

CITY OF CUPERTINO

AGENDA

CITY COUNCIL

This will be a teleconference meeting without a physical location.

Tuesday, October 5, 2021

5:30 PM

Televised Special Meeting Study (5:30) and Regular City Council Meeting (6:45)

TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION TO HELP STOP THE SPREAD OF COVID-19

In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location to help stop the spread of COVID-19.

Members of the public wishing to observe the meeting may do so in one of the following ways:

- 1) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.
- 2) The meeting will also be streamed live on and online at www.Cupertino.org/youtube and www.Cupertino.org/webcast

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

- 1) E-mail comments by 4:00 p.m. on Tuesday, October 5 to the Council at citycouncil@cupertino.org. These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting.
- 2) E-mail comments during the times for public comment during the meeting to the City Clerk at cityclerk@cupertino.org. The City Clerk will read the emails into the record, and display any attachments on the screen, for up to 3 minutes (subject to the Mayor's discretion to shorten time for public comments). Members of the public that wish to share a document must email cityclerk@cupertino.org prior to speaking.

3) Teleconferencing Instructions

Members of the public may provide oral public comments during the teleconference meeting as follows:

City Council Agenda October 5, 2021

Oral public comments will be accepted during the teleconference meeting. Comments may be made during "oral communications" for matters not on the agenda, and during the public comment period for each agenda item.

To address the City Council, click on the link below to register in advance and access the meeting:

Online

Register in advance for this webinar:

https://cityofcupertino.zoom.us/webinar/register/WN_iugJh62UQhqOK_oqML4Mtw

Phone

Dial: 669-900-6833 and enter Webinar ID: 949 4234 4385 (Type *9 to raise hand to speak, *6 to unmute yourself). Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

Meeting ID: 949 4234 4385

SIP: 94942344385@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

Please read the following instructions carefully:

- 1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.
- 2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the public. If you wish to make an oral public comment but do not wish to provide your name, you may enter "Cupertino Resident" or similar designation.
- 3. When the Mayor calls for the item on which you wish to speak, click on "raise hand," or, if you are calling in, press *9. Speakers will be notified shortly before they are called to speak.
- 4. When called, please limit your remarks to the time allotted and the specific agenda topic.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

NOTICE AND CALL FOR A SPECIAL MEETING OF THE CUPERTINO CITY COUNCIL

NOTICE IS HEREBY GIVEN that a special meeting of the Cupertino City Council is hereby called for Tuesday, October 05, 2021, commencing at 5:30 p.m. In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location. Said special meeting shall be for the purpose of conducting business on the subject matters listed below under the heading, "Special Meeting."

SPECIAL MEETING

ROLL CALL - 5:30 PM

STUDY SESSION

Subject: Update on Housing Element Process and Housing Survey Recommended Action: That the City Council receive the report and provide input to staff on public engagement and next steps for the Housing Element update.
Staff Report
A - 2021 Housing Survey Data

ADJOURNMENT

REGULAR MEETING

PLEDGE OF ALLEGIANCE - 6:45 PM

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

1. <u>Subject</u>: Proclamation recognizing Cupertino High School's 50th annual Tournament of Bands (TOB)

<u>Recommended Action</u>: Present proclamation recognizing Cupertino High School's 50th annual Tournament of Bands (TOB)

A - Proclamation

2. <u>Subject</u>: Proclamation recognizing October as Domestic Violence Awareness Month <u>Recommended Action</u>: Present proclamation recognizing October as Domestic Violence Awareness Month <u>A - Proclamation</u>

POSTPONEMENTS AND ORDERS OF THE DAY

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the Council on any matter within the jurisdiction of the Council and not on the agenda. The total time for Oral Communications will ordinarily be limited to one hour. Individual speakers are limited to three (3) minutes. As necessary, the Chair may further limit the time allowed to individual speakers, or reschedule remaining comments to the end of the meeting on a first come first heard basis, with priority given to students. In most cases, State law will prohibit the Council from discussing or making any decisions with respect to a matter not listed on the agenda. A councilmember may, however, briefly respond to statements made or questions posed by speakers. A councilmember may also ask a question for clarification, provide a reference for factual information, request staff to report back concerning a matter, or request that an item be added to a future City Council agenda in response to public comment.

REPORTS BY COUNCIL AND STAFF (10 minutes)

- 3. <u>Subject</u>: Brief reports on councilmember activities and brief announcements <u>Recommended Action</u>: Receive brief reports on councilmember activities and brief announcements
- 4. <u>Subject</u>: Report on Committee assignments <u>Recommended Action</u>: Report on Committee assignments
- 5. <u>Subject</u>: City Manager update

 <u>Recommended Action</u>: Receive City Manager updates on emergency response efforts and other City business

CONSENT CALENDAR (Items 6-8)

Unless there are separate discussions and/or actions requested by council, staff or a member of the public, it is requested that items under the Consent Calendar be acted on simultaneously.

- 6. <u>Subject</u>: Approve the September 21 City Council minutes

 <u>Recommended Action</u>: Approve the September 21 City Council minutes

 <u>A Draft Minutes</u>
- 7. <u>Subject</u>: Approve the September 28 City Council minutes

<u>Recommended Action</u>: Approve the September 28 City Council minutes A - Draft Minutes

8. <u>Subject</u>: Consider adopting a resolution authorizing remote teleconference meetings of the legislative bodies of the City of Cupertino for the period October 5, 2021 through November 4, 2021 pursuant to Brown Act provisions

<u>Recommended Action</u>: Adopt Resolution No. 21-090 authorizing remote teleconference meetings of the legislative bodies of the City of Cupertino for the period October 5, 2021 through November 4, 2021 pursuant to Brown Act provisions

Staff Report

A - Draft Resolution

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS

9. <u>Subject</u>: Consider an appeal of the Planning Commission's decision to uphold the Director of Community Development's approval of a Two-Story Permit to allow a new 2,992 square-foot two-story home with a 746 square-foot attached accessory dwelling unit and a Minor Residential Permit to allow a new 115 square-foot second-story balcony. (Application Nos.: R-2020-035, RM-2020-023; Applicant: Smart Lily, LLC.; Property Owners: Tariqul Khan and Chaman Hafiz; Appellants: Jitesh Vadhia and Chih-Lung Lin; Location: 1506 Primrose Way; APN # 366-15-018)

<u>Recommended Action</u>: That the City Council conduct a public hearing and adopt Resolution No. 21-091 for Application R-2020-035 (Attachment A) and Resolution No. 21-092 for Application RM-2020-023 (Attachment B) denying the appeal and upholding the Planning Commission's decision to uphold the Director's approval of the applications.

Staff Report

- A Draft Resolution for R-2020-035
- B Draft Resolution for RM-2020-023
- C Single-Family Residential (R-1) Ordinance
- D Planning Commission Resolution No. 6925 (R-2020-035)
- E Planning Commission Resolution No. 6926 (RM-2020-023)
- F Approved Plan Set
- <u>G Chih-Lung Lin Appellant Letter and Supplemental Documents</u>
- H Jitesh Vadhia Appellant Letter and Supplemental Documents
- I Neighborhood Distribution of Two-Story Residences

10. <u>Subject</u>: Consider amendments to Cupertino Municipal Code Sections 19.56.030 (Table 19.56.030), 19.56.030F, 19.56.040, and Table 19.56.040A and the addition of Section 19.56.080 (Density Bonus Ordinance) to allow density bonuses and other incentives as provided by state law and a new Section 19.56.080 providing that the Density Bonus Ordinance will be interpreted consistent with state density bonus law. (Application No: MCA-2021-003; Applicant: City of Cupertino; Location: Citywide.)

Recommended Action: That the City Council conduct the public hearing and conduct the first reading of Ordinance No. 21-2230: "An ordinance of the City Council of the City Cupertino amending Cupertino municipal code sections 19.56.030a (table 19.56.030), 19.56.030f, table 19.56.040a and adding section 19.56.080 (density bonus ordinance) to allow density bonuses and other incentives as provided by state law" (Attachment A) to:

- 1. Find the actions exempt from CEQA; and
- 2. Adopt amendments to Cupertino Municipal Code Sections 19.56.030 (Table 19.56.030) 19.56.030F, and Table 19.56.040A to allow for density bonuses and other incentives as provided by state law; and to add a new Section 19.56.080 providing that the Density Bonus Ordinance will be interpreted consistent with state density bonus law.

Staff Report

A - Draft Ordinance

B - HCD TA letter to City

C - Incentives for Affordable Housing

ORDINANCES AND ACTION ITEMS

11. <u>Subject</u>: Consider Conducting a First Reading of an Ordinance Related to Municipal Code Amendments to Mandate Organic Waste Disposal Reduction and Edible Food Recovery, as Required by Senate Bill (SB) 1383 and its Implementing Regulations.

Recommended Action: Conduct the First Reading of Ordinance No. 21-2231: "An Ordinance of the City Council of the City of Cupertino Amending City Code to Repeal Section 6.24.037, Adopt a New Section 6.24.037, Adopt a New Section 6.24.038, and Amend Sections 6.24.010, 6.24.020, 6.24.060, 6.24.240, and 9.16.030, to Mandate Organic Waste Disposal Reduction" (Attachment A), which Includes a Finding that Adoption of the Ordinance is Exempt from the California Environmental Quality Act.

Staff Report

A - Draft Ordinance

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

ADJOURNMENT

The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to http://www.cupertino.org/cityclerk for a reconsideration petition form.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, Cupertino, California 95014, during normal business hours; and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.

IMPORTANT NOTICE: Please be advised that pursuant to Cupertino Municipal Code section 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agendized item. These written communications are accessible to the public through the City's website and kept in packet archives. Do not include any personal or private information in written communications to the City that you do not wish to make public, as written communications are considered public records and will be made publicly available on the City website.



CITY OF CUPERTINO

Agenda Item

21-9737 Agenda Date: 10/5/2021

Agenda #: 1.

Subject: Update on Housing Element Process and Housing Survey

That the City Council receive the report and provide input to staff on public engagement and next steps for the Housing Element update.



COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION

CITY HALL 10300 TORRE AVENUE • CUPERTINO, CA 95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333 CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 5, 2021

<u>Subject</u>

Update on the Housing Element Process and Housing Survey.

Recommended Action

That the City Council receive the report and provide input to staff on public engagement and next steps for the Housing Element update.

Discussion

Background

<u>RHNA and Housing Element Update:</u> The City is currently preparing for the 6th Cycle Regional Housing Needs Allocation (RHNA) and Housing Element update, which covers the planning period of 2023 to 2031. The Housing Element is part of Cupertino's General Plan and identifies policies and programs to meet the housing needs of the City's current and future residents at all income levels. State law requires that every city and county in California adopt a Housing Element approximately every eight years to reflect the RHNA for each jurisdiction. Determination of the RHNA is the first step to updating the Housing Element. Additional background on the RHNA have been detailed in prior staff reports dated:

- May 19, 2020¹: City Council study session provided background on Plan Bay Area 2050 and RHNA.
- July 8, 2020²: City Council special meeting provided a review of the CA Department of Housing and Community Development (HCD) RHNA Determination.

https://cupertino.legistar.com/LegislationDetail.aspx?ID=4524386&GUID=97E209AB-F8E2-4D11-8048-681A2ECB7C42&Options=&Search=

 $\underline{https://cupertino.legistar.com/LegislationDetail.aspx?ID=4587061\&GUID=3DE252BA-DD6E-4A22-9E07-A1CFD5F59113\&Options=\&Search=$

¹ 5/19/20 meeting available at:

² 7/8/20 meeting available at:

 November 10, 2020³: Planning Commission study session provided a review of the Association of Bay Area Government's (ABAG's) RHNA proposed methodology report.

The City's current draft RHNA (as of May 2021) is 4,588 units⁴, which is a 331% increase from the last cycle. Draft RHNA obligations are subject to change pending the RHNA appeals process, which will be completed in late Fall 2021. The Final RHNA Plan is anticipated to be adopted by the ABAG Executive Board in December 2021.

Following determination of the RHNA, cities must demonstrate that they have adequate sites to accommodate the RHNA (see *Figure 1*). There are specific requirements on site selection, ensuring that the City has policies to support the development of housing for persons at all income levels and abilities, as specified in State law. The 6th Cycle Housing Element update is due to be completed by January 31, 2023.

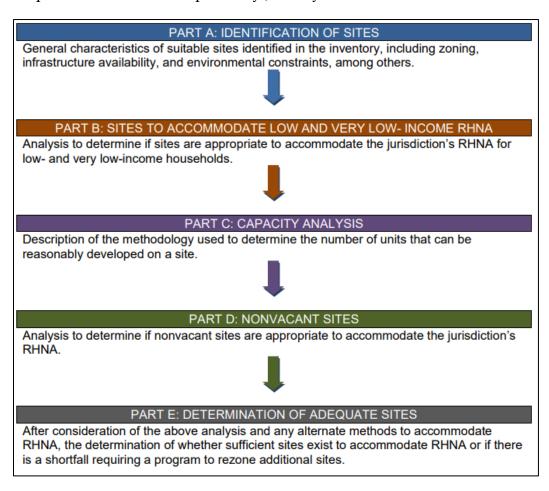


Figure 1. Sites Inventory Flow Chart from HCD's Housing Element Sites Inventory Guidebook: https://www.hcd.ca.gov/community-development/housing-element/docs/sites inventory memo final06102020.pdf

⁴ ABAG's Draft RHNA Plan with Cupertino's allocation available at: https://abag.ca.gov/sites/default/files/documents/2021-05/ABAG 2023-2031 Draft RHNA Plan.pdf

<u>Housing Survey:</u> As part of the fiscal year (FY) 2020-21 City Work Program, the City Council established a Housing Survey Subcommittee comprised of Councilmembers Chao and Willey to develop a Housing Survey to poll interested persons on their thoughts and ideas about housing.

Analysis

<u>Housing Element Update:</u> While the City Council initiated work for the 6th Cycle General Plan Housing Element update and awarded a consultant agreement to EMC Planning Group (EMC) for the work based on the approved scope of work, on September 21, 2021⁵, outreach efforts to engage and educate the public have been underway since Spring 2021.

The following outreach efforts, including a two-part joint study session series with the Housing Commission, Planning Commission and City Council, have been conducted to date for the Housing Element update:

- April 27, 2021⁶: This first of two joint study sessions, facilitated by the Santa Clara County Planning Collaborative's technical support team, Baird + Driskell, focused on an introduction and overview of the Housing Element structure and required sections.
- May 11, 2021⁷: The second joint study session by Baird + Driskell provided participants an opportunity to explore best practices for the required sites inventory, as well as example Housing Element policies.
- August 9, 2021: The City participated in a virtual community meeting series, "Let's Talk Housing," hosted by Santa Clara County's Planning Collaborative. The meeting was specifically for the Cities of Cupertino, Los Altos, Saratoga, and Monte Sereno. Approximately 60 participants attended the event with an estimated 38 participants attending for Cupertino. Some of the topics discussed in the Cupertino break-out session focused on the importance of housing affordability at all income levels, a lack of senior housing, traffic safety issues, and limited public transportation.

The staff and consultant Housing Element kick-off meeting was held on September 28, 2021 to outline project goals, milestones, public outreach program, and the sites inventory. The draft Housing Element timeline has been prepared to highlight major milestones:

 $^{^5\,9/21/21\} meeting\ available\ at:\ \underline{https://cupertino.legistar.com/LegislationDetail.aspx?ID=5139085\&GUID=49F1DF23-27A3-4725-9BC5-DAE83FA58A66\&Options=\&Search=$

⁶ 4/27/21 meeting available at: https://cupertino.legislationDetail.aspx?

⁷ 5/11/21 meeting available at: <a href="https://cupertino.legistar.com/LegislationDetail.aspx?ID=4939554&GUID=CB446516-C871-412D-9BBD-BF6A6B0AD561&Options=&Search="https://cupertino.legistar.com/LegislationDetail.aspx?ID=4939554&GUID=CB446516-C871-412D-9BBD-BF6A6B0AD561&Options=&Search="https://cupertino.legistar.com/LegislationDetail.aspx?ID=4939554&GUID=CB446516-C871-412D-9BBD-BF6A6B0AD561&Options=&Search="https://cupertino.legistar.com/LegislationDetail.aspx?ID=4939554&GUID=CB446516-C871-412D-9BBD-BF6A6B0AD561&Options=&Search="https://cupertino.legistar.com/LegislationDetail.aspx?ID=4939554&GUID=CB446516-C871-412D-9BBD-BF6A6B0AD561&Options=&Search="https://cupertino.legistar.com/LegislationDetail.aspx?ID=4939554&GUID=CB446516-C871-412D-9BBD-BF6A6B0AD561&Options=&Search="https://cupertino.legistar.com/LegislationDetail.aspx?ID=4939554&GUID=CB446516-C871-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971-412D-9BBD-BF6A6B0AD561&C971

Milestone	Time Frame
Community Education and Engagement	Fall 2021 – Winter 2022
Review and update Goals, Policies, & Technical Analysis	Fall 2021 – Spring 2022
Preparation of Site Inventory	Fall 2021 – Winter 2022
City Council Approval of Draft Sites Inventory	Late Winter 2022
Preparation of Environmental Documents	Winter - Summer 2022
Preparation of Draft Housing Element	Winter - Summer 2022
City Council Study Session of Draft Housing Element	Fall 2022
Submit Draft Housing Element to HCD for Certification	Fall 2022
Preparation of Final Housing Element with HCD Feedback	Late Fall 2022
City Council Adoption of Final Housing Element	Winter 2022
Submit Final Housing Element to Required Agencies	By Jan 31. 2022

The Housing Element team will work to ensure that all milestones are met. Two of the primary focuses moving forward will be drafting and analyzing the sites inventory to account for the City's RHNA and public education and engagement. The current scope of work includes a robust public engagement plan with public meetings and study sessions (11 in total), two community meetings, three stakeholder meetings, robust online engagement, an educational webpage, and translation/interpretation services in a manner to ensure that a state compliant Housing Element can be presented to the Council by the state mandated deadline.

Staff has evaluated other options for public engagement, such as a housing-element specific advisory committee (an approach used in other jurisdictions such as Los Gatos and Palo Alto). However, these jurisdictions lack an advisory commission equivalent to Cupertino's Housing Commission. The current scope of work includes engagement with the public through the Housing Commission, in addition to other public engagement. Staff believes that the current public engagement plan is robust and therefore does not recommend forming a Housing Element advisory committee.

The content of the community meetings and online engagement will be designed to help obtain input from the public, which will inform staff, consultants, and decision makers to prepare and adopt a compliant Housing Element in a timely manner.

<u>2021 Housing Survey</u>: The Housing Survey Subcommittee met over nine public hearings between September 2020 and August 2021 to develop the survey, which was available to the public for six weeks between June-July 2021. The survey provided residents with an opportunity to submit detailed feedback on expectations regarding current and future housing in the City.

A total of 935 individuals completed the survey, of which 93% identified as Cupertino residents. Respondents identified as 76% homeowner/17% renter. Among other

responses (see Attachment A for complete 2021 Housing Survey Data), it is noted that 76% of the respondents indicated that they were most concerned with traffic impacts from higher density housing developments, and 75% were in favor of Accessory Dwelling Unit (ADU) type units. Survey responses will be used to inform the 6th Cycle Housing Element update.

Next Steps

Please refer to the timeline above. The Housing Element update must be completed by January 2023.

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

<u>Prepared by</u>: Erika Poveda, Associate Planner

Kerri Heusler, Housing Planning Manager

Piu Ghosh, Planning Manager

Reviewed by: Benjamin Fu, Director of Community Development

Dianne Thompson, Assistant City Manager

Christopher Jensen, City Attorney

Approved by: Greg Larson, Interim City Manager

Attachment A - 2021 Housing Survey Data



July 19, 2021, 9:16 AM

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What does the future of housing in Cupertino look like to you?

Summary Of Responses

As of July 19, 2021, 9:16 AM, this forum had: **Topic Start**

Attendees: 1413 May 31, 2021, 4:04 PM

935 Responses: Hours of Public Comment: 46.8

QUESTION 1

What is the ZIP code where you currently live?

 $935 \; (93\% \; \text{of which inputted the Cupertino zip-code} \; 95014)$ Answered

Skipped 0

QUESTION 2

Which of the following best describes you? (Select all that apply)

	%	Count
I am a resident of Cupertino	91.9%	859
I work/study in Cupertino	17.9%	167
I own a business in Cupertino	3.7%	35
I own property in Cupertino	37.1%	347
I am/represent a developer	0.4%	4
Other	3.1%	29

QUESTION 3

What best describes your current housing situation?

What does the future of housing in Cupertino look like to you?

	%	Count
Homeowner	76.1%	712
Renter	16.6%	155
Living with others but not paying rent or mortgage	4.2%	39
Living with others and assisting with paying rent or mortgage	1.7%	16
Prefer not to say	0.5%	5
Other	0.9%	8
*No residents selected "Currently Experiencing Homelessness"		

QUESTION 4

What elements should a new housing development include? (Select all that apply) Intent: To identify greatest desired elements for future housing development projects.

	%	Count
Mixed used element (retail space with housing)	50.4%	471
Bike/pedestrian pathways and facilities	60.5%	566
Park/Open space	69.7%	652
Sufficient spacing and landscaping (setback from right of way)	58.3%	545
Ample on street/off street parking	58.2%	544
Other	16.9%	158

QUESTION 5

Cupertino currently has a target of 2.93 acres of parkland per 1,000 residents. As we continue to have more housing development in the City, what do you think Cupertino needs in terms of park/open space?

What does the future of housing in Cupertino look like to you?

	%	Count
Has adequate existing park/open spaces in the City to accommodate future housing development	35.6%	333
Needs more park/open spaces in the City to accommodate future housing development	56.6%	529
Other	7.8%	73

QUESTION 6

The state currently mandates Cupertino to plan for 4,588 units in the upcoming 2023-2031 Housing Element cycle. Were you aware of this?

	%	Count
Yes	38.3%	358
No	57.0%	533
Other	4.7%	44

QUESTION 7

Referring to the pictures below, and realizing that economic pressures are pushing for higher density, what is your preferred density of housing? Please rank in order of preference.

Intent: To identify what level of density is most desired for future housing development projects.

Below represents the aggregate responses ordered in from most to least popular.

- 1. 20 units per acre (414 residents listed 20 units at the top of their order)
- 2. 35 units per acre (218 residents listed 35 units at the top of their order)
- 3. 25 units per acre (147 residents listed 25 units at the top of their order)
- 4. Don't know (136 residents selected "Don't Know")

QUESTION 8

In residential mixed-use development, how much retail space do you think would be desirable? Note: Retail space means an establishment that is primarily engaged in the rental or sale of goods, merchandise, or services to the general public and not to wholesale clients or accounts.

What does the future of housing in Cupertino look like to you?

	%	Count
About 10% of the project	42.1%	394
About 33% of the project	22.8%	213
About 50% of the project	7.6%	71
Don't know	13.4%	125
Other	14.1%	132

QUESTION 9

What impacts of higher-density housing developments concern you? (Select all that apply) Intent: To identify greatest concerns of residents for future housing development projects.

	%	Count
Increased traffic	75.6%	707
Increased enrollment in local schools	28.3%	265
Increased need for parks/open space	41.7%	390
Increased need for bike lanes	26.7%	250
Other	27.6%	258

QUESTION 10

Viewing the examples of building heights above, please choose which height do you feel is most in keeping with the overall character of the City?

Intent: To identify the desired building height in each area to maintain the character of those neighborhoods.

Stelling Gateway

What does the future of housing in Cupertino look like to you?

	%	Count
2-3 Stories	54.5%	510
4-5 Stories	21.1%	197
6-7 Stories	10.3%	96
8-9 Stories	4.3%	40
10-11 Stories	9.8%	92
North De Anza Gateway	0.4	Occupt
2-3 Stories	% 41.5%	Count 388
4-5 Stories	23.9%	223
6-7 Stories	14.0%	131
8-9 Stories	7.7%	72
10-11 Stories	12.9%	121
North De Anza Special Area	0.4	0
2-3 Stories	% 42.1%	Count 394
4-5 Stories	23.0%	215
6-7 Stories	14.7%	137
8-9 Stories	7.6%	71
10-11 Stories	12.6%	118

North Vallco Gateway

What does the future of housing in Cupertino look like to you?

	%	Count
2-3 Stories	32.0%	299
4-5 Stories	22.8%	213
6-7 Stories	15.7%	147
8-9 Stories	9.6%	90
10-11 Stories	19.9%	186
City Center Node		
	%	Count
2-3 Stories	38.3%	358
4-5 Stories	21.4%	200
6-7 Stories	15.5%	145
8-9 Stories	8.3%	78
10-11 Stories	16.5%	154
North Crossroads Node		
		Count
2-3 Stories	44.1%	412
4-5 Stories	24.2%	226
6-7 Stories	14.8%	138
8-9 Stories	6.3%	59
10-11 Stories	10.7%	100

Oaks Gateway

What does the future of housing in Cupertino look like to you?

	%	Count
2-3 Stories	44.8%	419
4-5 Stories	22.1%	207
6-7 Stories	13.7%	128
8-9 Stories	6.7%	63
10-11 Stories	12.6%	118

QUESTION 11

In general, are there areas in Cupertino where increased heights would be acceptable? (Select all that apply) Intent: To identify potential locations for future housing development projects with increased heights

	%	Count
Near freeways	49.4%	462
Appropriately setback from single-family neighborhoods	23.3%	218
Near office parks	50.4%	471
Near public transportation	42.9%	401
All of the above	27.8%	260
None of the above	16.9%	158
Other	7.7%	72

QUESTION 12

What size of housing units are most needed in the City? (Select at least two choices) Intent: To identify which kind(s) of floorplans residents believe are most needed in the City. Note: Floorplans are for example only.

What does the future of housing in Cupertino look like to you?

	%	Count
Studio Apartment	15.0%	140
1-bedroom units	32.1%	300
2-bedroom units	62.4%	583
3-or more-bedroom units	45.5%	425
Don't know	11.7%	109

QUESTION 13

Accessory dwelling units (ADUs), are allowed in all residential zoning districts where single family residences are allowed to promote the goal of affordable housing within the City. The City has developed ADU Programs & Resources to help residents. Are you aware of these types of allowable units?

	%	Count
Yes	66.2%	619
No	33.8%	316

QUESTION 14

Do you support these types of units?

	%	Count
Yes	75.1%	702
No	25.7%	240

QUESTION 15

Do you have concerns regarding these types of housing?

Answered 537 *Responses listed on pg. 13.

What does the future of housing in Cupertino look like to you?

Skipped 398

QUESTION 16

What type of housing units do you think the City needs more? (Select all that apply) Intent: To identify which kind(s) of housing units residents believe are most needed in the City.

	%	Count
Detached single-family units	32.0%	299
Below Market-Rate units	48.9%	457
Multi-family/Apartment units	43.9%	410
Mixed-Use complexes (housing and commercial/retail)	47.5%	444
Townhome/Condominium units	56.9%	532
Housing units for those with disabilities	25.7%	240
Senior housing units	46.1%	431
Supportive housing units Note: Supportive housing assists homeless persons in the transition from homelessness, and to promote the provision of supportive housing to homeless persons to enable them to live as independently as possible.	27.5%	257
Don't know	2.9%	27
Other	7.5%	70

QUESTION 17

What factors are most important to you when choosing your home or apartment? (Select all that apply) Intent: To identify which kind(s) of amenities or services residents believe are most desirable when looking for housing.

What does the future of housing in Cupertino look like to you?

	%	Count
Cost	72.3%	676
Near bus/transit stops	24.5%	229
Close to services (commercial/retail/public facilities/health care facilities)	55.1%	515
Close to work	44.3%	414
Close to schools	41.6%	389
Low crime rate	74.1%	693
Disability-friendly	15.5%	145
Prefer not to say	0.9%	8
Other	10.3%	96

QUESTION 18

Do you have any additional thoughts, ideas, or comments?

333 *Responses listed on pg. 25 Answered

602 Skipped

QUESTION 19

Would you like to be further involved with the community engagement that will occur with the housing development likely to result from mandate mentioned earlier?

	90	Count
Yes	50.7%	441
No	49.3%	428

What does the future of housing in Cupertino look like to you?

QUESTION 20

If yes, please leave us your email address. (Note: Emails will not be shown publicly)

Answered 491

Skipped 444

15. Do you have concerns regarding these types of housing?

no concern. it's a good way to gently increase density and provide more housing

It violates the free market principle

I've applied for places like this and the owners hike the prices to apartment prices. I wish there were caps on these.

If everyone built ADUs, the nature of the city would change considerably.

ADU may result in excessive noise to the neighbors due to structure being close to the property lines maybe a parking problem right now there is a Bed and Breakfast housing issue which as caused parking problems need to look into this.

Build more of it

They get built but occupied by owner rather than being rented out to another party

Affordable housing will bring in crimes, create social issues among residents, lower property value of existing homes.

SFH zoning was designed to host one family, not multiple families. Allowing ADU without changing the number of off-street parking spaces hurt the neighborhood by putting way more cars on the street.

Not really - we built one ourselves in 2016-17 and I believe it has had no negative impact on the community

Building codes, potential for tenant abuse/mistreatment

No, other than the city's high fees for constructing them.

ADU increase demand on infrastructure

make it beautiful and affordable

Its a band-aid, better than nothing, but there are better ways to address housing needs than throwing up bunch of studio bedroom's for families in need for housing.

Legacy wire clearance easement restricts homeowners from building ADUs. Need to re-survey and find out what parts of Wire clearance easements are actually needed - instead of each homeowner doing this on their own

there need to be strick limits on the number of residents and parking must be sufficient so as not to impact neighborhoods

Encouraging people who can't afford to live here, to move here

That they remain ADU affordable

Adding strain on existing PGE grids in the Inspiration Heights area

that it does not get abused

Increased crime, increase crowding, I am very concerned

One concern would be parking in an single-family residential area, if there were so many ADU's that street parking becomes a premium. I don't think this would be a major issue.

Adequate parking.

Increased noise and reduction of privacy for neighbors

Parking, noise

Yes.

Yes, regarding landlord-tenant/eviction issues, for starters

No concerns, I think they're a step in the right direction

Parking

yes

My main concern is lack of street parking when too many ADUs are built in a neighborhood and too many bedrooms are rented out.

Prefer 6-24 month lease terms rather than AirBnB type nightly rental

more people = more traffic, more students

These structures present problems with privacy concerns and fire danger and parking problems.

Yes. Please stop destroying the character and charm of Cupertino with your construction we don't need these high density units. With covid loose density and social distancing is key.

Density, privacy, noise, traffic/parking,

The City should ensure there are enough to meet the needs of the community. So no more need of lotteries and waitlists for BMR homes

Yes, parking concerns and water use concerns

Yes. They need to still "honor― the intent and feel of single family home neighborhoods

the city should have incentives and structure the permit system to make these easier for homeowners to build

Most lots are too small to have adequate setback.

Landlords taking advantage of these spaces to overcharge rent

Affordability

Low efficiency in terms of heating/cooling. Bigger is more efficient per person or per sq ft) What about water use?

They will be for air bnb's; lack of parking on street

These should be for residents and not AirBNB rentals

Off street parking

None. Should also support building multifamily homes on single larger parcels.

They should be consistent with the zoning and look and feel of the neighborhood.

My fundamental concern w/ new housing is that we build condos not apartments - own rather than rent.

parking

A few

Smoking should be allowed.

They erode the appeal of living in a single family neighborhood. Increased need for parking, structures decrease the openness of yards, more turnover of residents.

ability to evict

Prefer approving existing unapproved ADUs than encouraging new buildings

Yes, ADU's should be allowed but restrictions should be put in place to minimize the change in the character of existing neighborhoods.

Worst of both worlds. Look awful and don't contribute much to the housing shortage.

IT looks ugly, bring in different type of living standard.

Can they be cheaper and faster to build?

Impact on water and energy supply *MUST* be considered! Impact on parking must be considered!

ADUs may change the character of the single family owner-occupied neighborhoods by adding more renters and encouraging property owners to use their property as rental only.

parking, traffic, schools

yes

Limit size to blend into the neighborhood

Water usage is main concern

They are not the solution to our lack of housing problems

AGAIN, the State of CA is FORCING their political motivations onto Local Govt.; this has NEVER been accepted in CA, it usurps LOCAL CONTROL, Local Planning. WHY HAVE LOCAL CITIES & COUNTIES if the State is going to make all the big decisions!!

Need to encourage more ADUs

the lot size in some areas are too small. We already live like sardines in a can! The infrastructure was NEVER planned to support the high density (roads, water, electricity, gas, etc)!!!

Appearance and impact on neighbors (set back from fencing)

The length of time it might take to usher project through the permitting and building process; also the cost.

building quality

It is probably insufficient for the community's needs, and are likely most ideal for in-law units and senior housing on the same sites as relatives.

Yes

Overcrowding/ over use of water

Increased people per unit area, increased crime, increased traffic, decrease support per person for schools, police, roads, and parks

Some areas should allow for two story or over the detached garage units.

Yes. I think they are only appropriate where there is adequate space, parking, etc. and do not unduly impact neighbors.

Yes, need more details about ADU.

There are still too many restrictions on ADUs. Building an attached ADU should be an option without performing an internal conversion.

With kids, too much noise.

Parking; resource limitations (water, power, internet bandwidth); too many residents in one ADU (over-crowding leading to health & safety issues).

increases density of neighborhoods, creates traffic and parking and safety issues

As long as there is parking, not really.

ADUs should not be used as AirBnB rentals. Longer term leases are okay.

Too much load on infrastructure

Reduction in open spaces, no matching increase in roads, schools, shopping

Additional traffic.

When owners don't live in their primary residence and use the ADU and residence as rentals.

Yes, concern is the safety of people in the adu.

parking

Ruin the residential properties by adding small units in the backyards that some owners will use just to make some extra money

for renter, it will be hard to track

none. only look forward to the possibility of their presence in cupertino.

No concerns, except to also have adequate parking

Losing a lot of space around a home to ADU's.

Yes overcrowding and noise

The higher the density, there is more of a lack of privacy, risk of parking problems, crime.

What this city needs is actual housing, not granny shacks. Behave like a city and build some proper apartments.

Higher traffic, noise, parking

I do. It's one thing to have an extra habitable space for your parent-in-law or teenager or nanny...but lately these are on B & B sites and Craigslist as rentals, with little regulation.

Not enough people understand the benefits

Yes. The ADUs should be allowed on residential lots without encroaching on the current required setbacks. Thus they would not impact the adjacent lots.

Overcrowded single family neighborhoods

Cupertino backyards are generally too small

No. Cheap housing is always necessary in south bay. People have to survive.

while you've tried to improve the approval/permits for ADUs, more needs to be done to make this MUCH simpler for residents building ADUs

Parking and traffic

I believe ADUs fit the culture and needs of Cupertino well

Increased water usage. Increased parking. Increased traffic. Increased smoking.

Should not be used for short term rentals like airbnb if current ordinance allows that

Enough yard space should be left to service both units

on street parking in residential areas; traffic

Impact to school and public resources

I don't know enough to provide intelligent input - would not want this to make neighborhoods super crowded, unappealing.

I would think that to qualify for an ADU designation, a designation of low or below market rent rate would be appropriate. Stop the price gouging of the inflated market and get housing available to students and low-income earners in ADUs.

built too close to neighbors, increase renters and turnover of people in SFR areas

Increased load on existing resources i.e. sanitary drains, water, parking

Not really as long as the occupants follow rules

Should not be rentals, especially in quiet residential areas. Granny houses great as long as granny doesn't have to pay.

parking

Make sure they meet the health and safety codes

Approvals should be need based. For a positive example, a neighbor is adding an ADU for her mentally disabled son and his caregiver, assuring that he will not be placed in an institution.

Parking is already an issue in SFR neighborhoods. Any new buildings need to have in-building parking spaces.

ADU causes problems. Insufficient parking in residential areas. Noise and privacy issues.

Illegal building construction that are not built to code and could be a safety hazard for neighborhood

None for ADU

People might not be able to live in most ADUs without a car. Need more housing where cars aren't required.

Not enough

more people in the city, make more apartments instead

They need supportive staff, and other resources.

none

ADU electrical requirements represent small increases in peak load; handling sewage would need to be done properly. If this is to be a solution for housing density, rules relating to yard size and distance

of ADU from property lines and other buildings on the property must make sense. Small lots and old rules mean very few properties can add an ADU.

Yes, we don't need more housing

ADU additional parking

Not as long as they don't become a basis to change the zoning to duplexes or 4-plexes in current single family dwelling zoning

They're not being built fast enough.

I don't understand what, "Accessory dwelling units (ADUs), are allowed in all residential zoning districts where single family residences are allowed to PROMOTE the goal of affordable housing within the City." How do they "promote"?

yes

None

We generally do not have the space for ADU.

CRIME

Higher population density is bad for Cupertino.

none

Living in a neighborhood that already has limited parking it only makes matters worse.

Build More and allocate more funds for Housing Improvements. Rents are too high in Cupertino and having more units will certainly help

earthquake prone

These older houses and neighborhoods were not zoned and built for an additional family or people to be living on the property. Cupertino's houses aren't on large properties in the first place. There would be stress on the old houses and infrastructure that would not be seen and left to the neighbors and community to bear the burden (parking, slower internet due to more usage for that household, etc).

No. We need more housing.

population density

Noise

Fills up the neighborhood with cars on the street. Increases density. Destroys neighborhood ambiance.

safety. Ugly with lot's area below 10000 sq ft.

Some concern about use as rental units. Ok for use as extra family space or home office.

Yes, city is turning Cupertino into Ruben environment and we have NO Water. Stop development!

Potential parking space availability issue

I disagree to have more housing development in the City. The City is overcrowded already.

I just want to be affordable

Parking and # of car on the street blocking driveways . Setbacks from neighbors around.

New ADU development must also include enough off-street parking to accommodate all new residents.

They are not an appropriate solution for the existing housing crisis.

yes, unless they are approved strongly by the neighborhood where they will located. it is patently unfair to impose such a change on a neighborhood where residents are opposed to such units. perhaps if the rules are such that only attractive and unobtrusive units are approved, along with neighborhood support, then it would be okay, but generally this should apply mostly to neighborhoods closer to the town center and business districts.

Yes

destroy the uniformity of the neighborhood, and most residential lot size is not big enough for ADU and added parking need.

Low income units should have background check on prior criminal activities.

Density of housing increases and quality decreases

Only if police force can keep up for the security of the coomunity.

It has the same bad effect as the housing units

People in our neighborhood use their ADUs as very short term rental units; it is akin to having a small hotel next door.

That they may be short-term-rented out on airbnb

Only on especially large lots. I don't want my neighborhood to be significantly more dense.

Street parking. If residents were required to park their cars in their garages, I would be less concerned.

Concern that these are not being rented out so allow homeowners to circumvent zoning density rules.

Lack of parking, increasing street parking in neighborhoods

Yes

only crime. I'd like to see an increase in law enforcement if there are more residence.

yes

None

I have significant concerns regarding high-density housing in terms of bringing more traffic to an already heavy-traffic area as well as lowering school quality and property values (which are closely tied to schools in this area)

safety

They do not have parking spaces, creating a clutter on the streets

No concerns as long as they are well-built, presentable, and integrate well with existing properties not enough for new families and low-income households

Not all of them should be AirBnB or VRBO type housing. The majority shold be for long term residents.

The type of housing is fine. The landlords can be a bit unprofessional, pricing can be oddly high, and units sometimes don't have full amenities like kitchens, so it's "renter beware". I'd like to see more normal apartment buildings in the city.

Decreases desirably of Cupertino neighborhoods

My neighbor is putting one in for her in Laws which is a great idea even though the backyard is small. However I worry about the majority of home owners who do not love in their houses and rent them out. The ADU's would bring in more rent money for them but make the neighborhood more congested and more cars on the street.

Yes. Parking & increased neighborhood traffic

If they are larger than 1 bedroom, this may impact street parking availability. Also wonder whether there is a "cap" on these per neighborhood.

If they are larger than 1 bedroom, this may impact street parking availability. Also wonder whether there is a "cap" on these per neighborhood.

No - if done to code

To encourage the building of ADU's, the city of Cupertino should minimize fees

Depends on the size of the lot and what the intended use is for. Inlaw(s) quarters are fine (if space allows) but rentals are a "no" due to lack of parking or their need for street parking.

High % used for short term rental will increase security issues and traffic. In-law quarters used by the homeowner and not short-term rentals would be acceptable.

A good idea, a tiny improvement, but they won't do much to meet local housing needs.

I think they're awesome to respectfully increase density and solve immediate housing needs. They don't lead to home ownership, however, for the residents. They will only ever be rental properties and increase the wealth of those who are already homeowners in our area. I would be interested in lot subdivision or condoization that actually allows residents to own their homes.

Make sure they are permitted and have adequate parking

everyone should be accommodated

Street parking, traffic

yes - no parking , bad for neighbors

Safety and privacy concerns

none whatsoever!

Are these like mother-in-law cottages? If so, I have no concerns.

I am very concerned. Where are parking spaces to accommodate ADU? We have so many cars parking on the street in residential area? I strongly oppose ADU.

no. If our teachers and fireman cannot afford to live in our area, than that is terrible. We need to provide those that support our families and are not paid like tech employees ability to live in the community they work.

Tenant plumbing and potential habitability issues.

Crime

Parking

overload on utilities

People may use ADU to increase living space evading floor space limitation, especially JADU which adjoining main residence

I've seen some bad looking ADUs in other cities - mostly boxlike second floor unit above garages. Also people filling their backyards with separate or attached structures. Streets full of parked cars from added density.

People should be allowed to add housing as desired on their property.

have to be regulated

Yes

Low level of people

Will they really be used to address housing issues or more for profit by property owners as rental things like AiBnB? The latter devalues the efforts of the first.

Yes, crime is my concern.

Building height

unslight neigborhood

Yes, they are overly expensive.

the property tax consequence of adding an ADU provided that it adds square footage of the house Until better public transport is available, I am concerned with extra cars parked on streets. Looks cluttered and trashy.

Should not be used for short term rental.

I'm confident the rule will be abused by unscrupulous homeowners.

Density of Population, Traffic, Transitory Population, Crime

Short term rentals

Safety for tenant

appropriate inspections to make sure they are as safe as other residential buildings

Misuse and abuse of ADUs

No, I think this should be more publicized.

none

Yes, I do have concern: safety, noise, traffic, everything. It's also hard for the neighborhood watch. It'll be hard for block leaders or neighbors to know who exactly are living in the neighborhood. Potential safety issues.

water, more cars, energy

No adequate parking... Current Cupertino housing mix never considered ADU parking requirements!

Street parking

Adequate water, parking, number of occupants

Not enough parking

Need parking, setback for trees and landscaping, increased allocations for utilities and parks, ADUs should not block solar panels and sunlight of neighbors, balconies should not be allowed.

ADU never help housing. High raise building are the real solution.

I've applied for places like this and the owners hike the prices to apartment prices. I wish there were caps on these.

No - as long as they are built/maintained and operated within the law, I think they are great!

Most residents of these units are transients, I am very concern about neighborhood securities.

create more cars distributed throughout the city, not pedestrian friendly, not retail friendly. Worst way to grow housing.

I get concerned if they are used as AirBnb units

that there is enough parking in the neighborhood where they are being added.

Yes - parking, congestion, infrastructure overload (water, sewage).

Yes. Overcrowding in units and/or use as airb&bs

I think ADU's are an important way to allow homeowners the opportunity to develop homes to meet their families' needs, whether that is for a family's use, or later in life as seniors. Life brings changes, not always expected.

Misuse of these units - I would prefer to see our firefighters, police officers, teachers using these

While good for family members or children, they are not a solutions for the housing crisis that is crushing young people who should have a right to live independently.

Yes. There need to be restrictions on lot size in order to permit ADUs

It changes the quality of live of neighbor by increasing occupancy density per unit

adequate street parking

Crime. Low income housing brings crime to surrounding neighborhoods.

Must blend in with the physical appearance of the local neighborhood, and not encroach on neighbors' privacy, space and noise

no …Â my concern is we don't have enough housing

yes - it will artificially impact/lower value of single family residences

adequate parking

No I don't have concerns. I think that they are a great solution in the short term. I wish the City offered a streamlined system that would expedite homeowners understanding the pros/cons,

permitting, utilities installation, and perhaps even a crane going down the street dropping prefab units in back yards.

yes

Need more of them

Permit costs

NO - just need more

Need to have more

Increased traffic and population density

safety, traffic, local school enrollment

Don't care yet.

Yes, parking, noise.

yes, again. you are bringing in people who cannot afford to live here. i am concerned about increased crime. there are other places to live that they can afford.

Total combined living space should be less than 50% of property square footage. Total number of ADU should be limited to less than 15% of total single detached residential home.

Only regarding allowing smoking near these residences

They will not help anything in regard to housing. We need high density housing.

Yes - we need to allow two ADUs per (formerly R-1) parcel.

I'm taken aback by the council's recent legislation which, by my understanding, forbids smoking on all properties containing an ADU

Increases parking problems. Also, would expect property tax for each ADU and residence.

Parking and zoning

No; I think the city needs more housing

I don't think renters want to live on the same property as the landlords

Doesn't encourage a community feel especially when they're being used as AirBnBs

I am concerned with untrained Managers that fail to provide adequate resources to those in need for a successful lifestyle change.

Price?

CA and Cupertino both rushed ADU implementation. The result is that they are NOT addressing affordable housing but here in Cupertino, rich people are avoiding paying their fair share of property tax for expanding their own square footage while trouncing on their neighbors privacy. ADUs should have the same setback restrictions, property tax impact as attached additions.

yes

Parking

No, I have no concerns with ADU. ADU's are great for grandparents to live close or use an office space or rental for students at De Anza College.

Yes, as it is currently too hard to get ADUs approved; the long timeframe is prohibitive. Please adapt San Jose's supportive ADU policies, approval in 21 days. Cupertino takes 9+ months!

More traffic

Parking if there isn't enough space in the driveway, the cars will be in the street

Traffic, Crowd, Privacy

Traffic, Crowd, Privacy

Yes! Rental ADUs increase traffic, crowding and crime in residential neighborhoods making them less safe and livable. It's better for "affordable" housing to be consolidated with mixed use in higher density developments.

should be easy approval process.

losing the purpose of having a single home: no privacy, too much traffic, devalue the property Size, height, and fire hazards.

No, as long as things are safe and not overcrowded. i.e. make sure they are single family dwellings, not jam packed with several families because they want our desirable school district.

ADUs? No.

Yes, the planning rules are being violated. People are building over the allowable area in the name of ADU. We have one example in our neighborhood where the owner build a carport for ADU parking but as soon as he received permit to move in, he covered the carport and the ADA renter is still parking on street. Also, the covering the carport added to their built up area and I am certain their house now is way above the allowable built-up area. City should make sure that rules are followed strictly and any violation should be fined.

adequate off street parking

the only concern is: some city counsels will try to block this kind of projects, even though is mandated by the state. and waste taxpayers money to go to court for a losing case.

Noise level; increase fire hazard and difficulty in fire suppression access.

I have only good feelings about ADU's because they allow property owners to re-shape their homes as their families grow, and as they age in place. It is their own property and it gives them more flexibility.

Some neighbors may object having a ADU next door them.

No, I fully support them, because I believe in property rights, they make neighborhoods better and add character, and I'm aware of our housing shortage here in Cupertino.

I think more specific site and design requirements are needed; size, setbacks, parking

I have no clue why the state wants X number of new units. We need affordable housing for new families. Not studio apartments.

There is not enough awareness of the different types of ADUs that homeowners can build. There needs to be a bigger push to educate and encourage.

There is not enough awareness of the different types of ADUs that homeowners can build. There needs to be a bigger push to educate and encourage.

Only that they be built with permits

Parking

Extra water

ADU doesn't help affordable housing. Also, the need for housing may go down as tech companies moving to remote working model thanks to the pandemic situation.

Some of these adu can help staff for affordable housing.

Parking

Parking

Parking

Parking

ADU should be in proportion to the lot and multistory structure should be limited, new structure should be "green", ie, solar panel, grey water usage.

The city should make the permitting process for ADUs as streamlined as possible

Increased traffic in quiet neighborhood

on street parking.

Yes, ensure city regulates the short term and long rental units just like the multiple apartment buildings in terms of noise and activities.

parking

Increased residents mean increased traffic, increased cars parked on the streets, increased hazards for those on bikes and pedestrians, increased trash

Renting to families with the need of additional parking spaces.

increases density, quality of life which is not in character with Cupertino

yes

what happens to tenant when owner sells property?

Too many residents in a small area

ADU's need to be allowed, but under tight regulations.

Need a minimum of 1/2 acre

Increased parking in residential areas

They can become rentals, which is not always a good thing in a neighborhood

The parking.

Not sure but I am guessing that these units are built for family members.

Yes, again parking is a big issue when people build ADU and tenants bring two or more cars to the street.

More homeless people will move to Cupertino

How does sew connection to be handled

Too many cars using street parking & units too close to neighbors on small lots

Increased Crime for single-family homes. When adding adu to their backyard.

Yes, support ADUs for extended family.

