



CITY OF CUPERTINO

AGENDA

PLANNING COMMISSION

10350 Torre Avenue, Council Chamber

Tuesday, May 23, 2017

6:45 PM

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF MINUTES

1. Subject: Draft Minutes of April 25, 2017

Recommended Action: approve or modify the Draft Minutes of April 25, 2017

[Draft Minutes of April 25, 2017](#)

POSTPONEMENTS

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the Commission on any matter not on the agenda. Speakers are limited to three (3) minutes. In most cases, State law will prohibit the Commission from making any decisions with respect to a matter not on the agenda.

WRITTEN COMMUNICATIONS

CONSENT CALENDAR

Unless there are separate discussions and/or actions requested by council, staff or a member of the public, it is requested that items under the Consent Calendar be acted on simultaneously.

PUBLIC HEARINGS

2. Subject: Development project to consider allowing the construction of a 19 unit affordable senior housing development with associated parking and landscape improvements on a vacant parcel including a Heart of the City Exception to allow 100% of the front and rear of the property to be a non-retail use (Application No. (s): DP-2016-02, ASA-2016-15, EXC-2017-03; Applicant(s): Kathy Robinson

(Charities Housing); Location: 19160 Stevens Creek Boulevard; APN(s): 375-07-001)

Recommended Action: Staff recommends that the Planning Commission:

1. Find that the proposed actions are exempt from CEQA; and
2. Approve Development Permit (DP-2016-02), in accordance with the draft resolution
3. Approve Architectural and Site Approval (ASA-2016-15), in accordance with the draft resolution
4. Approve Heart of the City Exception (EXC-2017-03), in accordance with the draft resolution

Planning Commission decision final unless appealed

[Staff Report](#)

[1 - DP-2016-02 Draft Resolution](#)

[2 - ASA-2016-15 Draft Resolution](#)

[3 - EXC-2017-03 Draft Resolutions](#)

[4 - Public Comments](#)

[5 - Memo to File regarding Use Permit and CEQA Exemption](#)

[6 - Plan Set](#)

3. Subject: Municipal Code Amendments to regulate the placement of storage containers and temporary fencing (Chapter 9.22 - Property Maintenance), size of signage notice boards for development (Chapter 19.12 - Administration), size of Accessory Dwelling Units (Chapter 19.112 - Accessory Dwelling Units in R-1, RHS, A and A-1 Zones), and including amendments to various other chapters of Title 19 - Zoning of the Municipal Code, including but not limited to, Chapter 19.08 (Definitions), Chapter 19.28 (Single-Family Residential (R-1) Zones), Chapter 19.40 (Residential Hillside (RHS) Zones), Chapter 19.60 (General Commercial (CG) Zones), and 19.116 (Conversions of Apartment Projects to Common Interest Developments) for compliance with State Law, readability, clarifications, and internal consistency. (Application No. MCA-2017-03; Applicant: City of Cupertino; Location: City-wide)

Recommended Action: That the Planning Commission recommend that the City Council:

1. Find that the proposed actions are exempt from CEQA; and
2. Adopt "An ordinance amending Chapter 9.22, Property Maintenance, Chapter 19.12, Administration, Chapter 19.112, Accessory Dwelling Units in R-1, RHS, A and A-1 Zones, and minor amendments in Chapter 19.08, Definitions, Chapter 19.24, Agricultural (A) and Agricultural-Residential (A-1) Zones, Chapter 19.28, Single-Family Residential (R-1) Zones, Chapter 19.36, Multiple-Family Residential (R-3) Zones, Chapter 19.40, Residential Hillside (RHS) Zones, Chapter 19.60, General Commercial (CG) Zones, Chapter 19.64, Permitted, Conditional and Excluded Uses in Office and Industrial Zones and 19.116, Conversions of Apartment Projects to Common Interest Developments."

Tentative City Council hearing date: June 20, 2017

[Staff Report](#)

[1 - Draft Resolution](#)

[2 - Redlines proposed](#)

[3 - Policies of surrounding cities regarding storage containers.](#)

OLD BUSINESS

NEW BUSINESS

STAFF AND COMMISSION REPORTS

ADJOURNMENT

If you challenge the action of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this agenda, or in written correspondence delivered to the City of Cupertino at, or prior to, the public hearing. In the event an action taken by the planning Commission is deemed objectionable, the matter may be officially appealed to the City Council in writing within fourteen (14) days of the date of the Commission's decision. Said appeal is filed with the City Clerk (Ordinance 632).

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend the next Planning Commission meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, 48 hours in advance of the meeting to arrange for assistance. Upon request, in advance, by a person with a disability, Planning Commission meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format. Also upon request, in advance, an assistive listening device can be made available for use during the meeting.

Any writings or documents provided to a majority of the Planning Commission after publication of the packet will be made available for public inspection in the Community Development Department located at City Hall, 10300 Torre Avenue, during normal business hours and in Planning packet archives linked from the agenda/minutes page on the Cupertino web site.

Members of the public are entitled to address the Planning Commission concerning any item that is described in the notice or agenda for this meeting, before or during consideration of that item. If you wish to address the Planning Commission on any issue that is on this agenda, please complete a speaker request card located in front of the Commission, and deliver it to the City Staff prior to discussion of the item. When you are called, proceed to the podium and the Chair will recognize you. If you wish to address the Planning Commission on any other item not on the agenda, you may do so by during the public comment portion of the meeting following the same procedure described above. Please limit your comments to three (3) minutes or less. Please note that Planning Commission policy is to allow an applicant and groups to speak for 10 minutes and individuals to speak for 3 minutes.

For questions on any items in the agenda, or for documents related to any of the items on the agenda, contact the Planning Department at (408) 777 3308 or planning@cupertino.org.

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, CA 95014

CITY OF CUPERTINO
PLANNING COMMISSION MEETING
DRAFT MINUTES

6:45 P.M.

APRIL 25, 2017

TUESDAY

CITY COUNCIL CHAMBERS

The regular Planning Commission meeting of April 25, 2017, was called to order at 6:45 p.m. in the Cupertino Council Chambers, 10350 Torre Avenue, Cupertino, CA. by Chairperson Don Sun.

SALUTE TO THE FLAG

ROLL CALL

Commissioners Present:	Chairperson:	Don Sun
	Vice Chairperson:	Geoff Paulsen
	Commissioner:	Alan Takahashi
	Commissioner:	David Fung
	Commissioner:	Jerry Liu

Staff Present:	Asst. Director of Community Development:	Benjamin Fu
	Associate Planner:	Erick Serrano
	Public Works Director:	Timm Borden
	Capital Improvements Program Manager:	Katy Jensen
	City Traffic Engineer:	David Stillman
	Deputy City Attorney:	Angela Munuhe

APPROVAL OF MINUTES

1. *Minutes of the March 14, 2017 Planning Commission meeting.*

Com. Fung noted the following changes:

Page 3, Line 12: Mayor Cheng should read: *Mayor Chang*

Page 13, Com. Fung 2nd statement: Delete “Also noted that the Council ...previous year” and insert “*Vice Chair Paulsen: Also noted that the Council had not taken a stand on the 20% outdoor seating issue from the previous year*” as a separate bullet.

MOTION: Motion by Com Liu, second by Vice Chair Paulsen, and unanimously carried 5-0-0 to approve the minutes of the March 14, 2017 Planning Commission meeting as amended.

POSTPONEMENTS/REMOVAL FROM CALENDAR: None

ORAL COMMUNICATIONS: None

WRITTEN COMMUNICATIONS: None

CONSENT CALENDAR: None

PUBLIC HEARINGS:

- 2. Capital Improvements Program** Review of five-year Capital Improvements Program
City of Cupertino (FY 2017-2018 to 2021-2022) for conformity to the City's
Citywide Location General Plan. Recommend that City Council concur that the
program conforms to the City's General Plan per the draft
resolution.

Timm Borden, Director of Public Works, presented the staff report:

- Presented the annual review of the alignment with the proposed Capital Improvement Program (CIP) with the city's General Plan (GP). The Planning Commission will consider the 5 year spending plan for capital improvements in the city, the City Council will set and prioritize the CIP but the Planning Commission will consider the thread that ties the CIP to the public policies goals of the city's General Plan. It is a vital connection to make sure that what is being built is headed toward the implementation of the city's GP and its policies. Staff has put the projects in different categories as they make that connection to the city's GP.
- The six different categories include: the projects that improve the safety and function of the city's primary circulation system, e.g. the implementation of the 2016 Bicycle Plan. The next category is the transportation projects that manage neighborhood traffic, decrease reliance on the usage of private cars, promote pedestrian activity and provide safe routes to schools. The Bike Plan is a good example of that but there is also the various sidewalk improvement projects that are planned within the program.
- He reviewed the General Plan consistency findings summarized in the staff report: (1) Projects that improve the safety and function of the City's primary circulation system; (2) Transportation projects that manage neighborhood traffic, decrease reliance on the usage of private cars, promote pedestrian activity and provide Safe Routes to Schools; (3) Projects that maintain the usability of and/or expand the capacity, performance and efficiency of the City's public infrastructure and facilities; (4) Storm drainage projects that create and implement plans to develop and maintain an effective and efficient stormwater system; (5) Projects that maintain the usability of the City's parks and recreation inventory; and (6) Projects that maximize the use of native plants and minimize water use.
- Staff has provided Attachment 4 which gives some of the GP consistency review notes on a project-by-project basis for the projects that are in the first year of the five years, those are the projects that are actually funded or proposed to be funded with this plan.

Com. Liu:

- Questioned the reason for having the service center replacement in the admin. building with the EOC. The proposal is to put the EOC not at the Civic Center Plaza and it seems to be ideal to have the EOC in the plaza.

Timm Borden:

- Originally in the Civic Center Master Plan it was adopted but not implemented, a new city hall with parking underground and a new Emergency Operations Center (EOC) as part of that. The Master Plan was approved but as the project is not moving forward they considered the service center at the end of Mary Avenue as a potential Emergency Operations Center because in the City of Cupertino there are contract services for police and fire, a large part of the emergency response is their maintenance functions; and that is where there are 60 maintenance workers with all the equipment. Although the city executive staff is at the Civic Center, many of the functions are out of the service center, which was envisioned in this plan.

Vice Chair Paulsen:

- Commended the Public Works Department staff for their quality work and keeping abreast of needs and trends. As a former Chair of the Bicycle and Ped Commission he said he heartily endorsed the Bicycle Plan and bicycle activities; and he was pleased they were finally moving ahead with the much needed and very important projects. As former Chair of the Parks and Rec Commission he said he was heartened to see the progress being made on the Parks Master Plan and seeing it move forward as well.
- He also endorsed the EOC. He shared his experience as the Director of the County Office of Emergency Services and the Asst. Director in the 1989 quake when he was in the EOC for days on end. He stressed the importance of a quality EOC and said it should not be delayed. He stressed the importance of having windows in the center because one can get confused as to what day it is if you are in there for 24 or 36 hours straight; and said that it was also important to have an executive conference room where the core people can get away from the hustle and bustle of the EOC and have uninterrupted conversation.
- Relative to storm drains, the GP says to follow best practices and there is a lot of talk about reducing runoff from private property; and private property is not your purview; but what is the thinking about analyzing ways to mitigate and reduce runoff in the first place? I understand the importance of storm drains, but do you work with the City Council to enact ordinances that would govern runoff from private property into the storm drains?

Timm Borden:

- What you are seeing in the CIP is the replacement, improvement, enlargement of storm drains within the right-of-way, so these are storm drains; however, as far as our storm drain program within the city of Cupertino, it is very much involved in the community development review process as it relates to private property; any new private properties that are developed in Cupertino whether single-family, residential or businesses are required to have the stormwater mitigation program. Often that will be with grassy swales where the water will filter down through and into the ground or it will be putting in stormwater detention facilities, underwater tanks, etc. to hold that water on site to the extent practical. There is a public and a private part of that and on the private side both the Public Works development review section and community development are working toward that end.

Vice Chair Paulsen:

- Relative to street lights, since the General Plan was written there have been advances in lighting technology; he said he was a fan of LED, from an environmental standpoint they are wonderful; but there has been some research on the impact of the spectrum of light on human sleep and behavior; it is not yet determined what the best solution is, but the American Medical Assoc. came out with street light guidelines last year that recommend having a spectrum of less than 3,000 degrees kelvin? for street lights and I think it can make a difference. He said he did not favor the sodium vapor lights, the yellow ones in San Jose because the yellow lights look almost the same color as the stoplights which could be a hazard; but at the same time streetlights create an atmosphere in the city and there has been a warmer spectrum street light created. He encouraged them to keep abreast of the latest technology with regard to that.
- A second question, there was a discussion of Larry Way and Randy Lane street light replacement some years ago; there were neighborhood meetings where the neighbors decided they didn't want more street lights.

