

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 2026-XX

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
APPROVING A HILLSIDE EXCEPTION TO ALLOW FOR THE
CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE WITH
CUMULATIVE DISTURBANCE EXCEEDING 500 SQUARE FEET ON
SLOPES GREATER THAN OR EQUAL TO 30% LOCATED AT 22068 SAN
FERNANDO COURT(A.P.N. 357 12 012)

SECTION I: PROJECT DESCRIPTION

Application No.: EXC-2025-007
Applicants: David Kuoppamaki
Location: 22068 San Fernando Court; APN: 357 12 012

SECTION II: FINDINGS FOR A HILLSIDE EXCEPTION

WHEREAS, the Planning Commission of the City of Cupertino received an application for a Hillside Exception as described in Section I of this Resolution; and

WHEREAS, the necessary public notices have been given as required by the Procedural Ordinance of the City of Cupertino, and the Planning Commission has held at least one public hearing in regard to the application; and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act of 1970 (Public Resources Code section 21000 et seq.) ("CEQA"), together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) (hereinafter, "CEQA Guidelines"), the City staff has independently studied the proposed Project and has determined that the Project is exempt from environmental review pursuant to the categorical exemption in CEQA Guidelines section 15303 for the reasons set forth in the staff report dated February 24, 2026 and incorporated herein; and

WHEREAS, on February 24, 2026, the Planning Commission held a duly noticed public hearing to receive public testimony on the Project, including the categorical CEQA exemption in CEQA Guidelines section 15303, and reviewed and considered the information contained in the staff report pertaining to the Project, all other pertinent

documents, and all written and oral statements received by the Planning Commission at or prior to the public hearing; and

WHEREAS, the applicant has met the burden of proof required to support said application; and

WHEREAS, the Planning Commission finds as follows, with regard to this application, that:

1. The proposed development will not be injurious to property or improvements in the area nor be detrimental to public health and safety;
The proposed site is situated on a public road, San Fernando Court. The previously lot is surrounded by existing single-family residences. A geotechnical study has been conducted for the proposed project and recommendations of the geotechnical consultant have been incorporated into the development conditions of the approval. In addition, the development is required to meet the Best Management Practices (BMPs), as required by the State Water Resources Control Board and the Bay Area Air Quality Management District's (BAAQMD) air quality standards for construction activities. The project is also required to adhere to the City's C.3 Municipal Permit for stormwater runoff management. Therefore, the development will not be injurious to property or improvements in the area nor be detrimental to the public health and safety.
2. The proposed development will not create a hazardous condition for pedestrian or vehicular traffic;
The proposed residence will be serviced by an existing driveway located off of San Fernando Court. The location of the driveway is not unique from the location of the driveways of other properties that share road. The maintenance of the existing driveway for a replacement single-family home is not expected to create a hazardous condition for pedestrian or vehicular traffic. During construction, the developer must also 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. Therefore, the development will not create hazardous conditions for pedestrian or vehicular traffic.
3. The proposed development has legal access to public streets and public services are available to serve the development;
The property will be accessed by an existing driveway off of San Fernando Court. In addition, water and sewer connections are already available on the property. The project has been reviewed by the County Fire Department for fire access and requirements from the Fire

Department have been incorporated into the projects design. Therefore, the development has legal access to public streets and public services to serve the development.

4. The proposed development requires an exception which involves the least modification of, or deviation from, the development regulations prescribed in this chapter necessary to accomplish a reasonable use of the parcel;

As the rear 40 feet of the parcel is steep, with an average slope of 59%, any development in the rear 40 feet of the property that would affect more than 500 square feet of the slope (e.g. any grading for a home, structure, or yard in an area over 500 square feet) would require a Hillside Exception. The proposed residence is sited on the flattest portion of the lot, adjacent to the street. The proposed grading for flat yard areas in the rear 40 feet, as conditioned, will follow the contours of the site to minimize grading, minimize the removal of oak trees and reduce the visibility of retaining walls necessary on site to develop the property in a manner consistent with the Residential Hillside ordinance.

