



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

CITY HALL
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CUPERTINO.ORG

June 22, 2018

Via Electronic and Regular Mail

Reed Moulds, Managing Director
Sand Hill Property Company
965 Page Mill Road
Palo Alto, CA 94304

Re: Vallco Town Center SB 35 Application

Dear Mr. Moulds,

Thank you for your submittal of the “Vallco Town Center Project Application Pursuant to SB 35” on March 27, 2018, and updated supplemental documentation submitted on June 1 and June 19, 2018 (“Project Application”). This letter serves as a determination of whether the Project Application is eligible for streamlined, ministerial review process pursuant to SB 35 (Government Code Section 65913.4(b)(1)(B)) within 90 days from the date the Project Application was submitted. This determination is based on the materials in the Project Application and information in the public domain available to the City as of the date of this letter.

I. ELIGIBILITY FOR STREAMLINED, MINISTERIAL REVIEW

SB 35 creates a streamlined, ministerial approval process for certain multifamily housing developments, if they meet the requirements of Government Code Section 65913.4. Once eligibility within the 90-day period is determined, the eligible project will still be required to undergo development approval processes under SB 35 and applicable City requirements.

The requirements of SB 35 are listed in the following table with a determination of whether the Project Application meets those requirements.

Eligibility Requirements	Yes	No
<p>1. Has HCD determined that the local agency is subject to SB 35?</p> <p>Yes, HCD’s determination regarding SB 35 eligibility for all jurisdictions in California is available online at: http://www.hcd.ca.gov/policy-research/lhp.shtml)</p>	☒	☐
<p>2. Is the project a multifamily housing development (2 or more residential units)?</p> <p>Yes, the proposed project is a mixed use development with 2,402 residential units and therefore, qualifies as a multi-family housing development.</p>	☒	☐
<p>3. Has the applicant dedicated the applicable minimum percentage of units in the project to households making below 80% of the area median income?</p> <p>Yes, HCD has identified the City of Cupertino as a “50% Affordable Housing jurisdiction” for purposes of SB 35 streamlining and ministerial review. Additional information is available online at: http://www.hcd.ca.gov/policy-research/lhp.shtml.</p> <p>The Project Application includes 2,402 dwelling units, of which 50% (1,201 units) are affordable to very-low income and low income households earning annual incomes less than 80% of the Area Median Income.</p>	☒	☐
<p>4. If the site is in a city, is a portion of the city designated by the United States Census Bureau as either an “urbanized area” or “urban cluster,” or, if the is in an unincorporated area, is the parcel entirely within the boundaries of “urbanized area” or “urban cluster”?</p> <p>Yes, the U.S. Census data identifies the City of Cupertino as being a part of the San Jose urbanized area.</p> <p>Additional information is available online at: https://www.census.gov/geo/maps-data/maps/2010ua.html.</p>	☒	☐

Eligibility Requirements	Yes	No
<p>5. Does at least 75% of the perimeter of the site adjoin parcels currently or formerly developed with “urban uses”?</p> <p>California Government Code Section 65913.4(h)(8) defines “urban uses” to mean any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.</p> <p>The site at which the development is proposed is adjacent to residential uses to the west, commercial uses across Stevens Creek Boulevard to the south, residential mixed-use and office uses across N. Wolfe Road to the east, a hotel (under construction) to the northeast and a parking lot to the northwest. Therefore, more than 75% of the perimeter of the site adjoin parcels currently developed with “urban uses” as defined in Government Code Section 65913.4(h)(8).</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p>6. Does the site have either zoning or a general plan designation that allows for residential use or residential mixed-use development and does the development designate at least two-thirds of the square footage for residential use?</p> <p><i>Residential or Mixed Use Designation:</i></p> <p>The Cupertino General Plan: Community Vision 2015 – 2040 identifies the parcels at the project site as the Vallco Shopping District Special Area which has the following General Plan land use designation: Commercial/Office/Residential. This land use designation allows mixed-use developments with commercial, (including retail and hotel uses), office and residential uses.</p> <p>The current zoning of the property is Planned Development with General Commercial uses (P(CG)) south of Vallco Parkway and Planned Development with Regional Shopping uses (P(Regional Shopping)) north of Vallco Parkway. While the zoning does not allow residential uses, the General Plan designation allows for a mix of uses including residential.</p> <p>Government Codes section 65913.4(a)(5)(B) provides that in the event an objective zoning standard (here, the zoning designation)</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Eligibility Requirements	Yes	No
<p>is mutually inconsistent with an objective general plan standard (here the General Plan land use designation), the general plan designation prevails. The project proposes a mixed use development with residential, commercial and office uses. Therefore, the proposed project is consistent with the General Plan land use designation allowing a mix of uses, including residential.</p> <p><i>Two-thirds Requirement:</i></p> <p>SB 35 requires that two-thirds of the square footage of a proposed development be designated for residential use. The definition of "floor area" in the Cupertino Municipal Code Section 19.08.030(F) is being used to determine what percentage of the proposed development is designated for residential use. The Municipal Code defines "floor area" to mean "the total area of all floors of a building measured to the outside surfaces of exterior walls, and including the following:</p> <ol style="list-style-type: none"> 1. Halls; 2. Base of stairwells; 3. Base of elevator shafts; 4. Services and mechanical equipment rooms; 5. Interior building area above fifteen feet in height between any floor level and the ceiling above; 6. Basements with lightwells that do not conform to Section 19.28.070(I); 7. Residential garages; 8. Roofed arcades, plazas, walkways, porches, breezeways, porticos, courts, and similar features substantially enclosed by exterior walls; 9. Sheds and accessory structures. <p>"Floor area" shall not include the following:</p> <ol style="list-style-type: none"> 1. Basements with lightwells that conform to Section 19.28.070(I); 2. Lightwells; 3. Attic areas; 		

Eligibility Requirements	Yes	No															
<p>4. Parking facilities, other than residential garages, accessory to a permitted conditional use and located on the same site;</p> <p>5. Roofed arcades, plazas, walkways, porches, breezeways, porticos, courts and similar features not substantially enclosed by exterior walls.”</p> <p>Cupertino Municipal Code Section 19.08.030(A) defines an “attic” to mean “an area between the ceiling and roof of a structure, which is unconditioned (not heated or cooled) and uninhabitable.” Therefore, mechanical electrical and other areas between the ceiling and roof are not included in the calculation of floor area.</p> <p>Cupertino Municipal Code Section 19.08.030(F) defines “first floor” to mean “that portion of a structure less than or equal to twenty feet in height, through which a vertical line extending from the highest point of exterior construction to the appropriate adjoining grade, passes through one story.”</p> <p>Based on a review of the March 27 plans and supplemental information, the residential and non-residential floor areas have been appropriately designated.</p> <p>The Project Application complies with this requirement of SB 35 by proposing a mixed-used residential development consistent with General Plan land use designation and Municipal Code definitions with at least 2/3rds of the area designated for residential use as follows:</p> <table border="1" data-bbox="293 1352 1177 1570"> <thead> <tr> <th>Land Use</th> <th>Square Footage</th> <th>% of Total</th> </tr> </thead> <tbody> <tr> <td>Residential</td> <td>4,961,904</td> <td>66.8</td> </tr> <tr> <td>Office</td> <td>1,981,447</td> <td>26.7</td> </tr> <tr> <td>Retail</td> <td>485,912</td> <td>6.5</td> </tr> <tr> <td>TOTALS</td> <td>7,429,263</td> <td>100</td> </tr> </tbody> </table>	Land Use	Square Footage	% of Total	Residential	4,961,904	66.8	Office	1,981,447	26.7	Retail	485,912	6.5	TOTALS	7,429,263	100		
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<p>7. Does the project involve a subdivision of land and the development is subject to a requirement that prevailing wages will be paid and a skilled and trained workforce will be used?</p> <p>The Project Application includes a tentative map to allow the subdivision of the parcels on the site into up to 2,500 condominiums (air parcels). In addition, the applicant, has certified</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>															

