CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO RECOMMENDING APPROVAL OF A DEVELOPMENT PERMIT TO CONSTRUCT A MIXED-USED DEVELOPMENT CONSISTING OF EIGHTEEN (18) RESIDENTIAL UNITS AND 4,500 SQUARE FEET OF COMMERCIAL SPACE LOCATED AT 10625 SOUTH FOOTHILL BOULEVARD (APN: 342-16-087 & 088)

The Planning Commission recommends that the City Council approve the Development Permit, in substantially similar form to the Draft Resolution attached hereto as Exhibit DP.

PASSED AND ADOPTED at a Regular Meeting of the Planning Commission of the City of Cupertino the 23rd day of November 2021, by the following roll call vote:

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

ATTEST: APPROVED:

Benjamin Fu R "Ray" Wang

EXHIBIT DP

RESOLUTION NO. _____

A RESOLUTION OF THE CUPERTINO CITY COUNCIL APPROVING A DEVELOPMENT PERMIT TO CONSTRUCT A MIXED-USED DEVELOPMENT CONSISTING OF EIGHTEEN (18) RESIDENTIAL UNITS AND 4,500 SQUARE FEET OF COMMERCIAL SPACE LOCATED AT 10625 SOUTH FOOTHILL BOULEVARD (APN: 342-16-087 & 088)

SECTION I: PROJECT DESCRIPTION

Application No.: DP-2018-07
Applicant: Dan Shaw (SCR Enterprises)
Location: 10625 South Foothill Boulevard (APN#s 342-16-087 & 088)

SECTION II: FINDINGS FOR DEVELOPMENT PERMIT:

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

WHEREAS, pursuant to the provisions of the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 *et seq*.) ("CEQA") and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 *et seq*.) ("CEQA Guidelines"), the City prepared an Initial Study and proposed Mitigated Negative Declaration ("Project"); and

WHEREAS, on October 28, 2021, the City of Cupertino's Environmental Review Committee held a duly noticed public hearing to receive public testimony and reviewed and considered the information contained in the Draft IS/MND, and voted 5-0-0 to recommend that the City Council adopt the Draft IS/MND (EA-2018-06) and mitigation measures; and

WHEREAS, on November 23, 2021, the Planning Commission held a duly noticed public hearing to receive staff's presentation and public testimony, and to consider the information contained in the IS/MND along with all staff reports, other pertinent documents, and all written and oral statements received prior to and at the public hearing, and recommended on a xx-xx vote, based on substantial evidence in the record, that the City Council adopt the MND, adopt and incorporate into the Project and implement as conditions of approval all of the mitigation measures for the project that are identified in the IS/MND, and adopt the Mitigation Monitoring and Reporting Program for the Project (EA-2018-06); and

WHEREAS, on November 23, 2021 the Planning Commission recommended on a X-X vote that the City Council approve Zone Map Amendment (Z-2018-02), in substantially

similar form to the Resolution presented (Resolution No. _____), approve the Vesting Tentative Map (TM-2018-04), in substantially similar form to the Resolution presented (Resolution No. _____), approve the Development Permit (DP-2018-07) in substantially similar form to the Resolution presented (Resolution No. _____), approve the Architectural and Site Approval Permit (ASA-2018-09) in substantially similar form to the Resolution presented(Resolution No. _____), approve the Use Permit (U-2018-04) in substantially similar form to the Resolution presented (Resolution No. _____), approve the Tree Removal Permit (TR-2018-39) in substantially similar form to the Resolution presented (Resolution No. _____); and

WHEREAS, all necessary public notices having been given as required by the Procedural Ordinance of the City of Cupertino and the Government Code, and the Planning Commission held at least one public hearing in regard to this application, and on December 21, 2021, the City Council held a public hearing to consider the Development Permit; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Resolution; and

WHEREAS, on December 21, 2021, after consideration of substantial evidence contained in the entire administrative record, and prior to consideration of the Development Permit, the City Council adopted Resolution No. [####] adopting and requiring as conditions of approval all of the mitigation measures for the Project which are within the responsibility and jurisdiction of the City that are identified in the IS/MND, and adopting the Mitigation Monitoring and Reporting Program for the Project; and

WHEREAS, the applicant has met the burden of proof required to support the application for a Development Permit.

