

## 2. Executive Summary

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This chapter presents an overview of the proposed Westport Mixed-Use Project, referred to herein as the “proposed project.” This executive summary also provides a list of each significant impact with proposed mitigation measures (see Table 2-2), provides a summary of the alternatives to the proposed project, as well as issues to be resolved, areas of controversy, and conclusions of the analysis contained in Chapters 4.1 through 4.9 of this Draft Environmental Impact Report (Draft EIR). For a complete description of the proposed project and the alternatives to the proposed project, see Chapter 3, Project Description, and Chapter 5, Alternatives to the Proposed Project, of this Draft EIR, respectively.

This Draft EIR addresses the significant environmental effects associated with implementation of the proposed project. The California Environmental Quality Act (CEQA) requires that public agencies, prior to taking action on projects over which they have discretionary approval authority, consider the environmental consequences of such projects. An EIR is a public document designed to provide the public and public agency decision-makers with an analysis of the potential environmental consequences of the proposed project to support informed decision-making.

This Draft EIR has been prepared pursuant to the requirements of CEQA<sup>1</sup> and the CEQA Guidelines<sup>2</sup> to determine whether approval of the proposed project could have a significant effect on the environment (i.e., significant impact). The City of Cupertino, as the lead agency, has exercised its independent judgment by reviewing and revising, as necessary, all drafts, technical studies, and reports submitted in preparation of this EIR, including reliance on applicable City technical personnel and review of all technical subconsultant reports. Information for this Draft EIR was obtained from on-site field observations; discussions with affected agencies; analysis of adopted plans and policies; review of available studies, reports, data, and similar literature in the public domain; and specialized environmental assessments (e.g., air quality, hazards and hazardous materials, hydrology and water quality, noise, and transportation).

### 2.1 ENVIRONMENTAL PROCEDURES

This Draft EIR has been prepared to assess the significant environmental effects associated with the construction and operation of the proposed project. The main purposes of this document as established by CEQA are:

- To disclose to decision-makers and the public the significant environmental effects of proposed activities.
- To identify ways to avoid or reduce environmental damage.

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<sup>1</sup> CEQA is found at California Public Resources Code, Division 13, Sections 21000 et seq.

<sup>2</sup> The CEQA Guidelines are found at California Code of Regulations, Title 14, Sections 15000 et seq.

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- To prevent environmental damage by requiring implementation of feasible alternatives or mitigation measures.
- To disclose to the public the reasons for agency approval of projects with significant environmental effects.
- To foster interagency coordination in the review of projects.
- To enhance public participation in the planning process.

An EIR is the most comprehensive form of environmental documentation identified in CEQA and the CEQA Guidelines. It provides the information needed to assess the environmental consequences of a project, to the extent feasible. EIRs are intended to provide an objective, factually supported, full-disclosure analysis of the environmental consequences associated with a project that has the potential to result in significant adverse environmental impacts. Prior to approving a project, the lead agency must consider the information contained in the EIR, determine whether the EIR was properly prepared in compliance with CEQA, find that the EIR reflects the independent judgment of the lead agency, adopt findings concerning each of the project's significant environmental impacts, mitigation measures and alternatives, and adopt a Statement of Overriding Considerations finding that specific overriding benefits of the project outweigh the significant environmental if the project would result in significant impacts that cannot be avoided.

### 2.1.1 REPORT ORGANIZATION

This Draft EIR is organized into the following chapters:

- **Chapter 1: Introduction.** Describes the purpose of this Draft EIR, background of the proposed project, the Notice of Preparation, the use of incorporation by reference, and Final EIR certification.
- **Chapter 2: Executive Summary.** Summarizes the background and description of the proposed project, the format of this Draft EIR, the environmental consequences that would result from the proposed project, the alternatives to the proposed project, the recommended mitigation measures, and indicates the level of significance of environmental impacts with and without mitigation.
- **Chapter 3: Project Description.** Provides a detailed description of the proposed project location and the environmental setting on and surrounding the project site, the proposed project, the objectives of the proposed project, approvals anticipated to be required as a part of proposed project, and the intended uses of this EIR.
- **Chapter 4: Environmental Evaluation.** This chapter is organized into 9 sub-chapters corresponding to the environmental resource categories identified in CEQA Guidelines Appendix G, Environmental Checklist. This chapter provides a description of the physical environmental conditions in the City of Cupertino as they existed at the time the Notice of Preparation was published, from both a local and regional perspective, as well as an analysis of the potential environmental impacts of the proposed project, and recommended mitigation measures, if required, to lessen or avoid significant impacts. The environmental setting included in each sub-chapter provides baseline physical conditions from which the City of Cupertino will determine the significance of environmental impacts resulting from the proposed project. Each sub-chapter also contains a description of the thresholds of significance used to determine whether a significant impact would occur; the methodology used to identify and