Eligibility Requirements	Yes	No
<p>that the project will be subject to the applicable requirements of California Government Code Section 65914.3(a)(8) related to the payment of the general prevailing rate of per diem wages for all construction workers and that a skilled and trained workforce will be used.</p>		
<p>8. Does the project meet density requirements, “objective zoning standards,” and “objective design review standards”?</p> <p><i>Density:</i></p> <p>The project meets the maximum allowable General Plan density for the site. The project is located on 50.822 acres, prior to dedication of required right-of-way to accommodate frontage improvements. Based on the City’s General Plan, the maximum allowed density is 35 dwelling units per acre for a maximum residential yield of 1,778.77 units. While ordinarily the City rounds down the unit count to disallow fractional units, since the applicant is applying for a density bonus (discussed further below), all components of the density calculations must be rounded up pursuant to the requirements of state Density Bonus Law. In this case, the base maximum residential yield would be 1779 units.</p> <p><i>Objective Zoning Standards:</i></p> <p>The General Plan contemplates the preparation of a specific plan for the project site. The specific plan is expected to include zoning standards. The draft specific plan is being prepared and was not adopted as of the date the Project Application was submitted to the City. Only those objective planning standards in effect at the time the Project Application was submitted to the City can be applied to the project (Government Code Section 65913.4(a)(5)). As a result, there is no specific plan applicable to the Project Application.</p> <p>There is a zoning designation for the project site which is inconsistent with the General Plan land use designation. Therefore, under Government Code Section 65914.3(a)(5)(B), where there is a conflict between the General Plan and zoning, the standards in the General Plan prevail. As stated above, the Project Application is consistent with the land use designation in the General Plan. In addition, the Project Application provides adequate information at</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Eligibility Requirements	Yes	No
<p>this stage of the review to determine if it is consistent with the objective zoning standards in the Landscape Ordinance and Green Building Ordinance. During the next 90 days allowed under SB 35, the applicant shall provide additional information to assure compliance with these applicable objective development standards and their implementation.</p> <p>The Community Form Diagram (Figure LU-2) in the Land Use Element of the General Plan identifies the heights within each of the Special Areas and Neighborhoods within the City. For the Vallco Shopping District Special Area, the Community Form Diagram identifies the Maximum Height to be “Per Specific Plan.” However, since a specific plan has not been adopted for this Special Area, there are no applicable height limits. Therefore, the Project Application, at a maximum height of up to 249’7” (including the elevator overrun,) conforms to the General Plan.</p> <p>In addition to maximum heights, the Community Form Diagram also identifies Building Planes a project must meet. Figure LU-2 states as a foot note: “Maintain the primary building bulk below a 1:1 slope line drawn from the arterial/boulevard curb line or lines except for the Crossroads Area” and “For the North and South Vallco Park areas (except for the Vallco Shopping District Special Area): Maintain the primary building bulk below a 1.5:1 (i.e., 1.5 feet of setback for every 1 foot of building height) slope line drawn from the Stevens Creek Blvd. and Homestead Road curb lines and below 1:1 slope line drawn from Wolfe Road and Tantau Avenue curb line.” The proposed project meets this standard by maintaining the 1:1 slope line for all proposed buildings from the arterial/boulevard curb line.</p> <p><i>Objective Design Review Standards</i></p> <p>There are no specific “objective design review standards” for this site (e.g., architectural design standards). However, there are standard project requirements that are broadly applicable to development within the City (for example, standards that relate to streets). As allowed by SB 35, these standards will be applied to the project Application and are contained in Attachment B.</p>		

Eligibility Requirements	Yes	No
<p>9. Is the project outside of each of the following areas (the full text of the criterion listed below can be found in Section 65913.4(a)(6)?</p> <ul style="list-style-type: none"> • Coastal zone – <i>Yes, the project site is outside a coastal zone. The City of Cupertino’s General Plan does not identify any portions of the City within a Coastal Zone.</i> • Prime farmland or farmland of statewide importance – <i>Yes, the project site is outside a prime farmland or farmland of statewide importance. The City of Cupertino’s General Plan does not identify any portions within the City to be prime farmland or farmland of statewide importance.</i> • Wetlands as defined under federal law – <i>Yes, the project is outside any wetlands as defined under federal law. There are no wetlands as defined under federal law identified on the project site.</i> • High or very high fire hazard severity zones – <i>Yes, the project site is outside the high or very high fire hazard severity zones. The high or very high fire hazard severity zones are identified in Chapter 16.74 of the Municipal Code.</i> • Hazardous waste site – <i>Yes, the site is outside a hazardous waste site. SB 35 references CA Health and Safety Code Section 65962.5 and 25356. The sites listed pursuant to CA HSC Section 25356 are a subset of the sites listed pursuant to CA HSC 65962.5. Background, history and detailed explanation of Government Code Section 65962.5 is provided by the California Environmental Protection Agency (CalEPA) online at:</i> https://calepa.ca.gov/sitecleanup/corteselist/Background/ <i>The Cortese list databases list cleanup sites from multiple sources including the Department of Toxic Substance Control (DTSC) and the State Water Resources Control Board (SWRCB).</i> <i>The DTSC Envirostor database is available online at:</i> https://www.envirostor.dtsc.ca.gov/public/map/?myaddress=cupertino <i>This database does not indicate any cases on the project site. Therefore, no clearance is required from DTSC for the project site.</i> <i>The SWRCB Geotracker database is available online at:</i> http://geotracker.waterboards.ca.gov/map/?CMD=runreport&myaddress=cupertino <i>CalEPA’s website states that “sites that are no longer considered “active” because the Water Board, a regional board,</i> 	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Eligibility Requirements	Yes	No
<p><i>or the County has determined that no further action is required because actions were taken to adequately remediate the release, or because the release was minor, presents no environmental risk, and no remedial action is necessary, are listed as "closed" or deleted from the list." (Online at: https://calepa.ca.gov/sitecleanup/corteselist/section-65962-5c/)</i></p> <p><i>The Geotracker database does not indicate any active Leaking Underground Storage Tanks (LUSTs) cases at the project site. It indicates two "closed" Leaking Underground Storage Tanks (LUSTs) cases at the former Sears and JC Penney Automotive centers for which closure letters were issued by the Santa Clara Valley Water District (SCVWD). The letters, issued in 1994 and 1999 respectively, indicate that there are no restrictions on changes to the land use at these sites. The closure letters are available online at (Click on Tab for "Site Maps/Documents"):</i></p> <p><i>https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0608552828.</i></p> <p><i>https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0608500770.</i></p> <p><i>Note: DTSC is not responsible for monitoring or inspecting LUSTs and therefore, no clearance from DTSC is necessary.</i></p> <ul style="list-style-type: none"> <i>• Earthquake fault zones in an official map published by the State Geologist, unless the development complies with state seismic protection building code standards and by local building standards. – Yes, the project site is outside earthquake fault zones and will comply with applicable state seismic protection building code standards and local building standards.</i> <i>• FEMA designated flood plain or floodway – Yes, the project site is outside a FEMA designated flood plain or floodway.</i> <i>• Lands designated for conservation in a habitat conservation plan – Yes, the project site is outside lands designated for conservation in a habitat conservation plan.</i> <i>• Protected species habitat – Yes, the project site is outside any protected species habitat.</i> <i>• Lands under a conservation easement – Yes, the project site is outside lands under a conservation easement.</i> 		