WHEREAS, the City Council 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 project is consistent with the General Plan, and the Zoning Ordinance with the adoption of the Zone Map Amendments (Z-2018-02). The project has been designed to be compatible with and respectful of adjoining land uses. Additionally, all mitigation measures that are within the responsibility and jurisdiction of the City have been adopted and will be made conditions of approval in order to mitigate potential impacts to a less than significant level. Therefore, the project will not be detrimental or injurious to properties or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience.

2. The proposed development will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan and the purpose of the City's zoning ordinances.

   The General Plan land use designation for the property is Commercial/Residential. The proposed use is consistent with the General Plan. The subject property will be zoned Planned Development with General Commercial and Residential intent with the approval of the Zone Map Amendment (Z-2018-02). Projects that are not on the City's list of approved Housing Element sits are required to obtain a Use Permit (U-2018-04), which the project is seeking and subject to approval, see Condition of Approval (COA) #3 in Section III. The proposed development has met the applicable development standards in the General Plan and the City of Cupertino's Municipal Code. Therefore, the proposed development is consistent with the purpose of the City's zoning ordinance.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter and the IS/MND and the Mitigation Monitoring and Reporting Program for the Project (EA-2018-06), subject to the conditions which are enumerated in this Resolution beginning on PAGE 3 thereof, and those contained in all other Resolutions approved for this Project,

The application for a Development Permit, Application No. DP-2018-07, is hereby approved, and that the subconclusions upon which the findings and conditions specified in this Resolution are based are contained in the Public Hearing record concerning Application no. DP-2018-07 as set forth in the Minutes of the City Council Meeting of December 21, 2021, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPARTMENT.

1. **APPROVED EXHIBITS**

   Approval is based on the plan set dated September 15, 2020 consisting of 55 sheets labeled as Canyon Crossings Mixed-Use Development, A0-A6, E1.1, L1.0-L3.1, C1-C14, and ST2 prepared by LPMD Architects, TS Civil Engineering, and Reed Associates, 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. **CONCURRENT APPROVAL CONDITIONS**
   The conditions of approval contained in file nos. Z-2018-02, TM-2018-04, U-2018-04, ASA-2018-09, TR-2018-39, and EA-2018-06 shall be applicable to this approval.

4. **ANNOTATION OF THE CONDITIONS OF APPROVAL**
   The conditions of approval set forth shall be incorporated into and annotated on the first page of the building plans.

5. **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. **DEVELOPMENT ALLOCATION**
   The applicant shall receive an allocation of 17 of the residential unit allocations for the Citywide housing allocation.

7. **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.

8. **COMMON OPEN SPACE**
   The residential common open space shall provide amenities for passive and/or active recreation including but not limited to play structures, barbeque areas, picnic tables etc. and shall not be retained as only a hardscaped or landscaped area. The commercial open space shall provide amenities for users of the commercial space and can be used to provide outdoor dining, benches, seating etc.

9. **BELOW MARKET RATE HOUSING PROGRAM**
   The applicant shall participate in the City's Below Market Rate (BMR) Housing Program by dedicating 15% of the units. The applicant shall record a covenant, which shall be subject to review and approval by the City Attorney, to be recorded prior to the issuance of building permits. Two 3BR townhome units shall be provided as BMR units. Two of the units shall be made available at moderate income levels and one unit shall be made available at median income levels in compliance with the City's BMR Manual. The applicant is to provide one (1) 2BR apartment available to be made designated for a very-low income level in compliance with the City's BMR Manual.

10. **BMR UNIT DESIGN REQUIREMENTS**

The Applicant shall detail how the following requirements shall be met prior to building permit issuance:

a) BMR units shall be comparable to market-rate units in terms of unit type, number of bedrooms per unit, quality of exterior appearance and overall quality of construction.
b) Interior features and finishes in the affordable units shall be durable, of good quality and consistent with the contemporary standards of new housing.