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evaluate the potential significant impacts of the proposed project; and the potential significant cumulative impacts to which the proposed project provides a cumulative contribution.

- **Chapter 5: Alternatives to the Proposed Project.** Provides an evaluation of alternatives to the proposed project, including the required “No Project” alternative, and identifies the environmentally superior alternative.
- **Chapter 6: CEQA-Required Assessment Conclusions.** Discusses growth inducement, cumulative impacts, significant unavoidable effects, and significant irreversible changes as a result of the proposed project. This chapter also identifies environmental issues that were determined not to require further environmental review as provided for in CEQA Guidelines Section 15128.
- **Chapter 7: Organizations and Persons Consulted.** Lists the people and organizations that contributed to the preparation of this EIR for the proposed project.
- **Appendices:** The appendices for this document (presented in PDF format on a CD attached to the back cover) contain the following supporting documents:
  - Appendix A: Initial Study
  - Appendix B: Notice of Preparation and Scoping Comments
  - Appendix C: Air Quality Assessment
  - Appendix D: Arborist Report & Tree Removal Plan
  - Appendix E: Greenhouse Gas Emissions Assessment
  - Appendix F: Limited Environmental Site Characterization
  - Appendix G: Acoustical Assessment
  - Appendix H: Transportation Assessment

### 2.1.2 TYPE AND PURPOSE OF THIS DRAFT EIR

According to Section 15121(a) of the CEQA Guidelines, the purpose of an EIR is to:

*Inform public agency decision-makers and the public generally of the significant environmental effects of a project, identify possible ways to minimize the significant effects, and describe reasonable alternatives to the project.*

This Draft EIR has been prepared as a project EIR, pursuant to Section 15161 of the CEQA Guidelines. As a project EIR, the environmental analysis will discuss the changes in the environment that would result from the construction and operation of The Westport Mixed-Use Project. This project EIR will examine the short-term impacts (project construction) and long-term impacts (project operation) that may occur as a result of project approval by the City of Cupertino City Council, as well as cumulative impacts.

## 2.2 SUMMARY OF PROPOSED PROJECT

The 8.1-acre project site is identified as Priority Housing Element Site A3 (The Oaks Shopping Center) in the City of Cupertino General Plan (Community Vision 2015-2040). The site is currently developed with a one-story shopping center (The Oaks Shopping Center) consisting of five buildings occupied with retail

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stores, restaurants, and offices, which were built between 1973 and 1976. Existing development on the site consists of approximately 71,250 square feet of shopping center development. The project site also includes 201,831 square feet of paved area, which includes associated parking, sidewalks, patios, and driveways, in addition to 45,486 square feet of native and non-native landscaping.

The proposed project would demolish the existing buildings onsite and construct 18 new buildings, that would have 242 residential units and 20,000 square feet of retail space, as well as below and at-grade parking, and associated landscape and hardscape areas. The proposed residential component would consist of three rowhouse buildings, 13 townhouse buildings (attached homes), and two mixed-use (residential and retail) buildings, including market-rate units and senior housing. The proposed retail component would be located on the ground level of the two mixed-use residential buildings. Residential-Retail Building 1 would have 17,600 square feet of retail space located at the corner of Stevens Creek Boulevard and Mary Avenue. Residential-Retail Building 2 would have 2,400 square feet of retail space on the ground level fronting Stevens Creek Boulevard. The proposed project would include one access point off Stevens Creek Boulevard and three additional access points off Mary Avenue. The below-grade parking would be located under Retail-Residential Building 1 and accessed from the central access point on Mary Avenue. Off-site improvements include the installation of a Class IV separated bikeway and a signal control to be activated by bicyclists and pedestrians for the westbound right-turn movement northbound SR-85 on ramp, as well as a bus stop on the section of Stevens Creek Boulevard west of Mary Avenue and east of the SR-85 northbound ramp. The proposed project is described in more detail in Chapter 3, Project Description, of this Draft EIR.

