

CITY OF CUPERTINO

10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO  
APPROVING A HILLSIDE EXCEPTION TO ALLOW THE CONSTRUCTION OF  
AN ATTACHED POOL HOUSE, POOL AND PATIO TO AN EXISTING RESIDENCE  
ON SLOPES GREATER THAN 30% LOCATED AT 11406 LINDY PLACE

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**SECTION I: PROJECT DESCRIPTION**

Application No.: EXC-2016-08  
Applicant: Charles Holman  
Property Owner: Carolyn Bernadette Hirano and Kelly Hirano  
Location: 11406 Lindy Place

**SECTION II: FINDINGS FOR HILLSIDE EXCEPTION**

WHEREAS, the Planning Commission of the City of Cupertino received an application for a Hillside Exception, as described on Section I of this Resolution; and

WHEREAS, the project is Categorically Exempt from the requirements of the California Environmental Quality Act (CEQA), Section 15301 (Existing Facilities) and 15303 (New Construction or Conversion of Small Structures); and

WHEREAS, the necessary notices have been given in accordance with the Procedural Ordinance of the City of Cupertino, and the Planning Commission has held at least one Public Hearing on this matter; and

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

WHEREAS, the Planning Commission finds as follows with regard to this application:

1. The proposed development will not be injurious to property or improvements in the area nor be detrimental to the public health and safety.

*The proposed development will not be injurious to property or improvements in the area nor be detrimental to the public health and safety because the proposed development conforms to the RHS development regulations standards and was subject to preliminary review of the City's geotechnical engineer. The graded area is limited to the building pad area to the greatest extent possible and is approximately 300 cubic yards cumulative cut and fill, which is significantly less than the allowed cumulative total of 2,500 cubic yards.*

2. The proposed development will not create a hazardous condition for pedestrian or vehicular traffic.  
*The proposed development will not create a hazardous condition for pedestrian or vehicular traffic because the property is served by public roads, which has the capacity to accommodate the limited scale of development proposed and usual for a single family home within the area.*
3. The proposed development has legal access to public streets and public services are available to serve the development.  
*The proposed property is an existing, legal single-family home served by public streets and public services, and the additional development is within the scope allowed by and within the applicable zoning district.*
4. The proposed development requires an exception which involves the least modification of, or deviation from, the development regulations prescribed in this chapter necessary to accomplish a reasonable use of the parcel.  
*The proposed development conforms to the requirements of the RHS zoning district and does not deviate from the site development standards.*
5. All alternative locations for development on the parcel have been considered and have been found to create greater environmental impacts than the location of the proposed development.  
*The alternative location would be to locate the back yard improvements further down the hill away from the existing home, which has been found to create greater environmental impacts than the location of the proposed development because it would increase grading quantities and disturbance of additional areas previously undisturbed. Further, RHS regulations stipulate that the graded area shall be limited to the building pad area the greatest extent possible. This is accomplished through the proposed location closest to the home.*
6. The proposed development does not consist of structures on or near known geological or environmental hazards which have been determined by expert testimony to be unsafe or hazardous to structures or persons residing therein. (See General Plan Policies 2-49.)  
*This proposal was subject to review and oversight of the City's geotechnical engineer, Cotton Shires, who was involved at the preliminary phase and required through the construction phase. Preliminary plans are recommended for approval, with the required conditions of approval, by the geotechnical engineer as follows: Prior to issuance of a building permit, the applicant shall provide a shoring plan, geotechnical plan review and a geotechnical field inspection. The geotechnical consultant/engineering geologist shall inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections shall include, but not necessarily be limited to: site preparation and grading, swimming pool excavation, site surface and subsurface drainage improvements and excavations for foundations and retaining walls prior to the placement of steel and concrete.*