Eligibility Requirements	Yes	No
<ul style="list-style-type: none"> • Require demolition of (a) housing subject to recorded rent restrictions, (b) housing subject to rent control, (c) housing occupied by tenants within past 10 years, or (d) an historic structure placed on a local, state, or federal register –<i>Yes, the project site is outside an area that would involve the demolition of any housing subject to rent restriction, rent control or occupied by tenants in the past 10 years or an historic structure placed on a local, state or federal register. The site has historically been used and operated as a regional mall. There has never been any housing located on the project site. While the site is identified as a “Community Landmark” in the City’s General Plan, the site does not contain an “historic structure that was placed on a national, state or local historic register” as referenced in SB 35.</i> • Previously contained housing occupied by tenants that was demolished within past 10 years – <i>Yes, the project site is outside an area that previously contained housing occupied by tenants that was demolished within the past 10 years. The site has historically been used and operated as a regional mall.</i> • Land governed by the Mobilehome Residency law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act. – <i>Yes, the project site is outside land governed by the Mobilehome Residency law, the Recreational Vehicle Park Occupancy Law, the Mobilehome Parks Act, or the Special Occupancy Parks Act The project site has historically been used and operated as a regional mall. There has never been any housing, mobile or otherwise, located on the project site. Therefore, the site is not governed by any of the laws and Acts identified.</i> 		
<p>10. Has the project proponent certified that either that the entire development is a “public work” for purposes of the prevailing wage law or that the construction workers will be paid at least the prevailing wage?</p> <p>The applicant has committed in its Project Application that all construction workers will be paid at least the prevailing wage. The City shall obtain this written certification prior to approving the project in accordance with SB 35 and City permitting procedures.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Eligibility Requirements	Yes	No
<p>11. Has the project proponent certified that “a skilled and trained workforce” will be used to complete the development, if the requirement is applicable?</p> <p>California Government Code 65914.3(a)(8)(B)(ii) defines a skilled and trained workforce for purposes of this section to have “the same meaning as provided in Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.” The applicant has affirmed in the Project Application that it will use skilled and trained workforce to complete the development. The City shall obtain this written certification prior to approving the project in accordance with SB 35 and City permitting procedures.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Based on review of the Project Application and available information to the City and as demonstrated in the “Eligibility Requirements” table above, the Project Application is eligible for streamlined, ministerial review under SB 35.

II. STATE DENSITY BONUS LAW

The Project Application is seeking an increase in residential density under the Density Bonus Law.

The residential “base” density under the General Plan allows 1,779 units. The project is proposing a total of 2,402 units. Because the project proposes 50% of the total units as affordable, the project qualifies for a 35% density bonus under the Density Bonus Law. The project proposes 1,210 units as affordable (360 very low income and 841 low income units). This 35% density bonus results in 623 additional units for a total of 2,402 units. The application of the Density Bonus Law is further explained below.

a. Density Bonus:

The project is located on 50.822 acres prior to dedication of required right-of-way to accommodate frontage improvements. Based on the City’s General Plan, the maximum allowed density is 35 dwelling units per acre for a maximum residential yield of 1,778.77 units. While ordinarily the City rounds down the unit count to disallow fractional units, since the applicant is applying for a density bonus, all components of the density calculations must be rounded up pursuant to the

requirements of state density bonus law. In this case, the base maximum residential yield would be 1,779 units.

The proposed project includes 360 units (20% of the units) affordable to households making 50 percent of the area median income (very-low income households) and 841 units (47% of the units) affordable to households making 80 percent of the area median income, making the project eligible for the maximum density bonus of 35%, which allows an additional 622.65 market-rate units (rounded up to 623 units for purposes of density bonus) within the project. Therefore, the project is allowed a total of 2,402 units in accordance with state density bonus law.

b. Incentives/Concessions:

In accordance with the state Density Bonus Law, when a project provides a certain percentage of affordable housing, the city must grant incentives or concessions requested by the developer. The concession categories that relate to the project site include 1) a reduction in site development standards or a modification of zoning code requirements or architectural design requirements, which result in identifiable and actual cost reductions to provide for affordable housing costs or affordable rents as determined by state law, or 2) other regulatory incentives or concessions proposed by the developer or city that result in identifiable and actual cost reductions to provide for affordable housing costs, or for rents for the specified targeted units. Since the proposed project proposes 15% of the total units allowed in the project (360 units) affordable to households making 50 percent of the area median income, it is eligible for three incentives or concessions pursuant to the Density Bonus Law.

The SB 35 application requests two concessions as follows:

1. Relief from the requirement in Cupertino Municipal Code section 19.56.050.G for affordable units to be of an identical design as the market rate units; and
2. Relief from the minimum amount of retail square footage required in the General Plan of 600,000 square feet (the project proposes 400,000 sq. ft.).

In addition, the project description in the March 27 submittal states for the third concession that, "If the City properly identifies an inconsistency with an objective zoning standard and waiving that standard would achieve cost reductions, this final concession is reserved for such purposes."

Based on the supplemental information submitted on June 1 and 19, 2018 wherein a more detailed explanation was provided regarding the concession relating to the

BMR units, the City has determined that two separate concessions are required. Thus, a total of three concessions are required for the project as proposed:

1. A concession to allow the affordable units to be studios and one bedroom units instead of a mix of units comparable to the units within the development pursuant to BMR Housing Mitigation Procedure Manual Section 2.3.4 (A);
2. A concession to allow the studio and one bedroom affordable units to be smaller in size than the studio and one bedroom market rate units pursuant to BMR Housing Mitigation Procedure Manual Section 2.3.4 (B); and
3. A concession to allow 400,000 square feet of retail, a reduction of 200,000 square feet, where 600,000 square feet is required in the General Plan pursuant to Strategy LU-19.1.4.

III. ADDITIONAL ITEMS REQUIRED

While the City has determined within the prescribed 90-day period under SB 35 that the Project Application is eligible for streamlined, ministerial review, the applicant shall be required to submit additional information as identified in Attachment A in order for the City to confirm the proposed project as it relates to the applicable objective planning standards will be properly implemented. The items identified in Attachment A and any additional items shall be submitted in a timely manner to ensure that the City can adequately conduct this review within the 91 – 180 day review period.

In addition, please find attached Attachment B which contains the standard project requirements that are broadly applicable to development within the City and thus, will be applied to the proposed project.

The City will make a final determination on the project within the 180-day timeframe dictated by SB 35 (Monday, September 24, 2018).

