

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION

OF THE ADMINISTRATIVE HEARING OFFICER OF THE CITY OF CUPERTINO  
APPROVING AN ARCHITECTURAL AND SITE APPROVAL PERMIT FOR  
BUILDING FAÇADE IMPROVEMENTS AND SITE MODIFICATIONS AT THE  
MCCLELLAN SQUARE SHOPPING CENTER LOCATED AT 10385-10497 S. DE ANZA  
BLVD (APN 359-17-019 and 359-17-023)

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SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2018-10  
Applicant: Victor DeMelo (Browman Development Company)  
Location: 10385-10497 S. De Anza Blvd (APN 359-17-019 and 359-17-023)

SECTION II: FINDINGS FOR ARCHITECTURAL AND SITE APPROVAL PERMIT:

WHEREAS, the City of Cupertino received an application for an Architectural and Site Approval to consider allowing building façade improvements and site modifications; and

WHEREAS, the necessary public notices have been given as required by the Procedural Ordinance of the City of Cupertino, and the Administrative Hearing Officer has held at least one public meeting in regard to the application; and

WHEREAS, the project is determined to be exempt from the California Environmental Quality Act (CEQA); and

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

WHEREAS, the Administrative Hearing Officer finds as follows with regard to this application:

1. The proposed development, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

*The proposal includes façade modifications on the frontages of the multi-tenant building and the two southeastern pad buildings, with no height changes. The project site is an established*

*shopping center in a commercial district. Therefore, the façade modifications will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience.*

2. The proposal is consistent with the purposes of Chapter 19.168, the General Plan any specific plan, zoning ordinances, applicable planned development permit, conditional use permits, variances, subdivision maps or other entitlements to use which regulate the subject property including, but not limited to, adherence to the following specific criteria:

- a) Abrupt changes in building scale should be avoided. A gradual transition related to height and bulk should be achieved between new and existing buildings.

*The scale of the buildings will be maintained with no changes to the height of the buildings. The façade modifications will maintain the same form of the existing structures with minor architectural features that are proposed to enhance the pedestrian experience. Therefore, there will be no abrupt changes in building scale related to height and bulk and no new buildings are being proposed.*

- b) In order to preserve design harmony between new and existing building and in order to preserve and enhance property values, the materials, textures and colors of new building should harmonize with adjacent development by being consistent or compatible with design and color schemes with the future character of the neighborhoods and purposes of the zone in which they are situated. The location, height and materials of walls, fencing, hedges and screen planting should harmonize with adjacent development. Unsightly storage areas, utility installations and unsightly elements of parking lots should be concealed. The planting of ground cover or various types of pavements should be used to prevent dust and erosion, and the unnecessary destruction of existing healthy trees should be avoided. Lighting for development should be adequate to meet safety requirements as specified by the engineering and building departments, and provide shielding to prevent spill-over light to adjoining property owners.

*The façade modifications are harmonious with the existing building forms and proposes upgrades to the existing materials and colors and will not impact the future character of the neighborhood. The two new trash enclosures are located in areas not visible from the public right-of-way and designed to be compatible with the wood and steel aesthetic of the shopping center's buildings. The proposed tree removals are due to poor health or poorly formed trees that will benefit replacement and will improve the aesthetics of the site for its users. Additional landscaping is being proposed to soften the edges of the development and to enhance existing landscaping at the site. No new lighting sources that could impact adjacent residential development is being proposed.*

- c) The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures have been designed to minimize traffic hazard, positively affect the general appearance of the neighborhood and harmonize with adjacent development.

*The proposed Master Sign Program does not propose signage that will be traffic hazards. The signage requirements are consistent with the Sign Ordinance and previous Master Sign Programs and only proposes clarification images and tables to enhance the readability of the program and to include the façade changes of the buildings.*

- d) With respect to new projects within existing residential neighborhoods, new development should be designed to protect residents from noise, traffic, light and visually intrusive effects by use of buffering, setbacks, landscaping, walls and other appropriate design measures.

*The proposed project is not a new development. The work proposed is to an existing commercial center's facades and there are no changes proposed along the rear elevation adjoining the residential neighborhood to the south or the east.*

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the maps, facts, exhibits, testimony, staff's report and presentation, 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 Architectural and Site Approval, Application no. ASA-2018-10 is hereby approved and that the subconclusions upon which the findings and conditions specified in this resolution are based and contained in the Public Meeting record concerning Application no. ASA-2018-10 as set forth in the Minutes of the Administrative Hearing Meeting of February 28, 2019 and are incorporated by reference as though fully set forth herein.

