

**RESOLUTION NO.**

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL  
APPROVING THE PROPOSED THE PROPOSED DEVELOPMENT OF A  
BUILDING WITH 280,020- SQUARE- FOOT OFFICE SPACE AND 2,300 SQUARE  
FEET OF RETAIL SPACE, WITH A DETACHED PARKING STRUCTURE  
LOCATED AT 19191 VALLCO PARKWAY (APN: 316-20-117)**

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**SECTION I: PROJECT DESCRIPTION**

Application No.: DP-2021-001  
Applicant: Apple, Inc  
Property Owner: Apple, Inc  
Location: 19191 Vallco Parkway (APN: 316-20-117)

**SECTION II: FINDINGS FOR DEVELOPMENT PERMIT:**

WHEREAS, the City of Cupertino received an application for a Development Permit as described in Section I of this resolution; 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 15183 for the reasons set forth in the staff report dated March 28, 2023 and incorporated herein; and

WHEREAS, on March 28, 2023 the Planning Commission recommended on a 3-0 (Fung, Lindskog recusing) vote that the City Council approve the Development Permit (DP-2021-001) in substantially similar form to the Resolution presented (Resolution No. XXXX), approve the Architectural and Site Approval Permit (ASA-2021-003) in substantially similar form to the Resolution presented (Resolution No. XXXX), and approve the Tree Removal Permit (TR-2021-020) in substantially similar form to the Resolution presented (Resolution No. XXXX); and

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

WHEREAS, on April 13, 2023, the City Council held a public hearing to consider the Project; and

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

WHEREAS, the applicant has met the burden of proof required to support the application for a Development Permit.

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

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

*The project is consistent with the land use designations in the General Plan and Zoning Ordinance and has been designed to be compatible with and respectful of adjoining land uses, including but not limited to wide setbacks from Calabazas creek, Vallco Parkway, and Tantau Avenue, as well as providing landscaping along the building frontages to help mitigate any massing impacts. Further, the City's environmental consultant, Placeworks, completed the VP1 Apple Office Project CEQA Guidelines Section 15183 Checklist to analyze whether the project would create any significant impacts beyond what was analyzed in the City's General Plan EIR. The result was that the proposed project would also not result in potentially significant cumulative impacts which were not evaluated in the General Plan EIR, as would be expected for a project that is within the General Plan buildout and consistent with the General Plan land use designations and policies. Therefore, the project will not be detrimental or injurious to properties or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience.*

2. The proposed development and/or use will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan, underlying zoning regulations, and the purpose of this title and complies with the California Environmental Quality Act (CEQA).

*The General Plan land use designation for the property is Commercial/Office/Residential. The proposed use is consistent with the General Plan in terms of use, height, slope line setback, as well as allocation for Major Employers. Further, the development fits within many of land use strategies and policies for the South Vallco Park portion of the Heart of the City Special Area such as consistent mix of uses as well as activation of Vallco Parkway. The proposed development has met the applicable development standards of the Heart of the City Specific Plan, including outdoor open space and setbacks. The project is compliant with the Zoning Ordinance as it relates to the provision of parking and compliance with Bird Safe and Dark Sky regulations. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under CEQA Guidelines section 15183 as it is consistent*

*with development density established by the existing zoning, community plan, and general plan policies for which the General Plan's Environmental Impact Report (EIR) was certified.*

Municipal Code section 19.124.060(C) allows for the use of alternative parking standards if the following findings are made:

1. The literal enforcement of this chapter will result in restrictions inconsistent with the spirit and intent of this chapter.

*CMC Table 19.124.040(F) Regulations for Off-Street Parking allows for parking requirements within that chapter to function as guidelines for projects in planned development zoning districts. As the project site is within the P(MP, CG), the project site may apply alternate parking standards. The planned development (P) zoning district is intended to provide for a greater flexibility of land use intensity and design because of accessibility, ownership patterns, topographical considerations, and community design objectives. The planned development zoning district is further intended to encourage creative approaches in land development; to provide a means of reducing the amount of improvements required in development through better design and land planning, to conserve natural features, to facilitate a more aesthetic and efficient use of open spaces, and to encourage the creation of public or private common open space by establishing a process to consider and approve conceptual and definitive plans that provide development standards and regulations to advance these goals. The alternate parking standards are set to encourage use of alternate modes of transportation while decreasing the reliance of single occupancy vehicles. Reducing the amount of parking also preserves the amount of open space on site as well as maintaining needed setbacks from Calabazas Creek, both of which are standards within parking lot design within CMC 19.124.*

2. The granting of the exception will not be injurious to property or improvements in the area nor be detrimental to the public safety, health and welfare.

