

RESOLUTION NO. 2026-XX

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL
APPROVING AN ARCHITECTURAL AND SITE APPROVAL PERMIT
FOR A NEW RESIDENTIAL DEVELOPMENT PROJECT CONSISTING OF 56-
TOWNHOME-CONDOMINIUM UNITS AND 66 SMALL LOT SINGLE FAMILY
HOMES, ON FOUR CONTIGUOUS PARCELS TOTALING 6.93-ACRES,
INCLUDING TREE REMOVAL AND REPLACEMENTS
LOCATED AT 20807, 20813, 20823 & 20883 STEVENS CREEK BLVD;
APNs: 326-32-050, -051, -052, & -053**

SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2024-011
Applicant: Kevin Choy (Harvest Properties)
Property Owner: Blair Volckmann
Location: 20807, 20813, 20823 & 20883 Stevens Creek Blvd; APNs: 326-32-050,
-051, -052, and -053

SECTION II: FINDINGS FOR ARCHITECTURAL AND SITE APPROVAL

WHEREAS, the Planning Commission of the City of Cupertino received an application for an Architectural and Site Approval Permit as described in Section I of this resolution; and

WHEREAS, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(1) of the CEQA Guidelines because the proposed project would meet the requirements of the Public Resources Code (PRC) Section 21080.66(a); and

WHEREAS, on March 24, 2026, the Planning Commission held a duly noticed public hearing to receive staff's presentation and public testimony, and to consider the information contained in the Exemption Memorandum along with all staff reports, other pertinent documents, and all written and oral statements received prior to and at the public hearing; and

WHEREAS, on March 24, 2026 the Planning Commission recommended on a 5-0 vote that the City Council approve the Use Permit (U-2024-008) in substantially similar form to the Resolution presented (Resolution No. 2026-11), approve the Architectural and Site Approval Permit (ASA-2024-011) in substantially similar form to the Resolution presented (Resolution No. 2026-12), approve the Vesting Tentative Map (TM-2024-006) in substantially similar form to the Resolution presented (Resolution No. 2026-13), and

approve the Tree Removal Permit (TR-2024-033), in substantially similar form to the Resolution presented (Resolution No. 2026-14); and

WHEREAS, the Planning Commission motion included a recommendation to City Council to explore additional benefits or assistance options for retail tenants that will be displaced due to this housing development and similar projects. The Planning Commission requested that the City Council, as a matter of establishing policy, consider items such as expedited permitting processes, consideration of reduced fees, and other opportunities for assistance for businesses impacted by seeking relocation; and

WHEREAS, all necessary public notices having been given as required by the City of Cupertino Municipal Code and the Government Code, and the Planning Commission held at least one public hearing in regard to this application; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Resolution; and

WHEREAS, the applicant has met the burden of proof required to support the application for an Architectural and Site Approval Permit; and

WHEREAS, the City Council finds as follows with regard to this application:

1. The proposal, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

The project is consistent with the land use designations in the General Plan, Zoning Ordinance, and the Heart of the City Specific Plan. It has been designed to locate townhome development closer to Stevens Creek Blvd. and transitioning to small-lot detached single-family development to the north along Alves Dr. similar to the surrounding single-family residential uses located north-west of the site. The proposed landscaping will be compatible with the existing streetscape and Heart of the City standards. The project is conditioned to comply with the Environmental Protection Standards of Cupertino Municipal Code. Chapter 17.04. The project has access to all utilities including sewer, water etc. The project must meet all Fire and Building Code requirements, which will be further reviewed prior to issuance of building permits. Therefore, the project will not be detrimental or injurious to properties or improvements in the vicinity, and will not be detrimental to public health, safety, general welfare, or convenience.

2. The proposal is consistent with the purposes of Chapter 19.168, the General Plan, any specific plan, zoning ordinances, applicable planned development permit, conditional use permits, variances, subdivision maps or other entitlements to use which regulate the subject property including, but not limited to, adherence to the following specific criteria:

- a) Abrupt changes in building scale should be avoided. A gradual transition related to height and bulk should be achieved between new and existing buildings.

Several of the buildings proposed are taller than the maximum height allowed by the zoning district and have setbacks smaller than those required by the zoning district since provisions of state law allow the applicant to waive development standards which would otherwise preclude the applicant from building the project they designed. The City does not have the ability to require changes to the project as designed to comply with either the maximum height limitations or minimum setback requirements. However, the proposed townhomes and detached single-family dwellings are proposing to plant trees along Stevens Creek Boulevard and Alves drive, in accordance with the Heart of the City Specific Plan, for visual screening.

- b) In order to preserve design harmony between new and existing building and in order to preserve and enhance property values, the materials, textures and colors of new building should harmonize with adjacent development by being consistent or compatible with design and color schemes with the future character of the neighborhoods and purposes of the zone in which they are situated. The location, height and materials of walls, fencing, hedges and screen planting should harmonize with adjacent development. Unsightly storage areas, utility installations and unsightly elements of parking lots should be concealed. The planting of ground cover or various types of pavements should be used to prevent dust and erosion, and the unnecessary destruction of existing healthy trees should be avoided. Lighting for development should be adequate to meet safety requirements as specified by the engineering and building departments, and provide shielding to prevent spill-over light to adjoining property owners.

The buildings meet the design qualities of a contemporary Spanish, Modern French and Craftsman design development. The architectural style alternates between the three styles throughout the site. Crosswalks throughout the site will be delineated with an Ashlar pattern stamped asphalt in earthtone shades. The applicant will continue the decorative brick paving within the public right-of-way along Stevens Creek Blvd, continuing the decorative paving from 20807 Steven's Creek Blvd to 20955 Steven Creek Blvd. This improvement will complete the decorative brick pavers along the entire frontage of the project site. The 6 existing Callery Pear street trees along Steven's Creek Blvd. are proposed to be retained and protected in place. The species is consistent with the requirements of the Heart of the City Specific Plan "flowering orchard" planting theme. The mature trees will help to screen the building mass along Steven's Creek Blvd. Lighting for the development will be reviewed as part of the project construction documents to ensure that they meet safety requirements while avoiding spill-over light to adjacent properties and meet applicable Dark Sky standards. The proposed windows are consistent with the City's bird-safe ordinance as well.

- c) The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures shall minimize traffic hazards and shall positively affect the general appearance of the neighborhood and harmonize with adjacent development; and

No signage is proposed as part of this project.

- d) With respect to new projects within existing residential neighborhoods, new development should be designed to protect residents from noise, traffic, light and visually intrusive effects by use of buffering, setbacks, landscaping, walls and other appropriate design measures.

While the project abuts an existing single-family residential neighborhood to the northwest, it is surrounded on all other sides by commercial uses. The townhome buildings have been designed in accordance with many of the non-objective design guidelines outlined in the Heart of the City Specific Plan. Further, the project has provided a new parkway between the street curb and the new sidewalk, that did not exist before. The parkway will set the sidewalk back from the street to provide additional safety buffer to pedestrians from vehicles. Additionally, the project incorporates a double row of trees planted along Alves Dr. to provide shade and seasonal foliage within the neighborhood.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution, beginning on PAGE 4 herein, and subject to the conditions contained in all other Resolutions approved for this Project.

