

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. _____

A RESOLUTION OF THE ADMINISTRATIVE HEARING OFFICER OF THE CITY OF
CUPERTINO APPROVING A TENTATIVE MAP TO ALLOW THE SUBDIVISION OF
ONE PARCEL INTO TWO INDIVIDUAL PARCELS LOCATED AT
10033 HILLCREST ROAD (APN: 326 16 014)

SECTION I: PROJECT DESCRIPTION

Application No.: TM-2024-008
Applicant: Mohammad Kamrul Islam
Location: 10033 Hillcrest Road; APN# 326 16 014

SECTION II: FINDINGS FOR A TENTATIVE MAP:

WHEREAS, the City of Cupertino received an application for a Tentative Map (Application No. TM-2024-008) as described in Section I of this resolution to subdivide one 28,235-square-foot lot into one 15,375-square-foot lot and one 11,360-square-foot lot, with a 1,500-square-foot right-of-way dedication; and

WHEREAS, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 of the CEQA Guidelines; and

WHEREAS, on June 26, 2025, the Administrative Hearing Officer held a duly noticed public hearing to receive staff's presentation and public testimony, and to consider the information contained in all staff reports, other pertinent documents, and all written and oral statements received prior to and at the public hearing; and

WHEREAS, the applicant has met the burden of proof required to support the application for a Tentative Map; and

WHEREAS, the Administrative Hearing Officer finds as follows with regard to this application:

1. That the proposed subdivision map is consistent with the City of Cupertino General Plan.

The subject property is consistent with the General Plan since the property is permitted to have up to three dwelling units based on its land use designation of Low Density (1-5 DU/Ac.). The lot acreage will be consistent with the underlying single family residential standards proposed with a minimum lot square footage of 10,000 square feet. Adjacent land uses include similar developments. The proposed subdivision is compatible with the adjoining land uses and no physical constraints are present that would conflict with anticipated land use development.

2. That the design and improvements of the proposed subdivision are consistent with the General Plan.

The off-site improvements proposed with the project are similar to the existing improvements adjacent to the subject site. These are consistent with the City's General Plan policies related to pedestrian safety etc. by minimizing curb-cuts and requiring an urban canopy within the public right-of-way.

3. That the site is physically suitable for the type development contemplated under the approved subdivision.

The proposed subdivision is compatible with the adjoining land uses and no physical constraints are present that would conflict with anticipated land use development. There are no topographical anomalies that differentiate this property from adjacent properties. The site is located on the valley floor and the proposed two lot subdivision is typical of properties in the neighborhood.

4. That the site is physically suitable for the intensity of development contemplated under the approved subdivision.

The subject property is physically suitable in size and shape in conformance to development standards and is appropriately configured to accommodate single-family dwelling units that can comply with development standards in Chapter 19.28.

5. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish and wildlife or their habitat.

The proposed subdivision design and improvements are not likely to cause serious public health problems nor substantially injure fish and wildlife or their habitat because the property is a developed site and located in an urbanized area where residential land use is allowed.

6. That the design of the subdivision or the type of improvements associated therewith are not likely to cause serious public health problems.

The proposed development is consistent with the existing adjacent residential development, and the on-site and off-site improvements improve neighborhood walkability through new frontage construction with size-appropriate driveway cuts and street tree preservation.

7. That the design of the subdivision and its associated improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

No easement or right-of-way exists currently that would be impeded or conflict with the proposed subdivision.

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 3 thereof, and those contained in all other Resolutions approved for this Project, the Administrative Hearing Officer does hereby:

1. Exercises its independent judgment and determines that the Project is exempt from CEQA pursuant to CEQA Guidelines section 15315. Section 15315 exemption applies to projects characterized as minor subdivisions meeting all of the following criteria:
 - a. The property is in an urbanized area.
 - b. The property is zoned for residential, commercial, or industrial uses.
 - c. The subdivision will not result in more than four parcels.
 - d. The proposed division is in conformance with the General Plan and zoning requirements and no variances or exceptions are required.
 - e. All services and access to the proposed parcels are available and compliant with City standards.
 - f. The existing parcel was not involved in a division of a larger parcel within the previous two years.
 - g. The parcel does not have an average slope greater than 20 percent.