Aside from the exception to allow more than 500 square feet of construction on slopes greater than 30%, the proposed development will comply with all other development regulations of the RHS and R1 zoning districts including, but not limited to, building height, setbacks, and floor area. The development, as conditioned, involves the least modification of the prescribed development regulations necessary to accomplish a reasonable use of the parcel.

5. All alternative locations for development on the parcel have been considered and have been found to create greater environmental impacts than the location of the proposed development;

The majority of construction has been sited on the existing flat area of the parcel. The proposed grading on the steeply sloping portion of the site is limited to the addition of flat yard area. The size of the lot limits the ability to relocate this flat yard area. The siting and design of the proposed retaining walls for the flat yard areas will follow the contours of the site to minimize grading. As conditioned, the flat yard area has been designed to minimize the removal of oak trees and reduce the visibility of all retaining walls necessary to develop the property in a manner consistent with the purpose of the Hillside Ordinance.

Other alternative locations for development on the parcel would result in greater grading on the site, grading of steeper slopes, an increased removal of additional native trees than currently proposed, and an increased number and height of retaining walls required to accommodate the development. The proposed development has been located to minimize environmental and grading impacts on the site.

6. The proposed development does not consist of structures on or near known geological or environmental hazards which have been determined by expert testimony to be

unsafe or hazardous to structures or persons residing therein (See General Plan Policy 2-49);

The geotechnical report and peer review do not indicate any conflicts with geological or environmental hazards. Additionally, recommendations of the geotechnical engineers have been incorporated into the conditions of approval in order to ensure structural stability of the proposed building. Therefore, the proposed development does not consist of structures that have been determined by expert testimony to be unsafe or hazardous to structures or persons residing therein.

7. The proposed development includes grading and drainage plans which will ensure that erosion and scarring of the hillsides caused by necessary construction of roads, housing sites, and improvements will be minimized (See General Plan Policies 2-53, 2-54 and 2-57);

The proposed development, as conditioned, follows, as closely as possible, the primary natural contours of the lot to minimize erosion and scarring of the hillsides caused by necessary construction of the housing site and improvements. Preliminary drainage and grading plans have been reviewed, and will continue to be reviewed through the Building Permit process, by the City Engineer and the City's consultant geotechnical engineers to ensure the safety of the development and of those neighboring residences.

8. The proposed development does not consist of structures which would disrupt the natural silhouette of ridgelines as viewed from established vantage points on the valley floor unless either:

- a. The location of a structure on a ridgeline is necessary to avoid greater negative environmental impacts; or
- b. The structure could not otherwise be physically located on the parcel and the size of the structure is the minimum which is necessary to allow for a reasonable use of the parcel (See General Plan Policies 2-46, 2-47 and 2-48);

The subject site is not located within an identified ridgeline and the highest point of the site is located approximately 250 feet below and 0.75 miles away from the nearest ridgeline. Thus, the proposed project will not consist of structures which would disrupt the natural silhouette of ridgelines as viewed from established vantage points on the valley floor.

9. The proposed development consists of structures incorporating designs, colors, materials, and outdoor lighting which blend with the natural hillside environment and which are designed in such a manner as to reduce the effective visible mass, including building height, as much as possible without creating other negative environmental impacts (See General Plan Policies 2-46, 2-50, 2-51 and 2-52); including *The applicant is required to use natural earth tone and/or vegetation colors, which blend with the natural hillside environment for all portions of development that occur along the steeply*

sloping portion of the lot (as a condition of approval) and has designed the project in such a manner as to reduce the effective visible mass to surrounding neighbors as much as possible. In addition, the project is conditioned to plant additional trees within the area of disturbance and retain the existing trees in order to further reduce the effective visible mass of the proposed retaining walls and flat yard areas.