The application for an Architectural and Site Approval, Application No. ASA-2024-011, is hereby approved, and that the subconclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Hearing record concerning Application no. ASA-2024-011 as set forth in the Minutes of the City Council Meeting of April 7, 2026 Meeting, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval is based on the plan set entitled "20807 – 20883 Stevens Creek Blvd. Cupertino" consisting of 196 sheets labeled as, A0.01– A4.00, C1 – C26, L1.0 – L10.1, JT-1 to JT-4, PM, and SL-1 to SL-4, drawn by ktgy Architects, Gates + Associates landscape, cbg Civil Engineers Surveyors, and Radius Joint Trench, except as may be amended by conditions in this resolution.

2. ACCURACY OF PROJECT PLANS

The applicant/property owner is responsible to verify all pertinent property data including but not limited to property boundary locations, building setbacks, property size, building square footage, any relevant easements and/or construction records. Any misrepresentation of any property data may invalidate this approval and may require additional review.

3. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. TM-2024-006, U-2024-008, and TR-2024-033 shall be applicable to this approval.

4. ANNOTATION OF THE CONDITIONS OF APPROVAL

The conditions of approval set forth shall be incorporated into and annotated on the first page of the building plans.

5. DEVELOPMENT APPROVAL

The project is granted approval to construct:

- a. 56 townhomes, with 24 townhomes dedicated as units affordable to moderate- and median-income households;
- b. 66 single-family homes;
- c. 244 garage parking spaces;
- d. 27 guest parking spaces;
- e. 122 garage bicycle spaces;
- f. 4 bicycle spaces in the common open space;
- g. Landscaping in designated locations with the use of the approved plant palette, including native and drought-tolerant plants;
- h. Vegetated stormwater treatment facilities with the use of native plants;
- i. 31,921 square feet of private open space across all units;
- j. 10,257 square feet of common open space;
- k. Screened mechanical equipment;
- l. Screening six-foot-tall “good neighbor” fence on the western property line and eight-foot-tall masonry wall on the eastern property line.

6. DENSITY BONUS WAIVERS AND CONCESSIONS

As allowed through the state’s Density Bonus law, the project is eligible for one concession and unlimited waivers, as approved via this permit. The project is granted one concession and 12 waivers as requested and indicated on the approved project plans as follows:

- a. Concession to address different unit type for BMR units; and
- b. Waiver to deviate from the 45-foot height limitation in the Heart of the City (HOC) Specific Plan; and

- c. Waiver to deviate from the front setback identified in the HOC Specific Plan; and
- d. Waiver to deviate from the side setback identified in the HOC Specific Plan; and
- e. Waiver to deviate from the rear setback identified in the HOC Specific Plan; and
- f. Waiver to deviate from the building forms requirement in the HOC Specific Plan; and
- g. Waiver to deviate from the building eave encroachment standard in the HOC Specific Plan; and
- h. Waiver to deviate from the maximum lot coverage percentage identified in the Cupertino Municipal Code; and
- i. Waiver to deviate from the minimum lot width development standard identified in the Cupertino Municipal Code; and
- j. Waiver to deviate from the minimum parking space size and use of tandem garages development standards identified in the Cupertino Municipal Code; and
- k. Waiver to deviate from the parking setback identified in the Cupertino Municipal Code.

7. AFFORDABLE UNITS

The project shall include 12 units affordable to median-income (80-100% of Area Median Income) households and 12 units affordable to moderate-income (100-120% of Area Median Income) households as determined by the City's BMR Mitigation Manual.

8. BMR AGREEMENT

Prior to the recordation of a final map or issuance of any residential building permit, an affordable housing agreement shall be recorded against the property. The affordable housing agreement shall include, but not be limited to the following, in compliance with the BMR Housing Mitigation Manual:

- a. Total number of BMR units, type, location (site map), square footage, number of bedrooms, and construction scheduling of market-rate and BMR units;
- b. Provisions to ensure concurrent construction and completion of BMR units and market-rate units;
- c. Affordability levels for each BMR unit;
- d. Price for BMR units as provided for in the BMR mitigation manual;
- e. Provisions for income certification and screening of potential occupants of BMR units;
- f. Restriction control mechanism;

- g. Financing of ongoing administrative and monitoring costs;
- h. Other reasonably required provisions to implement the Affordable Housing Plan.

9. BMR UNIT TERMS OF AFFORDABILITY

Prior to occupancy, the proposed project shall record covenants that require the units to be sold at prices that are affordable to moderate and median levels for a period not less than 99 years from the date of first occupancy of the unit.

10. FINAL ARCHITECTURAL DETAILS AND EXTERIOR BUILDING MATERIALS

The final building exterior plan shall closely resemble the details shown on the original approved plans. The final building design and exterior treatment plans (including but not limited to details on exterior color, materials, architectural treatments, doors, windows, lighting fixtures, and/or embellishments) shall be reviewed and approved by the Director of Community Development prior to issuance of building permits and through an in-field mock-up of colors prior to application to ensure quality and consistency. Any exterior changes determined to be substantial by the Director of Community Development shall either require a modification to this permit or a new permit based on the extent of the change.

Future changes to the exterior building materials/treatments must be reviewed and approved by the Property Owner's Association. However, any changes to the building materials that do not match the approved materials shall require an amendment to this permit or a new permit.

11. BICYCLE PARKING

The applicant shall provide bicycle parking and bike racks for the project in accordance with the approved plans and with the City's Parking Regulations under Chapter 19.124 of the Cupertino Municipal Code.

12. BUILDING AND FIRE CODE

The applicant shall apply for and obtain building permits to allow the construction of the approved project. The applicant shall provide information and plans to allow the Building Official and the Fire Marshall or their designee that the proposed plans comply with Building and Fire Codes in effect at the time of application for a building permit.

13. PRE-CONSTRUCTION MEETING AND CONSTRUCTION MANAGEMENT PLAN

A demolition and construction management plan shall be submitted and reviewed prior to building permit issuance. Prior to commencement of construction

activities, the applicant shall arrange for a pre-construction meeting with the pertinent departments (Building, Planning, and Public Works) to review the prepared construction management plan, to ensure that construction complies with the conditions of approval, staging of construction equipment is appropriate, tree protection measures are in place, public access routes are identified, and noise and dust control measures are established. The plan shall include but not be limited to the following:

- a. Appropriate construction staging area
- b. Hours of construction
- c. Compliance with the City noise ordinance
- d. Best management practices
- e. Staging of construction equipment shall not occur within 50 feet of any residential property.
- f. Any other measures as determined to be appropriate by the Director of Community Development

14. DEMOLITION REQUIREMENTS

All demolished building and site materials shall be recycled to the maximum extent feasible subject to the Building Official. The applicant shall provide evidence that materials were recycled prior to issuance of final demolition permits.

15. GRADING AND CONSTRUCTION HOURS AND NOISE LIMITS

- a. All grading activities shall be limited to the dry season (April 15 to October 1), unless permitted otherwise by the Director of Public Works.
- b. Construction hours and noise limits shall be compliant with all requirements of Chapter 10.48 of the Cupertino Municipal Code.
- c. Grading, street construction, underground utility and demolition hours for work done more than 750 feet away from residential areas shall be limited to Monday through Friday, 7 a.m. to 8 p.m. and Saturday and Sunday, 9 a.m. to 6 p.m. Grading, street construction, demolition or underground utility work within 750 feet of residential areas shall not occur on Saturdays, Sundays, holidays, and during the nighttime period as defined in Section 10.48.053(b) of the Municipal Code.
- d. Construction activities shall be limited to Monday through Friday, 7 a.m. to 8 p.m. and Saturday and Sunday, 9 a.m. to 6 p.m. Construction activities are not allowed on holidays as defined in Chapter 10.48 of the Municipal Code. Night time construction is allowed if compliant with nighttime standards of Section 10.48 of the Cupertino Municipal Code.
- e. Rules and regulations pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of an

applicant appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.