## 2.3 ALTERNATIVES TO THE PROPOSED PROJECT

This Draft EIR analyzes alternatives to the proposed project that would reduce or substantially lessen any of the significant environmental effects of the proposed project while feasibly attaining most of the basic objectives of the proposed project. CEQA Guidelines section 15126.6(d) requires the alternatives analysis to include sufficient information about each alternative to allow a comparison with the proposed project. While there is no set methodology for comparing the alternatives, this can be accomplished by using a matrix. CEQA Guidelines section 15126.6(2)(2) requires the EIR to identify the environmentally superior alternative. Identification of the environmentally superior alternative involves comparing the environmental effects of the alternatives with the environmental effects of the proposed project.

The following alternatives to the proposed project are analyzed in this EIR:

- No Project Alternative
- No Retail Development Alternative
- Reduced Retail Development Alternative

Chapter 5, Alternatives to the Proposed Project, of this Draft EIR, includes a complete discussion of these alternatives and of alternatives that were considered but rejected for further analysis. As discussed in Chapter 5, the No Retail Development Alternative would be the environmentally superior alternative.

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### 2.4 AREAS OF CONCERN

The City of Cupertino issued a Notice of Preparation for the EIR on Thursday, July 11, 2019 and held a public scoping meeting on Thursday, July 18, 2019 to receive scoping comments. During the 30-day scoping period for this EIR, which concluded on Monday, August 12, 2019, public agencies and members of the public were invited to submit comments as to the scope and content of the EIR. While every environmental concern applicable to the CEQA process is addressed in this Draft EIR, the comments received focused primarily on the following environmental issues:

- Vehicular traffic congestion; specifically, on Highway 85 and Stevens Creek Boulevard
- Pedestrian and bicycle safety
- Noise impacts from construction and operation
- Air quality
- Building height
- Demands on public schools
- Loss of mature trees
- Bird safety
- Protection of night sky
- Too many housing units

Comments received during the public scoping period, including oral comments received at the Thursday, July 18, 2019 scoping meeting, are included in Appendix B, Notice of Preparation and Scoping Comments, of this Draft EIR. To the extent that these comments address environmental issues, they are addressed in Chapters 4.1 through 4.9 of this Draft EIR. Where comments received during the scoping period include topics that are outside of the purview of the analysis required under CEQA, these comments will be addressed by City staff during the approval process for the proposed project and, therefore, are not addressed further in this Draft EIR.

### 2.5 SIGNIFICANT IMPACTS AND MITIGATION MEASURES

Under CEQA, a significant effect (impact) on the environment is defined as a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the proposed project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic and aesthetic significance. An Initial Study was prepared for the proposed project (see Appendix A, Initial Study, of this Draft EIR). Based on the analysis in the Initial Study and General Plan EIR,<sup>3</sup> it was determined that development of the proposed project would not result in significant environmental impacts for the following topic areas; therefore, impacts related to these topics are not analyzed further in this Draft EIR:

- Aesthetics
- Agricultural and Forestry Resources
- Energy
- Hydrology and Water Quality
- Mineral Resources
- Population and Housing
- Public Services
- Recreation

<sup>3</sup> City of Cupertino, certified General Plan Amendment, Housing Element Update, and Associated Rezoning EIR, (December 2014) and approved General Plan Amendment, Housing Element Update, and Associated Rezoning EIR Final Addendum, State Clearinghouse Number 2014032007 (October 2015).

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- Land Use and Planning
- Wildfire

In addition, based on the analysis in the Initial Study it was determined that construction and operation of the proposed project would not result in significant environmental impacts for some of the environmental checklist questions. Table 2-1 includes the checklist questions, organized by environmental topic area, for which there would be no impact or impacts would be less-than-significant without mitigation and these questions are, therefore, not analyzed further in this Draft EIR.

