

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE DESIGN REVIEW COMMITTEE OF THE CITY OF CUPERTINO APPROVING
A NEW 4,170 S.F. TWO-STORY HOUSE WITH A REAR-FACING BALCONY IN THE
R1-a ZONING DISTRICT LOCATED AT 10713 LARRY WAY.

SECTION I: PROJECT DESCRIPTION

Application No.: R-2019-03
Applicant: Alfred Devaraj and Usha Kanagaraj
Location: 10713 Larry Way (APN: 316-02-007)

SECTION II: FINDINGS:

WHEREAS, the Design Review Committee of the City of Cupertino received an application for a Residential Design Review Permit 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 Design Review Committee has held at least one public meeting in regard to the application; and

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

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

WHEREAS, the Design Review Committee finds as follows with regard to this application:

1. The project is consistent with the Cupertino General Plan, any applicable specific plans, zoning ordinance and the purposes of this title..

The project is consistent with the Cupertino General Plan as the development maintains the single family use and is designed to conform with the Single-Family Residence zoning regulations for R1-a districts. There are no applicable specific plans that affect the project.

2. That the granting of this permit will not result in a condition which is materially detrimental to the public health, safety, or welfare.

The single-family home is an existing two-story home and is proposed to increase in size and height as permitted by the single-family residential development regulations. Therefore, 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 project is designed to conform with the Single-Family Residence zoning regulations for R1-a districts.

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

The neighborhood intent to maintain a semi-rural aesthetic is met through the wide lots with deep front yard setbacks, and larger side yard setbacks. The home is designed using the Mediterranean style which appears in several single-story homes and maintains the general scale of two-story homes that exist in the neighborhood.

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

The home is identified as Mediterranean style and provides features and details consistent with that style, such as roof tiling and exterior stucco, and muted earth tone colors. The home is consistent with the Two-Story and Residential Design Guidelines by maintaining the current pattern of side setbacks and garage orientation in the neighborhood, including wall offsets to provide relief for the second story portion, utilizing a hipped roof to create articulation between the two floors, and proposing that second-story windows along the side walls have sill heights of at least five feet.

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

In meeting with the R1-a design guidelines, windows along the side elevations are fixed and have sill heights of five feet which mitigate intrusion into adjacent property owner's properties. In addition, where there may be impacts from those high windows and the rear facing balcony, the property owner is required to and proposes to install privacy trees along the southern property line. The property owner provided a waiver from their northern neighbor that waived the need for plantings along the northern property line.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on Page 3 thereof,

The application for a Residential Design Review, Application no. R-2019-03, is hereby approved and that the subconclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Meeting record concerning Application no. R-2019-03 as set forth in the Minutes of Design Review Committee Meeting of July 18, 2019, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval is based on the plan set dated December 12, 2018 entitled, "Devaraj Residence Proposed New Single Family Home," drawn by Professional Engineers Inc., consisting of 21 sheets labeled A0, A1, A2, A3, A4, A5, A6, A7, A7.1, A8, A9, A10, A11, A12, A13, 1, 2, L0, L1.0, L2.0, and L3.0; 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. 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. SECOND STORY AREA

The maximum second story area shall be 1,100 sq. ft.

5. PROTECTED TREES

The existing oak tree in the rear yard shall be protected during construction. A tree removal permit is required prior to its removal.

6. ARCHITECTURAL REVIEW COMPLIANCE

The project shall remain in substantial conformance with the recommendations outlined in Cannon Design Group's architectural review letter dated March 15, 2019. The following features shall be shown on the construction plans prior to issuance of building permits and verified prior to final occupancy:

- a. Deeply recess the garage doors
- b. Deep set all windows from the outside wall face a minimum of 3 inches
- c. Use true or simulated divided lite panes in all windows
- d. Increase roof overhangs to 18 inches minimum
- e. Maintain rafter tails throughout the exterior

7. COMPLIANCE WITH PUBLIC WORKS CONFIRMATION FORM

The project shall comply with the requirements indicated on the Public Works Confirmation form dated April 25, 2019, 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.

8. PRIVACY PLANTING

The 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.

9. 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.

10. 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.

11. 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.

12. 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 2,500 square feet or more. The Landscape Documentation Package 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 14.15.050 E, F, G, H, and I will be required to be reviewed and approved prior to final inspections.

13. 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.

14. 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.

15. 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 active construction areas 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. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- c. Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d. Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- e. The applicant shall incorporate the City's construction best management practices into the building permit plan set.

16. 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.
 - g. The applicant shall comply with the above grading and construction hours and noise limit requirements unless otherwise indicated.

17. INDEMNIFICATION

Except as otherwise prohibited by law, the applicant shall indemnify and hold harmless the City, its City Council, and its officers, employees and agents (collectively, the "indemnified parties") from and against any claim, action, or 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 to attack, set aside, or void this Resolution or any permit or approval authorized hereby for the project, including (without limitation) reimbursing the City its actual attorneys' fees and costs incurred in defense of the litigation. The applicant shall pay such attorneys' fees and costs within 30 days following receipt of invoices from City. Such attorneys' fees and costs shall include amounts paid to counsel not otherwise employed as City staff 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.

18. 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 18th day of July 2019, Regular Meeting of the Design Review Committee of the City of Cupertino, State of California, by the following vote:

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

ATTEST:

APPROVED:

Ellen Yau
Associate Planner

Vikram Saxena,
Chair, Design Review Committee