- f. The applicant shall be responsible for educating all contractors and subcontractors of said construction restrictions.

The applicant shall comply with the above grading and construction hours and noise limit requirements unless otherwise indicated.

16. FORMATION OF A HOME OWNER'S ASSOCIATION

A Home Owner's Association shall be formed to maintain the common areas of the property. The Conditions, Covenants and Restrictions (CC&Rs) shall be reviewed and approved by the Director of Community Development and the City Attorney prior to recordation. The following terms shall be incorporated into the Association's Conditions, Covenants and Restrictions:

- The members/board shall meet at a minimum of once/year
- The Association dues shall cover:
 - Maintenance of common area on the property, in compliance with the approved project and conditions of approval, including hardscaping, landscaping (including development trees) private streets, parking, landscaping and accessory facilities and amenities, such as trash bins/areas, common amenity areas, tree grates, outside trash bins, fences, etc,
 - Building and site repair on a regular schedule, or as otherwise necessary, and building renovation and replacement as necessary to ensure that the property is maintained.
 - Permits, including tree removal permits, required for maintenance and repair of facilities and other improvements in the common areas.
- Any changes to the CC&R's must be reviewed and approved by the City
- Disbanding of the Association shall require an amendment to the permit.

17. INGRESS/EGRESS EASEMENT

The applicant shall record an appropriate deed restriction and covenant running with the land, subject to approval of the City Attorney, for all parcels that share a common private drive or private roadway with one or more other parcels, including the parcel to the east of the subject site, unless an easement is already recorded which provides ingress/egress for the driveway located on the south east portion of the property to the property located directly to the east of the subject site. The deed restriction shall provide for necessary reciprocal ingress and egress easement to and from the affected parcels. The easements shall be recorded prior to final map recordation.

18. PUBLIC ACCESS REQUIREMENTS

In accordance with Mobility Element Policies M-2.5 and M-3.2 of the 2015-2040 Cupertino General Plan in effect in January 2024, the applicant shall maintain public access to the privately maintained streets and walkways where public access easements are shown on the Vesting Tentative Map.

19. PUBLIC ART REQUIREMENT

Public art shall be provided for the project in accordance with General Plan Policy 2-66 and the City's Public Art Ordinance (Chapter 19.148 of the Cupertino Municipal Code). The minimum expenditure for the artwork, including, but not limited to design, fabrication, and installation is one (1) percent of the construction valuation for valuation in excess of \$100 million. The project pro forma shall be provided to the City to confirm the project budget. The public art plans (including location and design) shall be reviewed by the Fine Arts Commission during the building permit stage, in advance of final occupancy. Once approved by the Fine Arts Commission, the public artwork shall be installed to the satisfaction of the City prior to final occupancy.

In the event the developer or property owner determines that the placement of artwork on a particular property may not be feasible, the developer or property owner may apply to the City for an in-lieu payment alternative as indicated in Chapter 19.148 of the Cupertino Municipal Code, subject to review of the Fine Arts Commission and the City Council. The in-lieu payment shall be 1.25% of the construction valuation.

20. PUBLIC ART MAINTENANCE REQUIREMENT

In accordance with the requirements of Municipal Code Chapter 19.128, the property owner shall maintain approved public artwork in good condition continuously after its installation, as determined appropriate by the City. Maintenance shall include all related landscaping, lighting, and upkeep, including the identification plaque. Artwork required or approved cannot be removed, except for required maintenance or repair, unless approved by the City; at which time the City may require replacement or relocation of the artwork. In the event that the artwork is relocated in the public right-of-way, a maintenance agreement with the City shall be required.

21. COMMON OPEN SPACE

The residential common open space shall provide amenities for passive and/or active recreation including but not limited to play structures, barbeque areas, picnic tables etc. and shall not be retained as or converted to only a passive hardscaped or landscaped area.

22. SETBACK AND LANDSCAPE AREAS

Approved setback and landscaped areas shall remain free and clear of any accessory structures that have not been approved as part of this project.

23. RESIDENTIAL SCREENING COVENANT

The property owner shall record a covenant on this property to inform future property owners of the residential screening measures and tree protection requirements consistent with the approved plans and reference these in the Property Owner Association documentation. The precise language will be subject to approval by the Director of Community Development. Proof of recordation must be submitted to the Community Development Department prior to final occupancy of the residence.

24. LANDSCAPE INSTALLATION REPORT

The project is subject to all provisions delineated in the Landscape Ordinance (CMC, Chapter 14.15). A landscape installation audit shall be conducted by a certified landscape professional after the landscaping and irrigation system have been installed. The findings of the assessment shall be consolidated into a landscape installation report.

The landscape installation report shall include but is not limited to: inspection to confirm that the landscaping and irrigation system are installed as specified in the landscape and irrigation design plan, system tune-up, system test with distribution uniformity, reporting overspray or run-off that causes overland flow, and preparation of an irrigation schedule.

The landscape installation report shall include the following statement: "The landscape and irrigation system have been installed as specified in the landscape and irrigation design plan and complies with the criteria of the ordinance and the permit."

25. LANDSCAPE AND IRRIGATION MAINTENANCE

Per the Landscape Ordinance (CMC, Chapter 14.15), a maintenance schedule shall be established and submitted to the Director of Community Development or his/her designee, either with the landscape application package, with the landscape installation report, or any time before the landscape installation report is submitted.

- a. Schedules should take into account water requirements for the plant establishment period and water requirements for established landscapes.
- b. Maintenance shall include, but not be limited to, the following: routine inspection; pressure testing, adjustment and repair of the irrigation system; aerating and de-thatching turf areas; replenishing mulch; fertilizing; pruning;

replanting of failed plants; weeding; pest control; and removing obstructions to emission devices.

- c. Failed plants shall be replaced with the same or functionally equivalent plants that may be size-adjusted as appropriate for the stage of growth of the overall installation. Failing plants shall either be replaced or be revived through appropriate adjustments in water, nutrients, pest control or other factors as recommended by a landscaping professional.

26. LANDSCAPE PROJECT SUBMITTAL

Prior to issuance of building permits, the applicant shall submit a full Landscape Documentation Package, per sections 14.15.050 A, B, C, and D of the Landscape Ordinance, **for projects with landscape area 500 square feet or more** or elect to submit a Prescriptive Compliance Application per sections 14.15.040 A, B, and C **for projects with landscape area between 500 square feet and 2,500 square feet**. The Landscape Documentation Package or Prescriptive Compliance Application shall be reviewed and approved to the satisfaction of the Director of Community Development prior to issuance of building permits, and additional requirements per sections 14.15.040 D, E, F, and G or 14.15.050 E, F, G, H, and I will be required to be reviewed and approved prior to final inspections.

27. LANDSCAPE AND IRRIGATION PLANS

The applicant shall submit detailed landscape and irrigation plans to be reviewed and approved by Community Development prior to issuance of building permits. The landscape plan shall include water conservation and pesticide reduction measures in conformance with Chapter 14.15, Landscape Ordinance, and the pesticide control measures referenced in Chapter 9.18, Stormwater Pollution Prevention and Watershed Protection, of the Cupertino Municipal Code.

28. SITE IMPROVEMENTS

All proposed site improvements shall be completed prior to final occupancy of any structures approved in conjunction with the project.