*The alternate parking standards and the applicant's Traffic Demand Management (TDM) program have been evaluated by the City's environmental consultant, Placeworks, in their VP1 Apple Office Project CEQA Guidelines Section 15183 Checklist which concluded that the project would create any significant impacts beyond what was analyzed in the City's General Plan EIR.*

3. The exception to be granted is one that will require the least modification and the minimum variance to accomplish the purpose.

*The reduction to the required parking required through the standard Office requirement compared to what is proposed is approximately a 9 percent reduction in spaces. The overall goal of the project's TDM program is to achieve an alternate mode share of 34 percent, consistent with the programming on the Apple Campus 2 project.*

4. The proposed exception will not result in significant impacts to neighboring properties.

*The project site is adjacent to similar Office type uses, including the majority being either owned by Apple, or leased by Apple. The Project is Conditioned in this resolution to ensure parking overflow can be prevented under the risk of monitoring by a third party selected by the City to be paid for by the applicant.*

5. The applicant submits a detailed parking study which demonstrates that the proposed use is compatible with the proposed parking supply. Adjacent on-street parking may be included in the parking supply.

*The City's traffic consultant, Fehr & Peers, has evaluated the traffic demands of the proposed development in their report VP1 Apple Office Project Local Transportation Analysis, as well as Apple's Project Description. The applicant proposes to implement an existing Traffic Demand Management (TDM) program that is currently in place for several of their office sites within the City, such as the Apple Campus 2 site.*

6. The project is owned or managed by a single entity.

*The project site is owned and occupied by Apple.*

7. If adjacent properties are used to share parking, they are in close proximity to each other, and reciprocal parking and access easements and maintenance agreements are recorded on the applicable properties to run with the land.

*No reciprocal parking and/or access easements are proposed between adjacent properties.*

NOW, THEREFORE, BE IT RESOLVED:

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

1. Finds the project categorically exempt in CEQA Guidelines section 15183 for the reasons set forth in the staff report dated March 28, 2023; and
2. Approve the adoption of alternative parking standards pursuant to Municipal Code section 19.124.060(C); and
3. Approves the application for a Development Permit, Application No. DP-2021-001; and

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. DP-2021-001 as set forth in the Minutes of the City Council Meeting of April 13, 2023 and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPARTMENT.

1. APPROVED EXHIBITS

Approval is based on the plan set dated May 23, 2022 consisting of 61 sheets labeled as Apple VP01: 19191 Vallco Parkway, Cupertino, CA 95014, A01.0 – A11.0, C1.0 – C8.1, and L01.0 – L06.0, drawn by Studio Architects, Kier & Wright, and The Guzzardo Partnership, and the Project Description as submitted by Apple dated July, 2022, except as may be amended by conditions in this resolution.

2. ACCURACY OF PROJECT PLANS

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

3. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. TR-2021-020, and ASA-2021-003 shall be applicable to this approval.

4. DEVELOPMENT ALLOCATION

139,796 square feet of Major Employee allocation will be allocated to this project. Further, 2,300 s.f. of commercial allocation is allocated from the Heart of the City commercial allocation to this project.

5. 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.

6. CONSULTATION WITH OTHER DEPARTMENTS

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

7. BELOW MARKET RATE PROGRAM

The applicant shall participate in the City's Below Market Rate (BMR) Housing Program by paying the Below Market Rate linkage fee for Commercial use concurrent with issuance of building permits at the rate in effect at that time. The current fee is \$13.52 per net new square feet (~2,300 sq.ft.) for commercial use and \$32.06 per net new square feet (~139,796 sq.ft.) for office use.

8. TRAFFIC DEMAND MANAGEMENT

The applicant shall implement the transportation demand management (TDM) strategies currently employed at Apple Campus 2 buildings to achieve as described in Fehr & Peers' *VP1 Apple Office Project Local Transportation Analysis*, dated January 10, 2022, and the project description provided by the applicant dated July 2022. The TDM program shall achieve an alternative mode share of 34 percent consistent with the Apple Campus 2 project.

9. PARKING

The applicant shall provide a minimum ratio 1 space for every 311.5 sq. ft. in conjunction with the implementation of a TDM Program pursuant to Condition 8 of this resolution. In the event of parking overflow, the City may require monitoring of the effectiveness of the TDM program, which may result in changes to the TDM program and/or other methods of achieving compliance with the Municipal Code Standards. Monitoring shall be provided by a third-party consultant retained by the City and paid for by the applicant.