Sincerely,



David Brandt
City Manager

Enclosures:

- Attachment A – Implementation Items
- Attachment B – Standard Project Requirements

IMPLEMENTATION ITEMS

I. General Requirements:

1. Identify tentative locations for public artwork in compliance with Section 19.148.050(B).
2. Submit a fiscal impact analysis pursuant to General Plan Strategy: LU-8.2.1.
3. Provide a preliminary Trash Management Plan and contact Environmental Services Division for coordination with Recology. Chapters in the Municipal Code related to Garbage, Recycling and Organic Waste Collection include Chapters 6.24, 9.16 & 9.18.
4. Please provide a preliminary Affordable Housing Plan including a plan for administration of affordable units.

II. Information for Planning Review:

5. P-1001 through P-1015 - Show vantage point location on Key Plan for all perspective views.
6. P-0101 – Provide information on proposed number of parking stalls for all non-residential land uses in the Data Table.
7. P-0201 –
 - a. Indicate square footage of each building to be demolished.
 - b. Provide Tree protection plan for all trees to be retained. Show tentative location of protective fencing to be installed with construction period recommendations from an ISA certified arborist.
 - c. Indicate portions of Perimeter road to be demolished/removed.
 - d. Please provide plans at a scale so that one building/block fits on one sheet of paper. Smaller scale plans may be included for context.
8. P-0202 –
 - a. Indicate adjacent land uses
 - b. Please note that improvements proposed in the right-of-way will require subsequent encroachment permit(s) through the Public Works Department.
 - c. Show all new property lines after dedication. Indicate length of new property line after dedications.
 - d. Show all proposed setbacks from the new property lines after dedication.
 - e. Remove note about portions of roads being closed “permanently”.

- f. Provide roadway dimensions, and ensure all measurements are dimensioned to the property lines, curb lines, and centerline of the road. Coordinate dimensions with Civil Engineer to ensure consistency.
9. P-0202.A – Provide summary table of building areas and difference between the two different alternatives presented. Please indicate the change in the floor plan at the street level.
10. P-0203 – Show all building setbacks from new property lines after street dedication.
11. P-0301 – Coordinate the existing surface plan with the Civil Engineer to ensure consistency. There are errors in the existing topography that must be corrected and rectified in the Development Application plan set.
12. P-0303 – Show all parcel property line dimensions and parcel areas. Also show in data table with grand total to document total parcel size before and after required street dedications.
13. P-0304 – Same as above.
14. P-0305 – Show horizontal and vertical dimensions for all easements shown.
15. P-0306 – Show all existing easement widths.
16. P-0307 – Show all proposed easement widths.
17. P-0307.A – Show all proposed easement widths.
18. P-0401 – Show extent of any underground shoring structures or devices that will extend past the outside line of the parking garage. Please note that no shoring devices or structures may be placed within the public right-of-way without review and approval of the City.
19. P-0403 – Explain how yellow landscape areas are not on green roof or podium structure (in that most of them are interior of the red line indicating the extent of the below grade parking structure) capture and treat storm water.
 - a. Indicate approximate depth and vertical dimensions of cisterns adjacent to the garage.
 - b. Some green areas are at street level and not on the green roof as indicated; please correct.
 - c. Indicate percentages of each type of Site Drainage Areas in the table.
20. P-0405 – Indicate if communication & electric lines are above or below ground. Pursuant to Section 19.60.060(G), all wires, pipes, cables, utilities and connections shall be placed in underground or subsurface conduits subject to the specifications of the subdivision ordinance of the City.

21. P-0406 –
 - a. Indicate approx. size of below grade cisterns in gallons.
 - b. Please explain what “outline of optional underground garage addition” means.
 - c. Include Recycled Water in the legend, and show the full extents of Recycle Water facilities.
 - d. Coordinate with Cupertino Sanitary District and show the full extent of the sanitary sewer work necessary to serve the project.
22. P-0408 – Show location of planned street closures for special events.
23. P-0411 –
 - a. Show location of planned pedestrian access along Stevens Creek Blvd and N. Wolfe Road during construction. The construction fencing appears to fence off the sidewalk. Show path of travel for pedestrians on all public street frontages. Indicate any structures needed to ensure pedestrian safety.
 - b. Show inlet protection on all inlets within and surrounding the site. This includes the inlets in the tunnel.
 - c. Refine the location of the fiber rolls to ensure adequate vehicular access to the properties to the north. Further the plan shows access being blocked to some of the driveways to the properties to the north. Either modify the plans to show access being provided, or provide an approval letter from both the property owners and the Fire Department stating this is acceptable.
24. P-0501 – Show residential only and residential/retail separately on the Street Level Land Use Plan for clarity.
25. P-0503 – Indicate path of travel over bridge between public elevators to accommodate pedestrians.
26. P-0504 – Clarify whether there is a Class III Bikeway on the entire length of Street B and Street 9. If not, please update.
27. P-0505 – Clarify why Street 5 and Street A would need to be closed to vehicles during community events.
28. P-0507 – Provide summary table of all open space areas indicated with square footages and acreages.
 - a. Clearly indicate which areas are publicly accessible and during which hours of the day.
 - b. Clearly indicate the amounts of private open space for each unit. Do units have private open space provided? All the private open space indicated on this plan is common private open space.

29. P-0508 – Cross sections shall provide property lines and dimensions from the property lines to the road center line, road improvements and the buildings.
30. P-0510 –
 - a. Indicate the construction sequencing of the parking garage(s) on this plan.
 - b. AMC Theater is no longer and operating tenant. Please correct the plan.
31. P-0602 – Provide the quantity of trees anticipated for removal within the Public Right of Way.
32. P-0603 – Provide the quantity of new trees anticipated to be planted in the Public Right of Way. Species and locations to be coordinated with the Department of Public Works.
33. P-0607 –
 - a. The Tree Disposition Plan does not indicate the trees within the parking lots closest to the Bay Club. These trees are considered “development trees,” a subset of “protected trees.” Please update the Tree Disposition Plan, the total number of trees proposed to be removed and the Arborist Report.
 - b. Indicate which trees are street trees. Please note that trees removal and planting within the public right-of-way a will require subsequent encroachment permits by the Public Works Department.
34. P-0609 – Clarify the material for the flexible paving designed for the Secondary Walkways.
35. P-0701 –
 - a. Provide photometric plan that shows that no light spills over the property line.
 - b. Please indicate property lines on this plan to confirm whether the lights proposed on the adjacent property near Stevens Creek Blvd; along Perimeter Road on the western side of the project are on the project site. .
 - c. Provide lighting types for Residential Amenity Area; currently called out as “TBD”. Lighting from these fixtures must be included in the Photometric Plan.
36. P-0751 – P-0755 – Signage is not being reviewed or approved at this stage of the planning process. These are subject to subsequent approvals as acknowledged in your project description and plans.
37. P-0800.B2/B3 –
 - a. Indicate number of parking spaces by type (residential/office/retail/shared.)
 - b. Provide key section to show below/above ground location of each level. Indicate ramp slopes, and provide finished floor elevations.
 - c. Indicate “safe pedestrian routes” in all parking garages at all levels.