29. DARK SKY COMPLIANCE AND/OR BIRD SAFE COMPLIANCE

Prior to issuance of Building Permits, the applicant/property owner shall submit final plans in compliance with the approved lighting plans to comply with development standards of Cupertino Municipal Code Section 19.102.030 Bird-Safe Development Requirements and Section 19.102.040 Outdoor Lighting Requirements. In the event changes are proposed from the approved plans, said changes must be reviewed and approved by the Director of Community Development or their designee. The applicant shall provide all documentation required to determine compliance with the Municipal Code. The final lighting

plan (including a detailed photometric plan) shall be reviewed and approved by the Director of Community Development prior to building permit issuance. A report from a licensed lighting engineer may be required to confirm all exterior lighting throughout the site complies with the City's Ordinance.

30. TRANSFORMERS ON PRIVATE PROPERTY

Electrical transformers, telephone cabinets and similar equipment shall be placed in underground vaults, inside buildings, or as required by PG&E. The developer must receive written approval from both the Public Works Department and the Community Development Department prior to installation of any above ground equipment. Should above ground equipment be permitted by the City, equipment and enclosures shall be screened with fencing and landscaping such that said equipment shall not encroach into the public right of way and is not visible from public street areas, as determined by the Community Development Department. Transformers shall not be located in the front or side building setback area, unless it is the only acceptable location allowed by PG&E.

31. UTILITY STRUCTURE PLAN

Prior to issuance of building permits, the applicant shall work with staff to provide a detailed utility plan to demonstrate screening or undergrounding of all new utility structures [including, but not limited to backflow preventers (BFP), fire department connections (FDC), post-indicator valves (PIV), and gas meters] to the satisfaction of the Director of Community Development, Public Works, Fire Department, and applicable utility agencies.

32. EQUIPMENT SCREENING

All mechanical and other equipment on the building or on the site shall be screened so they are not visible from public street areas or adjoining developments. The height of the screening shall be taller than the height of the mechanical equipment that it is designed to screen but may not exceed the overall height approved of that structure. A line of sight plan may be required to demonstrate that the equipment will not be visible from any public right-of-way. The location of the equipment and necessary screening shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

33. VOLATILE ORGANIC COMPOUND EMISSIONS FROM PAINT

Prior to issuance of the first building permit, the Applicant shall include a note on all plans where paint specifications or other design specifications are listed, that the project design will incorporate only low-VOC paint (i.e., 50 grams per liter [g/L] or less) for interior and exterior wall architectural coatings.

34. AVOID NESTING BIRDS DURING CONSTRUCTION

Prior to issuance of any demolition, grading and building permit, indicate the following on all construction plans:

- a. Demolition, construction, ground-disturbing, and tree removal/pruning activities shall be scheduled to be completed prior to nesting season (February 1 through August 31), if feasible.
- b. If demolition, construction, ground-disturbing, or tree removal/pruning activities occur during the nesting season (February 1 and August 31), preconstruction surveys shall be conducted as follows:
 - i. No more than 7 days prior to the start of demolition, construction, ground-disturbing, or tree removal/pruning activities, in order to identify any active nests with eggs or young birds on the site and surrounding area within 100 feet of construction or tree removal activities.
 - ii. Preconstruction surveys shall be repeated at 14-day intervals until demolition, construction, ground-disturbing, or tree removal/pruning activities have been initiated in the area, after which surveys can be stopped. As part of the preconstruction survey(s), the surveyor shall inspect all trees and other possible nesting habitats in, and immediately adjacent to, the construction areas for active nests, while ensuring that they do not disturb the nests as follows:
 - 1) For projects that require the demolition or construction one single-family residence, ground disturbing activities affecting areas of up to 500 square feet, or the removal of up to three trees, the property owner or a tree removal contractor, if necessary, is permitted to conduct the preconstruction surveys to identify if there are any active nests. If any active nests with eggs or young birds are identified, the project applicant shall retain a qualified ornithologist or biologist to identify protective measures.
 - 2) For any other demolition, construction and ground disturbing activity or the removal of four or more trees, a qualified ornithologist or biologist shall be retained by the project applicant to conduct the preconstruction surveys.
 - iii. If the preconstruction survey does not identify any active nests with eggs or young birds that would be affected by demolition, construction, ground-disturbing or tree removal/pruning activities, no further mitigating action is required. If an active nest containing eggs or young birds is found sufficiently close to work areas to be disturbed by these activities, their locations shall be documented, and the qualified ornithologist or biologist shall identify protective measures to be implemented under their direction until the nests no longer contain eggs or young birds.

- iv. Protective measures may include, but are not limited to, 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 ornithologist or 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. The active nest within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. The radius of an exclusion zone may be increased by the qualified ornithologist or biologist, if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified ornithologist or biologist only in consultation with California Department of Fish and Wildlife. The protection measures and buffers shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.
- v. A final report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required), shall be prepared by the qualified ornithologist or biologist and submitted to the Director of Community Development or his or her designee, through the appropriate permit review process (e.g., demolition, construction, tree removal, etc.), and be completed to the satisfaction of the Community Development Director prior to the start of demolition, construction, ground-disturbing, or tree removal/pruning activities.

35. NOISE LEVELS AND ABATEMENT

Project uses and all equipment installed on the site shall comply with the City's Community Noise Control Ordinance at all times. Installation of any mechanical or other equipment shall be evaluated to determine that the installation meets the City's Community Noise Control Ordinance. Any documentation or studies required to determine this shall be provided by the applicant as his/her sole expense. Should the project exceed any of the stipulated maximum noise levels outlined in the City's Community Noise Control Ordinance, an acoustical engineer may be required to submit noise attenuation measures to the satisfaction of the Director of Community Development at the applicant's expense.

36. NOISE AND VIBRATION NOTICE

At least 10 days prior to the start of any demolition, ground disturbing, or construction activities, the project applicant/contractor shall send notices of the planned activity by first class mail as follows:

- a. For projects on sites that are more than 0.5 acres or four or more residential units the notices shall be sent to off-site businesses and residents within 500 feet of the project site;
- b. For projects on sites between 0.25 to 0.5 acres, or two or three residential units (not including Accessory Dwelling Units) notices shall be sent to off-site businesses and residents within 250 feet of the project site; or
- c. For projects on sites less than 0.25 acres or one residential unit, the notices shall be sent to off-site businesses and residents within 100 feet of the project site.

The notification shall 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. The City will provide mailing addresses for the Applicant's use. The project applicant shall provide the City with evidence of mailing of the notice, upon request. If pile driving, see additional noticing requirements below.

37. NOISE AND VIBRATION SIGNAGE

At least 10 days prior to the start of any demolition, ground disturbing, or construction activities, the project applicant/contractor shall ensure that a sign measuring at least four feet by six feet shall be posted on construction fencing at the entrance(s) to the job site, clearly visible to the public, and include the following:

- a. Permitted construction days and hours;
- b. A description of proposed construction activities;
- c. 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; and
- d. Contact information for City's and contractor's authorized representatives that are assigned to respond in the event of a complaint related to fugitive dust, pursuant to the requirements for compliance with BAAQMD's CEQA Air Quality Guidelines.

If the authorized contractor's representative receives a complaint, they shall investigate, take appropriate corrective action, and report the complaint and the action taken to the City within three business days of receiving the complaint.

