

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 2026-XX

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
APPROVING A DESIGN REVIEW PERMIT TO ALLOW FOR THE
CONSTRUCTION OF A NEW 4,236-SQUARE-FOOT, TWO-STORY,
SINGLE-FAMILY RESIDENCE WITH SECOND STORY SIDE
SETBACKS OF LESS THAN 15 FEET AND A SECOND TO FIRST
FLOOR AREA RATIO OF MORE THAN 66 PERCENT LOCATED AT
22068 SAN FERNANDO COURT (A.P.N. 357 12 012)

SECTION I: PROJECT DESCRIPTION

Application No.: R-2024-029
Applicants: David Kuoppamaki
Location: 22068 San Fernando Court; APN: 357 12 012

SECTION II: FINDINGS FOR AN DESIGN REVIEW PERMIT

WHEREAS, the Planning Commission of the City of Cupertino received an application for a Design Review 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 15303 for the reasons set forth in the staff report dated February 24, 2026 and incorporated herein; 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 meeting in regard to the application; 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 project is consistent with the Cupertino General Plan, any applicable specific plans, zoning ordinances and the purposes of this title.

The proposed project is consistent with the General Plan as the project is within the Low-Density land use area. There are no applicable specific plans that affect the project. The project has been found to be consistent with the requirements of Cupertino Municipal Code Chapter 19.28 Single Family (R-1) Residential.

2. The granting of the permit will not result in a condition that is detrimental or injurious to property improvements in the vicinity, and will not be detrimental to the public health, safety or welfare.

The granting of the permit will not result in a condition that is detrimental or injurious to property improvements in the vicinity, and will not be detrimental to the public health, safety or welfare as the projects is located within the R1-7.5 (Single Family Residential) zoning district and will be compatible with the surrounding uses of the neighborhood.

3. The proposed project is harmonious in scale and design with the general neighborhood.

The proposed project is located in a residential area consisting of single-family homes. The proposed project, as conditioned, maintains the single-family home scale found compatible with the general neighborhood.

4. The project is consistent with the two-story design principles and generally consistent with the single-family residential design guidelines.

The proposed project has been conditioned to revise the residence's design to reduce building mass by 1) reducing building height to ensure that all portions of the first story fit within the required first story building envelope and 2) adding sloped roof elements to a minimum of 25% of the first story and 50% of the second story. These revisions will ensure that the project is consistent with the two-story design principles and generally consistent with the single-family residential design guidelines.

5. Adverse visual impacts on adjoining properties have been reasonably mitigated.

Any potential adverse impacts on adjoining properties have been reasonably mitigated through installation of a front-yard tree as required by the R-1 Ordinance and additional privacy plantings to screen the windows that have sill heights of 5 feet or less.

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 Design Review Permit, Application no. R-2024-029 subject to the conditions which are enumerated in this Resolution beginning on PAGE 3 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. R-2024-029 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 DEPARTMENT

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 building mass is reduced by:

- a) reducing building height to ensure that all portions of the first story fit within the required first story building envelope; and

b) adding sloped roof elements to a minimum of 25% of the first story and 50% of the second story.

Plans shall also be revised to remove the second story door shown on the left (southeast) elevation drawing which leads to the non-balcony rooftop and to ensure compliance with the City's privacy screening requirements (see Condition 13).

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-2025-007, EXC-2025-008, 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 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. COMPLIANCE WITH PUBLIC WORKS CONFIRMATION FORM

The project shall comply with the requirements indicated on the Public Works Confirmation form, including, but not limited to, dedications, easements, off-site improvements, undergrounding of utilities, all necessary agreements, and utility installations/relocations as deemed necessary by the Director of Public Works and required for public health and safety. The Public Works Confirmation is a preliminary review and is not an exhaustive review of the subject development. Additional requirements may be established and implemented during the construction permitting process. The project construction plans shall address these requirements with the construction permit submittal, and all required improvements shall be completed to the satisfaction of the Director of Public Works prior to final occupancy.

