

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO TO
APPROVE A MINOR RESIDENTIAL PERMIT TO ALLOW TWO SECOND-STORY
BALCONIES ON A NEW RESIDENCE AT LOT 1 LINDY LANE, APN# 356-25-031

SECTION I: PROJECT DESCRIPTION, AS AMENDED

Application No.: RM-2016-26
Applicant: Glush Dada (Qi/Juan residence)
Location: Lot 1 Lindy Lane (APN 356-25-031)

SECTION II: FINDINGS FOR A MINOR RESIDENTIAL PERMIT:

WHEREAS, the City of Cupertino received an application for a Minor Residential Permit to allow construction of a home with a second-story balcony and a floor area ratio (FAR) greater than 35% on slopes over 20% at Lot 1 Lindy Lane, APN# 356-25-031; and

WHEREAS, the Floor Area Ratio of the development has been reduced from 35% to 25%, thus only requiring the review and approval of the second-story balconies; and

WHEREAS, the necessary notices were given and the comment period for the application was provided as required by the Procedural Ordinance, Chapter 19.12 of the City of Cupertino's Municipal Code, and the Planning Commission has held at least one public hearing in regard to this application; and

WHEREAS, the Environmental Review Committee at its July 27, 2017 meeting reviewed the Initial Study and Draft Mitigated Negative Declaration, received public comments, and recommended adoption of a Mitigated Negative Declaration on a 5-0 vote with minor modifications; and

WHEREAS, the Planning Commission at its September 26, 2017 hearing adopted the Initial Study and Draft Mitigated Negative Declaration as the Final Initial Study/Mitigated Negative Declaration for the Project, which incorporated all the identified mitigation

measures as conditions of approval for the project prior to taking final action on the Project and

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

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

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

The project is consistent with the regulations and intent of the Cupertino General Plan and Single-Family Residential (R-1) Ordinance. The project complies with all established and required setbacks, floor area ratio limitations, privacy protection planting requirements and other Municipal Code requirements. In addition, the proposed development meets all prescriptive development requirements of the Municipal Code, including Parking, Landscape, and other relevant ordinances; and the two-story non-discretionary permit procedural requirements in the R-1 ordinance. The proposed second story balconies comply with the setback standards in this zone. One of the balconies, while technically on the second floor, is at grade. Privacy planting in conformation with the R-1 ordinance are being provided, unless waivers are granted by the neighbor.

- b) 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.

The proposed site is situated on the northside of Lindy Lane. The previously undeveloped lot is surrounded by existing hillside single-family residences. A geotechnical study has been conducted for the proposed project and all recommendations of the geotechnical consultant have been incorporated into the development conditions of the approval.

In addition, the development is required to meet the Best Management Practices (BMPs), as required by the State Water Resources Control Board and the Bay Area Air Quality Management District's (BAAQMD) air quality standards for construction activities. The project is also required to adhere to the City's C.3 Municipal Permit for stormwater runoff management. Therefore, the development will not be injurious to property or improvements in the area nor be detrimental to the public health and safety.

The proposed balconies will be constructed in compliance with all building and zoning code requirements. They will not be detrimental to public health, safety and welfare.

- c) The proposed project is harmonious in scale and design with the general neighborhood.

The proposed project is located in a residential area consisting of single-family homes, with a majority of them being multi-level and/or two-story homes. The proposed residence is required to

maintain an FAR of approximately 25%, which is consistent with the surrounding residences. It will be sited away from the public rights-of way and much of what is seen from Lindy Lane will be screened by the existing mature Coast Live Oak trees and proposed future plantings.

The neighbors above the private road or the immediately adjacent are not anticipated to be significantly impacted because of the site topography which results in those neighbors being exposed largely to a one-story facade view. The balconies will have limited views into neighboring yards as the homes are screened from view but also sited above the proposed residence. Overall, the proposed project maintains the single-family home scale found compatible with the general neighborhood.

- d) Adverse visual impacts on adjoining properties have been reasonably mitigated.

Any potential adverse impacts on adjoining properties have been reasonably mitigated through the privacy protection plantings, reduction in the massing and bulk of the structure, and installation of mitigation trees to replace those being removed as required.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on PAGE 3 thereof, the application for a Two-Story Permit, Application no. RM-2016-26 is hereby approved; and

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. RM-2016-26 as set forth in the Minutes of Planning Commission Meeting of November 14, 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 recommendation is based on the plan set dated October 23, 2017 consisting of 25 sheets, labled A1 – A21, and Sheets 1 -4 entitled, "Custom House Address: Lot #131 21987 Lindy Lane, Cupertino, CA," drawn and submitted by G'lush Design Associates Inc.; except as may be amended by conditions in this resolution.

2. ANNOTATION OF THE CONDITIONS OF APPROVAL

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

3. ACCURACY OF THE PROJECT PLANS

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

4. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file no. EA-2016-01, EXC-2016-07, and R-2016-28 shall be applicable to this approval.

5. PREVIOUS CONDITIONS OF APPROVAL

All previous conditions of approval from TM-2005-05 and M-2011-06 shall remain in effect unless superseded by or in conflict with subsequent conditions of approval, including the conditions contained herein in this resolution.

6. INDEMNIFICATION

Except as otherwise prohibited by law, the applicant shall indemnify, defend (with counsel approved by the City), 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.

7. NOTICE OF FEES, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS

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

PASSED AND ADOPTED this 14th day of November, 2017, Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

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

ATTEST:

APPROVED:

Benjamin Fu
Assist. Director of Community Development

Don Sun
Chair, Planning Commission