

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
CUPERTINO RECOMMENDING APPROVAL OF A VESTING TENTATIVE  
MAP TO REPLACE A PREVIOUSLY APPROVED VESTING TENTATIVE  
MAP (TM-2018-03) FOR THE WESTPORT CUPERTINO DEVELOPMENT  
PROJECT TO CREATE A SEPARATE PARCEL FOR THE AGE RESTRICTED  
SENIOR BELOW MARKET RATE BUILDING LOCATED AT 21267 STEVENS  
CREEK BOULEVARD (APN: 326-27-042, -043)

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The Planning Commission recommends that the City Council approve the Vesting Tentative Map, in substantially similar form to the Draft Resolution attached hereto as Exhibit TM.

PASSED AND ADOPTED at a Regular Meeting of the Planning Commission of the City of Cupertino the 27<sup>th</sup> day of July 2021, by the following roll call vote:

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

ATTEST:

APPROVED:

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Piu Ghosh  
Planning Manager

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Ray Wang  
Chair, Planning Commission

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CUPERTINO CITY COUNCIL  
 APPROVING OF A VESTING TENTATIVE MAP TO REPLACE A  
 PREVIOUSLY APPROVED VESTING TENTATIVE MAP (TM-2018-03)  
 FOR THE WESTPORT CUPERTINO DEVELOPMENT PROJECT TO  
 CREATE A SEPARATE PARCEL FOR THE AGE RESTRICTED SENIOR  
 BELOW MARKET RATE BUILDING LOCATED AT 21267 STEVENS  
 CREEK BOULEVARD (APN: 326-27-042, -043)

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SECTION I: PROJECT DESCRIPTION

Application No.: TM-2021-002  
 Applicant: KT Urban (Mark Tersini)  
 Property Owner: 190 West St. James, LLC  
 Location: 21267 Stevens Creek Blvd. (APN #326-27-042, -043)

SECTION II: FINDINGS FOR A TENTATIVE MAP:

WHEREAS, the City of Cupertino received an application for a Vesting Tentative Map as described in Section I of this resolution; and

WHEREAS, The Westport Cupertino Mixed-Use Project ("Project"), including the Vesting Tentative Map, is fully described and analyzed in the Initial Study and Final Environmental Impact Report (State Clearinghouse No. 2019070377) ("EIR" or "Final EIR") for the Project; and

WHEREAS, on August 18, 2020, after consideration of substantial evidence contained in the entire administrative record, the City Council approved the Westport Cupertino project, by adopting resolutions including the Development Permit Resolution No 20-106, the Vesting Tentative Map Resolution No. 20-109, and Resolution No. 20-105 certifying the EIR, adopting and requiring as conditions of approval all of the mitigation measures for the Project that are identified in the EIR and are within the responsibility and jurisdiction of the City , and adopting the Mitigation Monitoring and Reporting Program for the Project; and

WHEREAS, on April 21, 2021, the applicant submitted and requested the City to consider a revised Vesting Tentative Map to decouple the senior below market rate building (Building 2) from the market rate senior housing development (Building 1) by creating a third parcel to be occupied by Building 2, and to remove certain bicycle improvements not required by the August 2020 approval; and

WHEREAS, other than the changes described above, the Vesting Tentative Map proposes the same development and public improvements approved in August 2020, covering 8.1

gross acres and providing for 88 single-family units and 179 senior units, 48 of which will be limited to below-market-rate rents; and

WHEREAS, the proposed changes to the project would not have any new or substantially more severe significant environmental impacts; and

WHEREAS, on July 27, 2021 the Planning Commission recommended on a X-X vote that the City Council approve the Vesting Tentative Map (TM-2021-002), in substantially similar form to the Resolution presented (Resolution No. \_\_\_\_\_)and

WHEREAS, all necessary public notices having been given as required by the Procedural Ordinance of the City of Cupertino and the Government Code, and the Planning Commission held at least one public hearing in regard to this application, and on August 18, 2020, the City Council held a public hearing to consider the Vesting Tentative Map; 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 Tentative Map; and

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

- a. That the proposed subdivision map is consistent with the City of Cupertino General Plan.

*The subject property is consistent with the General Plan because the property is permitted to have up to 30 dwelling units an acre and qualifies for a density bonus. The proposed development is consistent with the intent of the policies of the General Plan for a high density mixed-use development on this site.*

- b. That the design and improvements of the proposed subdivision are consistent with the General Plan.