Cheapens neighborhood

City must enforce the limits already in place, which are generous and can/should cover housing needs with ADU and JDU possibilities.

Crime, resources not being made available or people choosing not to take advantage of these resources and overburdening our limited resources.

traffic, noise, parking, local services, general overcrowding

Need to have regulations to prevent unscrupulous land lords who manages these adu units.

what are the rules for renting these usints. Also parking must be within the property and not on the street

Appropriate setbacks and accommodation for off-street parking

No. I'm all for ADUs (and mixed-use, and multifamily).

ADUs may change the character of the single family owner-occupied neighborhoods by adding more renters and encouraging property owners to use their property as rental only.

Parking

Changes the character of the neighborhood, adds housing density and fills the streets with cars

Should not impact character of neighborhood. Single story with appropriate setbacks so not seen by neighbors.

i don't understand their purpose.

My main concerns are about structural soundness and potential intrusion onto a neighbor's property line. Both of these should be addressable by ensuring units go through inspections and the official permitting process.

Illegal structures and not observing setbacks

No. It's the most inoffensive conceivable way to add housing.

I prefer single family, detached houses

Traffic and parking on residential streets

I don't want air b & b transience in family neighborhoods. ADU's seem to offer that opportunity, without regulation in place.

Parking, water usage, electricity usage

Nope

Great

Parking and set backs noise

Single family zoned neighborhoods may not have adequate parking if these units become common.

No, except for garages being converted.

ADU heights should be restricted

These can lead to lots of transient/temporary rentals and can potentially have an impact on the city character/safety etc

Infringement of neighbors privacy

Don't have enough parking

YES

I am concerned that we are not building them nearly quickly enough.

They don't provide enough housing.

yes and no. A certain number are desirable, but if every house had one, it would bring all the issues of densification.

Parking, changes the character of the single family neighborhoods

Where's the enforcement or requirement that an ADU would be used for its stated purpose (safe, stable, long-term housing for a new resident) vs short-stay rental, home office, music studio, or convenient guest cottage that adds to the value and owner's enjoyment of the home but provides a new home for no one?

18. Do you have any additional thoughts, ideas, or comments?

we need more housing

It is expensive here and the pay for public service workers does not support that unless you are in one of these programs.

Almost 40% in housing rentals hurts our community feel.

This survey should have included the Special Areas map for the question regarding building height and provided the average and max current heights for each area.

We need development. Without development, our aging population means our schools will have no students, and there will not be businesses to pay for our community needs. Without development this city's values will plummet. Further, wasting money on fruitless lawsuits preventing development only accelerates that demise.

I have a great deal and I think it is time that Cupertino City Council got together with me. Please give the public a chance to help.

Cupertino is way behind on providing affordable housing and needs to stop only catering to rich tech folks. Affordable housing, affordable housing, affordable housing!

Affordable housing should only offer to those who have been working for a Cupertino employer at least 2 years and whose employer is willing to sponsor the applicant and share part of the house cost.

Conservation for fewer cars. Much higher density that choices: 200 units/acre or more.

I think we can build attractive townhouse/condo/apartment complexes around interior spaces/gardens that allow for children to play and residents to gather together or sit in a quiet spot.

I think we just need more housing options... a very small percent of us that work in Cupertino can actually find a home there.

It's important to upgrade infrastructure before adding more housing.

Make sure the housing is compatible with bike and electric vehicles/

I hate all the high density, the lack of retail and the ugly bedroom community atmosphere. Spent the morning in Mountain View, Downtown has many restaurants and roads blocked for dining. So much more attractive.

for apartments, put as many as possible within the Vallco tower rather than having many tall apartment buildings throughout the city

I am a renter in Cupertino who has been wanting to buy a home in Cupertino for 10 years, but it's become more and more expensive over time, making it unattainable for our family to stay here. By living close to Apple (where I work), I can walk or bike to work and reduce traffic. My family and I love Cupertino, and consider it our home. Unfortunately we have had to look into moving away because we want to have a bigger space for our growing family, and we cannot afford a home here. By moving away we won't be contributing to the city anymore with our taxes, and I will still have to come to the office, which will add more traffic to Cupertino. Please build more housing. Please allow us to buy our own homes in the city. Build tall buildings, decrease housing cost. We want to live here, but it's starting to feel like Cupertino doesn't want to grow and keep up with housing demands. Please don't listen to the NIMBYs. Those of us who rent here want to stay here, and are being priced out. Also, please make sure more renters are being made aware of these Open Town Halls. Do the responses from renters vs owners match the representation in these Open Town Halls?

The Lehigh Quarry noise + air + water pollution and traffic issues need to be addressed or no one will want to move to this area.

If the state requires more affordable housing-Cupertino should build more studios high rises (10-15 floors) near Valco Mall so that those who live there will be able to walk/bike to shops and do not need to own cars. We need to make Cupertino 100% walkable/bikable city.

There are complex issues with all these selections and priorities. I would probably alter my opinion in on direction or another (more density/less density) based on more information and understanding on the topic.

We Don't need any high density projects in Cupertino

I'm excited about the prospect of new housing coming to Cupertino. I work here and live here, and I'd like to own a home here too.

I think we need to rezone commercial areas for mixed or residential use and build more condominiums for purchase, not rent. I think we need to develop more housing, creating a liveable city where people can become homeowners, take care of those homes, and live close to where they work. I think once we have built homes for the people who work in Cupertino, we will effectively have negated traffic concerns because people can walk/bike to work rather than drive.

The background info to this survey was very misleading. Prior city government identified 5 housing element sites. All 5 have had approved projects, but only 1 has been developed 7 years later, 2 have made no progress, and the current council has opposed and delayed development at the last 2. As a result, the yield of approved housing units has been less than 10% of the entitlements. This is a very poor outcome.

Stop the destruction of Cupertino. No more high riser plans. Reduce housing desire to moderate and prioritize modern retail. We need more modern retail. We do not need more office or high density housing.

Maybe provide for a RV or Mobile Home park that would be more affordable housing option. Survey does not allow for text in boxes!!!!!!

I have very serious concerns about single family homes being used for multiple tenant rentals (homes renting out every room to a revolving door of tenants).

It would have been helpful to include a map of the various zones for people like me who didn't know the various names like Homestead Corridor, North De Anza Special Area, etc. I was able to find a map with Google that helped, but a link or image would have helped.

https://cupertino.granicus.com/MetaViewer.php?view_id=18&clip_id=1633&meta_id=90588

I support adding high density mixed use housing along corridors across the city. Having schools, groceries, etc in easy walking distance is wholly compatible with a comfortable life and makes it easier to get things done with having to drive. I also support allowing 4-plexes minimum on all parcels. Cupertino should build out its bike network and lobby for higher levels of service from VTA to avoid traffic impacts. I'm glad Cupertino is already doing a great job with the bikes. Young families can no longer afford to buy here.

Rents need to be reduced. They're ridiculous and there's no controls in place to keep landlords from raising them

Sad that the Homestead Rd/ DeAnza Ave shopping center has no housing above it-- lost opportunity in the 2011 demolition/renovation.

Need a lot more very low income housing (affordable housing is too expensive. It needs to be for very low income).

The foundation of any future development has to involve transit and not just more cars. Bike lanes, walkable shopping, and light rail need to be part of the equation.

Yes, where is the appropriate for the density of the neighborhood? Where is the selection for appropriate infrastructure?

Cupertino is in desperate need of higher density housing. The schools are losing students, and many people are unable to afford a house here. Compared to other cities (MV, PA), Cupertino lacks a cute downtown charm with easily accessible restaurants/retail.

I know current residents/ owners worry about growth. I think if we build out owned housing rather than rentals, we can maintain a vibrant community. Remember, our school enrollment is SHRINKING! We need more families!!

Need housing for service personnel (low/moderate income), and for down-sizing seniors. Cuperino is a *city* and needs to get good at it. More density is inevitable, but it should be planned with amenities and transportation. BTW I am a member of Age Friendly Cupertino and Rotary Club of Cupertino.

I could not see the gateway map when making choices for building height, there are some places I think 3 story should be max. I think many families only live in single family homes because that's what's available and perceived as the California way of living. I see many families that don't use or care for their yards which brings down the whole neighborhood. Can we create multi unit housing with good privacy, good functionality (like in unit laundry) & good space for recreation? Shared space is a better use of the land we have. To me the perfect home would have the things that make my life simpler...a washer & dryer in unit, a place to enjoy the outdoors (could be public or private), grocery and other shopping walking distance, good sound insulation from my neighbors, a reasonable degree of privacy.

Questionnaire not appropriate for non-professional

I moved here when one story was highest, and then home savings was 2 stories and now! Worse is not having setbacks. Those units are no conducive to less stress for many reasons.

Please build more housing, both affordable and also for seniors who would like to stay in Cupertino but don't need a big house anymore!

Whatever decision you make must make housing more accessible and affordable. Homeowners here have plenty of money and can afford the hit to their property value. As things stand it's impossible for the average worker to afford housing in Cupertino.

BMR housing requirements should be reduced or eliminated. The requirement for BMR housing discourages larger housing projects from being built as they are uneconomical for the developer.

Worried about light blocking of existing homes by tall new construction, also loss of trees & shade. Need a green "buffer zone" between tall buildings/new construction/neighborhoods.

Need to create neighborhoods. Condos / apartments tend to be isolated and not blend into the existing community.

Cupertino must provide affordable housing for all potential residents.

We need more housing without adding more offices. The entire city should be upzoned to a minimum of four units per parcel like Milwaukee did.

None

Our government needs to support the development at Vallco. Instead of playing political games. Its a large site that should be developed for our city, people who want to continue to live here or move back here. Stop being an obstacle to affordable housing! Start investing in our city's future. This is a very slanted survey and will kit get an accurate snapshot of what people of cupertino want.

QUALITY of LIFE must be a priority consideration, as polled by existing residents. Failing this, WILL IGNORE the MOST IMPORTANT FACTOR IN PLANNING OUR FUTURE COMMUNITY.

91% of the land is zoned single family. Need to have options for downsizing from large family homes to couple sized homes. What is important for 60+ residents is different.

The noise & air pollution from all of the construction over the last decade is appalling. Very unhealthy to continue living here!

Please stop framing housing around "concerns." It's incredibly biased and is going to produce biased results.

Schools are going to close if we don't have more housing for people with school age children.

We need more affordable and smaller units in the city whether for seniors or essential workers. Seniors in single family homes are looking to downsize but don't have a lot of options in Cupertino.

N/a

The City should look to evaluating removals of zoning policies that hinder development, particularly setback requirements, single-family zoning (esp. considering their racist histories of these policies) and height restrictions. If there city is squeamish about "preserving neighborhood character" I would suggest that 1) this has never been reflected in restrictions on the varied types of mansions / single-family homes well-off families like to build - so I'm not sure what anyone means by a distinct character, and 2) removal of some of these bans or restrictions does not guarantee change - it only invites the opportunity for consideration. Consider, too, parking requirements - the rise in outdoor dining is a clear demonstration of public preference - and the retail benefits - of having more space for amenities and services over parking. The mainstreet development is a perfect example of missed opportunity, on two fronts: 1) the parking spaces counter-act and diminish the utility of the lawn space in the middle, and 2) the height of the units could have been much higher, in order to support more units. When we consider the jobs Cupertino hosts and the positive environmental benefits, increased height allowances and removal of parking requirements or minimums are increasingly significant. We need to be flexible and have an open mind when it comes to proposals and working towards a more realistic conception of the type of community Cupertino can be.

New housing units are rapidly approaching the size of prison cells. This is not sustainable and is lowering the quality of life for residents

Yes. I chose don't know in the number of units per acre because I think even 25 units per acre is too much. The survey should have given an option for fewer. I think the results will be skewed because of that.

I am against high density housing plan, because high density housing will create negative impacts to local traffic, local school, and living quality of residents.

I was initially excited to take this survey, but it feels tilted and biased against housing. In particular, the density descriptions felt designed to guide an answer in favor of lower densities, in particular by capping the density at 35 du/a

Police coming thru at night on a regular basis to check for smokers near building, people just standing around and causing disturbances.

High rise buildings are not in keeping with the overall community look and feel. Current residents were attracted by the community characteristics; high rise buildings will change the character of the city, losing some of its attractive nature, and losing what has differentiated Cupertino from other cities. My concern is that the city decision makers will be swayed by property developers' profit motives & by politics, and not decide independently what is actually best for the city and current city residents.

we need more green parks spaces for walking, and the architectural styles of new buildings need to be more coordinated

I think Cupertino should be an area to support those who are forced to live in RVs or mobile homes, or encourage them to be able to live in ADUs or tiny homes.

Our schools are facing declining enrollment. The only way to bring back families to our schools is by increasing supply of housing. The supply should be higher density housing with 3 bedroom units.

Get rid of ADU fees so that we can enable more people to build ADUs. This helps address housing stock issue and current residents to benefit instead of developers trying to run over our city.

Keep and/or improve Cupertino's safety for all residents; no homeless units; no low cost housing; no high rises; don't have urban cities move into the suburbs

We love the greenery of Cupertino tree lined streets. That's partly why we chose Cupertino to move to. We also like that we could find a home close to schools so that it's easier for grandparents to help with kids after school.

I find this was a dishonest survey -- shame on you. "Maintaining the character of a neighborhood" is code for not doing anything; it isn't and cannot be the goal of actual city planning.

Keep doing surveys like this and looking at the demographics of who wants to live in Cupertino.

Encourage ownership housing units. Build condos & co-ops. Build family units - our schools are losing students.

I love Cupertino for the low density, natural atmosphere (plenty of trees, plants, etc), and pedestrian-friendliness (my family takes evening strolls every day). If Cupertino needs to build more housing, there are plenty of 1-story commercial strip malls that can be converted into mixed-use residential/commercial zones.

When Cupertino begins to build more densely, it should consider more shared garden space for those residents that is located near the greater density. Also mixed use could also include classrooms, not just commercial space.

maybe build a skatepark with those local funds. Make these Cupertino kids a bit tougher. A bunch of softies riding ripsticks. They wont get any girls in middle school riding that ish.

Noise is a concern, but mass transit doesn't have to be noisy.

I chose "don't know" for the "units per acre" question because this is not a one-size-fits-all issue. Cupertino needs to offer "options" - depending on location and the type of housing planned, density should be flexible to achieve maximum accommodation for residents in need.

I would like to see us stop using public monies to sue to keep housing out of Cupertino. Our community thrives in diversity.

Be mindful of water

Build heights must go higher near freeways, Stevens Creek, and De Anza Blvd

build at the Oaks and Vallco and stop wasting City resources on lawsuits and obstruction

Don't convert retail space to residential unit. Must balance income from sales tax to increase in population

Higher density developments with enough setbacks back neighboring properties to address privacy concerns

Reduce BMR units, rather have studio apartments to keep price down

No on SB 9

No one who owns wants to live near people who can't afford to own. Put renters and assisted living near shopping and transit, away from single family homes.

City must be prepared to change old order. With increase in population, demands on infrastructure are naturally more, and it must be always borne in mind.

Where is #7?

try to maintain the peacefulness of the city

If someone could come up with a detailed plan on incentivizing seniors living in large homes to downsize to senior areas/communities it could free up homes to younger families, it can potentially shift multiple areas of concern: (traffic congestion around schools and neighborhoods, dropping enrollment rates in schools, additional tax revenue on leveled up property taxes). Not sure what amenities or services would be valuable enough to make someone move but a survey may help. Wild thought but something like The Forum Senior community but only accessible to Cupertino homeowners who have sold their property within 3 years gets free HOA for 2 years or live there free

for 1 year?? Something tied to selling a property and direct \$ benefit that doesn't make them pay more in taxes.

You already have approved Vallco. Let's use it to meet mandated figures. Also worthwhile exploring how Saratoga is getting away with 1700 units. And although Palo Alto is more than twice as big as Cupertino, they are not building twice as many units

Cupertino needs more housing but not more traffic. So, we need to build housing that doesn't put many more cars on the road. I recommend leaving most of Cupertino neighborhoods as-is, and selecting some specific spots like Vallco, De Anza College, & The Oaks to build walkable villages. These would be high growth areas where we build much higher and denser housing, with essential services (grocery, drug store, day care) within walking distance and transit center with buses, shuttles, Via, and rental cars so regular people can live there and get around without owning a car. If we don't require a parking space for every unit, we can build more parks and housing instead of parking lots and garages.

2 bedroom apartments are really needed and never available

N/A

I strongly recommend for the developers to give back to the community by building more BMR units for folks to continue to afford living in Cupertino as the ever increasing living expenses are affordable only by folks who works at Apple. As residents of nearly 25 years who also work in Cupertino, we have not been able to afford purchasing a home in this city we call home.

Please consider Veterans over Cash buyers

none

I would like to see more affordable apartments for seniors

I just can't imagine where Cupertino would put an additional 4,588 units. Cupertino is already too crowded. Hard to drive anywhere during commute hours. Don't know why CA is insistent that we do this given the water situation.

More affordable housing in Cupertino would be very nice and must needed!!

looking for housing

Pay teachers more so they can live in the city.

Please build more and focus on renting them as below market as living in the Cupertino is already expensive, which makes it hard for many residents to afford it.

I understand the pressure all bay area cities are under to provide sufficient housing and support this goal. I do hope that it will be possible to maintain existing zoning laws for single-family homes.

Cupertino has allowed tens of thousands of new jobs in the city without building enough housing to keep up with demand. Most of the traffic the city currently experiences is due to these jobs, not housing. If we could build housing closer to where people work, there would be less traffic.

Increasing the density of living in Cupertino will diminish the quality of life for its residents. Space becomes a luxury, parking becomes a battle and privacy becomes non-existent.

I thankful for these type of programs.

Transit and bike/ped friendliness should be a major concern for any housing plan as we already saw (before the pandemic) how bad the traffic problem was becoming, particularly along the major arterial roads like Stevens Creek.

traffic!!!

I moved to Cupertino to live in the suburbs and the character of the city is being destroyed by it transformation from suburban to urban. I feel betrayed by the city.

Keep low density. Cupertino does not need more housing.

none

Few homeowners are worried about their unit price reduction; without thinking about the community, Townhall should address the concerns of renters

no development

Build as much housing as possible, even if it doesn't fit the "character― of neighborhoods.

NO new building without increasing the size of our reservoirs! We are being told when to water our lawns, wash the car, flush the toilet but the idiot bureaucrats are telling us to build, build. Where is the water going to come from? Why will it take 10 years to fix Anderson reservoir?

Cupertino is being ruined. Stop shoving in high density housing.

More residents mean more traffic issues, need to find the balance between the needs of more homes and traffic issues. Especially school zone traffics, we don't want to see more casualties while students are trying to go to/back from schools

At the rate people are moving out of this state, I do not believe that any increased housing is needed in Cupertino.

We (Santa Clara Co., the Bay Area, and maybe more) need a complete moratorium on building housing and business/office until we have a guaranteed unlimited supply of WATER! No guaranteed supply of water - no more building!

What is the downside, if any, of simply ignoring the 'State Mandate'? This is an honest question and is appropriate, given that development has historically been quite successfully overseen by each city with minimum support and/or input from the State. Will any city be honest and brave enough to 'just say no' to Sacramento?

It's unfortunate that current homeowners, who have all the reasons against building housing, tend to overpower non-homeowners in terms of voting power.

the best approach to providing new housing is to focus on placing more dense, multi-unit housing in prescribed locations, e.g. near main thoroughfare, business outlets and transportation hubs. new housing should not be forced on localities which were purchased by owners wanting more separation from traffic, high density housing, and general congestion.

No new housing development. Cupertino is already too densely populated.

If we are to stay relevant we need to BUILD HOUSING, and build UP! We're not a sleepy little town any more.

The water shortage needs to be part of the planning. Droughts are the new normal, not an abberation.

The city has allowed more dense business development, but has not backed it up with housing. I think most residents prefer a less dense environment and since we don't have open land for significant new housing, I don't think we should be adding space for large numbers of new jobs. I don't recognize all the references to development sites.

No.

stop NIMBYs

Build more housing!

Develop more toward west side of Cupertino

please get the homeless under a roof asap

We have enough housing units already without the state-mandate for more

The long-term effects of (partial) work from home introduced during the past year may well mean that we are past the peak housing demand in this area. Diminishing the city through high-density developments without taking this into account seems foolish.

None

If higher-density housing must be built, it should provide a service to community members, e.g. mixed-use retail. Cupertino has very few amenities for its residents such as a mall, movie theater, bowling alley, etc. Since Vallco closed, we have needed to go elsewhere for these basic services. Please include more retail and spaces such as movie theaters to benefit community members.

It's important to make sure all public services, systems (water, power, fire, police, school, hospital, traffic, tax, ect.) will not be big impacted by increase of new developments, or it's not fair to existing residents.

Expand the city horizontally instead of vertically. High rise building block air flow.

I currently live in a mix-use building and can attest that this plan is much less than ideal creating friction over cost responsibilities between residential and retail components. Lots of litigation ensues!

Cupertino lacks affordable and well-sized housing for small, young families starting in the tech industry.

We have a many students with disabilities in our school district, but we don't provide their future with possible housing choice in the city. That means the parents who currently live in the city, but not their children in the future. We are tearing apart those families and their community.

The new housing should be affordable, ie., below \$500,000.

not at this time

The city of Cupertino has allowed some hideous developments and is reducing the quality of life here. No wonder so many people are leaving the area

I know we need more affordable housing but this requires high density housing which should stay near the downtown areas and freeway entrances to maintain the single family home ambiance.

We need to build "up" ... it's as simple as that. It's an absolute disgrace what went on with Vallco (and probably continues to go) and all those involved should be ashamed of themselves. It could have been built by now instead of us having a giant hole in the ground.

For the love of God, just build something. Anything. Literally anything.

I think I have expressed my thoughts completely.

Cupertino should remain a high tech center with high quality residents and safe and clean neighborhoods. High-rise office and apartment towers don't belong in Cupertino. We don't need increased traffic congestions and pollutions.

We need affordable housing in Cupertino.

More bicycle infrastructure. Less car friendly.

Stop being so hostile towards our low income neighbors. Cupertino used to be a blue collar town, we need more economic diversity.

This city should have approved high density housing for Valco a long time ago, rather than fight it tooth and nail.

With more high density housing being considered in Cupertino, the city must have a contingency plan for earthquake. The city should either require all HOAs carry earthquake insurance or require all homeowners to set aside a \$30,000 to \$50,000 "earthquake account" (i.e. self-insured) for earthquake rebuild. Experiences from different cities has taught us that the biggest issue with high density housing when an earthquake hits is unable to come up with funding to rebuild. Everyone is waiting for the government to help. Damaged and inhabitable buildings will be standing there for years without funding to rebuild. They become eyesores for the city, and not to mention the burden of the housing issues for the victims.

More housing in Cupertino, please! It is a desperate need!

Unsure why we even need all this housing, perhaps stop letting major companies like Apple and Google suck this land dry? Ridiculous housing prices and terrible traffic, is this really the vision you had for this area or did corps filling your pockets with money change that?

why are we building so many new housing structures when we don't have enough water for the people who live here currently?

Cupertino desperately needs more apartment housing so that our children can afford to stay in the area. We especially need low income housing for our children with disabilities.

We need more housing and affordable housing desprately in the bay area. There is no way our kids can afford to buy homes here. Cupertino has to do it fair share.

City should really keep the criminal cases in mind. In addition, the CUSD is closing schools. This is unacceptable with this RHNA plan. What the student ratio will be after then!

No low income housing in Cupertino

Stop ruining Cupertino with renters, low income and homeless people!!!!

If buildings are developed with supportive housing, people with disabilities, senior housing, it would be ideal to plan an office in the building that could accommodate social workers, etc. to assist tenants.

Cupertino schools have a funding gap , forcing the existing condo /townhome complexes that are really old to be reconstructed and sold will

Development should preserve Cupertino's natural beauty

Some mixed use development would be ok, but it always ends up looking worse than mockups. Main Street is a prime example. Develop the area between DeAnza Blvd and the City Hall/Library with retail on ground level and apartments above. Include parking structures. Try to make it look like downtowns in Los Gatos, Los Altos, Saratoga, Mt. View, Sunnyvale. Again Main Street is a good example of what NOT to build. Anywhere. Concerning question on building heights in various neighborhoods, it would have been nice if the location of those neighborhoods were actually shown. Looked at Zoning Map and didn't see them. Tried to find them elsewhere without exiting survey and couldn't find. Have a only vague idea of what these. Stelling Gateway? North DeAnza Special Area?

I support any policy that will produce significantly more high quality market rate housing units in the Bay Area and in the City of Cupertino to be constructed.

Make Cupertino affordable

AS far as bike lanes, Do not repeat the dangerous lanes that are on McClellan. I am a cyclist, having to contend with 2 curbs is not good. Next time consult with actual cyclists. What really should be address is a) education for drivers AND children cyclist, b) Restrict the types of vehicles that present danger, perhaps at certain hours of the day.

Don't mess up Cupertino.

Cupertino is basically a one story community. To keep its character let's keep it that way.

Rent is exceedingly high and we are being forced to find "low income" style housing which does not offer suitable amenities. Apartment complexes are updating and then raising their rents and people are forced to move out. They also DO NOT offer long time residents living at a complex any kind of rent break if they decide to stay in their complex and downgrade. The rents are exorbitant. No body can live here.

I dislike the fact that Cupertino makes regional news as being housing unfriendly. I am ok with higher density near freeways, but a priority needs to be given to support teachers and service workers who can't afford to live in Cupertino. Better more rapid bus service is needed to get people around. Also, I'm concerned with the estimates of jobs here which affects the housing calcs.. People are leaving, schools are closing. Maybe we won't need all the housing calculated?

I dont see any plan to help with controlling the amount of traffic or means to help the traffic flow. It currently takes over 30 minutes to get across town at rush hour. Additional housing will only make this worse. Also do not see discussions on plans to provide critical infrastructure, to fix this or how to supply more utilities like water to support additional people.

I hope we can get this done! :slightly_smiling:

More than adequate space to avoid crowding of neighbors

We should take on Opportunity Housing to gently & spot-wise increase diversity, density and affordability within single-family neighborhoods with the permitting of duplexes and triplexes.

Turn the dry lakes in Memorial Park into a skateboard park!

The state is trying to bypass all local government and push forward housing plans, which are insane. I'm strongly against high density housing which we have clearly seen what happened during the pandemic. The housing plan will shape how Cupertino's future look like. I hope it remain as a quiet, peaceful and safe small town which is family friendly. Remember, a lot of residents moved to Cupertino because of the schools and their school-aged children. We need to continue supporting these children and give them a peaceful and safe environment to grow up.

orchards abounded when I arrived in 1975!! Way to much "growth" since then. This is why people are leaving California.

Detached single-family (on small lots like Madadam Ln) is what the maket wants! More of these units will reduce price pressure on multi-family units!

I think there will always be a demand for single family homes vs high rise living - we are not a big city and need to keep from becoming overcrowded with accompanying infrastructure and traffic issues, overburdening the existing utility systems and water availability

Detatched single family homes on small lots

Prop 13 is bad for the city. City must come up with additional tax measure on properties to offset the prop 13 steep loss to support schools.

It is expensive here and the pay for public service workers does not support that unless you are in one of these programs.

I appreciate that the city is surveying residents for their thoughts, and I hope that you all will make your decisions based on what is best for the future of the city

Thanks for asking!

Yes- why isn't Vallco further along in building. It seems like the city is dragging this out.

We need to resist state laws that give developers a pass to build high-density, market-rate housing but don't address Cupertino's lack of transport, don't provide adequate parking, and exacerbate exisiting income inequality and lack of affordable housing. We don't need more of affluent tech worker housing. We don't need more population in out drought-ridden state.

The State of California may need to lower development requirements. It is important to have a longer-term vision as people are moving out of the Bay Area. There are costs to over-building such as creating urban blight.

Look at Arlington, VA, the corridor of Wilson Blvd and Fairfax Dr. 20 story apt/condo, office, ground floor retail, broad walkable sidewalks, nicely landscaped, friendly to young professionals & families. Doesn't disturb single-family zoning.

We need to resist state laws that give developers a pass to build high-density, market-rate housing but don't address Cupertino's lack of transport, don't provide adequate parking, and exacerbate exisiting income inequality and lack of affordable housing. We don't need more of affluent tech worker housing. We don't need more population in out drought-ridden state.

It is critical to increase the number of rental opportunities, including Below-Market-Rate rentals in the city, as well as market rate and Below-Market-Rate "for-purchase" homes. There are many options. Working with Destination: Home by reviewing locations is a key component of the City's efforts.

Cupertino and all of Santa Clara County MUST "build up" and go with higher density housing to keep Silicon Valley alive. We are stagnating now on housing and that is NOT sustainable and hurts our community and our nation. It will be hard, but we have to do it. Thank you! --Kim, long time Cupertino resident

Cupertino needs more, denser housing and it needs it fast. California is crushing younger people, even professionals in well-paying jobs in Silicon Valley, with completely unaffordable housing. It is a moral imperative to get away from single-family zoning and create some space in our job-rich community for younger people, and to provide some access to the wealth and opportunity that is here. We don't need to go crazy, but we do need to aggressively build housing.

Many choose Cupertino to live mostly because of the school and still rather laid back atmosphere. Recent irresponsible growth is short sighted and will destroy the value of Cupertino in a few years by factors like traffic congestion, traffic safety, pedestrian safety congested schools, low teacher quality etc.

more single family homes will not result in enough housing, but unfortunately that is what most people want I presume

The City of Cupertino is run by developers in the City Council. A fair and unbiased approach to housing is impossible. The City is, and has been, corrupt and without responsible leadership for years.t

Any plans for adding neighborhood/community centers, where neighbors can meet each other?

We need to provide more opportunities for long term citizens to serve on housing committees. Housing commission selection seems to be very biased and unfair.

If we don't have adequate water supply - place moratorium on building. Challenge States mandate on building numbers. City should not be forced into higher density.

I think we need to characterize the populations we are trying to house. The homeless need one thing, students need another, Seniors yet another. As the region grows, it is inevitable that we need higher buildings. We might as well start building them now.

transition elderly residents from single family homes to low income senior living units close to grocery, transportation, parks

Allow for more density wherever possible. The world is changing and growing. Buying a house before the market went to hell doesn't give residents any right to stand in the way of progress.

In my opinion, inadequate and underfunded public transit options are the main reason for traffic and congestion. If commute is easy, people will have choices. in living further away.

Water and drought seem to be a serious long term problem that needs to be addressed. Expanded housing units will exacerbate this particular concern. Good luck!

This survey is hard to fill out. I didn't understand the question about "gateways" at all. The names of the gateways in the question don't match the streets having the big red triangle gateways in the "Major Streets and gateways" map. Also, it doesn't make sense to ask current residents what new types of homes or apartments are needed. You need to ask the people who want to live here but don't yet.

This survey seems to be a bit biased--it seems to be looking for things that people don't like about building new housing (not a neutral survey).

Cupertino must build high density housing. This is not farmland any more. Those homeowners who do not like the change can move and let the younger people buy and live here.

As the former chair of the Cupertino Planning Commission, I am convinced that our city leaders and our community should not be afraid of a long-term vision for meeting our city's future needs.

The "Size of housing units― question only allows one or two selections, though the prompt asks for two or more.

Though well intentioned, this survey is incredibly biased. It phrases housing as a burden, rather than as a benefit.

If we need housing, why does the city allow builders to have such a high proportion of office-space, that increases traffic and parking? The builders know it is cheaper to make a stock office, instead of building out an apartment, and the city lets them get away with that. Why is that the case, in this competitive market?

I don't think there are enough shade trees in Cupertino on the huge boulevards

No. I know housing is a complex issue. Thanks for your work on this important topic!

This survey biases the reader to be against housing, framing it as burden rather than as something that could bring more opportunity to Cupertino.

I hate the high density housing developments that one sees everywhere. They're like fortresses!! And-there seems to be no consideration for human interaction and behavior--encouraging people to gather and interact outside i.e. in something like a a town square or plaza like those in European cities and South America. This is an ancient architectural design that has always been successful. We need more bikeways and walkways connecting neighborhoods. We also need light rail!!!!

green land area

Let's build more housing so our city can grow.

Please make Cupertino ADU friendly. This can greatly help the housing shortage situation.

Affordable housing for everyone! We want affordable housing in Cupertino

Many of the questions in this survey unfortunately seem to be biased against housing development. Consistently phrasing questions in terms of the costs and burdens rath of development rather than neutrally is a recipe for bad data!

Many of the questions in this survey unfortunately seem to be biased against housing development. Consistently phrasing questions in terms of the costs and burdens of development rather than neutrally is a recipe for bad data!

Mixed use with retail, office, and residential for low through high-income reduces commuter traffic and is better for the environment.

it would have been nice to link the names of developments to a map of their locations (where is North Crossroads?) no one knows these names

should have reserve unit for medium income families.

More housing. Affordable housing. Also, if you're going to do a survey to assess all viewpoints, don't make it online. For example, how are homeless residents supposed to access this?

Weirdly, this survey came across as incredibly biased against affordable housing. The idea was framed as a burden.

Please don't overbuild nor overcrowd our little beautiful city. Don't build anything taller than 3 stories above ground near single-home residential areas.

Though well intentioned, this survey is incredibly biased. It phrases housing as a burden, rather than as a benefit.

Historically Cupertino schools have been valued by residents and people who consider moving to Cupertino. Lack of affordable housing means young families cannot live here. So there are fewer kids, and then fewer schools, impacting part of the Cupertino "value proposition" around schools. Lack of affordable housing will drive the quality of schools down and that will drive property values down

Thank you for the foresight and planning!

Some of these questions are difficult to answer because I don't know a lot of the terminology -- I'm not sure what the "gateways" are for instance. It also seems like there's some bias to how the questions are phrased.

1) I didn't like the floorplan question. Despite asking for at least 2 answers I couldn't select more. We need studio, 1-, 2- and 3- bedroom apartments and condos. 2) I think the survey presumes we are against more housing and denser housing. That is a clear bias. I prefer having our essential workers able to afford to live in our community. Teachers, nurses, fire fighters, cashiers, janitors, in-home healthcare workers and even barristas. I prefer they not have to commute from Tracy. 3) We need more affordable housing. We need rentals and condos. We need housing for singles and families. We are enriched by young people, old people, kind and creative people, people who have time to give back to our community. All should be welcome in Cupertino.

Developers of properties within the city need to look at housing options in large metropolitan areas like Singapore to explore better housing options within high rise buildings.

The city needs to get back its ability to control the zoning within their boundaries. Unfortunately the state legislature has taken over this function, Vallco being a prime example of development run amuck due to mandates from the state level.

Though well intentioned, the questions of this survey come off as very biased. The questions make housing appear as a burden, rather than a benefit.

We need more affordable housing in Cupertino. This survey seems biased against adding more housing. I would like to see a more unbiased request for input.

Don't want high rise

Although there was space for me to write my thoughts about the benefits of more, and denser housing in Cupertino, the questions themselves did not offer the opportunity to choose among benefits, which would be easier for most survey respondents. It focused on concerns that sounded negative. Also, in the question about sizes of living quarters, only two choices were allowed. Our city will need studios and one-bedroom homes, certainly, but will also need 2 bedroom and 3 bedroom homes as well. With over 4,500 new homes, there should be a mix of all sizes.

I hope we as a city (and a region, and as a state) can work together to try to mitigate this crisis that those in power and those with power have chosen to put us in. I have a lot of pride in our city and I know we can make it more beautiful, walkable, opportunity rich for lower incomes, and at the same time work on this housing crisis. :)

Where are City Center Mode, N DeAnza Special Area, Stelling Gateway..., anyway? We have enough fine parks, just too bad most of it is where the housing density is lowest.

I'd like Cupertino to be a city where everyone is welcomed and can live here, not just for the rich. There shouldn't be new development for single family homes given the dire need for housing.

Build tall near main surface streets. Put restaurants and businesses on ground level

please allow more housing

I'd support supportive housing units for the homeless if it was determined that Cupertino has a high number of homelessness.

Vallco SB35 project provides lots of studios and 1BR, so plans for next housing cycle should include larger units for balance. Owner-occupied units promote civic involvement and wealth accumulation, especially for lower income households.

I am a SFH homeowner, and I understand the concerns of those who are worried about too much density. However, I do believe there are smart ways to achieve density while still maintaining the quality of life we all love about our city.

We are SFH homeowners who have lived in Cupertino for 15 years. I fully understand the concerns of those who resist increased density and I share them too, however I do believe that there is a smart way to increase density while maintaining our quality of life.

Vallco SB35 project provides lots of studios and 1BR, which can be balanced if the next housing cycle includes larger units.

Need more housing in south/west parts of the city where school enrollment is too low. North/east parts of the city are too dense, have terrible traffic, and do not have enough parks.

what the community needs is more important than what I want

My housing needs are met, what is important is what the community needs, not what I need!

Oversight of organization running the housing

Need much more open space…unfortunately Cupertino is getting pretty ugly when it was once a beautiful city. There also needs to be more restrictions on the number of people living in one single family home. Too many occupants in one home is causing more cars to be parked on front yards making the city look trashy. Also, the city needs to be better at having homeowners take care of their property many homes are fire hazards with all the dry weeds in their yards.

COVID-19 is very likely to have lasting impact on people's way of life. A big portion of tech workers are going to move out and work remotely. The city should take this into consideration to stay ahead of the change.

Renovate Lincoln and Kennedy

Renovate Lincoln and Kennedy

Renovate Lincoln and Kennedy

Renovate Lincoln elementary and Kennedy MD

should halt construction of second stories on existing SFHs

I do support lower cost housing units for the city, but please consider making them as "green" as possible. I also worry about traffic congestions as a result.

Though well intentioned, this survey is incredibly biased. It phrases housing as a burden, rather than as a benefit.

It's way too rosded already.

size of housing units question makes no sense. says pick at least 2, then i get this error: Choose between 1 and 2 options * required You must choose at most 2 options

Questions too general. Location/neighborhood should be considered. I do think Cupertino is thinking it's to grand, we need to do our share.

State should fund dedicated transit corridor on Stevens Creek Blvd through Cupertino for buses or light rail where 11,000 new residents have the opportunity to ride instead of drive.

The Housing plan should create enough opportunities for kids to go to school of choice and reduce the Rental Cost Pressure in the community

I'm all for increasing density to allow for more housing and keeping rents from skyrocketing further. People who work full-time in Cupertino, regardless of their job, should be able to live in Cupertino.

I would like the Cupertino planing commission to have a better understanding of how the design of new buildings or housing fit into existing neighborhoods. There are two units up along Foothill Blvd. that are not complimentary to the surrounding neighborhoods.

Cupertino needs affordable housing options for our kids, the next generation that is growing up in the city, and cannot afford to buy housing in the city when grown up!

Cupertino is a laid, back town and we need to strive to keep it that way. Similar to towns like Saratoga, Los Altos..ect

Tall apartment units in the downtown area is probably the best approach to a difficult problem. I would support 10-12 stories, all residential, mainly studio's and one-bedrooms, some two-bed, smallish, economical but high-quality, not cheap.

Transit-oriented development would be beneficial as it would reduce the number of cars. In addition, there should be car-free housing options available.

I was told by another resident that Cupertino Matters, after bashing certain council members, directed its readers to go to Cupertino for All so they could be guided on how to fill out the survey. If this is true, the results may be tilted toward higher density that residents want.

high density is ok, but let's not mix it with single family area and please please mandate minimum parking per new unit. Otherwise all neighborhood and streets will be flooded by cars. Do not buy that public transit will help. No, public transit will take years to become a real option.

It seems like the developers opt out of affordable housing by paying fines that are less than their profit.

more public transit options

To keep Cupertino as a viable, interesting, inclusive community, we need a provide a wide variety of housing types, sizes and at varying costs.

1 or 2 story single homes or townhomes are needed in Cupertino. Please keep low density housing in Cupertino. With the trend of work-from-home, people prefer low density housing.

This survey is a fraud when you MUST answer a density question that only permits answers in excess of what most residents would prefer and answer if presented an opportunity. Shameful, disingenuous failure to be forthright with residents.

I'm concerned that Cupertino is making development choices that is moving the city away from a small town feel and experience to urban expansion and high density. I believe we need to keep Cupertino's small town feel and shore up our schools (K-8). The city needs to work with the local school district to ensure greater funding. I'm really sorry, but you can't keep adding housing without addressing the dire straits the Cupertino Union School District is facing. Please make more of an effort to support the district in seeking a new funding mechanism from the state.

Please keep in mind that if most of the planned housing unit developments in Cupertino are rentals, then the clientele that will be renting them will be non-native born people and they will have many family & relatives living in a unit. They are just as big of consumers as the rest of us and each will probably all will have a car, and they will need sufficient parking and general tremendous traffic issues!

Cupoertino housing costs are far too high, limitations should be placed on outside investors/consortiums that push the prices up. Whilst building more property is a good thing, empty investment property should also be of concern

this survey is designed with a bias for building. The city is already burdened with excessivly dense housing

We do need additional growth - our schools have declining enrollment. Cupertino is losing growth opportunities with cities like Mt View and Sunnyvale. What is Cupertino core development plan? Los Gatos is great for dining and upper end housing. Sunnyvale is growing industrially. Mt View - Google and Castro St dining etc.

Please don't build too many housings in Cupertino.

Mixed-Use projects allow the opportunity to live, work, shop and eat without using a car.

Most people are becoming seniors. It should be ok to open semiconductor floor building to rent out it.

BMR housing requirements should be reduced or eliminated. The requirement for BMR housing discourages larger housing projects from being built as they are uneconomical for the developer.

Cupertino needs to do its share to mitigate the shortage of affordable housing in the Bay Area.

No.

Adhere to General Plan as does Los Gatos. exceptions

n/a

Lower density of population will be preferred

None

Community gardens

This survey seems much more tilted to asking why we don't want new neighbors, rather than why we do.

none

Require school buses. Schools can afford them!

I am concerned that the rush to build housing is a gift to wealthy developers who then become mega landlords while removing services from our city (retail, parks, low traffic). I believe a home ownership model (condos, townhomes) is better for keeping Cupertino a community.

I prefer higher density that continued sprawl and quality over size.

Lets build these developments for humans, not cars. Downtown Charleston, SC is a great example. Allow for mixed use and zoning to bring store fronts to the street. Make it pedestrian friendly. @wrathofgnon is a great follow on twitter for more ideas.

I love Cupertino, it's excellent place to live, I wish there is opportunity to live there again within my budget

Please don't assume that investment into bike lanes is going to help in a major way. The new divided bike paths are a marginal improvement at best, and may actually be detrimental in some cases because they restrict traffic (e.g. by making right turns more restrictive) & will increase congestion. We need to address traffic flow through the city in a *major* way if we want to increase housing density. Just taking kids around to their classes locally within the city is a traffic nightmare because the city does nothing to significantly improve traffic flow. Traffic on Wolfe near the new Apple campus has been a nightmare due to Pruneridge/Apple pkwy lights being horribly out of sync. Pedestrian priority makes matters worse. Please do something to prevent gridlock in the future & make lives better for the residents! How hard would it be to synchronize traffic lights in commute direction on all major arterials such as Miller/De Anza/Stevens Creek? What about introducing a metric of how much time is spent by residents waiting on traffic lights, just to measure impact of development and any improvements?

Honestly we just need a lot more housing

build dense!

Keep R-1 Zoning!!!!!

I often hear many complaints about the high sale price of "luxury condo" units that get built in high density housing. While I think it's important that acknowledge the high price, I think it's also important that those units are almost always still much cheaper than any single family homes in Cupertino. So while not the perfect solution to the city housing crisis, high density housing still goes a long way in improving the affordability of housing in our city. I'm also aware of the anger that many on the city council feel toward the increased RHNA housing numbers. I think this is the wrong way to treat the new RHNA numbers, and I hope our upcoming general plan updates will embrace these numbers rather than try litigate our way out of them. That would be a waste of everyone's time and money.

Cupertino would benefit from more and higher density housing, but we need to ensure that these new developments are designed in a way such that the residents aren't all forced to drive

everywhere. Cupertino has a lot of potential to be a very bike and pedestrian friendly city - flat, wide roads, great weather, lots of trees. We need more protected bike paths and sidewalks so that people feel comfortable doing so. Studies have shown that only a tiny percentage of bikers are comfortable biking unprotected alongside cars. Without truly protecting our bike lanes and sidewalks we are increasing traffic and failing to realize the true potential of the city. We would also benefit from more commercial zones so that people have the opportunity to walk or bike to establishments near them.

Housing needs to be properly planned - we should not antagonize the developers but we should also not be unrealistic in our expectations

It's high time that Cupertino cease its petulant, embarrassing opposition to new housing, and build the homes that our community and our region desperately need.

Planning around accommodating cars doesn't work. It creates more traffic no matter what is done. Let the housing get built and bring in the transit after to support it.

housing should focus on needs of those already here, not to attract professionals from outside. California is a seismically active arid zone; we are right-sized now. What do you with a 9-story apartment bldg during an earthquake, with fires starting and a water shortage? We need to be environmentally responsible and not trash CEQA.

Not at this time

Housing Is a Human Right. It is my hope that the language of Human Rights will shape how we solve profound shortages of safe and adequate housing for people who need homes. See The Shift: https://www.make-the-shift.org/ For market-rate housing, too often the price is set by what investors are willing to pay with no regard for the costs regular people can afford for their housing. People need safe, affordable, sustainable housing for themselves and their families, but "Housing Crisis!" policy rarely prioritizes the housing people need. Instead, we get streamlined approval for insufficiently supported projects intended as investment instruments for high net worth individuals, corporations, pension funds, insurance providers, and any entity seeking anonymous repatriation of money held in offshore accounts.

Develop more housing and transportation near main roadway arteries, manage traffic



Agenda Item

21-9884 Agenda Date: 10/5/2021

Agenda #: 1.

Subject: Proclamation recognizing Cupertino High School's 50th annual Tournament of Bands (TOB)

Present proclamation recognizing Cupertino High School's 50th annual Tournament of Bands (TOB)



Proclamation

WHEREAS, The City of Cupertino wishes to recognize the 50th annual

Cupertino High School Tournament of Bands this Saturday,

October Ninth, Two Thousand and Twenty One;

WHEREAS, The Tournament of Bands brings together the finest high school

bands and drill teams in Northern California for an excellent field

show competition;

WHEREAS, The City is honored to have this outstanding event take place in

Cupertino every year;

WHEREAS, This tournament raises much needed funds for the band program

at Cupertino High School.

THEREFORE, I, Mayor Darcy Paul, and the Cupertino City Council do hereby

Proclaim its support of the 50th annual

Tournament of Bands

and thank all the organizers, participants, and volunteers for creating a better community through their active participation and contributions to the people and City of Cupertino.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Cupertino to be affixed this Tuesday, October Fifth, Two Thousand and Twenty One.

Darcy Paul

Mayor



Agenda Item

21-9919 Agenda Date: 10/5/2021

Agenda #: 2.

Subject: Proclamation recognizing October as Domestic Violence Awareness Month

Present proclamation recognizing October as Domestic Violence Awareness Month



Proclamation

WHEREAS, Domestic violence impacts millions of Americans without regard

to age, race, religion, economic status, or gender and affects entire

communities, not just victims and survivors;

WHEREAS, The Centers for Disease Control and Prevention reports that one in

four women and one in 10 men have experienced sexual violence, physical violence, or stalking by a partner during their lifetime, and the National Domestic Violence Hotline reports that the COVID-19 pandemic has created circumstances in which a victim's

safety is further compromised;

WHEREAS, It is imperative that we support victims and survivors by raising

awareness and forming alliances between families, advocates, medical and legal service providers, and law enforcement to provide emergency and transitional housing, counseling, and other support to help victims safely escape abusive situations;

WHEREAS, The City of Cupertino supports all victims and survivors of

domestic violence and the work of all who strive to end domestic violence, and affirms that domestic violence is not acceptable in

the City of Cupertino.

THEREFORE, I, Mayor Darcy Paul, and the Cupertino City Council do hereby

Proclaim the month of October 2021 as

Domestic Violence Hwareness Month

in the City of Cupertino, and urge all residents to check in on the well-being of our families, friends, and neighbors as we work together to create a safer, healthier, and more supportive community.

IN WITNESS THEREOF, I have hereunto set my hand and caused the seal of the City of Cupertino to be affixed this Tuesday, October Fifth, Two Thousand and Twenty One.

Darcy Paul

Mayor



Agenda Item

21-9115 Agenda Date: 10/5/2021

Agenda #: 3.

<u>Subject</u>: Brief reports on councilmember activities and brief announcements

Receive brief reports on councilmember activities and brief announcements



Agenda Item

21-9194 Agenda Date: 10/5/2021

Agenda #: 4.

Subject: Report on Committee assignments

Report on Committee assignments



Agenda Item

21-9182 Agenda Date: 10/5/2021

Agenda #: 5.

Subject: City Manager update

Receive City Manager updates on emergency response efforts and other City business



Agenda Item

21-9206 Agenda Date: 10/5/2021

Agenda #: 6.