Therefore, the proposed project is consistent with the criteria stated above (Section 15315) and will not have a significant effect on the environment.

2. Approve the application for a Tentative Map, Application No. TM-2024-008, and
3. Find that the subconclusions upon which the findings and conditions specified in this Resolution are based are contained in the Public Hearing record concerning Application no. TM-2024-008 as set forth in the Minutes of the Administrative Hearing Officer of June 26, 2025 and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

The approval is based on a plan set entitled "10033 HILLCREST ROAD, CUPERTINO, CA 95014, TENTATIVE MAP APPLICATION, PLANNING SUBMISSION SET,"

prepared by GREENBLUEARTH, Inc. and Kyle Chan, Architect, on May 17, 2025 consisting of seven (7) sheets titled "TM0 through TM6" and the plan set entitled "ISLAM RESIDENCE TENTATIVE MAP APPLICATION," prepared by Kyle Chan, Architect and dated May 2, 2025, consisting of four (4) sheets titled "A1.0 through A4.0" except as may be amended by conditions in this resolution.

2. ANNOTATION OF THE CONDITIONS OF APPROVAL

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

3. 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 property data may invalidate this approval and may require additional review.

4. 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.

5. PROTECTED TREES

No removal of protected trees, as defined in the City's Municipal Code, is approved as part of this Tentative Map approval. Any protected trees proposed for removal will require approval of a separate Tree Removal Permit application and replacement pursuant to the requirements of Chapter 14.18 of the Cupertino Municipal Code.

6. 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.

7. SOIL MANAGEMENT PLAN

Remediation of dieldrin impacted soil at the site shall be performed in accordance with a Soil Management Plan (SMP) prepared and certified by a qualified Environmental Professional which shall be submitted to the City for peer review and approval prior to the start of soil remediation activities. Peer review shall be completed by the City's third-party consultant and costs associated with peer review shall be paid by the applicant.

If any of the following conditions occur during the excavation of contaminated soil, excavation activities shall cease immediately, the remedial excavation area and any soil stockpiles shall be securely covered with plastic sheeting, the applicant shall provide the City with all sampling and monitoring documentation/results for review, and the City shall evaluate whether the applicant shall be required to revise the SMP and/or engage with a regulatory agency to provide oversight prior to performing further remediation activities at the Site:

- If any unexpected conditions are encountered or soil contaminant concentrations are identified that are not addressed by the protocols and worker training requirements outlined in the SMP;
- If the area of remedial excavation would need to extend beyond 2,000 square feet or the volume of remedial excavation would need to extend beyond 200 cubic yards in order to remove soil with concentrations of dieldrin exceeding Residential ESLs based on confirmation sampling analytical results;
- If air monitoring results identify the exceedance of air monitoring action levels or complaints are received from the surrounding public regarding dust generated by remediation activities;
- If concentrations of dieldrin exceeding Residential ESLs are detected in any confirmation samples after three rounds of excavation and confirmation sampling; or,
- If waste characterization sampling or confirmation sampling results identify soil that would be classified as hazardous waste.

The excavation and off-site disposal of contaminated soil, implementation of the protocols required by the SMP, and confirmation sampling results shall be documented in a Completion Report prepared and certified by a qualified Environmental Professional which shall be submitted to the City for peer review and approval prior to the City issuing any permits that would allow other ground disturbing activity (beyond soil remediation) at the Site. Peer review shall be completed by the City's third-party consultant and costs associated with peer review shall be paid by the applicant. If a regulatory agency provides oversight of further remediation activities at the Site, the Completion Report shall be submitted to the regulatory oversight agency for review and approval, and the applicant shall provide the City with written evidence that the regulatory oversight agency has issued a no further action determination for the Site prior to the City issuing any permits that would allow other ground disturbing activity (beyond soil remediation) at the Site.

