree removal or grading, demolition, or construction activities. Note that preconstruction surveys are not required for tree removal or construction, grading, or demolition activities outside the nesting period.
 - Be conducted no more than 14 days prior to the start of tree removal or construction.
 - Be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped.
 - Document locations of active nests containing viable eggs or young birds.
- Protective measures for active nests containing viable eggs or young birds shall be implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds, and the young have left the nest and are foraging independently, or the nest is no longer active. Protective measures shall include:
 - Establishment of clearly delineated exclusion zones (i.e., demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by the qualified biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds.
 - Monitoring active nests within an exclusion zone on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status.
 - An increase in the radius of an exclusion zone by the qualified biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with the California Department of Fish and Wildlife.

CULTURAL RESOURCES

Impact CULT-1: The proposed project could cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5.

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

- All work within 50 feet of the resources shall be halted, the City shall be notified, and a qualified archaeologist shall be consulted. The contractor shall cooperate in the recovery of the materials. Work may proceed on other parts of the project site while mitigation for tribal cultural resources, historical resources or unique archaeological resources is being carried out.
- The qualified archaeologist shall prepare a report for the evaluation of the resource to the California Register of Historical Places and the City Building Department. The report shall also include

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appropriate recommendations regarding the significance of the find and appropriate mitigations as follows:

- If the resource is a non-tribal resource, the archaeologist shall assess the significance of the find according to CEQA Guidelines Section 15064.5.
- If the resource is a tribal resource – whether historic or prehistoric – the consulting archaeologist shall consult with the appropriate tribe(s) to evaluate the significance of the resource and to recommend appropriate and feasible avoidance, testing, preservation, or mitigation measures, in light of factors such as the significance of the find, proposed project design, costs, and other considerations. If avoidance is infeasible, other appropriate measures (e.g., data recovery) may be implemented.
- All significant non-tribal cultural materials recovered shall be, as necessary, and at the discretion of the consulting archaeologist, subject to scientific analysis, professional museum curation, and documentation according to current professional standards.

GEOLOGY AND SOILS

Impact GEO-1: Construction of the proposed project would have the potential to directly or indirectly affect an unknown unique paleontological resource.

Mitigation Measure GEO-1: The construction contractor shall incorporate the following in all grading, demolition, and construction plans:

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

HAZARDS AND HAZARDOUS MATERIALS

Impact HAZ-1: Demolition and construction activities could expose construction workers and the public to hazardous materials during the construction phase.

Mitigation Measure HAZ-1: The project applicant shall prepare an Environmental Site Management Plan (ESMP) in consultation with applicable agencies (e.g., the Regional Water Quality Control Board (RWQCB), the Department of Toxic Substances Control (DTSC), Santa Clara County Department of Environmental Health (SCCDEH), or Santa Clara County Fire Department), if any, or in the alternative to the satisfaction of the City based on a third-party peer review, as appropriate. The purpose of the ESMP is to protect construction workers, the general public, the environment, and future site occupants from hazardous materials previously identified at the site and to address the possibility of encountering unknown contamination or hazards during demolition, grading, excavation, and construction activities. The ESMP shall summarize soil and groundwater analytical data collected on the project site during past investigations; identify management options for grading, if contaminated media are encountered during grading; and identify monitoring, irrigation, or other wells requiring proper abandonment in compliance with local, State, and federal laws, policies, and regulations.

The ESMP shall include measures for identifying, testing, and managing soil and groundwater suspected of or known to contain hazardous materials. The ESMP shall: 1) provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project grading; 2) describe required worker health and safety provisions for all workers potentially exposed to hazardous materials in accordance with State and federal worker safety regulations; and 3) designate personnel responsible for implementation of the ESMP.

NOISE

Impact NOISE-1: The proposed project could result in the generation of a substantial temporary increase in ambient noise levels in the vicinity of the project site during the construction phase that would be in excess of standards established in the City of Cupertino Municipal Code.

Mitigation Measure NOISE-1: The following shall be incorporated in all activity phases and construction plans, as required by the Cupertino Municipal Code (CMC). Construction activities shall take place only during daytime hours of 7:00 a.m. and 8:00 p.m. on weekdays and due to the close proximity of the adjacent residential land use to the south, construction may occur on the weekends, holidays or nighttime only if a special exception has been granted by the City. In addition, the construction crew shall adhere to the following best management practices:

- At least 90 days prior to the start of any construction, demolition or grading activities, all off-site businesses and residents within 300 feet of the project site will be notified of the planned activities. The notification will include a brief description of the project, the activities that would occur, the hours when activity would occur, and the construction period's overall duration. The notification should include the telephone numbers of the contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint.