Subject: Approve the September 21 City Council minutes

Approve the September 21 City Council minutes



DRAFT MINUTES CUPERTINO CITY COUNCIL

Tuesday, September 21, 2021

SPECIAL MEETING

At 5:30 p.m. Mayor Darcy Paul called the Special City Council meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

STUDY SESSION

1. <u>Subject</u>: Study Session to provide an update on the Pre-Approved Accessory Dwelling Unit Program and Accessory Dwelling Unit implementation

<u>Recommended Action</u>: That City Council receive the presentation and provide comments.

Written Communications for this item included a staff presentation.

Director of Community Development Ben Fu introduced the item.

Senior Planner Gian Martire gave a presentation.

Mayor Paul opened the public comment period and the following people spoke.

Jennifer Griffin supported the City taking a responsible approach and was concerned about impacts with the passage of housing bills SB 9 and SB 10.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Council received the presentation and provided the following comments.

- clarify 16 feet height maximum for setbacks in Municipal Code table 19.112.030a for new construction of detached ADUs of 800 square feet
- collect data for actual use of the ADUs
- look into adding the Wildland Urban Interface (WUI) to the categories list
- bring back required changes to Zoning Ordinance to include SB 9 language to reserve power to cities for denial authority by end of calendar year when SB 9 takes effect
- provide City notification of the projects and potential addition of on-street parking to adjacent neighbors

ADJOURNMENT

Mayor Paul adjourned the meeting at 6:34 p.m.

REGULAR MEETING

At 6:45 p.m. Mayor Darcy Paul called the Regular City Council meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers teleconferenced for the meeting.

CEREMONIAL MATTERS AND PRESENTATIONS

- 1. <u>Subject</u>: Proclamation recognizing September as National Suicide Prevention Month Recommended Action: Present proclamation recognizing September as National Suicide Prevention Month
 - Mego Lien, Suicide Prevention Manager County of Santa Clara Behavioral Health Services, received the proclamation.
 - Mayor Paul presented the proclamation recognizing September as National Suicide Prevention Month.
- 2. <u>Subject</u>: Proclamation recognizing September 21 as World Alzheimer's Day <u>Recommended Action</u>: Present proclamation recognizing September 21 as World Alzheimer's Day

Mayor Paul presented the proclamation recognizing September 21 as World Alzheimer's Day.

3. <u>Subject</u>: Certificates of recognition to the Cupertino Safe Routes to School (SR2S) Student Video Contest winners

<u>Recommended Action</u>: Present certificates of recognition to the Cupertino Safe Routes to School (SR2S) Student Video Contest winners

Safe Routes to School Coordinator Cherie Walkowiak introduced the item and played the winning student videos.

Middle School winner Sudisha Kumar and High School winning team Lindsey Tang, Crystal Cheng, and Avishi Trivedi received the certificates of recognition.

Mayor Paul presented the certificates of recognition to the Cupertino Safe Routes to School (SR2S) Student Video Contest winners.

POSTPONEMENTS AND ORDERS OF THE DAY - None

ORAL COMMUNICATIONS

Jennifer Griffin opposed new housing laws SB 9 and SB 10 and was concerned about unconstitutionality and loss of local control. (Submitted written comments).

Lisa Warren supported a future initiative for local control and was concerned about regulating privacy screenings for ADUs alongside state requirements.

Paul Soto supported conducting a City meeting regarding redlining policies and the map of 1939 and the impacts of redlining.

Call-in User 3 was concerned about an unpermitted play structure her backyard that must be torn down and requested time to resolve the matter.

Mary supported Cupertino adopting an ordinance requiring the safe storage of firearms to protect the Cupertino community and similar to neighboring cities.

Tushar Shinde supported amendments to the City's Noise Ordinance to address the distance between residential and commercial properties and similar to other cities.

REPORTS BY COUNCIL AND STAFF (10 minutes)

4. <u>Subject</u>: Brief reports on councilmember activities and brief announcements <u>Recommended Action</u>: Receive brief reports on councilmember activities and brief announcements

Council received brief reports on councilmember activities and brief announcements.

<u>Subject</u>: Report on Committee assignments<u>Recommended Action</u>: Report on Committee assignments

Councilmembers highlighted the activities of their various committees.

6. <u>Subject</u>: City Manager Update
<u>Recommended Action</u>: Receive City Manager updates on emergency response efforts
and other City business

Interim City Manager Greg Larson reported on COVID-19 case rates, testing locations, and vaccinations; and upcoming City events, and the Vallco development project.

Council received the City Manager updates on emergency response efforts and other City business.

CONSENT CALENDAR (Items 7-15)

Moore moved and Willey seconded to approve the items on the Consent Calendar except for Item No. 15 which was pulled for discussion. Ayes: Paul, Chao, Moore, Wei, and Willey. Noes: None. Abstain: None. Absent: None.

- 7. <u>Subject</u>: Approve the September 7 City Council minutes <u>Recommended Action</u>: Approve the September 7 City Council minutes
- 8. <u>Subject</u>: Consider Accepting Accounts Payable for the period ending August 2, 2021 <u>Recommended Action</u>: Adopt Resolution No. 21-082 accepting Accounts Payable for the period ending August 2, 2021
 - Written communications for this item included a Supplemental Staff Report Response to Council Inquiries.
- 9. <u>Subject</u>: Consider Accepting Accounts Payable for the period ending August 9, 2021 <u>Recommended Action</u>: Adopt Resolution No. 21-083 accepting Accounts Payable for the period ending August 9, 2021

- 10. <u>Subject</u>: Consider Accepting Accounts Payable for the period ending August 16, 2021 <u>Recommended Action</u>: Adopt Resolution No. 21-084 accepting Accounts Payable for the period ending August 16, 2021
- 11. <u>Subject</u>: Consider Accepting Accounts Payable for the period ending August 23, 2021 <u>Recommended Action</u>: Adopt Resolution No. 21-085 accepting Accounts Payable for the period ending August 23, 2021
- 12. <u>Subject</u>: Consider Accepting Accounts Payable for the period ending August 30, 2021 <u>Recommended Action</u>: Adopt Resolution No. 21-086 accepting Accounts Payable for the period ending August 30, 2021
- 13. <u>Subject</u>: Consider waiving planning permit fees for landscape conversion projects participating in an official City Climate Victory Garden Pilot Program or in Santa Clara Valley Water District's Landscape Rebate Program

 <u>Recommended Action</u>: Adopt Resolution No. 21-087 that allows planning permit fees to be waived for Climate Victory Garden Pilot projects and Santa Clara Valley Water District Landscape Rebate Program projects
- 14. <u>Subject</u>: Consider Approval of a Contract between the City of Cupertino and Miracle Play Systems, Inc. for the Purchase and Installation of Themed Playground Equipment at Creekside Park Tot Lot

 <u>Recommended Action</u>: Authorize the City Manager to Execute a Contract between the City of Cupertino and Miracle Play Systems, Inc., Using Pricing Established through the National Cooperative Purchase Program, in the Amount of \$222,194.96
- 15. <u>Subject</u>: Initiate Sixth-Cycle General Plan Housing Element update, consider consultant agreement to complete the Sixth-Cycle General Plan Housing Element update, related rezoning, and all necessary environmental review as required under State law, and associated budget modification.
 - Recommended Action: That the City Council adopt Resolution No. 21-088 (Attachment A) to:
 - 1. Initiate the Sixth-Cycle General Plan Housing Element update;
 - 2. Award a consultant agreement for the Sixth-Cycle General Plan Housing Element update, related rezoning, and all necessary environmental review as required under State law;
 - 3. Authorize the City Manager to execute a consultant agreement based on the scope of work with EMC Planning Group to provide these services to the City, for an amount not to exceed \$748,040 (Attachment B);
 - 4. Authorize the City Manager to approve contract change order(s) for an amount not to exceed \$748,040 with EMC Planning Group; and

5. Approve Budget Modification #2122-165 to increase appropriations in 100-71-702 750-101 (page 414 of the Fiscal Year 2021-22 Adopted Budget) by \$774,248 and increase revenues in 100-71-702 440-430 by \$352,613 for the Sixth-Cycle General Plan Housing Element Update, related rezoning, public noticing, legal counsel, and all necessary environmental review as required under State law for the fiscal year 2021-22.

Written Communications for this item included a staff presentation, a Supplemental Staff Report Response to Council Inquiries and an email to Council.

Community Development Director Ben Fu introduced the item.

Associate Planner Erika Poveda gave a presentation.

Councilmembers asked questions and made comments.

Mayor Paul opened the public comment period and the following people spoke.

Paul Soto was concerned about the generational consequences of redlining and supported settling the legal violations of segregated housing.

Jennifer Griffin supported EMC Planning Group adopting a neutral position and considering community concerns and needs.

Jean Bedord supported approval of the consultant agreement for the Sixth-Cycle General Plan Housing Element update.

Mayor Paul closed the public comment period.

Wei moved and Chao seconded to adopt Resolution No. 21-088 per the staff report recommended action to:

- 1. Initiate the Sixth-Cycle General Plan Housing Element update;
- 2. Award a consultant agreement for the Sixth-Cycle General Plan Housing Element update, related rezoning, and all necessary environmental review as required under State law;
- 3. Authorize the City Manager to execute a consultant agreement based on the scope of work with EMC Planning Group to provide these services to the City, for an amount not to exceed \$748,040 (Attachment B);
- 4. Authorize the City Manager to approve no-cost contract change order(s) with EMC Planning Group; and

5. Approve Budget Modification #2122-165 to increase appropriations in 100-71-702 750-101 (page 414 of the Fiscal Year 2021-22 Adopted Budget) by \$774,248 and increase revenues in 100-71-702 440-430 by \$352,613 for the Sixth-Cycle General Plan Housing Element Update, related rezoning, public noticing, legal counsel, and all necessary environmental review as required under State law for the fiscal year 2021-22.

The motion carried unanimously.

Council recessed from 8:58 p.m. to 8:55 p.m.

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS - None

ORDINANCES AND ACTION ITEMS

16. <u>Subject</u>: Consider adopting a resolution approving the addition of a Suicide Prevention Policy

<u>Recommended Action</u>: Adopt Resolution No. 21-089 establishing a Suicide Prevention Policy

Written Communications for this item included a staff presentation and emails to Council.

Management Analyst Astrid Robles gave a presentation.

Mayor Paul opened the public comment period and the following people spoke.

Victor Ojakian, on behalf of National Alliance on Mental Illness Santa Clara County, supported adopting a Suicide Prevention Policy.

Mary Gloner, on behalf of Project Safety Net, supported adopting a Suicide Prevention Policy.

David Mineta, on behalf of Momentum for Health, supported adopting a Suicide Prevention Policy.

Mayor Paul closed the public comment period.

Councilmembers asked questions and made comments.

Mego Lien, Suicide Prevention Manager County of Santa Clara Behavioral Health Services, answered questions.

Chao moved and Wei seconded to adopt Resolution No. 21-089 establishing a Suicide Prevention Policy. The motion carried unanimously.

17. <u>Subject</u>: Consider adjustments to the revised Athletic Field Use Policy <u>Recommended Action</u>: Consider adjustments to the revised Athletic Field Use Policy

Written Communications for this item included a staff presentation.

Parks and Recreation Director Joanne Magrini gave a presentation.

Councilmembers asked questions and made comments.

Mayor Paul opened the public comment period and, seeing no speakers, closed the public comment period.

Council considered adjustments to the revised Athletic Field Use Policy and directed staff make further refinements based on Council's comments:

- provide a 6-month report to Council with extended usage suggestions;
- include 4-month input usage data;
- make suggestions for simplification; and
- bring back a presentation to Council at the second meeting in January.
- **18.** <u>Subject</u>: City Work Program Update

Recommended Action: Receive City Work Program update

Written Communications for this item included a staff presentation, a Supplemental Staff Report Response to Council Inquiries, and Amended Attachment A.

Interim City Manager Greg Larson introduced the item.

Acting Deputy City Manager Katy Nomura gave a presentation.

Councilmembers asked questions and made comments.

Mayor Paul opened the public comment period and, seeing no speakers, closed the public comment period.

City Council Minutes September 21, 2021

Council received the City Work Program update.

ORAL COMMUNICATIONS - CONTINUED (As necessary) - None

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

Councilmembers made brief comments and discussed potential future Work Program items.

At 11:57 p.m., Mayor Paul adjourned the meeting.	eting.	
Kirsten Squarcia, City Clerk		



Agenda Item

21-9920 Agenda Date: 10/5/2021

Agenda #: 7.

Subject: Approve the September 28 City Council minutes

Approve the September 28 City Council minutes



DRAFT MINUTES CUPERTINO CITY COUNCIL

Tuesday, September 28, 2021

SPECIAL MEETING

At 6:00 p.m., Mayor Darcy Paul called the Special City Council Meeting to order. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers attended the meeting via teleconference.

CLOSED SESSION

Lisa Warren made public comments in open session before Council convened in closed session.

- **1.** <u>Subject</u>: Public Employee Appointment/Public Employment (Government Code § 54957(b)(1)); Title: (City Manager).
 - Council conducted Public Employee Appointment/Public Employment (Government Code § 54957(b)(1)); Title: (City Manager).
 - In open session, Mayor Paul reported that no reportable action was taken.
- 2. <u>Subject</u>: Conference with Legal Counsel Initiation of litigation pursuant to Government Code § 54956.9(c) (one case).
 - Council conducted Conference with Legal Counsel Initiation of litigation pursuant to Government Code § 54956.9(c) (one case).

In open session, Mayor Paul reported that, Pursuant to California Government Code Section 54957.1, approval by a 5-0 vote was given by the City Council to authorize the City Attorney to seek an abatement warrant to enforce the court order issued in Huang Family v. City of Cupertino, Santa Clara Superior Court Case No. 19CV347316, in order to remove an illegal structure located at 10197 Finch Avenue.

3. <u>Subject</u>: Conference with Legal Counsel - Anticipated Litigation. Significant exposure to litigation pursuant to Government Code § 54956.9(d) (two cases).

Council conducted Conference with Legal Counsel - Anticipated Litigation. Significant exposure to litigation pursuant to Government Code § 54956.9(d) (two cases).

In open session, Mayor Paul reported that no reportable action was taken.

OPEN SESSION

ROLL CALL

Present: Mayor Darcy Paul, Vice Mayor Liang Chao, and Councilmembers Kitty Moore, Hung Wei, and Jon Robert Willey. Absent: None. All Councilmembers attended the meeting via teleconference.

OPEN SESSION REPORT REGARDING CLOSED SESSION

Mayor Paul conducted the open session report regarding the closed session.

ADJOURNMENT

At 9:23 p.m., Mayor Paul adjo	ourned the meeting.
Kirsten Squarcia, City Clerk	



CITY OF CUPERTINO

Agenda Item

21-9889 Agenda Date: 10/5/2021

Agenda #: 8.

<u>Subject</u>: Consider adopting a resolution authorizing remote teleconference meetings of the legislative bodies of the City of Cupertino for the period October 5, 2021 through November 4, 2021 pursuant to Brown Act provisions

Adopt Resolution No. 21-090 authorizing remote teleconference meetings of the legislative bodies of the City of Cupertino for the period October 5, 2021 through November 4, 2021 pursuant to Brown Act provisions



CITY MANAGER'S OFFICE

CITY HALL 10300 TORRE AVENUE • CUPERTINO, CA 95014-3255 TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366 CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 5, 2021

Subject

Consider adopting a resolution authorizing remote teleconference meetings of the legislative bodies of the City of Cupertino for the period October 5, 2021 through November 4, 2021 pursuant to Brown Act provisions

Recommended Action

Adopt Resolution No. 21-___ authorizing remote teleconference meetings of the legislative bodies of the City of Cupertino for the period October 5, 2021 through November 4, 2021 pursuant to Brown Act provisions

Background

On March 2, 2020, Governor Newsom declared a state of emergency due to the public health threat posed by COVID-19. On March 4, 2020, Governor Newsom issued Executive Order No-29-20, which suspended certain elements of the Brown Act and specifically allowed legislative bodies to hold meetings entirely electronically with no physical meeting. In accordance with the Executive Order, the City held its first teleconference meeting on March 24, 2020, to help stop the spread of COVID-19. On June 11, 2021, Governor Newsom issued Executive Order No-08-21, which stated that the provisions in Executive Order No-29-20, suspending certain elements of the Brown Act, would continue to apply through September 30, 2021. To date, the City has continued to hold teleconference meetings in order to protect its residents and staff from the risk of infection.

On September 15, 2021, Governor Newsom signed AB 361 into law, which allows state and local agencies to continue using teleconferencing during certain state-declared emergencies under modified Brown Act requirements. AB 361 became effective immediately after signing due to its emergency clause and is set to sunset on January 1, 2024. Under AB 361, teleconference meetings may be held during a state of emergency if (1) state or local officials have imposed or recommended measures to promote social distancing, or (2) a legislative body determines by a majority vote that meeting in person would present imminent risks to the health or safety of attendees. (Gov. Code, § 54953(e)(1).)

Discussion

AB 361 allows the City Council and other City legislative bodies to continue meeting exclusively via teleconference so long as a state emergency declaration remains in place and the statute's conditions for permitting remote meetings are met. To continue meeting remotely, the City Council must find that state or local officials have imposed or recommend measures to support social distancing, or that an in-person meeting format would pose health and safety risks to attendees. This determination must be reviewed every 30 days to continue teleconference meetings.

Council may make either or both of the permitted findings to allow teleconference meetings to continue. The Santa Clara County Health Officer continues to recommend that governmental entities limit indoor activities to protect participants who are not fully vaccinated. (Health Officer Order, June 21, 2021.) In addition, state Department of Industrial Relations Emergency Temporary Standards continue to require or recommend social distancing in certain circumstances. These measures are required or recommended based on evidence that indoor activities continue to present imminent health and safety risks, particularly for unvaccinated individuals. It is therefore recommended that Council adopt the Draft Resolution authorizing teleconference meetings for the City of Cupertino's legislative bodies in order to protect the health and safety of all attendees and participants, particularly those who are unvaccinated (Attachment A).

Sustainability Impact

No sustainability impact.

Fiscal Impact

No fiscal impact.

<u>Prepared by</u>: Astrid Robles, Management Analyst

Reviewed by: Dianne Thompson, Assistant City Manager

Katy Nomura, Deputy City Manager

Approved for Submission by: Greg Larson, Interim City Manager

Attachments:

A – Draft Resolution

RESOLUTION NO. 21-___

A RESOLUTION OF THE CUPERTINO CITY COUNCIL AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF THE LEGISLATIVE BODIES OF THE CITY OF CUPERTINO FOR THE PERIOD OCTOBER 5, 2021 THROUGH NOVEMBER 4, 2021 PURSUANT TO BROWN ACT PROVISIONS

WHEREAS, the City of Cupertino is committed to preserving and nurturing public access and participation in meetings of the City Council, commissions, and committees; and

WHEREAS, all meetings of the City of Cupertino's legislative bodies are open and public, as required by the Ralph M. Brown Act (Government Code sections 54950–54963), so that any member of the public may attend, participate, and watch the City's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote teleconferencing participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition for holding meetings exclusively by teleconference is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, Government Code section 54953(e) further requires a legislative body to determine that state or local officials have imposed or recommended measures to promote social distancing, or that meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in the City, specifically defined in the County of Santa Clara proclamation of a local emergency beginning February 3, 2020, the City of Cupertino proclamation of a local emergency on March 11, 2020, the Governor of the State of California proclamation of a state of emergency beginning on March 4, 2020, and the national emergency declaration in Proclamation 9994 of March 13, 2020, beginning March 1, 2020, concerning the COVID-19 pandemic; and

Resolution No. 21-___ Page 3

WHEREAS, the County of Santa Clara Health Officer issued an updated order dated June 21, 2021recommending that government entities limit indoor activities to protect participants, particularly those who are not fully vaccinated; and

WHEREAS, the California Department of Industrial Relations has issued Revised Emergency Temporary Standards, effective June 17, 2021, that require or recommend social distancing in the workplace in certain circumstances; and

WHEREAS, the Health Officer Order, the Revised Emergency Temporary Standards, and evidence documenting the transmission of COVID-19 in indoor spaces establishes that indoor meetings of the City's legislative bodies would present an imminent health and safety risk to attendees, particularly those who are not vaccinated against the SARS-CoV-2 virus; and

WHEREAS, based on the above findings, the Cupertino City Council hereby determines that the legislative bodies of the City of Cupertino shall conduct their meetings without compliance with Government Code section 54953 (b)(3), as authorized by Government Code section 54953(e), and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in section 54953(e)(2); and

WHEREAS, the City has and will continue to provide access for the public to legislative meetings and procedures through video teleconference technologies; and

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cupertino does hereby:

Section 1. Remote Teleconference Meetings. The City Manager and legislative bodies of the City of Cupertino are hereby authorized and directed meet exclusively by teleconference and to take all actions necessary to carry out the intent and purpose of this Resolution, including conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Resolution No. 21	
Page 3	

Section 2. Effective Date of Resolution. This Resolution shall take effect immediately upon its adoption and shall be effective through November 4, 2021, or such time as the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the City Council of the City of Cupertino may continue to teleconference without compliance with Government Code section 54953(b)(3).

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 5th day of October 2021, by the following vote:

cup counts that a start of colored 2022, by the following votes		
Members of the City Council		
AYES:		
NOES:		
ABSENT:		
ABSTAIN:		
SIGNED:		
Darcy Paul, Mayor	Date	
City of Cupertino	Dute	
City of Cupertino		
ATTEST:		
Kirsten Squarcia, City Clerk	Date	



CITY OF CUPERTINO

Agenda Item

21-9705 Agenda Date: 10/5/2021

Agenda #: 9.

<u>Subject</u>: Consider an appeal of the Planning Commission's decision to uphold the Director of Community Development's approval of a Two-Story Permit to allow a new 2,992 square-foot two-story home with a 746 square-foot attached accessory dwelling unit and a Minor Residential Permit to allow a new 115 square-foot second-story balcony. (Application Nos.: R-2020-035, RM-2020-023; Applicant: Smart Lily, LLC.; Property Owners: Tariqul Khan and Chaman Hafiz; Appellants: Jitesh Vadhia and Chih-Lung Lin; Location: 1506 Primrose Way; APN # 366-15-018)

That the City Council conduct a public hearing and adopt Resolution No. 21-091 for Application R-2020-035 (Attachment A) and Resolution No. 21-092 for Application RM-2020-023 (Attachment B) denying the appeal and upholding the Planning Commission's decision to uphold the Director's approval of the applications.



COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL 10300 TORRE AVENUE • CUPERTINO, CA 95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333 CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 5, 2021

Subject

Consider an appeal of the Planning Commission's decision to uphold the Director of Community Development's approval of a Two-Story Permit to allow a new 2,992 square-foot two-story home with a 746 square-foot attached accessory dwelling unit and a Minor Residential Permit to allow a new 115 square-foot second-story balcony. (Application Nos.: R-2020-035, RM-2020-023; Applicant: Smart Lily, LLC.; Property Owners: Tariqul Khan and Chaman Hafiz; Appellants: Jitesh Vadhia and Chih-Lung Lin; Location: 1506 Primrose Way; APN # 366-15-018)

Recommended Action

That the City Council conduct a public hearing and adopt the Draft Resolutions (Attachments A and B) denying the appeal and upholding the Planning Commission's decision to uphold the Director's approval of the applications.

Discussion

Project Data:

General Plan Designation:	Residential Low Density (1-5 DU/Acre)	
General Plan Neighborhood:	Monta Vista South	
Zoning Designation:	R1-6 (Single-Family Residential)	
Net Lot Area	6,718 sq. ft.	
	Allowed	Proposed
Floor Area Ratio (F.A.R.)	3,023 sq. ft. (45%)	2,992 sq. ft. (44.5%)
	+ ≤ 800 sq. ft. ADU	+ 746 sq. ft. ADU
Lot Coverage	3,359 sq. ft. (50%)	2,656 sq. ft. (39.5%)
	+ ≤ 800 sq. ft. ADU	+ 746 sq. ft. ADU
1st Floor Setbacks	Required	Proposed
Front	20′	25′
Rear	20'	28′ 5″
Side	Combined 15'	Combined 21'
	(no side less than 5')	South Side: 5;
		North Side: 16'*

2nd Floor Setbacks	Required	Proposed	
Front	25′	25′	
Rear	25′	34′ 6″	
Side	Combined 25'	Combined 32'	
	(no side less than 10')	North & South Sides: 16' each	
2 nd Floor Deck Setbacks	Required	Proposed	
Front	20′	N/A	
Rear	20′	26′ 6″	
Side	15' Each Side	South Side: 26'	
		North Side: 17' 8"	
ADU Setbacks	Required	Proposed	
Front	20'	25′	
Rear	4'	26′ 10″	
Side	4'	4′	
Total Building Height			
Principal Building	28' max. allowed	23′	
Attached ADU	16' allowed	15′	
Project Consistency with:			
General Plan:	Yes		
Zoning:	Yes		
Environmental Review:	Categorically Exempt per Section 15303, Class 3 of		
	the California Environmental Quality Act (CEQA)		

Note: * Setback to ADU is allowed to be 4 feet by state law. Therefore, north side setback is measured to the principal dwelling unit.

Background:

On November 29, 2020, Ken Zhai of Smart Lily, LLC., representing the homeowners, Tariqul Khan and Chaman Hafiz, applied for a Two-Story Permit for the City to consider allowing the construction of a new 3,015 square-foot two-story home with an attached accessory dwelling unit (ADU); and a Minor Residential Permit to consider allowing a rear-facing second-story balcony located at 1506 Primrose Way (*Figure 1*). The property is located in the Monta Vista South neighborhood and is zoned R1-6. Surrounding uses include other R1-6 zoned properties comprised of a mixture of single-story and two-story single-family residences.



Figure 1. Applicant's property outlined in red. Appellants' properties outlined in yellow.

The Single-Family Residential (R-1) Ordinance, Chapter 19.28 of the Cupertino Municipal Code (CMC) (Attachment C) requires a Two-Story Permit for two-story additions or new two-story residences. Additionally, the R-1 Ordinance requires a Minor Residential Permit for new second-story balconies with views into neighboring residential side or rear-yards. Both permit types require administrative review and approval by the Director of Community Development per CMC Chapter 19.12: Administration.

The following is a summary of the project events leading up to the appeal of the Planning Commission's decision:

November 29, 2020	The applicant (Smart Lily, LLC.) applies for a Two-Story	
	Permit (R-2020-035) and a Minor Residential Permit (RM-2020-	
	023).	
November 29, 2020 –	Planning staff conducts a review of the proposed project for	
February 22, 2021	conformance to the Cupertino Municipal Code.	
March 5 – 19, 2021	Staff receives 11 comments during the 14-day public comment	
	period. Staff responds to each public comment and includes a	
	summary of comments and responses in the Action Letter	
	dated April 19, 2021.	
April 19, 2021	The applicant revises the project in response to comments	
	received during the public comment period. The following is a	
	summary of revisions incorporated into the residential design:	
	Reduced total building height from 25'-2 to 23'.	
	 Reduced entry feature height from 14' to 12'-5". 	
	 Reduced total proposed FAR by 23 sq. ft. 	
	 Increased total proposed lot coverage by 7 sq. ft. 	
	Reconfigured elevations to be more harmonious in design:	
	o Broke up the bay window element and added	
	ornamental features (ex: wrought iron window	
	railing) to provide better articulation of wall lines.	
	o Reduced the visual mass of the exposed second story	
	by increasing the roofing area of the first floor.	
	o Reconfigured windows to be more proportional and	
	consistent with each other.	
	 Simplified proposed rooflines. 	
April 19, 2021	The Director of Community Development approves a Two-	
	Story Permit (R-2020-035) to allow the construction of a new	
	2,992 sq. ft. two-story home with a 746 sq. ft. attached ADU,	

	and a Minor Residential Permit (RM-2020-023) to allow a new
	second-story balcony ¹ .
April 29, 2021	Chih-Lung Lin, property owner of 1493 Poppy Way, submits
	an appeal ² of the Director's approval of the project.
May 3, 2021	Jitesh Vadhia, property owner of 1479 Poppy Way, submits an
	appeal ³ of the Director's approval of the project.
June 22, 2021	Planning Commission conducts a public hearing, considers the
	facts, comments, and data, and denies the appeals and upholds
	the Director's decision to approve the Two-Story and Minor
	Residential Permits with no modification (see Attachments D,
	E, and F).
July 2, 2021	Chih-Lung Lin, property owner of 1493 Poppy Way, appeals
	the Planning Commission's decision to uphold the Minor
	Residential Permit (RM-2020-023) (Attachment G).
July 3, 2021	Jitesh Vadhia, property owner of 1479 Poppy Way, appeals the
	Planning Commission's decision to uphold the Two-Story
	Permit (R-2020-035) and Minor Residential Permit (RM-2020-
	023) (Attachment H).

Basis of the Appeal:

The appellants' specific basis of appeal of the Planning Commission's decision is summarized below with related quotes in *italics*. Where appropriate, staff's response follows.

1. Mass and Bulk:

Appellant Vadhia:

"Primrose Way is a community of beautiful single story homes. A two story construction will destroy the look and feel of the neighborhood. It's everyone's responsibility to uphold the integrity and feel of the neighborhood."

Staff conducted a review of the existing homes within a one-block radius along Primrose Way and Poppy Way and within a portion of the Monta Vista South neighborhood. Both reviews indicate that the surrounding neighborhood is transitional and comprised of a mixture of single-story and two-story residences. Within a one-block radius (*Figure 2*),

¹ See Attachments 4 & 5 online at:

https://cupertino.legistar.com/LegislationDetail.aspx?ID=4990542&GUID=662ED993-AC64-4693-8D7E-AB617C257901&Options=&Search=

² See Attachment 6 online at: https://cupertino.legislationDetail.aspx?

³ See Attachment 7 online at: https://cupertino.legislationDetail.aspx?

37.5% of the surrounding homes (including appellant Vadhia) are two-story residences with an average floor area of 2,822 sq. ft.



Figure 2. Two Story residences in yellow. Applicant's property outlined in red.

Based on a larger study of the neighborhood (Attachment I), staff found that 23.5% of the approximately 310 residences are two-story. The proposed 2,992 sq. ft. two-story residence is, therefore, comparable in size to the existing residences in the surrounding area and complies with the R-1 Ordinance regulations. It is important to note that neither the property, nor the neighborhood, has a Single-Story Overlay. Therefore, the City cannot require a proposed home to be limited to single story in this neighborhood at this time.

Additionally, the project complies with all other development regulations for R1-6 zoned properties regarding mass and bulk, including, but not limited to, floor area ratio, first floor building envelope, minimum setback regulations, and building height limitations. The applicant also undertook design changes during the decision period to address the concerns submitted during the public comment period regarding mass and bulk. Approved design changes included decreasing the overall building height from 25′-2″ to 23′, where a maximum building height of 28′ is allowed by the R-1 Ordinance, simplifying the roof lines on the first and second floors, decreasing the entry feature height, simplifying the two-story bay window feature, and making window forms more consistent throughout the design. Together, the reduced height and design changes provide better articulation of wall lines, reduce the visual mass of the exposed second story, and simplify the roofline, thus making the project more harmonious in terms of scale and design with the surrounding neighborhood (*Figures 3 & 4*).

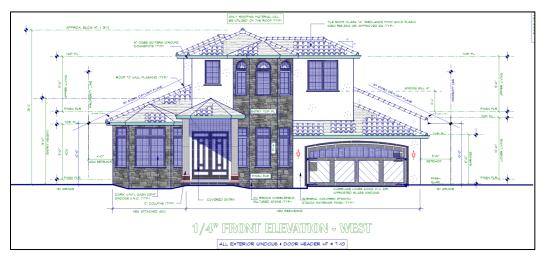


Figure 3. Previous front elevation

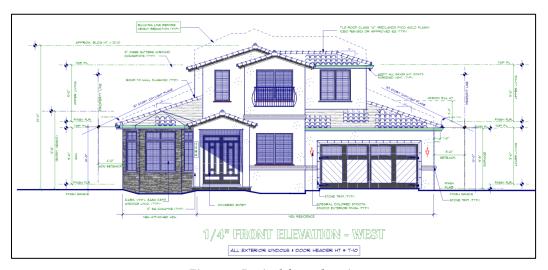


Figure 4. Revised front elevation

2. Privacy Impacts:

Appellant Lin:

"The proposed landscape plan can't address the privacy issue effectively. The height of the trees could cause problems with [the] electricity pole. The planned new tree[s] will take time and may not provide the needed coverage. If the tree[s] didn't grow or reach the intended height, there is no regulation to ask for re-plant."

"I am asking our city leaders to reconsider the balcony permit and also reduce the window size to minimize my privacy concern."

Appellant Vadhia:

"There's a deliberate five foot grade difference between my home and the Primrose Way home. This elevation difference ensures privacy from each-others backyard, even from my

2nd floor windows. The height of the applicant two story home, height of the balcony, and grade difference vastly increase my privacy concerns including vastly reduced sunshine into [my] backyard."

"The rear facing balcony continues to raise severe privacy concerns. The balcony has direct views into all my 1^{st} and 2^{nd} floor bedrooms and backyard. The height of the balcony, balcony wall height, and balcony side walls are detrimental to our privacy. The balcony should be removed."

"Privacy plantings along the utility easement will be inadequate. The height of the rear facing balcony requires very tall plantings. Those will take several years to grow. The planting[s] run along and below the utility easement significantly below the rear facing balcony height. This in combination with the several foot grade difference ensures my privacy is violated. The applicant has not addressed my privacy mitigation concerns."

"The large windows on the ADU combined with the five foot grade difference raise my privacy concerns. These windows have direct line of sight into my bedrooms and backyard."

One of the purposes of the R-1 Ordinance is to ensure the provision of light, air, and a reasonable level of privacy to individual residential parcels (CMC Section 19.28.010). This is achieved by implementing objective requirements adopted in the R-1 Ordinance, including height limitations, building envelope requirements for the first floor, and setback requirements for the first and second floors ensure that a reasonable level of light and air is available for neighbors.

Following the public comment period, the project applicant reduced the proposed building height from 25′-2″ to 23′, where a maximum building height of 28′ is allowed by the R-1 Ordinance. The Cupertino Municipal Code measures total building height from natural grade of the existing property but does not account for differences in grade between adjoining homes. The project, therefore, complies with the height limitations of the R-1 Ordinance. The proposal also meets, and in some cases exceeds, all setback requirements for the R1-6 zoning district. The project proposes a first-floor rear-yard setback of 28′-5″, where only 20′ is required; a second-story rear-yard setback of 34′-6″, where 25′ is required; and a rear-yard balcony setback of over 26′-6″, where 20′ is required.

Furthermore, the R-1 Ordinance allows property owners the ability to construct secondstory windows and balconies as long as privacy protection trees and/or shrubs are planted in accordance with ordinance requirements and maintained as protected plantings. The R-1 Ordinance does not require privacy plantings for the first floor nor does it restrict balcony and window size as long as the proposed structure meets setbacks. At the public hearing held on June 22, 2021, the Planning Commission posed the question to the property owners about reducing the size of the approximately 115 square foot second-story balcony. After a discussion, the Planning Commissioners elected to not require the applicant to reduce the size of the balcony. The project was upheld with no added condition(s) of approval requiring a reduction to the balcony.

The project complies with the privacy screening requirements of the R-1 Ordinance by providing privacy screening plantings for the second-story balcony as well as second-story windows with a sill height below 5-feet. The applicant has proposed to plant seven *Laurus nobilis* along the rear (eastern) property line to provide adequate screening for adjacent property owners (*Figure 5*). Privacy plantings for the right (southern) and left (northern) property lines are not required, as the applicant has obtained a signed privacy waiver form from the adjacent property owners at 1518 Primrose Way and 1492 Primrose Way.

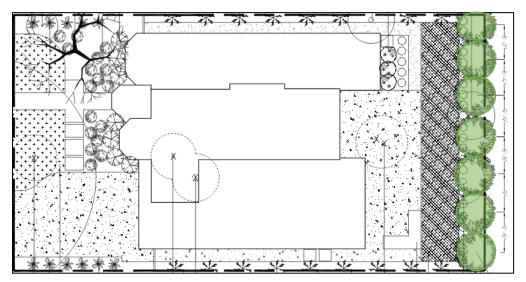


Figure 5. Proposed privacy plantings shown in green

Per the tract map and title report, the property has a 10-foot Public Service Easement (PSE) and a 5-foot Wire Clearance Easement (WCE) located at the rear of the property. The previously approved site plan inadvertently switched the locations of the PSE and WCE. This has been corrected with an updated site plan, which has been stamped as approved on September 23, 2021, and replaces the previously approved site plan. This has been incorporated into the approved plan set (Attachment F).

While the tract map indicates that development is regulated within the PSE and WCE, landscaping, including privacy plantings, is not restricted in the easement areas. Based on the revised site plan, the proposed *Laurus nobilis* will be located within the 10′ PSE. An alternative to planting the trees in the PSE would be to locate the privacy trees outside the PSE and the WCE. While it would result in the trees being planted closer to the home and the balcony, it may be possible that fewer privacy trees would be needed to provide the same level of privacy.

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Laurus nobilis is one of the City's approved privacy planting shrubs and shall have a minimum container size of 15-gallons and a minimum planting height of 6-feet. Mature height for Laurus Nobilis ranges from 15' to 40', with a mature spread of 20'. The finished floor of the second-story balcony is approximately 11'-4" above natural grade level. Per the R-1 Ordinance, the objective of privacy protection plantings is to provide substantial (not complete) screening within three years of planting to mitigate second-story window and balcony privacy impacts. Furthermore, privacy protection plantings are protected under the Protected Tree Ordinance, Chapter 14.18 of the CMC and are recorded as such with a covenant against the property to inform current and future property owners about their protected status. Protected trees are not permitted to be removed without obtaining a Tree Removal Permit and providing replacement plantings.

3. **Other:** Appellant Vadhia raised additional points, which are addressed below:

"The ADU is planned to be a separate unit even though it's attached to the main residence. Over the long run the applicant has not demonstrated the ADU and main residence will continue to be separate. I still see little evidence the City has addressed this long term issue."

The proposed ADU complies with the site development regulations of the ADU Ordinance, Chapter 19.112 of the CMC with regard to setbacks, height, and parking requirements. Under State law, a property that has maximized its development potential cannot be denied an ADU that is 800 square feet or less, even if this means that the property exceeds floor area ratio or lot coverage requirements set by the R-1 Ordinance. Additionally, per the Housing Accountability Act and the Accessory Dwelling Unit provisions of State law, the number of dwelling units shall not be reduced. Since the new home maximizes the floor area of the property, the proposed 746 sq. ft. ADU must be allowed.

As required by the ADU Ordinance, the attached ADU must remain entirely separated from the principal dwelling unit and can never be modified to become part of the primary dwelling. This is clearly stated as a condition of approval for Planning Commission Resolution 6925 (Attachment D), which requires recordation of a covenant to ensure future property owners are aware of this requirement.

"I paid a king's ransom to buy a home in Cupertino with views of the beautiful Cupertino Hills. The two-story proposal totally obscures my views of the beautiful Cupertino hills and skyline. The City's decision has now given my beautiful views to the applicant to enjoy! Does that seem fair? The City's decision discriminates established residents like myself relative to applicants that apparently don't live in Cupertino."

Preservation of views is not one of the stated purposes of the R-1 Ordinance.

Environmental Review:

This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) per Section 15303.

Public Noticing and Community Outreach:

The following table is a brief summary of the noticing for this appeal:

Notice of Public Hearing & Site Signage	Agenda
• Site Signage (at least 10 days prior to hearing)	Posted on the City's official notice
■ 10 notices mailed to property owners	bulletin board (five days prior to
adjacent to the project site and residents who	hearing)
submitted a public comment prior to the	Posted on the City of
Director's approval (at least 10 days prior to the	Cupertino's Web site (five days
hearing)	prior to hearing)

No public comments were received at the time of production of this staff report.

Conclusion

Staff, the Director of Community Development, and Planning Commission have found that the project complies with all R-1 Ordinance requirements, which are in place in part to guarantee a reasonable level of light, air, privacy, and maintain structures at a comparable scale within the neighborhood through requirements such as setbacks, height, the first-floor building envelope, and privacy planting requirements. Furthermore, the applicant has revised the project design to reflect the concerns of surrounding property owners. Therefore, staff recommends that the City Council deny the appeal and uphold the Planning Commission's decision to uphold the Director of Community Development's approval of the Two-Story Permit through the Resolution for Application R-2020-035 and the Minor Residential Permit through the Resolution for Application RM-2020-023.

With respect to the Two-Story Permit and Minor Residential Permit, the following findings may be made:

1. The project is consistent with the Cupertino General Plan, any applicable specific plans, zoning ordinance, and the purposes of the R-1 Ordinance; and

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 or improvements in the vicinity, and will not be detrimental to the public health, safety, or welfare; and

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 R1-6 (Single Family Residential) zoning district and will be compatible with the surrounding uses of the neighborhood. The project meets the building development regulations of the R-1 Ordinance and complies with the privacy protection measures to ensure that visual impacts to adjacent neighbors are mitigated.

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

The proposed project is located in a residential area consisting of single-family homes. The subject neighborhood contains a mix of single-story and two-story homes, making the proposed project compatible with the neighborhood. The proposed 2,992 sq. ft. two-story residence is comparable in size to the existing residences in the surrounding area and complies with the R-1 Ordinance regulations for floor area ratio. Additionally, the project complies with all other development regulations for R1-6 zoned properties regarding mass and bulk, including, but not limited to, first floor building envelope, minimum setback regulations, and building height limitations. Furthermore, the applicant has worked with staff to make significant design changes to the front elevation to be more harmonious in scale and design with the neighborhood. Design changes included decreasing the overall height of the project from 25'-8" to 23', simplifying the first and second-story rooflines to accommodate more gables, simplifying the two-story bay window feature to reduce the three-dimensional elements of the home, and making the windows more consistent and proportional throughout the project. Together, the reduced height and design changes provide better articulation of wall lines, reduce the visual mass of the exposed second story, and simplify the roofline. The project therefore maintains the single-family home scale found compatible with 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 adherence to the setback requirements and privacy protection measures of the R-1 Ordinance. The proposal for 1506 Primrose Way meets, and in some cases exceeds, all setback requirements for the R1-6 zoning district. The project proposes a first-floor rear-yard setback of 28′-5″ where only 20′ is required; a second-story rear-yard setback of 34′-6″ where 25′ is required; and a rear-yard balcony setback of over 26′-6″ where 20′ is required.

The R-1 Ordinance allows property owners the ability to construct second-story windows and balconies as long as privacy protection trees and/or shrubs are planted as required by the ordinance. The project complies with the privacy screening requirements of the R-1 Ordinance by providing privacy screening plantings for the second-story balcony and second-story windows with a sill height below 5 feet along the rear (eastern) property line and signed privacy waivers for the right (southern) and left (northern) property lines. Per the R-1 Ordinance, the objective of privacy protection plantings is to provide substantial screening within three years of planting. Privacy protection plantings are protected under the City's Municipal Code (Chapter 14.18) and are recorded as such with a covenant against the property to inform current and future property owners about their protected status. Protected trees are not permitted to be removed without obtaining a tree removal permit and providing replacement plantings.

Next Steps

The City Council's decision on this project is final unless a councilmember wishes to reconsider the decision or a petition for reconsideration is received from an interested person within 10 days of the mailing of the notice of decision pursuant to Chapter 2.08 of the Municipal Code.

<u>Prepared by:</u> Erika Poveda, Associate Planner

Piu Ghosh, Planning Manager

Reviewed by: Dianne Thomson, Assistant City Manager

Benjamin Fu, Director of Community Development

Approved for Submission by: Greg Larson, Interim City Manager

ATTACHMENTS

- A. Draft Resolution for R-2020-035
- B. Draft Resolution for RM-2020-023
- C. Single-Family Residential (R-1) Ordinance
- D. Planning Commission Resolution No. 6925 (R-2020-035)
- E. Planning Commission Resolution No. 6926 (RM-2020-023)
- F. Approved Plan Set
- G. Chih-Lung Lin Appellant Letter and Supplemental Documents
- H. Jitesh Vadhia Appellant Letter and Supplemental Documents
- I. Neighborhood Distribution of Two-Story Residences

RESOL	UTION	NO.	

A RESOLUTION OF THE CUPERTINO CITY COUNCIL DENYING AN APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF A TWO-STORY PERMIT TO ALLOW A NEW 2,992 SQUARE-FOOT TWO-STORY HOME WITH A 746 SQUARE-FOOT ATTACHED ACCESSORY DWELLING UNIT LOCATED AT 1506 PRIMROSE WAY

SECTION I: PROJECT DESCRIPTION

Application No.: R-2020-035

Applicant: Smart Lily, LLC (Khan and Hafiz residence)

Appellants: Jitesh Vadhia and Chih-Lung Lin

Location: 1506 Primrose Way (APN: 366-15-018)

<u>SECTION II: FINDINGS FOR A USE PERMIT:</u>

WHEREAS, the City of Cupertino received an application for a Two-Story Permit to allow the construction of a new 2,992 square-foot two-story home with a 746 square-foot attached accessory dwelling unit; and

WHEREAS, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the CEQA Guidelines; and

WHEREAS, the necessary notices were given and the comment period for the application was provided as required by the Procedural Ordinance of the City of Cupertino; and

WHEREAS, the Director of Community Development made the findings required under Section 19.28.140(B) of the Cupertino Municipal Code and approved the application with conditions on April 19, 2021; and

WHEREAS, the notice of decision was mailed to the appropriate parties, including the applicant and any person who contacted City staff with comments during the comment period, notifying them about the possibility of appealing a project; and

WHEREAS, the Planning Commission of the City of Cupertino received two appeals of the Community Development Director's approval of the Two Story Permit; and

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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 hearing in regard to the appeals; and

WHEREAS, the Planning Commission made the findings required under Section 19.28.140(B) of the Cupertino Municipal Code to deny the appeals and uphold the Director of Community Development's approval of the application with no amendments to the conditions of approval on June 22, 2021; and

WHEREAS, the City Council of the City of Cupertino received one appeal of the Planning Commission's approval of the Two Story Permit; and

WHEREAS, the necessary public notices have been given as required by the Procedural Ordinance of the City of Cupertino, and the City Council has held at least one public hearing in regard to the appeal; and

WHEREAS, the appellant has not met the burden of proof required to support said appeal; and

WHEREAS, the City Council 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 the R-1 Ordinance; and
 - 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 or improvements in the vicinity, and will not be detrimental to the public health, safety, or welfare; and
 - 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 R1-6 (Single Family Residential) zoning district and will be compatible with the surrounding uses of the neighborhood. The project meets the building development regulations of the R-1 Ordinance and complies with the privacy protection measures to ensure that visual impacts to adjacent neighbors are mitigated.

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

The proposed project is located in a residential area consisting of single-family homes. The subject neighborhood contains a mix of single-story and two-story homes, making the proposed project compatible with the neighborhood. The proposed 2,992 sq. ft. two-story residence is comparable in size to the existing residences in the surrounding area and complies with the R-1 Ordinance regulations for floor area ratio. Additionally, the project complies with all other development regulations for R1-6 zoned properties regarding mass and bulk, including, but not limited to, first floor building envelope, minimum setback regulations, and building height limitations. Furthermore, the applicant has worked with staff to make significant design changes to the front elevation to be more harmonious in scale and design with the neighborhood. Design changes included decreasing the overall height of the project from 25'-8" to 23', simplifying the first and second-story rooflines to accommodate more gables, simplifying the two-story bay window feature to reduce the threedimensional elements of the home, and making the windows more consistent and proportional throughout the project. Together, the reduced height and design changes provide better articulation of wall lines, reduce the visual mass of the exposed second story, and simplify the roofline. The project therefore maintains the single-family home scale found compatible with 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 adherence to the setback requirements and privacy protection measures of the R-1 Ordinance. The proposal for 1506 Primrose Way meets, and in some cases exceeds, all setback requirements for the R1-6 zoning district. The project proposes a first-floor rear-yard setback of 28'-5" where only 20' is required; a second-story rear-yard setback of 34'-6" where 25' is required; and a rear-yard balcony setback of over 26'-6" where 20' is required.

The R-1 Ordinance allows property owners the ability to construct second-story windows and balconies as long as privacy protection trees and/or shrubs are planted as required by the ordinance. The project complies with the privacy screening requirements of the R-1 Ordinance by providing privacy screening plantings for the second-story balcony and second-story windows with a sill height below 5 feet along the rear (eastern) property line and signed privacy waivers for the right (southern) and left (northern) property lines. Per the R-1 Ordinance, the objective of privacy protection plantings is to provide substantial screening within three years of planting. Privacy protection plantings are protected under the City's Municipal Code (Chapter 14.18) and are recorded as such with a covenant against the property to inform current and future property owners about their protected status. Protected trees are not permitted to be removed without obtaining a tree removal permit and providing replacement plantings.