**TABLE 2-1 ENVIRONMENTAL CHECKLIST QUESTIONS NOT EVALUATED FURTHER IN THE EIR**

Environmental Topic	Checklist Question	Significance Without Mitigation
Air Quality	Would the proposed project create an objectionable odors affecting a substantial number of people?	No Impact
Biological Resources	Would the proposed project have a substantial adverse effect on any riparian habitat or other sensitive natural community type?	No Impact
	Would the proposed project have a substantial adverse effect on State or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?	LTS
	Would the proposed project interfere substantially with the movement of any native resident or migratory fish or wildlife species, their wildlife corridors, or nursery sites?	LTS
	Would the proposed project conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?	No Impact
Cultural Resources	Would the proposed project cause a substantial adverse change in the significance of a historical resource as defined in section 15064.5?	LTS
Geology and Soils	Would the proposed project directly or indirectly cause potential substantial adverse effects including the risk of loss, injury or death involving: <ul style="list-style-type: none"> <li>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?</li> <li>ii) Strong seismic ground shaking?</li> <li>iii) Seismic-related ground failure, including liquefaction?</li> <li>iv) Landslides, mudslides or other similar hazards?</li> </ul>	No Impact
	Would the proposed project result in substantial soil erosion or the loss of topsoil?	LTS
	Would the proposed project be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?	LTS
	Would the proposed project be located on expansive soil, as defined by Table 18-1-B of the Uniform Building Code (1994), creating substantial direct or indirect risks to life or property?	LTS
	Would the proposed project have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?	No Impact
Hazards and Hazardous Materials	Would the proposed project create significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	LTS
	Would the proposed project be located on a site which is included on a list of hazardous material sites compiled pursuant to Government Code section 65962.5 and, as a result, create a significant hazard to the public or the environment?	No Impact

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**TABLE 2-1 ENVIRONMENTAL CHECKLIST QUESTIONS NOT EVALUATED FURTHER IN THE EIR**

Environmental Topic	Checklist Question	Significance Without Mitigation
	For a project within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the proposed project result in a safety hazard for people living or working in the project area?	No Impact
	Would the proposed project impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	LTS
	Would the proposed project expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?	No Impact
Noise	For a project within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?	No Impact
Transportation	Would the proposed project substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	LTS
	Would the proposed project result in inadequate emergency access?	LTS
	Would the proposed project require or result in the construction of new water, wastewater treatment or stormwater drainage, electric power, natural gas, or telecommunication facilities, the construction or relocation of which could cause significant environmental effects?	LTS
Utilities and Service Systems	Would the proposed project have insufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry and multiple dry years?	LTS
	Would the proposed project generate solid waste in excess of State or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?	LTS
	Would the proposed project comply with federal, state, and local statutes and regulations related to solid waste?	LTS

Notes: LTS = less than significant  
For a full analysis of these issues, see the Initial Study in Appendix A of this Draft EIR.  
Sources: City of Cupertino and PlaceWorks, July 2019.

Table 2-2 summarizes the conclusions of the environmental analysis contained in this Draft EIR and presents a summary of impacts and mitigation measures identified. It is organized to correspond with the environmental issues discussed in Chapter 4.1 through 4.9. The table is arranged in four columns: 1) impact statement; 2) significance prior to mitigation; 3) mitigation measures; and 4) significance after mitigation. For a complete description of potential impacts, please refer to the specific discussions in Chapters 4.1 through 4.9. As shown in Table 2-2, some significant impacts would be reduced to a less-than-significant level if the mitigation measures recommended in this Draft EIR are implemented.

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TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
<b>Air Quality</b>			
<b>AQ-1:</b> The proposed project would not conflict with or obstruct implementation of the applicable air quality plan.	LTS	N/A	N/A
<b>AQ-2:</b> Uncontrolled fugitive dust (PM <sub>10</sub> and PM <sub>2.5</sub> ) could expose the areas that are downwind of construction sites to air pollution from construction activities without the implementation of BAAQMD's best management practices.	S	<p><b>Mitigation Measure AQ-2: BAAQMD Basic Construction Measures.</b> Prior to any grading activities, the applicant shall prepare a Construction Management Plan to be reviewed and approved by the Director of Public Works/City Engineer. The Construction Management Plan shall include the Bay Area Air Quality Management District (BAAQMD) Basic Construction Mitigation Measures listed below to minimize construction-related emissions. The project applicant shall require the construction contractor to implement the approved Construction Management Plan. The BAAQMD Basic Construction Mitigation Measures are:</p> <ul style="list-style-type: none"> <li>▪ All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> <li>▪ All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>▪ All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>▪ All vehicle speeds on unpaved roads shall be limited to 15 mph.</li> <li>▪ All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> <li>▪ Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.</li> <li>▪ All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall</li> </ul>	LTS