*The off-site improvements are consistent with the City's General Plan policies related to pedestrian and bicycle safety etc. by improving Stevens Creek Boulevard, minimizing curb-cuts, and requiring an urban canopy within the public right-of-way. The project is also consistent with the General Plan's design requirements, since the project qualifies for waivers for height and slope setback.*

- c. That the site is physically suitable for the type of development contemplated under the approved subdivision.

*The proposed subdivision is compatible with the adjoining land uses and no physical constraints are present that would conflict with anticipated land use development. There are no topographical anomalies that differentiate this property from adjacent properties. The site is located on the valley floor, and is not listed within any environmentally sensitive zone.*

- d. That the site is physically suitable for the intensity of development contemplated under the approved subdivision.

*The subject property is physically suitable in size and shape in conformance to development standards and is appropriately configured to accommodate a multi-unit mixed-used development.*

- e. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish and wildlife or their habitat.

*The design of the subdivision and proposed improvements are not likely to substantially injure fish and wildlife or their habitat because the property is already a developed site and located in an urbanized area where residential land use is allowed. The EIR concluded that all potential environmental impacts will be mitigated to a less than significant level.*

- f. That the design of the subdivision or the type of improvements associated therewith are not likely to cause serious public health problems.

*The proposed subdivision design and improvements are not likely to cause serious public health problems. The proposed development is consistent with the intent of the policies of the General Plan for a high density mixed-use development on this site, and the on-site and off-site improvements improve neighborhood walkability through improved sidewalk construction with size-appropriate driveway cuts and both street and private-land tree planting.*

- g. That the design of the subdivision and its associated improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

*No easement or right-of-way exists currently that would be impeded or conflict with the proposed subdivision.*

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter and the EIR and the Mitigation Monitoring and Reporting Program for the Project (EA-2018-04), subject to the conditions which are enumerated in this Resolution beginning on PAGE 2 thereof, and those contained in all other Resolutions approved for this Project,

1. The City Council hereby exercises its independent judgment and determines that approval of the Vesting Tentative Map, which creates a new lot on the project site and does not include certain previously-proposed improvements would not have any new or substantially more severe significant environmental impacts beyond those identified in the Final EIR (State Clearinghouse 2019070377) previously

certified for the Westport Cupertino development project. The Final EIR identifies mitigation measures to reduce the potentially significant environmental impacts of the project to less than significant levels. These mitigation measures were adopted and made conditions of project approval.

2. The application for a Vesting Tentative Map, Application No. TM-2021-002, is hereby approved, 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 in August 2020 other than Resolution No. 20-106 which is superseded by this resolution, and the subconclusions upon which the findings and conditions specified in this Resolution are based are contained in the Public Hearing record concerning Application No. TM-2021-002 as set forth in the Minutes of the City Council Meeting of July 20, 2021 Meeting, 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 09, 2020, consisting of 6 sheets labeled as Westport, VTM-1-VTM-6, and Kimley Horn 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. PRIOR APPROVAL CONDITIONS

The conditions of approval contained in file nos. TR-2018-22, EXC-2019-03, U-2019-03, ASA-2018-05, DP-2018-05 and EA-2018-04 shall be applicable to this approval unless in conflict with the conditions of approval of this resolution.

4. 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.

5. RESIDENTIAL CONDOMINIUM MAP REQUIRED

Prior to the issuance of building permits for the any building to be divided into condominium units, the applicant must record a Final Condominium Map covering the area of the building with the County of Santa Clara after approval by the Director of Public Works.

6. BUS STOP DUCKOUT

The applicant will work with the Public Works staff to relocate the bus stop to a location along Stevens Creek Boulevard that will not conflict with the intersection of Mary Avenue and Stevens Creek Boulevard.

7. RECIPROCAL INGRESS/EGRESS EASEMENT

The applicant shall record a private reciprocal ingress and egress easement for vehicular and pedestrian access over the drive aisles and sidewalks onsite to facilitate movement between the parcels. Easements shall be reserved on the Final Map or created by separate instrument recorded at the time of Final Map recordation.

8. CONSULTATION WITH OTHER DEPARTMENTS

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

9. INDEMNIFICATION

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.