EXECUTIVE SUMMARY

- The project applicant and contractors shall prepare and submit a Construction Noise Control Plan to the City's Building Department and Code Enforcement for review and approval prior to issuance of any grading, demolition, and/or building permits. The Construction Noise Plan shall demonstrate compliance with the 80-dBA limit in the CMC. The details of the Construction Noise Control Plan, including those details listed herein, shall be included as part of the permit application drawing set and as part of the construction drawing set, shall be implemented by the on-site Construction Manager, and shall include, but not be limited to, the following available controls to comply with the 80 dBA performance standard:
 - At least 10 days prior to the start of construction activities, a sign will be posted at the entrance(s) to the job site, clearly visible to the public, which includes permitted construction days and hours, as well as the telephone numbers of the City's and contractor's authorized representatives that are assigned to respond in the event of a noise or vibration complaint. If the authorized contractor's representative receives a complaint, they will investigate, take appropriate corrective action, and report the action to the City.
 - During the entire active construction period, equipment and trucks used for project construction will utilize the best available noise control techniques (e.g., improved mufflers, equipment re-design, use of intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds), wherever feasible.
 - Include noise control requirements for equipment and tools, including concrete saws, to the maximum extent feasible. Such requirements could include, but are not limited to, erecting temporary plywood noise barriers between construction areas and nearby sensitive receptors; performing work in a manner that minimizes noise; and undertaking the noisiest activities during times of least disturbance to nearby sensitive receptors.
 - During the entire active construction period, stationary noise sources will be located as far from sensitive receptors as possible, and they will be muffled and enclosed within temporary sheds, or insulation barriers or other measures will be incorporated to the extent feasible.
 - Select haul routes that avoid the greatest amount of sensitive use areas and submit to the City of Cupertino Public Works Department for approval prior to the start of the construction phase.
 - Signs will be posted at the job site entrance(s), within the on-site construction zones, and along queueing lanes (if any) to reinforce the prohibition of unnecessary engine idling. All other equipment will be turned off if not in use for more than 5 minutes.
 - During the entire active construction period and to the extent feasible, the use of noise producing signals, including horns, whistles, alarms, and bells will be for safety warning purposes only. The construction manager will use smart back-up alarms, which automatically adjust the alarm level based on the background noise level or switch off back-up alarms and replace with human spotters in compliance with all safety requirements and law.
 - Prior to start of construction, erect a temporary noise barrier/curtain between the construction zone and adjacent residences along the boundary (see Figure 4-1, Temporary Noise Barrier Locations, of the Initial Study). The temporary sound barrier shall have a minimum height of 12 feet and be free of gaps and holes. The barrier can be (a) a ¾-inch-thick plywood wall OR (b) a hanging blanket/curtain with a surface density of at least 2 pounds per square foot.

EXECUTIVE SUMMARY

Impact NOISE-2: The proposed project could result in the generation of a substantial permanent increase in ambient noise levels in the vicinity of the project during the operation phase that could be in excess of standards established in the City of Cupertino Municipal Code.

Mitigation Measure NOISE-2: Mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the Cupertino Municipal Code noise limits of 60 dBA and 50 dBA at residential uses during daytime and nighttime, respectively, and 65 dBA and 55 dBA at non-residential sensitive uses during daytime and nighttime, respectively. A qualified acoustical consultant shall be retained to review mechanical noise as these systems are selected to determine specific noise reduction measures necessary to reduce noise to comply with the City's noise level requirements. Mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the City's noise level requirements. Noise reduction measures could include, but are not limited to:

- Selection of equipment that emits low noise levels;
- Installation of noise dampening techniques, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors; or
- Locating equipment in less noise-sensitive areas, where feasible.

Impact NOISE-3: The proposed project could result in the generation of excessive groundborne vibration in the vicinity of the project during the construction phase that would be in excess of established thresholds.

Mitigation Measure NOISE-3: If paving activity during construction is required within 25 feet of nearby residential structures, the use of a static roller in lieu of a vibratory roller shall be employed. Grading and earthwork activities within 15 feet of adjacent residential structures shall be conducted with off-road equipment that is limited to 100 horsepower or less. This mitigation measure shall be identified on the permit application drawing set and as part of the construction drawing set, and shall be implemented by the on-site Construction Manager.

TRIBAL CULTURAL RESOURCES

Impact TRC-1: The proposed project could cause a substantial adverse impact to an unknown Tribal Cultural Resource.

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

UTILITIES AND SERVICE SYSTEMS

Impact UTIL-1: Implementation of the proposed project may result in a determination by the wastewater treatment provider, which serves or may serve the proposed project, that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.

EXECUTIVE SUMMARY

Mitigation Measure UTIL-1: No building permits shall be issued by the City for the proposed 22690 Stevens Creek Boulevard Project that would result in exceeding the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system. The project applicant shall demonstrate, to the satisfaction of the City of Cupertino and Cupertino Sanitary District (CSD), that the proposed project would not exceed the peak wet weather flow capacity of the Santa Clara sanitary sewer system by implementing one or more of the following methods:

1. Reduce inflow and infiltration in the CSD system to reduce peak wet weather flows; or
2. Increase on-site water reuse, such as increased grey water use, or reduce water consumption of the fixtures used within the proposed project, or other methods that are measurable and reduce sewer generation rates to acceptable levels, to the satisfaction of the CSD.

The proposed project's estimated wastewater generation shall be calculated using the generation rates used by the CSD in the *Flow Modeling Analysis for the Homestead Flume Outfall to the City of Santa Clara*, prepared by Mark Thomas & Co. Inc. dated December 6, 2019, unless alternative (i.e., lower) generation rates achieved by the proposed project are substantiated by the project applicant based on evidence to the satisfaction of the CSD. To calculate the peak wet weather flow for a 10-year storm event, the average daily flow rate shall be multiplied by a factor of 2.95 as required by CSD pursuant to their December 2019 flow modeling analysis.

3. Project Description

The project applicant, Alan Enterprises, is proposing the 22690 Stevens Creek Boulevard Project (proposed project) that would involve demolishing the existing commercial building, and construction and operation of a residential project with nine single-family attached dwelling units and one accessory dwelling unit on an 0.68-acre site that is divided into three lots. The site is currently developed with a convenience store and paved surface parking. A portion of the site is an unpaved (dirt and gravel) lot.

This chapter provides a detailed description of the proposed project, including the location, setting, and characteristics of the project site, the principal project features, construction phasing and schedule, as well as a list of the required permits and approvals.