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WHEREAS, the City Council is the approval authority for this project and is granted the authority by the Cupertino Municipal Code to exercise its independent judgment, based on the record before it, for purposes of the California Environmental Quality Act; and

NOW, THEREFORE, BE IT RESOLVED that the City Council 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 Class 3 exemption applies to new construction of small structures, including a single-family residence, or a second-dwelling unit in a residential zone.
- 2. DENIES the appeal of an application for a Two-Story Permit, Application no., R-2020-035, and UPHOLDS the Planning Commission's approval of the Two-Story Permit subject to the conditions which are enumerated in this Resolution beginning on PAGE 4 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-2020-035 as set forth in the minutes of City Council Meeting of October 5, 2021, are hereby incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPARTMENT

1. APPROVED EXHIBITS

The approval is based on a plan set entitled "Hafiz – New Residence, "consisting of fourteen (14) sheets labeled "A1, A2.1(1), A2.1(2), A2.2, A3, A4, A5, A6, A7, A8, L1, L2, L3, and TP," stamped as approved on April 19, 2021, and a revised Sheet A2, stamped as approved on September 23, 2021; and except as may be amended by conditions in this resolution. In the event there are conflicts between the floor plan, cross sections and elevation drawings, the elevation drawings take precedence.

2. <u>UNITS APPROVED</u>

One 2,992 sq. ft. replacement single family home (44.5% FAR) and one 746 sq. ft. attached accessory dwelling unit has been approved. A covenant shall be recorded prior to final occupancy to ensure that there shall be no internal connection between the accessory dwelling unit and the principal dwelling unit throughout the lifetime of the home, nor shall the accessory dwelling unit ever be allowed to converted to be part of the principal dwelling unit.

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3. ANNOTATION OF THE CONDITIONS OF APPROVAL

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

4. 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 property data may invalidate this approval and may require additional review.

5. 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.

6. <u>CONCURRENT APPROVAL CONDITIONS</u>

The conditions of approval contained in file no. RM-2020-023 shall be applicable to this approval.

7. 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.

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. 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.

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10. 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.

11. 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.

12. 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.

13. ACCESORY BUILDINGS/STRUCTURES

The location of all existing and proposed accessory buildings and/or structures shall be indicated on building permit plans and shall comply with Chapter 19.100, Accessory Buildings/Structures, of the Cupertino Municipal Code for review and approval prior to issuance of building permits.

14. <u>DEMOLITION REQUIREMENTS</u>

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.

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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 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.

The applicant shall incorporate the City's construction best management practices into the building permit plan set prior to any grading, excavation, foundation or building permit issuance.

16. COMPLIANCE WITH PUBLIC WORKS CONFIRMATION FORM

The project shall comply with the requirements indicated on the Public Works Confirmation form dated 11/05/2020, including, but not limited to, dedications,

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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.

17. 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.

18. DARK SKY ORDINANCE COMPLIANCE

The applicant shall comply with Dark Sky Ordinance regulations, as applicable, prior to issuance of the building permit.

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19. BIRD SAFE ORDINANCE COMPLIANCE

The applicant shall comply with the Bird Safe Ordinance regulations, as applicable, prior to issuance of the building permit.

20. ATTIC SPACE

All proposed attic space shall be non-habitable space. The applicant shall provide drawings prior to building permit issuance demonstrating all proposed attic spaces meet this requirement.

21. NESTING BIRDS

Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code.

- a) Construction and tree removal/pruning activities shall be scheduled to avoid the nesting season to the extent feasible. If feasible, tree removal and/or pruning shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay area extends from February 1 through August 31. Preconstruction surveys (described below) are not required for tree removal or construction activities outside the nesting period. If construction activities and any required tree removal occur during the nesting season (February 1 and August 31), a qualified ornithologist shall be required to conduct surveys prior to tree removal or construction activities. Preconstruction surveys shall be conducted no more than 14 days prior to the start of tree removal, pruning or construction. Preconstruction surveys shall be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped. During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.
- b) If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required. If an active nest containing viable eggs or young birds is found sufficiently close to work areas to be disturbed by these activities, their locations shall be documented and protective measures implemented under the direction of the qualified ornithologist until the nests no longer contain eggs or young birds.
- c) Protective measures shall include 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, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion

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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 biologist, if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified 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.

d) 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 submitted to the Planning Manager, through the building permit review process, and be completed to the satisfaction of the Community Development Director prior to the start of grading.

22. <u>INDEMNIFICATION AND LIMITATION OF LIABILITY</u>

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

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_	he indemnified parties. The Applicant shall mbursement Agreement to govern any such
incurred in additional investigation of revising, or amending, any document negative declaration, specific plan, or by proceedings challenging the pro review, if the applicant desires to cont	y shall have no liability to the Applicant for
	set forth herein may include certain fees, requirements, and other exactions.
Cupertino this 5 th day of October 2021, by	meeting of the City Council of the City of the following vote:
Members of the City Council	
AYES: NOES: ABSENT: ABSTAIN:	
,	
SIGNED:	
Darcy Paul, Mayor City of Cupertino	Date
- · / · · · · · · · · · · · · · · · · ·	

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ATTEST:	
Kirsten Squarcia, City Clerk	Date

RESOL	UTION	NO.	

A RESOLUTION OF THE CUPERTINO CITY COUNCIL DENYING AN APPEAL AND UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF A MINOR RESIDENTIAL PERMIT TO ALLOW A NEW SECONDSTORY BALCONY LOCATED AT 1506 PRIMROSE WAY

SECTION I: PROJECT DESCRIPTION

Application No.: RM-2020-023

Applicant: Smart Lily, LLC (Khan and Hafiz residence)

Appellants: Jitesh Vadhia and Chih-Lung Lin Location: 1506 Primrose Way (APN: 366-15-018)

<u>SECTION II: FINDINGS FOR A USE PERMIT:</u>

WHEREAS, the City of Cupertino received an application for a Minor Residential Permit to allow the construction of a new second-story balcony; and

WHEREAS, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the CEQA Guidelines; and

WHEREAS, the necessary notices were given and the comment period for the application was provided as required by the Procedural Ordinance of the City of Cupertino; and

WHEREAS, the Director of Community Development made the findings required under Section 19.28.140(A) of the Cupertino Municipal Code and approved the application with conditions on April 19, 2021; and

WHEREAS, the notice of decision was mailed to the appropriate parties, including the applicant and any person who contacted City staff with comments during the comment period, notifying them about the possibility of appealing a project; and

WHEREAS, the Planning Commission of the City of Cupertino received two appeals of the Community Development Director's approval of the Minor Residential Permit; 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 hearing in regard to the appeals; and

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WHEREAS, the Planning Commission made the findings required under Section 19.28.140(A) of the Cupertino Municipal Code to deny the appeals and uphold the Director of Community Development's approval of the application with no amendments to the conditions of approval on June 22, 2021; and

WHEREAS, the City Council of the City of Cupertino received two appeals of the Planning Commission's approval of the Minor Residential Permit; and

WHEREAS, the necessary public notices have been given as required by the Procedural Ordinance of the City of Cupertino, and the City Council has held at least one public hearing in regard to the appeals; and

WHEREAS, the appellants have not met the burden of proof required to support said appeal; and

WHEREAS, the City Council 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 the R-1 Ordinance; and
 - 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 or improvements in the vicinity, and will not be detrimental to the public health, safety, or welfare; and
 - 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 R1-6 (Single Family Residential) zoning district and will be compatible with the surrounding uses of the neighborhood. The project meets the building development regulations of the R-1 Ordinance and complies with the privacy protection measures to ensure that visual impacts to adjacent neighbors are mitigated.
- 3. The project is harmonious in scale and design with the general neighborhood; and The proposed project is located in a residential area consisting of single-family homes. The subject neighborhood contains a mix of single-story and two-story homes, making the proposed project compatible with the neighborhood. The project complies with all other development regulations for R1-6 zoned properties, including, but not limited to, minimum setback regulations. The proposal for 1506 Primrose Way meets, and in some cases exceeds,

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all setback requirements for the R1-6 zoning district by proposing a rear-yard balcony setback of over 26'-6" where only 20' is required. The project, as approved, is harmonious in scale and design with the general neighborhood. The proposed balcony is seven feet in depth and 16 feet in width. It is proportionate to the size of the proposed home and in scale with the proposed home.

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

Any potential adverse visual impacts on adjoining properties have been reasonably mitigated through adherence to the setback requirements and privacy protection measures of the R-1 Ordinance. The proposed balcony for 1506 Primrose Way exceeds all setback requirements for the R1-6 zoning district by proposing a rear-yard balcony setback of over 26'-6" where only 20' is required, and side setbacks of 17'8" and 26' where only 15' is required.

The R-1 Ordinance allows property owners the ability to construct second-story balconies as long as privacy protection trees and/or shrubs are planted as required by the ordinance. The project complies with the privacy screening requirements of the R-1 Ordinance by providing privacy screening plantings for the second-story balcony along the rear (eastern) property line and signed privacy waivers for the right (southern) and left (northern) property lines. Per the R-1 Ordinance, the objective of privacy protection plantings is to provide substantial screening within three years of planting. Privacy protection plantings are protected under the City's Municipal Code (Chapter 14.18) and are recorded as such with a covenant against the property to inform current and future property owners about their protected status. Protected trees are not permitted to be removed without obtaining a tree removal permit and providing replacement plantings.

WHEREAS, the City Council is the approval authority for this project and is granted the authority by the Municipal Code to exercise its independent judgment, based on the record before it, for purposes of the California Environmental Quality Act; and

NOW, THEREFORE, BE IT RESOLVED that the City Council 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 Class 3 exemption applies to new construction of small structures, including a single-family residence, or a second-dwelling unit in a residential zone.
- 2. DENIES the appeal of an application for a Minor Residential Permit, Application no., RM-2020-023, and UPHOLDS the Planning Commission's approval of the Minor Residential Permit subject to the conditions which are enumerated in this Resolution beginning on PAGE 4 thereof. The conclusions and sub conclusions upon which the

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findings and conditions specified in this resolution are based, including those contained in the Public Hearing record concerning Application no. RM-2020-023 as set forth in the minutes of City Council Meeting of October 5, 2021, are hereby incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPARTMENT

1. APPROVED EXHIBITS

The approval is based on a plan set entitled "Hafiz – New Residence, "consisting of fourteen (14) sheets labeled "A1, A2.1(1), A2.1(2), A2.2, A3, A4, A5, A6, A7, A8, L1, L2, L3, and TP," stamped as approved on April 19, 2021, and a revised Sheet A2, stamped as approved on September 23, 2021; and except as may be amended by conditions in this resolution. In the event there are conflicts between the floor plan, cross sections and elevation drawings, the elevation drawings take precedence.

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 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 property data may invalidate this approval and may require additional review.

4. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file no. R-2020-035 shall be applicable to this approval.

5. 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.

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6. 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.

7. 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.

8. <u>LANDSCAPE PROJECT SUBMITTAL</u>

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.

9. 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.

10. <u>DEMOLITION REQUIREMENTS</u>

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.

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11. BIRD SAFE ORDINANCE COMPLIANCE

The applicant shall comply with the Bird Safe Ordinance regulations, as applicable, prior to issuance of the building permit.

12. INDEMNIFICATION AND LIMITATION OF LIABILITY

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.

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The Applicant shall agree that the	City shall have no liability to the Applicant for eculative, or consequential damages.
The Conditions of Project Appro	S, RESERVATIONS OR OTHER EXACTIONS eval set forth herein may include certain fees, ion requirements, and other exactions.
PASSED AND ADOPTED at a regr Cupertino this 5 th day of October 2021	ular meeting of the City Council of the City of the following vote:
Members of the City Council	
AYES: NOES: ABSENT: ABSTAIN:	
SIGNED:	
Darcy Paul, Mayor City of Cupertino	Date
ATTEST:	
Kirsten Squarcia, City Clerk	Date

Section

19.28.010	Purposes.
19.28.020	Applicability of regulations.
19.28.030	Permitted, conditional and excluded uses.
19.28.040	Permits required for development.
19.28.050	Zoning districts established.
19.28.060	Site development regulations.
19.28.070	Building development regulations.
19.28.080	Eichler (R1-e) building design requirements.
19.28.090	Development regulations–(R1- a).
19.28.100	Permitted yard encroachments.
19.28.110	Single-family residential design guidelines and principles.
19.28.120	Landscape requirements.
19.28.130	Exceptions.
19.28.140	Findings.

19.28.010 Purposes.

R-1 single-family residence districts are intended to create, preserve and enhance areas suitable for detached dwellings in order to:

- A. Enhance the identity of residential neighborhoods;
- B. Ensure provision of light, air and a reasonable level of privacy to individual residential parcels;
- C. Ensure a reasonable level of compatibility in scale of structures within residential neighborhoods; and
- D. Reinforce the predominantly low-intensity setting in the community.

(Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011; Ord. 2039, (part), 2009; Ord. 1954, (part), 2005; Ord. 1868, (part), 2001; Ord. 1860, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1601, Exh. A (part), 1992)

19.28.020 Applicability of Regulations.

- A. No building, structure or land shall be used, and no building or structure shall be hereafter erected, structurally altered or enlarged in an R-1 single-family residence district other than in conformance with the provisions of this chapter and other applicable provisions of this title.
- B. Reasonable Accommodation: Notwithstanding 19.28.020(A) above, a request for reasonable accommodation may be made by any person with a disability, when the strict application of the provisions in this chapter, act as a barrier to fair housing opportunities, pursuant to Chapter 19.52.

 $(Ord.\ 2085, \S\ 2\ (part),\ 2011;\ Ord.\ 2079,\ (part),\ 2011;\ Ord.\ 2039,\ (part),\ 2009;\ Ord.\ 1954,\ (part),\ 2005;\ Ord.\ 1860,\ \S\ 1\ (part),\ 2000;\ Ord.\ 1834,\ (part),\ 1999;\ Ord.\ 1601,\ Exh.\ A\ (part),\ 1992)$

19.28.030 Permitted, Conditional and Excluded Uses.

Permitted, Conditional and Excluded Uses that may be conducted from property zoned Single Family Residential R-1), are identified in Section 19.20.020.

(Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

19.28.040 Permits Required for Development.

Table 19.28.040 sets forth the planning permits required for development in the Single-Family Residential district.

Table 19.28.040 Permits Required

Planning permit required prior to building permit application	Approval authority	Type of Project
A. None		One-story project that does not require exception or variance from the requirements of this chapter
		One-story encroachment into a required rear yard setback, subject to requirements of Section 19.28.070
		One-story extension of an existing side yard nonconforming building wall line, subject to requirements of Section 19.28.100 in all districts except R1-a
		3. One-story project with a gable end of a roof enclosing an attic space projecting outside the building envelope, subject to requirements of Section 19.28.070 or 19.28.080
B. Minor Residential Permit, pursuant to Chapter 19.12, Administration		New or expanded second story deck or balcony with views into neighboring residential side or rear yards in all districts except R1-a
	Admin.	5. Any active or passive solar structure that requires variation from the setback or height restrictions of this chapter, provided that no such structure shall infringe upon solar easements or adjoining property owners
		6. One or two-story addition or new home on a sloped single-family residential lot with development on building pads/graded areas with actual slopes equal to or greater than 20% and with total floor area ratio of all structures on the lot greater than 35%
C. Director's Minor Modification, pursuant to Chapter 19.12, Administration		Encroachment of porch elements into the required front yard setback in the R1-a zone, subject to the requirements of Section 19.28.100
D. Two-Story Permit, pursuant to Chapter 19.12, Administration		Two-story addition or new two-story home in all districts that do not require Residential Design Review per Section 19.28.040(E) except in an R1-a zone
E. Residential Design Review, pursuant to Chapter 19.12, Administration	Admin. with design review	Two-story addition or new two-story home in all districts except R1-a where: 1. Second floor to first floor area ratio is greater than 66%, except any second to first floor ratio for development on building pads/graded areas with actual slopes equal to or greater than 20%; and/or 2. Where second story side yard setback(s) are less than 15 feet to any interior side property line
	DRC with design review	Two-story addition, new two-story home, and/or second story deck in the R1-a zone
F. Exception, pursuant to Chapter 19.12, Administration & Section 19.28.130, Exceptions	DRC	One or two-story project requesting an exception from Sections 19.28.070[Development Regulations (Building)], 19.28.080[Eichler R1-e Building Design Requirements], and/or 19.28.110 [Landscape Requirements].

G. Hillside Exception, pursuant to Chapter 19.12, Administration		Development (area greater than 500 square feet) on slopes greater than 30%
H. Architectural and Site Approval, pursuant to Chapter 19.12, Administration	PC	One or two-story addition or new home on a sloped single-family residential lot with development on building pads/graded areas with actual slopes equal to or greater than 20% and where the cut plus fill of the site exceeds 2,500 cubic yards
Conditional Use Permit, pursuant to Chapter 19.12, Administration		Two-story addition or new two-story home in an R1 zoning district with an "i" suffix
J. Single-Story Overlay District Application, pursuant to Chapter 19.12, Administration	СС	Establishment or removal of a Single-Story Overlay District in a Single Family Residential District (Addition or removal of the "I" suffix in an R1 zoning district)

(Ord. 17-2162, § 6, 2017; Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

19.28.050 Zoning Districts Established.

A. Table 19.28.050 sets forth the zoning districts established.

Zoning Designation	Zoning Definition
R1-X	Single Family Residential District - Minimum lot area corresponds to the number (X), multiplied by 1,000 square feet
R1-Xi	Residential Single Family Single-Story Overlay District to limit homes to One Story (not to exceed 18 feet high) - [minimum lot area corresponds to the number (X), multiplied by 1,000 square feet preceding the 'i' symbol]. May be combined with all R1 zoning designations.
R1-6e	Single Family Residential Eichler District (6,000 minimum lot area)
R1-a	Single Family Residential District with Semi-Rural Characteristics (10,000 square foot minimum lot area)

- B. Establishment or Removal of an existing Single-Story Overlay District (R1-Xi): In addition to the application requirements identified in Section 19.12.080, the applicant shall submit the following:
- 1. Map delineating proposed boundaries for the Single-Story Overlay District, or removal thereof, corresponding to natural or man-made features (including, but not limited to, streets, waterways, zoning boundaries and similar features,) which would result in the establishment of an identifiable neighborhood, that includes one (1) or more entire city block(s), or one (1) or more entire subdivision tract(s), or street face(s) opposite of one another within a block;
- 2. Evidence, to the satisfaction of the City, for an establishment of a Single-Story Overlay, that a minimum of seventy-five (75) percent of the homes within the proposed Single-Story Overlay District are single-story;
- 3. A written statement setting forth the reasons for the application and all facts relied upon by the applicant in support thereof:
- 4. Original application petition signed, at a minimum, by sixty-six and two-thirds (66-2/3) percent of the property owners of record within the proposed or existing Single-Story Overlay District (each developable lot of record shall have one (1) signature). The petition shall contain information about the proposal including, but not be limited to, the following:
 - a. Map pursuant to Section 19.28.050(B)(1);
 - b. Property Addresses;
 - c. Property Owner Name(s) and Original Signature(s);
 - d. Applicant Contact Information.

(Ord. 17-2162, § 7, 2017; Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

19.28.060 Site Development Regulations.

Table 19.28.060 sets forth the rules and regulations for site development in the Single-Family Residential District.

Table 19.28.060 Site Development Regulations				
	R1-5	R1-6, 7.5, 8, 10, 20, etc., and R1-6e	R1-a	
A. Minimum net lot area ¹	5,000 square feet	the number multiplied by 1,000 square feet	10,000 square feet	
B. Minimum lot width (at the front setback line)	50 feet	60 feet	75 feet	
C. Landscaping	required or new purpose landsca the propertion of building street a propertion landsca shrubbe or lattice.		Landscaping plans are required for all additions or new homes. The purpose of the landscaping is to beautify the property and to achieve partial screening of building forms from the street and adjacent properties. Generally, the landscaping may include shrubbery, hedges, trees, or lattice with vines on fences.	
D. Development proposed on building pads/graded area with slopes equal to or greater than 20%				
1. Total site grading (cut plus fill) ^{2,3} 2,500 cubic yards maximum. Projects that exceed the maximum quantity shall require Architectural and Site Approval per Section 19.28.040(H).				
2. Fences	See Chapter 19.48, Fence Ordinance			
E. Development (structures, improvements, or grading) on actual slopes 30%	Limited to 500 square feet. Development greater than 500 square feet shall be subject to a Hillside Exception by the Planning Commission in accordance with section 19.40.080 of the RHS Ordinance.			

	Table 19.28.060	Site Development Regulations (Cont.)	
Notes:			

- 1 Lots, which contain less area than required by its zoning designation, but not less than 5,000 square feet, may nevertheless be used as building sites, provided that all other applicable requirements of this title are fulfilled.
- ² Maximum grading quantity includes grading for the building pad, yard areas, driveway, and all other areas requiring grading, but does not include basements. The graded area shall be limited to the building pad area to the greatest extent possible. Grading quantities for multiple driveways are divided equally among the participating lots, e.g. two lots sharing a driveway will divide the driveway grading quantity in half. The divided share will be charged against the grading quantity allowed for that lot development.
- 3 All cut and fill areas shall be rounded to follow the natural contours and planted with landscaping that meets the following requirements:
- i. A landscape plan shall be prepared that addresses measures to prevent soil erosion and to screen cut and fill slopes.
- ii. A tree planting plan shall be prepared for the site which will screen grading areas, and residential structures, to the greatest possible extent, as well as to reintroduce trees on barren slopes which were denuded by prior agricultural activities.
- iii. Landscape improvements shall meet the requirements as established in the Landscape Ordinance, Chapter 14.15.
- iv. Landscape improvements shall be installed prior to final occupancy unless such installation is impracticable, in which case, the applicant shall post a bond, cash, or other security to ensure installation within an 18-month period from occupancy. All such landscape areas shall be properly maintained.

19.28.070 Building Development Regulations.

Table 19.28.070 sets forth the rules and regulations pertaining to the development of structures on property zoned R1-5, 6, 7.5, 8, 10, 20 etc., and R1-6e in the Single-Family Residential District.

Table 19.28.070 Building Development Regulations		
	R1-5	R1-6, 7.5, 8, 10, 20, etc., and R1-6e
A. Maximum lot coverage	45% of the net lot area a. An additional 5% is allowed for roof overhangs, patios, porches, and other similar features not enclosed on by walls on at least three (3) sides	
B. Maximum floor area ratio	1. 45% of the net lot a	rea
C. Maximum second to first floor ratio		040(D) and (E)(1) for . Homes subject to design n the design review principles in
D. Interior areas (measured from the floor to the top of roof rafters) with heights > 16 feet	For one-story homes counted as first floor area	the floor area shall be counted
E. Minimum first floor setbacks		
1. Front yard		
a. Minimum setback	20 feet	
b. Side entering garage with curved driveway	15 feet. No more than two (2) 15-foot setbacks shall occur side by side.	
c. Three-car garage	For projects with three-car garages oriented to the public right of way, the wall plane of the third space shall be setback a minimum of two (2) feet from the wall plane of the other two (2) spaces.	
2. Side yard For lots that have more than two side yards, the setback shall be consistent for all side yards between the front property line and rear property line		
a. Interior lot	5 feet on both sides	15 feet combined (no side yard setback shall be less than 5 feet)
b. Corner lot		
Table 19.28.070 Building Dev	velopment Regulations (Cont.)	
i. Interior side	5 feet	
ii. Street side	12 feet	
3. Rear yard	a. 20 feet i. May be reduced to 10 feet, with a Minor Residential Permit, subject to Chapter 19.12, if, after the reduction, the useable rear yard area is not less than 20 times the lot width as measured from the front setback line.	
F. Minimum second floor setbac	eks	
Front yard	25 feet	
2. Side yard		

a. Interior Lot	25 feet combined (no side yard setback shall be less than 10 feet) i. See Section 19.28.040(E)(2) for permitting requirements. Homes subject to design review shall comply with the design review principles in Section 19.28.110(C).	
b. Corner lot	25 feet combined side yard setback (no side yard setback shall be less than 10 feet)	
i. Interior Side	10 feet but not less than 20 feet from the rear property line of an adjacent single family dwelling i. See Section 19.28.040(E)(2) for permitting requirements. Homes subject to design review shall comply with the design review principles in Section 19.28.110(C).	
ii. Street Side	12 feet	
c. Flag lot	20 feet from any property line	
3. Rear yard	25 feet	
G. Minimum setbacks for second story decks, patios, balconies, or any other similarly unenclosed features. All new or expanded second story decks with views into neighboring residential side or rear yards shall file for a Minor Residential Permit in accordance with Chapter 19.12, in order to protect the privacy of adjoining properties. The goal of this permit requirement is not to require complete visual protection but to address privacy protection to the greatest extent while still allowing the construction and use of an outdoor deck.		
1. Front yard	20 feet (may encroach up to 3 feet into the required front yard setback)	

Table 19.28.070 Building Development Regulations (Cont.)		
2. Side yard	15 feet	
3. Rear yard	20 feet	
H. Corner triangle	No portion of a structure shall be located within a corner triangle.	
I. Basements		
Number, size, and volume of lightwells	Shall be the minimum required by the California Building Code for egress, light, and ventilation, except that in the case of a single-story house with a basement, one lightwell may be up to 10 feet wide and 10 feet long.	
2. Minimum setback for lightwel	l retaining wall	
a. Side yard	5 feet	
b. Rear yard	10 feet	
3. Lightwell railings	Maximum height of 3 feet. The fence shall be located immediately adjacent to the lightwell.	
4. Lightwell screening	Lightwells that are visible from a public street shall be screened by landscaping.	
5. Root barrier measures	The perimeter of the basement and all lightwell retaining walls shall be treated and/or reinforced with the most effective root barrier measures as determined by the Director of Community Development.	
J. Maximum height		
Total principal building height	28 feet, no more than two stories	
Zoning Districts with "i" suffix ¹	Limited to one story (not to exceed 18 feet)	

3. First floor building envelope	 a. The maximum exterior wall height and building height on single-story structures and single-story sections of two-story structures must fit into the building envelope defined by: A 10 foot high vertical line from natural grade measured at the property line; and A 25 degree roof line angle projected inward at the 10 foot high line referenced above; Notwithstanding the building envelope, a gable end of a roof enclosing an attic space may have a maximum wall height of 17 feet to the peak of the roof as measured from natural grade, or up to 20 feet with a Minor Residential permit subject to Chapter 19.12.
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Table 19.28.070 Building Development Regulations (Cont.)	
Entry feature height	14 feet from natural grade to top of plate
K. Solar Design	The setback and height restrictions provided in this chapter may be varied for a structure utilized for passive or active solar purposes, provided that no such structure shall infringe upon solar easements or adjoining property owners. Variation from the setback or height restrictions of this chapter may be allowed only upon issuance of a Minor Residential Permit subject to Chapter 19.12.

Note:

Pertains to all buildings in a designated area limited to one story in height (not exceeding 18 feet) as prescribed by the City Council by affixing the designation "i" to the zoning district symbol.

(Ord. 17-2165, § 9, 2017; Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

19.28.080 Eichler (R1-e) Building Design Requirements.

R1-e single-family residential "Eichler districts" protect a consistent architectural form through the establishment of district site development regulations. Nothing in these regulations is intended to preclude a harmonious two-story home or second story addition.

The following building design requirements shall be met for development in the R1-e district:

- A. Entry features facing the street shall be integrated with the roofline of the house.
- B. The maximum roof slope is 3:12 (rise over run).
- C. Wood or other siding material located on walls facing a public street (not including the garage door) shall incorporate vertical grooves, up to 6 inches apart.
 - D. The building design shall incorporate straight architectural lines, rather than curved lines.
 - E. The first floor shall be no more than 12 inches above the existing grade.
- F. Exterior walls located adjacent to side yards shall not exceed 9 feet in height measured from the top of the floor to the top of the wall plate.

(Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

19.28.090 Development Regulations(R1-a).

R1-a districts are intended to reinforce the semi-rural setting in neighborhoods with large lots. Variation from the R1-a regulations shall require a Variance pursuant to Chapter 19.156 of the Cupertino Municipal Code in the R1-a district.

Table 19.28.090 sets forth the rules and regulations for building development in the R1-a district.

	Table 19.28.090 Development Regulations(R1-a)	
		R1-a
A.	Maximum lot coverage	Refer to Section 19.28.070(A)

B. Maximum total floor area ratio	Refer to Section 19.28.070(B)	
C. Maximum second to first floor area ratio	40% of the existing or proposed first floor area, except as follows: a. A second floor may be at least 750 square feet in area b. In no case shall a second floor be more than 1,100 square feet in area	
D. Interior areas (measured from the floor to the top of roof rafters) with heights > 16 feet	Refer to Section 19.28.070(D)	
E. Minimum setbacks (measure	d from property line)	_
	First floor	Second floor
1. Front yard		
a. Minimum setback	30 feet	30 feet
b. Side entering garage with curved driveway	Refer to Section 19.28.070(E) (1)(b)	
2. Side Yard		
a. Interior lot	10 feet both sides	35 feet combined (no side yard setback shall be less than 15 feet)
b. Corner lot		25 feet combined side yard setback
i. Interior side	10 feet	15 feet and must not be less than 20 feet from the rear property line of an adjacent single family dwelling
ii. Street side	Refer to Section 19.28.070(E) (2)(b)(ii)	Refer to Section 19.28.070(F) (2)(b)(ii)
c. Flag lot		20 feet from any property line
3. Rear yard	20 feet	40 feet
F. Second story design regulation	ons	
Second to first floor wall plane	The second story shall not can plane.	
Front-facing wall plane(s)	The front-facing wall plane(s) o offset a minimum of 3 feet from The intent of this regulation is ton the front elevation.	the first story wall plane(s).
G. Front Yard Paving	 No more than 50% of the fr covered with a combination pervious surfaces. No more than 40% of the fr covered with an impervious asphalt. 	on of impervious or semi-
H. Corner triangle	Refer to Section 19.28.070(H)	
I. Basements		
Number, size, and volume of lightwells	Refer to section 19.28.070(I)(1))
Minimum setbacks for lightwell retaining walls		
a. Side Yard	ard Refer to Section 19.28.070(I)(2)(a)	
b. Rear yard	Refer to Section 19.28.070(I)(2)(b)
Lightwell railings	Refer to Section 19.28.070(I)(3)	
4. Lightwell screening	Refer to Section 19.28.070(I)(4)
5. Root barrier measures	Refer to Section 19.28.070(I)(5)
J. Maximum height		

Total principal building height	Refer to Section 19.28.070(J)(1)
First floor building envelope	 a. The maximum exterior wall height and building height on single-story structures and single-story sections of two-story structures must fit into the building envelope defined by: A 12 foot high vertical line from natural grade and located 10 feet from property lines; and A 25 degree roof line angle projected inward at the 12 foot high line referenced above
3. Entry feature height	See Single-Family Residential Design Guidelines, Section 19.28.110(A)(6)
K. Minimum setbacks for second story decks, patios, balconies, or any other similarly unenclosed features. Second story decks may only be located on the front and rear of the house. All new or expanded second story decks with views into neighboring residential side or rear yards shall file for a Minor Residential Permit in accordance with Chapter 19.12, in	

order to protect the privacy of adjoining properties. The goal of this permit requirement is not to require complete visual protection but to address privacy protection to the greatest extent while still allowing the construction and use of an outdoor deck.

Front of house	
a. Minimum setback to front property line	30 feet
b. Minimum setback to side property line	35 feet combined (no side yard setback shall be less than 15 feet)
2. Rear of house	
a. Minimum setback to rear property line	40 feet
b. Minimum setback to side property line	35 feet combined (no side yard setback shall be less than 15 feet)
L. Solar Design	Refer to Section 19.28.070(K)

(Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

19.28.100 Permitted Yard Encroachments.

Table 19.28.100 sets forth the rules and regulations for permitted yard encroachments in the Single- Family Residential district.

Table 19.28.100 Permitted Yard Encroachments	
	Where a building legally constructed according to existing yard and setback regulations at the time of construction, encroaches upon present required yards and setbacks, one encroaching side yard setback may be extended along its existing building lines if the
	addition receives a Minor Residential Permit ¹ and conforms to the following:
A. Extension of a legal non-conforming wall line	a. The extension or addition may not further encroach into any required setback and the height of the existing non-conforming wall and the extended wall may not be increased.
	b. The maximum length of the extension is 15 feet. ¹
	c. The extension of any wall plane of a first-story addition is not permitted to be within 3 feet of any property line.
	d. Only one such extension is permitted for the life of such building.

	2. This section applies to the first story only and shall not be construed to allow the further extension of an encroachment by any building, which is the result of the granting of a variance or exception, either before or after such property becomes part of the City.
	3. This section does not apply to attached accessory structures such as attached carports. ²
B. Architectural Features (not including patio covers)	1. May extend into a required yard a distance not exceeding 3 feet.2. No architectural feature, or combination thereof, whether a portion of a principal or accessory structure, may extend closer than 3 feet to any property line.
C. Porch post in the R1-a zone	Posts for porches are allowed to encroach 2 feet into the required front setback. See Section 19.28.040 for permit requirements.
D. Low, open fencing for porches in the R1-a zone	Allowed to encroach 2 feet into the required front setback area. See Section 19.28.040 for permit requirements.
E. Porch platform and roof overhang in the R1-a zone	May encroach 5 feet into the required front setback. See Section 19.28.040 for permit requirements.
F. Accessory Structures (including attached patio covers)	As allowed by Chapter 19.100, Accessory Structures
Notes:	

Does not apply in the R1-a zone

(Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

19.28.110 Single-Family Residential Design Guidelines and Principles.

Any new single-family residential house or addition to an existing house shall be generally consistent with the adopted single-family residential guidelines in Sections 19.28.110(A) and (B).

- A. Single-Family Residential Design Guidelines for all projects. 1, 2
 - 1. There should not be a three-car wide driveway curb cut.
 - 2. No more than fifty percent of the front elevation of a house should consist of garage area.
- a. In the R1-a zone, the maximum width of a garage on the front elevation should be twenty- five feet, which will accommodate a two-car garage. Additional garage spaces should be provided through the use of a tandem garage or a detached accessory structure at the rear of the property.²
 - 3. Living area should be closer to the street, while garages should be set back more.
 - 4. All roofs should have at least a one-foot overhang.
 - 5. Porches are encouraged.
 - a. In the R1-a zone, the following porch design guidelines apply:
- i. When viewed from the street, a porch should appear proportionately greater in width than in height. A porch differs from an entry element, which has a proportionately greater height than its width.
 - ii. Structural supports should be designed such that the appearance is not obtrusive or massive.
 - iii. The use of large columns or pillars is discouraged.
- iv. The eave height for a front porch should not be significantly taller than the eave height of typical single-story elements in the neighborhood.
 - v. Porch elements should have detailing that emphasizes the base and caps for posts and fence elements.
 - 6. In R1-6e and R1-a zones, entry features should not be higher than fourteen feet from natural grade to plate?
 - B. Two-Story Design Guidelines. 1, 2
 - 1. The mass and bulk of the design should be reasonably compatible with the predominant neighborhood pattern. New

² Only applies to properties in the R1-a zone

construction should not be disproportionately larger than, or out of scale with, the neighborhood pattern in teams of building forms, roof pitches, eave heights, ridge heights, and entry feature heights.

- 2. The design should use vaulted ceilings rather than high exterior walls to achieve higher volume interior spaces.
- 3. Long, unarticulated, exposed second story walls should be avoided since it can increase the apparent mass of the second story.
- a. In the R1-a zone, all second story wall heights greater than six feet, as measured from the second story finished floor, should have building wall offsets at least every twenty-four feet, with a minimum four foot depth and ten foot width. The offsets should comprise the full height of the wall plane.²
 - 4. The current pattern of side setback and garage orientation in the neighborhood should be maintained.
- 5. When possible, doors, windows and architectural elements should be aligned with one another vertically and horizontally and symmetrical in number, size and placement.
 - 6. In the R1-a zone, windows on the side elevations should?:
 - a. Be fixed and obscured to a height of five feet above the second floor;
 - b. Have permanent exterior louvers to a height of five feet above the second floor; or
 - c. Have sill heights of five feet or greater to mitigate intrusion into a neighbor's privacy.
- C. Residential Design Review Principles. Two-story homes subject to design review per Section19.28.040(E) (except in R1-a zones) shall meet the residential design review principles below. The City of Cupertino Two-Story Design Principles are attached hereto as Appendix A and are incorporated herein by this reference.
 - 1. An identifiable architectural style shall be provided;
 - 2. Design features, proportions and details shall be consistent with the architectural style selected;
 - 3. Visual relief deemed to be appropriate by the Director of Community Development shall be provided;
 - 4. Materials shall be of high quality;
 - 5. Ensure building mass and scale;
 - 6. Design with architectural integrity on all sides of the structure; and
 - 7. The design shall reflect symmetry, proportion and balance.

Notes:

- Refer to the Eichler Design Handbook- Fairgrove Neighborhood for additional design guidelines in the R1-6e zone.
- ² Nonconformance with the design guidelines in the R1-a zone shall be considered acceptable only if the applicant shows that there are no adverse impacts from the proposed project.

(Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

19.28.120 Landscape Requirements.

To mitigate privacy impacts and the visual mass and bulk of new two-story homes and additions, tree and/or shrub planting is required. The intent of this section is to provide substantial screening within three years of planting.

- A. Applicability. These requirements shall apply to new two-story homes, second-story decks, two-story additions, modifications to the existing second-story decks and/or new windows on existing two-story homes that increase privacy impacts on neighboring residents.
 - 1. These requirements shall not apply to:
 - a. Skylights;
 - b. Windows with sills more than five feet above the finished second floor;
 - c. Obscured, non-openable windows;
 - d. Windows with permanent exterior louvers to a height of five feet above the second floor;
 - e. Non-operable windows with obscure glass to a height of five feet above the second floor; and
 - f. When waivers have been obtained by all affected property owners.
- B. Planting Plan. Proposals for a new two-story homes, second-story decks, two-story additions, modifications to the existing second-story decks, and/or new windows on existing two-story homes shall be accompanied by a planting plan which identifies the location, species and canopy diameter of existing and proposed trees or shrubs to meet the requirements in Section 19.28.120(C) below.

- C. Planting Requirements.
 - 1. Front yard tree planting.
 - a. The tree shall be twenty-four-inch box or larger, with a minimum height of six feet.
 - b. The tree shall be planted in front of new second stories in the front yard setback area.
- i. In the R1-a zone, the tree shall be placed to where views from second story windows across the street are partially mitigated.
- c. The Director of Community Development may waive the front yard tree based on a report from an internationally-certified arborist citing conflict with existing mature tree canopies onsite or in the public right-of-way.
 - 2. Privacy planting.
- a. New trees and/or shrubs are required on the applicant's property in an area bounded by a thirty-degree angle on each side window jamb.
 - i. The following is required for all side and rear yard-facing second story windows in the R1-6e zone:
 - · Cover windows with exterior louvers to a height of five feet above the second floor; or
 - · Obscure glass to a height of five feet above the second floor; or
 - Have a window sill height of five feet minimum above the finished second floor.
- b. The Planning Division shall maintain a list of allowed privacy planting trees and shrubs. The list includes allowed plant species, minimum size of trees and shrubs, expected canopy or spread size, and planting distance between trees.
 - i. In the R1-a zone, the minimum height of privacy trees at the time of planting shall be twelve feet.
- ii. In the R1-a zone, privacy planting shall have a minimum setback from the property line equivalent to one-quarter of the spread noted on the City list.
 - c. The trees and/or shrubs shall be planted prior to issuance of a final occupancy permit.
 - 3. Waivers.
- a. New trees and/or shrubs are not required to replace existing front or privacy trees or shrubs if an Internationally Certified Arborist or Licensed Landscape Architect verifies that the existing trees/shrubs have the characteristics of privacy planting species, subject to approval by the Director or Community Development.
- b. Affected property owner(s) may choose to allow privacy planting on their own property. In such cases, the applicant must plant the privacy screening prior to issuance of a building permit.
- c. The privacy mitigation measures may be modified in any way with a signed waiver statement from the affected property owner. Modifications can include changes to the number of shrubs or trees, their species or location.
- 4. Covenant. The property owner shall record a covenant with the Santa Clara County Recorder's Office that requires the retention of all privacy planting, or use of existing vegetation as privacy planting, and required front yard trees, prior to receiving a final building inspection from the Building Division. This regulation does not apply to situations described in subsection (C)(3)(b) of this section.
- 5. Maintenance. The required plants shall be maintained. Landscape planting maintenance includes irrigation, fertilization and pruning as necessary to yield a growth rate expected for a particular species.
- 6. Replacement. Where required planting is removed or dies it must be replaced within thirty days with privacy tree(s) of similar size as the tree(s) being replaced, unless it is determined to be infeasible by the Director of Community Development.

(Ord. 16-2149, § 6, 2016; Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

19.28.130 Exceptions.

Where results inconsistent with the purpose and intent of this chapter result from the strict application of the provisions hereof, exceptions to Sections 19.28.070, 19.28.080, and 19.28.110 may be granted by the Design Review Committee. The specific procedural requirements shall follow Chapter 19.12.

(Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

19.28.140 Findings.

Sections 19.28.140(A), (B), (C), (D), and (E) set forth the findings required for a Minor Residential Permit, Two-Story Permit, Residential Design Review, and R-1 Exception approval.

- A. Minor Residential Permit Findings.
 - 1. The project is consistent with the Cupertino General Plan, any applicable specific plans, zoning ordinances and the

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purposes of this title.

- 2. The granting of the permit will not result in a condition that is detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or welfare.
 - 3. The proposed project is harmonious in scale and design with the general neighborhood.
 - 4. Adverse visual impacts on adjoining properties have been reasonably mitigated.
 - B. Two-Story Permit Findings.
- 1. The project is consistent with the Cupertino General Plan, any applicable specific plans, zoning ordinance and the purposes of this title.
- 2. The granting of the permit will not result in a condition that is detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or welfare.
 - 3. The proposed project is harmonious in scale and design with the general neighborhood.
 - 4. Adverse visual impacts on adjoining properties have been reasonably mitigated.
 - C. Residential Design Review Findings.
- 1. The project is consistent with the Cupertino General Plan, any applicable specific plans, zoning ordinance and the purposes of this title.
- 2. The granting of the permit will not result in a condition that is detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or welfare.
 - 3. The project is harmonious in scale and design 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.
 - Adverse visual impacts on adjoining properties have been reasonably mitigated.
 - D. Residential Design Review Findings, R1-a zone.
 - 1. The project is consistent with the Cupertino General Plan and Title 19 of the Cupertino Municipal Code.
- 2. The granting of this permit will not result in detrimental or injurious conditions to the property or improvements in the vicinity, or to the public health, safety, or welfare.
- 3. The project is generally compatible with the established pattern of building forms, building materials, and designs of homes in the neighborhood.
- 4. The project is generally compatible with the City's single-family residential design guidelines and the guidelines in this chapter and any inconsistencies have been found to not result in impacts on neighbors.
- 5. Significant adverse visual and privacy impacts as viewed from adjoining properties have been mitigated to the maximum extent possible.
 - E. R-1 Exception Findings.
 - 1. The literal enforcement of this chapter will result in restrictions inconsistent with the spirit and intent of this chapter.
- 2. The proposed development will not be injurious to property or improvements in the area, nor be detrimental to the public safety, health and welfare.
- 3. The exception to be granted is one that will require the least modification of the prescribed design regulation and the minimum variance that will accomplish the purpose.
 - 4. The proposed exception will not result in significant visual impact as viewed from abutting properties.

(Ord. 2085, § 2 (part), 2011; Ord. 2079, (part), 2011)

Appendix A: City of Cupertino Two Story Design Principles

INTRODUCTION

Cupertino's neighborhoods have developed over a period of decades with varying architectural styles. Two story homes with a second story to first floor ratio greater than 66% and homes with second story side setbacks less than 15 feet must offset the building massing with designs that encompass higher quality architectural features and materials.

DESIGN PRINCIPLES

These design principles help integrate new homes and additions to existing homes with existing neighborhoods by providing a framework for the review and approval process. Where possible, additional details and examples have been provided. Conditions not covered by these examples will be evaluated on a case-by-cases basis.

- 1. Provide an identifiable architectural style. Attractive homes are designed by using elements from one consistent theme. It is best to work with your designer to identify and carry out one style around the entire house.
- 2. Design features. Proportions and details to be consistent with architectural style.
- 3. Provide facade articulation. The following techniques offer ways to mitigate the bulk of larger homes in smaller scale neighborhoods and the impact of two- story tall walls on adjacent neighbors and the streetscape.

Second floor setbacks

Horizontal and vertical wall plane changes

Pop outs

Bay windows

Chimneys

Wide overhangs with projecting brackets

Juliet balconies

Belly bands

Window boxes and pot shelves

Landscaped trellises and lattices

Projecting window trim

Materials and color changes

Inset balconies

Applied decorative features

Recessed garage doors

Window trim

Tall trees to break up view of long walls

- 4. Use high quality materials.
- 5. Ensure massing and scale appropriate to the architectural style.
- 6. Design with architectural integrity of forms, materials and details on all sides of the structure.
- 7. Provide symmetry, proportions and balance consistent with the architectural style.



DISTINGUISHING ARCHITECTURAL FEATURES

There are a wide range of architectural styles in Cupertino. However, there are a few that have been most preferred in recent years. Annotated illustrations outlining some of the distinguishing features for five of the most common styles are included on the following pages:

Arts and Crafts

Mediterranean

Spanish Eclectic

Italian Villa

French Country

RESOURCES

The following resources may be useful to homeowners, buildings, and design professionals in understanding the special qualities of specific house styles.

A Field Guide to American Homes

Viginia & Lee McAlester

Alfred A. Knopf 2000

The Abrams Guide to American House Styles

Wilkin Morgan

Harry N. Abrams, Inc. 2004

House Styles in America

James C. Massey

Penquin Studio 1996

Celebrating the American Home

Joanne Kellar Bouknight

The Taunton Press 2005

The Distinctive Home, A Vision of Timeless Design

Jeremiah Eck

The Taunton Press 2005

Arts and Crafts Style

DISTINGUISHING FEATURES

Arts and Crafts Style homes are characterized by gently pitched broad roof gables with wide eave overhangs. The visual impact of second floor spaces is often minimized by incorporating the living space into the roof form, and utilizing gable or shed dormers for light and interior volume. Generously sized entry porches with distinctive columns and column bases are common, as is the abundance of wood details.

- 1. Generous and slightly elevated entry porch
- 2. Large tapered or square wood columns
- 3. Stone, brick, shingle, or wood paneled column base
- 4. Wood porch railing
- 5. Gabled roof ends
- 6. Expressed wood beam
- 7. Decorative wood brackets
- 8. Wide wood window frames with divided light panes
- 9. Exposed rafter tails
- 10. Decorative Arts and Crafts carriage light
- 11. Gable and shed dormers
- 12. Shingles and/or wood siding occasionally with a small amount of stucco
- 13. Composition or simulated wood shake roof shingles
- 14. Interesting gable end window, attic vent, and/or wood details
- 15. Bay windows with base trim and brackets
- 16. Ancillary structures with matching forms, materials, and details





Mediterranean Style

DISTINGUISHING FEATURES

Mediterranean Style homes are characterized by low-pitched hip roofs, typically covered in tile. Roof overhangs are generally wide, and often are accentuated by decorative brackets. Windows are typically deep set from the exterior wall surface, and upper story windows are smaller and less elaborate than ground floor windows. Selected windows and doors often have arched head shapes, and entries are accentuated by deep recessed and flanking columns attached to the wall, but are generally subdued. Facades are often symmetrical.

- 1. Low pitched roof with heavy textured tiles
- 2. Wide roof overhangs for sun shading, often with decorative brackets
- 3. Stucco or stone walls
- 4. Deep set windows and entries, sometimes with arched heads and/or windows accentuated with surrounding trim
- 5. Decorative metal carriage lights and railings
- 6. Often symmetrical massing and window layout
- 7. Upper floor windows smaller and less elaborate
- 8. Supplemental sun shading at selected windows
- 9. Distinctive chimney shapes and caps
- 10. Small balconies with decorative railings and brackets
- 11. Decorative columns and details
- 12. Decorative shutters





Spanish Eclectic Style

DISTINGUISHING FEATURES

Spanish Eclectic Style homes are characterized by low-pitched gable and hip roofs, typically covered in red tiles. Roof overhangs may be wide with decorative brackets or minimal with curved molding at the wall/roof juncture. Windows are typically deep set from the exterior wall surface, and usually have projecting molding at their heads and sills. Selected windows and doors often have arched head shapes, and entries are accentuated by deep recesses and heavy wood doors. Facades are generally informal and asymmetrical in their massing.

- 1. Low pitched roofs with heavy textured red tiles overhangs may be large with decorative brackets or very small with curved molding at the wall/roof juncture
 - 2. Stucco walls
 - 3. Recessed entry door often with arched head
 - 4. Deep set windows, sometimes with arched heads
 - 5. Informal and asymmetrical building forms
 - 6. Distinctive upper level balconies with metal or wood details
 - 7. Wood window shutters
 - 8. Projecting window head and sill trim
 - 9. Decorative tile and metal details
 - 10. Distinctive chimney shapes and caps

- 11. Second floor overhangs with wood beam and bracket supports
- 12. Casement windows with divided lights





Italian Villa Style

DISTINGUISHING FEATURES

Italian Villa Style homes are characterized in the Bay Area a wide variety of forms and details drawn from a variety of common Italian styles. They are frequently formal in their facade design, and often symmetrical with accentuated windows and entries.