11. **BMR AGREEMENT**

Prior to the recordation of a final map or issuance of any building permit, an affordable housing agreement shall be recorded against the property. The affordable housing agreement shall include, but not be limited to the following:

a) Total number of BMR units, type, location (site map), square footage, number of bedrooms, and construction scheduling of market-rate and BMR units;
b) Provisions to ensure concurrent construction and completion of BMR units and market-rate units;
c) Affordability levels for each BMR unit;
d) Provisions for income certification and screening of potential occupants of BMR units;
e) Restriction control mechanisms;
f) Financing of ongoing administrative and monitoring costs;
g) Other reasonably required provisions to implement the Affordable Housing Plan.

12. **BMR UNIT TERMS OF AFFORDABILITY:**

Prior to occupancy, the proposed project shall record covenants that require the units to be occupied at rents, or offered for sale at a price that is affordable to very low-income households for a period not less than 99 years from the date of first occupancy of the unit.

13. **PUBLIC ART REQUIREMENT**

Public art shall be provided for the project in accordance with General Plan Policy 2-66 and the City's Public Art Ordinance (Chapter 19.148 of the Cupertino Municipal Code). The minimum expenditure for the artwork, including, but not limited to design, fabrication, and installation is one (1) percent of the construction valuation for the first $100 million on construction valuation, or 0.9% of construction valuation for valuation in excess of $100 million. The project pro forma shall be provided to the City to confirm the project budget. The public art plans (including location and design) shall be reviewed by the Fine Arts Commission during the building permit stage, in advance of final occupancy.

Once approved by the Fine Arts Commission, the public artwork shall be installed to the satisfaction of the City prior to final occupancy. In the event the developer or property owner determines that the placement of artwork on a particular property may not be feasible, the developer or property owner may apply to the Fine Arts Commission for an in-lieu payment alternative as indicated in Chapter 19.148 of the Cupertino Municipal Code. The in lieu payment shall be 1.25% of the construction valuation.

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 occupancy.

15. **FORMATION OF A PROPERTY OWNER'S ASSOCIATION**

A Property Owner's Association shall be formed to maintain the common areas of the property. The Conditions, Covenants and Restrictions (CC&Rs) shall be reviewed and approved by the City Attorney and the Director of Community Development prior to recordation. The following terms shall be incorporated into the Association's Conditions, Covenants and Restrictions:

- The members/board shall meet at a minimum of once/year
- The Association dues shall cover:
  - Maintenance of common area on the property in compliance with the approved project and conditions of approval, including hardscaping, parking, landscaping and accessory facilities and amenities, such as trash bins/areas, common amenity areas, tree grates, outside trash bins, fences, etc,
  - Building and site repair on a regular schedule, or as otherwise necessary, and building renovation and replacement as necessary to ensure that the property is maintained.
  - Permits, including tree removal permits, required for maintenance and repair of facilities in the common areas
- Any changes to the exterior of the development must be reviewed by the Property Owner's Association.
- Any changes to the CC&R's must be reviewed and approved by the City
- Disbanding of the Association shall require an amendment to the permit.

16. **PRE-CONSTRUCTION MEETING AND CONSTRUCTION MANAGEMENT PLAN**

A demolition and construction management plan shall be submitted and reviewed prior to building permit issuance. Prior to commencement of construction activities, the applicant shall arrange for a pre-construction meeting with the

pertinent departments (Building, Planning, and Public Works) to review the prepared construction management plan, to ensure that construction complies with the conditions of approval, staging of construction equipment is appropriate, tree protection measures are in place, public access routes are identified, and noise and dust control measures are established. The plan shall include but not be limited to the following:

a. Compliance with CEQA Mitigation Measures
b. Appropriate construction staging area
c. Hours of construction
d. Compliance with the City noise ordinance
e. Best management practices
f. Staging of construction equipment shall not occur within ___ feet of any residential property.
g. Any other measures as determined to be appropriate by the Director of Community Development

17. **GRADING AND CONSTRUCTION HOURS AND NOISE LIMITS**

The applicant shall indicate compliance with the following grading and construction hours and noise limit requirements on all demolition, construction and grading permits, and in the construction management plan(s), unless otherwise indicated.