7. The proposed development includes grading and drainage plans which will ensure that erosion and scarring of the hillsides caused by necessary construction of roads, housing sites, and improvements will be minimized. (See General Plan Policies 2-53, 2-54 and 2-57.)  
*The proposed development is limited to a 412-square-foot pool house, second-story deck, patio area at ground level and pool. The primary home is an existing structure that would not be expanded in this proposal, and there would be no road construction. Grading and drainage plans are generally limited to the back yard area.*
8. The proposed development does not consist of structures which would disrupt the natural silhouette of ridgelines as viewed from established vantage points on the valley floor unless either:
  - a. The location of a structure on a ridgeline is necessary to avoid greater negative environmental impacts; or
  - b. The structure could not otherwise be physically located on the parcel and the size of the structure is the minimum which is necessary to allow for a reasonable use of the parcel. (See General Plan Policies 2-46, 2-47 and 2-48.)*The proposed development does not consist of structures which would disrupt the natural silhouette of ridgelines as viewed from established vantage points on the valley floor because the proposed development and building pad area is located below the grade of Lindy Place. At a total maximum height of 14.5 feet (11 feet from grade to top of roof plus 3.5 feet of railing for the roof deck), the pool house is lower in height than existing two-story home, not located near a ridgeline, and does not rise above a natural silhouette of a ridgeline.*
9. The proposed development consists of structures incorporating designs, colors, materials, and outdoor lighting which blend with the natural hillside environment and which are designed in such a manner as to reduce the effective visible mass, including building height, as much as possible without creating other negative environmental impacts. (See General Plan Policies 2-46, 2-50, 2-51 and 2-52.)  
*The development proposes wood siding, wood columns and stucco to match the existing home, which is currently an earth tone color. By condition of approval, all final exterior colors shall be natural earth tone and vegetation colors, mocked up in the field, and subject to the review and approval of the Director of Community Development prior to installation.*
10. The proposed development is located on the parcel as far as possible from public open space preserves or parks (if visible there from), riparian corridors, and wildlife habitats unless such location will create other, more negative environmental impacts. (See General Plan Policies 2-55, 5-14 and 528.)  
*The proposed development is located on the parcel away from public open space, preserves, parks, riparian corridors, and wildlife habits because the proposed building pad area is the immediate back yard area adjacent to an existing single-family residential house.*
11. The proposed development includes a landscape plan which retains as many specimen trees as possible, which utilizes drought-tolerant native plants and ground covers consistent with

nearby vegetation, and which minimizes lawn areas. (See General Plan Policies 2-54, 5-15 and 5-16.)

*No trees will be removed or disturbed within this development proposal, which is a limited area within the back yard. The remainder of the parcel further downhill would remain in its natural and existing state.*

12. The proposed development confines solid fencing to the areas near a structure rather than around the entire site. (See General Plan Policy 5-17.)

*The property includes existing chain link fences along the side property lines and solid fencing limited to areas near the house and generally not visible from public areas. The proposal includes a new six-foot fence at the side property line. There is no solid fence proposed around the entire site.*

13. The proposed development is otherwise consistent with the City's General Plan and with the purposes of this chapter as described in Section [19.40.010](#).

*The proposal is otherwise consistent with the City's General Plan because it steps the structure down the hillside, minimizes wall planes facing the valley floor, limits the height and mass, and conforms to the development allowed as determined through zoning ordinances.*

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on PAGE 4 thereof;

1. The application for a Hillside Exception, Application no. EXC-2016-08 is hereby approved; and
2. That the subconclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Hearing record concerning Application no.(s) EXC-2016-08 as set forth in the Minutes of Planning Commission Meeting of August 22, 2017 and are incorporated by reference as though fully set forth herein.

### **SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.**

#### **1. APPROVED EXHIBITS**

Approval for the construction of 412-square-foot pool house, pool and patio is based on the plan set titled: "HIRANO-MAHONEY RESIDENCE 11406 LINDY PLACE, CUPERTINO, CALIFORNIA" dated revised 6/7/2017, and consisting of 13 sheets, including additional rendered elevation, perspective drawing and two civil sheets, except as may be amended by the conditions contained in this resolution.

#### **2. 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.

**4. PERMIT EXPIRATION**

The subject hillside exception approval shall expire two (2) years from the date of approval if not used.