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

#### 1. APPROVED EXHIBITS

Approval is based on the plan set drawn by Johnson Lyman Architects, Yamasaki Landscape Architecture, and RSC Engineering, Inc. entitled "McClellan Square 10425 South De Anza Blvd Cupertino" consisting of forty-eight (48) sheets, except as may be amended by conditions in this resolution.

#### 2. ACCURACY OF PROJECT PLANS

The applicant/property owner is responsible to verify all pertinent property data including but not limited to property boundary locations, building setbacks, property

size, building square footage, any relevant easements and/or construction records. Any misrepresentation of any property data may invalidate this approval and may require additional review.

3. ANNOTATION OF THE CONDITIONS OF APPROVAL

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

4. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. TR-2019-05 and SP-2018-02 shall be applicable to this approval.

5. COVENANT DISCLOSURE

The property is under a Cupertino planned development zoning and property purchasers should check with the City to determine the specific restrictions under the Planned Development Zone and related permits.

6. INGRESS/EGRESS EASEMENT

The applicant shall obtain a reciprocal ingress/egress agreement from the adjacent property owner/s of 10495 S. De Anza Blvd. (APN 359-17-023). The agreement shall be approved by the City prior and recorded on the property as a covenant prior to issuance of building permits.

7. DEMOLITION REQUIREMENTS

All demolished building and site materials shall be recycled to the maximum extent feasible, in accordance with the City's Recycling and Diversion of Construction and Demolition Waste under Chapter 16.72 of the Cupertino Municipal Code. The applicant shall provide evidence that materials were recycled prior to issuance of final demolition permits.

8. STOREFRONT WINDOW DETAILS

The storefront windows shall be kept open and transparent to the greatest extent possible. The final storefront design and window display shall be reviewed and approved by the Director of Community Development prior to issuance of building permits for tenant improvements.

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. GREENSCREENS AND ARTWORK

The applicant will be required to install green screens or art pieces along the southern wall of 10465 S De Anza Blvd. and along the northern wall of 10495 S De Anza Blvd as indicated on pages A2.3 and A2.4 of the approved exhibits.

Additional green screens are required and must be maintained on the eastern walls of the major tenant spaces as indicated on page A2.1 of the approved exhibits.

11. ARTWORK REVIEW REQUIRED

All artwork to be installed within the project shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

12. BICYCLE PARKING

The applicant shall provide bicycle parking and bike racks for the proposed project in accordance with the City's Parking Regulations under Chapter 19.124 of the Cupertino Municipal Code.

13. OUTDOOR SEATING AREA LANDSCAPE DETAILS

The final landscape planter box, fencing, landscaping, and patio area design shall be reviewed and approved by the Director of Community Development prior to issuance of building permits. Additional landscaping/fencing, including, but not limited to, planter boxes, may be required prior to building permit issuance.

14. SHOPPING CART MANAGEMENT PLAN

The final shopping cart corral location plan shall be evaluated by the Community Development Department prior to building permit issuance.

Prior to issuance of final occupancy, the applicant shall submit a shopping cart management plan, including, but not be limited to, an ongoing cart retrieval program/contract, retrieval/complaint hotline, appropriate shopping cart return locations, and other theft prevention measures as determined to be appropriate by the Director of Community Development.

15. RESTAURANT ODOR ABATEMENT

All new restaurants shall install odor abatement systems to reduce odor impacts from the restaurants to the adjacent community. The odor abatement systems shall be

installed prior to final occupancy of the associated restaurant(s). Detailed plans shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

16. FINAL LIGHTING VERIFICATION

A lighting consultant shall conduct a photometric study to confirm that building and site lighting fixtures have been installed according to plan and in conformance with the City's General Commercial and Parking Ordinance lighting standards.

17. LIGHTING INTENSITY ADJUSTMENT

The City reserves the right to require the applicant to utilize dimming technology to adjust the lighting intensity of all lighting fixtures when deemed necessary.

18. TREE PROTECTION

As part of the demolition or building permit drawings, a tree protection plan shall be prepared by a certified arborist for the trees to be retained. 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.

19. 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.

**20. SOIL MANAGEMENT AND ANALYSIS REPORT**

A soils analysis report, per section 14.15.080, documenting the various characteristics of the soil (e.g. texture, infiltration rate, pH, soluble salt content, percent organic matter, etc.) and providing recommendations for amendments as appropriate to optimize the productivity and water efficiency of the soil shall be prepared.