3.1 PROJECT LOCATION AND SITE CHARACTERISTICS

3.1.1 REGIONAL LOCATION

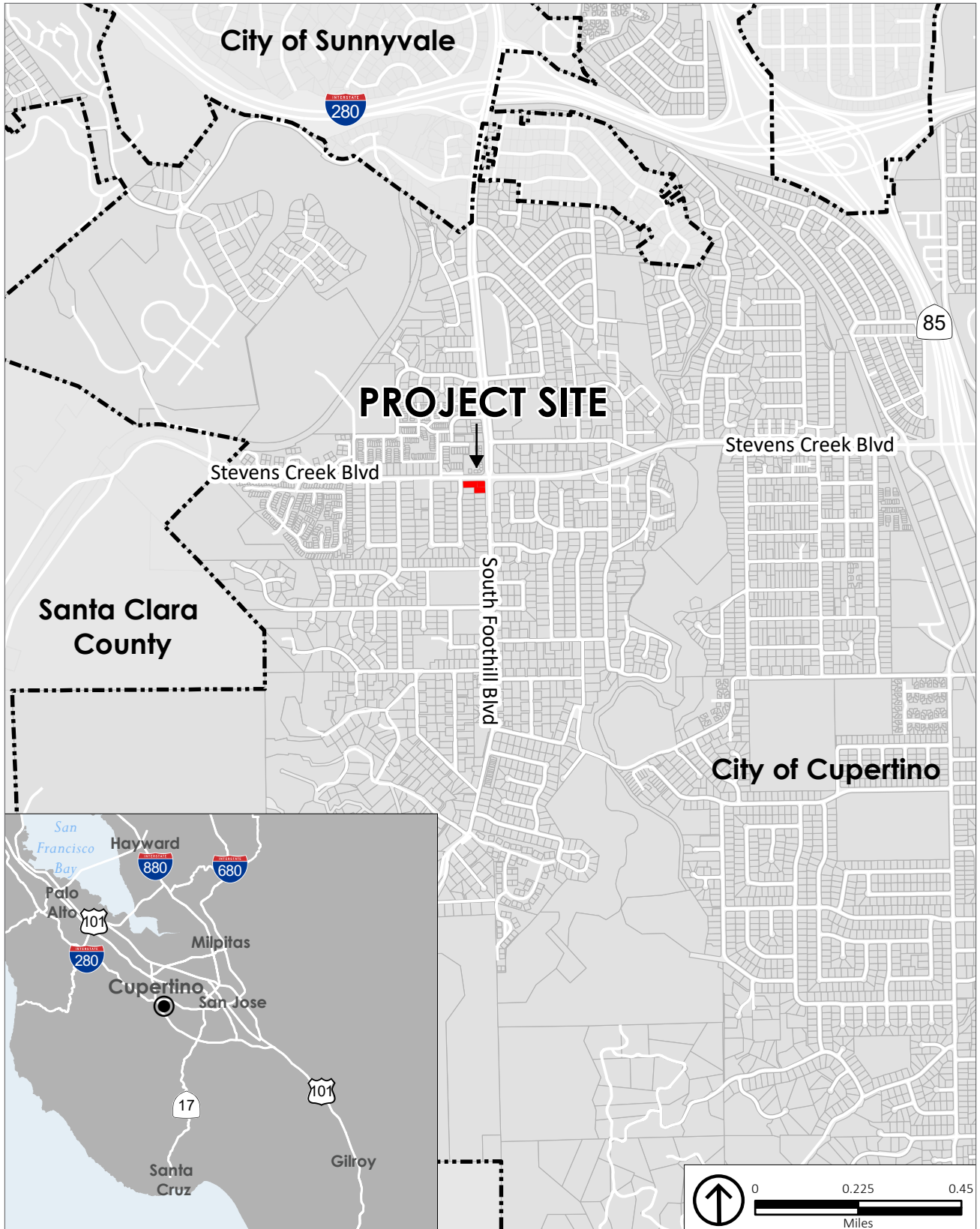
As shown on Figure 3-1, the project site is in the city of Cupertino located in the northwestern portion of Santa Clara County. Cupertino is roughly 45 miles south of San Francisco and 13 miles west of downtown San José. Interstate 280 (I-280) and State Route 85 (SR 85) provide regional access to the project site.

3.1.2 LOCAL SETTING

The project site is located at 22690 Stevens Creek Boulevard on the southwest corner at the intersection of Stevens Creek Boulevard and South Foothill Boulevard. As shown on Figure 3-2, the project site is surrounded by residential and office uses to the north, residential uses and a gas service station with an auto repair shop to the east, residential uses to the south, and residential uses and the Monta Vista Fire Station to the west. South Foothill Boulevard to the east of the project site, Stevens Creek Boulevard to the north of the project site, and Camino Vista Drive to the west of the project site are both two-lane roadways.

The City parks nearest to the project site are Monta Vista Park to the south; Varian Park to the northeast; McClellan Ranch Preserve to the southeast; and Linda Vista Park to the southeast. Additional information on parks is provided in Chapter 4, Environmental Analysis, in Section XIV, Parks and Recreation.

PROJECT DESCRIPTION



Source: ESRI, 2017; PlaceWorks, 2020.