**5. GEOTECHNICAL REVIEW**

Prior to building permit approval, the applicant shall comply with the recommendations outlined in the Cotton Shires & Associates, Inc. Geologic and Geotechnical Peer Review Letter pertaining to the proposed development as summarized below:

Prior to issuance of building permits, a geotechnical plan review shall be performed, and a shoring plan shall be submitted to the City, as described below:

a. *Shoring Plan* – A shoring plan shall be submitted by a civil/structural engineer due to the close proximity of the proposed addition to the neighboring property and structures. The shoring plan shall include profiles that depict the existing site topography, proposed cuts, and existing neighboring structures and property line. It should be noted that an approximate 17-foot high vertical cut is proposed within 10 feet of the property line, and neighboring structures appear to be very close to this property line.

b. *Geotechnical Plan Review* - The applicant's geotechnical consultant should review and approve all geotechnical aspects of the development plans (i.e., site preparation and grading, site drainage improvements and design parameters for foundations, drainage, pavement and retaining walls) to ensure that their recommendations have been properly incorporated. Specific performance recommendations for the geotechnical consultant include the following:

- Review the location of the proposed storm water energy dissipater.
- Review and approve the shoring plans.

The shoring plans and geotechnical plan review shall be submitted to the City for review and approval by City Staff and the City Geotechnical Consultant prior to approval of building permits.

c. *Geotechnical Field Inspection* - The geotechnical consultant/engineering geologist shall inspect, test (as needed), and approve all geotechnical aspects of the project construction. The inspections shall include, but not necessarily be limited to: site preparation and grading, swimming pool excavation, site surface and subsurface drainage improvements and excavations for foundations and retaining walls prior to the placement of steel and concrete. The following shall be specifically performed:

- The guesthouse and swimming pool excavations shall be closely inspected to assure that the geologic materials are as anticipated.

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

**6. SCREENING OF RETAINING WALLS**

As part of the building permit submittal the applicant shall prepare a landscape plan that screens visible retaining walls and grading scars from public street views. The screening shall be accomplished through a combination of trees, shrubs and vines and pigmented concrete matched to the surrounding soils for the review and approval of the Director of Community Development.

**7. FIELD MOCK-UP OF EXTERIOR COLORS/TREATMENTS**

Prior to issuance of the building permit, final colors and materials shall be assembled and included with the construction plans. After the framing inspection and prior to installation, the exterior colors and materials shall be mocked-up in the field for the review and approval of the Director of Community Development.

**8. ABANDONED WATER WELLS**

The applicant shall seal abandoned or unused water wells if the City, in consultation with the Santa Clara Valley Water District, determines that said abandoned or unused water wells have a potential to contaminate the water supply.

**9. ACCURACY OF THE PROJECT PLANS**

The applicant/property owner is responsible to verify all pertinent property data including but not limited to property boundary locations, building setbacks, property size, building square footage, any relevant easements and/or construction records. Any misrepresentation of any property data may invalidate this approval and may require additional review.

**10. ANNOTATION OF THE CONDITIONS OF APPROVAL**

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

**11. COMPLIANCE WITH PUBLIC WORKS CONFIRMATION FORM**

The project shall comply with the requirements indicated on the Public Works Confirmation form dated 7/14/2016, 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.

## **12. 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.

## **13. 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 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.

## **14. INDEMNIFICATION**

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

**15. LANDSCAPE INSTALLATION REPORT**

The project is subject to all provisions delineated in the Landscape Ordinance (CMC, Chapter 14.15). A landscape installation audit shall be conducted by a certified landscape professional after the landscaping and irrigation system have been installed. The findings of the assessment shall be consolidated into a landscape installation report. The landscape installation report shall include, but is not limited to: inspection to confirm that the landscaping and irrigation system are installed as specified in the landscape and irrigation design plan, system tune-up, system test with distribution uniformity, reporting overspray or run-off that causes overland flow, and preparation of an irrigation schedule.

The landscape installation report shall include the following statement: "The landscape and irrigation system have been installed as specified in the landscape and irrigation design plan and complies with the criteria of the ordinance and the permit."

**16. LANDSCAPE INSTALLATION/REHABILITATION SUBMITTAL**

Prior to issuance of building permits, the applicant shall submit a Prescriptive Compliance Application per sections 14.15.040 A, B, and C of the Landscape Ordinance. The Water-Efficient Design Checklist (Appendix A of Chapter 14.15), landscape design plans, and irrigation plans shall be reviewed and approved to the satisfaction of the Director of Community Development prior to issuance of building permits. A full Landscape Documentation Package submittal will be required if more than 500 square feet of landscaping is proposed.

**17. 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.

**18. DUST CONTROL**

The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site:

- a) Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.