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**TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
		be checked by a certified mechanic and determined to be running in proper condition prior to operation. <ul style="list-style-type: none"> <li>▪ Post a publicly visible sign with the telephone number and person to contact at the lead agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD phone number shall also be visible to ensure compliance with applicable regulations.</li> </ul>	
<b>AQ-3:</b> The proposed project would not expose sensitive receptors to substantial pollutant concentrations.	LTS	N/A	N/A
<b>AQ-4:</b> Implementation of the project would cumulatively contribute to air quality impacts in the San Francisco Bay Area Air Basin.	S	Implement Mitigation Measure AQ-2.	LTS
<b>Biological Resources</b>			
<b>BIO-1:</b> Tree removal and demolition activities during site clearance could destroy active nests, and/or otherwise interfere with nesting of birds protected under federal and State law.	S	<b>Mitigation Measure BIO-1:</b> 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: <ul style="list-style-type: none"> <li>▪ 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.</li> <li>▪ Be conducted no more than 14 days prior to the start of tree removal or construction.</li> <li>▪ Be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped.</li> <li>▪ Document locations of active nests containing viable eggs or young birds.</li> </ul> Protective measures for active nests containing viable eggs or young birds shall be implemented under the direction of the qualified biologist	LTS

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**TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
<p><b>BIO-2:</b> Proposed development would result in removal of trees protected under City ordinance.</p>	S	<p>until the nests no longer contain eggs or young birds. Protective measures shall include:</p> <ul style="list-style-type: none"> <li>▪ 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.</li> <li>▪ Monitoring active nests within an exclusion zone on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status.</li> <li>▪ 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 California Department of Fish and Wildlife.</li> <li>▪ The protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.</li> </ul> <p><b>Mitigation Measure BIO-2:</b> The proposed project shall comply with the City of Cupertino’s Protected Trees Ordinance (Cupertino Municipal Code Section 14.18). A tree removal permit shall be obtained for the removal of any “protected tree,” and replacement plantings shall be provided as approved by the City. If permitted, an appropriate in-lieu tree replacement fee may be paid to the City of Cupertino’s Tree Fund as compensation for “protected trees” removed by the proposed project, where sufficient land area is not available on-site for adequate replacement and when approved by the City.</p> <p>In addition, a Tree Protection and Replacement Program (Program) shall be developed by a Certified Arborist prior to project approval and implemented during project construction to provide for adequate protection and replacement of “protected trees,” as defined by the</p>	LTS

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**TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
		<p>City's Municipal Code. The Program shall include the following provisions:</p> <ul style="list-style-type: none"> <li>▪ Adequate measures shall be defined to protect all trees to be preserved. These measures should include the establishment of a tree protection zone (TPZ) around each tree to be preserved, in which no disturbance is permitted. For design purposes, the TPZ shall be located at the dripline of the tree or 10 feet, whichever is greater. If necessary, the TPZ for construction-tolerant species (i.e., coast live oaks) may be reduced to 7 feet.</li> <li>▪ Temporary construction fencing shall be installed at the perimeter of TPZs prior to demolition, grubbing, or grading. Fences shall be 6-foot chain link or equivalent, as approved by the City of Cupertino. Fences shall remain until all construction is completed. Fences shall not be relocated or removed without permission from the consulting arborist.</li> <li>▪ No grading, excavation, or storage of materials shall be permitted within TPZs. Construction trailers, traffic, and storage areas shall remain outside fenced areas at all times. No excess soil, chemicals, debris, equipment, or other materials shall be dumped or stored within he TPZ.</li> <li>▪ Underground services including utilities, sub-drains, water or sewer shall be routed around the TPZ. Where encroachment cannot be avoided, special construction techniques such as hand digging or tunneling under roots shall be employed where necessary to minimize root injury. Irrigation systems must be designed so that no trenching will occur within the TPZ.</li> <li>▪ Construction activities associated with structures and underground features to be removed within the TPZ shall use the smallest equipment and operate from outside the TPZ. The consulting arborist shall be on-site during all operations within the TPZ to monitor demolition activity.</li> <li>▪ All grading, improvement plans, and construction plans shall clearly indicate trees proposed to be removed, altered, or otherwise affected by development construction. The tree information on</li> </ul>	