38. P-0800.B1 – Same as above.
39. P-0800.BM – Same as above.
40. P-0800.01 through .07 – Same as above.
41. P-0800.08 through .11 – Provide key section to show below/above ground location of each level. Indicate ramp slopes.
42. P-0821 –
 - a. Provide top of roof elevation (highest point of structure) both from above sea level and from existing natural grade. Since the application includes a subdivision, please indicate elevation from final proposed grade.
 - b. Indicate location and type of all entrances.
43. P-0831 – The building cross sections must be provided by block and at a scale of 1/8"=1' or at a scale where one building/block will fit one sheet of paper. Please contact staff to coordinate.
44. P-0853 - Include the property lines, and provide dimensions from the street improvements to the property lines and roadway centerline. Ensure adequate dimensions are provided to locate all facades of the buildings.
45. Mechanical ventilation of building and garages are not provided or shown. Provide detail on elevations, roof plans and site plans. These are subject to the requirements of Section 19.60.060(H).
46. Other mechanical equipment is not shown, such as on the residential towers. Provide height and screening materials of mechanical equipment and screening on all buildings, including the residential towers.
47. Indicate square footage and % of net lot area (after dedications and access easements) – existing and proposed paving area and amount of paving being replaced.
48. Provide an estimate of employees projected.
49. Provide a material board.

III. Information for Tentative Map Review:

1. Cover Sheet:
 - a. Include total number of proposed condominium units, with types (residential, commercial, etc.) to the title.

2. Topographic Survey Sheets:
 - a. The topographic survey shows three driveway openings off of Stevens Creek Blvd. The easterly most driveway approach was closed a number of years ago. Please correct the discrepancy with updated and current information.
 - b. Topographic survey should provide street dimensions, including dimensions to the center line of adjacent rights of way.
 - c. Update striping and curb alignments as necessary (i.e. TM2.4 has two sets of striping shown on both Vallco Parkway and Wolfe Rd; and the median island on Wolfe Road does not appear to incorporate recent improvements constructed as part of the AC2 project.
 - d. All contours should have elevations numbers for clarity.
 - e. Ground level finished floor elevations shall be provided for all structures.
 - f. Provide Right of Way dimensions, including dimensions to the center line of the existing streets.
 - g. Update topographic information for the driveway to the 19800 Development on the east side of Wolfe Road. Two sets of topo lines have been provided.
3. Existing Easements Sheets:
 - a. Provide a legend of the various easements on Sheet TM4.0 for clarity.
 - b. Provide a list or label the recorded document number for each easement, and which party(ies) hold(s) interest in said easement.
 - c. Provide dimensions for the easement as appropriate.
 - d. Ensure all easements of correct and consistent with the recorded documents.
 - e. Sheet TM4.2 indicates a basis of bearing on Vallco Parkway, however the cover sheet indicates the basis of bearing is on Wolfe Road. Please rectify this discrepancy.
 - f. Sheet TM4.3 labels the tunnel easement as air rights. Please clarify that this is a tunnel easement.
 - g. Sheet TM4.4 shows the air rights easement of the bridge over Wolfe Road. Please indicate the vertical limits of the easement.
 - h. Sheet TM4.4 shows that certain PUEs under the air rights easement are to be vacated. Please clarify what easements these are, and why they're being vacated.
 - i. Sheet TM4.4 shows an air rights strip easement east of Wolfe Road. Please clarify what this easement is, and why it is being vacated.
 - j. Sheets TM4.5 and TM4.8 shows the stormwater easement to be vacated. Please indicate that these easements are to be relocated in connection with the relocation of the storm water treatment facilities.
4. Easements for proposed Project Sheets:
 - a. Provide a legend of the various easements on Sheet TM5.0 for clarity.
 - b. All existing easements shall be labelled with their recorded document numbers.

- c. The relocated Public Access Easements on both sides of Wolfe Road shall be expanded to incorporate pedestrian access, and should extend to furthest driveway approach of the properties to the north. Coordinate the extents of the easement with the City Engineer.
 - d. Public Utilities Easements shall be provided from Wolfe Road to each of the properties located north of the development. The width of these easements shall be equal to or greater than the existing PUE widths. Coordinate the extents of the easement with the City Engineer.
 - e. Provide Right of Way dimensions, including dimensions to the center line of the existing streets.
 - f. Sheet TM5.4 continues to show the PUEs beneath the air rights easement, even though Sheet TM4.4 indicated these easement were to be vacated. Please clarify the intention for these easements and modify the plans accordingly.
 - g. The Public Roadway and Landscape easement along the west side of Wolfe Road, between Stevens Creek Blvd and Valco Parkway shall be expanded as necessary to incorporate the proposed pedestrian and bicycle access. This area shall be dedicated to the City in a form acceptable to the City Engineer.
 - h. The pedestrian access along Stevens Creek Boulevard shall be dedicated to the City in a form acceptable to the City Engineer.
 - i. If the proposed green roof is to be used for public park purposes, public access should be provided from the public right of way. Please show public access as appropriate.
 - j. Show all easements on adjacent properties that benefit the project.
5. Grading and Drainage Project Sheets:
- a. Applicant shall set up a meeting with the City's Public Works Department to review comments and questions on these sheets.
 - b. Provide grading quantities on the grading plans, with import and export numbers provided.
 - c. Grading plans do not include adequate information for onsite grading and drainage. Additional information showing how onsite drainage will be collected, treated and released are required.
 - d. Correct existing and proposed land uses to read "Commercial/Office/Residential."
 - e. Provide a Demolition Plan.
 - f. Include cross sections of the lots showing existing and finish grades, pad elevation, building elevations, limits of cut and fill.
 - g. Provide information that clarifies how storm drainage from within the building footprint is to be addressed.
 - h. Provide contour elevation information for all existing contours.

- i. There appear to be a number of utility conflicts throughout the project site between proposed sanitary sewer and storm drainage facilities. These will need to be rectified.
- j. Existing utility mains, both onsite and in the public right of way, should be shown on the plans. This information should include vertical information where available and appropriate, and the utility main size.
- k. Provide information for the proposed utilities that includes size, slope and pipe materials.
- l. Provide more detailed grading information at all underground parking entrances to ensure drainage is directed away from the openings.
- m. Proposed joint trench facilities, including communications, electrical, gas (if applicable) and cable facilities, are not clearly shown on plans. Please clearly indicate these facilities so that the service connections are easily identifiable.
- n. All joint trench and dry utility boxes shall be placed behind the curb line. The current plans show a number of utility boxes in the traveled way.
- o. Street dimensions should also be dimensioned to property lines (on both sides of the street) and to the street centerline (typical all sheets).
- p. The complete limits of sanitary sewer and reclaimed water facilities need to be shown on the plan set. Notes referring to future work are not acceptable.
- q. There appear to be random storm drainage infrastructure shown on the plans. The facilities do not have information indicating where they connect to the main storm drain system. Please provide this information where it is missing, or remove the stray symbols as appropriate.
- r. Provide details on the stormwater treatment facilities. Various cisterns are proposed throughout the project. Additional information is required to evaluate these facilities.
- s. The full extent of recycled water main improvements shall be shown on the plan. The southerly end of the recycled water main shall be extended either through the intersection of Vallco Parkway and Wolfe Road, or to the intersection of Stevens Creek Blvd and Wolfe Road.
- t. Transformers for onsite power should be located onsite and outside of the public sidewalk areas.
- u. The median on Wolfe Road, north of Stevens Creek Blvd is proposed to be relocated. This will most likely result in the need to modify the cross-slope of the road in the area. Show the extent of the work needed to perform this work.
- v. The “pork chop” islands at the intersection of Wolfe Road and Stevens Creek Blvd shall be removed as part of this project. This will require modifications to the traffic signals at this intersection, as well as striping modification. Please show this information on the plans.