38. NOISE DURING CONSTRUCTION

Prior to issuance of any demolition, grading or building permit, include on plans a note that, during project construction, the project applicant shall incorporate the following measures to reduce noise during construction and demolition activity:

- a. The project applicant and contractors shall prepare and submit a Construction Noise Control Plan to the City's Planning Department for review and approval prior to issuance of the first permit. The Construction Noise Plan shall demonstrate compliance with daytime and nighttime decibel limits pursuant to Chapter 10.48 (Community Noise Control) of Cupertino Municipal Code. The details of the Construction Noise Control Plan shall be included in the applicable construction documents and implemented by the on-site Construction Manager. Noise reduction measures selected and implemented shall be based on the type of construction equipment used on the site, distance of construction activities from sensitive receptor(s), site terrain, and other features on and surrounding the site (e.g., trees, built environment) and may include, but not be limited to, temporary construction noise attenuation walls, high quality mufflers. During the entire active construction period, the Construction Noise Control Plan shall demonstrate that compliance with the specified noise control requirements for construction equipment and tools will reduce construction noise in compliance with the City's daytime and nighttime decibel limits.
- b. 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.
- c. 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.
- d. 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.

39. EXCESSIVE NOISE AND VIBRATIONS

Per General Plan Policy HS-8.3, construction contractors shall use the best available technology to minimize excessive noise and vibration from construction equipment such as pile drivers, jack hammers, and vibratory rollers during construction.

40. FUGITIVE DUST CONTROL

Prior to issuance of the any demolition, grading, or building permit, include on all permit plans, the full text of each of the Bay Area Air Quality Management District's Basic Control Measures from the latest version of BAAQMD's CEQA Air Quality Guidelines, as subsequently revised, supplemented, or replaced, to control fugitive dust (i.e., particulate matter PM2.5 and PM10) during demolition, ground disturbing activities and/or construction.

41. CALIFORNIA NATIVE AMERICAN TRIBAL PROTECTIONS

Prior to issuance of any demolition, grading, or building permit, the applicant shall demonstrate to the satisfaction of the Director of Community Development that the project complies with the requirements of Public Resources Code Section 21080.66. Compliance with this condition shall be ongoing throughout all ground-disturbing and restoration activities.

If requested by a California Native American tribe traditionally and culturally affiliated with the project area, the Applicant shall retain and fund tribal monitoring during all ground-disturbing activities. The designated tribal monitor shall be selected by the tribe and shall comply with the applicant's site access and workplace safety requirements. The applicant shall compensate the tribal monitor at a reasonable rate, determined in good faith, that aligns with customary compensation for cultural resource monitoring, taking into account factors such as the scope and duration of the project.

Tribal cultural resources shall be avoided where feasible, in accordance with subdivision (a) of Section 21084.3. In furtherance of this requirement, where feasible, the project applicant shall provide deference to tribal preferences regarding access to spiritual, ceremonial, and burial sites, and incorporate tribal traditional knowledge in the protection and sustainable use of tribal cultural resources and landscapes.

All identification, treatment, and documentation of tribal cultural resources shall be conducted in a culturally appropriate manner consistent with Public Resources Code Section 21083.9.

Prior to permit issuance, the Applicant shall complete a California Historical Resources Information System (CHRIS) archaeological records search and a tribal cultural records search for the project site and shall submit a Sacred Lands Inventory Request to the Native American Heritage Commission.

The project shall comply with California Health and Safety Code Section 7050.5 and Public Resources Code Section 5097.98, including immediate cessation of work in the event of the discovery of human remains or burial resources and

treatment in accordance with applicable law and consultation with the appropriate California Native American tribe.

Where applicable to the environmental context of the site, the applicant shall incorporate tribal ecological knowledge into any habitat restoration or landscape management measures associated with the project.

42. ARCHAEOLOGICAL RESOURCES AND TRIBAL CULTURAL RESOURCES

Prior to the issuance of any demolition, grading or building permit involving soil disturbance, the project applicant shall provide written verification, including the materials provided to contractors and construction crews, to the City confirming that contractors and construction crews have been notified of basic archaeological site indicators, the potential for discovery of archaeological resources, laws pertaining to these resources, and procedures for protecting these resources as follows:

- a. Basic archaeological site indicators that may include, but are not limited to, darker than surrounding soils of a friable nature; evidence of fires (ash, charcoal, fire affected rock or earth); concentrations of stone, bone, or shellfish; artifacts of stone, bone, or shellfish; evidence of living surfaces (e.g., floors); and burials, either human or animal.
- b. The potential for undiscovered archaeological resources or tribal cultural resources on site.
- c. The laws protecting these resources and associated penalties, including, but not limited to, the Native American Graves Protection and Repatriation Act of 1990, Public Resources Code Section 5097, and California Health and Safety Code Section 7050 and Section 7052.
- d. The protection procedures to follow should construction crews discover cultural resources during project-related earthwork, include the following:
 - i. All soil disturbing work within 25 feet of the find shall cease.
 - ii. The project applicant shall retain a qualified archaeologist to provide and implement a plan for survey, subsurface investigation, as needed, to define the deposit, and assessment of the remainder of the site within the project area to determine whether the resource is significant and would be affected by the project.
 - iii. Any potential archaeological or tribal cultural resources found during construction activities shall be recorded on appropriate California Department of Parks and Recreation forms by a qualified archaeologist. If the resource is a tribal cultural resource, the consulting archaeologist shall consult with the appropriate tribe, as determined by the Native American Heritage Commission, 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. The archeologist shall perform this evaluation in consultation with the tribe.

43. HUMAN REMAINS AND NATIVE AMERICAN BURIALS

Prior to issuance of the any demolition, grading and building permits that involve soil disturbance, include on plans a note that, during project construction, the project applicant shall comply with California Health and Safety Code Section 7050.5 and California Public Resources Code Section 5097.98.

- a. In the event of discovering human remains during construction activities, there shall be no further excavation or disturbance of the site within a 100-foot radius of the remains, or any nearby area reasonably suspected to overlie adjacent remains.
- b. The Santa Clara County Coroner shall be notified immediately and shall make a determination as to whether the remains are Native American.
- c. If the Santa Clara County Coroner determines that the remains are not subject to his authority, he shall notify the Native American Heritage Commission (NAHC) within 24 hours.
- d. The NAHC shall attempt to identify descendants (Most Likely Descendant) of the deceased Native American.
- e. The Most Likely Descendant has 48 hours following access to the project site to make recommendations or preferences regarding the disposition of the remains. If the Most Likely Descendant does not make recommendations within 48 hours after being allowed access to the project site, the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance and provide documentation about this determination and the location of the remains to the NAHC and the City of Cupertino. Alternatively, if the owner does not accept the Most Likely Descendant's recommendations, the owner or the descendent may request mediation by the NAHC. Construction shall halt until the mediation has concluded.

44. GREEN BUILDING

The project shall be constructed in accordance with the City's Green Building Ordinance (Chapter 16.58 of the Cupertino Municipal Code). The applicant shall obtain LEED Silver certification, be GPR certified at a minimum of 50 points, or an alternative reference standard in accordance with the ordinance since the building size is over 50,000 square feet. Third party LEED or GPR certification or alternative reference standard is required per the ordinance criteria and costs associated with third-party review shall be paid by the applicant.

45. CONSULTATION WITH OTHER DEPARTMENTS

The applicant is responsible to consult with other departments and/or agencies with regard to the proposed project for additional conditions and requirements. Any misrepresentation of any submitted data may invalidate an approval by the Community Development Department.