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 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. Nighttime 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. **ACOUSTIC STUDY AND REDUCTION OF INTERIOR NOISE LEVELS**

Prior to the issuance of building permits, the project applicant shall submit an acoustic study to the satisfaction of the City's Community Development Director to demonstrate that unit interiors meet an interior noise level due to exterior noise of 45 dBA CNEL, consistent with State and local noise standards. The study shall be based on precise grading and architectural plans including specific construction method details and materials to calculate the necessary exterior to interior noise reduction of approximately 30 dBA to achieve 45 dBA CNEL. The precise exterior to interior reduction would be determined in the acoustical study when precise grading plans with building elevations, footprints and architectural plans are ·available. The applicant will be required to incorporate into the project design all required noise insulation features and techniques necessary to reduce interior noise levels to achieve the interior noise standard. To achieve the required interior noise levels, features such as upgraded exterior wall and roof assemblies, upgraded windows, and exterior doors may be required. In addition, a "windows closed" condition will be required with minimum supply of fresh air per UBC requirements.·

19. **GREEN BUILDING**

The project shall be constructed in accordance with the City's Green Building Ordinance (Chapter 16.58 of the Cupertino Municipal Code). The applicant shall obtain LEED Silver certification or an alternative reference standard in accordance with the ordinance since the project proposes more than nine (9) homes. Third party LEED certification or alternative reference standard is required per the ordinance criteria.

20. **BUILDING AND FIRE CODE**

The applicant shall apply for and obtain building permits to allow the construction of the approved project. The applicant shall provide information and plans to allow the Building Official and the Fire Marshall or their designee that the proposed plans comply with Building and Fire Codes in effect at the time of application for a building permit.

21. **TRASH AND DELIVERY ACTIVITIES**

A detailed refuse and truck delivery plan shall be prepared by the applicant. The plan shall specify locations of trash facilities, refuse pick up schedules and truck delivery schedules and routes. All trash facilities must be screened and enclosed to the satisfaction of the Public Works Department. The final plan shall be submitted to the City for review and approval prior to issuance of building permits.

22. **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.

Future changes to the exterior building materials/treatments must be reviewed and approved by the Property Owner's Association. However, any changes to the building materials that do not match the approved materials shall require an amendment to this permit or a new permit.

23. **DARK SKY COMPLIANCE AND/OR BIRD SAFE COMPLIANCE**

Prior to issuance of Building Permits, the applicant/property owner shall submit final plans in compliance with the approved lighting plans to comply with development standards of Cupertino Municipal Code Section 19.102.030 Bird-Safe Development Requirements and/or Section 19.102.040 Outdoor Lighting Requirements. In the event changes are proposed from the approved plans, said changes must be reviewed and approved by the Director of Community Development or their designee. The applicant shall provide all documentation required to determine compliance with the Municipal Code. The final lighting plan (including a detailed photometric plan) shall be reviewed and approved by the Director of Community Development prior to building permit issuance. A report from a licensed lighting engineer may be required to confirm all exterior lighting throughout the site complies with the City's Ordinance.

24. **ROOFTOP EQUIPMENT 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. The height of the screening shall be taller than the height of the mechanical equipment that it is designed to screen. A line of sight plan may be required to demonstrate that the equipment will not be visible from any public right-of-way. The location of the equipment and necessary screening shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

25. **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.

26. **SIGN PROGRAM**

A sign program is required for this project. The sign program shall be approved by the Director of Community Development prior to issuance of sign permits.