- w. There appears to be a conflict between existing electrical facilities and the new sewer line along Wolfe Road, just north of Stevens Creek Blvd.
 - x. New utility facilities are proposed within the property limits of both of the properties to the north of the site, as well as to the property to the east of the easterly project parcel. Provide the recorded easement information, or relocate these facilities outside of the private property.
 - y. Clearly indicate the extents of any existing utilities that are proposed for abandonment or removal.
 - z. Along Perimeter Road, there appear to be a number of joint trench vaults located over storm drain and water utilities. Please ensure utilities are not stacked on top of each other
 - aa. The storm drain main along Perimeter Road appears to have nearly 1000' between manholes. Please provide intermediate structures to aid in maintenance.
 - bb. Shift the curb ramps across the driveways to Stevens Creek Blvd so that they line up with the sidewalk. This will also place the curb ramps in the area to be dedicated.
 - cc. Where to the catch basins shown along Stevens Creek Blvd connect to?
 - dd. There appear to be numerous joint trench vaults located in the travelled right of way on Stevens Creek Blvd. Locate these facilities behind the curb.
 - ee. Ensure street names are provided on all plan sheets (sheet TM6.10 should call out Stevens Creek Blvd).
 - ff. Applicants engineer shall show that proposed storm drainage from the site does not exceed existing flow quantities. If proposed project increases storm water flows to the City system, applicant's engineer shall provide a report and calculations showing the impact of those flows, and the plans shall show the work necessary to address those impacts.
 - gg. Backflow Preventers: Provide location of backflow preventers. All exterior utilities are subject to the requirements of Section 19.60.060(G).
6. Stormwater Treatment Project sheets:
- a. The applicant will be responsible for coordinating the stormwater treatment design with a qualified stormwater review consultant. The applicant shall provide a letter from the consultant stating that the conceptual design is and adequate and acceptable form of treatment, and that it appears to conform to the NPDES requirements. The approved list of consultants can be found here: http://www.scvurppp-w2k.com/pdfs/1415/consultants2015/SCVURPPP_Qualified_Consultants_List_2015.pdf
 - b. The plans indicate 4.508 acres of at grade landscaping. This area does not appear to be called out on the plan view. Please show this area on the plan. If any of this

area is located on the building podium, provide information of how drainage will be addressed.

7. General Requirements:

- a. The City will review the project for compliance with Municipal Code Chapter 13.08, Parkland Dedication.

ATTACHMENT B

STANDARD PROJECT REQUIREMENTS

The following is list of standard requirements that the City imposes broadly on all development. This list is not exhaustive and additional items may be identified as additional information is submitted. Where blanks are indicated, specifics will be provided in the project determination letter. In addition, clarifications may be made to the requirements identified below prior to project determination based on additional information provided.

1. **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.
2. **ANNOTATION OF THE STANDARD PROJECT REQUIREMENTS:** These Standard Project Requirements must be incorporated into and annotated on the building plans.
3. **APPROVED EXHIBITS:** The ministerial approval is based on _____.
4. **DEVELOPMENT ALLOCATION:** The applicant shall receive an allocation of _____ (square feet) (units) of the _____ (retail commercial) (office industrial) (residential) allocations for _____(area).
5. **AFFORDABLE UNITS:** The applicant shall provide 50% of the project as affordable to households making 80% below area median income for a period of _____ as follows:
 - a. 360 units affordable to households making 60% below area median income
 - b. 841 units affordable to households making 80% below area median income.

The applicant shall prepare a covenant, which shall be subject to review and approval by the City Attorney, to be recorded prior to the issuance of building permits.

6. **BELOW MARKET RATE HOUSING PROGRAM:** The applicant shall participate in the City's Below Market Rate (BMR) Housing Program by:
 - a. Complying with the City's Residential Housing Program
 - b. Complying with the City's Non-residential BMR program by paying the required housing mitigation fees as per the Housing Mitigation Manual for any office development. The 2018-2019 fiscal year rates for office BMR Fees are \$21.98 per square foot of net addition.

7. STREET CLOSURES: Street and road closures for resident or tenant safety and security are not being approved as part of this application and will require separate review. Any future fencing proposed to close streets or other access such as to the green roof is subject to discretionary review.
8. 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 in to the Association's Conditions, Covenants and Restrictions:
 - a. The members/board shall meet at a minimum of once/year
 - b. The Association dues shall cover:
 - c. Maintenance of common area on the property including hardscaping, parking, landscaping and accessory items, such as trash bins/areas, tree grates, outside trash bins, fences, etc.
 - d. Building and site repair on a regular schedule, or as otherwise necessary, and building renovation and replacement as necessary.
 - e. Any changes to the CC&R's must be reviewed and approved by the City.
 - f. Disbanding of the Association shall require City approval.
9. CONSTRUCTION MANAGEMENT PLAN: A construction management plan shall be prepared by the applicant and approved by staff prior to issuance of building permits. Staging of construction equipment shall not occur within 100 feet of any residential property.
10. DEMOLITION REQUIREMENTS: All demolished building and site materials shall be recycled to the maximum extent feasible subject to the Municipal Code. The applicant shall provide evidence that materials were recycled prior to issuance of final demolition permits.
11. 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

12. 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.

13. 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 building size is over 50,000 square feet. Third party LEED certification or alternative reference standard is required per the ordinance criteria.

14. PUBLIC ART: 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 .25 percent of the total project budget, with an expenditure cap of \$100,000. The project pro forma shall be provided to the City to confirm the project budget.

The final 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.

15. 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.

16. SOIL ANALYSIS REPORT: A soils analysis report shall document the various characteristics of the soil (e.g. texture, infiltration rate, pH, soluble salt content, percent organic matter, etc.) and provide recommendations for amendments as appropriate to optimize the productivity and water efficiency of the soil.

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.

17. LANDSCAPE AND IRRIGATION PLANS: The applicant shall submit detailed landscape and irrigation plans to be reviewed and approved by ___ prior to issuance of building permits. The landscape plan shall include water conservation and pesticide reduction measures in conformance with Chapter 14.15, Landscape Ordinance, and the pesticide control measures referenced in Chapter 9.18, Stormwater Pollution Prevention and Watershed Protection, of the Cupertino Municipal Code.

18. 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."

19. 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.

- a. Schedules should take into account water requirements for the plant establishment period and water requirements for established landscapes.
- b. Maintenance shall include, but not be limited to the following: routine inspection; pressure testing, adjustment and repair of the irrigation system; aerating and dethatching turf areas; replenishing mulch; fertilizing; pruning; replanting of failed plants; weeding; pest control; and removing obstructions to emission devices.
- c. Failed plants shall be replaced with the same or functionally equivalent plants that may be size-adjusted as appropriate for the stage of growth of the overall installation. Failing plants shall either be replaced or be revived through appropriate adjustments in water, nutrients, pest control or other factors as recommended by a landscaping professional.

20. 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.

