



OFFICE OF COMMUNITY DEVELOPMENT

CITY HALL

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January 8, 2016

WEC & Associates

Attn: Jing Quan

2625 Middlefield Road #658

Palo Alto, CA 65014

**SUBJECT: TWO STORY PERMIT AND MINOR RESIDENTIAL PERMIT ACTION LETTER–  
Applications R-2015-08 and RM-2015-08**

This letter confirms the decision of the Director of Community Development, given on January 8, 2016, approving a Two-Story Permit (R-2015-08) to allow the construction of a new 5,140 square foot single family residence and a Minor Residential Permit (RM-2015-08) to allow a second story balcony on the new residence, located at **21900 Oakview Lane** with the following conditions:

1. APPROVED PROJECT

This approval is based on a plan set entitled, "New Residence 21900 Oakview Lane, Cupertino CA" consisting of eleven sheets labeled "A.1 to A.10 and a topographic survey", dated "Received January 6, 2016" except as may be amended by conditions in this resolution.

2. ANNOTATION OF THE CONDITIONS OF APPROVAL

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

3. ACCURACY OF THE 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.

4. 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.

5. GEOTECHNICAL PLAN REVIEW

The applicant's geotechnical consultant shall inspect, test, and approve all geotechnical aspects of the development plans to ensure that their recommendations have been incorporated. The Geotechnical Plan Review should be submitted to the City for review by the City staff prior to issuance of permits.

6. GEOTECHNICAL CONSTRUCTION INSPECTIONS

The applicant's geotechnical consultant shall inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections shall include, but not necessarily be limited to: site preparation and grading, site surface and subsurface drainage improvements and excavations for foundations and retaining walls prior to the placement of steel and concrete. The following shall specifically be performed:

The applicant's geotechnical consultant shall inspect all foundation excavations to ensure that the subsurface conditions are as anticipated, and that footings are embedded sufficiently into competent earth materials.

The results of these inspections and the as-built conditions of the project shall be described by the geotechnical consultant in a letter and submitted to the City Engineer for review prior to final project approval.

7. PRIVACY PLANTING

The neighbors on the east side stated they will waive the privacy tree requirement in order to gain sun exposure to their property, therefore those privacy plantings are not indicated on the plans. Prior to building permit issuance, the applicant shall submit the waiver and the final privacy-planting plan (of all required privacy planting) for review and approval from the Planning Division. The variety, size, and planting distance shall be consistent with the City's requirements.

8. 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.

9. LANDSCAPE PROJECT SUBMITTAL

The applicant shall submit a full landscape project submittal, per sections 490.1, 492.1, and 492.3 of the Department of Water Resources model water efficient landscape ordinance, **for projects with landscape area more than 500 square feet**; the applicant shall submit either a full landscape project submittal or submit the prescriptive compliance checklist per Appendix D of the Department of Water Resources model water efficient landscape ordinance **for projects with landscape area more than 500 square feet and less than 2,500 square feet**. The landscape documentation package or prescriptive compliance checklist shall be reviewed and approved to the satisfaction of the Director of Community Development prior to issuance of building permits.

10. 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.

11. EXTERIOR BUILDING MATERIALS/TREATMENTS

Final building exterior treatment plan (including but not limited to details on exterior color, material, architectural treatments and/or embellishments) shall be reviewed and approved by the Director of Community Development prior to issuance of building permits. The final building exterior plan shall closely resemble the details shown on the original approved plans. Any exterior changes determined to be substantial by the Director of Community Development shall require a minor modification approval with neighborhood input.

12. 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.

13. 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.

**Please note that if this permit is not vested within a year, it shall expire on January 8, 2017.**

Prior to the start of the comment period for the project, three neighbors communicated their objection to a two-story home and concerns about lost privacy, reduced daylight exposure, possible existing ground contamination, and increased construction noise in the cul-de-sac to staff. Staff met with two of the three property owners who responded to meeting requests to better understand their concerns and to answer their questions.

In addition to staff outreach, the property owner also met with these neighbors to try to address their concerns. As a potential solution to the concerns discussed at the meetings, the property owner made the following changes to the plans:

- Replaced two previously proposed openable second story windows along the western property line with fixed, obscured windows, and
- Removed eight existing Italian Cypresses (*Cupressus sempervirens*) along the eastern property line (*neighbor agreed to sign a privacy waiver for the trees that were required as privacy protection in order to benefit from the additional daylight*).

During the comment period for the permits, staff received supplemental letters from two of the three neighbors, who previously commented, reiterating their concerns and highlighting their general objection to the construction of a two-story residence.

The proposed project is within the parameters of single-family residence approvals. Therefore staff has determined that the proposed project is in compliance with the provisions of Chapter 19.28.140 (A) and 19.28.140 (B) of the Cupertino Municipal Code, and no additional conditions of approval were required in order to address the comments raised during the noticing period.

Staff has made all the findings that are required for approval of a Two-Story Permit and Minor Residential Permit as required by Cupertino's Municipal Code, Chapter 19.28.140 (A) and (B).

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. The R1-10 Zoning district, in which this property is located in, allows the development of two-story homes.

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 project is located within the R1-10 (Single Family Residential) zoning district, and will be compatible with the surrounding uses and 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 one and two-story single family homes. The proposed project maintains the single family home scale found in the general neighborhood.

4. *Adverse visual impacts on adjoining properties have been reasonably mitigated.*

Any potential adverse visual impacts on adjoining properties have been reasonably mitigated through the installation of privacy protection plantings as required by the Single Family R1 Ordinance.

**Also, please note that an appeal of this decision can be made within 14 calendar days from the date of this letter. If an appeal is filed, you will be notified of a public hearing, which will be scheduled before the Planning Commission.**

Sincerely,



Ellen Yau  
Assistant Planner  
City of Cupertino

Enclosures:  
Approved Plan Set

CC: George Wang, 21900 Oakview Ln, Cupertino, Ca 95014  
Jan Kucera, 21917 Oakview Ln, Cupertino, Ca 95014  
Angela and Matthew Miller, 21884 Oakview Ln, Cupertino, Ca, 95014  
Catherine Quihuis, 21836 Oakview Ln, Cupertino, Ca, 95014