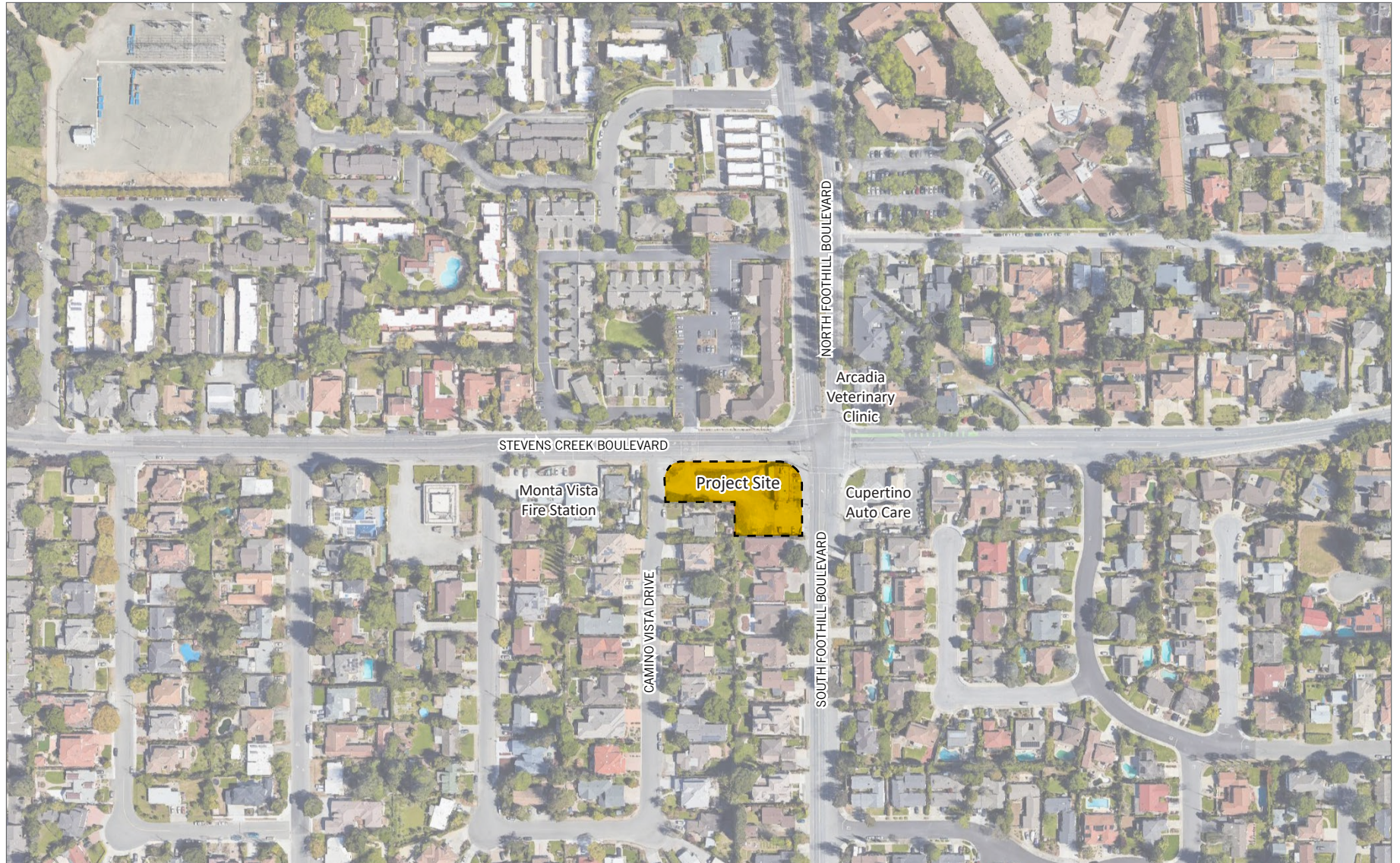
-  Project Site
-  Cupertino City Limit

Figure 3-1
Regional and Vicinity Map

PROJECT DESCRIPTION



Source: Dahlin, 2020.



Project Site

Figure 3-2
Aerial View of the Project Site and Surroundings

PROJECT DESCRIPTION

Public schools near the project site within the Fremont Union High School District are Monta Vista High School to southeast of the project site. Public schools near the project site within the Cupertino Union School District are Stevens Creek Elementary School to the northeast, and John F. Kennedy Middle School to the southeast of the project site. Each public school is approximately 1 mile from the project site. Private schools and/or educational facilities near the project site are Saint Joseph of Cupertino School approximately 2 miles to the east, Futures Academy of Cupertino approximately 3 miles to the east, Bethel Lutheran School approximately 3.5 miles to the east, Archbishop Mitty High School approximately 4 miles to the east, Pinewood School approximately 4 miles to the northwest, and Waldorf School of the Peninsula approximately 4 miles to the northwest. Other sensitive⁸ land uses near the project site are the Sunny View Bay Area Retirement Community approximately 0.2 miles to the north, Cupertino Healthcare and Wellness nursing home approximately 0.3 miles to the south, and Cupertino Senior Center approximately 1.3 miles to the east.

The major employment centers within approximately 1 to 2 miles of the project site are the Bubb Road Special Area and De Anza College to the east, and the Permanente Quarry (Lehigh Cement Company) and Stevens Creek Quarry, Inc. to the southwest.

The nearest public airports are San José International Airport, approximately 8 miles to the northeast, and Palo Alto Airport, approximately 9.5 miles to the north. The nearest heliports are McCandless Towers Heliport, approximately 7 miles to the northeast, and County Medical Center Heliport, approximately 7.5 miles to the east. The nearest private (military/corporate) airport is Moffett Federal Airfield, approximately 7 miles to the north. The project site is not located within the boundaries of any airport land use plan.