Further, the applicant shall delineate 10 parking spaces for the commercial space.

10. BICYCLE PARKING

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

11. PUBLIC ART REQUIREMENT

Public art shall be provided for the project in accordance with General Plan Policy 2-66 and the City's Public Art Ordinance (Chapter 19.148 of the Cupertino Municipal Code). The minimum expenditure for the artwork, including, but not limited to design, fabrication, and installation is one (1) percent of the construction valuation for the first \$100 million on construction valuation, or 0.9% of construction valuation for valuation in excess of \$100 million. The project pro forma shall be provided to the City to confirm the project budget. The public art plans (including location and design) shall be reviewed by the Fine Arts Commission during the building permit stage, in advance of final occupancy.

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

12. 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 occupancy.

13. PRE-CONSTRUCTION MEETING AND CONSTRUCTION MANAGEMENT PLAN

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

- a. Compliance with CEQA Mitigation Measures
- b. Appropriate construction staging area
- c. Hours of construction
- d. Compliance with the City noise ordinance
- e. Best management practices
- f. Staging of construction equipment shall not occur within 100 feet of any residential property.
- g. Any other measures as determined to be appropriate by the Director of Community Development

14. GRADING AND CONSTRUCTION HOURS AND NOISE LIMITS

The applicant shall indicate compliance with the following grading and construction hours and noise limit requirements on all demolition, construction and grading permits, and in the construction management plan(s), unless otherwise indicated.

- 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 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. Nighttime 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.

15. GREEN BUILDING

The project shall be constructed in accordance with the City's Green Building Ordinance (Chapter 16.58 of the Cupertino Municipal Code). The applicant shall obtain LEED Silver certification or an alternative reference standard in accordance with the ordinance since the building size is over 50,000 square feet. Third party LEED certification or alternative reference standard is required per the ordinance criteria.

16. 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.



17. TRASH AND DELIVERY ACTIVITIES

A detailed refuse and truck delivery plan shall be prepared by the applicant. The plan shall specify locations of trash facilities, refuse pick up schedules and truck delivery schedules and routes. All trash facilities must be screened and enclosed to the satisfaction of the Public Works Department. The final plan shall be submitted to the City for review and approval prior to issuance of building permits.

18. EXTERIOR BUILDING MATERIALS/TREATMENTS

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

19. ROOFTOP EQUIPMENT SCREENING

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

20. SITE IMPROVEMENTS

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

21. EXTERIOR BUILDING MATERIALS/TREATMENTS

The final building exterior plan shall closely resemble the details shown on the original approved plans. Final building exterior treatment plan (including but not limited to details on exterior color, materials, architectural treatments, doors, windows, lighting fixtures, and/or embellishments) shall be reviewed and approved by the Director of Community Development prior to issuance of building permits to ensure quality and consistency. Any exterior changes determined to be substantial by the Director of Community Development shall

either require a modification to this permit or a new permit based on the extent of the change.

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

22. BIRD SAFE FENESTRATION

Consistent with CMC 19.102.030, the development shall implement the bird safe fenestration and glass requirements. The applicant, prior to issuance of Building Permits, may submit for an Alternative Compliance Method in which the property owners/applicants may propose an alternate compliance method recommended by a qualified biologist to meet the requirements and intent of CMC 19.102.030. The alternate compliance method shall be peer-reviewed by a third-party consultant, paid for by the applicant, and subject to the approval of the Director of Community Development.

23. DARK SKY COMPLIANCE AND BIRD SAFE COMPLIANCE

Prior to issuance of Building Permits, the applicant/property owner shall submit final plans in compliance with the approved lighting plans to comply with development standards of Cupertino Municipal Code Section 19.102.030 Bird-Safe Development Requirements and Section 19.102.040 Outdoor Lighting Requirements. In the event changes are proposed from the approved plans, said changes must be reviewed and approved by the Director of Community Development or their designee. The applicant shall provide all documentation required to determine compliance with the Municipal Code. The final lighting plan (including a detailed photometric plan) shall be reviewed and approved by the Director of Community Development, prior to building permit issuance. A report from a licensed lighting engineer may be required to confirm all exterior lighting throughout the site complies with the City's Ordinance.

24. NOISE LEVELS AND ABATEMENT

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

engineer may be required to submit noise attenuation measures to the satisfaction of the Director of Community Development at the applicant's expense.