8. DUST CONTROL

The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site:

- a. Water all exposed surfaces areas (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

The applicant shall incorporate the City's construction best management practices into the building permit plan set prior to any grading, excavation, foundation or building permit issuance.

9. 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 to off-site businesses and residents within 500 feet of the project site. The City will provide a template notice and mailing addresses for the Applicant's use. The notice must be approved by City staff prior to sending. The

project applicant shall provide the City with evidence of mailing of the notice, upon request.

Please note that, if pile driving, the requirements for noticing and monitoring outlined in City Code Section 17.04.050 G (3) shall apply.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. PALEONTOLOGICAL RESOURCES

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

- a. If paleontological resources are encountered during ground disturbing and/or other construction activities, all construction shall be temporarily halted or redirected to allow a qualified paleontologist, which shall be retained by the project applicant, to assess the find for significance and the Applicant shall notify the City.
- b. If paleontological resources are found to be significant, the paleontological monitor shall determine appropriate actions, in coordination with a qualified paleontologist, City staff, and property owner. Appropriate actions may include, but are not limited to, a mitigation plan formulated pursuant to guidelines developed by the Society of Vertebrate Paleontology and implemented to appropriately protect the significance of the resource by preservation, documentation, and/or removal, prior to recommencing activities. Measures may include, but are not limited to, salvage of unearthed fossil remains and/or traces (e.g., tracks, trails, burrows); screen washing to recover small specimens; preparation of salvaged fossils to a point of being ready for curation (e.g., removal of enclosing matrix, stabilization and repair of specimens, and construction of reinforced support cradles); and identification, cataloging, curation, and provision for repository storage of prepared fossil specimens.

17. NESTING BIRDS

Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code.

- a. Construction and tree removal/pruning activities shall be scheduled to avoid the nesting season to the extent feasible. If feasible, tree removal and/or pruning shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay area extends from February 1 through August 31. Preconstruction surveys (described below) are not required for tree removal or construction activities outside the nesting period. If construction activities and any required tree removal occur during the nesting season (February 1 and August 31), a qualified ornithologist shall be required to conduct surveys prior to tree removal or construction activities. Preconstruction surveys shall be conducted no more than 14 days prior to the start of tree removal, pruning or construction. Preconstruction surveys shall be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped. During this survey, the ornithologist shall inspect

all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.

- b. If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required. If an active nest containing viable eggs or young birds is found sufficiently close to work areas to be disturbed by these activities, their locations shall be documented and protective measures implemented under the direction of the qualified ornithologist until the nests no longer contain eggs or young birds.
- c. Protective measures shall include establishment of clearly delineated exclusion zones (i.e. demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by the qualified ornithologist, 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 biologist, if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with California Department of Fish and Wildlife. 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.
- d. 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 submitted to the Planning Manager, through the building permit review process, and be completed to the satisfaction of the Community Development Director prior to the start of grading.

18. HAZARDS AND HAZARDOUS MATERIALS ASBESTOS AND/OR LEAD ASSESSOR CONSULTATION

Prior to issuance of a demolition permit for on-site structures, the project applicant shall consult with certified Asbestos and/or Lead Risk Assessors to complete and submit for review to the Building Department an asbestos and lead survey. If asbestos containing materials or lead-containing materials are not discovered during the survey, further mitigation related to asbestos-containing materials or lead containing materials shall not be required. If asbestos containing materials and/or lead-containing materials are discovered by the survey, the project applicant shall prepare a work plan to demonstrate how the on-site asbestos-containing materials and/or lead-containing materials shall be removed in accordance with current California Occupational Health and Safety (Cal-OSHA) Administration regulations and

disposed of in accordance with all CalEPA regulations, prior to the demolition and/or removal of the on-site structures. The plan shall include the requirement that work shall be conducted by a Cal-OSHA registered asbestos and lead abatement contractor in accordance with Title 8 CCR 1529 and Title 8 CCR 1532.1 regarding asbestos and lead training, engineering controls, and certifications. The applicant shall submit the work plan to the City of Cupertino for review and approval. The City has the right to defer the work plan to the Santa Clara County Department of Environmental Health for additional review. Materials containing more than one (1) percent asbestos that is friable are also subject to BAAQMD regulations. Removal of materials containing more than one (1) percent friable asbestos shall be completed in accordance with BAAQMD Section 11-2-303.