21. ROAD MAINTENANCE AGREEMENT: A reciprocal maintenance agreement shall be required for all parcels that share a common private drive or private roadway with one or more other parcels within the tract. The agreement shall be recorded in

conjunction with recordation of the final map, and shall be subject to prior approval as to form and content by the City Attorney.

22. NOISE ANALYSIS: The applicant shall prepare an acoustical report to demonstrate compliance with the Cupertino General Plan. All residential units shall be subject to good quality construction practices and installation of equipment, including sealing of doors, windows, frames and casings to ensure that the interior average day/night noise level does not exceed 45 dBA Ldn.
23. SIGNAGE: Signage is not approved with this use permit application. Signage shall conform to the City Sign Code.
24. 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.
25. 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.
26. 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.
27. 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:
 - a. 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.
 - b. No parking or vehicle traffic shall be allowed under root zones, unless using buffers approved by the Project Arborist.
 - c. 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.

- d. Wood chip mulch shall be evenly spread inside the tree projection fence to a four-inch depth.
- e. Tree protection conditions shall be posted on the tree protection barriers.
- f. Retained trees shall be watered to maintain them in good health.
- g. 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.

- 28. TREE PROTECTION BOND: The applicant shall provide a tree protection bond in the amount of \$_____ to ensure protection of _____ trees on the site prior to issuance of grading, demolition or building permits. The bond shall be returned after completion of construction, subject to a letter from the City arborist indicating that the trees are in good condition.
- 29. TREE REPLACEMENT: The applicant shall provide adequate tree replacements for trees proposed to be removed in conjunction with the proposed project. The number, location and type of trees shall be incorporated into the detailed landscape plan to be reviewed and approved by the Director of Community Development.
- 30. TRANSFORMERS: Electrical transformers, telephone cabinets and similar equipment shall be placed in underground vaults. The developer must receive written approval from both the Public Works Department and the Community Development Department prior to installation of any above ground equipment. Should above ground equipment be permitted by the City, equipment and enclosures shall be screened with fencing and landscaping such that said equipment is not visible from public street areas, as determined by the Community Development Department. Transformers shall not be located in the front or side building setback area.
- 31. 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 new 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.

32. SUBSEQUENT CONDITIONAL USE PERMITS: Any future businesses with hours of operation beyond 7:00 a.m. and 11:00 p.m. must obtain discretionary Conditional Use Permits.
33. NOTICE OF FEES, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS: The determination set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these notes 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.
34. 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.
35. COMPLETION OF IMPROVEMENTS: Prior to entering into a street improvement agreement with the City of Cupertino, the applicant shall have detailed plans of the improvements approved by the Director of Public Works and shall provide a surety or guarantee covering the cost of all improvements to be completed within the City of Cupertino's jurisdiction. The street improvement agreement will specify the timeline for completion of the improvements. For improvements to be completed on facilities which are not under the jurisdiction of the City of Cupertino, the applicant shall, prior to entering into a street improvement agreement with the City of Cupertino, either (1) have detailed plans of the improvements approved by the agency under whose jurisdiction the facility resides, and provide a surety or guarantee to that agency to cover the cost of the improvements; or (2) provide funding to the agency under whose jurisdiction the facility resides, in an amount sufficient to fund the design and

construction of the improvements. The decision to pursue option (1) or (2) above shall reside with the agency under whose jurisdiction the facility resides, in consultation with the City of Cupertino. In the event that applicant can demonstrate to the satisfaction of the Public Works Department that, despite their best efforts, sufficient progress has not been made with the responsible agency, the funding shall be held in a segregated account by the City or in escrow in lieu of the design and construction of the mitigation measure. The funds will be released to the responsible agency once the project is programmed and approved.

36. FEES: The project applicant shall enter into a Street Improvement Agreement with the City of Cupertino providing for payment of fees, including but not limited to plan checking and inspection fees, storm drain fees and fees for permits. Said agreement shall be executed prior to issuance of construction permits and shall be subject to all applicable fees as described in the terms of the Development Agreement. The fees described above are imposed based upon the current fee schedule adopted by the City Council and are not in lieu development impact fees or exactions which are subject to the terms of the Development Agreement. 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, provided that such modification is permitted by the terms of the Development Agreement. The improvement agreement will also include the following bonds:
- a. Faithful Performance Bond: 100% of Off-site and On-site Improvements
 - b. Labor & Material Bond: 100% of Off-site and On-site Improvement
 - c. On-site Grading Bond: 100% of site improvements.
37. GRADING, DEMOLITION, UNDERGROUND UTILITY WORK, STREET CONSTRUCTION AND CONSTRUCTION HOURS AND NOISE LIMITS:
- a. Grading activities may be performed at any time of the year, subject to storm water management and other appropriate site preparation, as approved 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. Construction, street construction, Grading, underground utility and demolition work and noise limits shall be compliant with requirements of Chapter 10.48 of the City Municipal Code.
 - d. 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.

- e. The applicant shall be responsible for educating all contractors and subcontractors of the restrictions on construction, street construction, grading, underground utility and demolition work.
 - f. The applicant must obtain an encroachment permit from City prior to commencing any work within the right-of-way.
38. UTILITY STRUCTURES: All new utility structures shall be located underground or screened from public view to the satisfaction of the Director of Community Development and Public Works.
39. STREET WIDENING: Public street widening and dedications shall be provided in accordance with City Standards, specifications and policies and as required by the Director of Public Works.
40. CURB AND GUTTER IMPROVEMENTS: New curbs and gutters, sidewalks and related structures shall be installed in accordance with grades and standards as specified by the Director of Public Works. The applicant shall close all unused driveway cuts and remove and replace broken or uplifted curb, gutter, or sidewalk as determined by the Director of Public Works.
41. PAVEMENT: Overlay of all streets along perimeter with 2.5" of asphalt pavement per Caltrans Standards.
42. DETACHED SIDEWALK: The applicant shall provide a minimum five foot wide detached sidewalk, wherever feasible as determined by the Director of Public Works, along all street frontages where construction shall occur.
43. PEDESTRIAN CROSSWALKS: The applicant shall provide pedestrian crosswalk improvements around the project site. Final crosswalk improvement plans shall be reviewed and approved by the Director of Public Works.
44. COLORIZED BICYCLE LANES: The applicant shall provide colorized bicycle lane pavement along project frontages and at areas of potential vehicular conflict as determined by the Director of Public Works.
45. STREET LIGHTING INSTALLATION: Street lighting shall be installed and shall be as approved by the Director of Public Works.
46. GRADING: Grading shall be as approved and required by the Director of Public Works in accordance with Chapter 16.08 of the Cupertino Municipal Code. 401 Certifications and 404 permits maybe required. Contact Army Corp of Engineers and/or Regional Water Quality Control Board as appropriate.

47. STORM WATER 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.
48. NPDES CONSTRUCTION GENERAL PERMIT: When and where it is required by the State Water Resources Control Board (SWRCB), the applicant 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.
49. C.3 REQUIREMENTS: C.3 regulated improvements are required for all projects creating and/or replacing impervious surface that is subject to requirements set forth in section C.3 of the Municipal Regional Stormwater NPDES permit. The applicant shall reserve a minimum of 4% of developable surface area for the placement of low impact development measures, for storm water treatment, on the tentative map, unless an alternative storm water treatment plan, that satisfies C.3 requirements, is approved by the 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.