3.1.3 EXISTING SITE SETTING

3.1.3.1 SITE CHARACTER

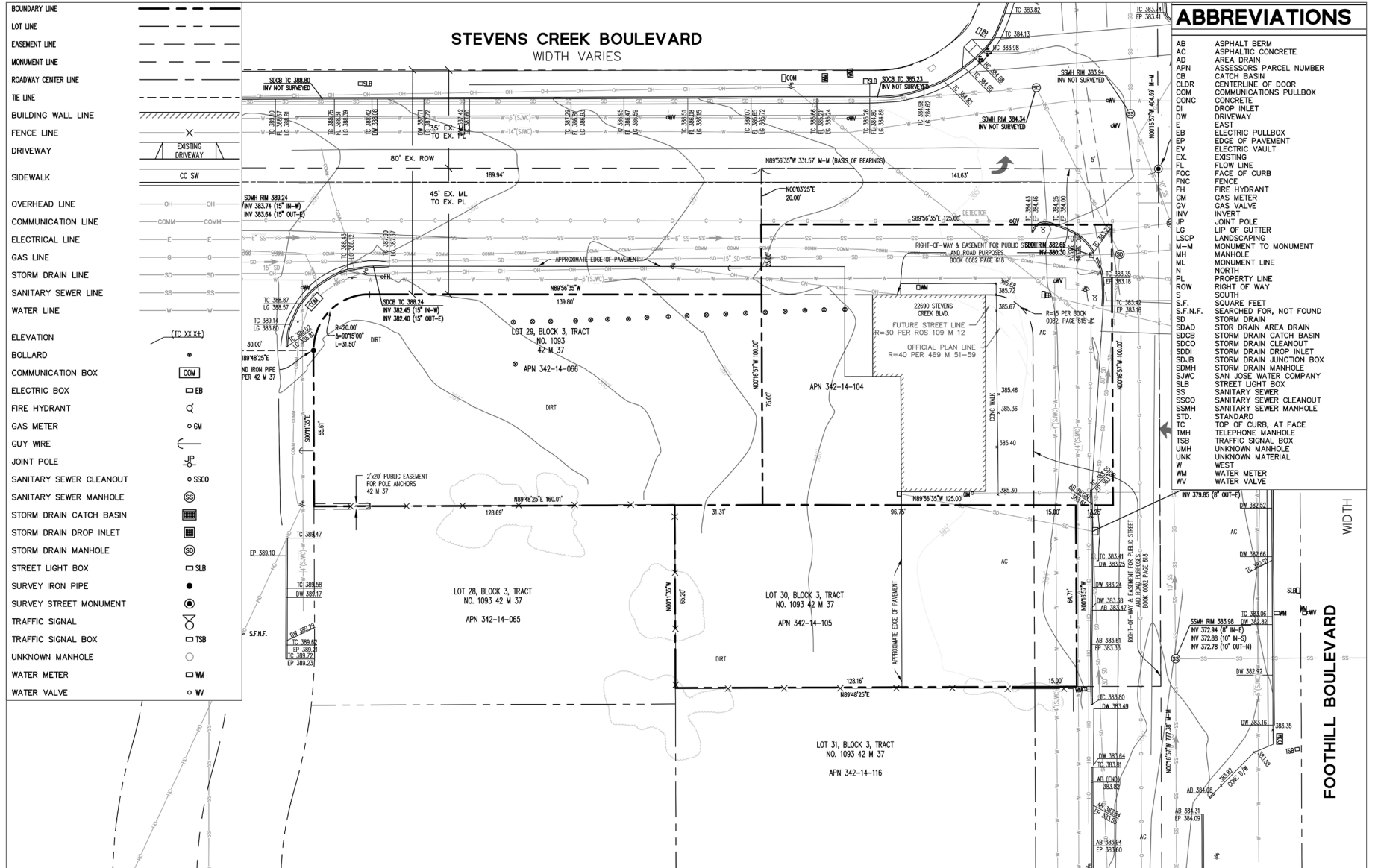
As shown on Figure 3-3, the site is developed with a single structure: a single-story, approximately 2,400 square-foot commercial building with a convenience store and an associated paved and unpaved (gravel) surface parking adjacent to South Foothill Boulevard. In 1939, the site was occupied by an orchard, and the orchard trees were gradually cleared from the site between the period of 1939 and 1950. According to the Department of Toxic Substance Control, when orchards have been removed or became inactive prior to 1950 organic pesticides are not an issue warranting further testing.⁹ Review of the historical data available for the site reveals that the development of the site in its current form most likely took place between 1950 and 1956.¹⁰ Due to the age of the existing building, it may contain asbestos-containing materials or lead-based paint, which were not regulated in construction until the early 1970's.

⁸ Sensitive resources in this context refers to uses or receptors that are most vulnerable to air and noise pollution.

⁹ California Department of Toxic Substances Control California Environmental Protection Agency, *Interim Guidance for Sampling Agricultural Properties*, page 3, August 7, 2008.

¹⁰ Achievement Engineering Corp., 2019, Phase I Environmental Site Assessment for 22690 Stevens Creek Boulevard, Cupertino, California, pages 2 and 3, July 29.

PROJECT DESCRIPTION



Source: Dahlin, 2020. BKF, 2020.



PLACEWORKS

Figure 3-3
Existing Conditions

PROJECT DESCRIPTION

The building is not currently listed on the National Register of Historic Places or the list of California Historical resources.¹¹

The project site is surrounded by residential and office uses to the north, residential uses and a gas station and auto repair shop to the east, residential uses to the south, and residential uses and the Monta Vista Fire Station to the west.

3.1.3.2 VEGETATION AND LANDCOVER

Using data from the Classification and Assessment with Landsat of Visible Ecological Groupings (CALVEG)¹² habitat mapping program, the site is classified as an “urban area.” Property with this classification tends to have low to poor wildlife habitat value due to replacement of natural communities, fragmentation of remaining open space areas and parks, and intensive human disturbance. Although there are no trees or other landscaping features on the project site, according to the Vegetation Map shown in the Environmental Resources and Sustainability Element of the General Plan, the project site is within the urban forest (i.e., trees in the city).¹³ The City recognizes that every tree on both public and private property is an important part of Cupertino's urban forest and contributes significant economic, environmental, and aesthetic benefits of the community.¹⁴

The California Natural Diversity Database (CNDDDB) has no record of special-status plant or animal species on the project site, but does show there are special-status plant and animal species within a 5-mile area surrounding the project site. Special-status species have been recorded in the open space areas in the project vicinity.

The California Department of Forestry and Fire Projection (CAL FIRE) designated the project site as a Local Responsibility Area (LRA) and a non-very high fire hazard severity zone. The project site is near lands that CAL FIRE designates as a State Responsibility Area (SRA), which are approximately 1 mile to the west of the project site.¹⁵ The project site is 0.2 miles to the east of the wildland-urban interface, which is an area of transition between wildland (unoccupied land) and land with human development (occupied land).¹⁶

¹¹ California Office of Historic Preservation. 2019. California Historical Resources. Accessed June 4, 2020 at <http://ohp.parks.ca.gov/ListedResources/?view=county&criteria=43>.