27. **SITE IMPROVEMENTS**

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

28. **NOISE LEVELS AND ABATEMENT**

Project uses and all equipment installed on the site shall comply with the City's Community Noise Control Ordinance at all times. Installation of any mechanical or other equipment shall be evaluated to determine that the installation meets the City's Community Noise Control Ordinance. Any documentation or studies required to determine this shall be provided by the applicant as his/her sole expense. Should the project exceed any of the stipulated maximum noise levels outlined in the City's Community Noise Control Ordinance, an acoustical engineer may be required to submit noise attenuation measures to the satisfaction of the Director of Community Development at the applicant's expense.

29. **INGRESS/EGRESS EASEMENT**

The applicant shall record an appropriate deed restriction and covenant running with the land, subject to approval of the City Attorney, for all parcels that share a common private drive or private roadway with one or more other parcels. The deed restriction shall provide for necessary reciprocal ingress and egress easement to and from the affected parcels. The easements shall be recorded at such time as interest in one or more of the affected parcels is initially sold or transferred to another party.

30. **COMMERCIAL/INSTITUTIONAL KITCHEN ODOR ABATEMENT**

All new kitchens for commercial or institutional uses shall install odor abatement systems to reduce odor impacts to the adjacent community. In the event, alterations are made to any portion of the ventilation system of an existing commercial or institutional kitchen, odor abatement equipment shall be installed. 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.

31. **INDEMNIFICATION**

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.

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 DEPARTMENT

1. **STREET IMPROVEMENTS & DEDICATION**
Provide street dedication in fee title 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 detached sidewalk, new ADA ramps, curb and gutter, driveways, pavement, storm drain lateral, street light, utility pole relocation, and street tree installations.

At street improvement plan stage, provide a striping plan to show the existing and proposed striping (show dimensions and radius, etc.) along Stevens Canyon Road. Striping (including lane transition) shall meet the Caltrans Highway Design Manual.

2. **PEDESTRIAN AND BICYCLE IMPROVEMENTS**
Developer shall provide pedestrian and bicycle related improvements (eg. walkway and bicycle racks, etc.) consistent with the Cupertino Bicycle Transportation Plan and the Pedestrian Transportation Guidelines, and as approved by the Director of Public Works.

3. **STREET LIGHTING INSTALLATION**

   At street improvement plan stage, street lighting shall be designed and installed as approved by the Director of Public Works. Lighting fixtures shall be positioned so as to preclude glare and other forms of visual interference to adjoining properties, and shall be no higher than the maximum height permitted by the zone in which the site is located.

4. **GRADING**

   Grading shall be performed to the satisfaction of the Director of Public Works in accordance with Chapter 16.08 of the Cupertino Municipal Code. 401 Certifications and 404 permits maybe required. Please contact Army Corp of Engineers and/or Regional Water Quality Control Board as appropriate.

5. **DRAINAGE**

   Drainage shall be provided to the satisfaction of the Director of Public Works. Hydrology and pre- and post-development hydraulic calculations must be provided to indicate whether additional storm water control measures are to be constructed or renovated. The storm drain system may include, but is not limited to, subsurface storage of peak stormwater flows (as needed), bioretention basins, vegetated swales, and hydrodynamic separators to reduce the amount of runoff from the site and improve water quality. Any storm water overflows or surface sheeting should be directed away from neighboring private properties and to the public right of way as much as reasonably possible.

   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.

6. **C.3 REQUIREMENTS**

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

   The Applicant must include the use and maintenance of site design, source control and storm water treatment Best Management Practices (BMPs), which must be designed per approved numeric sizing criteria. A Storm Water Management Plan, Storm Water Facilities Easement Agreement, Storm Water Facilities Operation and

Maintenance Agreement, and certification of ongoing operation and maintenance of treatment BMPs are each required.

All storm water management plans are required to obtain certification from a City approved third party reviewer.

7. **SUBDIVISION AGREEMENT**

The project developer shall enter into a subdivision agreement with the City of Cupertino providing for payment of fees, including but not limited to checking and inspection fees, storm drain fees, park dedication fees and fees for under grounding of utilities. Said agreement shall be executed prior to recordation of Final Map.