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

**19. NOTICE OF FEES, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS**

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

**20. SCREENING**

All mechanical and other equipment on the building or on the site shall be screened so they are not visible from public street areas or adjoining developments. Screening materials/colors shall match building features and materials. The height of the screening shall be taller than the height of the mechanical equipment that it is designed to screen. The location of equipment and necessary screening shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

**21. TRANSFORMERS**

Electrical transformers, telephone cabinets and similar equipment shall be placed in underground vaults. The developer must receive written approval from both the Public Works Department and the Community Development Department prior to installation of any above ground equipment. Should above ground equipment be permitted by the City, equipment and enclosures shall be screened with fencing and landscaping such that said equipment is not visible from public street areas, as determined by the Community Development Department. Transformers shall not be located in the front or side building setback area.

**22. TREE PROTECTION**

As part of the demolition or building permit drawings, a tree protection plan shall be prepared by a certified arborist for protected trees as applicable. In addition, the following measures shall be added to the protection plan:

- For trees to be retained, chain link fencing and other root protection shall be installed around the dripline of the tree prior to any project site work.
- No parking or vehicle traffic shall be allowed under root zones, unless using buffers approved by the Project Arborist.
- No trenching within the critical root zone area is allowed. If trenching is needed in the vicinity of trees to be retained, the City's consulting arborist shall be consulted before any trenching or root cutting beneath the dripline of the tree.
- Wood chip mulch shall be evenly spread inside the tree projection fence to a four-inch depth.
- Tree protection conditions shall be posted on the tree protection barriers.
- Retained trees shall be watered to maintain them in good health.
- A covenant on the property shall be recorded that identifies all the protected trees, prior to final occupancy.

The tree protection measures shall be inspected and approved by the certified arborist prior to issuance of building permits. The City's consulting arborist shall inspect the trees to be retained and shall provide reviews prior to issuance of demolition, grading or building permits. A report ascertaining the good health of the trees mentioned above shall be provided prior to issuance of final occupancy.

#### **SECTION IV: CONDITIONS ADMINISTERED BY THE PUBLIC WORKS DEPARTMENT**

##### **23. GRADING PLAN**

Conceptual Grading and Drainage plans will need to be modified at the Building Permit stage to satisfy Public Works' preliminary comments regarding proposed storm drain systems. Grading shall be as approved and required by the City Engineer in accordance with Chapter 16.08 of the Cupertino Municipal Code. 401 Certifications and 404 permits maybe required. Please contact Army Corp of Engineers and/or Regional Water Quality Control Board as appropriate.

##### **24. DRAINAGE**

Drainage shall be provided to the satisfaction of the City Engineer. Hydrology and pre- and post-development hydraulic calculations must be provided to indicate whether additional storm water\_control measures are to be constructed or renovated.

##### **25. BEST MANAGEMENT PRACTICES**

Utilize Best Management Practices (BMPs), as required by the State Water Resources Control Board, for construction activity, which disturbs soil. BMP plans shall be included in grading and street improvement plans.

**26. EROSION CONTROL PLAN**

Developer shall provide an approved erosion control plan by a Registered Civil Engineer. This plan should include all erosion control measures used to retain materials on site. Erosion control notes shall be stated on the plans.

**27. UNDERGROUND UTILITIES**

Developer shall comply with the requirements of the Underground Utilities Ordinance No. 331 and other related Ordinances and regulations of the City of Cupertino, and shall coordinate with affected utility providers for installation of underground utility devices. Developer shall submit detailed plans showing utility underground provisions. Said plans shall be subject to prior approval of the affected Utility provider and the City Engineer.

**28. ABOVE GROUND EQUIPMENT ENCLOSURES**

Electrical transformers, telephone cabinets and similar equipment shall be placed in underground vaults. The developer must receive written approval from both the Public Works Department and the Community Development Department prior to installation of any above ground equipment. Should above ground equipment be permitted by the City, equipment and enclosures shall be screened with fencing and landscaping such that said equipment is not visible from public street areas, as determined by the Community Development Department. Transformers shall not be located in the front or side building setback area.