10. The proposed development is located on the parcel as far as possible from public open space preserves or parks (if visible there from), riparian corridors, and wildlife habitats unless such location will create other, more negative environmental impacts (See General Plan Policies 2-55, 5-14 and 5-28);

The project is within the vicinity of the Stevens Creek Trail and may be visible from certain vantage points along a nearby portion of the trail. However, the residence has been proposed along the furthest property line from the trail and the existing trees and vegetation are expected to lessen the potential visual impacts from the residence. The project has also been conditioned to increase the setback from the rear property line adjacent to the trail which will result in added visual buffers between the rear yard development and the trail. Additionally, the property is adjacent to Blackberry Farm Park, a riparian corridor. However, the project, as conditioned, would be located as far as possible from the corridor while still providing flat yard area on the slopes. As conditioned, vegetation planted on the sloped portion of the site closest to the riparian corridor shall be local native riparian plants. The parcel is not located adjacent to wildlife habitat and is adjacent to other developed properties with a similar zoning. Since wildlife are expected to traverse the property, the development has been required as a condition of approval to limit the fencing allowed on site in order to allow the migration of wildlife habitats.

11. The proposed development includes a landscape plan, which retains as many specimen trees as possible, which utilizes drought-tolerant native plants and ground covers consistent with nearby vegetation, and which minimizes lawn areas (See General Plan Policies 2-54, 5-15 and 5-16);

A preliminary landscape plan has been provided and evaluated, and the project is conditioned to provide a landscape plan to be reviewed and approved prior to Building Permit issuance. The project, as conditioned, would preserve portions of the existing natural landscape on the site in order to protect in place existing specimen trees. The project is required to comply with Chapter 14.15: Landscape Ordinance of the City of Cupertino's Municipal Code (CMC) and additionally required to minimize turf areas on hillsides, with turf being completely disallowed on slopes greater than 25%. The installation of invasive plant species and noxious weeds is prohibited.

Through the proposed site design and conditions of approval, which limit invasive species of plants and turf areas, a balance between the residential development and preservation of the natural hillside setting will be maintained.

12. The proposed development confines solid fencing to the areas near a structure rather than around the entire site (See General Plan Policy 5-17); and
Consistent with the City's fence requirements for Hillside properties, no limit has been placed on solid fencing on the property as the property is less than 10,000 square feet in size. However, as conditioned, solid fencing shall not be allowed along or facing the rear property line to avoid additional visual impacts from Stevens Creek Trail.
13. The proposed development is otherwise consistent with the City's General Plan and with the purposes of this chapter as described in Section 19.40.010.
The development meets the development standards for RHS and R1 zoned properties, as applicable, and is consistent with the City's General Plan and with the purposes of Chapter 19.40 as described in Section 19.40.010. These have been described in detail in each of the findings above.

WHEREAS, the Planning Commission has independently reviewed and considered the Project and the basis for the exemption prior to taking any approval actions on the Project, and exercising its independent judgment, based upon the entire record before it, has determined that the Project is exempt from CEQA pursuant to CEQA Guidelines section 15303, which applies to new construction or conversion of single-family residences and accessory structures; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission takes the following actions:

1. Exercises its independent judgment and determines that the Project is exempt from CEQA pursuant to CEQA Guidelines section 15303. The exemption in CEQA Guidelines section 15303 applies to new construction or conversion of single-family residences and accessory structures. The proposed project is a new single-family residence.
2. Approves the application for a Hillside Exception, Application no. EXC-2025-007 subject to the conditions which are enumerated in this Resolution beginning on PAGE 6 thereof. The conclusions and sub-conclusions upon which the findings and conditions specified in this resolution are based, including those contained in the Public Hearing record concerning Application no. EXC-2025-007 as set forth in the Minutes of Planning Commission Meeting of February 10, 2026, are hereby incorporated by reference as though fully set forth herein.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the foregoing recitals are true and correct and are included herein by reference as findings.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

General Conditions of Approval

1. APPROVED EXHIBITS

Approval is based on the plan set consisting of twenty one (21) sheets, labeled Sheets CRV1, C-0, C-2, PLN1 through PLN4, A0.1 through A0.3, A2.1, A2.2, A3.1, A3.2, A4.1, A5.1 through A5.3, L-1 through L-3, and TOPO, submitted by the Applicants.