Fees:

a. Checking & Inspection Fees:	Per current fee schedule ($4,482 or 5% improvement cost)
b. Grading Permit:	Per current fee schedule ($3,450 or 6% of improvement costs)
c. Final Map Fee:	Per current fee schedule $11,527
d. Storm Drainage Fee:	Per current fee schedule $11,850 (Residential 83%: $3,777 per AC + $286/unit & Commercial – 17%: $10,169 per AC)
e. Transportation Impact Fee:	Per current fee schedule $134,626 (single family $6,631 per unit; multi-family - $4,112 per unit; retail - $10.67/sf.)
f. Encroachment Permit Fee:	Per current fee schedule ($3,095 or 5% of improvement cost)
g. Park Fees:	Per current fee schedule: $1,080,000 ($60,000/unit)
h. Storm Management Plan Fee	Per current fee schedule $1,484
	By Developer
:	Per current fee schedule $4,132

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.

-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.

8. **FINAL MAP**

A final map will be subject to City Council approval and shall be recorded prior to issuance of building permits. Existing buildings must be demolished prior to recordation of the final map as building(s) cannot straddle between lot lines. The proposed Public Utility, Sanitary, Storm Drainage, and Emergency Vehicular Access Easements shown on Tentative Maps are subject to change based on the final street improvements and utility design.

9. **GATEWAY MONUMENT SIGN**

At street improvement plan stage, the Applicant shall fabricate and install a gateway monument sign in the median of Stevens Creek Boulevard, east of Hwy 85. The precise location, design and size of the gateway monument sign shall be to the satisfaction of the Director of Public Works.

10. **STORM DRAINAGE**

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

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

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

Project will be required to install stormwater trash capture facilities that meet the requirements established by Municipal Regional Permit. Trash capture devices shall

be located onsite and shall be situated so as to ensure trash carried by storm water is collected onsite and does not flow directly to the City storm drain system. Applicant's engineer shall design and size the trash capture devices to ensure that in the event the devices cause an obstruction to onsite stormwater flow, onsite flooding does not occur.

11. **ROADWAY EASEMENT VACATION**

A portion of an existing roadway easement is to be vacated. Easement vacation is subject to City Council approval. Roadway easement must be vacated prior to Final Map or as part of Final Map approval.

12. **TRANSPORTATION IMPACT FEES**

The Project is subject to the payment of Transportation Impact Fees under City's Transportation Impact Fee Program under (Chapter 14.02 of the Cupertino Municipal Code).

13. **PARKS**

The residential project is subject to the payment of park fees in-lieu of park land dedication under City's Park Land Dedication Fee (Chapter 13.08 of the Cupertino Municipal Code) or the Dedications and Reservations (Chapter 18.24 of the Cupertino Municipal Code).

14. **SURVEYS**

A Boundary Survey and a horizontal control plan will be required for all new construction to ensure the proposed building will be set based on the boundary survey and setback requirements.

15. **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, 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.

16. **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.

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

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

19. **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.

20. **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.

21. **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.

22. **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.

23. **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.

24. **TRAFFIC CONTROL PLAN**
The developer must submit a traffic control plan by a Registered Traffic Engineer 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.

25. **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.

26. **FIRE PROTECTION**
Fire sprinklers shall be installed in any new construction to the approval of the City.

27. **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).

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

29. **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.

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

SECTION V: CONDITIONS ADMINISTERED BY THE SANTA CLARA COUNTY FIRE DEPARTMENT

1. **DEVELOPMENT REVIEW:**
Review of this Developmental proposal is limited to acceptability of site access and water supply as they pertain to fire department operations and shall not be construed as a substitute for formal plan review to determine compliance with adopted model codes. Prior to performing any work the applicant shall make application to, and receive from, the Building Department all applicable construction permits.

2. **EMERGENCY RADIO RESPONDER COVERAGE**
As noted on Sheet A1.1) Emergency responder radio coverage in new buildings. All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems. Refer to CFC Sec. 510 for further requirements. This system is required for Building 1.