¹² 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.

¹³ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 6, Environmental Resources and Sustainability Element, Figure ES-1.

¹⁴ City of Cupertino, Tree Protection and Tree Removal link on the City's website, Accessed June 4, 2020 at <https://www.cupertino.org/our-city/departments/community-development/planning/residential-development/tree-protection-tree-removal>.

¹⁵ CAL FIRE. 2008. VHSZ Viewer <https://egis.fire.ca.gov/FHSZ/>

¹⁶ CAL FIRE. 2018. Wildland-Urban Interface Fire Threat. <http://www.arcgis.com/home/item.html?id=d45bf08448354073a26675776f2d09cb>, accessed June 4, 2020.

PROJECT DESCRIPTION

The site is generally flat with an average elevation of 386 feet above mean sea level with a general topographic gradient of north-northeast.¹⁷ The surficial geology is young, unconsolidated Quaternary alluvium,¹⁸ which is described as Holocene-age younger alluvium and coarse-grained alluvium that are composed of unconsolidated, poorly sorted gravel, silt, sand, clay, and organic matter. No paleontological resources have been identified on the project site; however, the presence of Pleistocene deposits that are known to contain fossils indicates that the overall city, including the project site, could contain paleontological resources.¹⁹

Stormwater from the site drains to City-maintained storm drains in Stevens Creek Boulevard and South Foothill Boulevard that collect runoff from city streets and carry it to the creeks that run through Cupertino to the San Francisco Bay. The project site is within an area where some of the storm drains are deficient in conveying the water from a 10-year storm, based on the 2018 *Storm Drain Master Plan*.

3.1.4 LAND USE AND ZONING DESIGNATIONS

3.1.4.1 GENERAL PLAN

The site is in the Other Non-Residential/Mixed-Use Special Area²⁰ and a Neighborhood Center.²¹ The site is at the northeast corner of the Inspiration Heights Neighborhood at the four-corner intersection where the Oak Valley, Creston-Pharlap, the Monta Vista North Neighborhood meet.²² The site has a General Plan land use designation of Commercial/Residential.²³ A description of these designations is provided below.

Other Non-Residential/Mixed-Use Special Areas

The City has designated Special Areas along four major mixed-use corridors in the city, which are designated in the General Plan as key areas within Cupertino where future development and reinvestment will be focused. In addition to the Special Areas, the Other Non-Residential/Mixed-Use Special Area include four designated areas and all other nonresidential properties not referenced in an identified commercial area. The project site is at one of the four key areas identified as the intersection of South Foothill Boulevard and Stevens Creek Boulevard.²⁴ The vision for the Other Non-Residential/Mixed-Use

¹⁷ Achievement Engineering Corp., 2019, Phase I Environmental Site Assessment for 22690 Stevens Creek Boulevard, Cupertino, California, page 2, July 29.

¹⁸ US Geological Survey, 1994, Preliminary Quaternary Geologic Maps of Santa Clara Valley, Santa Clara, Alameda, and San Mateo Counties, California: A Digital Database, Open-File Report 94-231, by E.J. Helley, R.W. Graymer, G.A. Phelps, P.K. Showalter, and C.M. Wentworth.

¹⁹ City of Cupertino, certified General Plan Amendment, Housing Element Update, and Associated Rezoning EIR, (December 2014) State Clearinghouse Number 2014032007 (October 2015), and approved Addenda (October 2015, July 2019, August 2019, and December 2019).

²⁰ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 2, Planning Areas, page PA-15.

²¹ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 3, Land Use and Community Design Element, Figure LU-1, Community Form Diagram, page LU-17.

²² City of Cupertino General Plan (Community Vision 2015-2040), Chapter 2, Planning Areas, Figure PA-2, Neighborhoods, page PA-18.

²³ City of Cupertino Land Use Map adopted November 15, 2005 and amended August 20, 2019.

²⁴ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 2, Planning Areas, page PA-23

PROJECT DESCRIPTION

Special Area in the Planning Areas Element (Chapter 2) states that neighborhood centers within the Other Non-Residential/Mixed-Use Special Areas should be redeveloped using the “Neighborhood Commercial Center” concept described in the Land Use and Community Design Element (Chapter 3) of the General Plan. However, developing using only this concept is not mandatory.²⁵ The vision also describes buildings in the Neighborhood Centers should be typically one to two stories in height but may be up to three stories in some instances where it is allowed.²⁶ The maximum residential density within Neighborhood Centers identified in the Community Form Diagram is 15 dwelling units per acre.²⁷

Inspiration Heights Neighborhood

Cupertino has 12 distinct neighborhoods that are each unique in their location, development pattern, identity, and access to community services. While the Inspiration Heights neighborhood is in the western foothills of Cupertino, the project site is in the lower elevation portions of the neighborhood that is urbanized. The project site is in the northeastern corner of this neighborhood on Stevens Creek and Foothill Boulevards, which provides a transition with the three other adjoining neighborhoods on the valley floor. The vision for this neighborhood, as described in the General Plan, is to continue to be a low-intensity and hillside residential area.²⁸ Future development should consider preservation of hillsides, riparian corridors, and plant and animal wildlife habitat through sensitive site and building design.²⁹

Commercial/Residential Land Use Designation

The Commercial/Residential land use designation allows primarily commercial uses and secondarily residential uses or a compatible combination of the two uses.³⁰ Commercial use means retail sales, businesses, limited professional offices, and service establishments with direct contact with customers. This land use designation applies to commercial activities ranging from neighborhood convenience stores to regionally oriented specialty stores. Retail stores that would be a nuisance for adjoining neighborhoods or harmful to the community identity would be regulated by Cupertino Municipal Code (CMC) Chapter 19.60, General Commercial Zones, and the associated commercial zoning ordinance use permit procedures. Smaller commercial parcels in existing residential areas, such as the project site, may be needed to provide local neighborhood serving retail; otherwise, they may be redeveloped at residential densities compatible with the surroundings. As previously stated, the maximum residential density on the project site is 15 dwelling units per acre.³¹

²⁵ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 2, Planning Areas, page PA-15.