- 1. Low pitched hip roof
- 2. Wide roof eaves, often with formal supporting brackets
- 3. Symmetrical or asymmetrical front facade window patterns well-organized around a projecting formal entry with Italianate columns
 - 4. Tall first floor windows
 - 5. Deep set windows in grouped patterns
 - 6. Arched window heads and/or accentuated trim above the windows
 - 7. Projecting or recessed entries with Italianate columns and/or trim
 - 8. Projecting window heads, jambs and sills
 - 9. Articulated belt and trim courses





French Country Style

DISTINGUISHING FEATURES

French Country Style homes are characterized by steeply pitched roofs with eaves commonly flared upward at roof-wall junctions. They may be symmetrical in form and facade organization, but are more typically asymmetrical. Some variations include a round tower with a high, conical roof. Individual homes exhibit a wide variety in form detailing, but are united by the strong roof form. Roof are commonly covered with slate, tile or other rough-textured materials. Roof dormers are common. Entries are often deep-set from the home's front wall.

- 1. Gable and hip roof forms with medium to steep pitch
- 2. Closed eaves
- 3. Stucco, stone, or brick walls
- 4. Recessed entry vestibule with decorative molding or projecting gable
- 5. Articulated entry details
- 6. Casement windows with divided lights often recessed
- 7. Second floor overhangs with wood beam and decorative supports
- 8. Planter boxes, shutters, and other decorative details
- 9. Distinctive chimney shapes and caps
- 10. Gabled dormers
- 11. Bay windows with metal roofs





CITY OF CUPERTINO 10300 Torre Avenue Cupertino, California 95014

RESOLUTION NO. 6925

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO DENYING AN APPEAL AND UPHOLDING THE DIRECTOR OF COMMUNITY DEVELOPMENT'S APPROVAL OF A TWO STORY PERMIT TO ALLOW A NEW 2,992 SQUARE-FOOT TWO-STORY HOME WITH A 746 SQUARE-FOOT ATTACHED ACCESSORY DWELLING UNIT LOCATED AT 1506 PRIMROSE WAY

SECTION I: PROJECT DESCRIPTION

Application No.: R-2020-035

Applicant: Smart Lily, LLC (Khan and Hafiz residence)

Appellants: Jitesh Vadhia and Chih-Lung Lin Location: 1506 Primrose Way (APN: 366-15-018)

SECTION II: FINDINGS FOR A USE PERMIT:

WHEREAS, the City of Cupertino received an application for a Two Story Permit to allow the construction of a new 2,992 square-foot two-story home with a 746 square-foot attached accessory dwelling unit; and

WHEREAS, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the CEQA Guidelines; and

WHEREAS, the necessary notices were given and the comment period for the application was provided as required by the Procedural Ordinance of the City of Cupertino; and

WHEREAS, the Director of Community Development made the findings required under Section 19.28.140(B) and approved the application with conditions on April 19, 2021; and

WHEREAS, the notice of decision was mailed to the appropriate parties, including the applicant and any person who contacted City staff with comments during the comment period, notifying them about the possibility of appealing a project; and

WHEREAS, the Planning Commission of the City of Cupertino received two appeals of the Community Development Director's approval of the Two Story Permit; 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 hearing in regard to the appeal; and

WHEREAS, the appellants have not met the burden of proof required to support said appeal; and

WHEREAS, the Planning Commission 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 the R-1 Ordinance; and
 - 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 or improvements in the vicinity, and will not be detrimental to the public health, safety, or welfare; and
 - 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 R1-6 (Single Family Residential) zoning district, and will be compatible with the surrounding uses of the neighborhood. The project meets the building development regulations of the R-1 Ordinance and complies with the privacy protection measures to ensure that visual impacts to adjacent neighbors are mitigated.
- 3. The project is harmonious in scale and design with the general neighborhood; and
 - The proposed project is located in a residential area consisting of single-family homes. The subject neighborhood contains a mix of single-story and two-story homes, making the proposed project compatible with the neighborhood. The proposed 2,992 sq. ft. two-story residence is comparable in size to the existing residences in the surrounding area and complies with the R-1 Ordinance regulations for floor area ratio. Additionally, the project complies with all other development regulations for R1-6 zoned properties regarding mass and bulk, including, but not limited to, first floor building envelope, minimum setback regulations, and building height limitations. Furthermore, the applicant has worked with staff to make significant design changes to the front elevation to be more harmonious in scale

and design with the neighborhood. Design changes included decreasing the overall height of the project from 25'-8" to 23', simplifying the first and second-story rooflines to accommodate more gables, simplifying the two-story bay window feature to reduce the three-dimensional elements of the home, and making the windows more consistent and proportional throughout the project. Together, the reduced height and design changes provide better articulation of wall lines, reduce the visual mass of the exposed second story, and simplify the roofline. After all design changes listed above, staff is able to make the finding that the proposed project maintains the single-family home scale found compatible with 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 adherence to the setback requirements and privacy protection measures of the R-1 Ordinance. The proposal for 1506 Primrose Way meets, and in some cases exceeds, all setback requirements for the R1-6 zoning district. The project proposes a first-floor rear-yard setback of 28'-5" where only 20' is required; a second-story rear-yard setback of 34'-6" where 25' is required; and a rear-yard balcony setback of over 26'-6" where 20' is required.

The R-1 Ordinance allows property owners the ability to construct second-story windows and balconies as long as privacy protection trees and/or shrubs are planted as required by the ordinance. The project complies with the privacy screening requirements of the R-1 Ordinance by providing privacy screening plantings for the second-story balcony and second-story windows with a sill height below 5 feet along the rear (eastern) property line and signed privacy waivers for the right (southern) and left (northern) property lines. Per the R-1 Ordinance, the objective of privacy protection plantings is to provide substantial screening within three years of planting. Privacy protection plantings are considered Protected Trees under the City's Municipal Code (Chapter 14.18) and are recorded as such with a covenant against the property to inform current and future property owners about their protected status. Protected trees are not permitted to be removed without obtaining a tree removal permit and providing replacement plantings.

WHEREAS, the Planning Commission is the approval authority for this project and is granted the authority by the Municipal Code to exercise its independent judgment, based on the record before it, for purposes of the California Environmental Quality Act; 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 Class 3 exemption applies to

new construction of small structures, including a single-family residence, or a second-dwelling unit in a residential zone.

2. Denies the appeal of an application for a Two Story Permit, Application no., R-2020-035, and upholds the Administrative approval of the Two Story Permit subject to the conditions which are enumerated in this Resolution beginning on PAGE 4 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-2020-035 as set forth in the Minutes of Planning Commission Meeting of June 22, 2021, are hereby incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPARTMENT

1. <u>APPROVED EXHIBITS</u>

The approval is based on a plan set entitled "Hafiz – New Residence, "consisting of fifteen (15) sheets labeled "A1, A2, A2.1(1), A2.1(2), A2.2, A3, A4, A5, A6, A7, A8, L1, L2, L3, and TP,"" except as may be amended by conditions in this resolution. In the event there are conflicts between the floor plan, cross sections and elevation drawings, the elevation drawings take precedence.

2. UNITS APPROVED

One 2,992 sq. ft. replacement single family home (44.5% FAR) and one 746 sq. ft. attached accessory dwelling unit has been approved. A covenant shall be recorded prior to final occupancy to ensure that there shall be no internal connection between the accessory dwelling unit and the principal dwelling unit throughout the lifetime of the home, nor shall the accessory dwelling unit ever be allowed to converted to be part of the principal dwelling unit.

3. ANNOTATION OF THE CONDITIONS OF APPROVAL

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

4. 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 property data may invalidate this approval and may require additional review.

5. <u>CONSULTATION WITH OTHER DEPARTMENTS</u>

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.

6. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file no. RM-2020-023 shall be applicable to this approval.

7. 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.

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. 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.

10. 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.

11. 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.

12. 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.

13. ACCESORY BUILDINGS/STRUCTURES

The location of all existing and proposed accessory buildings and/or structures shall be indicated on building permit plans and shall comply with Chapter 19.100, Accessory Buildings/Structures, of the Cupertino Municipal Code for review and approval prior to issuance of building permits.

14. 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.

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 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.

The applicant shall incorporate the City's construction best management practices into the building permit plan set prior to any grading, excavation, foundation or building permit issuance.

16. COMPLIANCE WITH PUBLIC WORKS CONFIRMATION FORM

The project shall comply with the requirements indicated on the Public Works Confirmation form dated 11/05/2020, 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.

17. 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.

18. <u>DARK SKY ORDINANCE COMPLIANCE</u>

The applicant shall comply with Dark Sky Ordinance regulations, as applicable, prior to issuance of the building permit.

19. BIRD SAFE ORDINANCE COMPLIANCE

The applicant shall comply with the Bird Safe Ordinance regulations, as applicable, prior to issuance of the building permit.

20. ATTIC SPACE

All proposed attic space shall be non-habitable space. The applicant shall provide drawings prior to building permit issuance demonstrating all proposed attic spaces meet this requirement.

21. <u>NESTING BIRDS</u>

Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code.

- a) Construction and tree removal/pruning activities shall be scheduled to avoid the nesting season to the extent feasible. If feasible, tree removal and/or pruning shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay area extends from February 1 through August 31. Preconstruction surveys (described below) are not required for tree removal or construction activities outside the nesting period. If construction activities and any required tree removal occur during the nesting season (February 1 and August 31), a qualified ornithologist shall be required to conduct surveys prior to tree removal or construction activities. Preconstruction surveys shall be conducted no more than 14 days prior to the start of tree removal, pruning or construction. Preconstruction surveys shall be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped. During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.
- b) If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required. If an active nest containing viable eggs or young birds is found sufficiently close to work areas to be disturbed by these activities, their locations shall be documented and protective measures implemented under the direction of the qualified ornithologist until the nests no longer contain eggs or young birds.
- c) Protective measures shall include 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, 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 biologist, if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified 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.
- d) 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 submitted to the Planning Manager, through the building

permit review process, and be completed to the satisfaction of the Community Development Director prior to the start of grading.

22. INDEMNIFICATION AND LIMITATION OF LIABILITY

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.

23. 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.

PASSED AND ADOPTED this 22nd day of June, 2021 at a noticed Public Hearing of the Planning Commission of the City of Cupertino, State of California, held by the Director of Community Development, or his or her designee, pursuant to Cupertino Municipal Code Section 19.12.120.

AYES: COMMISSIONERS: Chair Wang, Vice Chair Scharf

NOES: COMMISSIONERS: None ABSTAIN: COMMISSIONERS: Kapil

ABSENT: COMISSIONERS: Madhdhipatla, Saxena

ATTEST:

APPROVED:

/s/ Piu Ghosh

Piu Ghosh

R "Ray" Wang

Planning Manager

Chair, Planning Commission

CITY OF CUPERTINO 10300 Torre Avenue Cupertino, California 95014

RESOLUTION NO. 6926

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO DENYING AN APPEAL AND UPHOLDING THE DIRECTOR OF COMMUNITY DEVELOPMENT'S APPROVAL OF A MINOR RESIDENTIAL PERMIT TO ALLOW A NEW SECOND-STORY BALCONY LOCATED AT 1506 PRIMROSE WAY

SECTION I: PROJECT DESCRIPTION

Application No.: RM-2020-023

Applicant: Smart Lily, LLC (Khan and Hafiz residence)

Appellants: Jitesh Vadhia and Chih-Lung Lin

Location: 1506 Primrose Way (APN: 366-15-018)

SECTION II: FINDINGS FOR A USE PERMIT:

WHEREAS, the City of Cupertino received an application for a Minor Residential Permit to allow the construction of a new second-story balcony; and

WHEREAS, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the CEQA Guidelines; and

WHEREAS, the necessary notices were given and the comment period for the application was provided as required by the Procedural Ordinance of the City of Cupertino; and

WHEREAS, the Director of Community Development made the findings required under Section 19.28.140(A) and approved the application with conditions on April 19, 2021; and

WHEREAS, the notice of decision was mailed to the appropriate parties, including the applicant and any person who contacted City staff with comments during the comment period, notifying them about the possibility of appealing a project; and

WHEREAS, the Planning Commission of the City of Cupertino received two appeals of the Community Development Director's approval of the Minor Residential Permit; 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 hearing in regard to the appeal; and

WHEREAS, the appellants have not met the burden of proof required to support said appeal; and

WHEREAS, the Planning Commission 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 the R-1 Ordinance; and
 - 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 or improvements in the vicinity, and will not be detrimental to the public health, safety, or welfare; and
 - 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 R1-6 (Single Family Residential) zoning district, and will be compatible with the surrounding uses of the neighborhood. The project meets the building development regulations of the R-1 Ordinance and complies with the privacy protection measures to ensure that visual impacts to adjacent neighbors are mitigated.
- 3. The project is harmonious in scale and design with the general neighborhood; and
 - The proposed project is located in a residential area consisting of single-family homes. The subject neighborhood contains a mix of single-story and two-story homes, making the proposed project compatible with the neighborhood. The project complies with all other development regulations for R1-6 zoned properties, including, but not limited to, minimum setback regulations. The proposal for 1506 Primrose Way meets, and in some cases exceeds, all setback requirements for the R1-6 zoning district by proposing a rear-yard balcony setback of over 26'-6" where only 20' is required. The project, as approved, is harmonious in scale and design with the general neighborhood. The proposed balcony is seven feet in depth and 16 feet in width. It is proportionate to the size of the proposed home and in scale with the proposed home.

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

Any potential adverse visual impacts on adjoining properties have been reasonably mitigated through adherence to the setback requirements and privacy protection measures of the R-1 Ordinance. The proposed balcony for 1506 Primrose Way exceeds all setback requirements for the R1-6 zoning district by proposing a rear-yard balcony setback of over 26'-6" where only 20' is required, and side setbacks of 17'8" and 26' where only 15' is required.

The R-1 Ordinance allows property owners the ability to construct second-story balconies as long as privacy protection trees and/or shrubs are planted as required by the ordinance. The project complies with the privacy screening requirements of the R-1 Ordinance by providing privacy screening plantings for the second-story balcony along the rear (eastern) property line and signed privacy waivers for the right (southern) and left (northern) property lines. Per the R-1 Ordinance, the objective of privacy protection plantings is to provide substantial screening within three years of planting. Privacy protection plantings are considered Protected Trees under the City's Municipal Code (Chapter 14.18) and are recorded as such with a covenant against the property to inform current and future property owners about their protected status. Protected trees are not permitted to be removed without obtaining a tree removal permit and providing replacement plantings.

WHEREAS, the Planning Commission is the approval authority for this project and is granted the authority by the Municipal Code to exercise its independent judgment, based on the record before it, for purposes of the California Environmental Quality Act; 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 Class 3 exemption applies to new construction of small structures, including a single-family residence, or a second-dwelling unit in a residential zone.
- 2. Denies the appeal of an application for a Minor Residential Permit, Application no., RM-2020-023, and upholds the Administrative approval of the Minor Residential Permit subject to the conditions which are enumerated in this Resolution beginning on PAGE 4 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. RM-2020-023 as set forth in the Minutes of Planning Commission Meeting of June 22, 2021, are hereby incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPARTMENT

1. APPROVED EXHIBITS

The approval is based on a plan set entitled "Hafiz – New Residence, "consisting of fifteen (15) sheets labeled "A1, A2, A2.1(1), A2.1(2), A2.2, A3, A4, A5, A6, A7, A8, L1, L2, L3, and TP,"" except as may be amended by conditions in this resolution. In the event there are conflicts between the floor plan, cross sections and elevation drawings, the elevation drawings take precedence.

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 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 property data may invalidate this approval and may require additional review.

4. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file no. R-2020-035 shall be applicable to this approval.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

11. BIRD SAFE ORDINANCE COMPLIANCE

The applicant shall comply with the Bird Safe Ordinance regulations, as applicable, prior to issuance of the building permit.

12. INDEMNIFICATION AND LIMITATION OF LIABILITY

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.

13. <u>NOTICE OF FEES, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS</u> The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions.

PASSED AND ADOPTED this 22nd day of June, 2021 at a noticed Public Hearing of the Planning Commission of the City of Cupertino, State of California, held by the Director

of Community Development, or his or her designee, pursuant to Cupertino Municipal Code Section 19.12.120.

AYES: COMMISSIONERS: Chair Wang, Vice Chair Scharf

NOES: COMMISSIONERS: None ABSTAIN: COMMISSIONERS: Kapil

ABSENT: COMISSIONERS: Madhdhipatla, Saxena

ATTEST: APPROVED:

/s/ Piu Ghosh /s/ R "Ray" Wang

Piu Ghosh R "Ray" Wang

Planning Manager Chair, Planning Commission

DRAWN

DATE 12 MARCH 21 SCALE AS NOTED JOB NO. 2016

FIZ - NEW KESDENCE

☐ PLANNING DEPARTMENT

nuhity Development Department ning Division – Cupertino

APPROVED

CUPERTINO

Case#

Approval [Signature

Approval Body: Director / Staff

PRELIMINARY (NOT FOR CONSTRUCTION)

DESIGN REVIEW SUBMITTAL

☐ BUILDING DEPARTMENT

☐ PLAN CHECK SUBMITTAL

☐ APPROVED FOR CONSTRUCTION

TOPOGRAPHIC SURVEY

PROPOSED SITE PLAN

EXTERIOR ELEVATIONS

EXTERIOR ELEVATIONS

AT SECTIONS

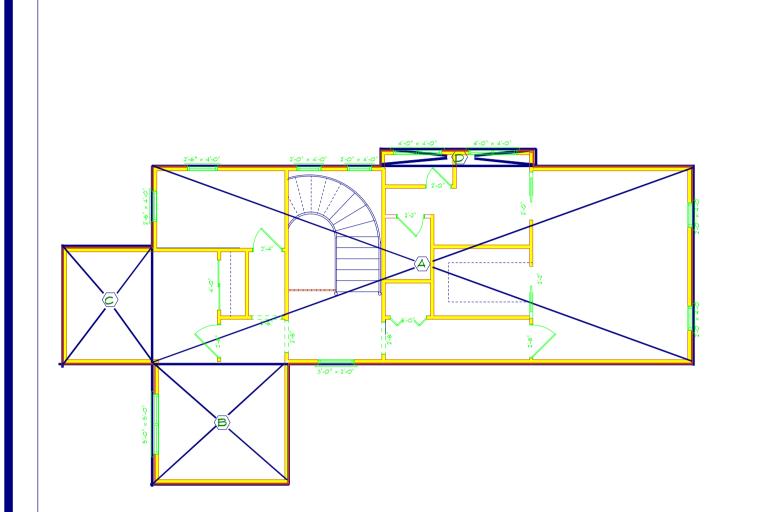
AS ROOF PLAN

PROPOSED LOWER FLOOR PLAN

PROPOSED UPPER FLOOR PLAN

DEMO SITE PLAN

INDEX - YICINITY MAP - ANALYSIS - PERSONAE - NOTES



UPPER FLOOR

 $\langle A \rangle$ 16.33 \times 44.83 © 7.66 × 9.58

NOTES

FIRST FLOOR (1,543 SF) WITH (462 SF) ATTACHED

GARAGE, COVERED ENTRY AND ATTACHED 146 SF ADU.

SCOPE OF WORK:

1.) NEW 2nd STORY RESIDENCE:

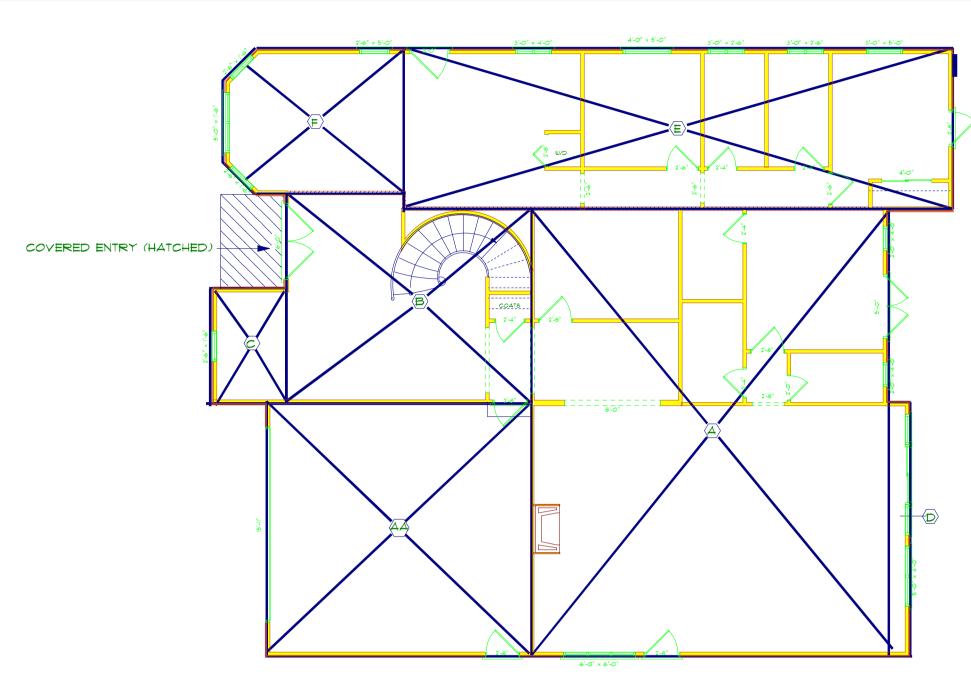
2.) 2nd STORY FLOOR (925 SF)

DEFERRED ITEMS:

1.) SPRINKLER SYSTEM

(3) BEDROOMS/(2) BATHS.

932 UPPER LIVING



LOWER FLOOR

⟨∆⟩ 28.33 × 37 = 1,048 B 16.33 × 20.33 + 8 = 341 © 7.66 × 9.58 = 73 D 2 × 21 = 42

E 6 × 7.83 = 47 1,551 LOWER LIVING 932 UPPER LIVING 462 GARAGE × 22 = 462

> × 7.83 = 47 41 COVERED ENTRY 2,992 TOTAL

ATTACHED ADU

1/8" AREA GALCS

(E) 13.33 × 43 = 573 F 15 × 12 - 6.87 = 173 746 TOTAL

GENERAL INFORMATION NUMBER OF STORIES: ASSESSOR'S PARCEL * 366-15-018 ZONING DESIGNATION: OCCUPANCY GROUP: R-3 / U-1 LAND USE LOW DENSITY: (1-5 DU/ACRE) TYPE OF CONSTRUCTION: LOT AREA: 6,718 S.F. MAXIMUM COVERAGE AREA: (50%) 3,359 S.F.

EXISTING TO BE REMOVED:

MAXIMUM FAR AREA:

RESIDENCE 1,949 SF 45 SF DETACHED SHED 1,994 SF TOTAL TO BE REMOVED

(45%) 3,023 S.F.

PROPOSED BUILDING AREA:

1,551 SF NEW LOWER FLOOR 932 SF NEW UPPER FLOOR NEW GARAGE 462 SF COVERED ENTRY 47 SF 2,992 SF TOTAL FAR:

2nd FLOOR TO FIRST FLOOR RATIO (932 SF/2,053 SF) = 46% LOT COYERAGE:

RESIDENCE: MAIN LOWER LIVING 1,551 SF 2-CAR GARAGE 114 SF 2nd STORY BALCONEY COVERED ENTRY 41 SE ROOF EAVES 483 SF TOTAL 2,656 SF

ATTACHED ADU = 746 SF

IMPERVIOUS COVERAGE:

2,013 SF RESIDENCE + GARAGE 507 SF DRIVES 252 SF REAR PATIO 95 SF WALKS 47 SF COVERED ENTRY TOTAL IMPERVIOUS: (43%) 2,914 S.F.

TOTAL FAR:

OWNER:

1.) ALL CONSTRUCTION SHALL COMPLY WITH:

2016 EDITION

A) CALIF, BUILDING CODE 2016 EDITION B) CALIF, FIRE CODE 2016 EDITION C) CALIF, RESIDENTIAL CODE 2016 EDITION D) CALIF, MECH, CODE 2016 EDITION E) CALIF, PLUMB'G CODE 2016 EDITION F) CALIF, ELEC, CODE 2016 EDITION 2016 EDITION

G) CALIF, ENERGY CODE SHALL COMPLY WITH ALL T24 DOCUMENT

H) CALIF, GREEN BLDG CODE (AS PER CITY REQUIREMENTS)

I) ANY OTHER APPLICABLE LOCAL & STATE LAWS & REGULATIONS.

2.) ALL MECHANICAL, PLUMBING, ELECTRICAL AND SIMILAR PENETRATIONS OF THE FLOOR OR TOP PLATES SHALL BE CAULKED WITH A RESIDENTIAL

3) ALL LANDSCAPING WILL COMPLY TO THE CITY OF CUPERTINO WATER EFFICIENCY LANDSCAPE ORDINANCE.

RATED FIRE CAULK WITH AN ASTM E136 RATING.

* NOTE TO CONTRACTOR *

THE CONTRACTOR AND/OR SUPPLIER OF MATERIALS SHALL NOT SCALE ANY DIMENSIONS FOR CONSTRUCTION PURPOSES, IN THE EVENT A DIMENSION IS REQUIRED THAT DOES NOT OCCUR ON THE DRAWINGS AND/OR A DIMENSION ERROR IS FOUND ON THE DRAWINGS, THE CONTRACTOR AND/OR SUPPLIER OF MATERIALS WILL NOTIFY THE OFFICE OF JF BUILDING DESIGN, AND REQUIRES ASSISTANCE AS SOON AS POSSIBLE. THE CONTRACTOR AND/OR SUPPLIER OF MATERIALS SHALL BE SOLELY RESPONSIBLE FOR THE RESULTS OF ERRORS, DISCREPANCIES AND OMISSIONS WHICH THE CONTRACTOR AND/OR MATERIAL SUPPLIER FAILED TO NOTIFY THE OFFICE OF JF BUILDING DESIGN. PRIOR TO CONSTRUCTION AND/OR FABRICATION OF THE WORK, NO DEVIATION FROM THE PLANS IN ANY WAY SHALL BE MADE WITHOUT THE WRITTEN CONSENT OF JF BUILDING DESIGN, APPROVAL BY THE CITY INSPECTOR DOES NOT CONSTITUTE AUTHORITY TO DEVIATE FROM THE PLANS OR OTHER DOCUMENTS PROVIDED BY THE OFFICE OF JF BUILDING DESIGN.

PERSONAE

TARIQUL KHAN # CHAMAN HAFIZ 1506 PRIMROSE WAY CUPERTINO, CA. 95014 (408) 431-9791

HIEN T. KIM NGUYEN P.E.

15 DUBERSTEIN DRIVE SAN RAMON, CA. 94583 (408) 893-6906

NICK BIGNARDI CAMPBELL, CA., 95008



REQUIRED AUTOMATIC FIRE SPRINKLER IN 2 STORY RESIDENCE: "FULLY SPRINKERED"

A) AN AUTOMATIC FIRE SPRINKLER SYSTEM SHALL BE INSTALLED

L CONTRACTOR SHALL VERIFY CONDITIONS & DIMENSIONS

4. ALL BUILDING & GARAGES TO BE DEMOLISHED

5. ALL DRIVEWAYS, PATIOS & CONCRETE WALKWAYS

6. ALL HERITAGE TREES TO BE PROTECTED AS PER

ARBORIST'S REPORT & CITY REQUIREMENTS.

7. ALL FENCES @ PROPERTY LINES TO REMAIN.

ERECT SECURITY BARRICADES TO PROTECT LOCKABLE

3. ANY ITEMS TO BE REMOVED & DISCARDED MAY BE RETAINED

AT THE OWNER'S OPTION, YERIFY INTENT BEFORE REMOVAL.

IN ACCORDANCE WITH N.F.P.A. 13D.

GENERAL NOTES:

BEFORE WORK BEGINS.

AND REMOVED.

TO BE REMOVED.

INTEGRITY OF RESIDENCE.

- B) FAST RESPONSE SPRINKLER HEADS SHALL BE INSTALLED IN GARAGES & WORKSHOP AREAS.
- C) THE SUPPRESSION CONTRACTOR SHALL PROVIDE TWO (2) COPIES OF WORKING DRAWINGS & CALCS TO FIRE DISTRICT.
- D) THE FIRE DISTRICT SHALL ISSUE A PERMIT PRIOR TO THE

INSTALLATION OF THE FIRE SPRINKLER SYSTEM.

E) THE SPRINKLER CONTRACTOR SHALL HAVE A CITY BUSINESS LICENSE AND WORKERS COMP. CERTIFICATE ON FILE WITH THE CITY OF CUPERTINO BUILDING DIVISION.

DESIGNER & CONSULTANT:

(45%) 2,992 S.F.

JON C FREEL JF BUILDING DESIGN: P.O. BOX 2818 CUPERTINO, CA. 95015 (408) 489-3029

LAND SURVEYORS: STRUCTURAL ENGINEER:

CHRISTENSEN & PLOUFF 101 CHURCH STREET LOS GATOS, CA. 95030 (408) 755-9784

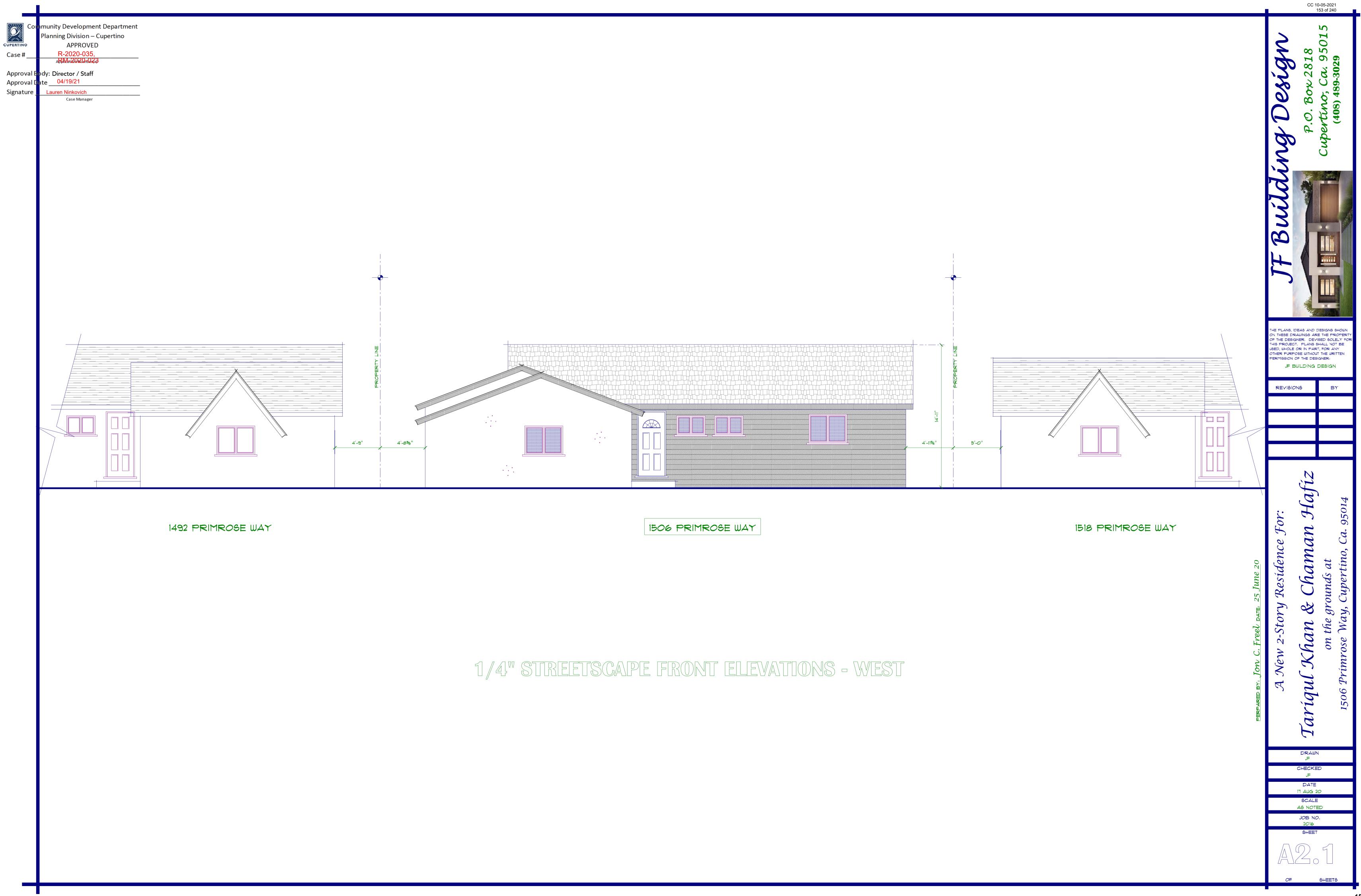
FRI ENERGY CONSULTANTS LLC:

21 N. HARRISON SUITE #210 (408) 866-1620

CUPERTINO

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HARDWARE, EASE OF OPERATION, ETC.

SYSTEMS OR APPROVED EQ.

16. INSTALL ALL WINDOWS AND DOOR AS PER MANUF.

(AAMA/WDMA/CSA 101/1.6.2/OR A440 AS PER (CRC R308.6.9).

PENETRATIONS OF THE FLOOR OR TOP PLATES SHALL BE CAULKED WITH A RESIDENTIAL RATED FIRE CAULK WITH AN ASTM E136 OR E814 RATING.

WITHOUT USE OF A KEY, SPECIAL KNOWLEDGE OR EFFORT. (C.R.C. SECTION R311.2)

19. GAS FIREPLACE INSTALLATION AND USE SHALL BE IN

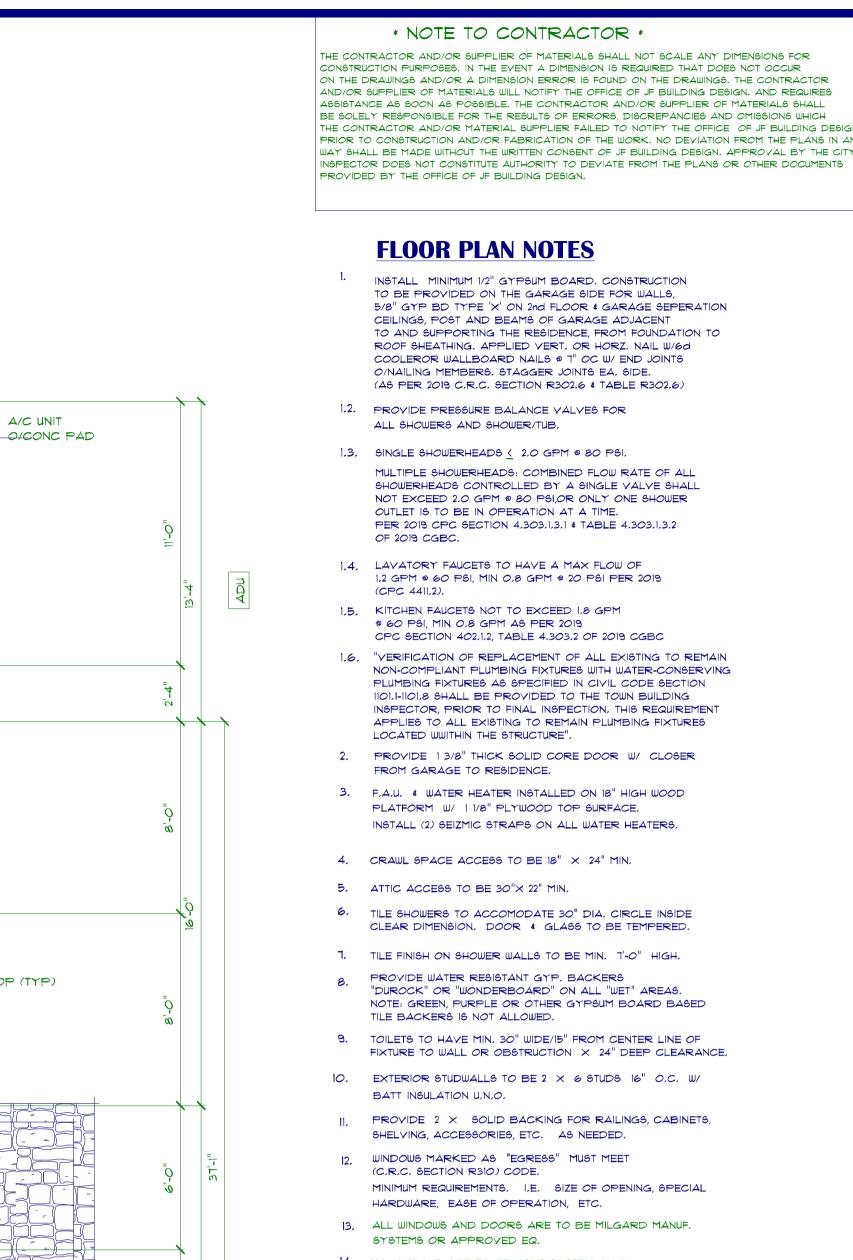
DOORS & NOT MORE THAN 7-3/4" LOWER THAN THE THREAHOLD FOR A IN SWINGING DOORS.

WIDE AS PER (CRC SECTION R311.6)

ARE LOCATED INSIDE THE PRESSURE BOUNDRY, MAXIMUM ALLOWABLE NET EXHAUST FLOW OF THE TWO LARGEST EXHAUST FANS SHALL NOT EXCEED IS CFM PER 100 SQ. FT. OF OCCUPIABLE SPACE, WHEN OPERATIN AT FULL CAPACITY. IF THE DISIGNED TOTAL NET FLOW EXCEEDS THIS LIMIT, THE NET EXHAUST FLOW MUST BE REDUCED BY REDUCING THE EXHAUST FLOW OR PROVIDING COMPENSATING OUT-DOOR AIR FLOW "(NOTE: IF MAKE-UP AIR FAN IS INSTALLED IT MUST BE ELECTRICALLY INTERLOCKED WITH THE LARGES EXHAUST FAN)" (ASHRAE 62.2, SECTION 6.4).

CONDUITS OR OTHER OPENINGS IN SOLE/BOTTOM PLATES PASSAGE OF RODENTS BY CLOSING SUCH OPENINGS ACCEPTABLE METHODS, (CGBSC SECTION 4.406.1),

ACCORDANCE WITH THE REQUIREMENTS OF (CGBSC SECTION 4.507.2).



EXTERIOR STUDWALLS TO BE 2 imes 6 STUDS 16" O.C. W/

PROVIDE 2 X SOLID BACKING FOR RAILINGS, CABINETS, SHELVING, ACCESSORIES, ETC. AS NEEDED.

MINIMUM REQUIREMENTS. I.E. SIZE OF OPENING, SPECIAL

13. ALL WINDOWS AND DOORS ARE TO BE MILGARD MANUF.

14. ALL WINDOWS ARE TO BE COMT SYSTEM U.N.O.

15. ALL DOORS ARE TO BE WOOD SYSTEM

SEE OWNER FOR SPECS AND FINISH U.N.O.

16.1 ALL SKYLIGHTS ARE TO SHOW COMPLIANCE WITH

16.2 FRENCH DOOR, SIDE LIGHT, SHOWER DOORS,

WINDOWS AT SPACE STAIRWAYS = T.GL

17. ALL MECHANICAL, PLUMBING, ELECTRICAL AND SIMILAR

FRONT DOOR IS OPENABLE FROM THE INSIDE OF DWELLING

ACCORDANCE WITH THEIR LISTING & LOCAL CODES.

20. ADDRESS NUMBERS IN A POSITION THAT IS PLAINLY LEGIBLE AND VISIBLE STREET OR ROAD FRONTING THE PROPERTY. NUMBERS SHALL CONTRAST WITH BACKGROUND BE ARABIC OR ALPHABETICAL LETTERS AND BE A MINIMUM OF 4" HIGH WITH MINIMUN STROKE OF 1/2", PER (CRC R319.1.)

21. T.GL. = TEMPERED GLASS

22. MINIMUM 36" DEEP LANDING OUTSIDE ALL EXTERIOR

23. STEPS MIN 4" MAX. 7.75"

24. ALL NEW HALLWAYS TO HAVE A MINIMUN 36 INCHES

25. WHERE COMBUSTION APPLIANCES OR SOLID-FUEL BURNING APPLIANCES

26. ANNULAR SPACES AROUND PIPES, ELECTRIC CABLES, AT EXTERIOR WALLS SHALL BE PROTECTED AGAINST THE WITH CEMENT MORTAR, CONCRETE MASONRY, OR SIMILAR

27. HEATING AND AIR-CONDITIONING SYSTEMS SHALL BE DESIGNED IN

CHECKED DATE 12 MARCH 21 SCALE JOB NO.

DRAWN

Approval Body: Director / Staff 04/19/21 Approval D Signature

CUPERTINO

Case#

Case Manager

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anning Division – Cupertino

APPROVED

ADU

9' CLG

7'-4"

9' CLG

12'-4"

NAPOLEON ALTRAVISION 50"

YAULTED CLG

OPEN ABOYE

6'-0" x 6'-0'

52'-8"

5'-1%"

SLIMLINE WALL MOUNTED

ELECTRICAL FIREPLACE

(SEE NOTE #45 SHEET EM-

FOR ADU STRAP W/H AS PER

GEOSPRING HYBRID

5'-0" x 5'-0"

BEDROOM #2

ATTIC ACCESS

BATH #3

5'-0"

4'-0" × 4'-0"PRYER YENT

12'-10"

D/W

COATS

9' CLG

KITCHEN

ELEC STOVE/OVEN | 00

W/HOOD

ENTRY TO ADU

REF

2ND UNIT DWELLING - 746 SF

DINING

9' CLG

1-HOUR RATED FIREWALL (TYP) -

29'-10"

17'-O"

LIVING

9' CLG

CONC STOOP (TYP) -

10'-0"

FOYER

9' CLG

DINING

250 YOLT

GAR CHARGER

9' CLG

4'-5 17/32"

20'-9 1/32"

17'-O 1/32"

SELF CLOSING, 1-3/8" THICKNESS SOLID

1/2" GYP BD @ COMMON WALLS

5/8" TYPE 'X' @ CEILING, (SEE NOTE #1)

WOOD, SOILD OR HONEYCOMB CORE STEEL POORS,

20 MIN, FIRE-RATED SELF-LATCHING W/ W.S. (R302.5.1)

SLOPE TO DRAIN

SLOPE TO DRAIN

CONC STOOPS (TYP) —

2-CAR GARAGE

2'-6" × 5'-0"

11'-10"

5'-4"

3'-6"

A/C UNIT

CONC STOOP (TYP)

2'-6" x 5'-0"

BEDROOM #1

9' CLG

5'-0"

18"x24" FND ACCE66

3'-0"

BATH #1

CLOSET

5'-8"

30'-8"

28'-5"

3'-8"

9' CLG

TRASH

400 AMP, ELECT.

UFER GROUND

12'-0"

SERVICE DISCONNECT

1/4" PROPOSED LOWER FLOOR PLAN
W/ATTACHED ADU

ELEC COOKTOP 9' CLG

ELEC OVEN W/HOOD

(2) A/C UNITS

FND ACCESS

2'-6" × 5'-0"

GUEST BEDROOM

9' CLG

11'-0"

PANTRY

7'-0½"

12" SQ _

THE PLANS, IDEAS AND DESIGNS SHOWN ON THESE DRAWINGS ARE THE PROPERTY OF THE DESIGNER, DEVISED SOLELY FO THIS PROJECT, PLANS SHALL NOT BE USED, WHOLE OR IN PART, FOR ANY OTHER PURPOSE WITHOUT THE WRITTEN PERMISSION OF THE DESIGNER: JF BUILDING DESIGN

DRAWN DATE 12 MARCH 21 AS NOTED

JOB NO.

BUILDING LINE BEFORE TILE ROOF CLASS "A" (REDLANDS PICO GOLD FLASH) HEIGHT REDUCTION (TYP) ICBO *E6-3523 OR APPROVED EQ (TYP) APPROX, BLDG HT, = 23'-0 5" OGEE GUTTERS W/ROUND DOWNSPOTS (TYP) TOP PL SOFFIT ALL EAVES W/2" CONT'S SCREENED VENT. (TYP) ROOF TO WALL FLASHIND (TYP) WINDOW SILL HT. FINISH FLR Abdolololololololo 5'-0" SETBACK

> STUCCO EXTERIOR FINISH (TYP) NEW RESIDENCE 1/4" FRONT ELEVATION - WEST

TILE ROOF CLASS "A" (REDLANDS PICO GOLD FLASH) A 26 GA. GALVANIZED WEEP SCREED SHALL BE PROVIDED WITH A YERTICAL ATTACHMENT FLANGE OF 3 1/2 INCHES @ THE FOUNDATION PLATE ICBO #E6-3523 OR APPROVED EQ (TYP) LINE ON ALL WALLS COVERED WITH EXTERIOR PLASTER, THE SCREED 5" OGEE GUTTERS W/ROUND SHALL BE PLACED A MIN. 4" ABOVE EARTH OR 2" ABOVE PAVED AREAS. DOWNSPOTS (TYP) 2019 C.R.,C. (TYP @ CEMENT PLASTER) - _ _ TOP_PL \ ROOF TO WALL FLASHIND (TYP) BALCONEY W/W.I. GUARDRAIL (TYP) WINDOW SILL HT, (TYP) _ - J FINIGH FLR _ FINISH FLR \ -COVERED ENTRY FINISH FLR FINISH FLR FINISH GRADE FINISH GRADE 12" COLUMNS (TYP) INTEGRAL COLORED SMOOTH DARK VINYL SASH CSMT (N) BROWN COBBLEFIELD STUCCO EXTERIOR FINISH (TYP) WINDOWS U.N.O. (TYP) CULTURED STONE (TYP) -

1/4" LEFT SIDE ELEVATION - NORTH

ALL EXTERIOR WINDOWS & DOOR HEADER HT @ 7'-10

DARK VINYL SASH CSMT

12" SQ COLUMNS (TYP) —

NEW ATTACHED ADU

WINDOWS U.N.O. (TYP)

FINISH FLR

FINISH GRADE

CUPERTINO

Case#

Approval D

Signature

ommunity Development Department

anning Division – Cupertino

APPROVED

R-2020-035.

Case Manager

04/19/21

Approval Body: Director / Staff

ALL EXTERIOR WINDOWS & DOOR HEADER HT @ 7'-10

STONE TRIM (TYP)

INTEGRAL COLORED SMOOTH

COVERED ENTRY

NEW ATTACHED ADU

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Exterior Elevation Notes:

lath as described above, and when applied over wood

caulked and sealed as per 2019 C.R.C.

per 2019 C.R.C.