Plans shall be revised to ensure that the usable flat yard areas are limited to the area bounded by a 10-foot setback from the rear property line, a five-foot setback from the 36-inch oak tree dripline, and that the visible height of the retaining walls does not exceed five feet.

These plans are approved, with the modifications outlined above, and as may be amended by conditions in this resolution.

2. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. EXC-2025-008, R-2024-029, RM-2024-028, and TR-2024-043 shall be applicable to this approval.

3. 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.

4. BUILDING PERMITS

The applicant shall consult with the City Building Division to obtain the necessary building permits prior to commencement of work.

5. ACCURACY OF PROJECT PLANS

The applicant/property owner is responsible for verifying 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.

6. EXTERIOR BUILDING MATERIALS/TREATMENTS

Final building exterior treatment plan (including but not limited to details on exterior color, material, architectural treatments and/or embellishments) shall be reviewed and approved by the Director of Community Development prior to issuance of building permits. The exterior colors and materials used for retaining walls shall be natural earth tones and have low light reflectivity values of 60 or less. The final building exterior plan shall closely resemble the details shown on the original approved plans. Any exterior changes determined to be substantial by the Director of Community Development shall require a minor modification approval with neighborhood input.

7. FENCES

Fencing shall comply with the City's Fence Ordinance (Municipal Code Chapter 19.48) and be installed with appropriate design review and permit approvals.

Solid fencing shall not be allowed within the rear yard areas facing the rear property line. Additionally, fence height for solid fencing shall be measured from the lowest point of adjoining grade and shall include the height of any retaining wall.

8. 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.

9. FUTURE SITE WORK

The property owner shall record a covenant on this property with the Santa Clara County Recorder's Office that requires future site work on slopes over 10 percent to be limited to the area bounded by a 10-foot setback from the rear property line, a five-foot setback from the 36-inch oak tree dripline. 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.

10. LANDSCAPE MATERIAL REQUIREMENTS

The property owner shall record a covenant on this property with the Santa Clara County Recorder's Office that requires portions of the site with more than a 10 percent slope to be planted with only local native riparian plant species. 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.

Conditions Prior to Building Permit Issuance

11. REVISIONS TO PLANS

Prior to Building Permit issuance, the applicant shall revise plans in accordance with the required revisions outlined in Condition #1 of this resolution. Revised plans shall meet all other conditions of this resolution. Plans shall be reviewed and approved by the Director of Community Development or their designee prior to Building Permit issuance.

12. PRE-CONSTRUCTION MEETING AND CONSTRUCTION MANAGEMENT PLAN

Prior to commencement of construction activities, the applicant shall arrange for a pre-construction meeting with the pertinent departments (including, but not limited to, Building, Planning, Public Works, Santa Clara County Fire Department), prior to issuance of grading and/or building permits, to review an applicant-prepared construction management plan including, but not limited to:

- a. Plan for compliance with conditions of approval
- b. Plan for public access during work in the public right-of-way, if applicable
- c. Construction staging area
- d. Construction schedule and hours
- e. Construction phasing plan, if any
- f. Contractor parking area
- g. Tree preservation/protection plan
- h. Site dust, noise and storm run-off management plan
- i. Emergency/complaint and construction site manager contacts

13. TREE PROTECTION

Per City Code Section 14.18.210, prior to issuance of any Building Permit, the applicant must include the City's standard tree protection measures, outlined in Appendix A of City Code Chapter 14.18, on the plan. Please note that an ISA-certified arborist will be required to verify the health of the tree and that the tree protection measures are in place prior to construction. The arborist will also need to verify the health of the tree following construction.

14. BIRD SAFE COMPLIANCE

Prior to issuance of Building Permits, the applicant/property owner shall submit final plans in compliance with the approved plans to comply with development standards of Cupertino Municipal Code Section 19.102.030 Bird-Safe Development

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 necessary documentation required to determine compliance with the Municipal Code.

15. DARK SKY 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 19.102.040 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.