²⁶ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 2, Planning Areas, Vision, page PA-15.

²⁷ City of Cupertino General Plan, Community Vision 2040, Chapter 3, Land Use, Figure LU-2, Community Form Diagram, pages LU-16 and LU-17.

²⁸ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 2, Planning Areas, Vision, page PA-24 and PA-25.

²⁹ City of Cupertino General Plan (Community Vision 2015-2040), Chapter 3, Land Use and Community Design Element, Inspiration Heights Neighborhood, page LU-75.

³⁰ City of Cupertino General Plan (Community Vision 2015-2040), Appendix A: Land use definitions, Planning Areas, page A-4.

³¹ City of Cupertino General Plan, Community Vision 2040, Chapter 3, Land Use, Figure LU-2, Community Form Diagram, pages LU-16 and LU-17.

PROJECT DESCRIPTION**3.1.4.2 ZONING DISTRICT**

The project site is within the Planned Development with General Commercial (P(CG)) zoning district. As described in CMC Section 19.80.010, the Planned Development zoning district 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. Development in this zoning district provides for a greater flexibility of land use intensity and design because of accessibility, ownership patterns, topographical considerations, and community design objectives.³² CMC Chapter 19.80 also allows a project proponent to propose development standards for their specific project.

All Planned Development districts are identified on the zoning map with the letter coding "P" followed by a specific reference to the general type of use allowed in the particular planning development zoning district. The type of use allowed on the project site is General Commercial (CG), which allows commercial uses such as retail food, drug, apparel, or hardware stores, full-service restaurants, professional and commercial office services, laundry facilities, non-auto related repair services, and personal services, along with several other specialty uses.³³

The proposed designation of General Commercial with Residential uses (CG, Res), which is consistent with the General Plan land use designation for the site, is a district in which uses are intended to be a mix of general commercial and residential.³⁴ The proposed project requires a zoning amendment to allow residential uses on the project site. This is discussed further, below, in Section 3.2, Project Components.

3.1.4.3 OTHER REQUIREMENTS**Setback Standards**

The proposed project is a housing project that would rezone the project site to Planned Development with General Commercial and Residential uses (P(CG, Res). Accordingly, the proposed project would be subject to CMC Chapter 19.80, Planned Development (P) Zoning District, which requires residential projects to meet the multifamily residential development standards for residential projects. However, pursuant to CMC Chapter 19.80, the Planned Development Zoning District allows a project proponent to propose zoning setbacks different from those required in the underlying Zoning District to allow flexibility in the project, as long as these are approved by the City Council. In any case, the setbacks in the Zoning Code or the setbacks proposed by the project, the project site must adhere to the General Plan requirement of maintaining sufficient space for adequate light, requirement for air and visibility at intersections, and the requirement for general conformity to yard requirements of adjacent or nearby zones, lot, or parcels. The General Plan does not have any applicable setback requirements for this property.

³² City of Cupertino Municipal Code, Title 19, Zoning, Chapter 19.80, Planned Development, Section 19.80.010, Purpose.

³³ City of Cupertino Municipal Code, Title 19, Zoning, Chapter 19.60, General Commercial, Section 19.60.030, Permitted, Conditional and Excluded Uses in General Commercial Zoning Districts.

³⁴ City of Cupertino Municipal Code, Title 19, Zoning, Chapter 19.80, Planned Development, Section 19.80.030, Establishment of Districts- Permitted and Conditional Uses.

PROJECT DESCRIPTION

Landscape Ordinance

CMC Chapter 14.15, Landscape Ordinance, implements the California Water Conservation in Landscaping Act of 2006 by establishing new water-efficient landscaping and irrigation requirements. Any building or landscape project that involves more than 2,500 square feet of landscape area is required to submit a Landscape Project Submittal to the Director of Community Development for approval. Existing and established landscaped areas greater than 1 acre in size, including cemeteries, are required to submit water budget calculations and audits of established landscapes.³⁵

Bird Safe Design Ordinance

The City of Cupertino draft Bird Safe Design Ordinance, adds CMC Chapter 19.102, Glazing and Lighting Standards, which contains specific building and site design measures to reduce bird mortality from windows or other specific glass features known to increase the risk of bird collisions and to reduce light pollution known to contribute to bird mortality and reduced visibility of the night sky. These requirements, once adopted, would be applicable to any project that is required to obtain a building permit or a Permit pursuant to Title 19, Zoning, including the proposed project.

CMC Section 19.102.030, Bird-safe Development Requirements, includes:

- Glass requirements for new or replacement windows of twelve square feet or more and facades requiring no more than 10 percent of the surface area of the façade be untreated glass between the ground and 60 feet above ground. Treatments can include opaque glass, window muntins, exterior insect screens, exterior netting, or special glass treatments such as fritting to provide visual cues and reduce the likelihood of bird collisions.
- Indoor lighting requirements to program automatic sensors and timer to turn off at 11:00 p.m., within two hours after business closes, or the addition of filtering with the use of interior or exterior blinds.
- Design requirements to avoid funneling of flight paths along buildings or trees to building facades; avoid use of highly reflective glass or highly transparent glass; and avoid glass skyways or walkways, freestanding glass walls, transparent building corners, or other design elements where trees, landscaping, water features, or the sky is visible from the exterior.