19. INDEMNIFICATION AND LIMITATION OF LIABILITY

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.

20. 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.

SECTION IV: CONDITIONS ADMINISTERED BY THE PUBLIC WORKS DEPARTMENT

Public Works Project Conditions of Approval. Except for otherwise noted, the following conditions must be completed and/or submitted prior to Parcel Map recordation.

21. PARCEL MAP

Prior to approval of the Building permit, a parcel map shall be recorded. The existing house must be demolished prior to recordation of the parcel map as building(s) cannot straddle between parcel lines.

22. 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 Parcel map approval.

a) Parcel Map Fee: Per current fee schedule (\$8,333)

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 issuance of the building permit, the fees changed at that time will reflect the then current fee schedule.

23. SAN JOSE WATER COMPANY CLEARANCE

Provide San Jose Water Company approval for water connection, service capability and location and layout of water lines and backflow preventers prior to Parcel map approval.

24. SANITARY DISTRICT

A letter of clearance for the project shall be obtained from the Cupertino Sanitary District prior to Parcel map approval.

25. UTILITY EASEMENTS

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

26. STREET IMPROVEMENTS & DEDICATION

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 issuance of Building Permit.

Street improvements may include, but not be limited to new curb & gutter, driveways, utility laterals, and street tree installations. 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 issuance of Building Permit.

27. 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.

28. CURB AND GUTTER IMPROVEMENTS

Curbs and gutters, and related structures shall be installed in accordance with grades and standards as specified by the Director of Public Works.

29. 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 may be required. Please contact Army Corp of Engineers and/or Regional Water Quality Control Board as appropriate.

30. 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 issuance of Building Permit.

31. C.3 REQUIREMENTS (IF TRIGGERED)

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.

32. 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 issuance of prior to issuance of Building Permit.

Fees:

- | | |
|--------------------------------|---|
| a) Checking & Inspection Fees: | Per current fee schedule (\$5,655 or 5% of improvement costs) |
| b) Transportation Impact Fee: | Per current fee schedule: (\$6,797 per DU) |
| c) Storm Drainage Fee: | Per current fee schedule (\$6,389 per AC) |
| d) Encroachment Permit Fee: | Per current fee schedule (\$3,551 or 5% of improvement costs) |
| e) Park Fees: | Per current fee schedule (\$105,000 based on 1 new unit) |
| f) Storm Management Plan Fee | Per current fee schedule (\$2,217) |
| g) Street Tree Fee: | By Developer or Per current fee schedule: \$513 per tree |

Bonds:

- a. Faithful Performance Bond: 100% of Off-site and On-site Improvements
- b. Labor & Material Bond: 100% of Off-site and On-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 issuance of Building Permit. in the event of said change or changes, the fees changed at that time will reflect the then current fee schedule.

33. PARCEL MAP

Prior to approval of the Building permit, a parcel map shall be recorded. And, the existing house must be demolished prior to recordation of the parcel map as building(s) cannot straddle between parcel lines.

34. 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).

35. PARKS

The residential units are subject to the payment of parkland fees in-lieu of parkland dedication per Chapter 13.08 & Chapter 18.24 of the Cupertino Municipal Code.

36. 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.

37. TRASH, RECYCLING AND COMPOST ENCLOSURES

Trash enclosure plans must be designed in accordance with the City's "Public Works Guidelines" posted at www.cupertino.org/nowaste, and to the satisfaction of the Environmental Programs Manager. Clearance by the Public Works Department is required prior to obtaining a building permit. (CMC 9.18.210 H & K)

Applicant shall enter into an agreement with the City that indemnifies and holds harmless both the City and the refuse and recycling collection company (Recology) from and against any harm, damage or maintenance that may occur or become necessary to onsite paving stone driveway surfaces.

