

Responses to Comments for the Initial Study

Bark Lane Residential Project

File No. PDC17-035

Prepared by the



In Consultation with



April 2020

SECTION 1.0 RESPONSES TO IS/MND COMMENTS

The March 2020 Bark Lane Residential Initial Study/Mitigated Negative Declaration (IS/MND) was prepared in compliance with the requirements of the California Environmental Quality Act (CEQA). The IS/MND was circulated for public review for a 21-day review period from March 13, 2020 through April 2, 2020. The City received one comment letter during the public comment period.

A. City of Cupertino, April 2, 2020

This memo responds to comments on the IS/MND as they related to the environmental impacts of the project under CEQA. Numbered responses correspond to comments in each comment letter. Copies of all comment letters are attached.

A. City of Cupertino (April 2, 2020)

Comment A.1: Thank you for the giving the City of Cupertino the opportunity to comment on the Draft Mitigated Negative Declaration (MND) for an application for a Planned Development Rezoning from the A(PD) Planned Development Zoning District to the R-M(PD) Zoning District to allow the construction of a residential building with 85 residential units, below grade parking, and open space with a maximum height of 75 feet on an approximately 0.90-gross acre site (City File No. PDC17-035).

1. Conditions and Mitigation Monitoring and Reporting Program

It appears that the project does not incorporate the “Standard Permit Conditions” listed in the report that serve as de facto mitigations for the project, as conditions of approval for the project. Please ensure inclusion of these as Conditions of the Approval for the project to ensure that they are implemented or as an appendix to the MND for reference.

Additionally, a Mitigation Monitoring and Reporting Program (MMRP) has not been included in the Draft MND. This makes it difficult for a member of the general public that does not understand how and when the proposed mitigation measures will be implemented to comprehend their scope and/or timing. If an MMRP is not included, the mitigation measure should include details on the party responsible for implementation, implementation timing/occurrence, agency responsible for monitoring, monitoring action, and monitoring frequency. This will provide more information in the spirit of the California Environmental Quality Act (CEQA) on implementation since the mitigation measures proposed are not informative.

Response A.1: The IS/MND circulated for public review contained the contents required per Section 15071 of the CEQA Guidelines. The final Mitigation Monitoring and Reporting Program (MMRP) will be signed by the project applicant and will be incorporated by reference. Consistent with Section 15074(d) of the CEQA Guidelines, the project’s MMRP will be presented to the City’s decision-makers for review and consideration at a public hearing. The mitigation measures, which were summarized in the MND and circulated with the Initial Study, specify the responsible party and timing of compliance. The Standard Permit Conditions identified in the IS/MND are standard measures required for all private development projects by the City and are included as Conditions of Project Approval. The Standard Permit Conditions are not de facto mitigation because they are not discretionary but required by the City for all projects.

Comment A.2: 2. Air Quality

The project uses a 14-month construction schedule that was anticipated to begin in January 2020. As we are currently in the month of April 2020, the construction timeline and schedule should be updated as well as any other necessary modeling or any additional information necessary to accommodate the new schedule.

Response A.2: At the time the Air Quality and Greenhouse Gas Assessment was completed, it was assumed that the project would take approximately 14 months beginning in 2020. Based on personal communication with Illingworth & Rodkin,

Inc., if the construction for the project were to start at a later date and all variables remain the same, construction emissions would not be worse than what is currently analyzed. The later construction date would likely cause emissions to decrease due to better, cleaner, or higher tiered construction equipment and vehicles being available. Refer to page 24 of the IS/MND. The comment did not raise any new significant impacts or the need for additional mitigation measures than those analyzed and disclosed in the Draft IS/MND and associated appendices; therefore, no further response is required.

Comment A.3: 3. Noise

MM NOI-1.2 identifies several mitigation measures for noise impacts related to the construction of the project such as the inclusion of noise reduction systems (noise barriers and noise control blankets). However, it is unclear when the systems would be implemented. Construction of temporary noise barriers is required “where feasible” and the noise control blanket barriers “could be erected” if determined to be necessary during construction. These mitigation measures are unclear as to whether or not they would be implemented in the project, and, therefore, unclear whether construction noise would be properly mitigated.

Response A.3: As discussed on page 115 of the IS/MND, the project applicant shall submit and implement a construction noise logistics plan (which includes the listed measures) prior to the issuance of any grading permits or demolition activities. The measures are consistent with the City’s Municipal Code and General Plan Policy EC-1.7. Based on the General Plan FEIR, construction projects undertaken consistent with the General Plan and Municipal Code would be required to reduce construction noise levels to the extent practicable and provide a method for compliant resolution regulated through the land use development permit process. The comment did not result in raise any new significant impacts or the need for additional mitigation measures than those analyzed and disclosed in the Draft IS/MND and associated appendices; therefore, no further response is required.

Comment A.4: In addition to the City’s comments related to the Draft MND above, please find a comment letter which was previously sent regarding the project attached to this letter. Please review the comments and consider directing revisions to the project to address Cupertino’s concerns related to height, transitions, frontage improvements, and transportation.

Response A.4: The September 2017 letter provided comments on the Planned Development Zoning permit and did not address the Draft IS/MND as it was circulated in March 2020; therefore, no further response is required.