25. INDEMNIFICATION

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

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

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

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

26. 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

1. STREAMSIDE PERMIT

The project may be subject to applying for a Streamside Modification Permit due to its proximity to Calabazas Creek. The purpose of this permit is to ensure that the project does not adversely impact the adjacent creek.

2. STREET IMPROVEMENTS

Frontage improvements along the project 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 detached sidewalk, new ADA ramp, driveways, storm drain lateral, street tree installations or replacements, street light and pedestrian push button relocations and/or upgrades, removal and replacement of broken or uplifted concrete and/or failed AC pavement, and the sawcut and removal of concrete within the parkstrip. 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.

3. 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.

4. CURB AND GUTTER IMPROVEMENTS

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

5. PEDESTRIAN AND BICYCLE IMPROVEMENTS

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

6. STREET LIGHTING INSTALLATION

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

7. 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.

8. DRAINAGE

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

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

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

9. C.3 REQUIREMENTS

C.3 regulated improvements are required for all projects creating and/or replacing 10,000 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.

10. DEVELOPMENT FEES & BONDS

The project developer shall provide payment of fees, including but not limited to checking and inspection fees, storm drain fees, park dedication fees and fees for under grounding of utilities. Said fees shall be executed and paid prior to issuance of Building permit.

Fees:

- a. Checking & Inspection Fees: Per current fee schedule (\$9,254 or 6% of improvement costs)
- b. Grading Permit: Per current fee schedule (greater of \$3,683 or 6% of improvement costs)
- c. Storm Drainage Fee: Per current fee schedule (\$11,444 per AC)
- d. Transportation Impact Fee: Per current fee schedule: (\$19.15 per sq ft new office + \$10.94 per sq ft new retail)
- e. Encroachment Permit Fee: Per current fee schedule (\$3,304)
- f. Storm Management Plan Fee Per current fee schedule (\$1,670)

- g. Streamside Permit Fee                      Per current fee schedule (\$453)
- h. Street Tree Fee:                              By Developer or Per current fee schedule:  
\$481 per tree

Bonds:

- a. Encroachment Bond: 100% of Off-site Improvements
- b. 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.

11. TRANSPORTATION IMPACT FEES

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).

12. SURVEYS

A Topographic & 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.

13. 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](http://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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. FIRE PROTECTION

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

24. 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).

25. FIRE HYDRANT

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

26. CALIFORNIA WATER SERVICE COMPANY CLEARANCE

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

27. 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.

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

1. FIRE SPRINKLERS REQUIRED:

An approved automatic sprinkler system shall be provided throughout all new buildings and structures. Exceptions: Buildings and structures that do not exceed 1,000 SF of building area.

2. FIRE HYDRANT SYSTEMS REQUIRED

Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, onsite fire hydrants and mains shall be provided where required by the fire code official. Exception: For Group R-3 and Group U occupancies the distance requirement shall be 600 feet. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, the distance requirement shall be not more than 600 feet. [CFC, Section 507.5.1]

3. REQUIRED FIRE FLOW

The fire flow for this project is 8000 GPM at 20 psi residual pressure. If an automatic fire sprinkler system will be installed, the fire flow will be reduced by 75%, establishing a required adjusted fire flow of 2000 GPM at 20 psi residual pressure. Note: The minimum required number and spacing of the hydrants shall be in accordance with CFC Table C102.1.

4. BUILDINGS AND FACILITIES ACCESS

Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or with the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. [CFC, Section 503.1.1].

5. STANDPIPES REQUIRED

Standpipe systems shall be provided in new buildings and structures in accordance with this section. Fire hose threads used in connection with standpipe systems shall be approved and shall be compatible with fire department hose threads. The location of fire department hose connections shall be approved. Standpipes shall be manual wet type. In buildings used for high-piled combustible storage, fire hose protection shall be in accordance with Chapter 32. Installation standard. Standpipe systems shall be installed in accordance with this section and NFPA 14 as amended in Chapter 47. CFC Sec. 905

6. WATER SUPPLY REQUIREMENTS

Potable water supplies shall be protected from contamination caused by fire protection water supplies. It is the responsibility of the applicant and any contractors and subcontractors to contact the water purveyor supplying the site of such project, and to comply with the requirements of that purveyor. Such requirements shall be incorporated into the design of any water-based fire protection systems, and/or fire suppression water supply systems or storage containers that may be physically connected in any manner to an appliance capable of causing contamination of the potable water supply of the purveyor of record. Final approval of the system(s) under consideration will not be granted by this office until compliance with the requirements of the water purveyor of record are documented by that purveyor as having been met by the applicant(s). 2019 CFC Sec. 903.3.5 and Health and Safety Code 13114.7.