Timm Borden:

- Said there has been some recent discussion about that; they wouldn't move forward with the streetlights until they met with the community, but they had a project within the proposed operating budget to do streetlight upgrades in areas where it has been requested, and there would be community involvement

before. There are LEDs in all the park parking lots at this point; in 2010 the street lights in the city were changed to induction technology. They are still working well, much better than the sodium vapor used previously.

Com. Takahashi:

- Said he supported a lot of the activity to implement the Bike Pedestrian Plan; and was excited to see progress on that front. Referred to Item 6, Orange and Byrne sidewalk improvements; this is one where if you have every dropped off students at Monta Vista it is a very dangerous road, Orange because there are no sidewalks and you have the mix of improved properties and unimproved properties where the sidewalks are discontinuous. It talks about acquiring the right-of-way as needed; how is that going?

Timm Borden:

- Said they have not started acquiring right-of-way on Orange and Byrne yet, however they have started discussions with property owners on McClellan; the McClellan Rd. sidewalk project where we are filling in gaps as well is going well; working around the property owners who don't want to be involved, but the majority of the property owners are giving some positive feedback; have not acquired the properties yet but are approaching them as they are typically required with the redevelopment of their property or remodeling of their property, they are required to build those improvements and that is why you get that patchwork quilt. What we are saying is if they give us the necessary right-of-way, then we will provide those improvements and they won't have to do them in the future, so it's a grade and is going well, and that would employ that on Orange and Byrne as well.

Katy Jensen, Capital Improvements Program Manager:

- The international cricket ground is scaled up considerably; it is competition size; looking at what is feasible and the international focus on this was requested this last year that it may be incorporated as an unfunded project; it has been re-funded to do the study and analyze the international but would probably be looking at what makes sense in a more scaled down version as well.

Com. Fung:

- Commended staff on being forward looking in the list of projects especially in light of the parks master plan; and was pleased to see that there were many things lined up in preparation for moving forward even though that won't be close to the end of this period before the results are seen from that. In particular he was pleased to see the inclusion of the study for the inclusive parks; it will be a great addition to the city when the time comes.
- Said there was an item for the study for the rework between the garden, and he was surprised how high that was.

Katy Jensen:

- Said it was not really a study; the initial part of that is over 2 years, \$30K and \$70K; the initial funding is to do some conceptual planning with the gardeners and start to queue up a design which would then be the followup project, which would get more into the nitty gritty details of construction documents potential. This would be working with the gardeners to come up with a much better operating garden.

Chair Sun:

- Asked staff to provide information on capital improvement programs, including the general concept for five years of the projects; what's the percentage of first year work allocated; second year, so there is a concept of the funds put in and information related to how each project is prioritized.

Timm Borden:

- How much is being put into the first year vs. future years? The first year is the only year that it is

proposed that the funding would be attached to these projects; for the future years it is more of a plan. \$12 million dollars and 2020 down to under \$1 million dollars, 2021 just over \$1 million and 2022 is where we don't have a lot of projects and that is down at this point to \$100K. The planning years are meant to move back and forth depending on priorities at that time.

Chair Sun:

- Said for the Cupertino residents they focus mostly on the GP or it's a particular project but people pay little attention to the CIP. He asked how the department handles public outreach and keep the public informed on the projects and how they are prioritized.

Timm Borden:

- How do we determine the projects that are moving forward; how do we prioritize them? Many of them ideally are coming out of Master Plan processes; so the master plans are meant to be verified public processes where there is input from all aspects of the community and then projects come out of those master plans; then there are other priorities. If it is something that is safety related; one example is on Regnart Road where a slide reduced it down to one lane which is a safety improvement of the highest priority. There are safety improvements, mandates; if the state through the stormwater program or some law says something has to be done, the city has to comply. Next are things for the infrastructure, if they invest in it now it will save money in the long run; the streets and repaving those streets is a good example of that; if we invest in those now the maintenance is much less than if we have to rebuild the streets in the future. That is a high priority. Another one is a lot of the park projects fall under this, where is quality of life; it is a priority, it may not be as high as public safety or a mandate but it is still a priority that is in the order of what we look at on these projects. Ideally more and more of the projects will come out of master plans that are of the highest public involvement.
- Within the city's budget there are performance measures and those go to many areas of city operations; including the capital budget. There are performance measures that measure how we are doing as far as our commitment for a project budget, if we are staying within budget, and also one that says how are we staying within schedule. There are schedule and budget measurements within the city's budget that track how we are doing. There are so many variables, there is no score system.

Chair Sun:

- There are always complaints about the traffic issue; is there any method we can go with a low budget to improve some circulation in the city for the next five years capital improvement; do we have a particular project to do that?

Timm Borden:

- Said to help congestion the Bike and Ped projects are the best answer to that; they are working with the VTA and CalTrans to look at the redesign of the Wolfe/280 interchange so that traffic flows better in and out of that interchange; Bike and Ped is a strong element of that design and how people are going to traverse across 280. There is a proposal in next year's operating budget to add a transportation planner to look at shuttle systems and the feasibility of certain shuttle systems for schools and seniors. That's another idea of how they might be able to reduce congestion within the city.

Com. Takahashi:

- Said perhaps there is already thoughts about how to make this happen, a master transportation plan that would tie into circulation and tie into the Bike Ped plan as well; then you could plan capital improvement projects on achieving benefits of those or projects as outlined in that master transportation plan. Is that something the city has ever tried to implement?

Timm Borden:

- Not an individual document that ties all those together; referred back to the General Plan so there is a circulation element within the GP, that references our Ped. Plan and Bike Plan and it also says now that we should have a traffic impact fee. They are working on that and if you have a traffic impact fee you must have a certain bundle of traffic improvements or bike improvements that are going to be funded through that fee; we are working towards a more holistic plan, but it is really part of the GP.

Com. Takahashi:

- The specific plans tend to outline specific problem areas and weigh potential solutions; with traffic infrastructure the dollars are significant and I can see where that in itself somewhat prohibitive to pull off a lot of the projects; but at least from the standpoint of understanding where the congestion is and what potential solutions are so that either state funding or other elements could be pursued. Seems like it would at least capture that and people could pull it all together. The traffic signal at Foothill and I-280 southbound off ramp, and my only comment/request on that is that this has been a problem area for cyclists primarily the southbound Foothill because you are going uphill right on the freeway and there is a conflict where cars are getting onto I-280 southbound and bicycles are moving very slowly because they are climbing the hill, and it has been a jurisdictional nightmare because its CalTrans, Los Altos and Cupertino and nobody wants to step, and this is based on some historical desire to see that improved; with a signal light there, it seems like there is an opportunity to put in a green bike lane headed for the southbound just to give a cyclist a feeling of protection as they head up that hill and deal with cars. Since we are putting a light in and working on that area, it seems like the perfect time to actually get that done.

Timm Borden:

- Said that project is within the county's expressway master plan which is funded through the recently approved Measure B transportation tax in the county. That project will be moving forward and the bike facilities and the circulation there will be a major part of it.

Vice Chair Paulsen:

- Said that when he was a planner with mid-Peninsula Open Space District the Acquisition Manager was involved in the practice of acquiring easements and rights, through a lifetime estate plan where they would purchase the easement now and let the resident remain on the property until he or she passed away, at which time they would take over the land. He questioned if there were ways to use creativity in addition to just the trades he mentioned to ensure that the easements are eventually obtained.

Timm Borden:

- Said it was a good idea, and he was familiar with the lifetime estates; the County of Santa Clara used it at the Marshall Connell Park in San Jose and that is now a beautiful park; as it applies to right of way and other parklands within Cupertino, he would take that comment in.

Vice Chair Paulsen:

- Said relative to the Foothill intersection, in the past he had a conversation with a resident about jurisdictional nightmare where he suggested they sharpen the slope of the underpass under 280 when you are going southbound on Foothill to a wider bike lane and then plunge the bike lane down along the slope onto the Union Pacific tracks. It is possible and intriguing because it would tie into other possibilities of going to Rancho San Antonio etc. without getting involved with traffic at the second light on the onramp. It is a big issue but they could explore all possibilities while planning that intersection and hopefully arrive at the best one.

Com. Liu:

- Sidewalk improvement at Orange and Byrne but it really applies to the city; just wondering what is the process, you talk about you haven't started the right of way acquisition process; do you have a right of way acquisition process and sign up everybody and start construction, or is this a rolling process where as you get homeowners signing up for the program, you start building out the sidewalk. It seems to me that there is a subtle difference there in terms of enticing perhaps our neighbors who might be reluctant to join the program doing it if they start seeing improvements with their neighbors, but that may cause logistical issue complexity also; just wondering what the current city process is for something like this.

Timm Borden:

- Said showing property owners what's possible is important but it becomes difficult and more costly if done piece by piece as you acquire them; on McClellan, Orange and Byrne they are attempting to get as much property as possible and move forward with the project. However, said they are pointing them back to Pasadena Avenue which was just completed this year as a good example of an area that was a patchwork quilt and is a very nice street with good sidewalks.

Chair Sun:

- Said he did not know how much it would cost, but he felt the public felt safety was the most important concern, and they have placed the importance on the pedestrian and bike; have used the green color for the bike lane, but for major intersections like DeAnza and Stevens Creek and some other major cross streets, it is dangerous for people walking, especially the right turn for the car. The thought is if you can get the one center cross street at DeAnza and Stevens Creek, they can build a right turn, with one bumper before the walkway so people will slow down, which would also save many lives.

Timm Borden:

- There are many things that can be done to make that area within the bike master plan safer; there is a proposal for protected bike lanes on Stevens Creek that would go through that intersection as well; you would still have right turn issues, typically speed bumps we would only put on residential streets, but the point is well taken. At that location we will continue to look at things we can do especially on those right turns; he agreed that is probably the worst element to that intersection.

Chair Sun opened the public hearing.

Jennifer Griffin, Rancho Rinconada resident:

- Said she was a proud resident of Cupertino; the city is well taken care of; roads are in good shape, not a lot of potholes. Said she would put in a plug for the Lawrence/Mitty neighborhood, where the residents are very patient. Said she remains concerned that someone will try to build housing on that property or construct a bridge over Saratoga Creek into Rancho Rinconada. Rancho San Antonio does not have play structures all over it; it is a wildlife preserve, other than the small farm back there. Lawrence/Mitty is a creek corridor, it has wildlife. It is important that Cupertino think about taking advantage of opportunities to purchase new parkland around the city; if parcels of land are coming up in the city, especially if someone wants to donate it as an estate, the city should think about purchasing it, because the land won't be there forever.

Chair Sun closed the public hearing.

Com. Liu:

- Said he supported the programs; there is a nice mix of projects; the flashier projects like Lawrence/Mitty Park, but other things in here with stormdrains and sidewalks I think to follow up on Ms. Griffin's comments, these are the things that maintain the quality of life in the city and I am grateful to have the

staff that proactively looks out to maintain the quality of life here and I do feel there is alignment with the General Plan.

Vice Chair Paulsen:

- Said when he was recently planting trees on newly refurbished Pasadena, Public Works Director Borden came out and offered encouragement. He said the Public Works Department is doing a fantastic job, and he encouraged increased funding for that activity.

Com. Fung:

- Said he felt it was difficult for the public to have visibility into what Public Works is doing; perhaps having use of the Measure B funds for transport improvement and similar things; that is something that demonstrates forethought.
- Many of those things are driven by opportunities that really leverage the money; said he felt it would be good to highlight that and make them more visible; the only way you would know that today is if you attended the budget workshop. Staff is to be commended for pursuing grant opportunities and leveraging our money; and we look forward to further collaboration and leveraging in the future.

Com. Takahashi:

- Said he agreed with fellow commissioners with regard to the diversity of the projects; they are very well tied to the GP, there is no looking at something and wondering if that seems odd; that obviously is a strength with regard to the capital plan and shows how well the city is organized around the GP and executing against the GP.

Chair Sun:

- Said they have been working together for many years, and expressed his appreciation for the excellent work they do, and encouraged them to continue to publicize their accomplishments and make sure the community knows what they have done and how they set their priorities to have successful projects; people will then understand better how the city runs.