SECTION 2.0 IS/MND TEXT REVISIONS

This section contains revisions to the text of the IS/MND dated March 2020. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Appendix A: IS/MND Comment Letters



DEPARTMENT OF COMMUNITY DEVELOPMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
(408) 777-3212 • FAX (408) 777-3366

April 2, 2020

Adam Petersen, City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113

Subject: Comments regarding City of San Jose File No. PDC17-035

Project Address: 7201 Bark Lane (APN: 372-24-011)
San Jose, CA 95129

Dear Mr. Petersen,

Thank you for the giving the City of Cupertino the opportunity to comment on the Draft Mitigated Negative Declaration (MND) for an application for a Planned Development Rezoning from the A(PD) Planned Development Zoning District to the R-M(PD) Zoning District to allow the construction of a residential building with 85 residential units, below grade parking, and open space with a maximum height of 75 feet on an approximately 0.90-gross acre site (City File No. PDC17-035).

1. Conditions and Mitigation Monitoring and Reporting Program

It appears that the project does not incorporate the “Standard Permit Conditions” listed in the report that serve as de facto mitigations for the project, as conditions of approval for the project. Please ensure inclusion of these as Conditions of the Approval for the project to ensure that they are implemented or as an appendix to the MND for reference.

Additionally, a Mitigation Monitoring and Reporting Program (MMRP) has not been included in the Draft MND. This makes it difficult for a member of the general public that does not understand how and when the proposed mitigation measures will be implemented to comprehend their scope and/or timing. If an MMRP is not included,

the mitigation measure should include details on the party responsible for implementation, implementation timing/occurrence, agency responsible for monitoring, monitoring action, and monitoring frequency. This will provide more information in the spirit of the California Environmental Quality Act (CEQA) on implementation since the mitigation measures proposed are not informative.

2. Air Quality

The project uses a 14-month construction schedule that was anticipated to begin in January 2020. As we are currently in the month of April 2020, the construction timeline and schedule should be updated as well as any other necessary modeling or any additional information necessary to accommodate the new schedule.

3. Noise

MM NOI-1.2 identifies several mitigation measures for noise impacts related to the construction of the project such as the inclusion of noise reduction systems (noise barriers and noise control blankets). However, it is unclear when the systems would be implemented. Construction of temporary noise barriers is required “where feasible” and the noise control blanket barriers “could be erected” if determined to be necessary during construction. These mitigation measures are unclear as to whether or not they would be implemented in the project, and, therefore, unclear whether construction noise would be properly mitigated.

In addition to the City’s comments related to the Draft MND above, please find a comment letter which was previously sent regarding the project attached to this letter. Please review the comments and consider directing revisions to the project to address Cupertino’s concerns related to height, transitions, frontage improvements, and transportation.

Please contact Erick Serrano at (408) 777-3205 or ericks@cupertino.org for any questions or concerns related to these comments.

Sincerely,

Erick Serrano
Senior Planner

Attachments: City of Cupertino Comments Regarding City of San Jose File No.
PDC17-035



DEPARTMENT OF COMMUNITY DEVELOPMENT

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
(408) 777-3212 • FAX (408) 777-3366

September 18, 2017

City of San Jose
Tracy Tam,
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
3rd Floor Tower
San Jose, CA 95113

Subject: Comments regarding City of San Jose File No. PDC17-035

Project Address: 7201-7245 Bark Lane
San Jose, CA 95129

Dear Ms. Tam,

Thank you for giving the City of Cupertino the opportunity to comment on the Planned Development Zoning permit to allow the construction of a six (6) story residential building with 85 units and 202 parking stalls in a two (2) level underground parking garage (City File No. PDC17-035).

Rezoning:

The plans and description provided is unclear about the applicant's rezoning request. As such, it is hard to provide comments on the proposed rezoning. Additional details on the rezoning application are requested in order to provide adequate comments.

Heights and Transitions:

The City of Cupertino would like to share its concerns with regard to the height of the project. The project height of six (6) stories is inconsistent with the predominately existing one (1) and two (2) story structures throughout the neighborhood and across the street within the City of Cupertino city limits. The project provides minimal setbacks to the property lines. Setbacks of five (5) feet along the front property line, and

ten (10) feet to the side and rear property lines will exacerbate the impact of the six story building on the neighbors.

In order to be compatible with the neighborhood and to promote harmonious neighborhood design and character, it is recommended that the project be closer in scale and height of the neighborhood. Furthermore, it is recommended that the upper levels of the building have increased setbacks to allow not only light and air to be available to properties to the north and east but to also respect the privacy of the neighbors.

Frontage Improvements:

The area surrounding the project site consists of a detached sidewalk with a landscape buffer. Existing vegetation within the landscape buffer and the proposed landscaping area available on the property (within the 5 foot front setback) would provide minimal screening to the proposed building.

Landscape improvements on the project site and the public right of way should take into consideration the massing of the proposed building as well as how the landscaping will relate to the adjacent properties. While the project does provide bicycle parking, there are no bicycle improvements proposed with the project. As a way to support the increased biking opportunities, improvements to bicycle infrastructure should be considered. In addition, increased landscaping with high canopy shade trees will not only provide screening for the mass of the building but also an improved pedestrian friendly neighborhood.

Transportation:

With respect to transportation, the South De Anza corridor is becoming increasingly congested with the intensification of development in the area. Although much of South De Anza Boulevard lies within the City of San Jose, the City of Cupertino is responsible for maintaining all the traffic signals along the corridor and for maintaining adequate levels of service.

It is not clear from the application whether the proposed development will increase the total number of residential units on the site; however, either a traffic analysis identifying impacts and mitigation for the proposed development, or a financial contribution toward improving traffic operation along South De Boulevard, should be required in order to ensure adequate levels of service are maintained along the corridor.

Please contact Erick Serrano at (408) 777-3205 or ericks@cupertino.org for any questions or concerns related to these comments.

Sincerely,

Erick Serrano
Associate Planner