46. INDEMNIFICATION

As part of the application, to the fullest extent permitted by law, the applicant shall agree to indemnify, defend with the attorneys of the City's choice, and hold harmless the City, its City Council, and its officers, employees, and agents (collectively, the "indemnified parties") from and against any liability, claim, action, cause of action, suit, damages, judgment, lien, levy, or proceeding (collectively referred to as "proceeding") brought by a third party against one or more of the indemnified parties or one or more of the indemnified parties and the applicant related to any Ordinance, Resolution, or action approving the project, the related entitlements, environmental review documents, finding or determinations, or any other permit or approval authorized for the project. The indemnification shall include but not be limited to damages, fees, and costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities, and expenses incurred in connection with such proceeding whether incurred by the Applicant, the City, or the parties initiating or bringing such proceeding.

The applicant shall agree to (without limitation) reimburse the City its actual attorneys' fees and costs incurred in defense of the litigation. Such attorneys' fees and costs shall include amounts paid to the City's outside counsel and shall include City Attorney time and overhead costs and other City staff overhead costs and any costs directly related to the litigation reasonably incurred by City. The applicant shall likewise agree to indemnify, defend, and hold harmless the indemnified parties from and against any damages, attorneys' fees, or costs awards, including attorneys' fees awarded under Code of Civil Procedure section 1021.5, assessed or awarded against the indemnified parties. The Applicant shall cooperate with the City to enter a Reimbursement Agreement to govern any such reimbursement.

The Applicant shall agree to (without limitation) reimburse the City for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as an Environmental Impact Report, negative declaration, specific plan, or general plan amendment) if made necessary by proceedings challenging the project approvals and related environmental review, if the applicant desires to continue to pursue the project.

The Applicant shall agree that the City shall have no liability to the Applicant for business interruption, punitive, speculative, or consequential damages.

47. NOTICE OF FEES, DEDICATIONS, RESERVATIONS, OR OTHER EXACTIONS

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

SECTION IV: CONDITIONS ADMINISTERED BY THE PUBLIC WORKS DEPT.

Except for otherwise noted, the following conditions must be completed and/or submitted prior to Final Map recordation.

48. OFFSITE STORM DRAIN CONNECTIONS

The City requires new development projects to connect to the City storm drain system via a manhole. Required full trash capture inlet devices are installed within the existing offsite inlets along Stevens Creek Blvd and Alves Dr. With the project proposing to connect to some of these existing inlets along Stevens Creek Blvd and Alves Dr, there is a concern that potential onsite flooding may occur due to the blockage of these devices. The Developer shall consider reconfiguring the proposed storm drain connections to connect directly to a manhole. However, if this cannot be achieved, the Developer shall provide a letter from the Owner stating the City will not be held liable if the trash capture devices cause onsite flooding.

49. LOT MERGER

Prior to final acceptance of the project, Developer shall merge the parcels created for the private street network into one lot as may be required by the Director of Public Works or shall include language in the Covenants, Conditions, and Restrictions (CC&R) to provide for City Manager review and approval of any amendments to the CC&R.

50. STREET IMPROVEMENTS & DEDICATION

Roadway dedication in fee title and street improvements along the project frontage will be required to the satisfaction of the Director of Public Works. Street

improvements, grading and drainage plans must be completed and approved prior to Final map approval.

All improvements must be completed and accepted by the City prior to Building Final Occupancy or Street Improvement Encroachment Permit acceptance whichever comes first.

Additional comments will be provided and shall be incorporated prior to Final Map approval to the satisfaction of the Director of Public Works or his/her designee.

51. ACCEPTANCE OF PROPERTY RIGHTS

The Public Works Director, or his/her designee, shall have the authority to accept all offers of dedications, easements, quitclaims and other property rights and interests on behalf of the City.

52. CURB AND GUTTER IMPROVEMENTS

Curbs and gutters, sidewalks and related structures shall be installed in accordance with grades and standards as specified by the Director of Public Works. All improvements must be completed and accepted by the City prior to Building Final Occupancy or Street Improvement Encroachment Permit acceptance whichever comes first unless otherwise approved by the Director of Public Works or his/her designee.

53. PEDESTRIAN AND BICYCLE IMPROVEMENTS

Developer shall provide pedestrian and bicycle related improvements (eg. walkway and bicycle racks, etc.) consistent with the Cupertino Bicycle Transportation Plan and the Pedestrian Transportation Plan, and as approved by the Director of Public Works. All improvements must be completed and accepted by the City prior to Building Final Occupancy or Street Improvement Encroachment Permit acceptance whichever comes first unless otherwise approved by the Director of Public Works or his/her designee.

54. STREET LIGHTING INSTALLATION

Street lighting shall be installed and shall be as approved by the Director of Public Works. Lighting fixtures shall be positioned so as to preclude glare and other forms of visual interference to adjoining properties, and shall be no higher than the maximum height permitted by the zone in which the site is located.

55. GRADING

Grading shall be as approved and required by the Director of Public Works in accordance with Chapter 16.08 of the Cupertino Municipal Code. 401

Certifications and 404 permits maybe required. Please contact Army Corp of Engineers and/or Regional Water Quality Control Board as appropriate.

56. DRAINAGE

Drainage shall be provided to the satisfaction of the Director of Public Works and satisfy any requirements from the environmental analysis. Hydrology and pre- and post-development hydraulic calculations must be provided to indicate whether additional storm water control measures are to be constructed or renovated. The storm drain system may include, but is not limited to, subsurface storage of peak stormwater flows (as needed), bioretention basins, vegetated swales, and hydrodynamic separators to reduce the amount of runoff from the site and improve water quality. The storm drain system shall be designed to detain water on-site (e.g., via buried pipes, retention systems or other approved systems and improvements) as necessary to avoid an increase of the ten percent flood water surface elevation to the satisfaction of the Director of Public Works. Any storm water overflows or surface sheeting should be directed away from neighboring private properties and to the public right of way as much as reasonably possible.

All storm drain inlets shall be clearly marked with the words “No Dumping – Flows to Creek” using permanently affixed metal medallions or equivalent, as approved by the Environmental Programs Division.

Additional comments will be provided and shall be incorporated prior to Final Map approval.

57. C.3 REQUIREMENTS

C.3 regulated improvements are required for all projects creating and/or replacing 5,000 S.F. or more of impervious surface, collectively over the entire project site. The developer shall reserve a minimum of 4% of developable surface area for the placement of low impact development measures, for storm water treatment, unless an alternative storm water treatment plan, that satisfies C.3 requirements, is approved by the Director of Public Works.

The developer must include the use and maintenance of site design, source control and storm water treatment Best Management Practices (BMPs), which must be designed per approved numeric sizing criteria. A Storm Water Management Plan and a Storm Water Facilities Operation, Maintenance and Easement Agreement, and certification of ongoing operation and maintenance of treatment BMPs are each required.

All storm water management plans are required to obtain certification from a City approved third party reviewer.

If the Project is subject to (Covenants, Conditions, and Restrictions (CC&R) and Homeowners Association (HOA), CC&R must also include languages pertaining to the stormwater treatment measures.

58. SUBDIVISION IMPROVEMENT AGREEMENT

The project developer shall enter into a Subdivision Improvement Agreement with the City of Cupertino providing for payment of fees, including but not limited to checking and inspection fees, storm drain fees, transportation impact fees, park dedication fees and fees for under grounding of utilities. Said agreement and fees shall be executed and paid prior to Final map approval.