MOTION: Motion by Com. Fung, second by Com. Liu, and unanimously carried 5-0-0 to adopt the draft resolution as presented; that the Planning Commission approves the appropriateness of the compliance of these programs with the General Plan objectives

3. **U-2016-02, DIR-2016-34, Appellant(s) Srilakshmi Vemulakonda Applicant: Dian Hsu 940 So. Stelling Rd.**

Appeal of the Administrative Hearing Officer's decision to approve an amendment to an existing Use Permit to Allow a private school/daycare center to expand their hours of operation to 7:00 a.m. to 6:30 p.m. and a Director's Minor Modification to allow modification to the site including installation of an outdoor play structure.

Erick Serrano, Associate Planner, presented the staff report:

- Reviewed the application for a Use Permit to modify the hours of an existing after school program, hours 12:00 p.m. to 6:30 p.m. to new hours of 7:00 a.m. to 6:30 p.m. for a private school daycare. The proposed modification would also decrease the number of students from 90 to 70 students; the Director's Minor Modification was to allow for an outdoor playground structure. The project was heard at the administrative hearing on February 23, 2017 where the public was given the opportunity to

comment on the project; prior to the hearing and at the hearing the public raised concerns with respect to parking and traffic impacts, noise impacts, neighborhood safety and privacy. In order to address concerns raised at the administrative hearing, the administrative hearing officer added the following conditions:

1. Change of start time to alleviate traffic concerns in the morning hours;
 2. A traffic management plan to avoid onstreet parking, manage traffic and circulation conditions;
 3. The review of noise generation; the condition of approval was added to ensure periodic consistency with the city's noise ordinance;
 4. The study for feasibility of a new driveway to alleviate potential traffic impacts on Jollyman and to work in conjunction with the Jollyman entrance.
- He reviewed the appellant's basis of appeal and staff's responses. The appeal was filed on March 8th, and focused on the following: parking and traffic impacts; noise impacts; neighborhood safety; privacy and other items. Relative to parking and traffic, the appeal said that the traffic was addressed sufficiently, i.e., a traffic study examination of Jollyman Lane and So. Stelling Road. The city senior transportation engineer determined that based on the size and scope of the project a traffic study was not necessary, that the total number of cars was a small volume for a standard residential street that serves approximately 20 homes, and the project reduced the total number of students from 90 to 70.
 - At the hearing a condition of approval was added that required the property owner to work with the city on a new driveway approach along So. Stelling Road to incentivize Sterling and to make Jollyman a secondary point of entry. The appeal was concerned that the change of start time does not alleviate traffic concerns; preschools generally operate between the hours of 7:30 a.m. to 6:00 p.m. with most allowing incidental late pickup and dropoff until 6:30 p.m. the conditions including the change of start time are intended to ensure consistency with the city's municipal code and are intended to address concerns identified by the public at the administrative hearing including traffic. Traffic and safety concerns at the intersection of Jollyman Lane and Stelling Road; as a condition of approval the applicant is required to work with the Public Works Department to determine the feasibility and implementation of a new driveway curb cut on Stelling Road to help alleviate traffic on Jollyman Lane. The applicant has confirmed that the new driveway approach is feasible because the new driveway would provide access to Stelling at the four-way stop. There is concern regarding the feasibility of the new driveway; it should be noted that the driveway was not part of the original project scope, it is something the applicant proposed.
 - The noise study conducted was not accurate; it was prepared by the city's acoustical consultant using current industry wide recognized best practices to determine noise impacts. The analysis concluded that based on the project noise levels the outdoor play activities would not have a significant impact on the area. The projected maximum yard levels are below the limits allowed by the city's community noise ordinance; the city's noise limits are measured at the property line; the noise limits are a maximum of 60 dba while the projected noise levels are between 43 and 50 dba, a 10 dba difference. Additionally the homes are separated from the playground by the church, the playground is separated from the homes with a yard, fence, landscaping and driveway. There would be far more hours that neighbor noise would be present; the noise study concludes that the overall ambient noise levels and the project area depend primarily on the existing traffic noise from cars driving on Stelling. The noise study does not indicate that no noise levels would be generated; but that noise level generated would be consistent with the city's ordinance. The condition of approval of the project require periodic review of the noise generated to ensure consistency with the city's community noise control ordinance with the city verifying conformance with noise measurement devices.
 - Neighborhood safety: concerns of the commercial use of the daycare being allowed. It is a Quasi-Public (BQ) zoning district; it is intended to accommodate religious, community service child care, residential care or another type of facility; the city zoning ordinance allows the proposed use with the

conditional use permit to ensure consistency with the city's regulations. The project had a previous approval for an after-school daycare program; this was for increase in the hours and decrease in number of students. The city should strictly monitor and act practically on any current violation; as with all perceived violations of the city's regulation, the perceived violation must be reported to the city and the city's code division will review any perceived violation and determine necessary steps to ensure consistency with project conditions of approval.

- Relative to neighborhood safety, daycare use will make it difficult to watch out for activities in the area such as unknown cars parked in the residential neighborhood. The project is parked consistent with the city's ordinance; there is adequate parking on site to accommodate the proposed use and because of the age of the students, state licensing requires the parents and guardians to sign the children in and out; it is unlikely that parents are to park on the public streets to pick up and drop off their children. Condition of approval No. 7 has been added so that private school daycare operation includes in the welcome package items discouraging onstreet parking, informing them to park on site. This does not preclude anyone from parking on the street. The neighborhood may apply for residential parking permit to control parking within their neighborhood. There was concern of potential violations and accidents; while there will be a negligible increase in traffic in the morning a.m. hours, there will be an overall decrease in the p.m. peak hours with the proposed project because of the reduction of students. Drivers, pedestrians, bicyclists are all required to adhere to traffic laws to prevent accidents.
- The play structure is 14 feet but the highest point where a child would be standing is 5 feet; the structure is located approximately 55 feet from their property line inside the site; living spaces and usable yard of 20896 Jollyman Lane are located about 100 feet away, separated by a wooden fence, foliage and a 3-car garage at 20894 Jollyman Lane, separated by a 20 foot driveway.
- The appellant was provided with the Administrative Hearing Summary which differs from meeting minutes since the minutes were not available at the time of the request. It is not anticipated that preschoolers or staff from the preschool will cause damage to the property in the neighborhood. All applicants must consult with and, if required, obtain permits from the city prior to making changes to their permit/operations. The city encourages meaningful community outreach by applicants; in this case applicant held two public meetings to allow for the neighbors the opportunity to review the proposed project and ask questions and collect comments. As a result of those public meetings the applicant voluntarily proposed to install a new driveway along So. Stelling.
- The project is categorically exempt from the requirement of the California Environmental Quality Act Section 15301.
- The recommendation is that the Planning Commission deny the appeal and uphold the Administrative Officer's decision to approve the project in accordance with the draft resolutions. Planning Commission decision is final unless appealed within 14 days.
- Errick Serrano answered questions regarding the appeal.

Com. Liu:

- Said he wanted to clarify the condition of approval regarding the driveway; is the condition for the applicant to work with the city to put in a driveway or just put in a driveway? If you work with the city you may actually not result in a driveway.

Errick Serrano:

- Said at that point it was not definitive whether the applicant could do that; since then they have worked with their architect or engineer on the feasibility of it and staff did not anticipate any issues; their intent is to do it prior to occupancy.

David Stillman, City Traffic Engineer:

- Said there is a reduction in the total number of enrollment at the daycare from 90 to 70 students. The amount of traffic generated by the 70 students is about 50 trips during the morning peak hour; meaning

in traffic engineering terms that there are 25 trips in and 25 trips out during that peak hour in the morning which will result from the daycare. That is less than the threshold for needing a traffic study; it results in about one additional car through the intersection every 2 minutes.

Dr. Srilakshmi Vemulakonda, Appellant, read statement into the record:

- I am a proud and happy resident of Cupertino for the last 5 years and listening to all of you today makes me more proud because I feel like your visions are aligned with what most of us residents want, and you brought up some great points and those are the same points that I want to share; where our concerns lie. According to the 2010 census, Cupertino's population is about 58,000 and the children between 0 to 5 years of age are 3,157; there are 66 preschools in Cupertino, all of them have about 4.5 star rating.
- On this background we wanted to bring the appeal out mainly because we felt like the issues raised by us in regard to this privacy, traffic, noise and safety were not addressed completely, and we only had the administrative hearing summary available so I did not have access to whether the driveway was feasible; before this meeting I have just looked at it on the presentation with you. We still feel like they are insufficient to mitigate the identified concerns and challenges that the community is facing. I want to give a few examples of the same thing; like Com. Liu said that the administrative hearing summary says that the applicant will work with the city of Cupertino and only if feasible they will try to put a driveway; there is no mandatory driveway; there is no actual action item on it that a driveway will be created. I am tying into Com. Paulsen's comment about why it is so much easier if it is backed up on Jollyman rather than Stelling. As you know, Stelling is a nightmare during peak hours, the traffic is blocked between Rainbow and Stevens Creek Blvd., it is a one narrow lane; it is always blocked. To add 70 cars during peak time in the morning and evening, I feel it is common sense that you are adding 70 cars more and telling me that it is not going to be enough of a traffic problem and it is not enough to do a traffic study; I find it really hard to believe. I do not know where those 70 cars are going to go? The left turn to Jollyman has a very short 3-car left turn, so it is very common when there was an after-school event we would see that the parents would be hurried and they would make the hazardous left turn. There are so many people that walk in that area; it hasn't become a traffic accident yet but I don't want to bet that adding another 70 cars will still not make it a traffic disaster. Forget making a left turn from Jollyman to Stelling; there is such a long lane from Rainbow Creek to Rainbow Drive to Stevens Creek; it is impossible to make that left lane.
- The noise study was done when nobody was around. You add 70 children and a play structure and you are telling me that the noise is not going to increase; he said the noise would increase but it will be within standard; but how? We have not had a study. Experience shows that 19 families are telling you over and over again that even with the after school program the noise was high and now it is going to be made 7:00 a.m. to 6:30 p.m. and according to the city standards the noise will not be enough. We have had a few breakins; we are a close knit group of 19 families and the church, which was an integral part of our two cul de sacs and we had self-help programs, seniors doing tai chi in the parking lot, we have a wonderful community, and now suddenly there are concerns for traffic, increased noise and the same point pointed out in the southwest corner where there is no foliage, it looks into a resident's garage, a flag lot and she uses it as her main entrance because there is no other entrance. The resident's morning and evening activities will be exposed for everyone to see and she will have no privacy. That was one of our main concerns.
- Security: neighborhood watch, we have been part of it for 20 years now; they are saying there are city mandated 7 parking spaces, and they have 11 spaces. Even with the after school program when they had a special event, our lanes would be completely blocked; we have experienced it for the last 5 years. Unless this can all be mandated, then all this would not happen. At whose cost am I sacrificing this nice quiet neighborhood for a commercial purpose? We have nothing against the church; it is part of our community but why should we turn it into a commercial business? I don't understand that there was a non-local resident who came in last time and said how wonderful the school was. It may be the

best school, but you will see that all Cupertino preschools are 4.5 rated; at whose need am I doing this? They said the applicant put out 48 fliers informing the surrounding community about its new project; out of 48 people, if 19 people who are most affected by it because the homes look into the church; are saying that this is not o.k., we have had trouble with the after-school program, don't increase it to full time now and make our lives even harder. I feel it is starting off on the wrong foot; I am sure this relationship with the church is changing, unfortunately into something that we don't want. I will leave it to your wisdom and appreciate the time to speak.