3. **PUBLIC/PRIVATE FIRE HYDRANTS REQUIRED**
(As noted on Sheet C8A) Provide public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and San Jose Water Company. Maximum hydrant spacing shall be 500 feet, with a minimum single hydrant flow of (to be determined at a later date) residual. Fire hydrants shall be provided along required fire apparatus access roads and adjacent public streets. CFC Sec. 507, and Appendix B and associated Tables, and Appendix C. Approved Hydrant Plan (PC 20-1062) included in plan set. Please note that FDC location will be further reviewed for compliance with SCCFD SP-2.

4. **FIRE SPRINKLERS REQUIRED:**
(As noted on Sheet A0) Approved automatic sprinkler systems in new and existing buildings and structures shall be provided in the locations described in this Section or in Sections 903.2.1 through 903.2.18 whichever is the more restrictive. For the purposes of this section, firewalls used to separate building areas shall be constructed in accordance with the California Building Code and shall be without openings or penetrations. NOTE: The owner(s), occupant(s) and any contractor(s) or subcontractor(s) are responsible for consulting with the water purveyor of record in order to determine if any modification or upgrade of the existing water service is required. A State of California licensed (C-16) Fire Protection Contractor shall submit plans, calculations, a completed permit application and appropriate fees to this department for review and approval prior to beginning their work. CFC Sec. 903.2 as adopted and amended by LOSMC.

5. **WATER SUPPLY REQUIREMENTS**
Potable water supplies shall be protected from contamination caused by fire protection water supplies. It is the responsibility of the applicant and any contractors and subcontractors to contact the water purveyor supplying the site of such project, and to comply with the requirements of that purveyor. Such requirements shall be incorporated into the design of any water-based fire protection systems, and/or fire suppression water supply systems or storage containers that may be physically connected in any manner to an appliance capable of causing **c**ontamination of the potable water supply of the purveyor of record. Final approval of the system(s) under consideration will not be granted by this office until compliance with the requirements of the water purveyor of record are documented by that purveyor as having been met by the applicant(s). 2016 CFC Sec. 903.3.5 and Health and Safety Code 13114.7.

6. **PARKING**
When parking is permitted on streets, in both residential/commercial applications, it shall conform to the following:
- parking is permitted both sides of the street with street widths of 36 feet or more
- parking is permitted on one side of the street with street widths of 28 – 35 feet
- no parking is permitted when street widths are less than 28 feet

7. **FIRE LANE MARKING REQUIRED:**
As noted on Sheet A1.1) Provide marking for all roadways within the project. Markings shall be per fire department specifications. Installations shall also conform to Local Government Standards and Fire Department Standard Details and Specifications A-6. CFC Sec. 503.3.

8. **TWO WAY COMMUNICATION SYSTEM:**
(As noted on Sheet A1.1) Two-way communication systems shall be designed and installed in accordance with NFPA 72 (2016 edition), the California Electrical Code (2013 edition), the California Fire Code (2016 edition), the California Building Code (2016 edition), and the city ordinances where two way system is being installed, policies, and standards. Other standards also contain design/installation criteria for specific life safety related equipment. These other standards are referred to in NFPA 72.

9. **FIRE ALARM SYSTEM REQUIREMENT**
(As noted on Sheet A1.1) The building shall be provided with a fire alarm system in accordance with CFC #907.2.9.

10. **REQUIRED EMERGENCY ACCESS**
(As noted on Sheet A1.1) Minimum clear width: The minimum clear width of fire department access roads shall be 20 feet. Facilities, buildings, or portions of buildings hereafter constructed shall be accessible to fire department apparatus by way of an approved fire apparatus access road (including bridges and culverts) with an asphalt, concrete or other approved driving surface capable of supporting the imposed load of fire apparatus weighing at least 75,000 pounds (34050 kg) or as otherwise determined by the fire code official. The proposed location of the new structure and revised locations of parking spaces impedes the minimum required access to portions of both the new and existing structures. CFC Sec. 503 and SCCFD SD&S A-1.