NOTE:

All Weather Exposed Surfaces Shall have a weather-resistive barrier to protect

the interior wall covering. Such barrier shall be equal to that provided for the

less than 2 inches where vertical joints occur lap barrier not less than 6 inches as

Exterior finish, where applicable, shall minimum 7/8" standard 3 coat application cement plaste (stucco) over layer of paper back metal or wire lath with drip acreened at base. Weather-resistive barriers shall be installed under described

base sheathing shall include 2 layers of grade D Paper. As per 2019 C.R.C. Note: Paperback stucco wire is equivalent to I layer of grade d paper

Flash all exterior openings exposed to the weather with sheet metal or approved waterproof paper. Extend at least 3" under building paper behind exterior wall covering. All penetrations shall be thoroughly

2019 C.R.C. standards and applied directly over studs or sheathing. Barriers shall be installed horizontally, weatherboard fashion, with upper layer over lower layer not

FINISH FLR

FINISH

FINISH GRADE

STONE TRIM (TYP)

REVISIONS

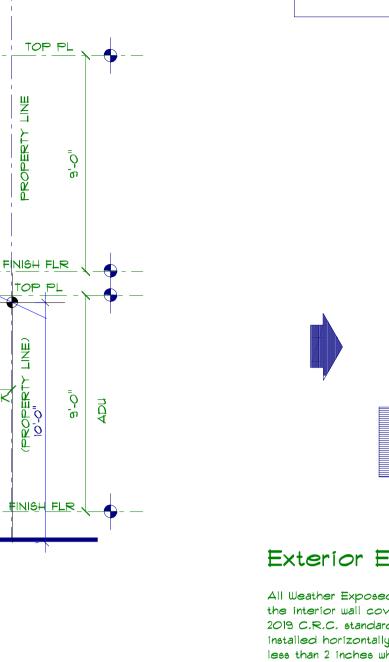
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REVISIONS

12 MARCH 21 JOB NO.

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SOFFIT ALL EAVES W/2" CONT'S SCREENED VENT, (TYP)

BALCONEY W/W.I. RAILING

INTEGRAL COLORED SMOOTH

NEW ATTACHED ADU

STUCCO EXTERIOR FINISH (TYP)

4'-0"

ADU SETBACK

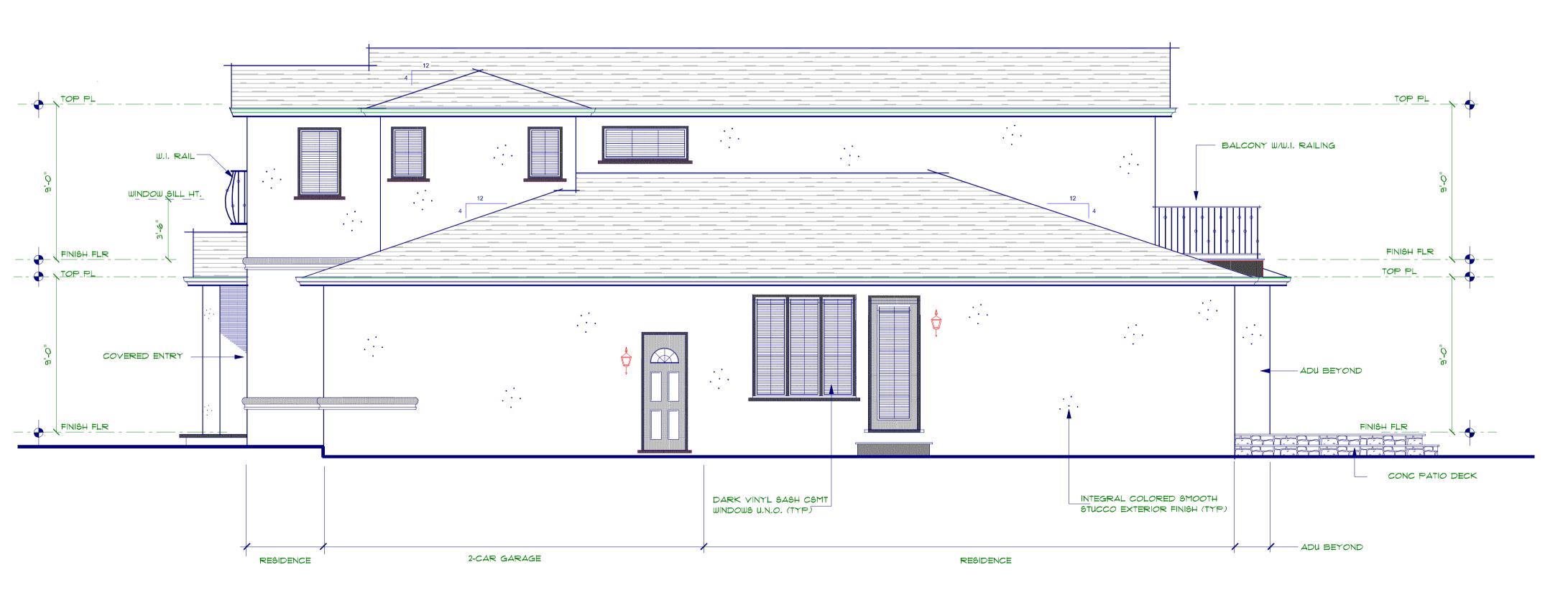
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Exterior finish, where applicable, shall minimum 7/8" standard 3 coat application cement plaste (stucco) over layer of paper back metal or wire lath with drip screened at base. Weather-resistive barriers shall be installed under described lath as described above, and when applied over wood base sheathing shall include 2 layers of grade D Paper. As per 2019 C.R.C. Note: Paperback stucco wire is equivalent to I layer of grade d paper

Flash all exterior openings exposed to the weather with sheet metal or approved waterproof paper. Extend at least 3" under building paper behind exterior wall covering. All penetrations shall be thoroughly caulked and sealed as per 2019 C.R.C.

A 26 GA, GALVANIZED WEEP SCREED SHALL BE PROVIDED WITH A VERTICAL ATTACHMENT FLANGE OF 3 1/2 INCHES @ THE FOUNDATION PLATE LINE ON ALL WALLS COVERED WITH EXTERIOR PLASTER, THE SCREED BHALL BE PLACED A MIN. 4" ABOVE EARTH OR 2" ABOVE PAVED AREAS. 2019 C.R,.C. (TYP @ CEMENT PLASTER)



CONC STOOP (TYP) ----

CARRIAGE LAMPS (TYP)

1/4" REAR ELEVATION - EAST

ALL EXTERIOR WINDOWS & DOOR HEADER HT @ T'-10

5" OGEE GUTTERS W/ROUND

CONC PATIO -

NEW RESIDENCE

DARK VINYL CLAD COMT WINDOWS

OR APPROVED EQ (TYP)

DOWNSPOTS (TYP)

TOP PL

FINISH FLR

FINISH FLR ADU SETBACK

5'-0"

CUPERTINO

Case#

Approval D

Signature

Approval Body: Director / Staff

04/19/21

Case Manager

Community Development Department

APPROVED

anning Division – Cupertino

1/4" RIGHT SIDE ELEVATION - SOUTH

ALL EXTERIOR WINDOWS & DOOR HEADER HT @ 7'-10

5

0

FOUNDATION YENTILATION CALC'S:

FOR CROSS YENTILATION, USE 6"X 14" SCREENED

6"x 14" = 64,90 S.I. OF NET FREE AIR

LOWER FLOOR: HOUSE - ATTIC YENTILATION CALC'S:

SOFFIT ALL EAVES W/2" CONT'S

SCREENED VENT, (TYP)

BALCONY

DRILL ALL 2X BLOCKING W/ (3) 2 1/2" DIA, HOLES \$ 2" CONT. SCREENED VENTS AS PER DETAIL (5)

PROVIDED BY THE OFFICE OF JF BUILDING DESIGN.

* NOTE TO CONTRACTOR *

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INSPECTOR DOES NOT CONSTITUTE AUTHORITY TO DEVIATE FROM THE PLANS OR OTHER DOCUMENTS

CONSTRUCTION PURPOSES, IN THE EYENT A DIMENSION IS REQUIRED THAT DOES NOT OCCUR ON THE DRAWINGS AND/OR A DIMENSION ERROR IS FOUND ON THE DRAWINGS, THE CONTRACTOR

UPPER FLOOR:

854 S.F./150 = 6 S.F.

6 S.F. (144) = 864 S.I. 85 L.F./1.33 = 64 BLKS

64 BLKS (3) = 192 HOLES

192 (3.142)(1.563) = 943 S.I.

HOUSE - ATTIC YENTILATION CALC'S:

925 S.F./150 = 6 S.F. 6 S.F. (144) = 864 S.I. 156 L.F./1.33 = 117 BLKS 117 BLKS (3) = 351 HOLES 351 (3.142)(1.563) = 1,723 S.I.

DRILL ALL 2X BLOCKING W/ (3) 2 1/2" DIA, HOLES \$ 2" CONT, SCREENED VENTS AS PER DETAIL (5)

ADU - ATTIC YENTILATION CALC'S:

875 S.F./ 150 = 5.8 S.F. 5.8 S.F. (144) = 840 S.I. 71 L.F./ 1.33 = 54 BLKS 54 BLKS (3) = 162 HOLES 162 (3.142)(1.563) = 796 S.I.

* DRILL ALL 2X BLOCKING W/ (3) 2 1/2" DIA, HOLES \$ 2" CONT, SCREENED YENTS AS PER DETAIL

USE GAF MASTER FLOW SQUARE TOP UTILITY ROOF YENT (50 S.I.) (3) SQUARE TOP ROOF YENT (3)(50 S.I.) = 150 S.I. 796 S.I. + 150 S.I. = 946 S.I.

HOUSE & ADU = 2,289 S.F./ 150 /.43 = 35 YENTS SPACED EQ.

FND YENTS OR APPROYED EQ.

FND YENTS SHOULD BE SPACED FOR EACH 8 TO 10 FEET OF FOUNDATION WALL

ADU USE GAF MASTER FLOW SQUARE TOP UTILITY ROOF VENT (TYP OF 3) LOWER ROOF (SHADED) -RIDGE COVERED ENTRY ROOF -1ST # 2ND STORY TOWER

- 2× STUDS @ 16" OC

INTERSECTION

4" @ SIDE WALL

_ 5d @ 7" OC

2X RAFTER

(SEE ENG. DRAWINGS FOR SPECS)

ROOF TO WALL CONNECTION

2X SOILD BLK'G @ ROOF

TURN UNDERLAYMENT UP TO

CUPERTINO

Case#

Approval D

Signature

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anning Division – Cupertino

G.I. FLASHING

ROOFING AS PER PLAN

1/2" PLYWD SHEATHING

APPROVED

R-2020-035.

Case Manager

04/19/21

Approval Body: Director / Staff

ROOF PLAN NOTES:

ROOFING:

LOWER ROOF (SHADED) -

BARREL TILE, COLOR TO BE SELECTED BY OWNER. OVER TYPE 30 ROOFING FELT, INSTALL PER MANUF,

ROOF AND VERTICAL SURFACES.

SEE SHEET METAL NOTES ON

SHEET SP.

FLASHING & COUNTERFLASHING: 26 GAUGE STEEL, U.O.N., AS REQUIRED AT JUNCTURE OF

DOWNSPOUTS: 2 1/4" DIA ROUND GALY. STEEL DOWN SPOUTS, PROVIDE BASKET STRAINER ADN SPLASH-

26 GAUGE GALY, STEEL OVER

15 LB, FELT, CRICKETS SIMILAR,

- ROOF LINE (TYP)

- BUILDING LINE (TYP)

BLOCK AT EACH DOWNSPOUT. GUTTERS:

YALLEY FLASHING:

5" GALY, STEEL OGEE GUTTER

1/8" LOWER/UPPER ROOF PLAN



NO ATTIC YENTING @ YAULTED ROOF AREA

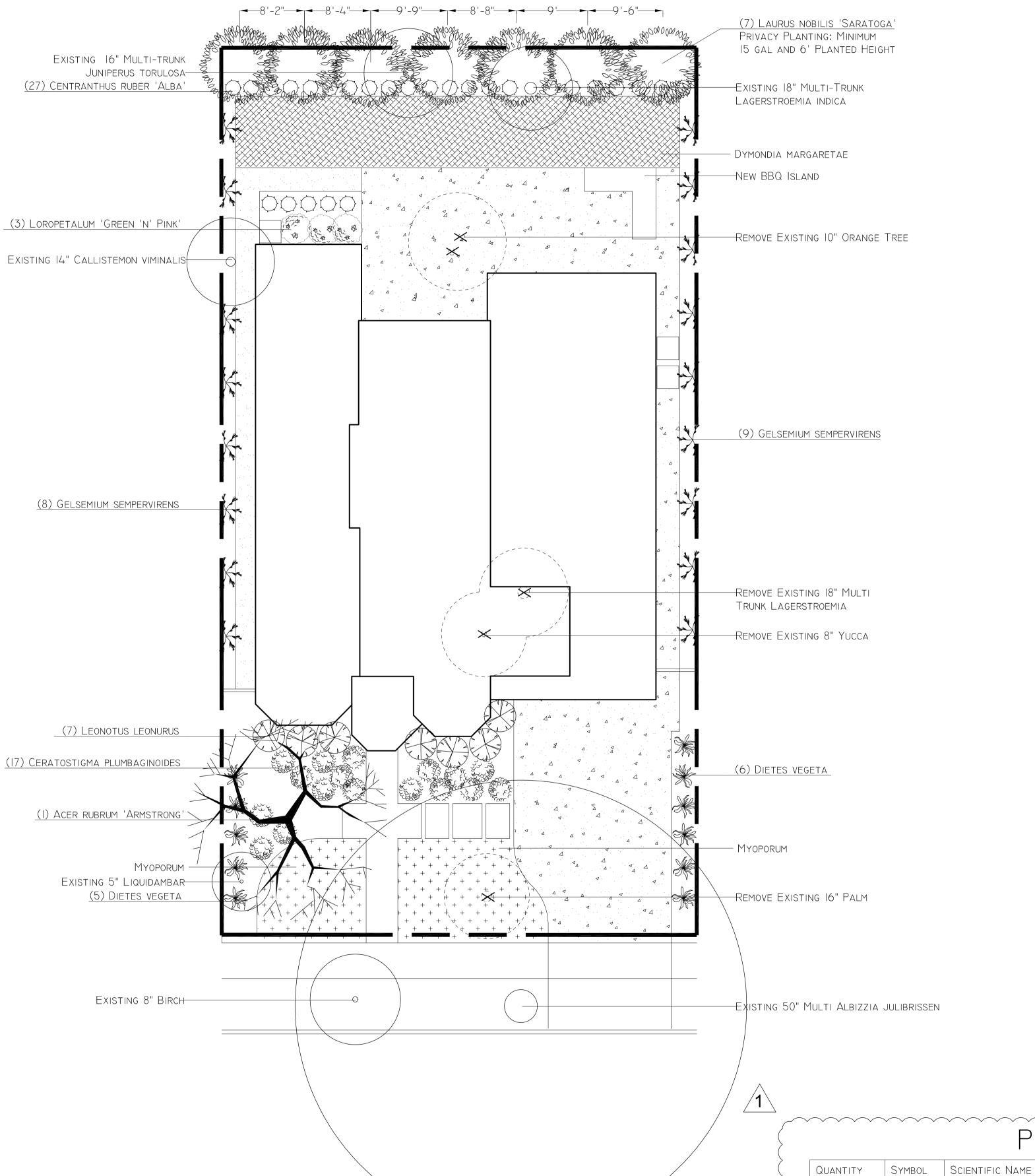
DRAWN CHECKED DATE 12 MARCH 21

SCALE AS NOTED JOB NO.

APPROVED R-2020-035,

Approval Body: Director / Staff Approval Date ___04/19/21 Signature ____Lauren Ninkovich

Case Manager



PLANTING NOTES

SOIL PREP

USE 4 CU. YDS. ORGANIC AMENDMENT/ 1000 SQ. FT. IN ALL LANDSCAPE AREAS. INCORPORATE INTO SOIL BY TILLING TO A DEPTH OF 6 INCHES.

PLANT MATERIAL

- A. QUALITY AND SIZE OF PLANT MATERIALS SHOULD CONFORM TO THE CALIFORNIA GRADING CODE OF NURSERY STOCK, No. I GRADE. THIS REQUIRES THAT STOCK, WHEN SOLD, SHOULD NOT BE DEAD OR IN A DYING CONDITION, FROZEN, OR DAMAGED, AND SHOULD NOT SHOW EVIDENCE OF HAVING HAD ROOT RESTRICTION IN PREVIOUS CONTAINERS OR BE ABNORMALLY POT-BOUND. ALL PLANTS SHOULD BE OF A REASONABLY UNIFORM AND STANDARDIZED SIZE FOR EACH SPECIES, WELL FORMED, AND IN A HEALTHY, FULLY ROOTED, THRIVING CONDITION.
- B. ALL PLANTS SHOULD BE TRUE TO TYPE OR NAME, BY SPECIES AND VARIETY, AS REQUIRED BY THE CALIFORNIA FOOD AND AGRICULTURE CODE.
- C. ALL PLANTS SHOULD BE TYPICAL OF THEIR SPECIES AND VARIETY AND SHOULD HAVE NORMAL HABIT OF GROWTH. THE TOP GROWTH SHOULD BE STRUCTURED PROPORTIONATELY SO THAT IT IS REPRESENTATIVE OF THE SPECIES.
- D. ALL PLANTS SHOULD COMPLY WITH FEDERAL AND STATE LAWS REQUIRING INSPECTION FOR PLANT DISEASES AND INFESTATIONS. INSPECTION CERTIFICATE REQUIRED BY LAW SHOULD ACCOMPANY EACH SHIPMENT OF PLANTS, UNLESS PLANTS ARE AUTHORIZED TO BE COLLECTED.
- E. CONTAINER-GROWN PLANTS SHOULD BE SUFFICIENTLY ESTABLISHED SO THAT A MINIMUM OF 75% OF EACH ROOT BALL STAYS INTACT DURING PLANTING. WHEN LIFTED BY THE TRUNK, THE TRUNK SHOULD RISE NO MORE THAN ONE INCH BEFORE THE SOIL SURFACE OF THE ROOT BALL BEGINS TO RISE. WHEN UNSUPPORTED, THE TRUNK OF TREES SHOULD LEAN NO MORE THAN 30 DEGREES FROM THE VERTICAL WHEN MEASURED WITHIN FOUR INCHES OF THE ROOT BALL.

PLANTING

DIG PLANTING HOLE TO A DEPTH 1-1/2 TIMES THE DEPTH OF THE ROOT BALL, AND TWICE AS WIDE. BACKFILL WITH 1/3 ORGANIC AMENDMENT AND 2/3 NATIVE SOIL. FERTILIZE WITH AGRIFORM FERTILIZER TABLETS ACCORDING TO PLANT SIZE.

> | GAL PLANT = I TABLET 5 gal plant = 3 TABLETS 15 gal plant = 5 TABLETS BOX TREES = | TABLET/ (3) INCHES OF BOX WIDTH

BARK MULCH

INSTALL A 3 INCH LAYER OF SHREDDED GORILLA HAIR MULCH IN ALL SHRUB AND GROUNDCOVER AREAS.

GUARANTEE

THE LANDSCAPE CONTRACTOR SHALL GUARANTEE ALL | GALLON, 5 GALLON, AND | 15 GALLON PLANTS FOR A PERIOD OF 3 MONTHS. TREES SHALL BE GUARANTEED TO I YEAR.

PLANT LEGEND

0	C) #15.61	Colentation	C 0 N	D	14416016
QUANTITY	SYMBOL	SCIENTIFIC NAME	COMMON NAME	Planting Size	WUCOLS
	De Tanker	ACER RUBRUM 'ARMSTRONG'	RED MAPLE	24"-Box STD.	MEDIUM
27	\bigcirc	CENTRANTHUS RUBER 'ALBA'	WHITE JUPITER'S BEARD	I GAL	LOW
17	33 35 35 35 35 35 35 35 35 35 35 35 35 3	CERATOSTIGMA PLUMBAGINOIDES	DWARF PLUMBAGO	I GAL	LOW
	*	DIETES VEGETA	FORTNIGHT LILY	I-GAL	LOW
17	*	GELSEMIUM SEMPERVIRENS	CAROLINA JESSAMINE	5 GAL VINE	LOW
7		LEONOTUS LEONURUS	LION'S TAIL	I-GAL	LOW
3	•	Loropetalum chinense 'Green 'n' Pink'	CHINESE FRINGE FLOWER	5-GAL	LOW

PLANT MIXES

Privacy Screening

^^^^^^

LAURUS NOBILIS 'SARATOGA'

Common Name

'SARATOGA' SWEET BAY

QUANTITY	SYMBOL	SCIENTIFIC NAME	COMMON NAME	Planting Size	WUCOLS
9 FLATS		Dymondia margaretae	SILVER CARPET	FLAT	LOW
12	+ + + +	Myoporum parvifolium	Myoporum	I-GAL	LOW

WUCOLS

LOW

PLANTING SIZE

15-GAL

I HAVE COMPLIED WITH THE CRITERIA OF THE WATER CONSERVATION IN LANDSCAPING ORDINANCE AND APPLIED THEM ACCORDINGLY FOR THE EFFICIENT USE OF WATER IN THIS LANDSCAPE DESIGN PLAN

Revisions Date

1/4/21 TAJ Rev#1

Plans By: Ambience Garden Design 530 Lawrence Expwy Mailbox #377 Sunnyvale, CA 94085 C-27 Lic #1003318 LA Lic #6251

Phone: (408) 990-6999 (By Appointment Only) www.gardendezine.com

Plan



1506 Primrose Way Cupertino, CA

Scale: 1/8" = 1'-0"

Date: 11/18/2020

Drawn By: TAJ

Job No.

Date

Approval Body: Director / Staff
Approval Date 04/19/21
Signature Lauren Ninkovich
Case Manager

A7 3/4" | I GPM RAIN SENSOR HRRIGATION CONTROLLER A8 3/4" | I GPM POINT OF CONNECTION BALL VALVE A2 3/4" 2 GPM REDUCED PRESSURE 3/4" | GPM BACKFLOW PREVENTOR ----*--*-----Water Meter---

IRRIGATION NOTES

SCOPE

FURNISH ALL LABOR, MATERIALS, TOOLS AND EQUIPMENT REQUIRED TO INSTALL THE IRRIGATION SYSTEM SPECIFIED ON THE PLANS.

PROTECTION

CALL DIG ALERT 811 TO LOCATE ALL UNDERGROUND UTILITIES PRIOR TO ANY WORK.

DRAWINGS

THESE PLANS ARE SCHEMATIC. ACTUAL MAINLINE AND LATERAL LINES SHALL BE LOCATED IN LANDSCAPE BEDS IF POSSIBLE. ALL OTHER MAINLINE OR LATERALS UNDER PAVING AND/OR WALKWAYS SHALL BE SLEEVED IN SCH 40 PVC PIPE (2 TIMES THE DIAMETER OF THE ENCLOSED PIPE.)

GENERAL

ALL IRRIGATION EQUIPMENT SHALL BE NEW AND UNUSED.

PLASTIC PIPE AND FITTINGS

SHALL BE TYPE I, POLY VINYL CHLORIDE. IT SHALL BE FREE FROM CRACKS OR DEFECTS.

MAINLINE SHALL BE SCH 40 PVC.

LATERAL LINES SHALL BE SCH 40 PVC.

SLEEVES

ALL MAINLINE OR LATERALS UNDER PAVING AND/OR WALKWAYS SHALL BE SLEEVED IN SCH 40 PVC PIPE

(2 TIMES THE DIAMETER OF THE ENCLOSED LINE)

ALL CONTROL WIRES SHALL BE SLEEVED SEPARATELY FROM THE MAIN OR LATERAL LINES UNDER CONCRETE WALKS AND/OR DRIVEWAYS.

PIPE AND CONTROL WIRE INSTALLATION

MAINLINES SHALL HAVE A MINIMUM OF 18 INCHES OF COVER. LATERALS SHALL HAVE 12 INCHES OF COVER. LOCATE CONTROL WIRES UNDERNEATH MAINLINES.

PRESSURE TESTING

AFTER ALL LINES ARE CONNECTED AND FLUSHED OUT, CAP ALL OUTLETS AND TEST MAINLINES AT A STATIC PRESSURE OF 50PSI FOR A CONTINUOUS 24 HOUR PERIOD. CHECK ALL JOINTS FOR LEAKS AND MAKE NECESSARY REPAIRS.

COVERAGE TEST

PRIOR TO PLANTING, THE IRRIGATION SYSTEM SHALL BE ADJUSTED FOR COVERAGE AND PROPER FUNCTIONING.

GUARANTEE

IRRIGATION MATERIALS AND WORKMANSHIP SHALL BE GUARANTEED FOR A PERIOD OF ONE YEAR.

IRRIGATION LEGEND

QUANTITY	SYMBOL	DESCRIPTION	Size
	M	WATER METER	3/4"
Point of Connec	CTION		
QUANTITY	SYMBOL	DESCRIPTION	SIZE
	(1)	AT CORNER OF HOUSE	12.00 GPM @ 50.00 PS
Controllers			
Quantity	SYMBOL	DESCRIPTION	SIZE
1		IRRITROL RAIN DIAL-R RD900-EXT-R	6 ZONES
	•	IRRITROL CLIMATE LOGIC WEATHER SENSOR	
Pipe (Mainline)			
Quantity	SYMBOL	DESCRIPTION	SIZE
180 FT		SCHEDULE 40 PVC PIPE	3/4"
VALVES	'		
Quantity	SYMBOL	DESCRIPTION	SIZE
		KING BROTHERS BALL VALVE	3/4"
8	•	IRRITROL 700 SERIES	3/4"
8	E	RAINBIRD DRIP PRESSURE REGULATOR & DRIP FILTER	3/4"
Pipe (Sleeve)	'		
Quantity	SYMBOL	DESCRIPTION	SIZE
20'		SCHEDULE 40 PVC PIPE (2x's SIZE OF ENCLOSED PIPE)	1-1/2"
22'		SCHEDULE 40 PVC PIPE (2x's SIZE OF ENCLOSED PIPE)	2"
Pipe (Lateral)			
Quantity	SYMBOL	DESCRIPTION	SIZE
150'	3/4"	SCHEDULE 40 PVC PIPE	3/4"
DRIP			
QUANTITY	SYMBOL	DESCRIPTION	SIZE
50/511111	0.11.000	223	1/2"

I HAVE COMPLIED WITH THE CRITERIA OF THE WATER CONSERVATION IN LANDSCAPING ORDINANCE AND APPLIED THEM ACCORDINGLY FOR THE EFFICIENT USE OF WATER IN THIS LANDSCAPE DESIGN PLAN

Christina James

Plans By:
Ambience Garden Design
530 Lawrence Expwy
Mailbox #377
Sunnyvale, CA 94085
C-27 Lic #1003318

LA Lic # 6251

Revisions

Phone: (408) 990-6999 (By Appointment Only) www.gardendezine.com

Irrigation Plan



1506 Primrose Way Cupertino, CA

Scale: 1/8" = 1'-0"

Date: 11/18/2020

Drawn By: TAJ

Job No.

L-2

Community Development Department
Planning Division – Cupertino
APPROVED
Case #
R-2020-035,
APARAZOZOGOZO

Approval Body: Director / Staff
Approval Date 04/19/21
Signature Lauren Ninkovich
Case Manager

HYDROZONE 6 (337) SQ. FT. Low (PF=.3 IE=.81) HYDROZONE 5 (487) SQ. FT. Low (PF=.3 IE=.81) HYDROZONE 7 (74) SQ. FT. Low (PF=.3 IE=.81)----—HYDROZONE 4 (130) SQ. FT. Low (PF=.3 IE=.81) HYDROZONE 8 (106) SQ. FT. Low (PF=.3 IE=.81)— \times -HYDROZONE 2 (137) SQ. FT. HYDROZONE 2 (318) SQ. FT. Low (PF=.3 IE=.81) Low (PF=.3 IE=.81)— HYDROZONE 3 (90) SQ. FT. ______ Low (PF=.3 IE=.81) —HYDROZONE I (199) SQ. FT. Low (PF=.3 IE=.81) HYDROZONE I (149) SQ. FT. Low (PF=.3 IE=.81)——

Hydrozone	Water Use	Plant Factor	Hydrozone Area		Irrigation	PF x HA (sf)
		(PF)	(HA)		Efficiency	ie
1	Low	0.4	348	sf	0.81	172
2	Low	0.3	455	sf	0.81	169
3	Low	0.3	90	sf	0.81	33
4	Low	0.3	130	sf	0.81	48
5	Low	0.3	487	sf	0.81	180
6	Low	0.3	337	sf	0.81	125
7	Low	0.3	74	sf	0.81	27
8	Low	0.3	106	sf	0.81	39
			2027	sf		794

Maximum applied water allowance

 $MAWA = (45.3) \times (.62) \times [(.55 \times 2,027) + ((I-.55) \times 0)]$

MAWA = 31,312 GALLONS

ESTIMATED TOTAL WATER USE

ETWU = (45.3) x (.62) x [(794/.81) + (0)]

ETWU = 27,531 GALLONS

I have complied with the criteria of the Water conservation in Landscaping Ordinance and applied them accordingly for the efficient use of water in this landscape design plan

Chustina James

Revisions Date By

Plans By:
Ambience Garden Design
530 Lawrence Expwy
Mailbox #377
Sunnyvale, CA 94085
C-27 Lic #1003318
LA Lic #6251

Phone: (408) 990-6999
(By Appointment Only)
www.gardendezine.com

Hydro-zone Plan



1506 Primrose Way

Cupertino, CA

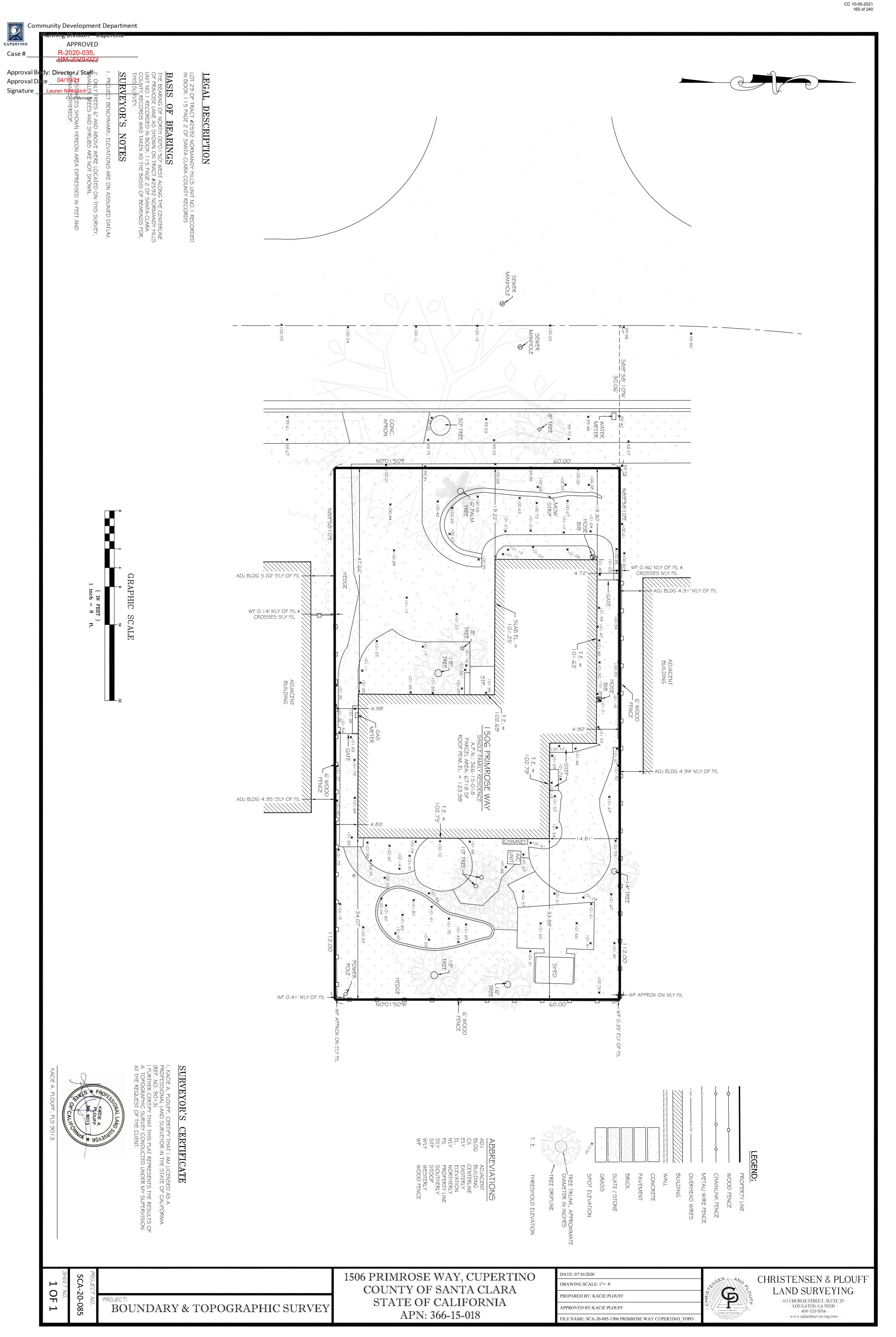
Scale: 1/8" = 1'-0"

Date: 11/18/2020

Drawn By: TAJ

Job No.

L-3





APPEAL FORM



1.	Application No.: RM-2020-023
2.	Applicant(s) Name: Smort Lily, LLC (Khan and Hatiz residence)
3.	Project Planner:
4.	Address: 1493 Poppy Way, Cupertino, CA 95014
	Phone Number: 408-623-8856
	Email: Clin 88@ hotmail.com
5.	Please check one: <u>Note</u> : Do not use this form for Administrative Citation decisions (1.16), Petitions for Reconsideration (2.08.096), or Damage to Public Trees (14.12)
	 a. Appeals regarding Title 19 (Zoning) and 14.18 (Protected Private Trees): □ Administrative decision (14 calendar days after decision to appeal) ☑ Planning Commission decision (14 calendar days after decision to appeal) □ Design Review Committee decision (14 calendar days after decision to appeal)
	 b. Other appeals: □ Director of Community Development decision regarding Tentative Maps (18.20) (14 calendar days after decision to appeal) □ Street Improvements (14.04) (30 calendar days after date of decision to appeal) □ Code Enforcement regarding Massage Permits (9.06) (5 business days after receipt of notice of decision to appeal) □ Solicitor's Identification Permit (5.20) (10 calendar days after denial notice to appeal)
6.	Date of decision or mailing of notice of decision: June 22, 2021
7.	Specifically state the grounds and basis for appeal: The proposed landscape plan can't address the privace issue effectively. The height of the trees could came problem

	with electricity pole. The planned new tree will take time and may not provide the needed coverage
	If the tree dish't grow or reach the intented height, there is no regulation to ask for re-plant
i ngga para	
	I am asking throat city leaders to reconsider the balcomy permit and also reduce the window size to
	balcom, permit and also reduce the window size to
****	minimize my privacy concern. (909 619)
,	Clivi. BY W. Aptinasi. Com.
\$ \$\frac{1}{2} \cdot \frac{1}{2} \cdot \frac{1}{	arte de la grafia de la compansión de la c La compansión de la compa
<u> </u>	
·	
,	
-	
(1	Attach additional pages if necessary) omplete form, include appeal fee of \$277.00 pursuant to Resolution No. 19-038 (\$685
	1 () TO 1 () NI 10 000 (ACOF

19.12.170 Appeals.

- A. An appeal may be filed by any person, firm or corporation aggrieved or affected by any grant, denial, modification or revocation of any permit, or any determination or interpretation related to any provision of this title.
 - B. Filing:
- 1. An appeal shall be in writing on forms prescribed by the City and shall be filed during regular office hours with the City Clerk within fourteen calendar days after the City decision or if a notice of decision is not required, from the date of the decision or determination, under this title. An appeal not filed within such time shall be barred. The appeal shall state the grounds and basis thereof.
- 2. Appeals under this chapter are subject to an appeal fee as prescribed by resolution of the City Council.
- C. Noticing: Notice of hearing shall be given in the same manner in which the original notice was given. If a project with no noticing is appealed, appropriate noticing shall be determined by the Director of Community Development.
 - D. Appeal hearing body shall be determined in accord with Section 19.12.030.
- E. Decision of the appeal hearing body: The decision or determination of the appeal hearing body on any appeal shall be final and effective immediately.
- F. Notice of Decision: Notice of the appeal hearing body's decision shall be mailed to the original applicant, to the person filing the appeal, and to any other person who has filed a written request with the City Clerk.



APPEAL FORM



1.	Application No.: 2M - 2010 - 013: 12 - 2010 - 03
2.	Applicant(s) Name: SMART LICE KHAN & HAFTED
3.	Project Planner: SNART Lily?
4.	Appellant(s) Name: TTESH VADILIA
	Address: 1479 PERRY WAY CUPERTINO CA 950
	Phone Number: 408 410 6543
	Email:
5.	Please check one: <u>Note</u> : Do not use this form for Administrative Citation decisions (1.16), Petitions for Reconsideration (2.08.096), or Damage to Public Trees (14.12)
	 Appeals regarding Title 19 (Zoning) and 14.18 (Protected Private Trees): □ Administrative decision (14 calendar days after decision to appeal) □ Planning Commission decision (14 calendar days after decision to appeal) □ Design Review Committee decision (14 calendar days after decision to appeal)
	 b. Other appeals: □ Director of Community Development decision regarding Tentative Maps (18.20) (14 calendar days after decision to appeal) □ Street Improvements (14.04) (30 calendar days after date of decision to appeal) □ Code Enforcement regarding Massage Permits (9.06) (5 business days after receipt of notice of decision to appeal) □ Solicitor's Identification Permit (5.20) (10 calendar days after denial notice to appeal)
6.	Date of decision or mailing of notice of decision:
7.	Specifically state the grounds and basis for appeal: STEC PATTO (14ED APPEAL 1357)

OTY OLERK		
ente a diccidenticio dendire. Tir in Schriffsgelei fiche sendi, dei beseilliche dic		30.4
		A CONTRACTOR OF THE CONTRACTOR
		and the section
	(Attach additional pages if necessary)	
Please	complete form, include appeal fee of \$277.00 pursuant to ssage application appeals), and return to the attention e, Cupertino, (408) 777-3223.	

GROUNDS AND BASIS FOR APPEAL:

- 1. Primrose Way is a community of beautiful single story homes. A two story construction will destroy the look and feel of the neighborhood. It's everyone's responsibility to uphold the integrity and feel of the neighborhood.
- 2. I paid a king's ransom to buy a home in Cupertino with views of the beautiful Cupertino Hills. The two-story proposal totally obscures my views of the beautiful Cupertino hills and skyline. The City's decision has now given my beautiful views to the applicant to enjoy! Does that seem fair? The City's decision discriminates established residents like myself relative to applicants that apparently don't live in Cupertino.
- 3. There's a deliberate five foot grade difference between my home and the Primrose Way home. This elevation difference ensures privacy from each-others backyard, even from my 2nd floor windows. The height of the applicant two story home, height of the balcony, and grade difference vastly increase my privacy concerns including vastly reduced sunshine into by backyard. Mr. Chairman and Vice-Chairman, I would like to personally invite you to my home to view for yourself ahead of another decision.
- 4. The rear facing balcony continues to raise severe privacy concerns. The balcony has direct views into all my 1st and 2nd floor bedrooms and backyard. The height of the balcony, balcony wall height, and balcony side walls are detrimental to our privacy. The balcony should be removed. Mr. Chairman and Vice-Chairman, I would like to personally invite you to my home to view for yourself ahead of another decision.
 - 5. Privacy plantings along the utility easement will be inadequate. The height of the rear facing balcony requires very tall plantings. Those will take several years to grow. The planting run along and below the utility easement significantly below the rear facing balcony height. This in combination with the several foot grade difference ensures my privacy is violated. The applicant has not addressed my privacy mitigation concerns.
 - 6. The ADU is planned to be a separate unit even though it's attached to the main residence. Over the long run the applicant has not demonstrated the ADU and main residence will continue to be separate. I still little evidence the City has addressed this long term issue.

- 7. The large windows on the ADU combined with the five foot grade difference raise my privacy concerns. These windows have direct line of sight into my bedrooms and backyard. Again, Mr. Chairman and Vice-Chairman, I would like to personally invite you to my home to view for yourself ahead of another decision.
- 8. I thank the Chairman for the opportunity to air by concerns against this most commercially driven residential application.

Regards,

Jitesh Vadhia 1479 Poppy Way, Cupertino, CA 95014

7/2/2021

19.12.170 Appeals.

A. An appeal may be filed by any person, firm or corporation aggrieved or affected by any grant, denial, modification or revocation of any permit, or any determination or interpretation related to any provision of this title.

B. Filing:

- 1. An appeal shall be in writing on forms prescribed by the City and shall be filed during regular office hours with the City Clerk within fourteen calendar days after the City decision or if a notice of decision is not required, from the date of the decision or determination, under this title. An appeal not filed within such time shall be barred. The appeal shall state the grounds and basis thereof.
- 2. Appeals under this chapter are subject to an appeal fee as prescribed by resolution of the City Council.
- C. Noticing: Notice of hearing shall be given in the same manner in which the original notice was given. If a project with no noticing is appealed, appropriate noticing shall be determined by the Director of Community Development.
 - D. Appeal hearing body shall be determined in accord with Section 19.12.030.
- E. Decision of the appeal hearing body: The decision or determination of the appeal hearing body on any appeal shall be final and effective immediately.
- F. Notice of Decision: Notice of the appeal hearing body's decision shall be mailed to the original applicant, to the person filing the appeal, and to any other person who has filed a written request with the City Clerk.

Attachment I:

Neighborhood Distribution of Two-Story Residences





CITY OF CUPERTINO

Agenda Item

21-9621 Agenda Date: 10/5/2021

Agenda #: 10.

Subject: Consider amendments to Cupertino Municipal Code Sections 19.56.030 (Table 19.56.030), 19.56.030F, 19.56.040, and Table 19.56.040A and the addition of Section 19.56.080 (Density Bonus Ordinance) to allow density bonuses and other incentives as provided by state law and a new Section 19.56.080 providing that the Density Bonus Ordinance will be interpreted consistent with state density bonus law. (Application No: MCA-2021-003; Applicant: City of Cupertino; Location: Citywide.)

That the City Council conduct the public hearing and conduct the first reading of Ordinance No. 21-2230: "An ordinance of the City Council of the City Cupertino amending Cupertino municipal code sections 19.56.030a (table 19.56.030), 19.56.030f, table 19.56.040a and adding section 19.56.080 (density bonus ordinance) to allow density bonuses and other incentives as provided by state law" (Attachment A) to:

- 1. Find the actions exempt from CEQA; and
- 2. Adopt amendments to Cupertino Municipal Code Sections 19.56.030 (Table 19.56.030) 19.56.030F, and Table 19.56.040A to allow for density bonuses and other incentives as provided by state law; and to add a new Section 19.56.080 providing that the Density Bonus Ordinance will be interpreted consistent with state density bonus law.



COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL

10300 TORRE AVENUE • CUPERTINO, CA

95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333

CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 5, 2021

<u>Subject</u>

Consider amendments to Cupertino Municipal Code Sections 19.56.030 (Table 19.56.030), 19.56.030F, 19.56.040, and Table 19.56.040A and the addition of Section 19.56.080 (Density Bonus Ordinance) to allow density bonuses and other incentives as provided by state law and a new Section 19.56.080 providing that the Density Bonus Ordinance will be interpreted consistent with state density bonus law. (Application No: MCA-2021-003; Applicant: City of Cupertino; Location: Citywide.)

Recommended Action

That the City Council conduct the public hearing and conduct the first reading of Ordinance No. 21-____ (Attachment A) to:

- 1. Find the actions exempt from CEQA; and
- 2. Adopt amendments to Cupertino Municipal Code Sections 19.56.030 (Table 19.56.030) 19.56.030F, and Table 19.56.040A to allow for density bonuses and other incentives as provided by state law; and to add a new Section 19.56.080 providing that the Density Bonus Ordinance will be interpreted consistent with state density bonus law.

Discussion

Background

Under Government Code Section 65915, a housing development is eligible for a density bonus based on the percentage of very low, low, or moderate-income units provided in the development. The City's FY2019/2020 Work Program includes an item to incentivize affordable housing production, in part by updating the City's density bonus ordinance.

In the 2020 legislative session, the State Legislature adopted AB 2345, which increased the maximum density bonus for projects that are not 100 percent affordable from 35 percent to 50 percent in exchange for a 4 to 5 percent increase in affordability

Page 2

(Government Code § 65915(f).¹) However, the statute provided that if the City were to adopt its own "housing program" or ordinance, or both, to incentivize the development of affordable housing by allowing bonuses that exceed 35 percent, the City could enforce its own program and ordinance rather than the bonus program and the incentives and concession requirements imposed by AB 2345. (§ 65915(s).)

On December 15, 2020, the City Council, by Resolution No. 20-141, adopted a housing program to allow density bonuses up to 40 percent and initiated a zoning code amendment to incorporate those changes into the City's density bonus ordinance. The housing program adopted by the City Council allows increased density for the same proportional increases in affordability as did § 65915 (Density Bonus Law) before AB 2345 was enacted: 2.5 percent for every 1 percent increase in very low-income units; 1.5 percent increase for every 1 percent increase in low-income units, and 1 percent increase for every 1 percent increase in moderate-income units, up to a 40 percent maximum density bonus.

These zoning changes were presented to the Planning Commission and the City Council in early 2021. The Planning Commission reviewed the proposed changes at its February 23, 2021, regular meeting and adopted Resolution No. 6919 by a 4-1 vote (Kapil – no) recommending that the Council adopt the proposed changes. The Council considered the proposed changes and agreed that the proposed amendments would implement the December 2020 Council-adopted housing program. The Council introduced Ordinance No. 21- 2226 on April 20, 2021 and adopted the amendments on May 4, 2021.

At the meeting on April 20, 2021, the City Council also requested that staff consider presenting additional ordinance amendments to allow increased density bonuses of up to 50 percent for higher levels of affordability and review other incentives to develop affordable housing. The Department of Housing and Community Development (HCD) by letter dated May 3, 2021 (Attachment B) expressed concern that the adopted program and ordinance did not create a "program" and provided insufficient incentives to comply with state law. Due to an error in communications, the letter was not provided to the Council, public, or planning staff in advance of the ordinance adoption.

Planning Commission review:

The proposed amendments were previously discussed by the Planning Commission on August 10, 2021, at its regular meeting. A motion to approve the proposed amendments failed on a 2-2-1 (Kapil absent) vote. Prior to the vote, the Commission requested information regarding incentives and waivers that developers have requested and received in neighboring jurisdictions. The Planning Commission reheard the item on September 14, 2021, at its regular meeting, at which a motion to adopt Resolution No.

¹ All further references are to the Government Code.

6928 recommending that the Council adopt the proposed amendments passed with a 3-2 vote (No: Madhdhipatla and Wang).

Proposed Amendments

To amend the City's Density Bonus program, staff recommends that that proportional increases in affordability conform to those required by AB 2345. This would allow a 2.5 percent bonus for a 1 percent increase in very-low income units, 1.5 percent bonus for 1 percent increase in low income units and 1 percent bonus for 1 percent increase in moderate-income units, up to a maximum density bonus of 35 percent. For increases in affordability exceeding 11 percent very low income, 20 percent low income, or 40 percent moderate income, an additional 3.75 percent bonus would be allowed for each 1 percent increase in affordability. The ordinance would also reference changes made in state density bonus law that allow bonuses of either 80 percent or an unlimited amount for 100 percent affordable projects. The zoning code would be amended by editing current Table 19.56.030 in the zoning ordinance as follows.

Table 19.56.030: Density Bonus Calculations

Income Level of unit	Proportion of Total Affordable Dwelling Units	Maximum Density Bonus
	5%	20%
	6% - 12 <u>11</u> % ⁽¹⁾	22.5% - 37.5 <u>35</u> %
Very Low Income	<u>12% - 14% (2)</u>	<u>38.75% - 46.25%</u>
	13 <u>15</u> % or more	40 <u>50</u> %
	10%	20%
т т	11% - <u>22<u>20</u>%(^{2<u>3</u>)}</u>	21.5% - 38 <u>35</u> %
Low Income	<u>21% - 23% (4)</u>	<u>38.75% - 46.25%</u>
	23 <u>24</u> % or more	<u>4050</u> %
	10%	5%
Moderate Income	11% - 44 <u>40</u> %(3 <u>5</u>)	6% - 39 <u>35</u> %
(Common interest developments)	<u>41% - 43% (6)</u>	<u>38.75% - 46.25%</u>
,	4 <u>54</u> 4% or above	40 <u>50</u> %
Affordable Housing Development	<u>100%⁽⁷⁾</u>	80% or as specified in Government Code Section 65915

⁽¹⁾ For each 1% increase over 5% of the target units, the density bonus shall be increased by 2.5%, up to a maximum of **4035**%.

- (2) For each 1% increase over 11% of the target units, the density bonus shall be increased by 3.75%, up to a maximum of 50%.
- For each 1% increase over 10% of the target units, the density bonus shall be increased by 1.5%, up to a maximum of **4035**%.
- 4 For each 1% increase over 20% of the target units, the density bonus shall be increased by 3.75%, up to a maximum of 50%.
- For each 1% increase over 10% of the target units, the density bonus shall be increased by 1%, up to a maximum of 4035%.
- 6) For each 1% increase over 40% of the target units, the density bonus shall be increased by 3.75%, up to a maximum of 50%.
- Must meet the requirements of Government Code Section 65915(b)(1)(G) or successor provision.

Other conforming changes would be made in Section 19.56.030F to show a maximum density bonus of 50 percent for projects that are not 100 percent affordable.

Table 19.56.040A would similarly be updated to reflect the changes made by AB 2345 and additional incentives available for 100 percent affordable projects, as follows:

Table 19.56.040A: Incentives or Concessions Calculations:

Unit Type	Percent of Affordable Units	Number of Incentives/ Concessions
Very Low Income Units	5% or greater	1
	10% or greater	2
	15% or greater	3
Low Income Units	10% or greater	1
	20 <u>17</u> % or greater	2
	30 24 % or greater	3
Moderate Income Units	10% or greater	1
	20% or greater	2
	30% or greater	3
Affordable Housing Development	<u>100%*</u>	<u>4</u>

^{*}Must meet the requirements of Government Code Section 65915(b)(1)(G) or successor provision.

Page 5

Finally, because state density bonus law (Government Code Section 65915 et seq.) is amended by the Legislature nearly every year (additional amendments are proposed this year), making it difficult to keep the City's ordinance up to date, a provision is proposed to be added as Section 19.56.080 stating that the ordinance will be interpreted to be consistent with state density bonus law, as follows:

If any portion of this Chapter 19.56 conflicts with State Density Bonus Law (Government Code Section 65915 et seq.) or other applicable state law, state law shall supersede this Chapter. Any ambiguities in this section shall be interpreted to be consistent with State Density Bonus Law. All code references in this Chapter include all successor provisions.