Diane Hsu, Christian Light and Salt Foundation, Applicant:

- Read her presentation into the record. She provided a background of the owners, Pastor Joseph Chu and wife Jane began ministry in 2001 in Fremont, moved to current location 10 years ago and continued with young people's ministry in Cupertino. They are dedicated to serving young people for over 20 years; extending their ministry and as Christians share the mission that it takes a village to raise a child; and the best way to serve the younger generation is to offer quality early childhood education in a setting that also instills Christian values. So far they have done their due diligence; we have been providing proven facts to support the project and address and mitigate the neighbors' concerns. They understand there are additional concerns and requests from the neighbors and would like to address them. Regarding traffic, the parking requirement is exceeded; we have more than adequate parking for the size and scope of the project; the traffic pattern is trickling which is different from the pattern of larger schools with enforced start time; parents don't necessarily arrive and leave at the same time.
- We have heard concerns of the neighboring residents and have been working to determine the feasibility of the new driveway approach on So. Stelling. The church has the intent to implement the curb cut project even if they have to carry the financial burden to accomplish it. While the costly project is not necessary for this scope of operation, we believe the multiple access points will benefit the traffic flow of the surrounding area in the long run. Stelling will become the primary access point for the church and school and will further alleviate the traffic on Jollyman. Regarding the change in start time; while most of the preschools open at 7:30 a.m. the request for the stricter start time of 9:00 a.m. is not in line with the standard operation practices for child care services and will pose a significant hardship and severely limit the project purpose for the average parent who needs to arrive at work by 9:00 a.m. The one hour cut from 7:00 to 8:00 from the administrative hearing already placed us behind the industry norm; the original starting time of 7:00 a.m. will actually help to expand the drop off time and spread out the traffic more. The request for no grace period after 6:00 p.m. will not be feasible for the operation since there will be unforeseen circumstances and incidents or late pickups.
- There is also a request for a full-time traffic monitoring and we feel this is not reasonable since school traffic also the peak hour drop off and pick up time will be limited. There is plenty of ancillary parking and a pattern of continuous flow or overflow to the street will not be anticipated even during the peak traffic hours. We do not anticipate any queuing issues; parents will naturally choose the closest points to park near the facility for their own convenience and safety to drop off and pick up their children. The parking lot turnover rate for this type of service is anticipated to be quick and due to the traffic management plan we are limiting the drop off and pick up time to be 10 minutes. This is required as part of the admission agreement.
- A safety concern; in a preschool setting, children are under direct and concentrated supervision; their daily activities are in close areas; all indoors and outdoors are fenced off and the surrounding area is not accessible to the children. The chances of having them damage the surrounding properties caused by children and staff members is extremely unlikely. Neighbors have expressed concern over potential highly unlikely intrusion or damage to their property caused by the proposed school; in fact the church has been intruded upon by the neighbors various times in the past such as routinely using the church parking lot when hosting parties and recently the church experienced a break-in by a neighbor who arrested them who was under the influence and caused damage to the church property. We share the same concern; everyone in this community should have the responsibility to respect each other's

properties and solve problems when accidents occur.

- As far as privacy is concern, the far distance of the play structure from the property line hinders the children's ability to ensure our neighbors' privacy. Children do not stand on the rooftop of the highest platform of the play structure; the platform for the structure is only 5 feet tall; and the way children use the play structure they do not hang there and watch; they don't use telescopes to observe. When children are climbing up and sliding down they focus on playing and having fun; they do not have a tendency to watch the neighbors' front door. The high fence, the ample lot, the trees will provide buffers for the privacy. We cannot change the proposed structure to the ground level structure due to the need of this particular age group which is preschool; the ground level structures are more appropriate for infants and toddlers; this does not serve the need of the preschool children since they need the body movement opportunity to climb up and down.
- Church and school are part of the community; it provides the critical and convenience service that improves quality of life; they support children, families and safer healthier community. As part of the community we share the same safety, traffic, noise and privacy concerns of our neighbors. We also want a harmonious, safe and peaceful environment for the neighborhood. A preschool is a completely appropriate use of this quasi-public property; the site and location of the school protect the integrity of the neighborhood and supports the provision of a full spectrum of public and quasi-public services that appropriate locate in residential neighborhood. This project also supports the effort to improve the availability and quality of early childhood education in the city of Cupertino. Daycares will not be injurious to the property of the surrounding neighborhood; it will not be detrimental to the public health, safety, privacy, general welfare or convenience. As neighbors we are supposed to co-exist; some of the requests submitted by the appellant for this project are overly restrictive and if granted will set a precedent for the city and impact all the preschools and daycare centers. Again we feel that we have already over-compromised; we have gone above and beyond to provide due diligence and mitigate the neighborhood's concerns. This operation shall and cannot be held to different standards than others in the industry. This project already meets and exceeds all city and state regulations.
- We sincerely hope the neighbors see our efforts and we can continue to be good neighbors and support each other. The mission statement of Good Shepherd Community Church clarifies our purpose in our current endeavor to open the preschool in this community. We seek to honor God by building a Christ center grace filled community in Silicon Valley helping each other to love and follow Jesus. Thank you to the Planning Commission for your consideration and we request that you deny this appeal.

Chair Sun opened the public hearing.

Daniel Lee:

- Expressed his opposition to the application. Has been a Cupertino resident for 30 years; looking at past history and recent traffic study, it is not an ideal condition. Said on his way to the meeting it took two traffic light changes to get from McClellan to go through DeAnza Blvd. in normal traffic. At 6:00 p.m. when people are picking up their children, there will be 90 cars; in the morning there will be the same situation; there is not much distance between Jollyman Lane and the McClellan traffic light, 150 yards maximum. When the people drop off their children, they slow down, let the child out and leave. Imagine 90 cars coming that way and 150 yard distance. Please consider that and the safety for the people. Those are all the side effects that affect the residents of Cupertino; consider the Cupertino resident first before the other people.

Joe Lo:

- Resident of Cupertino, not a member of the Good Shepherd Church. Said he supported the preschool; it provides a good option for the community; maybe the neighbors don't have children so they don't need the preschool. There are other parents in other areas that need the school and this would provide an option for them. In terms of the concern, drive through Stelling many times; nobody goes there and

drives very fast because of that stop sign and there is a rumor around Cupertino that is always a cop hiding around the corner. Everybody stops there very nicely. I believe if you implement that 4-way stop sign it should relieve the traffic concern. When making a decision, it does comply with the law; if this preschool complies with all the laws it should be approved.

Isaac Liu:

- A member of the Good Shepherd Christian Church, not a resident of Cupertino. I have been at the church since I was a teen and when I met my wife she was passionate about teaching and now is a teacher for visually impaired. One of her passions in life is to be able to help the parents and kids and help them be able to grow up in a proper manner and my wife was part of the team in our church that built the Sunday School program which now averages 20 to 30 kids and we have seen kids grow immensely; we want a preschool that we can identify with, our values and beliefs and help our kids grow up in an environment that we believe will most represent us. I think that this will bring the city of Cupertino not only another option for those of us that really believe in Jesus Christ with our faith, I know from the bottom of my heart that this will be a very strong and beneficial to the community.

Ernest Lin:

- There is a need in Cupertino for a preschool especially with Christian focus. He has lived in Cupertino for one year and has 3 children, one in elementary school and 2 in preschool. Said that he would like to work with the school to build good community relationships. New Life Church had a daycare program when they moved into their home; the daycare was then closed and they had to search for another preschool. The members of the church will bring great value to the community; would hope that there are not too many stringent restrictions in the school outside of the norm. Said he would like to work with the neighbors to overcome any concerns that may arise, as a resident and a member of the church. Said he supported the project.

David Lee:

- Not a Cupertino resident but has attended Good Shepherd Church for 6 years; The attempt is to bring a Christian based school into the facilities and serve the community. Said Good Shepherd Church was a catalyst 6 years ago that changed his life.

Edward Lin:

- Said he was a member of the church speaking in support of the church; is a teacher in East Side Union School District and is aware of how crucial early childhood education is; there are only two preschools within the Cupertino city limits, not a lot of options. Sees a clear connection between his faith and his profession as a teacher; the church strives to meet the needs of the community. Ask and believe in the vision that our church wants to bring and bless the community with a Christian preschool and ask that the committee and neighbors work along with them to see the project through to completion and is successful in a way that is a blessing, not just to the community but to the neighbors themselves and to the church as well.

Madeline Tsai, (not present) represented by Annie, with written comment:

- My name is Madeline Tsai, and I live at 10728 Stevens Canyon Rd, Cupertino; I support the Good Shepherd Community preschool project; they have been in the community and being a Christian I believe it is necessary to have this project going; it not only improves the abilities and education options accessibility to the residents in the city of Cupertino, but also expand preschool program school facilities and offers parents a choice of private education with Christian values and principle.

Jacqueline Jatu:

- Said she wanted to share her experience of living in close proximity to Lawson Middle School with a

student population of 1100 students. When Lawson School moved into our neighborhood replacing Collins School about 9 years ago, our neighborhood was very concerned because not only size had increased from 700 to 1100 but also the age of the children attending the school. Also Lawson School has expanded twice pushing its boundary closer to our neighborhood by removing the district office. We were concerned about the privacy, traffic, security, safety and noise. Over the years, the issues have not been as bad as we had anticipated; the impact was minimal to our lives. I work from home and have only occasionally heard the sounds of the children playing during recess; on weekends it is quiet because school is not in session. The impact on my husband who also works from home is minimal if any. The traffic impact is limited because the traffic was limited to a concentrated time of day; also the real estate value has increased from what it was ten years ago, which she said she contributes having a good school in her neighborhood. She said she was familiar with the founders of GSCC for forty years and members for over 10 years and is confident they will build a great school which she felt will benefit the community and will increase its real estate value.

Stanley L.:

- Supports the project, the goal of the project is to provide early intervention for the kids, which benefits the other businesses as well by generating business. The Christian preschool would act as a complement to the good school reputation that Cupertino has. He feels the noise impact from the school will be minimal as the attendees will be taught good behavior.

Maureen Chang:

- Currently has 2 young children, expecting another; shared her experience this past year with second born son; enrolled in kindergarten at Regnart in August and he struggled until Feb. they put him in a different program. Her son is sensitive, kind but did not take well to school; given previous experience with three previous daycares she wanted to focus on providing him with a loving and warm environment. My mother suggested Bethel Lutheran Church program next to Cupertino High School; this school is comparable to the current proposed project but the school hasn't cited any traffic issues or noise issues and more importantly, she is happy what it offered her son. Since attending Bethel her son has grown in ways she did not think an institution could offer; he talks about friends, is a positive thinker; truly believes in himself now. He has grown a lot with his creative, artistic talent and he has grown to be more resilient with difficult tasks which are all things she struggled through with him as a young child. Said if they could have a comparable preschool somewhere near her neighborhood, it would definitely be a huge asset to the community. I am confident that the proposed project will allow residents here to have access to a program of similar quality because the churches are well acquainted and interrelated and she believes the program will produce kinder, more socially conscious children, who may grow up to become leaders in their communities and to their peers in schools like Regnart, Lincoln, and eventually Kennedy and Monta Vista.

Robert Chang:

- Said he read the staff report prior to the meeting and was proud to be a member of the Cupertino community, to know that the Planning Commission clearly takes time and effort to treat the issue seriously; said he felt a lot of effort and work was put into the report. Said it struck him as he listened to the claims that the appellant made today, that they didn't really hear any new arguments; he felt it was the same issues being rehashed over again and he felt those issues had been adequately addressed in the Planning report. He felt that it was obvious that a lot of time and resources went into researching the issues, treating them very seriously, and the church should be commended for their willingness to make a lot of concessions; they are clearly listening to the concerns of their neighbors and are willing to work with them. Overall as a resident he said he fully supported the conclusion of the staff report which is to uphold the original decision and to allow for the expansion of the preschool. He said he felt it would be a highly beneficial project for the community.

Zachary Lo:

- Read statement into the record; my name is Zachary Lo, I am a small group leader at Good Shepherd Church, and I would like to share my thoughts and support for opening a Christian preschool in Cupertino. As many have mentioned before, education is very important for parents and its wishes of young Christian parents are to have access to quality Christian preschools. That is what this church has to offer for the city of Cupertino. Being a young parent myself, I am proud of our church's focus on development of Sunday School programs and our commitment to nurture the minds of our future generation with godly values; values that are of love and not selfishness that makes them contributing members of the society. At Good Shepherd we see ourselves as a member of the community and we want to give Cupertino the best gift that we have, which is to build up godly characters in young kids by providing a safe and stimulating environment in the form of a Christian preschool. This Christian preschool is consulted by experts in the field; it will provide high quality care and educational opportunities. The infrastructure, curriculum, operating hours and school activities are all elements that make the school a desirable alternative for families. The experts have developed a program that works; putting limitation on the program will only decrease the effectiveness of its operation. Cited an analogy and said they should be excited that a high caliber preschool is coming to Cupertino which gives much needed access for young Christian parents. In the process of applying for this permit, we have not only met but exceeded city requirements, so I ask the Planning Commission to treat us the same as other school services in Cupertino and ask that the Use Permit be granted, and allow them to control the operation; allow Good Shepherd to be the contributing member in the Cupertino community by giving what they do best, which is helping to mold and flourish the minds of the future generation in the form of a Christian preschool.

Joanne Cho:

- Resides on the flag lot next to the church; attends a community church in the area which also runs a preschool on its premises. Their preschool runs from 9 a.m. to 6:00 p.m. It is thriving with 95 students, and there is a ground level play structure; for that reason they do not want to infringe on their neighbors' privacy. She said she treasures the church as a neighbor, its mission, their objectives, which can be addressed through its church ministry. Having an entity there that is in addition to that, that is to serve as a business is not something she would like to see, especially with the lowering of the enrollment, but is not convinced that it is the only entity that can exist along with the church at that location. A bigger issue is not necessarily with the church, but with the transfer of ownership comes the transfer of the operation of that business or entity whoever takes over; we have issues with Fusion which was the entity that operated there prior when Good Shepherd came on board. Said she has not made formal complaints but has on a monthly basis had rocks thrown on her premises, had to talk to the owner of the former business, had trash all over, have evidence of email exchanges, all of which me as a good neighbor and them as well intended people, but people who could not necessarily be there 24/7 getting it under control. Those are some of my concerns and one other thing is the traffic, noise and things, I just want to say as a resident who has lived there when those things were there vs. not, there is a huge difference and a huge impact. I do appreciate the consideration of opening up to Stelling and I would like these things to be formalized, documented and disseminated so that we all know what to expect.