Fees:

- a. Checking & Inspection Fees: Per FY 23-24 fee schedule (\$5,392 or 5% of improvement costs)
- b. Grading Permit: Per FY 23-24 fee schedule (\$4,015 or 6% of improvement costs)
- c. Tract Map Fee: Per FY 23-24 fee schedule (\$13,413)
- d. Storm Drainage Fee: Per FY 23-24 fee schedule (\$4,552 per AC + \$345 per unit)
- e. Transportation Impact Fee: Per FY 23-24 fee schedule: (single-family: \$6,797 per unit; townhome: \$4,215 per unit). Credit shall be applied for the existing office & retail uses (office \$19.15 per sq ft, retail: \$10.94 per sq ft.)
- f. Encroachment Permit Fee: Per FY 23-24 fee schedule (\$3,601 or 5% of improvement costs)
- g. Park Fees: Per FY 23-24 fee schedule: \$60,000 per unit (\$5,880,000 based on 98 units, 24 BMR units waived)
- h. Storm Management Plan Fee: Per FY 23-24 fee schedule (\$1,789)
- i. Street Tree Fee: By Developer or Per FY 23-24 fee schedule: \$515 per tree
- j. Developer Contribution: \$99,500 (Stevens Creek Blvd Class IV Separated Bike Lane frontage improvements)

Bonds:

- a. Faithful Performance Bond: 100% of Off-site Improvements
- b. Labor & Material Bond: 100% of Off-site Improvement
- c. On-site Grading Bond: 100% of site improvements.

The fees described above are imposed based upon the current fee schedule adopted by the City Council. However, the fees imposed herein may be modified

at the time of recordation of a final map or issuance of a building permit in the event of said change or changes, the fees changed at that time will reflect the then current fee schedule.

59. FINAL MAP

A final map will be subject to City Council approval and shall be recorded prior to issuance of building permits. Existing buildings must be demolished prior to recordation of the final map as building(s) cannot straddle between lot lines.

60. TRANSPORTATION

The Project is subject to the payment of Transportation Impact Fees under City's Transportation Impact Fee Program (Chapter 14.02 of the Cupertino Municipal Code).

Project is also subject to Vehicle Miles Traveled (VMT) analysis as part of environmental reviews per Chapter 17 of the Cupertino Municipal Code. Project shall provide mitigation measure as results of the transportation analysis.

61. PARKS

The residential units are subject to the Park Land Dedication (for units 50 or more) or the payment of parkland fees in-lieu of parkland dedication per Chapter 13.08 and Chapter 18.24 of the Cupertino Municipal Code. The City Council has the ultimate discretion to require parkland dedication or accept park in-lieu fees.

The Below Market Rate (BMR) program manual, which was last amended by City Council on July 2, 2024 per Resolution 24-067, authorizes the waiver of park fees for BMR units. Pursuant to Resolution 24-067, parkland dedication in-lieu fees for the 24 BMR units proposed for this project are hereby waived.

62. SURVEYS

A Boundary Survey and a horizontal control plan will be required for all new construction to ensure the proposed building will be set based on the boundary survey and setback requirements.

63. OPERATIONS & MAINTENANCE AGREEMENT

Developer shall enter into an Operations & Maintenance Agreement with the City prior to Final Map approval. The Agreement shall include the operation and maintenance for non-standard appurtenances in the public road right-of-way that may include, but is not limited to, stormwater treatment facilities, landscaping, street trees, sidewalk, pavers, and street lights.

64. TRAFFIC CONTROL PLAN

The developer must submit a traffic control plan by a Registered Traffic Engineer to be approved by the City. The plan shall include a temporary traffic control plan for work in the right of way as well as a routing plan for all vehicles used during construction. All traffic control signs must be reviewed and approved by the City prior to commencement of work. The City has adopted Manual on Uniform Traffic Control Devices (MUTCD) standards for all signage and striping work throughout the City.

65. WORK SCHEDULE

After building permit issuance, the developer shall submit a work schedule every six months to the City to show the timetable for all grading/erosion control work in conjunction with this project.

66. UNDERGROUND UTILITIES

Developer shall comply with the requirements of the Underground Utilities Ordinance No. 331 and other related Ordinances and regulations of the City of Cupertino, and shall coordinate with affected utility providers for installation of underground utility devices to the satisfaction of the Director of Public Works or his/her designee. Developer shall submit detailed plans showing utility underground provisions. Said plans shall be subject to prior approval of the affected Utility provider and the Director of Public Works.

67. TRANSFORMERS & CABINETS

Electrical transformers, telephone cabinets and similar equipment shall be placed in underground vaults, or as required by PG&E. The developer must receive written approval from both the Public Works Department and the Community Development Department prior to installation of any above ground equipment. Should above ground equipment be permitted by the City, equipment and enclosures shall not encroach into the public right-of-way and shall be screened with fencing and landscaping such that said equipment is not visible from public street areas, as determined by the Community Development Department. Transformers shall not be located in the front or side building setback area, unless it is the only acceptable location allowed by PG&E.

68. STREET TREES

Street trees shall be planted within the Public Right of Way to the satisfaction of the Director of Public Works and shall be of a type approved by the City in accordance with Ordinance No. 125.

Developer shall install root barriers adjacent to the street trees along the curb and sidewalk to the satisfaction of the Director of Public Works.

69. WATER BACKFLOW PREVENTERS

Domestic and Fire Water Backflow preventers and similar above ground equipment shall be placed away from the public right of way and site driveways to a location approved by the Cupertino Planning Department, Santa Clara County Fire Department and the water company.

70. FIRE PROTECTION

Fire sprinklers shall be installed in any new construction to the approval of the City.

71. SANTA CLARA COUNTY FIRE DEPARTMENT

A letter of clearance for the project shall be obtained from the Santa Clara County Fire Department prior to issuance of building permits. Clearance should include written approval of the location of any proposed Fire Backflow Preventers, Fire Department Connections and Fire Hydrants (typically Backflow Preventers should be located on private property adjacent to the public right of way, and fire department connections must be located within 100' of a Fire Hydrant).

72. FIRE HYDRANT

Fire hydrants shall be located as required by the City and Santa Clara County Fire Department as needed.

73. BEST MANAGEMENT PRACTICES

Utilize Best Management Practices (BMPs), as required by the State Water Resources Control Board, for construction activity, which disturbs soil. BMP plans shall be included in grading and street improvement plans.

74. NPDES CONSTRUCTION GENERAL PERMIT

When and where it is required by the State Water Resources Control Board (SWRCB), the developer must obtain a Notice of Intent (NOI) from the SWRCB, which encompasses preparation of a Storm Water Pollution Prevention Plan (SWPPP), use of construction Best Management Practices (BMPs) to control storm water runoff quality, and BMP inspection and maintenance.

75. EROSION CONTROL PLAN

Developer must provide an approved erosion control plan by a Registered Civil Engineer. This plan should include all erosion control measures used to retain materials on site. Erosion control notes shall be stated on the plans.

76. STORM DRAIN SYSTEM POLLUTANT CONTROLS

Please identify all exterior storm drain inlets, including bioretention area overflow catch basins and linear trench drains, in the Final Stormwater Management Plan (SWMP). Full trash capture systems are required to prevent litter from entering the City's storm drain system and/or any adjacent creeks or diversion channels. Systems and devices must be approved by the California State Regional Water Quality Control Board (RWQCB) and selected from the San Francisco Bay RWQCB Certified Full Capture System List. The systems must be installed and maintained (cleaned) in accordance with the SWMP, manufacturer specifications, and provisions of the San Francisco Bay RWQCB NPDES permit. The property owner must provide official written record of cleaning and maintenance to the City upon request.