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**TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
		<p>grading and development plans should indicate the number, size, species, assigned tree number, and location of the dripline of all trees that are to be retained/preserved. All plans shall also include tree preservation guidelines prepared by the consulting arborist.</p> <ul style="list-style-type: none"> <li>▪ The demolition contractor shall meet with the consulting arborist before beginning work to discuss work procedures and tree protection. Prior to beginning work, the contractor(s) working in the vicinity of trees to be preserved shall be required to meet with the consulting arborist at the site to review all work procedures, access routes, storage areas, and tree protection measures.</li> <li>▪ All contractors shall conduct operations in a manner that will prevent damage to trees to be preserved. Any grading, construction, demolition or other work that is expected to encounter tree roots shall be monitored by the consulting arborist. If injury should occur to any tree during construction, it should be evaluated as soon as possible by the consulting arborist so that appropriate treatments can be applied.</li> <li>▪ Any plan changes affecting trees shall be reviewed by the consulting arborist with regard to tree impacts. These include, but are not limited to, site improvement plans, utility and drainage plans, grading plans, landscape and irrigation plans, and demolition plans.</li> <li>▪ Trees to be preserved may require pruning to provide construction clearance. All pruning shall be completed by a State of California Licensed Tree Contractor (C61/D49). All pruning shall be done by Certified Arborist or Certified Tree Worker in accordance with the 2002 Best Management Practices for Pruning published by the International Society of Arboriculture, and adhere to the most recent editions of the American National Standard for Tree Care Operations (Section Z133.1) and Pruning (Section A300).</li> <li>▪ Any root pruning required for construction purposes shall receive the prior approval of and be supervised by the consulting arborist.</li> <li>▪ Any demolition or excavation, such as grading, pad preparation, excavation, and trenching, within the dripline or other work that is expected to encounter tree roots should be approved and monitored</li> </ul>	

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Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
<b>BIO-3:</b> The proposed project in combination with past, present, and reasonably foreseeable projects, would not	S	<p>by the consulting arborist. Any root pruning required for construction purposes shall receive prior approval of, and be supervised by, the consulting arborist. Roots shall be cut by manually digging a trench and cutting exposed roots with a sharp saw.</p> <ul style="list-style-type: none"> <li>▪ Tree(s) to be removed that have branches extending into the canopy of tree(s) to remain must be removed by a qualified arborist and not by construction contractors. The qualified arborist shall remove the tree in a manner that causes no damage to the tree(s) and understory to remain. Tree stumps shall be ground 12 inches below ground surface.</li> <li>▪ All tree work shall comply with the Migratory Bird Treaty Act as well as California Fish and Game Code Sections 3503 through 3513 to not disturb nesting birds. To the extent feasible, tree pruning, and removal shall be scheduled outside of the breeding season. Breeding bird surveys shall be conducted prior to tree work. Qualified biologists shall be involved in establishing work buffers for active nests. (see Mitigation Measure BIO-1)</li> <li>▪ The vertical and horizontal locations of all the trees identified for preservation shall be established and plotted on all plans. These plans shall be forwarded to the consulting arborist for review and comment.</li> <li>▪ Foundations, footings, and pavements on expansive soils near trees shall be designed to withstand differential displacement to protect the soil surrounding the tree roots.</li> <li>▪ Any liming within 50 feet of any tree shall be prohibited, as lime is toxic to tree roots. Any herbicides placed under paving materials shall be safe for use under trees and labeled for that use.</li> <li>▪ Brush from pruning and trees removal operations shall be chipped and spread beneath the trees within the TPZ. Mulch shall be between 2 inches and 4 inches in depth and kept at a minimum of 3 feet from the base of the trees.</li> <li>▪ All recommendations for tree preservation made by the applicant's consulting arborist shall be followed.</li> </ul>	LTS