John Chang:

- Lives near Monta Vista and McClellan; said he understands and respects the neighbors' concerns in Jollyman neighborhood, and thanked them for voicing their concerns because it is important to have constructive dialog about issues that face our communities. Traffic, noise, safety, privacy, these concerns can be adequately addressed as the staff report spoke to. I grew up here, went to Lincoln, Kennedy and Monta Vista, and after college came back here because I knew that the city offered really good quality services and support to its citizens. I didn't always understand just how good of a support system the city offered until in 2011 his sister gave birth to twins early and were faced with various

health issues. Today they attend a preschool in Cupertino and he became aware of how difficult it is to secure a space in the schools. The staff report did an excellent job of addressing the concerns that the neighborhood has; the church should work with the neighborhood to address those concerns, but he believes that such a preschool would benefit the city, and hopes that the Planning Commission would uphold the decision and allow the preschool to be open.

Raja Kommula:

- Resides next to the church; said people supporting the preschool don't understand the real problem. There are traffic and safety impacts; last year there was an attempted robbery in his home during the school hours; none of the neighbors reported anything suspicious. Has two children at different schools and has to drop them off at two different schools. Children have to get up at 6:30 because of the traffic they encounter on way to school. Requested that consideration be given to moving the start time to 9:00 a.m. to help traffic problems. Ask that the proposal be rejected; or at least move the starting time until 9:00 a.m. and change closing time.

Umesh Toprans, 10705 Orlene Ct.:

- Thanked the church for working hard to try and accommodate some of the concerns expressed; not rehash everything talked about; two points to make; one is the request for the start time to be 9 a.m. to 6 p.m., there is a reason for 9 a.m. with due respect to last speaker; there are 4 schools in that area, with Monta Vista, Lincoln, Kennedy, and Faria; starting from 7:15 a.m. there is a very heavy flow of traffic on Stelling at that time of the morning. Starting at 9 a.m. would alleviate that problem; unlike any other situation, Jollyman is one way in/one way out, from a safety perspective, starting at 9 a.m. is beneficial for the residents and for anyone else. As pointed out previously it is a preschool and no matter how much supervision you have there is going to be kids going to play, throw things, it would be nice to make sure if they accidentally break something in the area, there is some indemnity for church so we are not getting into any other issues. Move the time to 9 a.m. we are not opposed to the school coming in if it meets, because again, thank you to Pastor Chu and the organization that he has brought in to mitigate any of the concerns expressed, but I think 9 to 6 as Joanne pointed out is workable and would alleviate many of the traffic issues and the indemnity piece where if the kids are playing, throwing things, are in the play structure, something gets damaged or window gets broken, there is indemnity to cover some of the damage.

Chin Jung Liu: no longer present

Munir Vora:

- Said he was confused; the issue at table is not around church and activities; the issue is changes coming to the area. We know many of you have been in the Council race and we heard you loud and clear; traffic, safety, security, for last many years and we supported you; Chair Sun mentioned about the master traffic plan, traffic impact, safety; those kinds of questions, exactly the topic we are talking here. This is no different than the city's focus; this has nothing to do with church and with respect, neighbors we wanted to be part of this community, initially the whole neighborhood offered to work together when they learned about the plan; as soon as we learned about the plan, forget the past. Let's work together, timing can be close, Jollyman driveway, can we work together; so it's not like that neighborhood had not stepped up; they stepped up considering let's accept the church, what they are doing, church needs some money by having some commercial entity as a school learning. Said he felt guilty that so many kids are not going to a preschool; the truth is simple that every corner has a preschool but if the church wanted to have a preschool we were okay to work with them; they did not accept to work with us to accommodate us to the full extent. If we focus on the facts rather than opinion, there are certain educated technical staff with the city, such as four-way traffic; it makes sense, it is a technical topic, it's a fact, but seeing the 25 cars in one direction; 14 teachers, 18 teachers, parents, it is not 70

cars, it is going to be 100 cars going both directions. Said they had 110 or 120 questions in emails to the city and not everything was answered; that's the problem we had; the city should not be blamed for not doing the complete work, not doing the research, we really want the city to step up as a big brother.

Mei Ying Hu: (not present; statement read into the record):

- There is a very high demand for child care in Cupertino; child care centers in this area all have a long waiting list; there are 300 children on the list at DeAnza Child Development Center near Good Shepherd Church and the school. Cupertino families are not getting enough support for affordable and good quality child care. Many Cupertino parents have to send their children to centers in other cities, which increases the stress of our young families in addition to lack of child care slots. As a child care educator in Cupertino, I believe with so many dramatic changes in our society we do not just need child care, but high quality education program teaching good values to young ones, especially in character building. In the past decade violent crime has increased 500% and teen suicide has tripled. Early years count forever; the basic personality is built before age 6, building a child care program at Good Shepherd Church will help solving the problem of lacking child care slots in Cupertino. This wonderful Christian value will also help to build a stronger generation of children with good character.

Kelly Kucic:

- Said she was a preschool teacher and program director with 12 years' experience with children and families in the Bay Area; not a Cupertino resident. Purpose here is to help everyone to understand the preschool operation and to answer some of the concerns based on her experience with running a school. There are a number of preschools and daycare centers in Cupertino; it is true what they say; good help or in this case, good care is hard to find. Quality neighborhood, early childhood programs are a valuable resource for Cupertino residents; the impact of this project is far beyond the immediate neighborhood; the GSCS preschool will (1) attract young residents to the community to establish roots; (2) support local industry by providing necessary infrastructure for workers; (3) encourage growth that will support and sustain public education funding in the future; (4) decrease regional traffic which results when parents need to find care outside of the city and further away from their homes, and it will improve property values to have needed resources in the area.
- While the neighbors' concerns are understandable, they are also largely unfounded based on my personal experience; I have been a preschool director in nearby area; my school is almost twice the size and so with a maximum capacity of 70 students, I would not anticipate a strong impact on the traffic situation even during the peak dropoff and pickup hours; it is very minimal addition. We have a similar setting and there is very few concerns from neighbors based on traffic that is related directly to our school. We also are in a neighborhood that has several schools in close vicinity. Traffic concerns are rare; GSCS has already conceded to provide a traffic monitor during peak hours and I don't see a need for that based on the traffic; unlike tech workers who need to be at work earlier; people like teachers, doctors, nurses, whose shifts would start earlier than that and have to be in place. They need a center that requires an earlier dropoff option. The proposed site location at Stelling and Jollyman is 1.5 acres, so it has mature landscaping and fencing and is adequate to buffer the playground noise generated by preschoolers and to ensure privacy for the neighborhood. Furthermore, playground noise will only occur during weekday daytime hours and will not affect residents in the evening or during the weekends when most residents would be at home. As far as children from the playground and their visibility towards neighboring properties, there is really not likelihood that they will have an interest in that.

Pastor Joseph Chu:

- Read his statement into the record. As a pastor, what is my commission leading this church? I think that is given a perspective for neighbors who don't know us very much. How we see this property is being used to the benefit of the people, especially for the city of Cupertino; these two points I will address. I have been in high tech industry for 20 years and was called to serve people taking a 60%

pay cut, used to live in Cupertino, I just want to say that in my past serving in an industry I saw too much of broken relationships, neglected children, overdriven and unhappy children, all that cut to my heart and for one benefit I get to do what I love to do is to care about families, couples and individual growth. Our church emphasizes the strong family, strong parent and child relationship and we offer many classes to people; not only do we care about the children, but we also care about the parents of the children. The daycare and school has always been in our vision; we are not talking personal gain, but personal sacrifice. We are trying to build the daycare and after school to provide a loving environment, with love and grace to the children. Opportunity for the parents to interact with the children in a loving and healthy way, which has been our mission for our church and I am very proud that many came today to testify to that.

Natalie Han:

- Said she has been a church member for 6 years and has benefited from the church in many ways; through premarital counseling to children's training program; the church cares about the family and parents of the family, also a Sunday School teachers. Also leads small groups with her husband; I support this school project; I believe it is God's calling to serve the community and bless the children. She read a co-worker's letter. (below)

Female (no longer present) 9244 Baker Drive, statement read into the record:

- I am writing to support approval for the preschool from 940 Stelling Road, Cupertino; I live in the Cupertino community and have children who need a quality preschool program and daycare services; My husband and I really need to have more quality preschool selections in the City of Cupertino; preschool program and daycare services are as important at other levels of education in the city. Please support this project; many workers in the community will benefit from the approval from this project.

Janice Fong:

- Member of the Church Board of Directors, Acting Deacon Chairperson, Sunday School teacher, have been a church member for 17 years. Asked them to think of the word "home" you don't call just anywhere home. To me when we think about home, it is a place that we spend a lot of time at, and we really take care of. It is a place where we feel safe and are welcome; called the church on 940 Stelling Road their home and my family is there; we celebrate life's special events together; gone through tough times also. I hope you will give us the opportunity to bless our neighbors in Cupertino.

Chia Jung Lin:

- Said she was a music teacher at Fusion where she met the pastor and his wife. Said she was impressed when she heard about their vision. She shared her positive experience with the school.

Jane Chu:

- Appreciate the help our church received from the city; honored to be part of it. We don't know where funds will come from but we have faith. We have spent a lot of budget to make the facility better; the church has contributed a lot to the community. It is our vision to build a place which will be a home for the residents of Cupertino; we share the same neighborhood and pay the price.

Raj Avasarala:

- Supports the idea but not at the cost of breakins, accidents, safety issues and quality of life is lower; said he did not want to send his children to some place where all the issues are there.
- Said he resided two houses next to the church; said he wanted to support the music teacher's comments; because she has experience, he has been there almost 5 years now; said from 9 a.m. to 6 p.m it works; he supports the idea; will the preschool only serve Christians? It is not about religious things; focus on Cupertino education. Said he was not against the church; his children are 6 and 10 years old; they

attend the after-school church. Said he supported the project.

Chair Sun closed the public hearing.

Benjamin Fu, Asst. Director of Community Development:

- Explained that the action before the Planning Commission today is the request for an appeal; the first action to decide is weighing the conditions within the resolution whether the project was acted on properly; and either you deny the appeal; therefore the decision made by the hearing officer stands; or you uphold the appeal and overturn the decision by the hearing officer and make any necessary changes that you wish to.

Vice Chair Paulsen:

- Asked if they could do a line item veto because one element, the driveway, was added not as the original staff recommendation, but later on. Do they have the flexibility to give thumbs up or thumbs down on that additional change?

Benjamin Fu:

- Said it is one of the conditions placed by the hearing officer for the project. If you wish to either eliminate or modify in the conditions or add another condition, you must uphold the appeal and overturn the hearing officer decision and then you can make changes. In order to do that, you must consider the findings within the resolution as well when you make your decision.
- Said the city did not receive any complaints or any code violations during the operation of the previous daycare center. When contacting the Sheriff's office, there was nothing specifically tied to the church regarding crime, etc.

Staff:

- Said they have done 24 hour counts on Stelling at that location; the counts are a couple of years old but they are still valid; you would expect in the morning, the northbound direction is the heavy movement. The peak hour in the morning is about 8:30 to 9:30 a.m. Southbound in the morning is much lighter.

A discussion was held to address all concerns and conditions of approval relative to the proposed project.

MOTION: Motion by Com. Takahashi, second by Com. Liu, and unanimously carried 5-0-0 to uphold the decision of the Administrative Hearing Officer and deny the appeal of the approval of the Use Permit U-2016-02 and the Director's Minor Modification DIR02016-34 per the draft resolutions.

OLD BUSINESS: None

NEW BUSINESS: None

REPORT OF THE PLANNING COMMISSION

- No Committee reports given.

REPORT OF THE DIRECTOR OF COMMUNITY DEVELOPMENT: No report.

ADJOURNMENT:

- The meeting was adjourned to the next Planning Commission meeting on May 9, 2017, at 6:45 p.m.