16. RETAINING WALL CONSTRUCTION

Prior to issuance of Building Permits, the applicant shall ensure that plans are revised to ensure that all retaining walls are designed in accordance with the requirements of Municipal Code Section 16.08.200.

17. TREE PROTECTION BOND

Prior to grading permit issuance, a tree protection bond is required for all trees slated for preservation. The bond shall be for an amount equivalent to their replacement.

18. LANDSCAPE PROJECT SUBMITTAL

Prior to issuance of building permits, the applicant shall submit a full landscape project submittal per section 14.15.040 of the Landscaping Ordinance. The Water-Efficient Design Checklist (Appendix A of Chapter 14.15), Landscape and Irrigation Design Plans, and Water Budget Calculations shall be reviewed and approved to the satisfaction of the Director of Community Development prior to issuance of building permits.

A licensed landscape architect shall review grading plans and shall, in consultation with the applicant and the City Engineer, submit a plan to prevent soil erosion and to screen cut and fill slopes. All cut and fill shall be rounded to contour with natural contours and planted with landscaping which meets the requirements in Section 19.40.050G. Proposed landscaping shall not include the use of invasive species and turf area shall be limited to slopes of less than 25%.

19. LANDSCAPE INSTALLATION REPORT

A landscape installation audit shall be conducted by a certified landscape professional after the landscaping and irrigation system have been installed and prior to final occupancy. 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."

20. GEOTECHNICAL PLAN REVIEW AND SUPPLEMENTAL GEOTECHNICAL CONSIDERATIONS

The applicant's geotechnical consultant shall review and approve all geotechnical aspects of the development plans (i.e., site preparation and grading, site drainage improvements and design parameters for building foundations and retaining walls) to ensure that their recommendations have been properly incorporated. The following should be specifically addressed:

The Project Geotechnical Consultant should review the retaining wall profiles provided by the Civil Engineer (or generate their own) to assure that their geotechnical design criteria are appropriate for the tiered walls.

The Structural Plans/Calculations and Geotechnical Plan Review should be submitted to the City for review by the City staff prior to issuance of building permits.

21. 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. Screening materials/colors shall match building features and materials. The height of the screening shall be taller than the height of the mechanical equipment that it is designed to screen. The location of equipment and necessary screening shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

22. COORDINATION OF OFF-SITE IMPROVEMENTS

The applicant shall communicate and coordinate all off-site road improvements and utility extensions with affected adjacent property owners.

23. SCREENING OF RETAINING WALLS

As part of the building permit submittal the applicant shall prepare a landscape plan that screens visible retaining walls and grading scars from public street views and views from the adjoining Stevens Creek Tail. The screening shall be accomplished through a combination of trees, shrubs and vines and pigmented concrete/rock wall matched to the surrounding soils for the review and approval of the Director of Community Development.

24. FIELD MOCK-UP OF EXTERIOR COLORS/TREATMENTS

Prior to issuance of the building permit, final colors and materials shall be assembled and included with the construction plans. After the framing inspection and prior to installation, the exterior colors and materials shall be mocked-up in the field for the review and approval of the Director of Community Development.

25. 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.

26. 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.

27. 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.

28. PALEONTOLOGICAL RESOURCES

Prior to issuance of the 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 unearthened 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.

29. 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:
 1. All soil disturbing work within 25 feet of the find shall cease.
 2. 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.

3. 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.

30. 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.

31. TREE PROTECTION

As part of the demolition or building permit drawings, a tree protection plan shall be prepared by a certified arborist for protected trees as applicable. In addition, the following measures shall be added to the protection plan:

- For trees to be retained, chain link fencing and other root protection shall be installed around the dripline of the tree prior to any project site work.
- No parking or vehicle traffic shall be allowed under root zones, unless using buffers approved by the Project Arborist.
- No trenching within the critical root zone area is allowed. If trenching is needed in the vicinity of trees to be retained, the City's consulting arborist shall be consulted before any trenching or root cutting beneath the dripline of the tree.
- Wood chip mulch shall be evenly spread inside the tree projection fence to a four-inch depth.
- Tree protection conditions shall be posted on the tree protection barriers.
- Retained trees shall be watered to maintain them in good health.
- A covenant on the property shall be recorded that identifies all the protected trees, prior to final occupancy.