#### 10. 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.

#### SECTION IV: CONDITIONS ADMINISTERED BY THE PUBLIC WORKS DEPT.

#### 11. STREET IMPROVEMENTS & DEDICATION

Provide street dedication in fee title and frontage improvements along the project frontage to the satisfaction of the Director of Public Works. The street improvement plans must be submitted and approved by the City prior to the Final Map recordation. Final Map recordation will not be contingent upon Caltrans approval for the proposed improvements within Caltrans right of way, however the developer shall provide adequate sureties (equivalent to 200% of the value of the improvements) for frontage improvements prior to Final Map recordation. The Applicant will be required to coordinate with Caltrans, in cooperation with the City, for approval of work located within Caltrans' jurisdiction. If, at the time of project completion, the Applicant is unable to obtain approval from Caltrans for improvements within their jurisdiction, the Director of Public Works, at his/her sole discretion, may require the Applicant to deposit fees to the City that are equivalent to the value of the work.

Street improvements may include, but are not limited to, sidewalk, curb & gutter, ADA ramps, city standard driveways, storm drain and sanitary sewer system, street tree installations, street lights (new and/or relocate), bus stop, concrete bus pad, bus

shelter and other related bus improvements, upgrade the existing pedestrian warning device at the mid-block crossing on Mary Avenue to rectangular rapid flashing beacons (RRFB), pavement, signs and pavement markings, installation of a Class IV Separated Bikeway between Mary Ave and Hwy 85 NB on-ramp per the approved Cupertino Bicycle Transportation Plan Implementation along project frontage on Stevens Creek Blvd. The installation will require traffic signal modifications at the intersection of Stevens Creek Blvd & Hwy 85. The Applicant will be required to coordinate with Caltrans, in cooperation with the City, for work located within Caltrans' jurisdiction.

At the street improvement plan stage, the proposed bus stop design (shown on VTM-6) on Stevens Creek Blvd., west of Mary Ave. shall be further reviewed and the final design must be approved by both VTA and City of Cupertino prior to issuance of Final Map. The City may require a bus duckout. As a result, additional easement area may be required for the proposed bus shelter.

Project shall adhere to the Heart of the City Specific Plan for streetscape design guidelines.

#### 12. TRANSPORTATION

The City will not record any Final Map before it has approved plans for any improvements required along the project frontage including Bicycle Transportation Plan improvements envisioned in the Bicycle and Pedestrian Transportation Plans and the Applicant has provided security therefor. The improvements shall include construction of a portion of the Stevens Creek Blvd Separated Bicycle Lanes along the north side of Stevens Creek Blvd. between Hwy 85 & Mary Ave, or other related frontage work as determined by the Director of Public Works.

#### 13. PEDESTRIAN AND BICYCLE IMPROVEMENTS

The Applicant shall provide pedestrian and bicycle related improvements, including but not limited to, pedestrian and Class III bike paths and bicycle racks throughout the project site, and RRFB on Mary Ave consistent with the Cupertino Bicycle Transportation Plan and the Pedestrian Transportation Guidelines, and as approved by the Director of Public Works.

#### 14. FINAL MAP

Prior to recordation of final map, all building(s) that straddle new property lines must be removed. No structures are permitted to cross property lines.

Project is required to dedicate at the time of Final Map approval Public Access Easements to facilitate on-site Class III bike and pedestrian paths as identified in the Cupertino Bicycle Transportation Plan and Pedestrian Transportation Plan. Public



Access Easements will be required at the northwestern and southwestern property corners, along the west side of the project site connecting north to south between Stevens Creek Boulevard and Mary Avenue, and throughout the project site connecting east to west.

15. GATEWAY MONUMENT SIGN

As part of the street improvement plans, the Applicant shall design and show placement of a gateway monument sign in the median of Stevens Creek Boulevard, east of Hwy 85. Prior to project completion, the Applicant shall fabricate and install a gateway monument sign. The precise location, design and size of the gateway monument sign shall be to the satisfaction of the Director of Public Works.

16. STREET LIGHTING INSTALLATION

As part of the street improvement plans, street lighting shall be designed to the satisfaction of the Director of Public Works. Street lights shall be installed as designed prior to project completion. 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.

17. GRADING

Grading shall be performed to the satisfaction of 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.

18. STORM DRAINAGE

Prior to the Final Map approval, the Applicant shall address and mitigate the storm drainage impact as the result of the environmental impact study.

Drainage shall be provided to the satisfaction of the Director of Public Works. Hydrology and pre- and post-development hydraulic calculations must be provided to indicate whether additional storm water control measures are to be constructed or renovated. The storm drain system may include, but is not limited to, subsurface storage of peak stormwater flows (as needed and identified in the environmental study), bioretention basins, and Low Impact Development measures to reduce the amount of runoff from the site and improve water quality.

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.