Respectfully Submitted: /s/Elizabeth Ellis
Elizabeth Ellis, Recording Secretary



OFFICE OF COMMUNITY DEVELOPMENT
CITY HALL
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PLANNING COMMISSION STAFF REPORT
Meeting: May 23, 2017

SUBJECT

Development project to consider allowing the construction of a 19 unit affordable senior housing development with associated parking and landscape improvements on a vacant parcel including a Heart of the City Exception to allow 100% of the front and rear of the property to be a non-retail use (Application No.(s): DP-2016-02, ASA-2016-15, EXC-2017-03; Applicant(s): Kathy Robinson (Charities Housing); Location: 19160 Stevens Creek Boulevard; APN(s): 375-07-001)

RECOMMENDED ACTION

Staff recommends that the Planning Commission:

1. Find that the proposed actions are exempt from CEQA; and
2. Approve Development Permit (DP-2016-02), in accordance with the draft resolution (Attachment 1)
3. Approve Architectural and Site Approval (ASA-2016-15), in accordance with the draft resolution (Attachment 2)
4. Approve Heart of the City Exception (EXC-2017-03), in accordance with the draft resolution (Attachment 3)

DISCUSSION

Application Summary:

1. Development Permit (DP-2016-02) to consider allowing the construction of a 19 unit affordable senior housing development (Charities Housing) on a vacant parcel;
2. Architectural and Site Approval (ASA-2016-15) to allow the construction of a 19 unit affordable senior housing development (Charities Housing) and associated parking and landscape improvements on a vacant parcel; and
3. Heart of the City Exception (EXC-2017-03) to allow 100% of the development to be a non- retail use to accommodate a 19 unit affordable housing development.

Analysis:

Project Data:

General Plan Land Use Designation	Com/Off/Res	
Special Planning Area	Heart of the City Specific Plan (East Stevens Creek Boulevard subarea)	
Zoning Designation	P(CG, Res)	
Net lot area	0.55 acres	
	Allowed/Required	Proposed
Maximum units based on density	14	19
35% Density Bonus units (State Law)	5	
Total number of units	19	
Residential Density	25 du/acre	33.75 du/acre
Height of Structures	Up to 45 feet	34 feet
Setbacks		
Front	35 feet from the face of curb (min.)	38 feet from the face of curb
Side	Minimum One-half (1/2) the height of the Building (17 feet), or ten (10) feet, whichever is greater.	18 feet
Rear (from residentially developed or zoned properties)	One and one-half (1.5) times the height of the building (51 feet) with a minimum setback of 20 feet.	119 feet
Parking		
Total on-site	11 (0.5 per unit + 2 for manager's unit)	19
Private Open Space (s.f. per unit)	60	60
Landscaping		
Common open space landscape per Heart of the City	2,850 s.f. (150 s.f. per unit)	3,483 s.f.
Retail Frontage		
Stevens Creek Blvd frontage	75%	0%
Rear of building	50%	0%
Building Area	12,996 s.f.	
Project Consistency with:		
General Plan:	Yes	
Zoning:	Yes – upon approval of Heart of the City Exception for retail frontage requirements	

Background:

Existing Site and Surroundings

The project site, identified in the City's Housing Element as a Priority Housing site, is a vacant 0.56 acre parcel located on the south side of Stevens Creek Boulevard, between Tantau Avenue and Finch Avenue, approximately 275 feet west of the intersection of Tantau Avenue and Stevens Creek Boulevard.



The project is surrounded by a variety of uses including:

- Mixed commercial, office, and residential to the north (Main Street Cupertino);
- Affordable multi-family development to the east;
- Office and other commercial uses to the west; and
- Single family and educational uses (Cupertino High School) to the south.

City's Affordable Housing Fund

In 2016, the City received a request from Charities Housing Development Corporation of Santa Clara County (Charities Housing) for a \$3,672,000 loan from the City's Below Market Rate (BMR) Affordable Housing Fund (AHF) to construct rental housing units affordable to extremely low and very low-income senior households with incomes between 30% and 50% of area median income for Santa Clara County. On July 5, 2016, the City Council approved the reservation of the requested funds to assist in the development of the proposed project. However, the final approval of the loan was conditioned on the projects' receiving all required entitlements, with the City making no commitments to approve the project.

Proposed Project:

The applicant, Kathy Robinson, representing Charities Housing, is requesting approval of a multi-family development on the subject site. The project includes the development

of one, three-story building, comprising 19 apartment units. Additionally, other site improvements are proposed including landscaping and a common open space area.

The applicant has proposed that the units will be both income and age-restricted to seniors 62 and older. Therefore, with the exception of the manager's unit, 100% of the units will be restricted to households with incomes which range between 30% and 50% of Area Median Income (AMI). Additionally, since the units are also proposed to be age-restricted, under federal and state fair housing laws, every household member must be 62 years of age and older.

The proposed development will be approximately 34 feet tall and consist of a total building area of 12,996 square feet. The project comprises of 18 studios, each 350 square feet in size, and one (1) two-bedroom, 840 square feet, manager's unit. Each studio apartment contains a complete kitchen and handicapped accessible bathroom. All units are proposed to have private outdoor space in the form of balconies or porches in conformance with the Heart of the City Specific Plan requirements.

In addition to the residential uses, there is also an office for property management, a common laundry room, a public restroom, community lounge. The common spaces are located along Stevens Creek Boulevard. The waste management and service facilities are located at the rear of the building.

Compliance with General Plan and Housing Element

The proposed project complies with the City's General Plan (Community Vision 2015 – 2040). The development site was identified as a Priority Housing Site in the 2014-2022 Housing Element.

The maximum residential yield of site is 14 units based on the maximum allowable density. However, to ensure that the sites inventory in the Element did not overestimate the capacity of sites, the maximum developable yields on most sites were conservatively reduced by 15 percent. Therefore, the site was shown to have a realistic capacity for 11 units (85% of 14 units) in the Housing Element.

Strategy LU-1.3.1 of the Land Use and Community Design Element of the General Plan and Section 1.01.010(B) of the Heart of the City Specific Plan would have required the applicant to submit for a conditional use permit for the three (3) unit difference between the realistic capacity and the maximum residential yield discussed above.

However, the project is exempt from a Use Permit under the provisions of State law per CA Gov. Code Section 65589.4 since it meets the requirements and thresholds for infill, density, affordability, conformance to local land use designations, and size. While a

Conditional Use Permit is not required, the development is subject to other discretionary approvals applicable to the project (See Attachment 5).

Density Bonus

Since the proposed project is 100% affordable (not including the manager's unit), the applicant is requesting the maximum Density Bonus (35%) allowed by State Law. However, the applicant has not requested any incentives/concessions or waivers for the proposed development and meets all applicable building height, setback and transitions from adjacent properties. The requested Density Bonus allows the applicant to develop five (5) unit above the maximum 14 units allowed on the site, for a total of 19 units. A condition of approval requires that, prior to issuance of any building permit, the applicant record a regulatory agreement with the City ensuring that 18 units will be rented to very low income households for a 99-year period.

Development Allocation

Should the proposed project be approved, 14 units would be allocated to this project while the 5 density bonus units would not affect the available Heart of the City allocation. Therefore, 316 residential units would continue to be available, 200 units of which are earmarked for the Oaks Shopping Center, a Priority Housing Site, in the City's General Plan.

Heart of the City Exception

Residential development is a permitted use on mixed use zoning designation sites, if they are identified as Priority Housing sites in the Housing Element. Overall, the project complies with the Zoning Ordinance and Heart of the City Specific Plan requirements for landscaping, private outdoor space, access, streetscape, setbacks, height, building bulk, and design, with one exception.

However, since the proposed project does not provide a retail component as required by the Heart of the City Specific Plan, an Exception is required. The HOC allows no more than 25% of a building frontage along Stevens Creek Boulevard, and no more than 50% of the rear of a building, to be occupied by non-retail uses.

The proposed project places the manager's office and public/common areas of the project along Stevens Creek Boulevard in order to activate the space.

Given limited flexibility of the building frontage along Stevens Creek Boulevard (due to the width of the lot, required ingress/egress driveway and the front entrance for the project), adequate space is not available to incorporate/design an adequately sized retail frontage. In balance, considering the affordability levels of the proposed units, and the site constraints, it is recommended that this HOC Exception be approved.

Architectural Review

The proposed building is designed in a contemporary architectural style with wood-like fiber cement board siding, light sand finished stucco, and earth tone colors. The third level is set back from the second level, on the northern elevation, which helps with the massing of the building when viewed from Stevens Creek Boulevard. The eastern façade has a continuous open corridor on each level for access to the units and is designed to allow unrestricted access to the common open space on the ground level. The western façade incorporates the private open space for each of the units.

The location, height, and massing of the buildings are compatible with the adjacent and surrounding developments. The project provides appropriate setbacks and is consistent with the HOC requirements for multiple-family residential developments for common open space, private open space and other design criteria.

The City's Architectural Consultant has reviewed the site and architectural details and supports the design. The applicant has worked with staff to incorporate all of the comments from the architectural consultant. Generally, the proposed building's exterior features high quality materials and blends well with the surrounding uses.

On-Site Improvements

The project proposes to implement a series of on-site improvements intended to enhance the pedestrian environment and maximize landscaping and on-site permeability. The on-site improvements continue the pedestrian-oriented streetscape concept with an ADA-compliant walkway connecting the development to Stevens Creek Boulevard and the bus stop. Decorative paving on the entrances and on the driveway visually accent the paving area.

The proposed landscape plan features a varied and extensive plant palette throughout the site, including landscape buffers, shrubs, groundcovers, and common open space. The common open space is intended to be active with amenities that include a bocce court, and patios for gardening, reading, and dining. Turf areas and other high water use vegetation are not proposed within this development.

Revisions to landscape plan have been conditioned to reflect the City's Consulting Arborist's recommendation that the parking lot shade trees species be changed from the proposed Evergreen Elm and Australian Willow to either London Plane or Chinese Pistache. In addition, a condition of approval has been added to require removal and replacement of the existing fencing along the western property line with decorative fencing that is lower in height and more appropriate for an active urban area.

Traffic, Circulation and Parking Analysis

The project's traffic impact was analyzed by a third party traffic consultant to ensure that adequate mitigation measures could be identified and imposed as conditions of approval on the project. A trip generation analysis was conducted based on trip generation rates published in the ITE (Institute of Traffic Engineers) Trip Generation manual. The traffic impact analysis estimated that the project will generate four (4) trips during the AM peak hour and five (5) trips during the PM peak hour due to the nature of the project proposed. Since the trip generation for the project is low, no significant traffic impacts are anticipated and therefore, no mitigation measures were identified.

The applicant is proposing to install a two-way driveway along the western property line with a five (5) foot landscape planter to access the parking stalls located at the rear of the property. In compliance with General Plan policies that require interconnected access between properties located on busy streets such as Stevens Creek Boulevard, a driveway connection with the property to the west (19200 Stevens Creek Boulevard) will be established with this project. A condition of approval has been added to require a reciprocal ingress and egress easement on the project site for the benefit of 19200 Stevens Creek Boulevard (property to the west) and 19140 Stevens Creek Boulevard (property to the east.) An existing easement currently exists allowing the subject site ingress/egress access to 19200 Stevens Creek Boulevard.

The City's Density Bonus Ordinance, in compliance with State Law, allows 100% affordable projects with rental housing to provide 0.5 parking spaces per unit (except the manager's unit) as long as either the development is within one-half mile of a fixed bus route service that operates 8 times per day with unobstructed access to that service or has paratransit service. In this case, the project is located on Stevens Creek Boulevard along which VTA bus route 23 runs that has headways of approximately 20 mins. The eastbound bus stop is located approximately 450 feet from the project site and the westbound bus stop is located approximately 520 feet from the project site. Since the project site meets the criteria established by State Law, the project is required to only provide eleven (11) spaces (9 spaces for the affordable studios + 2 for manager's unit.) However, the applicant proposes nineteen (19) parking spaces, which adequately meets the parking requirements of the proposed project.

BMR Unit Administration and Funding Sources

In addition to the BMR AHF funds set aside by the City Council in July 2016, funds from multiple funding sources, such as, tax credit investors, other public agencies or bond funds, are needed to complete the development. These different funding sources may have varying restrictions on the use of funds and complicated administrative and reporting requirements. In these instances, where the project is being operated by an

affordable housing developer with extensive management experience, the affordable units are usually administered by a manager approved by the City, with the City's role limited to monitoring for compliance with the City's conditions.

Environmental Assessment:

The project is exempt from CEQA under Public Resources Code Sections 21159.21 (Exemption for Qualified Housing) and 21159.23 (Exemption for Affordable Low Income Housing), and CEQA Guidelines Sections 15192 (Threshold Requirements for Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects), and 15194 (Affordable Housing Exemption) of Title 14 of the California Code of Regulations (See Attachment 5).