Analysis

The purpose of the City's housing and density bonus programs is to incentivize the development of affordable housing within the City. All but one of the developers of Cupertino's housing element sites have applied for density bonuses using the incentives provided prior to the passage of AB 2345, including the developers of Vallco, Marina, Veranda, and Westport. The City has consistently approved these density bonus projects.

The City also continues to offer a host of incentives to incentivize affordable housing within the City. (See Attachment C.) Many of the affordable housing incentives are implemented through other parts of the Municipal Code (flexible zoning standards through the Planned Development Zoning District Ordinance, Below Market Rate (BMR) Housing Program through Chapter 19.172 of the Municipal Code and associated administration and other manuals) or General Plan programs.

Despite these incentives, HCD has continued to assert that the City's current density bonus program does not comply with AB 2345. Based on the analysis by Hausrath Economics Group and the experience of the City of San Diego, which previously adopted the AB 2345 program, developers are most likely to use the program by providing very low income housing. For this type of housing proposal, the AB 2345 maximum bonus of 50 percent for 15 percent very low income units is not much different from the City's existing density-for-affordability ratio, which would require 17 percent very low income units for a 50 percent density bonus.

Adoption of the proposed ordinance amendments will advance the Affordable Housing Strategies item on the Council's FY 20/21 Work Program and conform to the City Council's direction to increase the maximum bonus to 50 percent.

Sustainability Impact

No sustainability impact.

Page 6

Fiscal Impact

No fiscal impact.

California Environmental Quality Act (CEQA)

It is not possible to predict which properties in the City, if any, may be proposed to be developed with an increased density bonus, given market conditions, building types desired, and developers' individual decisions whether or not to request bonuses; nor whether any increased development or density will result from the proposed changes, whether any development or density will result that would not already have occurred under the existing Municipal Code, nor whether any possible significant environmental impacts peculiar to the adoption of the proposed zoning code amendments would occur. Therefore, the proposed code amendments: (1) will not result in any direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)) and so (2) do not constitute a project under CEQA (CEQA Guidelines Section 15378).

Further, the City has been informed by the California Department of Housing and Community Development (HCD) that its existing density bonus ordinance must be modified to be consistent with AB 2345, and the ordinance amendments reflect HCD's interpretation of the requirements of state law. The proposed zoning amendments do not permit any bonuses, incentives, or waivers other those provided by State law. The amendments can therefore be seen with certainty based on review of the facts to have no possible significant effect on the environment (CEQA Guidelines Section 15061(b)(3)). These amendments do not authorize the development of housing on any site where housing is not already permitted under the City's existing codes, and any housing development project with a density bonus component must be reviewed under CEQA.

Conclusion

The Planning Commission recommends that the City Council adopt the draft Ordinance, amending the City's density bonus ordinance to incentivize the development of affordable housing by allowing for density bonuses and other incentives as provided by state law, providing additional City incentives for affordable housing, and providing that the City's ordinance will be interpreted consistent with state density bonus law.

Next Steps

The second reading of the ordinance is tentatively scheduled for October 19, 2021, 30 days after which, the ordinance would go into effect.

<u>Prepared by</u>: Piu Ghosh, Planning Manager

Adoption of Zoning Code Amendments to the

October 5, 2021 Density Bonus Chapter Page 7

Reviewed by: Benjamin Fu, Director of Community Development

Dianne Thompson, Assistant City Manager

<u>Approved for Submission:</u> Greg Larson, Interim City Manager

Attachments:

A – Ordinance No. 21-____

- B Letter dated May 3, 2021 from Department of Housing and Community Development
- C City Incentives for Affordable Housing

EXHIBIT A

DRAFT ORDINANCE NO. 21-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CUPERTINO MUNICIPAL CODE SECTIONS 19.56.030A (TABLE 19.56.030), 19.56.030F, TABLE 19.56.040A AND ADDING SECTION 19.56.080 (DENSITY BONUS ORDINANCE) TO ALLOW DENSITY BONUSES AND OTHER INCENTIVES AS PROVIDED BY STATE LAW

SECTION I: PROJECT DESCRIPTION

Application No.: MCA-2021-003
Applicant: City of Cupertino

Location: Citywide

SECTION II: RECITALS

WHEREAS, Cupertino Municipal Code Chapter 19.56 implements the requirements of Government Code Section 65915 (state density bonus law) to incentivize the construction of affordable units through the provision of density bonuses and other benefits; and

WHEREAS, the California Legislature has adopted AB 2345 (Chapter 197, Statutes of 2020), which modified state density bonus law; and

WHEREAS, the City Council of the City of Cupertino on April 20, 2021 introduced, and on May 4, 2021 adopted, Ordinance No. 21-2226 to incentivize the development of affordable housing by allowing density bonuses of up to 40 percent; and

WHEREAS, the City Council of the City of Cupertino on April 20, 2021 also directed staff to return with a potential amendment to the housing program to allow a 50 percent density bonus for higher percentages of BMR housing, to be considered with other density bonus ordinance updates; and

WHEREAS, the City desires to amend Chapter 19.56 to permit density bonuses of 50 percent and concessions and incentives as provided in AB 2345; and

WHEREAS, the proposed amendments to the density bonus ordinance are consistent with the City's General Plan, and the City's police power provides the City with the authority to adopt an affordable housing program to further the public health, safety, and welfare; and

WHEREAS, on September 14, 2021, at a duly and properly noticed public hearing, the Planning Commission recommended on a 3-2 vote that the City Council find that the

proposed code amendments: (1) will not result in any direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)); (2) do not constitute a project under CEQA (CEQA Guidelines Section 15378); and (3) can be seen with certainty based on review of the facts to have no possible significant effect on the environment (CEQA Guidelines Section 15061(b)(3)); and

WHEREAS, on September 14, 2021, at a duly and properly noticed public hearing, the Planning Commission adopted Resolution No. _____ and recommended on a 3-2 vote (No: Madhdhipatla and Wang) that the City Council adopt the draft density bonus ordinance presented to it, in substantially similar form to this ordinance; and

WHEREAS, all necessary public notices having been given as required by the Municipal Code of the City of Cupertino and the Government Code, on October 5, 2021, the City Council held a public hearing to consider the Ordinance; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Ordinance.

SECTION III

NOW, THEREFORE, BE IT ORDAINED:

That after careful consideration of facts, exhibits, testimony and other evidence submitted in this matter the City Council hereby adopts the Ordinance based on the findings described below, the public hearing, and the record, as follows:

- <u>Section 1</u>. The recitals set forth above are true and correct and are hereby incorporated herein by this reference as if fully set forth in their entirety.
- Section 2. The City Council finds the following as set forth by Municipal Code Sections 19.152.020C and 19.152.030D:
- 1. That the proposed zoning is in accord with Title 19 of the Municipal Code and the City's Comprehensive General Plan (Community Vision 2040) and the proposed amendments are internally consistent with Title 19 of the Municipal Code.

The proposed amendments have been adopted in accord with the requirements of Title 19, and the proposed amendments to Section 19.56.030F are proposed to achieve consistency with AB 2345 adopted by the State in 2020.

2. The proposed zoning is in compliance with the provisions of the California Environmental Quality Act (CEQA).

It is not possible to predict which properties in the City, if any, may be proposed to be developed with an increased density bonus, given market conditions, building types desired, and developers' individual decisions whether or not to request bonuses; nor whether any increased development

or density will result from the proposed changes, whether any development or density will result that would not already have occurred under the existing Municipal Code, nor whether any possible significant environmental impacts peculiar to the adoption of the proposed zoning code amendments would occur. Therefore, the proposed code amendments: (1) will not result in any direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)) and so (2) do not constitute a project under CEQA (CEQA Guidelines Section 15378).

Further, the City has been informed by the California Department of Housing and Community Development (HCD) that its existing density bonus ordinance must be modified to be consistent with AB 2345, and the ordinance amendments reflect HCD's interpretation of the requirements of state law. The proposed zoning amendments do not permit any bonuses, incentives, or waivers other those provided by State law. The amendments can therefore be seen with certainty based on review of the facts to have no possible significant effect on the environment (CEQA Guidelines Section 15061(b)(3)). These amendments do not authorize the development of housing on any site where housing is not already permitted under the City's existing codes, and any housing development project with a density bonus component must be reviewed under CEQA.

3. The site is physically suitable (including, but not limited to, access, provision of utilities, compatibility with adjoining land uses, and absence of physical constraints) for the requested zoning designation(s) and anticipated land use development(s).

The proposed ordinance amendments are not being applied to any specific site, nor is it reasonably foreseeable which sites, if any, may elect to utilize the proposed ordinance amendments. The environmental impact of a density bonus of 50 percent and the suitability of a site for that bonus cannot be known and will be reviewed when an application is made for its use on a specific site.

4. The proposed zoning will promote orderly development of the City.

The proposed amendment is intended to promote the development of affordable housing in the City, consistent with State Law.

5. That the proposed zoning is not detrimental to the health, safety, peace, morals and general welfare of persons residing or working in the neighborhood of subject parcels.

The proposed ordinance amendments are not being applied to any specific site, nor is it reasonably foreseeable which sites, if any, may elect to utilize the proposed ordinance amendments. The impact of a density bonus of 50 percent and the effect of that bonus on the health, safety, peace, moral and general welfare of persons residing or working in the neighborhood of a site cannot be known and will be reviewed when an application is made for its use on a specific site.

<u>Section 3</u>. The City Council hereby approves the following amendments to the Cupertino Municipal Code:

1. Table 19.56.030 in Section 19.56.030 of the Cupertino Municipal Code is hereby amended to read as follows:

Table 19.56.030: Density Bonus Calculations

Income Level of unit	Proportion of Total Affordable Dwelling Units	Maximum Density Bonus
Very Low Income	5%	20%
	6% - 12 <u>11</u> % ⁽¹⁾	22.5% - 37.5 <u>35</u> %
	<u>12% - 14% (2)</u>	<u>38.75% - 46.25%</u>
	13 15% or more	40 <u>50</u> %
Low Income	10%	20%
	11% -2220%(23)	21.5% - 38 <u>35</u> %
	<u>21% - 23% (4)</u>	<u>38.75% - 46.25%</u>
	23 <u>24</u> % or more	40 <u>50</u> %
Moderate Income (Common interest developments)	10%	5%
	11% - 44 <u>40</u> %(3 <u>5</u>)	6% - 39 <u>35</u> %
	<u>41% - 43% (6)</u>	<u>38.75% - 46.25%</u>
	45 <u>44</u> % or above	40 <u>50</u> %
Affordable Housing Development	<u>100%⁽⁷⁾</u>	80% or as specified in Government Code Section 65915

⁽¹⁾ For each 1% increase over 5% of the target units, the density bonus shall be increased by 2.5%, up to a maximum of 4035%.

⁽²⁾ For each 1% increase over 11% of the target units, the density bonus shall be increased by 3.75%, up to a maximum of 50%.

 $^{^{(23)}}$ For each 1% increase over 10% of the target units, the density bonus shall be increased by 1.5%, up to a maximum of 4035%.

⁽⁴⁾ For each 1% increase over 20% of the target units, the density bonus shall be increased by 3.75%, up to a maximum of 50%.

⁽³⁵⁾ For each 1% increase over 10% of the target units, the density bonus shall be increased by 1%, up to a maximum of 4035%.

⁶ For each 1% increase over 40% of the target units, the density bonus shall be increased by 3.75%, up to a maximum of 50%.

(7) Must meet the requirements of Government Code Section 65915(b)(1)(G) or successor provision.

- 2. Section 19.56.030F of the Cupertino Municipal Code is hereby amended to read as follows:
 - F. Density Bonus Calculations:
 - 1. A density bonus may be selected from only one category listed in Section 19.56.020A(1), except that density bonuses for land donation may be combined with others, up to a combined maximum of 4050 percent, and an additional square-foot bonus may be granted for a child day care facility as provided in Section 19.56.030C.
 - 2. In determining the number of density bonus units to be granted, any fractions of density bonus units shall be rounded up to the next whole number.
 - 3. Density bonus units authorized by this section shall not be included when determining the number of affordable units required to qualify for the density bonus. In determining the number of affordable units required to qualify for a density bonus, any fractions of affordable units shall be rounded up to the next whole number.
 - 4. An applicant may request a lower density bonus than the housing development is entitled to, but no reduction will be permitted in the percentage of required affordable units as shown in Section 19.56.020 or Section 19.56.020C.
 - 5. Regardless of <u>the percentage of</u> affordable units, no housing development will be entitled to a density bonus of more than 40 percent or as-provided in Government Code Section 65915), unless approved by the City pursuant to Section 19.56.030F(6).
 - 6. The City, at its discretion, may grant a density bonus higher than the maximum set forth in Table 19.56.030 or in paragraph (5) above to a housing development where all units (except manager's unit(s)) are affordable to lower income households.
 - 7. For purposes of calculating a density bonus, the residential units do not have to be based upon individual subdivision maps or parcels. The bonus units shall be permitted in geographic areas of the housing development other than the areas where the affordable units are located.

3. Table 19.56.040A in Section 19.56.040 of the Cupertino Municipal Code is hereby amended to read as follows:

Table 19.56.040A: Incentives or Concessions Calculations:

Unit Type	Percent of Affordable Units	Number of Incentives/ Concessions
Very Low Income Units	5% or greater	1
	10% or greater	2
	15% or greater	3
Low Income Units	10% or greater	1
	20 <u>17</u> % or greater	2
	30 <u>24</u> % or greater	3
Moderate Income Units	10% or greater	1
	20% or greater	2
	30% or greater	3
Affordable Housing <u>Development</u>	100%*	<u>4</u>

^{*}Must meet the requirements of Government Code Section 65915(b)(1)(G) or successor provision.

4. Add a new Section 19.56.080 of the Cupertino Municipal Code to read as follows:

19.56.080 Interpretation.

If any portion of this Chapter 19.56 conflicts with State Density Bonus Law (Government Code Section 65915 et seq.) or other applicable state law, state law shall supersede this Chapter. Any ambiguities in this section shall be interpreted to be consistent with State Density Bonus Law. All code references in this Chapter include all successor provisions.

Section 4. If any portion of this Ordinance or its application is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or

circumstance. The City Council hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

Section 5. The City Council finds that the proposed code amendments: (1) will not result in any direct or reasonably foreseeable indirect physical change in the environment (CEQA Guidelines Section 15060(c)) and so (2) do not constitute a project under CEQA (CEQA Guidelines Section 15378), because it is not possible to predict which properties in the City, if any, may be proposed to be developed with an increased density bonus, given market conditions, building types desired, and developers' individual decisions whether or not to request bonuses; nor whether any increased development or density will result from the proposed changes; whether any development or density will result that would not already have occurred under the existing Municipal Code; nor whether any possible significant environmental impacts peculiar to the adoption of the proposed zoning code amendments would occur.

Further, the City has been informed by the California Department of Housing and Community Development HCD) that its existing density bonus ordinance must be modified to be consistent with AB 2345, and the ordinance amendments reflect HCD's interpretation of state law. The proposed zoning amendments do not permit any bonuses, incentives, or waivers other those provided by State law. These amendments do not authorize the development of housing on any site where housing is not already permitted under the City's existing codes, and any housing development project with a density bonus component must be reviewed under CEQA. The City Council therefore further finds that the amendments can be seen with certainty based on review of the facts to have no possible significant effect on the environment (CEQA Guidelines Section 15061(b)(3)).

The City Council further directs the Director of Community Development to file a Notice of Exemption with the Santa Clara County Recorder in accordance with CEQA and the CEQA guidelines.

INTRODUCED this 5th day of October, 2021, at a Regular Meeting of the City Council of
the City of Cupertino and ENACTED on the 19th day of October, 2021, at a Regular
Meeting of the City Council of the City of Cupertino by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ATTEST:	
SIGNED:	
Darcy Paul, Mayor	Date
City of Cupertino	
ATTEST:	
Kirsten Squarcia, City Clerk	Date

ABSENT:

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT DIVISION OF HOUSING POLICY DEVELOPMENT

2020 W. El Camino Avenue, Suite 500 Sacramento, CA 95833 (916) 263-2911 / FAX (916) 263-7453 www.hcd.ca.gov



May 3, 2021

Deborah Feng, City Manager City of Cupertino 10300 Torre Avenue Cupertino, CA 95014-3202

RE: City of Cupertino Resolution No. 20-141 and Ordinance No. 21-2226 (Density Bonus) – Letter of Technical Assistance

Dear Deborah Feng:

The California Department of Housing and Community Development (HCD) is aware of the City of Cupertino's (City) actions at its December 15, 2020 City Council meeting adopting Resolution No. 20-141 and subsequent action at its April 20, 2021 City Council meeting approving Ordinance No. 21-2226. It is HCD's understanding that Ordinance No. 21-2226 is scheduled for its second reading at the City Council's May 4, 2021 meeting.

HCD's opinion is that Resolution No. 20-141 and Ordinance No. 21-2226 are insufficient to meet the exemption provisions set forth in Government Code section 65915, subdivision (s), and that the City should apply current State Density Bonus Law (SDBL) as amended by Assembly Bill (AB) 2345 (Chapter 197, Statutes of 2020). HCD offers the following technical assistance to help inform decision-makers.

The intent of AB 2345 is that it would apply statewide with limited exceptions.

When drafting AB 2345, the Legislature referred to successful density bonus programs in the Cities of San Diego¹ and Los Angeles. With the intent to create a provision allowing programs currently successful in incentivizing housing development to continue as implemented,² the bill included the exemption process provided for in Government Code section 65915, subdivision (s).

(s) Notwithstanding any other law, if a city, including a charter city, county, or city and county has adopted an ordinance or a housing program, or both an ordinance and a housing program, that incentivizes the development of affordable housing

¹ "The City of San Diego took steps to enhance the state's existing (density bonus) program and generated significant interest to build additional affordable and market-rate housing. Communities across California can take a page from the lessons learned in San Diego." Assembly Floor Analysis, 08/31/2020, p. 2

² "The amendments also ensure that cities like Los Angeles with programs like the Transit Oriented Communities (TOC) Affordable Housing Incentive Program that have created effective super density bonus programs are not impacted by this bill." Assembly Floor Analysis, 08/31/2020, p. 2.

that allows for density bonuses that exceed the density bonuses required by the version of this section effective through December 31, 2020, that city, county, or city and county is not required to amend or otherwise update its ordinance or corresponding affordable housing incentive program to comply with the amendments made to this section by the act adding this subdivision, and is exempt from complying with the incentive and concession calculation amendments made to this section by the act adding this subdivision as set forth in subdivision (d), particularly subparagraphs (C) and (D) of paragraph (2) of that subdivision, and the amendments made to the density tables under subdivision (f).

The City's actions on Resolution No. 20-141 and Ordinance No. 21-2226 clearly indicate the City's intent to implement the exemption process provided in paragraph (s). However, the City's actions fall short of the successful programs envisioned by the Legislature.

The City's resolution failed to create a program.

As a matter of law, adoption of a resolution is nonbinding and does not create a program. Therefore, the City's adoption of Resolution 20-141 on December 15, 2020, failed to create a housing program as required by subdivision (s). On its face, the resolution only committed the City to adopting an ordinance at some point in the future, but that commitment is nonbinding. Unlike a housing element program (see Gov. Code, § 65583, subd. (c)), the nonbinding commitment in the resolution does not require the City to implement a new policy. It is merely a statement of the City's intent to adopt a new policy in the future. Therefore, the SDBL as amended by AB 2345 is in effect in Cupertino, and Cupertino must comply with the formulas for density bonuses and concessions and incentives that AB 2345 provides.

The City's resolution fails to incentivize beyond the requirements in place on December 31, 2020, and limits access to the concessions and incentives allowed by AB 2345.

Over time, the Legislature has realized that substantial enticements beyond density bonus units are needed to incentivize the development of affordable housing. Provisions such as incentives and concessions, waivers, and reduced parking standards have been deemed essential to incentivize affordable housing. It is generally recognized that these "other tools are even more helpful to project economics than the density bonus itself."³

Accordingly, the subdivision (s) exemption to AB 2345 contemplates something more than simply allowing a developer to request a density bonus that is only slightly higher than the 35 percent maximum bonus in effect on December 31, 2020, without providing additional mechanisms that incentivize development. This conclusion is further supported by Government Code section 65915, subdivision (r), which provides, "This chapter shall be interpreted liberally in favor of producing the maximum number of total housing units."

³ See, e.g., Jon Goetz and Tom Sakai, Guide to the California Density Bonus Law (Meyers Nave, January 2020, p.2).

Deborah Feng, City Manager Page 3

Resolution No. 20-141 and Ordinance No. 21-2226 fail to provide for the reduced threshold requirements to qualify for incentives and concessions pursuant to AB 2345,⁴ nor do they provide for other mechanisms that incentivize housing development beyond the SDBL requirements in place on December 31, 2020.

Conclusion

HCD has reviewed the City's Resolution No. 20-141 and Ordinance No. 21-2226 under its authority pursuant to Government Code section 65585, which extends to State Density Bonus Law (Gov. Code, § 65915). HCD has found that neither Resolution 20-141 nor Ordinance No. 21-2226 meet the threshold for exemption from recent legislative changes. Accordingly, the City must apply State Density Bonus Law by processing density bonus applications in accordance with AB 2345 and take no further steps to adopt Ordinance No. 21-2226.

If you have any questions or would like to discuss the content of this letter, please contact Robin Huntley of our staff at Robin.Huntley@hcd.ca.gov.

Sincerely,

Shannan West

Land Use and Planning Unit Chief

⁴ AB 2345 reduced the threshold from 20 percent to 17 percent lower-income units to receive two incentives/concessions and from 30 percent to 24 percent lower-income units to receive three incentives/concessions. (Gov. Code, § 65915, subds. (d)(2)(B-C).)

Financial Assistance for Affordable Housing

The City's longstanding goal is to generate adequate housing to accommodate its growing population and workforce, including its teachers, first responders, baristas, laborers, domestic workers, and others. The City is particularly focused on providing opportunities to accommodate affordable housing for families, seniors, and individuals with disabilities. To meet these aspirations, the City has devoted significant resources towards developing lower income housing. The City recognizes that local funding is key to a project's ability to obtain tax credits and so has implemented a comprehensive program to provide financial assistance to affordable housing developments, including:

<u>Funding Affordable Housing Development.</u> In 2019 the City issued final certificates of occupancy for the Veranda project—which provides 18 extremely-low and very-low income senior units, as well as an extremely-low income manager's unit—on one of the sites

designated in the City's Housing Element, exceeding the 11 lower income units that the Housing Element had projected. This project was developed with a density bonus, CEQA streamlining by using a categorical exemption, flexible development standards adopted to accommodate senior housing, and unanimous support from the Planning Commission and City Council.



Figure 1: Veranda. Source: Mercurynews.com

The Veranda project was the first project in Santa Clara County to utilize 2016 Measure A - Affordable Housing Bond funds with a \$1 million contribution, which resulted in six units of permanent supportive housing reserved for homeless seniors with disabling conditions. Consistent with its Housing Element strategies, the City contributed approximately 43% of the total development costs for a total of \$5,172,000. The City initially paid \$3 million for site acquisition and contributed \$1 million through Housing Trust Silicon Valley. Subsequently, the City added \$672,000, when the project was not able to acquire adequate funding, and \$500,000 in HOME Investment Partnerships Program (HOME) funds, when project labor costs escalated. The continued contributions to this project reaffirmed the City's commitment towards ensuring production of affordable housing.

The City now looks forward to the next 100 percent affordable housing project in Cupertino. The County of Santa Clara recently initiated purchase of an underutilized site in Cupertino, also to be funded with Measure A Affordable Housing Bond funds. The City held a study session to help facilitate public outreach for the acquisition and is currently exploring possible assistance for an affordable project to be proposed on the site.

- Annual Notice of Funding Availability (NOFA). The City annually issues a NOFA for Below Market Rate Affordable Housing Funds (AHF) for eligible capital housing projects on a one-year funding cycle. The current balance of AHF monies is \$6 million. (e.g. https://www.cupertino.org/home/showpublisheddocument/25344/637067305228970000)
- City Funding of Affordable Housing Program Administration. Cupertino fully funds program administration for all 242 affordable rental and ownership units in the City's portfolio, at a cost of \$270,000 per year (\$1,118 per unit), unlike many cities that have adopted fees for monitoring and administering affordable housing. This provides a substantial savings in operating costs to projects such as the Veranda, freeing \$20,100 per year for other uses for that project.
- Adoption of a Commercial Linkage Fee. The City has collected Below Market Rate (BMR) housing mitigation fees from non-residential development since 1992 to provide funds for affordable housing. To maximize these affordable housing funds, the City increased the commercial linkage fee for offices and hotels in 2020 based on a study commissioned by the City demonstrating that increased fees would be feasible. The City has also negotiated the payment of additional BMR funds as conditions of development agreements.
- Outreach. City housing staff affirmatively reaches out for housing opportunities and makes referrals to the City's non-profit housing partners, providing information about potential funding sources when property with the potential to be developed for housing comes up for sale. Staff monitors local real estate listings for multi-family housing, duplexes, and triplexes to identify suitable properties for acquisition. Over the course of each year, staff engages with multiple developers and non-profits to provide technical assistance.

Zoning and Land Use Incentives

The City of Cupertino continues to take actions to approve and incentivize the construction of affordable housing. The City has streamlined review of affordable housing projects and has approved housing on every site designated in its Fifth Cycle Housing Element for lower income housing. Housing approvals currently exceed the City's lower income RHNA.

To build on these efforts, the City has included several housing related projects as priority items on the City's Fiscal Year 2020-2021 and 2021-2022 Work Programs. This includes a Housing Strategies project with the objective to explore and adopt effective strategies and tools for the development of a variety of products across affordability levels including housing for the developmentally disabled and homes affordable to moderate, low, very-low, and extremely-low income households. The City also approved a work program item to consider options to develop Extremely Low Income (ELI) and BMR housing units for developmentally disabled individuals on City-owned property as well as investigating additional sites for BMR or ELI housing, with an estimated budget of \$250,000.

In addition, adopted Housing Element, zoning, and land use incentives for the development of affordable housing include:

- Parkland Dedication Fee and Construction Tax Waiver. The City waives parkland dedication fees and construction taxes for all deed-restricted affordable housing, whether included in an affordable project like the Veranda or affordable units in a market-rate housing development, as outlined in the City's Below Market Rate Procedural Manual. The average cost savings is \$54,795 per unit.
- Fast Track Approvals on Sites Designated for Lower Income Housing. The City adopted the 5th Cycle Housing Element in May 2015. By September 2016, it had approved housing development projects totaling 788 new residential units on sites designated for lower income housing. It also approved the Veranda senior housing project within seven months of receipt of the initial application. This project broke ground in April 2018 and was completed in May 2019. Over the past 14 years, the City has approved every development project application that would produce affordable housing.
- Generous Waivers and Concessions under Density Bonus Law. The City has granted generous waivers and concessions under density bonus law. Most recently, the City approved, among other waivers and incentives, a height waiver of close to 35 feet (an increase from 45 to 79 feet) for the Westport project; which, although entitled to a bonus of 35 percent (83 units), only requested a bonus of 13 percent (30 units). The City has also approved concession requests to locate affordable units in one building for the Westport and Marina projects, concessions which substantially increase the rate of return to the projects.
- Accessory Dwelling Unit (ADU) Incentives. In 2018, the City adopted amendments to its fee schedule to proactively reduce plan check and inspection fees for ADUs from \$7,500 or more, to a flat fee of \$2,500. The City is currently developing a program to allow residents to choose from pre-approved master ADU plans. Developers of manufactured or stick-built ADUs are being encouraged to submit plans for review as master plans and having these pre- approved by the City and available for residents to choose from, thereby streamlining permit review and reducing design costs for owners.
- <u>Flexible Development Standards.</u> The City provides flexible development standards to facilitate the development of affordable housing. The City implements this policy through its Planned Development zone, which allows the City to approve modified standards for otherwise applicable development standards for proposed projects. The City has consistently applied this policy to allow flexible development standards for proposed affordable housing projects, including the Veranda, Hamptons, and the Marina projects.
- Support for Funding Applications. The City supports the funding applications of qualified affordable housing developers for regional, state, and federal affordable housing funds, including Community Development Block Grants, HOME funds, Low Income Housing Tax Credits, and mortgage revenue bonds. The City recently issued support letters for the Veranda and Westport projects and assisted in the application process for tax credits.



CITY OF CUPERTINO

Agenda Item

21-9400 Agenda Date: 10/5/2021

Agenda #: 11.

Consider Conducting a First Reading of an Ordinance Related to Municipal Code Amendments to Mandate Organic Waste Disposal Reduction and Edible Food Recovery, as Required by Senate Bill (SB) 1383 and its Implementing Regulations.

Conduct the First Reading of Ordinance No. 21-2231: "An Ordinance of the City Council of the City of Cupertino Amending City Code to Repeal Section 6.24.037, Adopt a New Section 6.24.037, Adopt a New Section 6.24.038, and Amend Sections 6.24.010, 6.24.020, 6.24.060, 6.24.240, and 9.16.030, to Mandate Organic Waste Disposal Reduction" (Attachment A), which Includes a Finding that Adoption of the Ordinance is Exempt from the California Environmental Quality Act.



PUBLIC WORKS DEPARTMENT

CITY HALL 10300 TORRE AVENUE • CUPERTINO, CA 95014-3255 TELEPHONE: (408) 777-3354 • FAX: (408) 777-3333 CUPERTINO.ORG

CITY COUNCIL STAFF REPORT

Meeting: October 5, 2021

Subject

Consider Conducting a First Reading of an Ordinance Related to Municipal Code Amendments to Mandate Organic Waste Disposal Reduction and Edible Food Recovery, as Required by Senate Bill (SB) 1383 and Its Implementing Regulations.

Recommended Action

Conduct the First Reading of Ordinance No. 21-xxx "An Ordinance of the City Council of the City of Cupertino Amending City Code to Repeal Section 6.24.037, Adopt a New Section 6.24.037, Adopt a New Section 6.24.038, and Amend Sections 6.24.010, 6.24.020, 6.24.060, 6.24.240, and 9.16.030, to Mandate Organic Waste Disposal Reduction" (Attachment A), which Includes a Finding that Adoption of the Ordinance is Exempt from the California Environmental Quality Act.

Discussion

Background

The City of Cupertino's franchisee, Recology, has offered food waste recycling service to residential customers since 2010, as an expansion to the pre-existing yard trimmings collection service. In September 2015, the City Council adopted an ordinance mandating organics recycling for commercial customers, seven months ahead of State regulations under Assembly Bill (AB) 1826. Multi-family dwellings were phased in by July 1, 2018, which was three and half years before the State made that requirement. Thus, Cupertino has had a robust organics recycling program for quite some time.

In 2016, the State adopted SB 1383, California's Short-Lived Climate Pollutant Reduction Strategy. It sets Statewide goals to reduce organic waste to landfill by 75% and to increase edible food recovery by 20% by 2025. The Bill was passed in 2016 as part of California's larger strategy to combat climate change and is the largest and most prescriptive waste management legislative update in California since AB 939, which passed in 1989.

Senate Bill 1383 directed the California Department of Resources Recycling and Recovery (CalRecycle) to develop regulations to implement the State law. Development of the regulations to support SB 1383 was a multi-year process that concluded in November

2020. While previous State diversion regulations set targets and allowed individual jurisdictions to determine needed actions to achieve such targets, SB 1383 regulations have specific required actions for jurisdictions, waste haulers, waste generators, and edible food generators.

In anticipation of Cupertino's obligations under SB 1383, the City incorporated many of the requirements of the new law into its 10-year Franchise Agreement with Recology, which went into effect February 2021.

By January 1, 2022, SB 1383 regulations will require all cities and counties in California to adopt and enforce an ordinance to implement relevant provisions of the new law. The proposed ordinance recommended for the Council's consideration is necessary to comply with this State requirement.

Analysis

To assist cities and counties with their obligation to adopt an ordinance mandating organic waste disposal reduction, CalRecycle developed model ordinance language for optional use by jurisdictions. After careful attorney review and certain edits, Cupertino proposes to amend the Cupertino Municipal Code to replace the existing mandatory organics code Section 6.24.037 with the bulk of this model language. The section specific to edible food recovery requirements will become a new Municipal Code Section 6.24.038. Suggested conforming edits to other Municipal Code sections are as follows:

- Edit the purpose in section 6.24.010
- Update definitions in section 6.24.020
- Wording edits are needed in section 6.24.060, for clarity, regarding method of disposal
- Update section 6.24.240 regarding clarifying penalties
- Edit section 9.16.030 to clarify physical space waivers

The requirements of SB 1383 fall into six broad categories, which are captured in the ordinance language. The requirements are summarized as:

- Provide mandatory organics collection services to all businesses and residents, including multi-family residents.
 - a. Most businesses, multi-family complexes, and single-family residences already have these services.
 - b. Organics service through Cupertino's previously adopted Mandatory Commercial Organics Ordinance and through the requirements of AB 1826, which passed in 2014 and requires organics recycling for certain generators. Senate Bill 1383 extends the requirement for organics service to all businesses unless they qualify for specific exemptions due to minimal generation of organic materials, space constraints, or if they conduct approved back-hauling of materials.

Cart and bin colors are standardized Statewide under SB 1383 to reduce confusion. Cupertino is already compliant with color-coding of blue for recycling, green for organics, and gray or black for landfill.

- 2. Conduct education and outreach to the community.
 - a. Outreach and education to all waste generators is required by February 1, 2022, but as described further below, Cupertino began raising awareness of these coming regulations almost a year ago. Outreach and education responsibilities for SB 1383 are also captured in the Recology Franchise Agreement.
 - b. Tier 1 edible food waste generators in Cupertino (such as supermarkets and grocery stores) are subject to food recovery requirements under SB 1383. These food waste generators were visited in person in August 2021; they were informed of the new regulations and were provided with educational resources.
- 3. Establish food recovery programs. Large surplus food generators (such as grocery stores) are required to establish contracts with food recovery organizations for recovery of the maximum amount of surplus edible food, and to report on those activities.
 - a. Because food recovery organizations work across jurisdictional boundaries and because the largest generators tend to be chain stores operating regionally, a Countywide partnership has been established, funded in part by landfill disposal fees through the Technical Advisory Committee to the Recycling and Waste Reduction Commission of Santa Clara County.
 - b. This partnership is expected to formalize into a Memorandum of Understanding between all the jurisdictions in the County to continue this joint diversion and to continue reporting.
 - c. To enable this regional approach, the CalRecycle model food recovery ordinance language was modified and adapted by a multi-jurisdictional working group. Cupertino is proposing to adopt this language as developed in the new Section 6.24.038. Uniform code language across the County will make it easier for the surplus food generators and recovery organizations to work regionally without any differing requirements between jurisdictions.
- 4. Secure access to organics processing and food recovery capacity.
 - a. The new 10-year Franchise Agreement with Recology includes the assurance that adequate capacity exists at the Recology-owned organics processing facilities to accept the additional diverted organics.
 - b. Capacity planning for food recovery is happening at the County level on behalf of all the jurisdictions.

- 5. Monitor for compliance and conduct enforcement.
 - a. The new SB 1383-focused full-time Environmental Programs Assistant position will work in partnership with Recology's Waste Zero Specialists to conduct site visits and audits that ensure businesses and residents are in full compliance with all aspects of SB 1383.
 - b. While SB 1383 requires Cupertino to adopt an ordinance by January 1, 2022, for the first two years after adoption the City will be focused on educating generators; they will not be issuing penalties during that time. Regulations require the City to enforce with penalties beginning in 2024.
 - c. Responsibilities for sharing enforcement and auditing are captured in the Recology Franchise Agreement.
- 6. Jurisdictions must procure recycled organics products in quantities based on population as well as recycled content paper products that are themselves recyclable. (Note that the procurement obligations under SB 1383 apply to government entities only; it does <u>not</u> apply to residential and commercial generators.) The expected cost of the SB 1383 requirement is addressed in the fiscal impact section below.
 - a. A procurement policy for these elements will be established separately, as part of a comprehensive environmentally preferable purchasing policy, which is being developed by the City's Sustainability Division. With the exception of certain provisions related to procurement of mulch, having a policy in place before January 1, 2022, is not a requirement of SB 1383, but staff is still planning to comply with the procurement and reporting requirements in a timely fashion.
 - b. Cupertino has a source of compliant compost and mulch in the required quantities from Recology, but the amount is more than the City uses or provides to residents annually, so the City is exploring other options. These include compliant sources of electricity and renewable gas and providing compost for use in regional projects.
 - c. Paper procurement requirements and record keeping will need to be coordinated across all departments. This will be done by the future fulltime Environmental Programs Assistant position that will be hired in the beginning of 2022.

Sustainability Impact

The goal of SB 1383 is to keep organic materials, such as food, paper, wood, and yard trimmings out of landfill, where they generate methane, a greenhouse gas 84 times more potent than carbon dioxide. Landfills are the third largest source of methane in California, and organic materials make up about half of what Californians throw away to landfill. This is true in Cupertino as well, according to waste characterization studies done in 2018 and 2019. Reducing organic materials from Cupertino reaching landfills supports the community-wide and municipal operations and reduction measures outlined in the City's Climate Action Plan. Placing food scraps into the same bin as the organic yard trimmings

is also an individual action encouraged in the Climate Action Plan. Reducing food waste, as required by the food recovery elements of SB 1383, has the highest emissions impact according to Project Drawdown, a non-profit specializing in research of global solutions to climate change.

Environmental Review

The proposed ordinance is not a project under the requirements of the California Environmental Quality Act (CEQA) of 1970, together with related State CEQA Guidelines because it has no potential for resulting in physical change in the environment, either directly or ultimately. If this ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) and 15308 because it can be seen with certainty to have no possibility of a significant effect on the environment, and the ordinance is an action taken by a regulatory agency for the protection of the environment. The CEQA guidelines apply only to projects which have the potential of causing a significant adverse effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the amendments to the Cupertino Municipal Code would have no, or a very minimal, impact on the environment.

Fiscal Impact

Expenses associated with SB 1383, and compliance with this Senate Bill, were anticipated in the recently negotiated 10-year Franchise Agreement with Recology, which resulted in the City approving an additional full-time person to conduct field work, outreach, education, feedback, auditing, data collection and reporting, which are specified in the regulations for municipalities. That position is a full-time Environmental Programs Assistant position approved in the Fiscal Year 2021-2022 budget, to start on January 1, 2022.

The cost of compliance with the procurement requirements of SB 1383 remains uncertain, as options are still being explored. If regulations are met through a combination of compost, mulch, and biomass-generated electricity and renewable gas, the cost is anticipated to be roughly \$100,000 per year, shared between the Resource Recovery Fund (520) and the General Fund (100). Fiscal Year 2021-2022 includes funds to procure additional amounts of compliant compost, but part of that requirement can also be met by requiring compliant compost and mulch material to be used in Capital Improvement Projects, and potentially through compliant sources of biomass-generated electricity and renewable gas for powering and heating City facilities. Participation in regional projects and partnerships are also being researched. Agreements needed to achieve these procurement requirements will go to City Council for consideration. It should be noted that the fiscal impact of the City's procurement obligation stems from SB 1383 and its implementing regulations, not the proposed ordinance.

Public Outreach

Cupertino began raising awareness of the SB 1383 regulations almost a year ago. Recology ratepayers, the Cupertino Sustainability Commission, and the Cupertino Chamber of Commerce were already informed about SB 1383 during the Franchise Agreement negotiation and adoption process. The Chamber of Commerce received a presentation on SB 1383 on October 1, 2021, and Cupertino staff developed a web page summarizing the requirements of SB 1383 by type of customer. Staff prepared an Item of Interest for City Council that was published on August 26, 2021, summarizing the requirements of SB 1383 and Cupertino's readiness to comply. Certain regulated entities have been visited in person and were provided educational resources. Additional outreach is planned through the fall and into the winter, with specific attention to business customers who do not yet have the required organics service.

Next Steps

Upon final decision by the City Council, the ordinance will need a second reading at a subsequent hearing, tentatively scheduled for October 19, 2021. If adopted, the ordinance will go into effect January 1, 2022.

Prepared by: Ursula Syrova, Environmental Programs Manager

Reviewed by: Roger Lee, Director of Public Works

Reviewed by: Dianne Thompson, Assistant City Manager

Approved for Submission by: Greg Larson, Interim City Manager

Attachments:

A - Draft Ordinance

ORDINANCE NO.	21
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AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CITY CODE TO REPEAL SECTION 6.24.037, ADOPT A NEW SECTION 6.24.038, AND AMEND SECTIONS 6.24.010, 6.24.020, 6.24.060, 6.24.240, AND 9.16.030, TO MANDATE ORGANIC WASTE DISPOSAL REDUCTION

The City Council of the City of Cupertino finds and declares:

- A. Assembly Bill 939, the California Integrated Waste Management Act (Sher, Chapter 1095, Statutes of 1989, as amended) ("AB 939"), requires cities and counties to reduce, reuse, and recycle (including composting) solid waste generated in their jurisdictions to the maximum extent feasible before any incineration or landfill disposal of waste, to conserve water, energy, and other natural resources, and to protect the environment.
- B. State recycling law, Assembly Bill 341 (Chesbro, Chapter 476, Statutes of 2011) places requirements on businesses and multi-family generators that generate a specified threshold amount of solid waste to arrange for recycling services and requires jurisdictions to implement a mandatory commercial recycling program.
- C. In 2015, the City of Cupertino ("City") adopted a Mandatory Organic Recycling for Business Structures ordinance, adding Section 6.24.037 to the City's Municipal Code, specifying that on and after September 1, 2015 businesses and business structures generating a specified threshold of organic waste are required to subscribe to and maintain organic waste recycling services. Multi-family residential properties were phased in to the requirements in July 2018.
- D. State organics recycling law, Assembly Bill 1826 (Chesbro, Chapter 727, Statutes of 2014) requires businesses and multi-family generators that generate a specified threshold amount of solid waste, recycling, and organic waste per week to arrange for recycling services for those materials, requires jurisdictions to implement a recycling program to divert organic waste from businesses subject to the law, and requires jurisdictions to implement a mandatory commercial organics recycling program.
- E. Senate Bill 1383, the Short-lived Climate Pollutant Reduction Act of 2016 (Lara, Chapter 395, Statutes of 2016) ("SB 1383"), sets statewide organic waste disposal reduction targets of fifty percent (50%) by 2020 and seventy-five percent (75%) by 2025, based on the 2014 organics waste disposal baseline, set forth in Section 39730.6 of the Health and Safety Code, and requires the California Department of

Resources Recycling and Recovery ("CalRecycle") to develop regulations to reduce organics in landfills as a source of methane. In 2020, CalRecycle adopted the Short-Lived Climate Pollutants: Organic Waste Reductions regulations (adding Chapter 12 of Title 14, Division 8 of the California Code of Regulations and amending portions of Title 14 and Title 27 of the California Code of Regulations) (the "SB 1383 Regulations"). The SB 1383 Regulations place requirements on multiple entities including jurisdictions, residential households, commercial businesses and business owners, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets.

- F. By January 1, 2022, the SB 1383 Regulations require jurisdictions to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of SB 1383 Regulations. This ordinance will aid in preserving landfill space and postponing the need for new landfill capacity for the longest term possible by reducing the amount of solid waste (including organic waste and recyclable materials) disposed. This ordinance will also help reduce food insecurity by requiring commercial edible food generators to arrange to have the maximum amount of their edible food, that would otherwise be disposed, be recovered for human consumption.
- G. The City has coordinated with Santa Clara County and other jurisdictions in the county to develop uniform provisions for the portions of the ordinance adddressing edible food recovery. The City has determined that this coordination will simplify compliance for commercial businesses, promote food recovery in the City, and faciliate edible food recovery capacity planning.
- H. The City has determined that, in order to meet the goals and requirements of Assembly Bill 939, Assembly Bill 341, Assembly Bill 1826, SB 1383 and its implementing regulations, and related laws, the appropriate approach is to enact this ordinance. The purpose of this ordinance is to reduce the amount of organic waste deposited in landfills from commercial and residential generators and reduce food insecurity.
- I. Requirements in this ordinance are intended to be consistent with federal, state, and City law, and other adopted laws, goals and policies of the City including: the Climate Action Plan, Zero Waste Policy, and Environmentally Preferable Purchasing Policy.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CUPERTINO DOES ORDAIN AS FOLLOWS:

SECTION 1. ADOPTION

The Cupertino Municipal Code Section 6.24.037 is hereby repealed and replaced in its entirety by a new Section 6.24.037, a new Section 6.24.038 is hereby added, and Sections 6.24.010, 6.24.020, 6.24.060, 6.24.240, and 9.16.030 are hereby amended, all of which are adopted as set forth in Attachment A.

SECTION 2. SEVERABILITY AND CONTINUITY.

The City Council declares that each section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance is severable and independent of every other section, sub-section, paragraph, sub-paragraph, sentence, clause and phrase of this ordinance. If any section, sub-section, paragraph, sub-paragraph, sentence, clause or phrase of this ordinance is held invalid, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, the City Council declares that it would have adopted the remaining provisions of this ordinance irrespective of such portion, and further declares its express intent that the remaining portions of this ordinance should remain in effect after the invalid portion has been eliminated. To the extent the provisions of this ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as an amendment to or readoption of the earlier provisions.

SECTION 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT

This ordinance is not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines Section 15061(b)(3) and 15308 because it can be seen with certainty to have no possibility of a significant effect on the environment and the ordinance is an action taken by a regulatory agency for the protection of the environment. CEQA applies only to projects which have the potential of causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. In this circumstance, the amendments to the City code would have no or only a de minimis impact on the environment. The foregoing determination is made by the City Council in its independent judgment.

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Page 4	

SECTION 4. EFFECTIVE DATE

This ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937. However, the ordinance's requirements shall not become operative until January 1, 2022, which means that the City, and/or its designee, will not begin to enforce the provisions and penalties under the ordinance until January 1, 2022.

SECTION 5. PUBLICATION

Members of the City Council

Christopher Jensen, City Attorney

The City Clerk shall give notice of adoption of this ordinance as required by law. Pursuant to Government Code Section 36933, a summary of this ordinance may be prepared by the City Clerk and published in lieu of publication of the entire text. The City Clerk shall post in the office of the City Clerk a certified copy of the full text of the Ordinance listing the names of the City Council members voting for and against the ordinance.

INTRODUCED at a regular meeting of the Cupertino City Council on October 5, 2021 and ENACTED at a regular meeting of the Cupertino City Council on ______, 2021 by the following vote:

AVEC	
AYES:	
NOES:	
ABSENT:	
ABSTAIN:	
SIGNED:	
Darcy Paul, Mayor	Date
City of Cupertino	
, I	
ATTEST:	
Kirsten Squarcia, City Clerk	Date
- ,	
APPROVED AS TO FORM:	

Date

ATTACHMENT A – AN ORDINANCE OF THE CITY OF CUPERTINO TO MANDATE ORGANIC WASTE DISPOSAL REDUCTION

The sections of the Cupertino Municipal Code set forth below are amended or adopted as follows:

Text added to existing provisions is shown in bold double-underlined text (<u>example</u>) and text to be deleted in shown in strikethrough (example). Text in existing provisions is not amended or readopted by this ordinance. Text in italics is explanatory and is not an amendment to the Code.

Where the explanatory text indicates that a new section is being added to the City Code, the new section is shown in plain text.

SECTION 1. AMENDMENTS TO SECTION 6.24.010 CONCERNING THE PURPOSES OF MANDATORY ORGANIC WASTE DISPOSAL REDUCTION

6.24.010 Purpose of Chapter.

- A. This chapter is determined and declared to be a health, sanitary and safety measure necessary for the promotion, protection and preservation of the health, safety and general welfare of the people of the City of Cupertino.
- B. The City is required to comply with the applicable provisions of <u>Assembly Bill</u> <u>939</u>, the California Integrated Waste Management Act (AB 939 or the "Act")(Sher, <u>Chapter 1095</u>, <u>Statutes of 1989</u>, <u>as amended</u>) ("AB 939"), as amended, which is codified in California Public Resources Code beginning at section 40000. <u>AB</u> <u>939</u>The Act requires that by and after January 1, 2000, fifty percent (50%) of the solid waste generated must be diverted through some source reduction, recycling, and composting activities.
- C. Assembly Bill 341 (Chesbro, Chapter 476, Statutes of 2011) places requirements on businesses and multi-family generators that generate a specified threshold amount of solid waste to arrange for recycling services and requires jurisdictions to implement a mandatory commercial recycling program.
- D.C. Assembly Bill 1826 (Chesbro, Chapter 727, Statutes of 2014) requires businesses and multi-family generators that generate a specified threshold amount of solid waste, non-organic recyclables, and organic waste per week to arrange for recycling services for those materials, requires jurisdictions to implement a recycling program to divert organic waste from businesses subject to the law, and requires jurisdictions to implement a mandatory commercial organic waste

> recycling program, which amended the Act in 2014, to impose certain organic waste recycling requirements, mandates that by April 1, 2016, a business that generates eight (8) cubic yards or more of organic waste per week must arrange for recycling services, specifically for organic waste; by January 1, 2017, a business that generates four (4) cubic yards or more of organic waste per week must arrange for recycling services specifically for organic waste; by January 1, 2019, a business that generates four (4) or more cubic yards of commercial solid waste per week, must arrange for recycling services specifically for organic waste; by January 1, 2020, if the State determines that the statewide disposal of organic waste has not been reduced to fifty percent (50%) of the level of disposal during 2014, a business that generates two (2) cubic yards or more per week of commercial solid waste must arrange for the organic waste recycling, unless the State determined that this requirement will not result in significant additional reductions of organics disposal. In September 2020, the Department of Resources Recycling and Recovery (CalRecycle) implemented the authority under Assembly Bill 1826 to reduce the threshold to two (2) cubic yards of solid waste generated by covered businesses.