7. REQUIRED SECONDARY FIRE DEPT. ACCESS

Commercial and Industrial Developments

- a. Buildings exceeding three stories or 30 feet in height. Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have a least two means of fire apparatus access for each structure.
- b. Buildings exceeding 62,000 square feet in area. Buildings or facilities having a gross building area of more than 62,000 square feet (5760 mm) shall be provided with two separate and approved fire apparatus access roads.
- c. Exception: Projects having a gross building area of up to 124,000 square feet (11520 mm) that have a single approved fire apparatus access road when all buildings are equipped throughout with approved automatic sprinkler systems. Multi-Family Residential Developments (R-1 & R-2 occupancies) 1. Multi-family residential projects having more than 100 dwelling units shall be equipped throughout with two separate and approved fire apparatus access roads. CFC Sec. Chp. 5 as adopted and amended by CUPMC.

8. REQUIRED AERIAL ACCESS

- a. Where required: Buildings or portions of buildings or facilities exceeding 30 feet (9144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.
- b. Width: Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925) in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height.

- c. Proximity to building: At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572) and a maximum of 30 feet (9144mm) from the building, and shall be positioned parallel to one entire side of the building, as approved by the fire code official.

9. FIRE APPARATUS (LADDER TRUCK) ACCESS ROADWAY REQUIRED

Provide an access roadway with a paved all-weather surface, a minimum unobstructed width of 20 feet, vertical clearance of 13 feet 6 inches, minimum circulating turning radius of 60 feet outside and 31 feet inside, and a maximum slope of 15%. Surface shall be capable of supporting 75K pounds. Installations shall conform to Fire Department Standard Details and Specifications sheet A-1. CFC Sec. 503.

10. FIRE DEPARTMENT (ENGINE) ROADWAY TURNAROUND

Provide an approved fire department engine roadway turnaround with a minimum radius of 36 feet outside and 23 feet inside. Installation shall conform to Fire Department Standard Details and Specification sheet A-1. Cul-de-sac. CFC Sec. 503 as adopted and amended by CUPMC. Circulating fire lane shown on Sheet C4 with conforming radii of turns for an aerial apparatus proximal to the structure exceeding 30-feet in height.

11. FIRE ALARM REQUIREMENTS

Refer to CFC Sec. 907 and the currently adopted edition of NFPA 72. Submit shop drawings (3 sets) and a permit application to the SCCFD for approval before installing or altering any system.

12. EMERGENCY RADIO RESPONDER COVERAGE

All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems. CFC Sec. 510.1 .

13. TWO-WAY COMMUNICATION SYSTEM

Two-way communication systems shall be designed and installed in accordance with NFPA 72 (2016 edition), the California Electrical Code (2013 edition), the California Fire Code (2016 edition), the California Building Code (2016 edition), and the city ordinances where two-way system is being installed, policies, and standards. Other standards also contain design/installation criteria for specific life safety related equipment. These other standards are referred to in NFPA 72. Provide two-way communication system.

14. CONSTRUCTION SITE FIRE SAFETY

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

15. ADDRESS IDENTIFICATION

New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained. CFC Sec. 505.1

16. KNOX KEY BOXES/LOCKS WHERE REQUIRED FOR ACCESS

Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for lifesaving or firefighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The Knox Key Box shall be a of an approved type and shall contain keys to gain necessary access as required by the fire code official.

17. LOCKS

An approved Knox Lock shall be installed on gates or similar barriers when required by the fire code official. Key box maintenance. The operator of the building shall immediately notify the fire code official and provide the new key when a lock is changed or re-keyed. The key to such lock shall be secured in the key box. [CFC Sec. 506].

18. FIRE DEPARTMENT CONNECTION

The fire department connection (FDC) shall be installed at the street on the street address side of the building. It shall be located within 100 feet of a public fire hydrant and within ten (10) feet of the main PIV (unless otherwise approved by the Chief due to practical difficulties). FDC's shall be equipped with a minimum of two (2), two-and-one-half (2- 1/2") inch national standard threaded inlet couplings. Orientation of the FDC shall be such that hose lines may be readily and conveniently attached to the inlets without interference. FDC's shall be painted safety yellow. [SCCFD, SP-2 Standard].

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PASSED AND ADOPTED at a special meeting of the City Council of the City of Cupertino this 13th day of April, 2023, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED:  _____ Hung Wei, Mayor City of Cupertino	  _____ Date
ATTEST:  _____ Kirsten Squarcia, City Clerk	  _____ Date