77. DRAIN INLET MARKERS

All exterior storm drain inlets on the parcel must be clearly marked with "No Dumping Flows to Creek" or "No Dumping Flows to Bay". An example of drain inlet markers may be viewed at the following: www.cupertino.org/greendev

78. FIRE SUPPRESSION SYSTEM OR WATER LINE FLUSHING

If fire suppression system or water line flushing will be conducted as part of the scope of permitted work, complete and submit the Planned Water Discharge Form (www.cupertino.org/greendev) to the Environmental Programs Division several business days in advance of the scheduled discharge.

79. PCB (POLYCHLORINATED BIPHENYLS) MANAGEMENT AND MITIGATION

At the time of building permit application, PCB and remediation is required prior to obtaining a demolition permit. Structures built or remodeled between January 1, 1940 and December 31, 1980 must be tested for PCB presence. All demolition permit applicants, including residential, must complete the PCB Screening Assessment Form to determine if the structure being demolished is deemed an applicable structure. Additional information concerning PCB screening requirements may be viewed at www.cupertino.org/greendev. Additional information concerning assessment and testing requirements, qualified consultants to perform sampling, testing, and reporting may be viewed at <https://scvurppp.org/pcbs-demo-permit/>. No demolition permit will be issued until all required PCB documents have been accurately completed, submitted to, and approved by the Environmental Programs division of the Public Works Department.

80. CONSTRUCTION AND DEMOLITION DEBRIS RECYCLING AND RECOVERY

At the time of building permit application, a completed construction and demolition (C&D) Debris Recovery Plan (DRP) must be submitted. All debris disposal and recycling from the construction project must be tracked throughout the duration of the project. Project applicants and contractors must use Green Halo (Cupertino.wastetracking.com) to create their Plan and to submit all construction waste generation tonnage information. A hold on issuance of the building permit will be placed until the Plan is submitted and approved. A hold will be placed on the final inspection until all waste tonnage information for the project has been entered into Green Halo and approved by the Environmental Programs Division.

81. CALIFORNIA WATER SERVICE COMPANY CLEARANCE

Provide California Water Service Company approval for water connection, service capability and location and layout of water lines and backflow preventers prior to Final Map approval.

82. DEDICATION OF UNDERGROUND WATER RIGHTS

Developer shall “quit claim” to the City all rights to pump, take or otherwise extract water from the underground basin or any underground strata in the Santa Clara Valley.

83. SANITARY DISTRICT

A letter of clearance or sign off of street improvement plans for the project shall be obtained from the Cupertino Sanitary District prior to Final Map approval.

84. UTILITY EASEMENTS

Clearance approvals from the agencies with easements on the property (including PG&E, AT&T, and California Water Company, and/or equivalent agencies) will be required prior to Final Map approval.

SECTION V: CONDITIONS ADMINISTERED BY THE SCC FIRE DEPT.

Except for otherwise noted, the following conditions must be completed and/or submitted prior to Final Map recordation.

85. GROUND LADDER / EMERGENCY RESCUE OPENINGS

Ground-ladder rescue from second and third floor rooms shall be made possible for fire department operations. Climbing angle of seventy-five degrees shall be demonstrated on the plans and maintained. [CFC Sec. 503 and 1031 NFPA 1932 Sec. 5.1.8 through 5.1.9.2]

- a. Plans to show ground ladder landing areas in relation to proposed landscaping.

- b. Landscaping plans to show the location of all emergency rescue openings / ground ladder landing locations. These areas shall remain unobstructed at ground level and not have any trees overhead.
- c. Identify which plan sheets have been updated to demonstrate conforming landscaping and ground ladder access.

86. AERIAL ACCESS

Where the vertical distance between the grade plane and the highest roof surface exceeds 30 feet (9144 mm), approved aerial fire apparatus access roads shall be provided. For purposes of this section, the *highest roof surface shall be determined by measurement to the eave of a pitched roof, the intersection of the roof to the exterior wall, or the top of parapet walls, whichever is greater.* [CFC Sect. D105]

- a. AMMR approved for aerial, including installation of fire alarm system interconnected throughout the whole building with mini horn on roof and an “enhanced” 13D fire sprinkler system.

87. FIRE APPARATUS ACCESS ROADS

The minimum clear width of fire department access roads shall be 20 feet for access roadways and 26 feet where aerial access is required. For installation guide lines refer to Fire Department Standard Details and Specifications sheet A-1. [CFC Sec. 503]

- Reference sheet C23.

88. SECONDARY FIRE DEPARTMENT ACCESS ROAD

Developments of one or two family dwellings where the number of dwelling units exceeds 30 shall be provided with two separate and approved fire apparatus access roads and shall meet the requirements of the SCCFD A-1 standard.

89. FIRE LANES

Fire apparatus access roads shall be designated and marked as a fire lane as set forth in Section 22500.1 of the California Vehicle Code. The entire 20 foot fire apparatus access roads shall be marked as fire lanes. Signs or other approved notices shall be posted.

- Reference sheet C23.

90. PARKING

When parking is permitted on streets, both during & after construction, it shall conform to the following:

- a. Parking is permitted on both sides of the street with street widths of 36 feet or more
- b. Parking is permitted on one side of the street with street widths of 28 – 35 feet

- c. No parking is permitted when street widths are less than 28 feet
NOTE: Fire lane and turnaround striping shall be provided and verified by site inspection. [SCCFD, A-1 Standard].

91. FIRE HYDRANT(S)

Fire hydrants shall be provided along required fire apparatus access roads and adjacent public streets and shall be within 400 feet of the structure (CFC Sec. 507 App. B and App. C).

- a. *Hydrant locations shown on sheet C23.* Hydrants shall be installed prior to combustible construction material being brought onsite. Coordinate with CalWater for hydrant installation.

92. FIRE FLOW

The fire flow for this project is 3,000 GPM at 20 psi residual pressure for 3 hours with an automatic fire sprinkler system installed. [CFC Sec. B105] Note: The minimum required number and spacing of the hydrants shall be in accordance with CFC Table C102.1. Any alternative to this standard must be determined to be to the satisfaction of the Santa Clara County Fire Department prior to building permit issuance.

93. TIMING OF INSTALLATION

Fire apparatus access roads & water supply for fire protection shall be installed and made serviceable prior to and during the time of construction except when approved alternative methods of protection are provided. Temporary street signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles in accordance with Section 505.2.

94. ADDRESS IDENTIFICATION

New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. *Numbers shall be a minimum of 6 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).* Address numbers shall be maintained. [CFC Sec. 505.1]

95. CONSTRUCTION SITE SAFETY

All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification S1-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. [CFC Chp. 33]

96. THIS PROJECT SHALL COMPLY WITH THE FOLLOWING

The California Fire (CFC), Building (CBC) Codes, 2022 edition, as adopted by the City of Cupertino, California Code of Regulations (CCR) and Health & Safety Code, and Santa Clara County Fire Department Standards (SCCFD).

SECTION VI: CONDITIONS ADMINISTERED BY THE CUPERTINO SANITARY DISTRICT

97. INSTALLERS AGREEMENT

The property owner shall enter into an Installer’s Agreement with the District for the construction of the proposed sewer infrastructure prior to issuance of Building Permits.

98. PAYMENT OF FEES

The property owner shall pay all required New Lateral, Sewer Development, Treatment Plant Capacity, plan check, and permit fees to the District prior to issuance of Building Permits.

99. UTILITY PLANS

Provide utility plan and profile sheets during the Building Permit phase.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 7th day of April, 2026, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Kitty Moore, Mayor City of Cupertino	 _____ Date
ATTEST: _____ Lauren Sapudar, City Clerk	 _____ Date