CMC Section 19.102.140, Outdoor Lighting Requirements, includes requirements to reduce light pollution throughout the city. These requirements prohibit outdoor lighting that blinks, flashes, or rotates; outdoor lighting that projects above the horizontal plan; lighting that unnecessarily illuminates other lots or interferes with the enjoyment of that lot; high-intensity discharge lighting for recreation courts or private property; and spotlights.

Outdoor lighting that is not prohibited, must abide by the following:

- All outdoor light must be fully shielded fixtures directed downward to meet the particular need and away from adjacent properties.

³⁵ City of Cupertino Municipal Code, Title 14, Streets, Sidewalks and Landscaping, Chapter 14.15, Landscape Ordinance.

PROJECT DESCRIPTION

- Illumination levels cannot exceed one foot-candle onto an adjacent property and maximum light intensity cannot exceed a maintained value of ten foot-candles when measured at finished grade.
- All light sources must have a maintained correlated color temperature of 3,000 Kelvin or less.
- All outdoor lighting must be turned off by 11:00 p.m. or when people are no longer present in exterior areas, except for security lighting required and designed according to the California Building Code.
- Automated control systems should be used to meet lighting requirements.
- Lighting design must compliment building and landscaping, and fixtures must be appropriate in height, intensity, and scale to the use.

3.1.4.4 UTILITIES AND ENERGY

Energy Conservation

The California Green Building Standards Code (Part 11, Title 24, known as “CALGreen”) was adopted as part of the California Building Standards Code (Title 24, California Code of Regulations) to apply to the planning, design, operation, construction, use, and occupancy of every newly constructed building or structure, unless otherwise indicated in the California Building Standards Code, throughout the State of California.³⁶ CALGreen established planning and design standards for sustainable site development, energy efficiency (in excess of the California Energy Code requirements), water conservation requiring new buildings to reduce water consumption by 20 percent, material conservation, and internal air contaminants. The local building permit process enforces the building efficiency standards. CMC Chapter 16.58, Green Building Standards Code, adopts the CALGreen requirements and makes it part of the CMC along with local amendments for projects in the city. The City’s Green Building Ordinance contains mandatory, minimum required green building techniques, including measures affecting water use efficiency and water conservation.

CMC Sections 16.58.100 through 16.58.220 set forth the standards for green building requirements by type of building. As shown on Table 101.10 in CMC Section 16.58.220, single- and multi-family homes equal to or less than nine homes are required to meet CALGreen Building Code in accordance with CALGreen’s minimum thresholds. CMC Section 16.58.230 permits applicants to apply an alternate green building standard for a project in lieu of the minimum standards outlined in CMC Section 16.58.220 that meet the same intent of conserving resources and reducing solid waste.

The California Energy Code (Part 6, Title 24) was adopted as part of the California Building Standards Code (Title 24) to reduce wasteful and unnecessary energy consumption in newly constructed and existing buildings. The City of Cupertino has adopted the California Energy Code, with local amendments, as CMC Chapter 16.54, Energy Code. CMC Section 16.54.100(2), Scope for Newly Construction Building, requires all newly constructed buildings to be All-Electric Buildings. All-Electric Buildings are defined as a building that has no natural gas or propane plumbing installed within the building, and that uses electricity as the

³⁶ California Code of Regulations, Title 24, Part 11, January 1, 2020, California Green Buildings Standards Code, <https://codes.iccsafe.org/content/CAGBSC2019/copyright>.

PROJECT DESCRIPTION

sole source of energy for its space heating, water heating.³⁷ The City is currently in the process of approving reach codes, which will go above California Energy Code requirements to reduce energy and water, and associated greenhouse gas (GHG) emissions.

Solid Waste Reduction

Consistent with CALGreen, CMC Chapter 16.72, Recycling and Division of Construction and Demolition Waste, requires that a minimum of 65 percent of all non-hazardous construction and demolition debris must be recycled or salvaged and that all applicants have a waste management plan for on-site sorting of construction debris. Additionally, in December 2017, the City adopted a Zero Waste Policy. According to the Zero Waste Policy, the City will require, through the City's waste hauling franchise agreement, steadfast and ongoing efforts by the City's franchisee to maintain a minimum residential and commercial waste diversion rate of 75 percent with a goal of reaching and maintaining 80 percent by 2025.

Water Quality

CMC Chapter 9.18, Storm Water Pollution Prevention and Watershed Protection provides regulations and gives legal effect to the Municipal Regional Storm Water National Pollutant Discharge Elimination System (NPDES) Permit (MRP) issued to the City. This chapter also ensures ongoing compliance with the most recent version of the City's MRP regarding municipal storm water and urban runoff requirements. This chapter applies to all water entering the storm drain system generated on any private, public, developed, and undeveloped lands within the city. The CMC contains permit requirements for construction projects and new development or redevelopment projects to minimize the discharge of storm water runoff.

3.2 PROJECT COMPONENTS

The project applicant proposes to redevelop the project site with a nine-unit, single-family attached residential (and one accessory dwelling unit) development with associated amenities, infrastructure, and landscaping. Conceptual and detailed site plans are shown on Figures 3-4 and 3-5. The following sections provide a detailed description of the key project components. A complete set of preliminary site plans are available on the City's website at www.cupertino.org/22690scb and at the City of Cupertino Community Development Department at 10300 Torre Avenue, Cupertino, California 95014.

3.2.1 PROPOSED BUILDINGS

The proposed project would include nine attached single-family dwelling units that would range in size from 1,767 to 3,045 square feet. The single-family dwelling unit located on the corner of Stevens Creek Boulevard and South Foothill Boulevard would have an ADU that would be approximately 336 square feet. The proposed project would include four separate building types; two buildings would have three attached units (Type 1), one building would have two attached units (Type 2), and one building would be a

³⁷ City of Cupertino Municipal Code, Section 16.54.110, Definitions and Rules of Construction.