The soil analysis report shall be made available to the professionals preparing the landscape and irrigation design plans in a timely manner either before or during the design process. A copy of the soils analysis report shall be submitted to the Director of Community Development as part of the landscape documentation package.

**21. LANDSCAPE AND IRRIGATION MAINTENANCE**

Per the Landscape Ordinance (CMC, Chapter 14.15), a maintenance schedule shall be established and submitted to the Director of Community Development or his/her designee, either with the landscape application package, with the landscape installation report, or any time before the landscape installation report is submitted.

**22. 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."

### 23. 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.

### 24. 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.

## 25. NOISE CONTROL

Noise levels are not to exceed those listed in Chapter 10.48: Community Noise Control of the Cupertino Municipal Code, unless approved by special exception by the Noise Control Officer. The applicant may have to conduct future tests to verify they are complying with the ordinance at the request of the Community Development Director.

## 26. UTILITY STRUCTURE PLAN

Prior to issuance of building permits, the applicant shall work with staff to provide a detailed utility plan to demonstrate screening or undergrounding of all utility structures [including, but not limited to backflow preventers (BFP), fire department connections (FDC), post-indicator valves (PIV), and gas meters] to the satisfaction of the Director of Community Development, Public Works, Fire Department, and applicable utility agencies.

## 27. TRANSFORMERS

New 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.

## 28. 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.

### 29. SITE IMPROVEMENTS

All proposed site improvements shall be completed prior to final occupancy of any structures approved in conjunction with the project.

### 30. 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.

### 31. 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.

### 32. 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.

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

### 33. STREET IMPROVEMENTS & DEDICATION

Provide a roadway easement dedication and frontage improvements along the project to the satisfaction of the Director of Public Works. Street improvements may include,

but not be limited to, new sidewalk, driveways, curb and gutter, and street tree installation.

Provide a 10' wide temporary construction easement along McClellan Road and around the intersection. The City intends to widen a portion of McClellan Road for a future bicycle improvement project which may require modifications to on-site landscaping, irrigation, storm drain systems, and driveway conforms.

The existing 12" SD line will be within the future roadway easement area along S. De Anza Blvd. City will issue a revocable encroachment permit to allow the storm line to remain in place.

#### 34. PEDESTRIAN AND BICYCLE IMPROVEMENTS

Developer shall provide pedestrian and bicycle related improvements consistent with the Cupertino Bicycle Transportation Plan and the Pedestrian Transportation Guidelines, and as approved by the City Engineer.

#### 35. DRAINAGE

Any on-site drainage modifications shall be provided to the satisfaction of the Director of Public Works.

All storm drain inlets shall be clearly marked with the words "No Dumping – Flows to Creek" using permanently affixed metal medallions or equivalent, as approved by the Environmental Programs Division.

#### 36. 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.

Fees:

- |                                |   |
|--------------------------------|---|
| a. Checking & Inspection Fees: | Per current fee schedule (\$7,105)        |
| b. Storm Drainage Fee:         | Per current fee schedule (\$9,471 per AC) |
| c. Street Tree                 | By Developer                              |

Bonds:

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

The fees described above are imposed based upon the current fee schedule adopted by the City Council. However, the fees imposed herein may be modified at the time of recordation of a final map or issuance of a building permit in the event of said change or changes, the fees changed at that time will reflect the then current fee schedule.

37. TRASH, RECYCLING AND COMPOST ENCLOSURES

Trash enclosure plans must be designed in accordance with the City's "Public Works Guidelines posted at [www.cupertino.org/nowaste](http://www.cupertino.org/nowaste), and to the satisfaction of the Environmental Programs Manager. Clearance by the Public Works Department is required prior to obtaining a building permit. (CMC 9.18.210 H & K)

Applicant shall enter into an agreement with the City that indemnifies and holds harmless both the City and the refuse and recycling collection company (Recology) from and against any harm, damage or maintenance that may occur or become necessary to onsite paving stone driveway surfaces.

38. 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 non-standard appurtenances in the public road right-of-way that may include, but is not limited to, sidewalk, pavers, and street lights.

39. 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.

40. 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.

41. EROSION CONTROL PLAN

Developer must 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.