Other Department/Agency Review:

The City's Public Works Department, Building Division, Environmental Programs Division, the Santa Clara County Fire Department, the Sunnyvale Sanitary District, VTA, California Water, and Recology reviewed the project and have no objections. Their pre-hearing comments have been incorporated as conditions of approval in the draft resolutions.

PUBLIC NOTICING & OUTREACH

The following table is a brief summary of the noticing done for this project:

Notice of Public Hearing and Intent, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none"> ▪ 19 public hearing notices mailed to property owners within 300 feet of the project site (10 days prior to the hearing) ▪ Site Signage (14 days prior to the hearing) ▪ Legal ad placed in newspaper (at least 10 days prior to the hearing) 	<ul style="list-style-type: none"> ▪ Posted on the City's official notice bulletin board (one week prior to the hearing) ▪ Posted on the City of Cupertino's website (one week prior to the hearing)

In addition, the applicant conducted a public outreach effort at the Cupertino Senior Center on March 23, 2017. The meeting was attended by Charities Housing staff and about seven members of the public.

PUBLIC COMMENT

Three public comments from the adjacent property owners (19200 Stevens Creek Boulevard and 19140 Stevens Creek Boulevard) with concerns about the potential impacts of the required ingress/egress easements in the rear of the development have been received as of the date of production of this staff report (see Attachment 4).

PERMIT STREAMLINING ACT

This project is subject to the Permit Streamlining Act (Government Code Section 65920 – 65964). The City has complied with the deadlines found in the Permit Streamlining Act.

Project Received: December 02, 2017

Deemed Incomplete: December 21, 2017

Deemed Complete: April 27, 2017

The Planning Commission's decision on this project is final unless appealed within 14 days of the decision.

CONCLUSION

Staff recommends approval of the project since the project and conditions of approval address all concerns related to the proposed development and all of the findings for approval of the proposed project, consistent with Chapters 19.168 of the Cupertino Municipal Code, may be made.

Prepared by: Gian Paolo Martire, Associate Planner

Reviewed by: Piu Ghosh, Principal Planner

Benjamin Fu, Assistant Director of Community Development

Approved by: Aarti Shrivastava, Assistant City Manager

ATTACHMENTS:

- 1 – DP-2016-02 Draft Resolution
- 2 – ASA-2016-15 Draft Resolution
- 3 – EXC-2017-03 Draft Resolution
- 4 – Public Comments
- 5 – Memo to File regarding Use Permit and CEQA Exemption
- 6 – Plan Set

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
APPROVING A DEVELOPMENT PERMIT ALLOWING THE
CONSTRUCTION OF A 19 UNIT AFFORDABLE SENIOR HOUSING
DEVELOPMENT (CHARITIES HOUSING) ON A VACANT PARCEL
LOCATED AT 19160 STEVENS CREEK BOULEVARD (APN 375-07-001)

SECTION I: PROJECT DESCRIPTION

Application No.: DP-2016-02

Applicant: Kathy Robinson (Charities Housing)

Location: 19160 Stevens Creek Boulevard (APN 375-07-001)

SECTION II: FINDINGS FOR DEVELOPMENT PERMIT:

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

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

WHEREAS, the application is for a 100% age restricted senior affordable development that meets the requirements to be eligible for a 35% density bonus; and

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

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

WHEREAS, the Planning Commission 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 site is designated by the Housing Element as an approved development site for high density housing. The location is surrounded by similar urban uses and the project is consistent with zoning, Heart of the City Specific Plan (HOC), and the General Plan for density, landscaping, private outdoor space, access, streetscape, setbacks, height, building bulk, and design. 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 this title and complies with the California Environmental Quality Act (CEQA).

The proposed development is in conformance with the Cupertino General Plan as part of the East Stevens Creek Boulevard area within the Heart of the City Special Area. The Heart of the City area is envisioned to be a mixed use district that permits residential on Housing Element Sites, such as the project site. The Project provides housing units consistent with the Housing Element within the General Plan. The Project has met the development standards as defined by the Heart of the City Specific Plan and the City Municipal Code such as heights, setbacks, and parking requirements. The site is within a Planned Development Zoning District that allows General Commercial and Residential (“P (CG, Res)”). Therefore, the proposed development is consistent with the purpose of the City’s zoning ordinance.

The project is exempt from CEQA under 21159.21 (Exemption for Qualified Housing), 21159.23 (Exemption for Affordable Low Income Housing), 15192 (Threshold Requirements for Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects), and 15194 (Affordable Housing Exemption) of the Title 14 of the California Code of Regulations.

3. The residential project is eligible for the density bonus and any incentives, parking reductions or waivers requested.

One hundred percent (100%) of the units will be affordable to a mix of Very Low and Low Income households at affordable rent or affordable housing cost, which entitles the project to a Density Bonus rate of 35 percent consistent Cupertino Municipal Code Section 19.56.030 (A). No incentives or waivers have been requested. Additionally, no parking

reductions beyond those allowed by the City's Density Bonus Ordinance, in compliance with State Law, have been requested.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on PAGE 3 thereof,:

The project is found to be exempt from the California Environmental Quality Act and the application for a Development Permit, Application no. DP-2016-02 is hereby approved and that the subconclusions upon which the findings and conditions specified in this resolution are based and contained in the Public Hearing record concerning Application no. DP-2016-02 as set forth in the Minutes of Planning Commission Meeting of May 23, 2017 and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval recommendation is based on the plan set received on April 6, 2017 consisting 19 sheets labeled as "19160 Stevens Creek" labeled as 01, 1, 4.1 to 4.4, A1, A2.1 to A2.3, A3 to A8, L1, and E1 to E2, drawn by Studio E Architects, Charles W. Davidson Co., and Ivy except as may be amended by conditions in this resolution.

2. ANNOTATION OF THE CONDITIONS OF APPROVAL

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

3. 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.

4. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. DP-2016-02, ASA-2016-15, and EXC-2017-03 shall be applicable to this approval.

5. DEVELOPMENT APPROVAL AND PROJECT AMENDMENTS

Development Permit approval is granted for 19 new apartment units. The Planning Commission shall review amendments to the project considered major by the Director of Community Development.

6. BMR REGULATORY AGREEMENT

Prior to the issuance of any building permit, a rent regulatory agreement shall be recorded against the property. The regulatory agreement shall include, but not limited to the following:

- a) Type, location (site map), square footage, number of bedrooms, and construction scheduling of BMR units;
- b) Provision of 18 BMR units affordable to and occupied by very low income households for a 99-year period;
- c) Provisions for income certification and screening of potential occupants of BMR units;
- d) Restriction control mechanisms;
- e) Financing of ongoing administrative and monitoring costs;
- f) Other reasonably required provisions to ensure provision and maintenance of BMR units.

7. 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.

8. SCREENING OF 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 the Public Works Department.

9. 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 is defined, and noise and dust control measures are established.

10. CONSTRUCTION HOURS

Construction activities shall be limited to Monday through Friday, 7 am to 8 pm and Saturday and Sunday, 9 am to 6 pm. Construction activities are not allowed on holidays. Maximum noise levels are delineated in the City's Community Noise Control Ordinance.

The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulations pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.

11. NOISE LEVELS AND ABATEMENT

Project construction and use shall comply with the City's Community Noise Control Ordinance at all times. 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.

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. 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.

14. 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.

15. 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.

16. 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. RECIPROCAL ACCESS EASEMENT

Prior to issuance of a Building Permit for the site, the Developer shall record a Reciprocal Access Easement over the property linking the adjoining properties located to the east and west. The nonexclusive easements shall provide vehicular and pedestrian ingress and egress through the site. The easement language shall provide that construction of a driveway curbcut to the property to the east (19140 Stevens Creek Boulevard) shall be completed/connected at such time as the city can require the property owner to the east to provide a reciprocal ingress/egress easement through a planning permit. The easement language and layout shall be reviewed and approved by the City prior to recordation with the County Recorder's Office. The easement shall contain a provision that it may not be modified or removed without express written approval from the City.

2. STREET WIDENING

Public street widening and dedications shall be provided in accordance with City Standards and specifications and as required by the City Engineer. On Stevens Creek Boulevard, the ultimate width from face of curb to future property line shall be 17' wide.

3. CURB AND GUTTER IMPROVEMENTS

Curbs and gutters, driveway, sidewalks and related structures shall be installed in accordance with grades and standards as specified by the City Engineer and consistent with the Heart of the City guidelines. Close any unused driveway cuts and ensure positive drainage flow along Stevens Creek Blvd.

4. SITE IMPROVEMENTS

Site modification is required, included but not limited to pavement, landscaping and striping, at 19200 Stevens Creek Blvd for the proposed ingress & egress access.

5. PEDESTRIAN AND BICYCLE IMPROVEMENTS

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

6. GRADING

Grading shall be as approved and required by the City Engineer in accordance with Chapter 16.08 of the Cupertino Municipal Code. 401 Certifications and 404 permits maybe required. Please contact Army Corp of Engineers and/or Regional Water Quality Control Board as appropriate.

7. DRAINAGE

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

8. BICYCLE PARKING

The applicant shall provide bicycle parking consistent with the City’s Parking Regulations under Chapter 19.124 of the Cupertino Municipal Code, and to the satisfaction of the Director of Community Development and City Engineer.

9. IMPROVEMENT AGREEMENT

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

Fees:

- a. Checking & Inspection Fees: \$ Per current fee schedule (\$3,349.00 or 5% of improvement costs)

b. Grading Permit:	\$ Per current fee schedule (\$2,825.00 or 6% of improvement costs)
c. Storm Drainage Fee:	\$Per current fee schedule (\$3,265 per AC + \$247/unit)
d. Power Cost:	**
e. Park Fees:	\$ Per current fee schedule (\$18,000 per unit) to be waived by the City as part of BMR Program
f. Street Tree	By Developer

** Based on the latest effective PG&E rate schedule approved by the PUC

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.

10. PARK FEE & CONSTRUCTION TAX

In accordance with the City of Cupertino's Below Market Rate Program, Park Fees and Construction Tax are waived.

11. 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 City Engineer.

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

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

12. 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.

13. UNDERGROUND UTILITIES

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

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. TRAFFIC CONTROL PLAN

The developer must submit a traffic control plan to be approved by the City as part of encroachment permit application process. 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.

21. STREET TREES

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

22. FIRE PROTECTION

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

23. 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).

24. FIRE HYDRANT

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

25. 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.

26. 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.

27. SANITARY DISTRICT

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

28. 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 issuance of building permits.

SECTION V: CONDITIONS ADMINISTERED BY THE SANTA CLARA COUNTY FIRE DEPARTMENT**1. FIRE SPRINKLERS REQUIRED**

In order to maintain a minimally acceptable level of life safety, the Fire Sprinkler System shall be an NFPA 13 Light Hazard System.

2. FIRE ALARM SYSTEM REQUIRED

As defined in the currently adopted edition of CFC Sec. 907, as adopted and amended by the CUPMC.

3. FIRE APPARATUS ACCESS ROADS

Aerial Access as required and defined in the SCCFD Standard Detail and Specification will not be required for this project. The proposed 20-foot road is accepted. (refer to SCCFD A-1).

4. FIRE DEPARTMENT (ENGINE) DRIVEWAY TURNAROUND

A turnaround as required and defined in SCCFD SD&S A-1 will not be required.

5. GROUND LADDER ACCESS

Ground ladder rescue from second and third floor rooms and roof access will not be required in those locations where the property cannot accommodate such access. A permanently fixed ladder will allow emergency access from the second-story roof of

the Lounge/Laundry rooms. 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 in those areas that can accommodate such spaces. 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.

6. EMERGENCY RESPONDER RADIO COVERAGE

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. CFC 510.1.

7. 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.

8. 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.

9. KEY BOXES

Where required. Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for lifesaving or firefighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. CFC Sec. 506.1.

SECTION VI: CONDITIONS ADMINISTERED BY THE PUBLIC WORKS DEPARTMENT OF THE CITY OF SUNNYVALE

1. SEWER CONNECTION FEE

Prior to building permit issuance from Building Division, the City of Cupertino, developer shall pay sewer connection fee to the City of Sunnyvale. The above mentioned sewer connection fee is separate from all fees of any kind from the City of Cupertino. The sewer connection fee is based on number of units with low occupancy (1 or 2 bedrooms) or standard occupancy (3 bedrooms and up).