38. OPERATIONS & MAINTENANCE AGREEMENT

Developer shall enter into an Operations & Maintenance Agreement with the City before issuance of a building permit 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, landscaping, street trees, Curb & Gutter, pavers, and a street light.

39. 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. 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.

40. TRANSFORMERS & CABINETS

Electrical transformers, telephone cabinets and similar equipment shall be placed in underground vaults. 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 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.

41. 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 A Boundary Survey and a horizontal control plan will be required for all new construction 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.

42. 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.

43. 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.

44. 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.

45. WORK SCHEDULE

Every 6 months, the developer shall submit a work schedule to the City to show the timetable for all grading/erosion control work in conjunction with this project.

46. 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.

47. 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.

48. FIRE PROTECTION

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

49. 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).

50. FIRE HYDRANT

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

51. SAN JOSE WATER COMPANY CLEARANCE

Provide San Jose Water Company approval for water connection, service capability and location and layout of water lines and backflow preventers prior to issuance of Building Permit.

52. 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.

53. SANITARY DISTRICT

A letter of clearance for the project shall be obtained from the Cupertino Sanitary District prior to issuance of Building Permit.

SECTION V: CONDITIONS ADMINISTERED BY THE SANTA CLARA COUNTY FIRE DEPARTMENT

54. 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.

SECTION VI: CONDITIONS ADMINISTERED BY THE ENVIRONMENTAL SERVICES DIVISION

55. ENVIRONMENTAL DIVISION STANDARDS

Prior to issuance of the first demolition, grading and building permit, the applicant shall include the complete the City of Cupertino Climate Action Plan Development Project Consistency Checklist, as subsequently revised, supplemented, or replaced, for review and approval by the City Environment and Sustainability Department to demonstrate how the project is consistent with the Cupertino Climate Action Plan.

SECTION VII: CONDITIONS ADMINISTERED BY CUPERTINO SANITARY

56. CONNECTION PERMIT FEES

Sewer Development Fees & Treatment Plant Capacity Fees will be required for the proposed work during the Building Permit Phase. The District is currently in the process of drafting up a District Wide Inflow and Infiltration Reduction program. Additional fees for this projects Inflow & Infiltration reduction may be required during the Building Phase.

57. LATERAL & SEWER LINE CLEANOUT

At time of Building Permits, the Property Owner shall disconnect and temporarily cap their connection to the District-owned sanitary sewer lateral at the property line, per the District's standards. The Property Owner shall provide video inspection of the existing District-owned sanitary sewer lateral. If the conditions of the existing lateral is not adequate, the owner shall be required to abandon and install a new sanitary sewer lateral, per District's standards. New lateral connection, inspection, administration, & engineering fees will be required for the new lateral during the Building Permit Phase.

Prior to application for Building Permits, the applicant shall add a new cleanout symbol on the proposed and existing sewer laterals on Sheet 3 of the civil sheets.

58. REGISTERED CONTRACTOR

The contractor performing the work disconnecting and connecting to the District's sewer mains shall be registered with the District.

CITY ENGINEER'S CERTIFICATE OF
ACCEPTANCE OF ENGINEERING/SURVEYING CONDITIONS
(Section 66474.18 California Government Code)

I hereby certify that the engineering and surveying conditions specified in Section IV. of this Resolution conform to generally accepted engineering practices.

Chad Mosley, Assistant Director of Public Works
City Engineer CA License 66077

PASSED AND ADOPTED this 26th day of June, 2025 at a noticed Public Hearing of the Administrative Hearing Officer of the City of Cupertino, State of California, held by the Director of Community Development, or his or her designee, pursuant to Cupertino Municipal Code Section 19.12.120.

ATTEST:

APPROVED:

Emi Sugiyama
Senior Planner

Luke Connolly
Administrative Hearing Officer