11. **GROUND LADDER ACCESS**
(As noted Sheet A1) Ground-ladder access rescuer from second and third floor rooms shall be made possible for fire department operations. With the climbing angle of seventy-five degrees maintained, an approximate walkway width along either side of the building shall be no less than seven feet clear. Landscaping shall not be allowed to interfere with the required access. CFC Sec. 503 and 1029 NFPA 1932 Sec. 5.1.8 through 5.1.9.2. Required for all residential townhouses/rowhouses and each emergency egress window.

12. **ADDRESS IDENTIFICATION**
New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7

mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained. CFC Sec. 505.1

13. **CONSTRUCTION SITE FIRE SAFETY**
    All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification SI-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. CFC Chp. 33.

14. **ROADWAY VEHICLE SUPPORT**
    (As noted on Sheet A1.1) Documentation letter from a structural engineer verifying that the roadway over the underground parking structure shall be capable of supporting 75,000 pounds provided.

SECTION VI: CONDITIONS ADMINISTERED BY THE OFFICE OF COMMUNITY DEVELOPMENT – BUILDING DIVISION

1. **CALIFORNIA BUILDING CODE:**
   The proposed scope of work shall comply with the 2019 California Building Code Chapter 11A.

SECTION VII: CONDITIONS ADMINISTERED BY THE CUPERTINO SANITARY DISTRICT

- District will require developer/owner to enter into an Installer's Agreement. If the project is approved in Planning Phase and moves into final design, please have the developer/engineer contact CUSD to initiate the Installer's Agreement.
- New Cupertino Sanitary District Permit Fees & Service Charges were approved on December 5th, 2018 and were implemented on December 18th, 2018.
- Cupertino Sanitary District **Lateral Plan Check Fee ($300)** ***(O.C. 7102.3.1)*** will be required during the Building Permit Phase
- Cupertino Sanitary District **Grease Control Device Plan Check Fee ($800)** ***(O.C. 7102-3.2)*** will be required during the Building Permit Phase for Restaurant.
- Cupertino Sanitary District **Treatment Plant Capacity Fee – Non-Residential Fee** is required for the subject improvements ***(O.C. 7202)*** during the Building Permit Phase
  - Commercial Retail Store (Greater than 5,000 SF) is $0.81/SF
  - Full Service Restaurant is $15.51/SF
- Cupertino Sanitary District **Pump Zone Fee i**s required for the subject improvements. ***(O.C. 7202)*** during the Building Permit Phase
  - Commercial Retail Store (Greater than 5,000 SF) is $0.38/SF
  - Full Service Restaurant is $6.37/SF

- Disconnecting & Capping Fee ($1000) is required for the five existing laterals.
    - Five (5) existing sanitary sewer laterals serving property shall be abandoned and disconnected from the Sanitary sewer mainline and manholes.
    - See attached APN map in submittal 1 for reference.
- To install New Property Line Cleanout (PLCO) as per District Standard, see details 9/12 in Submittal 1.
- Offsite and onsite sewer manholes (MH) shall be constructed to CuSD standards.
- Grant Sanitary Sewer Easements dedicated to CUSD for mainlines located within property.
- Sanitary sewer mainlines within private property shall be located within roadway for ease of maintenance.
- On site sewer that serves more than one legal parcel, District will require "DISTRICT SANITARY SEWER EASEMENT", not PRIVATE/PUE.
- Restaurant and Kitchen area must connect to adequately sized Grease control device. Grease control devices must be sized by Cupertino Sanitary District.
- On Sheet C8, it required the 2.5" force main from basement sump pump to go with sand/oil separator. Attached CUSD standard details 15 for reference. (Only if it is connected to a sewer line to pump out sewer in the basement. It is not applicable if it is a sump pump to pump out the basement in case it floods – for SD purpose)
- A backflow device will be requires if the elevation of the lowest finished floor with plumbing is less than 12" above the nearest upstream manhole.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 21st day of December, 2021 by 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