The tree protection measures shall be inspected and approved by the certified arborist prior to issuance of building permits. The City's consulting arborist shall inspect the trees to be retained and shall provide reviews prior to issuance of demolition, grading or building permits.

Conditions During Construction

32. CONSTRUCTION HOURS

The applicant shall comply with any applicable standards in Chapter 10.48, Community Noise Control, of the Cupertino Municipal Code. The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulation pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site and along Regnart Road, prior to commencement of demolition and/or grading activities.

33. DEMOLITION REQUIREMENTS

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

34. 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 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 **annotate all permit plans** with the above requirements and shall comply with the above grading and construction hours and noise limit requirements unless otherwise indicated.

35. 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.

36. 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.
- b. 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.

- c. 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.
- d. 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.

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.

37. 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.

38. 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 two feet by three 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.

39. GEOTECHNICAL CONSTRUCTION INSPECTIONS

Prior to final inspections, the City Geotechnical Consultant shall inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections shall include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements, and excavations for foundations prior to placement of steel and concrete. The results of these inspections

and the as-built conditions of the project shall be described by the City Geotechnical Consultant in a letter and submitted to the City Engineer for review and approval prior to final inspections.

40. TREE PROTECTION

The existing trees to remain shall be protected during construction per the City's Protected Tree Ordinance (Chapter 14.18 of the municipal code). A report ascertaining the good health of these trees shall be provided prior to issuance of final occupancy.

41. LANDSCAPE AND IRRIGATION MAINTENANCE

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 prior to issuance of final occupancy, or any time before the landscape installation report is submitted prior to issuance of building permits.

- 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.

42. 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.

43. 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 DEPARTMENT

44. THIRD-PARTY GEOTECHNICAL REVIEW

Developer shall address the remaining comments in the Supplemental Geotechnical Peer Review letter issued by Cotton, Shires and Associates dated January 19, 2026, prior to issuance of the Building Permit. Additional comments from Cotton, Shires and Associates may be provided during the Building Permit stage and shall be incorporated prior to Building Permit approval.

45. STREET IMPROVEMENTS

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 detached sidewalk, new ADA ramp, driveways, storm drain lateral, street tree installations, and street light and/or pedestrian push button relocation. 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 Building Permit approval.

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

47. 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.

48. DRAINAGE

Drainage shall be provided to the satisfaction of the Director of Public Works. 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. 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.

Additional comments will be provided and shall be incorporated prior to Building Permit approval.

49. INSTALLATION AGREEMENT

The project developer shall enter into an Installation 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 Building permit approval.

Fees:

- a. Checking & Inspection Fees: Per current fee schedule (\$6,203 or 5% of improvement costs)
- b. Grading Permit: Per current fee schedule (\$5,365 or 6% of improvement costs)
- c. Storm Drainage Fee: Per current fee schedule (\$4,669 per unit)

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 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.

50. 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.

51. 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, and curb & gutter.

52. 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.

53. 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.

54. 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.

55. 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.

56. 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.

57. 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.

58. 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.

59. FIRE PROTECTION

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

60. 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).

61. SAN JOSE WATER SERVICE COMPANY CLEARANCE

Provide San Jose Water Service Company approval for water connection, service capability and location and layout of water lines and backflow preventers before issuance of a building permit approval.

62. 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.

63. 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 issuance of building permit.

64. 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 issuance of building permits.

PASSED AND ADOPTED this 24th day of February, 2026, Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES:	COMMISSIONERS:
NOES:	COMMISSIONERS:
ABSTAIN:	COMMISSIONERS:
ABSENT:	COMMISSIONERS:

ATTEST:

APPROVED:

Piu Ghosh
 Planning Manager

Tracy Kosolcharoen
 Chair, Planning Commission