7. CONSULTATION WITH OTHER DEPARTMENTS

The applicant is responsible for consulting 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 any approval by the Community Development Department.

8. 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. Plans shall be reviewed and approved by the Director of Community Development or their designee prior to Building Permit issuance.

9. 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.

Additionally, no new grading that changes existing grades underneath the dripline of the 36" oak tree, that is not already indicated, shall be allowed without appropriate review and approval by the City and the City's third party arborist at the expense of the applicant.

10. 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.

11. FRONT YARD TREE

The applicant shall indicate on site and landscape plans the location of a front yard tree to be located within the front yard setback area in order to screen the massing of the second story. The front yard tree shall be a minimum 24-inch box and 6 feet planted height and otherwise be consistent with the City's requirements.

12. FRONT YARD TREE COVENANT

The property owner shall record a covenant on this property with the Santa Clara County Recorder's Office that requires the retention and maintenance of the required front yard tree. 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.

13. PRIVACY PLANTING

The provided draft privacy plan is not approved as part of this permit and a final privacy planting plan shall be reviewed and approved by the Planning Division prior to issuance of building permits. The variety, size, and planting distance shall be consistent with the City's requirements, however trees located within the rear yard area shall be native oak tree varieties.

14. PRIVACY PROTECTION COVENANT

The property owner shall record a covenant on this property to inform future property owners of the privacy protection measures and tree protection requirements consistent with the R-1 Ordinance, for all windows with views into neighboring yards and a sill height that is 5 feet or less from the second story finished floor. 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.

15. LANDSCAPE PROJECT SUBMITTAL

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

16. 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.

17. DEMOLITION REQUIREMENTS

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

18. 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.
- i. The applicant shall incorporate the City's construction best management practices into the building permit plan set.

19. GRADING AND CONSTRUCTION HOURS AND NOISE LIMITS

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

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

20. 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.

21. 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.

22. AVOID NESTING BIRDS DURING CONSTRUCTION

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

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

- 2) For any other demolition, construction and ground disturbing activity or the removal of four or more trees, a qualified ornithologist or biologist shall be retained by the project applicant to conduct the preconstruction surveys.
- iii. If the preconstruction survey does not identify any active nests with eggs or young birds that would be affected by demolition, construction, ground-disturbing or tree removal/pruning activities, no further mitigating action is required. If an active nest containing eggs or young birds is found sufficiently close to work areas to be disturbed by these activities, their locations shall be documented, and the qualified ornithologist or biologist shall identify protective measures to be implemented under their direction until the nests no longer contain eggs or young birds.
 - iv. Protective measures may include, but are not limited to, establishment of clearly delineated exclusion zones (i.e., demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by the qualified ornithologist or biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds. The active nest within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. The radius of an exclusion zone may be increased by the qualified ornithologist or biologist, if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified ornithologist or biologist only in consultation with California Department of Fish and Wildlife. The protection measures and buffers shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.
 - v. A final report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required), shall be prepared by the qualified ornithologist or biologist and submitted to the Director of Community Development or his or her designee, through the appropriate permit review process (e.g., demolition, construction, tree removal, etc.), and be completed to the satisfaction of the Community Development Director prior to the start of demolition, construction, ground-disturbing, or tree removal/pruning activities.

23. ARCHAEOLOGICAL RESOURCES AND TRIBAL CULTURAL RESOURCES

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

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

project design, costs, and other considerations. The archeologist shall perform this evaluation in consultation with the tribe.

24. 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.

25. STORMWATER RUNOFF CONTAMINATION

Prior to issuance of any grading or building permits, the project applicant shall demonstrate compliance with Chapter 9.18 (Stormwater Pollution Prevention and Watershed Protection) of the Cupertino Municipal Code, to the satisfaction of the City Engineer or his or her designee. All identified stormwater runoff control measures shall be included in the applicable construction documents.

26. 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 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.

27. 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.

28. 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:

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- 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.

29. 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.

30. 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.

31. 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.

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