50. EROSION CONTROL PLAN: The applicant shall provide an approved erosion control plan prepared 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. The plan shall also be incorporated as an attachment to the SWPPP and shall be updated and amended as construction phases or site conditions change.
51. WORK SCHEDULE: Every 6 months, the applicant shall submit a work schedule to the City to show the timetable for all grading/erosion control work in conjunction with this project.

52. OPERATIONS & MAINTENANCE AGREEMENT: The applicant shall enter into an Operations & Maintenance Agreement with the City prior to final occupancy. The Agreement shall include the operation and maintenance for any non-standard appurtenances in the public right-of-way that may include, but is not limited to, sidewalk, pavers, enhanced landscaping, and landscaping necessary to screen utility cabinets, street trees and street lights.
53. 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), infiltration, evaporation or storm water harvesting facilities, bioretention basins, vegetated swales, and hydrodynamic separators to reduce the amount of runoff from the site and improve water quality. The storm drain system shall be designed to detain water on-site (e.g., via buried pipes, retention systems or other approved systems and improvements) as necessary to avoid an increase of the ten- year storm flood water surface elevation to the satisfaction of the Director of Public Works. 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.
54. FULL TRASH CAPTURE SYSTEM: The applicant will be responsible for installing a full trash capture system/device to capture trash from the onsite storm drain system before the storm water reaches the City owned storm drain system and/or any adjacent creeks or diversion channels. 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 the Municipal Regional Permit section C.10 for further information/requirements). Systems and devices must be approved by the California State Regional Water Quality Control Board (RWQCB) and selected from the San Francisco Bay RWQCB Certified Full Capture System List of Trash Treatment Control Devices which may be viewed at: https://www.waterboards.ca.gov/water_issues/programs/stormwater/trash_implementation.html.
55. GEOTECHNICAL REPORT: All design criteria and specifications set forth in the design-level geotechnical report shall be implemented as a condition of project approval. The applicant will be responsible for providing a geotechnical engineering review letter stating that the final approved set of plans have been reviewed and meet the intent and recommendations of the geotechnical report.

56. UNDERGROUND UTILITIES: The applicant 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. The applicant 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.
57. TRANSFORMERS: Electrical transformers, telephone cabinets and similar equipment shall be placed in underground vaults. The applicant 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.
58. BUS STOP LOCATION: The applicant shall install and/or improve bus shelters/trash receptacles along the Wolfe Road, Vallco Parkway and Stevens Creek project frontages, and as required by VTA. The placement and design of the bus shelters/trash receptacles shall be approved by the Director of Public Works and the VTA. Locations and the design of bus stops and shelters shall be provided to the satisfaction of the Director of Public Works and the VTA. If the applicant proposes enhanced shelters of a design approved by the City, said shelters shall be maintained and funded by the applicant. In the event that bus shelters are replaced with VTA standard revenue-generating bus shelters, the applicant may not be required to maintain and service these bus shelters.

Shelters shall, at a minimum, include the following features:

- ADA accessible dimensions
- Concrete pad per VTA criteria
- Illuminated line number sign
- Passenger shelters
- Benches
- Trash receptacles
- Real-time information panels
- Schedule, fare, and service span information
- Lighting

59. TRAFFIC CONTROL PLAN: The applicant must submit a traffic control plan by a Registered Traffic Engineer to be approved by the Director of Public Works, for any 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 Director of Public Works prior to commencement of work. The City has adopted the Manual on Uniform Traffic Control Devices (MUTCD) standards for all signage and striping work throughout the City.
60. TRAFFIC SIGNS: Traffic control signs shall be placed at locations specified by the City.
61. 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.
62. STREAMSIDE PERMIT: Prior to issuance of a building permit, the applicant shall provide plans and information that satisfies the requirements of the Stream Side Development Permit as set forth by the Santa Clara Valley Water Resources Protection Collaborative. These items include, but are not limited to, topographic survey, specific measures to protect streams and/or water bodies from water quality impacts, coordination with all interested jurisdictional agencies, and the like.
63. 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.
64. DEDICATION OF UNDERGROUND WATER RIGHTS: The applicant shall "quitclaim" all interests in, and grant to the City authorization to extract water from, the underground strata lying beneath and within the boundary limits of the project's property.
65. ABANDONED WATER WELLS: The applicant shall seal abandoned or unused water wells if the City, in consultation with the Santa Clara Valley Water District, determines that said abandoned or unused water wells have a potential to contaminate the water supply.
66. SANITARY DISTRICT: A letter of clearance for the project shall be obtained from the Cupertino Sanitary District prior to issuance of building permits.
67. UTILITY EASEMENTS: Clearance approvals from the agencies with easements on the property (including PG&E, AT&T, and California Water Company, Cupertino

Sanitary District and/or equivalent agencies) will be required prior to issuance of permits.

68. FIBER OPTIC CONDUIT INSTALLATION: A separate 3" fiber optic conduit shall be installed with all joint trench construction, and shall be provided to the City for its usage. The fiber optic conduit shall be installed in accordance with plans and specifications approved by the Director of Public Works.
69. TRAFFIC IMPACT FEES: The Project shall pay Traffic Impact Fees per the CMC Chapter 14.02.
70. PEDESTRIAN AND BICYCLE IMPROVEMENTS: Developer shall provide pedestrian and bicycle related improvements (e.g. 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.
71. STREET LIGHTING INSTALLATION: Street lighting shall be installed and shall be 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.
72. 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 issuance of construction permits
73. SUBDIVISION MAP: Prior to issuance of grading and/or building permits, a final subdivision map shall be recorded.
74. TRASH, RECYCLING AND COMPOST MANAGMENT: A trash manage plan must be prepared and shall show how onsite trash, recycling and compost is to the handled, and shall be to the satisfaction of the Environmental Programs Manager. Clearance by the Public Works Department is needed prior to obtaining a building permit.
75. WASTE TRIOS: Permanently installed waste trios including cigarette butt urns which are designed for exterior use are required and must be included on the plans. Waster trios are outdoor receptacles positioned side-by-side which are clearly labeled recycling, compost, and landfill and include covers to prevent rainwater intrusion. An example of waste trios may be viewed online at: www.cupertino.org/greendev. The

trios must be situated on private property adjacent to the sidewalk for patron and pedestrian use.

76. STORM DRAIN INLETS: All exterior storm drain inlets on the parcel must be clearly marked with, "No Dumping Flows to Creek" or "No Dumping Flows to Bay." An example of drain inlet markers may be viewed at the following: www.cupertino.org/greendev.
77. OTHER: Copper metal roofing, copper granule containing asphalt shingles, copper gutters and downspouts, and/or other exterior ornamental copper are not permitted for use.
78. WASTE MANAGEMENT PLAN: A completed Construction and Demolition (C&D) Waste Management Plan must be submitted at the time of demolition and/or building permit issuance. If both demolition and construction permits will be issued, C&D Waste Management Plans must be submitted for each permit. If the permit applicant and/or their contractor and any subcontractor working on the project self-hauls the C&D material, a Water Management Report must be submitted prior to final approval of the demolition/building permit demonstrating a minimum of 65% of the C&D waster has been diverted from landfill and recycled. Please note that C&D debris box service may only be obtained from Recology, the City's franchised waste hauler. C&D Recycling information and reports may be downloaded at www.cupertino.org/greendev.