- E. Senate Bill 1383, the Short-lived Climate Pollutant Reduction Act of 2016 (Lara, Chapter 395, Statutes of 2016) ("SB 1383"), sets statewide organic waste disposal reduction targets of fifty percent (50%) by 2020 and seventy-five percent (75%) by 2025, based on the 2014 organics waste disposal baseline. SB 1383's implementing regulations place requirements on multiple entities including jurisdictions, residential households, commercial businesses and business owners, commercial edible food generators, haulers, self-haulers, food recovery organizations, and food recovery services to support achievement of statewide organic waste disposal reduction targets. SB 1383's implementing regulations require jurisdictions to adopt and enforce an ordinance or other enforceable mechanism to implement relevant provisions of SB 1383's implementing regulations.
- F. The City has coordinated with the County of Santa Clara and other jurisdictions in the county to develop uniform provisions for the portions of this chapter adddressing edible food recovery. The City has determined that this coordination will simplify compliance for commercial businesses, promote food recovery in the City, and faciliate edible food recovery capacity planning.
- G. Pursuant to 14 California Code of Regulations Section 18981.2, jurisdictions may delegate certain responsibilities for implementing, monitoring, and enforcing their edible food recovery programs to public or private entities.

- H. This chapter will aid the City in meeting the goals and requirements of AB 939, Assembly Bill 341, Assembly Bill 1826, SB 1383 and its implementing regulations, and related laws; aid in preserving landfill space and postponing the need for new landfill capacity for the longest term possible; reduce the amount of solid waste deposited in landfills from commercial and residential generators; and reduce food insecurity.
- <u>I.D.</u> The City may adopt, implement, and enforce a local <u>solidorganic</u> waste recycling requirement that is more stringent or comprehensive than <u>s</u>State law.

SECTION 2. AMENDMENTS TO SECTION 6.24.020 CONCERNING DEFINITIONS

6.24.020 Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section, unless the context or the provision clearly requires otherwise:

- 1. "Back-haul" means a commercial business generating and transporting source separated recyclable materials and/or source separated green container organic waste to a destination owned and operated by the generator using the generator's own employees and equipment, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(66)(A).
- 2. "Blue container" has the same meaning as in 14 California Code of Regulations
 Section 18982.2(a)(5) and shall be used for the purpose of storage and collection
 of source separated recyclable materials.
- <u>31</u>. "Business" <u>or "commercial"</u> means a commercial or public entity, including, but not limited to, a firm, partnership, proprietorship, joint stock company, corporation, or association that is organized as a for-profit entity or non-profit entity, or a multi-family residential <u>dwelling property</u> with five (5) or more dwellings <u>units</u>.
- <u>42</u>. "Business Structure" means a building or buildings within a property occupied by one or more businesses.
- <u>5</u>3. "City" means and includes all the territory lying within the municipal boundaries of the City of Cupertino as presently existing, plus all territory which may be added thereto during the effective term of the ordinance codified herein.

- <u>**64.**</u> "Collection station" means the location at which containers of <u>**garbage**solid waste</u>, <u>**non-organic**</u> recyclables and organic waste are placed for collection by the solid waste collector. For businesses, collection station is typically the garbage and recycling area enclosure. For multi-family <u>**residential properties**</u> with less than five (5) <u>**residential**</u> dwellings <u>**units**</u> and other residential structures, the collection station is typically the street side of the concrete curb immediately adjacent to the residence where curb and gutter exists or where no curb and gutter exists, the edge of asphalt immediately adjacent to the residence.
- 7. "Commercial edible food generator" includes a tier one or a tier two commercial edible food generator. For the purposes of this definition, food recovery organizations and food recovery services are not commercial edible food generators pursuant to 14 California Code of Regulations Section 18982(a)(7).
- 8. "Community composting" means any activity that composts green material, agricultural material, food material, and vegetative food material, alone or in combination, and the total amount of feedstock and compost on-site at any one time does not exceed 100 cubic yards and 750 square feet, as specified in 14 California Code of Regulations Section 17855(a)(4); or, as otherwise defined by 14 California Code of Regulations Section 18982(a)(8).
- 9. "Compliance review" means a review of records by the City and/or its designee to determine compliance with this chapter.
- 10. "Compost" means the product resulting from the controlled biological decomposition of organic solid waste that is source separated from the municipal solid waste stream, or which is separated at a centralized facility, or as otherwise defined in 14 California Code of Regulations Section 17896.2(a)(4).
- 11. "Compostable plastic bags" means only such plastic bags that meet the BPIcertified ASTM D6400 standard for compostability, or such bags that are approved by the City for placement in the green container.
- <u>125</u>. "Construction and demolition debris" or "C&D debris" means materials resulting from the construction, remodeling, or demolition of buildings and other structures. "Construction and demolition debris" includes, but is not limited to, concrete, asphalt, rock and dirt related to construction, remodeling, repair, or demolition operations and is subject to the provisions of Chapter 16.72.

- 13. "Container contamination" means a container, regardless of color, that contains prohibited container contaminants, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(55).
- <u>146</u>. "Debris box service" means collection service in containers without compaction that have a capacity of eight (8) cubic yards or more. Debris boxes may be used for the collection of <u>non-organic</u> recyclables and organic waste, or garbage, and may be used for construction and/or demolition debris that may or may not be intended for full or partial recycling or other waste diversion.
- <u>15</u>7. "Delinquent" means a failure of the recipient of solid waste collection service to pay when due all charges owed to the solid waste collector for solid waste collection service rendered or to be rendered.
- 16. "Department" means any department of the City, the County of Santa Clara, or any other public agency designated by the City to enforce or administer this chapter, as authorized in 14 California Code of Regulations Section 18981.2.
- 17. "Designee" means an entity that the City contracts with or otherwise arranges to carry out or assist with any of the City's responsibilities for compliance with solid waste-related laws or regulations or administration or enforcement of this chapter as authorized in 14 California Code of Regulations Section 18981.2. A designee may be a government entity, a hauler, a private entity, or a combination of those entities.
- <u>188</u>. "Director" means the Director of Public Works and his/hertheir duly authorized agents and representatives.
- <u>199</u>. "Dwelling" means a residence, flat, duplex, apartment, townhouse, condominium or other facility used for housing one or more persons.
- 20. "Edible food" means food intended for human consumption, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(18). For the purposes of this chapter, "edible food" is not solid waste if it is recovered and not discarded. Nothing in this chapter requires or authorizes the recovery of edible food that does not meet the food safety requirements of the California Retail Food Code.
- 21. "Enforcement officer" has the same meaning as in Section 1.10.020 of this code.
- <u>22</u>10. "Equipment" means a debris box or debris bin and vehicles used to transport debris boxes or bins.

- "Excluded waste" means hazardous materials, infectious waste, designated 23. waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the City and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, state, or federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in Class III landfills or accepted at the facility by permit conditions, waste that in the City's and/or its designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose the City and/or its designee to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in single-family or multi-family solid waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.
- <u>24</u>11. "Finance Director" means the Finance Director and his/hertheir duly authorized agents and representatives.
- 25. "Food distributor" means a business that distributes food to entities including, but not limited to, supermarkets and grocery stores, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(22).
- 26. "Food facility" has the same meaning as in Section 113789 of the Health and Safety Code.
- 27. "Food recovery" means actions to collect and distribute food for human consumption which otherwise would be disposed, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(24).
- 28. "Food recovery organization" means an entity that engages in the collection or receipt of edible food from commercial edible food generators and distributes that edible food to the public for food recovery either directly or through other entities. "Food recovery organization" includes, but is not limited to: (a) a food bank as defined in Section 113783 of the Health and Safety Code; (b) a nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and, (c) a nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code. A food recovery organization is not a commercial edible food generator for the purposes of this chapter pursuant to 14 California Code of Regulations Section 18982(a)(7). If the definition in 14

<u>California Code of Regulations Section 18982(a)(25) for food recovery organization differs from this definition, the definition in 14 California Code of Regulation Section 18982(a)(25) shall apply to this chapter.</u>

- 29. "Food recovery service" means a person or entity that collects and transports edible food from a commercial edible food generator to a food recovery organization or other entities for food recovery, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(26). A food recovery service is not a commercial edible food generator.
- 30. "Food scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, bones, rice, beans, pasta, bread, cheese, and eggshells. Food scraps excludes fats, oils, and grease when such materials are source separated from other food scraps.
- 31. "Food service provider" means an entity primarily engaged in providing food services to institutional, governmental, commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(27).
- 32. "Food-soiled paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, uncoated paper plates, napkins, paper towels, and pizza boxes.
- 3312. "Food Waste" means <u>food scraps, food-soiled paper, and compostable plastic</u> <u>bags</u>unused and discarded solid food products/scraps including, but not limited to, vegetables, fruit, meat, fish, shells, bones, cheese, bread, paper-based tea bags and coffee grounds. Food waste is an organic waste.
- 3413. "Garbage" means all materials, substances or objects that are discarded, including but not restricted to, materials, substances or objects commonly referred to as "trash," "garbage," "refuse" and "rubbish" that are produced, generated or accumulated by all residential, commercial, industrial, institutional, municipal, agricultural and other inhabitants, premises and activities within the City, the collection of which is regulated through the franchise agreement existing between the City and the authorized solid waste collector; provided, however, that "garbage" does not include (a) hazardous materials, (b) non-organic recyclable materials, (c) organic wastematerials, (d) clear plastic bags when used to contain organic wastematerials to be recycled, (e) construction and demolition debris, (f) biomedical waste, (g) ash, and (h) sewage and other highly diluted water-carried materials or substances and those in gaseous form. Except in residential

- dwellings, if the material is placed in a plastic bag, the bag must only be clear plastic.
- 35. "Gray container" has the same meaning as in 14 California Code of Regulations
 Section 18982.2(a)(28), and which may be colored gray or black, and shall be
 used for the purpose of storage and collection of gray container waste.
- 36. "Gray container waste" means solid waste that is collected in a gray container that is part of a three-container collection service that prohibits the placement of organic waste in the gray container as specified in 14 California Code of Regulations Sections 18984.1(a) and (b), or as otherwise defined in 14 California Code of Regulations Section 17402(a)(6.5).
- 37. "Green container" has the same meaning as in 14 California Code of Regulations Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of source separated green container organic waste.
- 38. "Grocery store" means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(30).
- 39. "Hauler route" means the designated itinerary or sequence of stops for each segment of the City's collection service area, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(31.5).
- 4014. "Hazardous materials" means any or a combination of materials which because of itstheir quantity, concentration, or physical, chemical or infectious characteristics may either: (a) cause or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed. Hazardous materials includes include, but is are not limited to, hazardous wastes as defined under California or United States law or any regulations promulgated pursuant to such laws, and all toxic, radioactive, biologically infectious, explosive or flammable waste materials, including any material defined in Section 9.12.020 of the Cupertino City Code for which a hazardous materials storage permit is required.

- 41. "Health facility" has the same meaning as in Section 1250 of the Health and Safety Code.
- 42. "Hotel" has the same meaning as in Section 17210 of the Business and Professions Code.
- 43. "Inspect" or "inspection" means an enforcement officer's, the department's and/or a designee's electronic or on-site visit and review of records, containers, and an entity's collection, handling, recycling, or landfill disposal of organic waste or edible food handling to determine if the entity is complying with requirements set forth in this chapter, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(35).
- 44. "Large event" means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than two thousand (2,000) individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 California Code of Regulations Section 18982(a)(38) for large event differs from this definition, the definition in 14 California Code of Regulations Section 18982(a)(38) shall apply to this chapter.
- 45. "Large venue" means a permanent venue facility that annually seats or serves an average of more than two thousand (2,000) individuals within the grounds of the facility per day of operation of the venue facility. A venue facility includes, but is not limited to, a public, non-profit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. A site under common ownership or control that includes more than one large venue that is contiguous with other large venues in the site, is a single large venue. If the definition in 14 California Code of Regulations Section 18982(a)(39) for large venue differs from this definition, the definition in 14 California Code of Regulations Section 18982(a)(39) shall apply to this chapter.
- <u>46</u>15. "Litter" means, but is not limited to, plastic, paper, cigarette butts, floor sweepings, trash, rubbish, food, cloth, metal, recyclable material, or waste matter of whatever character.

- 47. "Local education agency" means a school district, charter school, or county office of education that is not subject to the control of the City or county regulations related to solid waste, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(40).
- <u>4816</u>. "Multi-unit <u>residential propertydwelling</u>" or "multi-family <u>residential propertydwelling</u>" <u>or "multi-family"</u> means any premises, excluding a hotel, motel, or lodging house, used for residential purposes containing five (5) dwelling units or more, irrespective of whether the residency is transient, temporary or permanent.
- 49. "Non-compostable paper" includes, but is not limited to, paper that is coated in a plastic material that will not break down in the composting process, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(41).
- 50. "Non-local entity" means an entity that is an organic waste generator but is not subject to the control of the City or county regulations related to solid waste.

 These entities may include, but are not limited to, special districts, federal facilities, prisons, facilities operated by the state parks system, public universities, including community colleges, county fairgrounds, and state agencies.
- 5117. "Non-Organic Recyclables Recyclables or "non-organic recyclable material" mean those materials that can be returned to economic use as raw materials for new, reused or reconstituted products, which prior to collection are separated by the generator from other material treated as solid waste. Examples of Non-Organic Recyclables non-organic recyclables include, but are not limited to: newspaper, cans, corrugated cardboard, glass, certain types of plastic, metals, wood and automobile oil. "Mixed non-organic recyclables" means more than one type of non-organic recyclable material commingled in a bin, debris box, compactor or other type of container. This material includes, but is not limited to wood, paper, plastic, metals, glass, and other recyclable materials other than organic waste. The material must not contain more than five percent (5%) by volume garbage and organic waste.
- <u>52</u>18. "Nonresidential premises" means all premises except residential premises, including but not restricted to premises used for industrial, commercial, administrative and professional offices, public and quasi-public buildings, utility and transportation.

- 53. "Notice of violation" means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(45) or further explained in 14 California Code of Regulations Section 18995.4.
- <u>5419</u>. "Occupancy"; "occupied": Premises are "occupied" when a person or persons take or hold possession of the premises for permanent or temporary use. For the purposes of determining whether a premises is occupied during periods when solid waste collection service is made available to such premises, occupancy shall be presumed unless evidence is presented that gas, electric, telephone and water utility services were not being provided to the premises during such periods.
- "Organic waste" means solid waste containing material originated from living 5520. organisms and their metabolic waste products, including but not limited to food, green material, landscape and pruning waste, organic textiles and carpets, lumber, wood, paper products, printing and writing paper, manure, biosolids, digestate, and sludges or as otherwise defined in 14 California Code of Regulations Section 18982(a)(46). Biosolids and digestate are as defined by 14 California Code of Regulations Section 18982(a) organic materials, including but not limited to, materials generated from tree trimming, shrubbery pruning, vegetative garden wastes, dead plants, weeds, leaves, grass clippings, food waste, and non-food vegetative matter, soiled paper and cardboard and waxed cardboard that decompose biologically. The material must not contain in excess of 5% by volume garbage or non-organic recyclable materials. Except in In residential dwellings, if the material is placed in a plastic bag, the bag must only be a compostable plastic bag. In commercial properties or multi-family residential properties, if the material is placed in a plastic bag, the bag must be clear plastic or a compostable plastic bag.
- 56. "Organic waste generator" means a person or entity that is responsible for the initial creation of organic waste, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(48).
- <u>5721</u>. "Owner" means the holder or holders of legal title to the real property constituting the premises to which solid waste collection service is provided.
- 58. "Paper products" include, but are not limited to, paper janitorial supplies, cartons, wrapping, packaging, file folders, hanging files, corrugated boxes, tissue, and toweling, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(51).

- <u>5922</u>. "Person" includes any person, firm, association, organization, partnership, business trust, joint venture, corporation, or company, and includes the United States, the State of California, the County of Santa Clara, special purpose districts, and any officer or agency thereof.
- <u>60</u>23. "Premises" means any land, building or structure, or portion thereof, within the City where any solid waste is produced, kept, deposited, placed or accumulated.
- 61. "Printing and writing paper" includes, but is not limited to, copy, xerographic, watermark, cotton fiber, offset, forms, computer printout paper, white wove envelopes, manila envelopes, book paper, note pads, writing tablets, newsprint, and other uncoated writing papers, posters, index cards, calendars, brochures, reports, magazines, and publications, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(54).
- 62. "Prohibited container contaminants" means the following: (i) discarded materials placed in the blue container that are not identified as acceptable source separated recyclable materials for the City's blue container; (ii) discarded materials placed in the green container that are not identified as acceptable source separated green container organic waste for the City's green container; (iii) discarded materials placed in the gray container that are acceptable source separated recyclable materials and/or source separated green container organic waste to be placed in the City's green container and/or blue container; and (iv) excluded waste placed in any container.
- 63. "Recovery" means any activity or process described in 14 California Code of Regulations Section 18983.1(b), or as otherwise defined in 14 California Code of Regulations Section 18982(a)(49).
- 64. "Remote monitoring" means the use of the internet of things (IoT) and/or wireless electronic devices to identify the types of materials in commercial businesses' blue containers, green containers, and gray containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of prohibited container contaminants. Remote monitoring may involve installation of remote monitoring equipment on or in commercial businesses' blue containers, green containers, and gray containers. A remote monitoring program may be implemented by the City, its designee, and/or a commercial business at a later date, consistent with the terms of this chapter. Remote monitoring is not expected to be used for any residential premises.

- <u>65</u>24. "Residential premises" <u>or "residential"</u> means any single-unit dwelling or <u>multimultiple-unit residential propertydwelling</u>.
- 66. "Restaurant" means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(64).
- 67. "Route review" means a visual inspection of containers along a hauler route for the purpose of determining container contamination, and may include mechanical or electronic inspection methods such as the use of cameras, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(65).
- 68. "Share Table" has the same meaning as in Section 114079 of the Health and Safety Code.
- <u>6925</u>. "Single-stream recycling" means a recycling program in which generators place multiple types of recoverable materials in a single container that is designated specifically for recyclables and is taken to a material recovery facility for processing.
- <u>7026</u>. "Single-unit dwelling" <u>or "single-family dwelling" or "single-family"</u> means one or more rooms and a single kitchen, designed for occupancy by one family for residential purposes. Each dwelling unit within a condominium project, duplex, townhouse project or apartment, and each second unit located within a single-family residential zoning district, shall constitute a separate single-unit dwelling to which solid waste collection service is provided, unless the owner or occupants thereof arrange for solid waste collection service to be provided to all dwelling units upon the premises at commercial rates.
- <u>7127</u>. "Solid waste" <u>has the same meaning as defined in California Public Resources</u>
 <u>Code Section 40191, and generally</u> means all items of solid waste including, but not limited to garbage, non-organic recyclables, organic waste and hazardous materials eligible for collection.
- <u>7228</u>. "Solid waste collector" means any person or entity authorized by the franchise agreement between the Franchisee and the City, in accordance with Section 6.24.120 of this chapter, to collect, receive, carry, transport, process and dispose of any garbage, non-organic recyclables, organics <u>waste</u> and hazardous materials eligible for collection, produced, kept or accumulated within the City.

- <u>7329</u>. "Solid waste collection service" means the collection, transportation and disposal of garbage, organic <u>wastematerials</u>, non-organic recyclables and hazardous materials eligible for collection by an authorized solid waste collector.
- <u>74</u>30. "Source Separated–Recyclables" means <u>materials</u>any recyclables that, prior to collection, are or have been separated or segregated by their generator as to type or category of source material and are or have been placed into separate containers according to type or category, i.e. all metal is separated from other recyclables and placed in its own separate container or separate debris box.
- 75. "Source separated blue container organic waste" means source separated organic waste that can be placed in a blue container that is limited to the collection of those organic waste and non-organic recyclables as defined in 14 California Code of Regulations Section 18982(a)(43), or as otherwise defined by 14 California Code of Regulations Section 17402(a)(18.7).
- 76. "Source separated green container organic waste" means source separated organic waste that can be placed in a green container that is limited to collection of organic waste by the generator, excluding source separated blue container organic waste, carpets, non-compostable paper, textiles, and manure.
- 77. "Source separated recyclable materials" means source separated non-organic recyclables and source separated blue container organic waste.
- 78. "Supermarket" means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or nonfood items and some perishable items, or as otherwise defined in 14 California Code of Regulations Section 18982(a)(71).
- <u>79</u>31. "Tenant" means any person or persons, other than the owner, occupying or in possession of a premises.
- 80. "Tier one commercial edible food generator" means the following: (a) supermarkets; (b) grocery stores with a total facility size equal to or greater than 10,000 square feet; (c) food service providers; (d) food distributors; and (e) wholesale food vendors. If the definition in 14 California Code of Regulations Section 18982(a)(73) of tier one commercial edible food generator differs from this definition, the definition in 14 California Code of Regulations Section 18982(a)(73) shall apply to this chapter. For the purposes of this chapter, food recovery organizations and food recovery services are not tier one commercial edible food generators.

- "Tier two commercial edible food generator" means the following: (a) **81.** restaurants with two hundred fifty (250) or more seats or a total facility size equal to or greater than five thousand (5,000) square feet; (b) hotels with an on-site food facility and two hundred (200) or more rooms; (c) health facilities with an on-site food facility and one hundred (100) or more beds; (d) large venues; (e) large events; (f) state agencies with a cafeteria with two hundred fifty (250) or more seats or total cafeteria facility size equal to or greater than five thousand (5,000) square feet; and (g) local education agency facilities with onsite food facilities. If the definition in 14 California Code of Regulations Section 18982(a)(74) of tier two commercial edible food generator differs from this definition, the definition in 14 Cakfironia Code of Regulations Section 18982(a)(74) shall apply to this chapter. Non-local entities that operate a facility that meets this definition are tier two commercial edible food generators. For the purposes of this chapter, food recovery organizations and food recovery services are not tier two commercial edible food generators.
- 82. "Wholesale food vendor" means a business or establishment engaged in the merchant wholesale distribution of food, where food (including fruits and vegetables) is received, shipped, stored, prepared for distribution to a retailer, warehouse, distributor, or other destination, or as otherwise defined in 14 California Code of Regulations Section 189852(a)(76).

SECTION 3. ADOPTION OF NEW SECTION 6.24.037 CONCERNING MANDATORY ORGANIC WASTE DISPOSAL REDUCTION, REPLACING EXISTING SECTION 6.24.037 IN ITS ENTIRETY

6.24.037 Mandatory Organic Waste Disposal Reduction.

6.24.037.010	Requirements for Single-Family Generators.
6.24.037.020	Requirements for Commercial Business Generators.
6.24.037.030	Waivers for Commercial Business Generators.
6.24.037.040	Requirements for Haulers and Facility Operators.
6.24.037.050	Requirements for Back-Haulers.
6.24.037.060	Procurement.
6.24.037.070	Inspections and Investigations.
6.24.037.080	Enforcement.

6.24.037.010 Requirements for Single-Family Generators.

Single-family organic waste generators shall:

- A. Subscribe to the City's organic waste collection services for all organic waste generated. The City and/or its designee shall have the right to review the number and size of a generator's containers to evaluate the adequacy of capacity provided for each type of collection service and to review the proper separation of materials and containment of materials.
- B. Participate in the City's organic waste collection service by placing designated materials in designated containers as described below, and not placing prohibited container contaminants in collection containers. Generator shall place source separated green container organic waste, including food waste, in the green container; source separated recyclable materials in the blue container; and gray container waste in the gray container. Generator shall not place materials designated for the gray container into the green container or blue container.
- C. Nothing in this section prohibits a generator from preventing or reducing their solid waste generation, managing organic waste on site, and/or using a community composting site pursuant to 14 California Code of Regulations Section 18984.9(c).

6.24.037.020 Requirements for Commercial Business Generators.

Commercial business organic waste generators, including multi-family organic waste generators, shall:

- A. Except commercial businesses that meet the back-hauler requirements in Section 6.24.037.050 of this code, or that meet the waiver requirements in Section 6.24.037.030 of this code, subscribe to the City's organic waste collection service for all organic waste generated. The City and/or its designee shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate the adequacy of capacity provided for each type of collection service and to review the proper separation of materials and containment of materials.
- B. Except commercial businesses that meet the back-hauler requirements in Section 6.24.037.050 of this code, or that meet the waiver requirements in Section 6.24.037.030 of this code, participate in the City's organic waste collection service by placing designated materials in designated containers as described below, and not placing prohibited container contaminants in collection containers. Generator shall place source separated green container organic waste, including food waste, in the green container; source separated recyclable materials in the blue container; and gray container waste in the gray container. Generator shall not place materials

designated for the gray container into the green container or blue container. If organic waste is placed in a plastic bag, the bag must be a clear plastic or a compostable plastic bag.

- C. Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors (conforming with Sections 6.24.037.020.D.1 and 6.24.037.020.D.2 of this code) for employees, contractors, tenants, and customers, consistent with the City's blue container, green container, and gray container collection service or, if back-hauling, per the commercial business's instructions to support its compliance with its back-haul program, in accordance with Section 6.24.037.050 of this code.
- D. Excluding multi-family residential properties, provide containers for the collection of source separated green container organic waste and source separated recyclable materials in all indoor and outdoor areas where disposal containers are provided for customers for materials generated by that business. Such containers do not need to be provided in restrooms. If a commercial business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 California Code of Regulations Section 18984.9(b), the containers provided by the business shall have either:
 - 1. A body or lid that conforms with the container colors specified by the City, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. Notwithstanding the foregoing, a commercial business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.
 - 2. Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant to 14 California Code of Regulations Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

- E. Excluding multi-family residential properties, to the extent practical through education, training, inspection, and/or other measures, prohibit employees from placing materials in a container not designated for those materials per the City's blue container, green container, and gray container collection service or, if backhauling, per the commercial business's instructions to support its compliance with its back-haul program, in accordance with Section 6.24.037.050 of this code.
- F. Excluding multi-family residential properties, periodically inspect blue containers, green containers, and gray containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 California Code of Regulations Section 18984.9(b)(3).
- G. Annually provide information to employees, contractors, tenants, and customers about organic waste recovery requirements and about proper sorting of source separated green container organic waste and source separated recyclable materials.
- H. Provide education information within fourteen (14) days of new occupation of the premises to new tenants that describes requirements to keep source separated green container organic waste and source separated recyclable materials separate from each other and gray container waste and the location of containers and the rules governing their use.
- I. Provide or arrange access for inspections conducted in accordance with Section 6.24.037.070 of this code to confirm compliance with the requirements of this chapter.
- J. Accommodate and cooperate with the City's remote monitoring program, if any, for inspection of the adequacy of capacity and the types of materials placed in containers to identify prohibited container contaminants.
- K. At a commercial business's option and subject to any approval required from the City and/or its designee, implement a remote monitoring program for self-inspection and self-monitoring of the adequacy of capacity and the types of materials placed in containers to identify prohibited container contaminants.
- L. Nothing in this section prohibits a generator from preventing or reducing waste generation, managing organic waste on site, and/or using a community composting site pursuant to 14 California Code of Regulations Section 18984.9(c).

6.24.037.030 Waivers for Commercial Business Generators.

- A. De Minimis Waivers. The Director may waive a commercial business's (including a multi-family residential property's) obligation to comply with some or all of the organic waste collection service requirements of this chapter if the commercial business provides documentation demonstrating that the business generates below the amount of organic waste described in this section. A commercial business requesting a de minimis waiver shall:
 - 1. Submit an application to the Director specifying the service or requirements for which it is requesting a waiver.
 - 2. Provide documentation that either:
 - (a) The commercial business's total solid waste is two (2) cubic yards or more per week and organic waste subject to collection in a blue container or green container comprises less than twenty (20) gallons per week per applicable container of the business' total waste; or,
 - (b) The commercial business's total solid waste is less than two (2) cubic yards per week and organic waste subject to collection in a blue container or green container comprises less than ten (10) gallons per week per applicable container of the business's total waste.
 - (c) For the purposes of this section, total solid waste shall be the sum of weekly container capacity measured in cubic yards for solid waste, non-organic recyclable material, and organic waste.
 - 3. Notify the Director if circumstances change such that the commercial business's organic waste exceeds the threshold required for waiver specified in this section, in which case the waiver will be rescinded.
 - 4. Provide written verification of eligibility for a de minimis waiver to the Director every five (5) years, if the City has approved a de minimis waiver.
- B. Physical Space Waivers. The Director may waive a commercial business's (including a multi-family residential property's) obligation to comply with some or all of the organic waste collection service requirements of this chapter if the commercial business provides documentation demonstrating that the premises lacks adequate space for the collection containers required for compliance with this chapter. A commercial business requesting a physical space waiver shall:

- 1. Submit an application to the Director specifying the service or requirements for which it is requesting a waiver.
- 2. Provide documentation that the premises lacks adequate space for blue containers and/or green containers, which may include documentation from its hauler, licensed architect, or licensed engineer.
- 3. Notify the Director if the commercial business's physical space configurations change, in which case waiver will be rescinded.
- 4. Provide written verification of eligibility for a physical space waiver to the Director every five (5) years, if the City has approved a physical space waiver.

6.24.037.040 Requirements for Haulers and Facility Operators.

A. Requirements for Haulers

- 1. The exclusive franchised hauler providing residential, commercial, or industrial organic waste collection services to generators within the City's boundaries shall meet the following requirements and standards:
 - (a) The Franchise Agreement with the exclusive franchised hauler will identify the facilities to which the hauler will transport organic waste including facilities for source separated recyclable materials and source separated green container organic waste.
 - (b) Transport source separated recyclable materials and source separated green container organic waste to a facility, operation, activity, or property that recovers organic waste as defined in 14 California Code of Regulations, Division 7, Chapter 12, Article 2.
- 2. Nothing in this section is applicable to haulers transporting source separated organic waste to a community composting site in a manner otherwise consistent with law, or lawfully transporting C&D debris in a manner that complies with 14 California Code of Regulations Section 18989.1 and the City's C&D debris ordinances, codified at Section 6.24.200 and 16.72.040 of this code.
- 3. Back-haulers shall comply with the requirements of Section 6.24.037.050 of this code.

- B. Requirements for facility operators and community composting operations
 - 1. Owners of facilities, operations, and activities that recover organic waste, including, but not limited to, compost facilities, in-vessel digestion facilities, and publicly-owned treatment works shall, upon the City's request, provide information regarding available and potential new or expanded capacity at their facilities, operations, and activities, including information about throughput and permitted capacity necessary for planning purposes. Entities contacted by the City shall respond within sixty (60) days.
 - 2. Community composting operators, shall, upon the City's request, provide information to the City to support organic waste capacity planning, including, but not limited to, an estimate of the amount of organic waste anticipated to be handled at the community composting operation. Entities contacted by the City shall respond within sixty (60) days.

6.24.037.050 Requirements for Back-Haulers.

- A. Back-haulers shall source separate all non-organic recyclable material and organic waste generated on-site from solid waste in a manner consistent with 14 California Code of Regulations Sections 18984.1.
- B. Back-haulers shall haul their source separated recyclable materials and source separated green container organic waste for appropriate recovery.
- C. Back-haulers shall keep records of the quantity of non-organic recyclable material and organic waste being back-hauled. The records shall include the following information:
 - 1. Delivery receipts and weight tickets from the entity accepting the nonorganic recyclable material and organic waste.
 - 2. The amount of non-organic recyclable material and organic waste in cubic yards or tons transported by the generator to each entity.
 - 3. If the material is transported to an entity that does not have scales on-site, or employs scales incapable of weighing the back-hauler's vehicle in a manner that allows it to determine the weight of materials received, the back-hauler is not required to record the weight of material but shall keep a record of the entities that received the non-organic recyclable material and organic waste.

D. Back-haulers shall, upon the City's request, provide the records collected pursuant to this section. Entities contacted by the City shall respond within sixty (60) days.

6.24.037.060 Procurement.

Mulch procured for the purpose of meeting the City's annual recovered organic waste product procurement target pursuant to 14 California Code of Regulations Chapter 12 of Division 7 must meet the requirements described in this section for the duration of the applicable procurement compliance year, as specified by 14 California Code of Regulations Section 18993.1(f)(4):

- A. Produced at one of the following facilities:
 - 1. A compostable material handling operation or facility as defined in 14 California Code of Regulations Section 17852(a)(12), that is permitted or authorized under 14 California Code of Regulations Division 7, other than a chipping and grinding operation or facility as defined in 14 California Code of Regulations Section 17852(a)(10);
 - 2. A transfer/processing facility or transfer/processing operation as defined in 14 California Code of Regulations Sections 17402(a)(30) and (31), respectively, that is permitted or authorized under 14 California Code of Regulations Division 7; or,
 - 3. A solid waste landfill as defined in Public Resources Code Section 40195.1 that is permitted under 27 California Code of Regulations Division 2.
- B. Meet or exceed the physical contamination, maximum metal concentration, and pathogen density standards for land application specified in 14 California Code of Regulations Sections 17852(a)(24.5)(A)1 through 3.

6.24.037.070 Inspections and Investigations

A. The City and/or its designee are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or source separated materials, to confirm compliance with this chapter by organic waste generators, commercial businesses (including multifamily residential properties), haulers, and back-haulers, subject to applicable laws. This section does not allow the City or its designee to enter the interior of a residential premises for inspection. For the purposes of inspecting commercial business containers for compliance with Section 6.24.037.020 of this code, the City

and/or its designee may conduct container inspections for prohibited container contaminants using remote monitoring, if such a program is adopted, and commercial businesses shall accommodate and cooperate with such remote monitoring pursuant to Section 6.24.037.020.J of this code.

- B. Regulated entity shall provide or arrange for access during all inspections (with the exception of residential premises interiors) and shall cooperate with the City and/or its designee during such inspections and investigations. Such inspections and investigations may include confirmation of proper placement of materials in containers, inspection of edible food recovery activities, review of required records, or other verification or inspection to confirm compliance with any other requirement of this chapter. Failure of the regulated entity to provide or arrange for: (1) access to the premises; (2) installation and operation of remote monitoring equipment, if a remote monitoring program is adopted; or (3) access to records for any inspection or investigation is a violation of this chapter and may result in penalties described in Sections 6.24.037.080 and 6.24.240 of this code.
- C. Any records obtained by the City and/or its designee during inspections, remote monitoring, if such a program is adopted, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- D. The City and/or its designee are authorized to conduct any inspections, remote monitoring, if such a program is adopted, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.
- E. The City shall accept written complaints from persons regarding an entity that may be potentially non-compliant with this chapter, including receipt of anonymous complaints.

6.24.037.080 Enforcement.

A. For the period from January 1, 2022 through December 31, 2023, the enforcement officer and/or the City's designee will conduct inspections, remote monitoring (if such a program is adopted), route reviews, compliance reviews, and investigation of complaints, depending upon the type of regulated entity, to determine compliance with the requirements of Section 6.24.037 of this code. If the enforcement officer and/or the City's designee determines that an organic waste generator, back-hauler, hauler, or other entity is not in compliance with such section, the enforcement officer and/or the City's designee shall provide educational materials to the entity, describing its obligations under Section

6.24.037 of this code and that violations may be subject to administrative citations, fines, civil penalties or other remedies beginning on January 1, 2024.

- B. Beginning January 1, 2024, any person who violates any provision of Section 6.24.037 of this code shall be subject to the penalties as provided in Section 6.24.240 of this code.
- C. The enforcement officer and/or the City's designee will monitor compliance with Section 6.24.037 of this code through compliance reviews, route reviews, investigation of complaints, and an inspection program (that may include remote monitoring, if such a program is adopted).
- D. The enforcement officer may issue a notice of violation requiring compliance within sixty (60) days of issuance of the notice.

SECTION 4. ADOPTION OF NEW SECTION 6.24.038 CONCERNING EDIBLE FOOD RECOVERY

6.24.038 Mandatory Edible Food Recovery.

6.24.038.010	Requirements for Commercial Edible Food Generators.
6.24.038.020	Requirements for Food Recovery Organizations and Services.
6.24.038.030	Edible Food Recovery Inspections and Investigations by
Department or	
	Designee.
6.24.038.040	Enforcement.

6.24.038.010 Requirements for Commercial Edible Food Generators.

- A. Tier one commercial edible food generators must comply with the requirements of this section commencing January 1, 2022, and tier two commercial edible food generators must comply commencing January 1, 2024, pursuant to 14 California Code of Regulations Section 18991.3.
- B. Large venue or large event operators not providing food services, but allowing for food to be provided by others, shall require food facilities operating at the large venue or large event to comply with the requirements of this Section, commencing January 1, 2024.
- C. Tier one and tier two commercial edible food generators shall comply with the following requirements:

- 1. Arrange to recover the maximum amount of edible food that would otherwise be disposed.
- 2. Contract with, or enter into a written agreement with, food recovery organizations or food recovery services for: (a) the collection of edible food for food recovery; or, (b) acceptance of the edible food that the commercial edible food generator self-hauls to the food recovery organization for food recovery.
- 3. Shall not intentionally spoil edible food that is capable of being recovered by a food recovery organization or a food recovery service.
- 4. Allow the department or designee to access the premises, conduct inspections, and review electronic and hard copy records pursuant to 14 California Code of Regulations Section 18991.4.
- 5. Keep records that include the following information, or as otherwise specified in 14 California Code of Regulations Section 18991.4:
 - (a) A list of each food recovery service or organization that collects or receives its edible food pursuant to a contract or written agreement established under 14 California Code of Regulations Section 18991.3(b).
 - (b) A copy of all contracts or written agreements established under 14 California Code of Regulations Section 18991.3(b).
 - (c) A record of the following information for each of those food recovery services or food recovery organizations:
 - (i) The name, address and contact information of the food recovery service or food recovery organization.
 - (ii) The types of food that will be collected by or self-hauled to the food recovery service or food recovery organization.
 - (iii) The established frequency that food will be collected or self-hauled.
 - (iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a food recovery service or food recovery organization for food recovery.

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- D. Tier one commercial edible food generators shall submit food recovery reports meeting the requirements of Section 6.24.038 of this code to the department or designee according to the following schedule:
 - 1. On or before August 1, 2022, tier one commercial edible food generators shall submit a food recovery report for the period of January 1, 2022 through June 30, 2022.
 - 2. On or before May 1, 2023, and on or before May 1st each year thereafter, tier one commercial edible food generators shall submit a food recovery report for the period covering the entire previous calendar year.
- E. Tier two commercial edible food generators shall submit food recovery reports meeting the requirements of Section 6.24.038 of this code to the department or designee according to the following schedule:
 - 1. On or before May 1, 2025, and on or before May 1st each year thereafter, tier two commercial edible food generators shall submit a food recovery report for the period covering the entire previous calendar year.
- F. Food recovery reports submitted by tier one and tier two commercial edible food generators shall include the following information:
 - 1. The name and address of the commercial edible food generator;
 - 2. The name of the person responsible for the commercial edible food generator's edible food recovery program;
 - 3. A list of all contracted food recovery services or food recovery organizations that collect edible food from the commercial edible food generator;
 - 4. The total number of pounds of edible food, per year, donated through a contracted food recovery organization or food recovery service.
- G. Nothing in this chapter shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance issued by the California Department of Education pursuant to Senate Bill 557 (2017).
- 6.24.038.020 Requirements for Food Recovery Organizations and Services.

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- A. Food recovery services collecting, receiving, or coordinating the collection of edible food directly from tier one or tier two commercial edible food generators, via a contract or written agreement established under 14 California Code of Regulations Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 California Code of Regulations Section 18991.5(a)(1):
 - 1. The name, address, and contact information for each commercial edible food generator from which the service collects edible food.
 - 2. The quantity in pounds of edible food collected from each commercial edible food generator per month.
 - 3. The quantity in pounds of edible food transported to each food recovery organization per month.
 - 4. The name, address, and contact information for each food recovery organization that the food recovery service transports edible food to for food recovery.
- B. Food recovery organizations collecting, receiving, or coordinating the collection of edible food directly from tier one or tier two commercial edible food generators, via a contract or written agreement established under 14 California Code of Regulations Section 18991.3(b), shall maintain the following records, or as otherwise specified by 14 California Code of Regulations Section 18991.5(a)(2):
 - 1. The name, address, and contact information for each commercial edible food generator from which the organization receives edible food.
 - 2. The quantity in pounds of edible food received from each commercial edible food generator per month.
 - 3. The name, address, and contact information for each food recovery service that the organization receives edible food from for food recovery.
- C. Food recovery organizations and food recovery services that have their primary address physically located in the City and contract with or have written agreements with one or more tier one or tier two commercial edible food generators pursuant to 14 California Code of Regulations Section 18991.3(b) shall submit food recovery reports meeting the requirements of Section 6.24.038 of this code to the department or designee according to the following schedule:

- 1. On or before August 1, 2022, food recovery organizations and food recovery services shall submit a food recovery report for the period of January 1, 2022 through June 30, 2022;
- 2. On or before May 1, 2023, and on or before May 1st each year thereafter, food recovery organizations and food recovery services shall submit a food recovery report for the period covering the entire previous calendar year.
- D. Food recovery reports submitted by food recovery services or organizations shall include the following information:
 - 1. Total pounds of edible food recovered in the previous calendar year from tier one and tier two edible food generators with whom the reporting entity has a contract or written agreement pursuant to 14 California Code of Regulations Section 18991.3(b).
 - 2. Total pounds of edible food recovered in the previous calendar year from the tier one and tier two commercial edible food generators within Santa Clara County with whom the reporting entity has a contract or written agreement pursuant to 14 California Code of Regulations Section 18991.3(b).
- E. In order to support edible food recovery capacity planning assessments or other studies conducted by the County of Santa Clara, the City, or designee, food recovery services and food recovery organizations operating in the City shall provide information and consultation to the City, designee, or department, upon request, regarding existing, or proposed new or expanded, food recovery capacity that could be accessed by the City and its tier one and tier two commercial edible food generators. A food recovery service or food recovery organization contacted by the City, the department, or designee shall respond to such request for information within sixty (60) days, unless a shorter timeframe is specified.

6.24.038.030 Edible Food Recovery Inspections and Investigations by Department or Designee.

A. The department and/or designee are authorized to conduct inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators to confirm compliance with this chapter by tier one and tier two

commercial edible food generators, food recovery services, and food recovery organizations, subject to applicable laws. This section does not allow the department or designee to enter the interior of a residential premises for inspection.

- B. Regulated entities shall provide or arrange for access during all inspections (with the exception of residential premises interiors) and shall cooperate with the department's or designee's employees during such inspections and investigations. Such inspections and investigations may include in-person or electronic review of edible food recovery activities, records, or any other requirement of this chapter described herein. Failure to provide or arrange for access to the premises or access to records for any inspection or investigation is a violation of this chapter and may result in penalties described in Section 6.24.038.040 of this code.
- C. Any records obtained by the department or designee during inspections, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.
- D. Representatives of the department and/or designee are authorized to conduct any inspections, or other investigations as reasonably necessary to further the goals of this chapter, subject to applicable laws.
- E. Department shall receive written complaints, including anonymous complaints, regarding entities that may be in violation of this chapter. Complaints shall include the name and contact information of the complainant, if the complainant is not anonymous; the identity of the alleged violator, if known; a description of the alleged violation including location(s) and all other relevant facts known to the complainant; any relevant photographic or documentary evidence to support the allegations in the complaint; and the identity of any witnesses, if known.

6.24.038.040 Enforcement.

A. Administrative Fine. Violation of any provision of this chapter shall constitute grounds for issuance of a notice of violation and assessment of an administrative fine by the department. Absent compliance by the respondent within the deadline set forth in the notice of violation, the department shall commence an action to impose penalties, via an administrative citation and fine.

- B. Notice of Violation. Before assessing an administrative fine, the department shall issue a notice of violation requiring compliance within sixty days of issuance of the notice. The notice shall include: (1) the name(s) of each person or entity to whom it is directed, (2) a factual description of the violations, including the regulatory section(s) being violated, (3) a compliance date by which the respondent is to take specified action(s), and (4) the penalty for not complying before the specified deadline.
- C. Extensions to Compliance Deadlines. The department may extend the compliance deadlines set forth in a notice of violation if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:
 - 1. Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;
 - 2. Delays in obtaining discretionary permits or other government agency approvals;
 - 3. Deficiencies in edible food recovery capacity and the existence of a corrective action plan imposed pursuant to 14 California Code of Regulations Section 18996.2 due to those deficiencies; or,
 - 4. Any other circumstance in which the department director, in their sole discretion, finds good cause to extend the compliance deadlines.
- D. Administrative Citations. If the respondent fails to correct the violation by the compliance date, the department shall issue an administrative citation and fine. The citation shall include a description of the administrative citation appeal process, including the designated hearing officer, the time within which the administrative citation may be contested, and instructions for requesting a hearing.
- E. Amount of Fine. The amount of the administrative fine for each violation of this chapter shall be as follows:
 - 1. For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.
 - 2. For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.

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- 3. For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.
- F. Factors Considered in Determining Penalty Amount. The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty range:
 - 1. The nature, circumstances, and severity of the violation(s).
 - 2. The violator's ability to pay.
 - 3. The willfulness of the violator's misconduct.
 - 4. Whether the violator took measures to avoid or mitigate violations of this chapter.
 - 5. Evidence of any economic benefit resulting from the violation(s).
 - 6. The deterrent effect of the penalty on the violator.
 - 7. Whether the violation(s) were due to conditions outside the control of the violator.
- G. Appeals. Persons receiving an administrative citation for an uncorrected violation may request a hearing to appeal the citation. The City will designate a hearing officer who shall conduct the hearing and issue a final written order. The hearing officer may be a City official or another public agency designated by the City. The hearing officer shall be identified in the administrative citation. A hearing will be held only if it is requested within fifteen (15) days from the date of the notice of the administrative citation.
- H. Other Remedies. Other remedies allowed by law may be used to enforce this chapter, including civil action or criminal prosecution as misdemeanor or infraction. The department and/or City may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. The department may choose to delay court action until such time as court action is a reasonable use of staff and resources.
- I. Education Period for Non-Compliance. Beginning January 1, 2022, and through December 31, 2023, the department and/or designee will conduct inspections and compliance reviews. If the department and/or designee determines that a tier one commercial edible food generator, food recovery organization, food recovery

service, or other entity is not in compliance with Section 6.24.038 of this code, it shall provide educational materials to the entity describing its obligations under Section 6.24.038 of this code and a notice that compliance is required. It shall also provide notice that violations may be subject to administrative civil penalties starting on January 1, 2024.

SECTION 5. AMENDMENTS TO SECTION 6.24.060 CONCERNING THE METHOD OF GARBAGE, ORGANIC WASTE, AND NON-ORGANIC RECYCLABLES DISPOSAL

6.24.060 Method of Garbage, Organic Waste and Non-Organic Recyclables Disposal.

All garbage, organic waste and <u>non-organic</u> recyclables <u>subject to solid waste collection</u> <u>service</u> shall be disposed of by delivery of <u>the appropriate</u>each container to an authorized collection station, located as to be readily accessible for the removal and emptying of its contents by the solid waste collector. <u>Recyclables and organic waste may be disposed of as set forth in Section 6.24.200.</u>

SECTION 6. AMENDMENTS TO SECTION 6.24.240 CONCERNING VIOLATIONS AND PENALTIES

6.24.240 Violation-Penalty Misdemeanor.

The City may address violations of this chapter by issuing administrative citations, fines, and penalties as set forth in Chapter 1.10 of this code. Alternatively, the City may prosecute any violation of this chapter as a misdemeanor, punishable as provided in Chapter 1.12 of this Code. Any person who violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Chapters 1.10 and 1.12 of this code.

SECTION 7. AMENDMENTS TO SECTION 9.16.030 CONCERNING PHYSICAL SPACE WAIVERS

9.16.030 Applicability of Regulations.

- A. The site development regulations prescribed in Section 9.16.040 <u>of this code</u> shall apply to all businesses, business structures and project sites which are subject to City review and approval for improvements, changes or modifications.
- B. The City may exempt business structures, owners and/or project applicants from the obligation to comply with some or all of the requirements of this chapter and Chapter 6.24 of this code following the waiver procedures provided

in Section 6.24.037.030 of this code. The request for an exemption from mandated organic waste recycling due to inadequate recycling area enclosure space may be submitted to the Director. The Director shall review the quantity and size of various solid waste containers that are necessary to meet the requirements of this Chapter and Chapter 6.24. Business structures, owners and/or project applicants that are granted an exemption are required to increase collection frequency to the maximum extent available from the solid waste collector if current container size and quantity exceed available space within the recycling area enclosure.