Project will be required to install stormwater trash capture facilities that meet the requirements established by Municipal Regional Permit. Trash capture devices shall be located onsite and shall be situated so as to ensure trash carried by storm water is collected onsite and does not flow directly to the City storm drain system. Applicant's engineer shall design and size the trash capture devices to ensure that in the event the devices cause an obstruction to onsite stormwater flow, onsite flooding does not occur.

#### 19. 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 Applicant 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, Storm Water Facilities Easement Agreement, Storm Water Facilities Operation and Maintenance 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.

#### 20. SUBDIVISION AGREEMENT

The project developer shall enter into a subdivision agreement with the City of Cupertino providing for 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 agreement shall be executed prior to recordation of Final Map.

##### Fees:

- |                                                  |                                                                                                                                           |
|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| a. Checking & Inspection Fees:                   | Per current fee schedule (\$8,668.00 or 6% of improvement costs)                                                                          |
| b. Grading Permit:                               | Per current fee schedule (\$3,450.00 or 6% of improvement costs)                                                                          |
| c. Transportation Impact Fee<br>(As applicable): | Per current fee schedule (\$6,695/PM peak-hour trip; Multi-Family - \$4,112/unit, Single-Family-\$6,631/unit, and Commercial -\$10.67/sf) |

d. Storm Drainage Fee:	Per current fee schedule (\$10,169per AC)
e. Park Fee:	Per current fee schedule Senior - \$30,000/DU Other Residential – \$105,000, \$60,000 and/or \$54,000/DU depending on density
f. Map Review Fee:	Per current fee schedule (\$11,527-Tract Map)
g. Storm Management Plan Fee:	Per current fee schedule (\$1,484)
h. Street Tree	By Developer
j. Power Cost:	**

\*\* Based on the latest effective PG&E rate schedule approved by the PUC

#### Bonds:

Faithful Performance Bond: 100% of Off-site and On-site Improvements

Labor & Material Bond: 100% of Off-site and On-site Improvement

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 charged at that time will reflect the then current fee schedule.

#### 21. 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.

#### 22. OPERATIONS & MAINTENANCE AGREEMENT

Developer shall enter into an Operations & Maintenance Agreement with the City prior to prior to recordation of Final Map or issuance of building permits, whichever comes first. The Agreement shall include the operation and maintenance for non-standard appurtenances in the public road right-of-way that may include, but is not limited to, sidewalk, pavers, and street lights.

### 23. 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.

### 24. 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.

### 25. 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.

### 26. 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.

### 27. 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.

### 28. EROSION CONTROL PLAN

Developer must provide an approved erosion control plan by a Registered Civil Engineer prior to issuance of permits for construction operations for the project. This plan should include all erosion control measures used to retain materials on site. Erosion control notes shall be stated on the plans.

29. 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.

30. TRAFFIC CONTROL PLAN

The developer must submit a traffic control plan by a Registered Traffic Engineer to be approved by the City prior to issuance of permits for any work within the public right of way. 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.

31. STREET TREES

Prior to completion of the project, 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.

32. FIRE PROTECTION

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

33. 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).

34. FIRE HYDRANT

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

35. SAN JOSE WATER COMPANY CLEARANCE

Provide San Jose Water Company approval for water connection, service capability and location and layout of water lines and backflow preventers prior to recordation of Final Map or issuance of building permits, whichever comes first.

36. 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.

37. SANITARY DISTRICT

A letter of clearance for the project shall be obtained from the Cupertino Sanitary District prior to recordation of Final Map or issuance of building permits, whichever comes first.

38. UTILITY EASEMENTS

Clearance approvals from the agencies with easements on the property (including PG&E, AT&T, and California Water Company, and/or equivalent agencies) will be required prior to recordation of Final Map or issuance of building permits, whichever comes first. Provide letters from PG&E and AT&T to state their concurrence with the proposed easement relocation.

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CITY ENGINEER'S CERTIFICATE OF  
ACCEPTANCE OF ENGINEERING/SURVEYING CONDITIONS  
(Section 66474.18 California Government Code)

I hereby certify that the engineering and surveying conditions specified in Section IV. of this Resolution conform to generally accepted engineering practices.

\_\_\_\_\_  
Chad Mosley, Assistant Director of Public Works  
City Engineer CA License 66077

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 18<sup>th</sup> day of August, 2021, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED:	
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<hr/> Darcy Paul, Mayor City of Cupertino	<hr/> Date
ATTEST:  <hr/> Kirsten Squarcia, City Clerk	  <hr/> Date