**29. IMPROVEMENT AGREEMENT**

The project developer shall enter into a development agreement with the City of Cupertino providing for payment of fees, including but not limited to checking and inspection fees, storm drain fees, park dedication fees and fees for under grounding of utilities. Said agreement shall be executed prior to issuance of construction permits per the applicable fees as determined by the City Engineer and the current fee schedule:

Fees:

- a. Checking & Inspection Fees
- b. Grading Permit
- c. Development Maintenance Deposit
- d. Storm Drainage Fee
- e. Power Cost \*\*Based on the latest effective PG&E rate schedule approved by the PUC
- f. Park Fees

Bonds:

- a. Faithful Performance Bond: 100% of Off-site and On-site Improvements
- b. Labor & Material Bond: 100% of Off-site and On-site Improvement
- c. On-site Grading Bond: 100% of site improvements.

The fees described above are imposed based upon the current fee schedule adopted by the City Council. However, the fees imposed herein may be modified at the time of recordation

of a final map or issuance of a building permit in the event of said change or changes, the fees changed at that time will reflect the then current fee schedule.

**30. WORK SCHEDULE**

Every 6 months, the developer shall submit a work schedule to the City to show the timetable for all grading/erosion control work in conjunction with this project.

**31. OPERATIONS & MAINTENANCE AGREEMENT**

Developer shall enter into an Operations & Maintenance Agreement with the City prior to final occupancy. The Agreement shall include the operation and maintenance for any non-standard appurtenances in the public right-of-way that may include, but is not limited to, sidewalk, pavers, and street lights.

**32. SANTA CLARA COUNTY FIRE DEPARTMENT**

A letter of clearance for the project shall be obtained from the Santa Clara County Fire Department prior to issuance of building permits. Clearance should include written approval of the location of any proposed Water Backflow Preventers, Fire Department Connections and Fire Hydrants (typically Backflow Preventers should be located on private property adjacent to the public right of way, and fire department connections must be located within 100' of a Fire Hydrant).

**33. SANTA CLARA VALLEY/SAN JOSE WATER CLEARANCE**

Provide Santa Clara Valley Water District and/or San Jose Water Service Company approval for water connection, service capability and location and layout of water lines and backflow preventers before issuance of a building permit approval.

**34. SANITARY DISTRICT**

A letter of clearance for the project shall be obtained from the Cupertino Sanitary District prior to issuance of building permits.

**35. UTILITY EASEMENTS**

Clearance approvals from the agencies with easements on the property will be required prior to issuance of building permits.

**36. NPDES CONSTRUCTION GENERAL PERMIT**

When and where it is required by the State Water Resources Control Board (SWRCB), the developer must obtain a Notice of Intent (NOI) from the SWRCB, which encompasses preparation of a Storm Water Pollution Prevention Plan (SWPPP), use of construction Best Management Practices (BMPs) to control storm water runoff quality, and BMP inspection and maintenance.

**37. C.3 REQUIREMENTS**

Complete a Project Impervious Surface Data and LID Feasibility Form.

C.3 regulated improvements are required for all projects creating and/or replacing 10,000 S.F. or more of impervious surface (collectively over the entire project site). The developer shall reserve a minimum of 4% of developable surface area for the placement of low impact development measures, for storm water treatment, on the tentative map, unless an alternative storm water treatment plan, that satisfies C.3 requirements, is approved by the City Engineer.

The developer must include the use and maintenance of site design, source control and storm water treatment Best Management Practices (BMPs), which must be designed per approved numeric sizing criteria. A Storm Water Management Plan, Storm Water Facilities Easement Agreement, Storm Water Facilities Operation and Maintenance Agreement, and certification of ongoing operation and maintenance of treatment BMPs are each required. All storm water management plans are required to obtain certification from a City approved third party reviewer.

**38. WATER BACKFLOW PREVENTERS**

Domestic and Fire Water Backflow preventers and similar above ground equipment shall be placed away from the public right of way and site driveways to a location approved by the Cupertino Planning Department, Santa Clara County Fire Department and the water company.

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PASSED AND ADOPTED this 22nd day of August 2017, at a Regular Meeting of the Planning Commission of the City of Cupertino by the following roll call vote:

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

ATTEST:

APPROVED:

\_\_\_\_\_  
Benjamin Fu  
Assistant Director of Community Development

\_\_\_\_\_  
Don Sun  
Chair, Planning Commission