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Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
<p>result in significant cumulative impacts with respect to biological resources.</p>			
<b>Cultural and Tribal Cultural Resources</b>			
<p><b>CULT-1:</b> Construction of the proposed project would have the potential to cause a significant impact to an unknown archaeological resource pursuant to CEQA Guidelines Section 15064.5.</p>	S	<p><b>Mitigation Measure CULT-1:</b> If any prehistoric or historic subsurface cultural resources are discovered during ground-disturbing (including grading, demolition and/or construction) activities:</p> <ul style="list-style-type: none"> <li>▪ 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.</li> <li>▪ 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 appropriate recommendations regarding the significance of the find and appropriate mitigations as follows:                             <ul style="list-style-type: none"> <li>▪ If the resource is a non-tribal resource, the archaeologist shall assess the significance of the find according to CEQA Guidelines Section 15064.5.</li> <li>▪ 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.</li> </ul> </li> <li>▪ 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.</li> </ul>	LTS

**EXECUTIVE SUMMARY**

**TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
<p><b>CULT-2:</b> The proposed project would not cause a substantial adverse change in the significance of a Tribal Cultural Resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American Tribe, and that is: 1) Listed or eligible for listing in the California Register of Historical Resources, or in a local register of historical resources as defined in Public Resources Code Section 5020.1(k), or 2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to criteria set forth in subdivision (c) of Public Resource Code Section 5024.1. In applying the criteria set forth in subdivision (c) of the Public Resource Code Section 5024.1 for the purposes of this paragraph, the lead agency shall consider the significance to a California Native American tribe.</p>	LTS	N/A	N/A
<p><b>CULT-3:</b> Construction of the proposed project would have the potential to cause a significant impact to an unknown tribal cultural resource as defined in Public Resources Code 21074.</p>	S	<b>Mitigation Measure CULT-3:</b> Implement Mitigation Measure CULT-1.	LTS
<p><b>CULT-4:</b> The proposed project, in combination with past, present, and reasonably foreseeable projects, would not result in cumulative impacts with respect to cultural resources.</p>	S	Implement Mitigation Measure CULT-1	LTS
<b>Geology and Soils</b>			
<p><b>GEO-1:</b> Construction of the proposed project would have the potential to directly or indirectly affect an unknown unique paleontological resource.</p>	S	<p><b>Mitigation Measure GEO-1:</b> The construction contractor shall incorporate the following in all grading, demolition, and construction plans:</p> <ul style="list-style-type: none"> <li>▪ 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.</li> </ul>	LTS

## EXECUTIVE SUMMARY

TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
		<ul style="list-style-type: none"> <li>▪ The contractor shall notify the City of Cupertino Building Department and a City-approved qualified paleontologist to examine the discovery.</li> <li>▪ 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.</li> <li>▪ 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.</li> <li>▪ 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.</li> </ul>	
<p><b>GEO-2:</b> The proposed project, in combination with past, present, and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to geology and soils.</p>	S	Implement Mitigation Measure GEO-1.	LTS
<b>Greenhouse Gas Emissions</b>			
<p><b>GHG-1:</b> The proposed project would not directly or indirectly generate GHG emissions that may have a significant impact on the environment.</p>	LTS	N/A	N/A
<p><b>GHG-2:</b> The proposed project would not conflict with an applicable plan, policy, or regulation of an agency adopted for the purpose of reducing the emissions of GHGs.</p>	LTS	N/A	N/A
<p><b>GHG-3:</b> The proposed project, in combination with past, present, and reasonably foreseeable projects, would not result in significant cumulative impacts with respect to GHG emissions.</p>	LTS	N/A	N/A