42. TRAFFIC CONTROL PLAN

The developer must submit a traffic control plan to be approved by the City. The plan shall include a temporary traffic control plan for work in the right of way as well as a routing plan for all vehicles used during construction. All traffic control signs must be reviewed and approved by the City prior to commencement of work. The City has adopted Manual on Uniform Traffic Control Devices (MUTCD) standards for all signage and striping work throughout the City.

43. STREET TREES

Street trees shall be planted within the Public Right of Way to the satisfaction of the Director of Public Works and shall be of a type approved by the City in accordance with Ordinance No. 125.

44. FIRE PROTECTION

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

45. SANTA CLARA COUNTY FIRE DEPARTMENT

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

46. CALIFORNIA WATER SERVICE COMPANY CLEARANCE

Provide California 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.

47. DEDICATION OF UNDERGROUND WATER RIGHTS

Developer shall "quit claim" to the City all rights to pump, take or otherwise extract water from the underground basin or any underground strata in the Santa Clara Valley.

48. SANITARY DISTRICT

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

49. STORM DRAIN INLET MARKERS

All exterior storm drain inlets on the property shall be clearly marked with "No Dumping Flows to Creek" or "No Dumping Flows to Bay" markers.

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**50. FULL TRASH CAPTURE SYSTEM**

The developer will be responsible for installing a full trash capture system/device to capture trash from the onsite storm drain before the storm water reaches the City owned storm drain system. A full capture system or device is a single device or series of devices that traps all particles retained by a 5 mm mesh screen and has a design treatment capacity of not less than the peak flow rate Q resulting from a one-year, one-hour storm in the sub-drainage area (see Municipal Regional Permit section C.10 for further information/requirements). A Maintenance Agreement and certification of ongoing operation and maintenance of the devices in accordance with the manufacturer's recommended specifications is required.

**51. WASTE AND DELIVERIES MANAGEMENT PLAN**

A detailed refuse and truck delivery plan shall be prepared by the applicant. The plan shall specify locations of trash facilities, refuse, recycling and organics (food scraps and paper) pick up frequency and truck access. All trash facilities must be screened and enclosed to the satisfaction of the Public Works Department and Environmental Programs Manager. One set of three (3) permanent public waste bins shall be installed in the outdoor seating area and labeled "trash", "recycling", and "food scraps". The public bins will be maintained by the businesses as specified in CMC 9.18.210 (P) and 9.18.215. The final Waste Management Plan shall be submitted to the City for review and approval prior to issuance of building permits.

**52. REFUSE TRUCK ACCESS**

Developer must obtain clearance from the Environmental Programs Manager in regards to refuse truck access for the proposed development and trash, recycling and compost enclosures. Plans for access must be reviewed and approved by the City's franchised refuse collector.

**SECTION V: CONDITIONS ADMINISTERED BY THE BUILDING DEPT.****53. ACCESSIBLE STALLS AND PATH OF TRAVEL**

Provide an accessible path-of-travel to the trash enclosure; and provide an accessible path-of-travel from the public right-of-way and accessible parking spaces to the building entrances per 2016 California Building Code.

**SECTION VI: CONDITIONS ADMINISTERED BY SANTA CLARA COUNTY FIRE DEPT.****54. FIRE APPARATUS ACCESS LANES & FIRE HYDRANTS**

Property owner will be required to indicate on the plans:

- a. All fire apparatus access lanes, their dimensions and turning radii. All fire lanes shall be marked and maintained in accordance with Santa Clara

County Fire Department Standard Details and Specifications #A-6. *Dimensions and radii shown (Sheets C3.0 and C3.1) to conform with SCCFD A-6.*

- b. The dimensions of the new trash enclosure and that it will not encroach into a fire apparatus access lane. *Trash enclosures to be sprinkled – sheets C3.0 and C3.1, Key Note 22. Concrete pad to be flush with asphalt surface, no obstruction issues noted – Sheet C3.0, Key Notes 28 and 29.*
  - c. A detail of the area along the storefronts to include the proposed planter boxes and their relationship to any fire apparatus access lanes. *Dimensions and Key Note 30 on Sheets C3.0 and C3.1 indicate a 20' wide fire lane will be maintained and marked to conform with SCCFD A-6.*
  - d. All fire hydrant locations. *Hydrant locations noted on Intterra appear to coorespond appropriately with fire access roadways. Field verify no obstructions exist.*
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PASSED AND ADOPTED this 28th day of February, 2019 at a noticed Public Meeting of the Administrative Hearing Officer 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.

ATTEST:

APPROVED:

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Ellen Yau  
Associate Planner

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Benjamin Fu  
Acting Director of Community Development