**EXECUTIVE SUMMARY**

**TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
<b>Hazards and Hazardous Materials</b>			
<b>HAZ-1:</b> The proposed project would not create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials during construction.	LTS		N/A
<b>HAZ-2:</b> The proposed project would not impair implementation of, or physically interfere with, an adopted emergency response plan or emergency evacuation plan.	LTS	N/A	N/A
<b>HAZ-3:</b> The proposed project, in combination with past, present, and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to hazards and hazardous materials.	LTS	N/A	N/A
<b>Noise</b>			
<b>NOISE-1:</b> The proposed project could generate a substantial temporary increase in ambient noise levels in the vicinity of the proposed project during the construction phase that could exceed the standards established in the local noise ordinance.	LTS	<p><b>Mitigation Measure NOISE-1:</b> Prior to Grading Permit issuance or the start of demolition activities, the project applicant shall demonstrate, to the satisfaction of the City of Cupertino Public Works Director and/or Community Development Director, that the proposed project complies with the following:</p> <ul style="list-style-type: none"> <li>▪ Pursuant to Cupertino Municipal Code (CMC) Section 10.48.053 the construction activities shall be limited to daytime hours as defined in CMC Section 10.48.010 (i.e., daytime hours are from 7:00 a.m. to 8:00 p.m. on weekdays).</li> <li>▪ At least 90 days prior to the start of construction activities, all offsite businesses and residents within 300 feet of the project site shall be notified of the planned construction activities. The notification shall include a brief description of the proposed project, the activities that would occur, the hours when construction would occur, and the construction period’s overall duration. The notification should include 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.</li> <li>▪ At least 10 days prior to the start of construction activities, a sign shall be posted at the entrance(s) to the job site, clearly visible to the</li> </ul>	N/A

## EXECUTIVE SUMMARY

TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
		<p>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, he/she shall investigate, take appropriate corrective action, and report the action to the City.</p> <ul style="list-style-type: none"> <li>▪ 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.</li> <li>▪ During the entire active construction period, stationary noise sources shall be located as far from sensitive receptors as possible, and they shall be muffled and enclosed within temporary sheds, or insulation barriers or other measures shall be incorporated to the extent feasible.</li> <li>▪ Haul routes shall be selected to avoid the greatest amount of sensitive use areas.</li> <li>▪ 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.</li> <li>▪ 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 laws.</li> </ul>	
<p><b>NOISE-2:</b> The proposed project would not generate excessive groundborne noise levels.</p>	LTS	N/A	N/A
<p><b>NOISE-3:</b> The proposed project, in combination with past, present, and reasonably foreseeable projects, would not result in significant cumulative impacts with respect to noise.</p>	S	Implement Mitigation Measure NOISE-1.	LTS

**EXECUTIVE SUMMARY**

**TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
<b>Transportation and Circulation</b>			
<b>TRANS-1:</b> The proposed project would not conflict with a program plan, ordinance or policy addressing the circulation system, including transit, roadway, bicycle and pedestrian facilities.	LTS	N/A	N/A
<b>TRANS-2:</b> The proposed project would not conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b).	LTS	N/A	N/A
<b>TRANS-3:</b> The proposed project, in combination with past, present, and reasonably foreseeable projects, would not result in additional cumulatively considerable impacts.	LTS	N/A	N/A
<b>Utilities and Service Systems</b>			
<b>UTIL-1:</b> 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.	S	<p><b>Mitigation Measure UTIL-1:</b> No building permits shall be issued by the City for the proposed Westport Mixed-Use 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:</p> <ol style="list-style-type: none"> <li>1) Reduce inflow and infiltration in the CSD system to reduce peak wet weather flows; or</li> <li>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.</li> </ol> <p>The proposed project’s estimated wastewater generation shall be calculated using the generation rates used by the <i>San Jose-Santa Clara Water Pollution Control Plant Specific Use Code &amp; Sewer Coefficient</i> table in the May 2007, <i>City of Santa Clara Sanitary Sewer Capacity</i></p>	LTS

**EXECUTIVE SUMMARY**

**TABLE 2-2 SUMMARY OF IMPACTS AND MITIGATION MEASURES**

Impact Statement	Significance Without Mitigation	Mitigation Measures	Significance With Mitigation
<p><b>UTIL-2:</b> The proposed project, in combination with past, present, and reasonably foreseeable projects, would not result in significant cumulative impacts with respect to wastewater treatment.</p>	S	<p><i>Assessment</i>,<sup>4</sup> and <i>California Green Building Standards</i>, 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.</p> <p>If the prior agreement between CSD and the City of Santa Clara that currently limits the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system were to be updated to increase the permitted peak wet weather flow sufficiently to accommodate, this would also change the impacts of the project to less than significant. If this were to occur prior to the City’s approval of building permits, then Mitigation Measure UTIL-1 would no longer be required to be implemented.</p> <p>Implement Mitigation Measure UTIL-1</p>	LTS

<sup>4</sup> Mark Thomas and Associates, July 19, 2018, Email communication with Cupertino Public Works.