2. ENCROACHMENT PERMIT

Prior to off-site improvement or encroachment permit issuance from Public Works, the City of Cupertino, developer shall apply and obtain a separate encroachment permit from the City of Sunnyvale for a new sewer lateral installation (portion from public right-of-way line to existing sewer main pipe) in public right-of-way. Please note that a new sewer line portion from Public right-of-way line to the proposed building is not part of the City of Sunnyvale review, approval and permitting.

3. FINAL OCCUPANCY

Prior to building occupancy, the City of Cupertino, developer shall provide the City of Sunnyvale a copy of the final inspection approval or other City of Cupertino documentation demonstrating that the building is approved for occupancy.

SECTION VII: CONDITIONS ADMINISTERED BY THE ENVIRONMENTAL PROGRAMS DIVISION OF THE CITY OF CUPERTINO

1. TRASH ENCLOSURE

All wet waste businesses, defined as a business that produces food, organic and/or liquid wastes, must include a covered trash enclosure to accommodate all waste containers (landfill, recycling, organics, and cooking oil/grease). The trash enclosure must be designed and constructed in accordance with the "Guidelines for Non-Residential Building Trash and Recycling Enclosures". If a property does not have a trash enclosure, has one that does not have roof, or is of inadequate size for all tenant space on the property, this must be included with the plan set submitted during the review process. The trash enclosure must be designed or modified to accommodate all waste containers in use by all occupants of the property, not merely the tenant making application for the building or development permit.

2. WASTE TRIOS

One permanently installed set of waste trios and a cigarette urn (landfill, recycle, compost) designed for public use must be installed on the property and shown on

the plans submitted. One trio set and cigarette urn satisfies the requirement for up to four adjacent businesses on one property.

3. FULL TRASH CAPTURE STORM DRAIN CATCH BASIN INSERTS

For projects located in medium and high trash management areas as defined by the City of Cupertino Trash Management Area Map or are adjacent to a creek, full trash capture storm drain catch basin inserts may be required. Fueling stations, automotive, light industrial or other uses which may have fine particulate or liquid based pollutants (including cooking oils/grease) may require an additional hydrocarbon filter on the trash capture devices. A Maintenance Agreement and certification of ongoing operation and maintenance of the devices in accordance with the manufacturers recommended specifications is required. Topographical flow maps of the property identifying all storm drain inlets, underground storm water flow lines, and all connections with the City's storm drain system and any adjacent property will be required during plan review.

4. STORM DRAIN INLET MARKERS

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

5. EXTERIOR COPPER

The exterior use of copper for roofing materials, rain gutters, downspouts, or any ornamental enhancement is prohibited. Small copper adornments such as door handles or fence post caps are exempted.

6. CONSTRUCTION AND DEMOLITION WASTE RECYCLING

Construction, demolition, and renovation projects which are 3000 square feet or more are required to submit a completed Waste Management Plan demonstrating that a minimum of 65% of the material generated is recycled consistent with the provisions of Cupertino Municipal Code Section 16.72.

SECTION VIII: CONDITIONS ADMINISTERED BY THE BUILDING DEPARTMENT OF THE CITY OF CUPERTINO

1. ACCESSIBLE UNIT

Provide accessible unit complying with the 2016 California Building Code Section 1102A.3.

PASSED AND ADOPTED this 23rd day of May, 2017, at the Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

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

ATTEST:

APPROVED:

Benjamin Fu
Assist. Dir. of Community Development

Don Sun
Chair, Planning Commission

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
APPROVING AN ARCHITECTURAL AND SITE APPROVAL PERMIT TO
ALLOW THE CONSTRUCTION OF A 19 UNIT AFFORDABLE SENIOR
HOUSING DEVELOPMENT (CHARITIES HOUSING) AND ASSOCIATED
PARKING AND LANDSCAPE IMPROVEMENTS ON A VACANT PARCEL
LOCATED AT 19160 STEVENS CREEK BOULEVARD (APN 375-07-001)

SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2016-15

Applicant: Kathy Robinson (Charities Housing)

Location: 19160 Stevens Creek Boulevard (APN 375-07-001)

SECTION II: FINDINGS FOR DEVELOPMENT PERMIT:

WHEREAS, the Planning Commission of the City of Cupertino received an application for a Architectural and Site Approval as described in Section I. of this Resolution; and

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

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

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

WHEREAS, the Planning Commission 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 site is designated as a Priority Housing Site in the City's Housing Element. The location is surrounded by similar urban uses and the project is consistent with zoning, Heart of the City Specific Plan (HOC), and the General Plan for density, landscaping, private outdoor space, access, streetscape, setbacks, height, building bulk, and design. 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 proposal is consistent with the purposes of Chapter 19.168, the General Plan any specific plan, zoning ordinances, applicable planned development permit, conditional use permits, variances, subdivision maps or other entitlements to use which regulate the subject property including, but not limited to, adherence to the following specific criteria:

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

The Project avoids abrupt changes and provides a gradual transition by observing the height and setback requirements within the Heart of the City Specific Plan, and maintains a 1:1 slope line drawn from the curb line of Stevens Creek Boulevard as specified in the General Plan. Landscape improvements throughout the Project site will aid in creating a transition between height and bulk between the Project and surrounding buildings.

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

The building is designed in a contemporary architectural style with wood-like fiber cement board siding, light sand finished stucco, and earth tone colors which complements adjacent

developments by being consistent or compatible with design and color schemes with the future character of the neighborhoods and purposes of the zone in which they are situated.

The location, height and materials of walls, fencing, hedges and screen plantings have been designed to be consistent, or have been conditioned to be consistent, with the development standards of the Heart of the City Specific Plan. Above ground parking will be located at the rear of the site. Any above ground utility installation are required to be screened from public view. The project uses various planting materials and various ground cover materials to prevent dust and erosion. None of the existing trees on site are protected species and these will be removed to accommodate the project. However, the replacement plantings will provide the appropriate shading on site and new streets will be planted in conformance with the Heart of the City Specific Plan.

Final lighting for the development would be reviewed with the construction documents to meet safety requirements while preventing spill-over light to adjacent properties.

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

Signage approval is not included in this application.

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

The proposed project is along a mixed-use corridor, Stevens Creek Boulevard, and not within an existing, low density single family residential neighborhood.

NOW, THEREFORE, BE IT RESOLVED:

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

The application for a Architectural and Site Approval, Application no. ASA-2016-15 is hereby recommended for approval and that the subconclusions upon which the findings and conditions specified in this resolution are based and contained in the Public Hearing

record concerning Application no. ASA-2016-15 as set forth in the Minutes of Planning Commission Meeting of May 23, 2017 and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval recommendation is based on the plan set received on April 6, 2017 consisting 19 sheets labeled as "19160 Stevens Creek" labeled as 01, 1, 4.1 to 4.4, A1, A2.1 to A2.3, A3 to A8, L1, and E1 to E2, drawn by Studio E Architects, Charles W. Davidson Co., and Ivy except as may be amended by conditions in this resolution.

2. ANNOTATION OF THE CONDITIONS OF APPROVAL

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

3. 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.

4. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. DP-2016-02, ASA-2016-15, and EXC-2017-03 shall be applicable to this approval.

5. PROJECT AMENDMENTS

The Planning Commission shall review amendments to the project considered major by the Director of Community Development.

6. FINAL ARCHITECTURAL DETAILS AND EXTERIOR BUILDING MATERIALS

The final building design and exterior treatment plans shall be reviewed and approved by the Director of Community Development prior to issuance of building permits. The Director of Community Development may approve additional designs or minor changes as deemed appropriate. The planning division shall review the following items prior to building permit issuance:

- a) The final design of the proposed fence along the western property line to ensure that the materials, height, and opacity are appropriate for a mixed use, urban setting.
- b) Provide alternative exterior materials for the trash enclosure that will resist the consistent heavy use of the structure.

7. PARKING LOT TREES

Landscape plan to be revised to reflect the City's Consulting Arborist's recommendation that the parking lot shade trees species be changed from the proposed Evergreen Elm and Australian Willow to either London Plane or Chinese Pistache.

8. LANDSCAPE PROJECT SUBMITTAL

Prior to issuance of building permits, the applicant shall submit a full landscape project submittal per section 14.15.040 of the Landscaping Ordinance. The Water-Efficient Design Checklist (Appendix A of Chapter 14.15), Landscape and Irrigation Design Plans, and Water Budget Calculations shall be reviewed and approved to the satisfaction of the Director of Community Development prior to issuance of building permits.

9. LANDSCAPE INSTALLATION REPORT

A landscape installation audit shall be conducted by a certified landscape professional after the landscaping and irrigation system have been installed and prior to final occupancy. 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."

10. LANDSCAPE AND IRRIGATION MAINTENANCE

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 prior to issuance of final occupancy,

or any time before the landscape installation report is submitted prior to issuance of building permits.

- 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 de-thatching 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.

11. SITE LIGHTING

All new lighting must conform to the standards in the Parking Regulations Ordinance, and 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.

12. 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.

13. 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.

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

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

PASSED AND ADOPTED this 23rd day of May, 2017, at the Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

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

ATTEST:

APPROVED:

Benjamin Fu
Assist. Dir. of Community Development

Don Sun
Chair, Planning Commission

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
APPROVING A HEART OF THE CITY EXCEPTION TO ALLOW 100% OF
THE DEVELOPMENT TO BE A NON- RETAIL USE TO ACCOMMODATE A
19 UNIT AFFORDABLE HOUSING DEVELOPMENT LOCATED AT 19160
STEVENS CREEK BOULEVARD (APN 375-07-001)

SECTION I: PROJECT DESCRIPTION

Application No.: EXC-2017-03

Applicant: Kathy Robinson (Charities Housing)

Location: 19160 Stevens Creek Boulevard (APN 375-07-001)

SECTION II: FINDINGS FOR DEVELOPMENT PERMIT:

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

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

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

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

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

1. The proposed development is otherwise consistent with the City's General Plan and with the goals of this specific plan and meets one or more of the criteria for an exception for reasons to provide design flexibility in situations when small lot size,

unusually shaped parcels, or unique surrounding land uses make it difficult to adhere to the development standards and where all efforts to meet the standards have been exhausted.

The project site is approximately 80 feet wide and 25,000 square feet in size. However, its location along Stevens Creek Boulevard (identified Priority Development Area), surrounded by a mix of uses, proximity to services, and access to public transportation makes it conducive to a residential development. After provision of a two-way driveway, adequate setbacks on the east side and a front entrance for the residential project, there would not be adequate building frontage for an appropriately sized retail component within this project.

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

The project site is designated as a Priority Housing Site in the City's Housing Element. The location is surrounded by similar urban uses and the project is consistent with the General Plan for density, landscaping, private outdoor space, access, streetscape, setbacks, height, building bulk, and design. The existing vacant lot will be developed with an affordable, age-restricted apartment complex built to the current building and fire safety codes. 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.

3. The proposed exception will not result in a hazardous condition for pedestrian and vehicular traffic.

The exception requested for the proposed project does not relate to the creation of a hazardous condition for pedestrian and vehicular traffic.

4. The proposed development has legal access to public streets and public services are available to serve the development.

The proposed project proposes the installation of a two-way driveway to allow access to Stevens Creek Boulevard, a public street, that the property has frontage along. Additionally, all services necessary for development are available to serve the development. The proposed project will provide the appropriate hook-ups for access.

5. The proposed development requires an exception, which involves the least modification of, or deviation from, the development regulations prescribed in this chapter necessary to accomplish a reasonable use of the parcel.

The proposed development has met all other development standards for height, parking, landscaping, density, and building placement as mandated by the General

Plan, Heart of the City Specific Plan, and Zoning Ordinance. The only regulation it does not meet is the provision of at least 75% of the building frontage along Stevens Creek Boulevard and 50% of the rear of the building be occupied by uses that allow direct retailing of goods.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on PAGE 2 thereof,:

The Planning Commission does determine that the project is exempt from the California Environmental Quality Act and that the application for a Heart of the City Exception, Application no. EXC-2017-03 is hereby approved and that the subconclusions upon which the findings and conditions specified in this resolution are based and contained in the Public Hearing record concerning Application no. EXC-2017-03 as set forth in the Minutes of Planning Commission Meeting of May 23, 2017 and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval recommendation is based on the plan set received on April 6, 2017 consisting 19 sheets labeled as "19160 Stevens Creek" labeled as 01, 1, 4.1 to 4.4, A1, A2.1 to A2.3, A3 to A8, L1, and E1 to E2, drawn by Studio E Architects, Charles W. Davidson Co., and Ivy except as may be amended by conditions in this resolution.

2. ANNOTATION OF THE CONDITIONS OF APPROVAL

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

3. 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.

4. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. DP-2016-02, ASA-2016-15, and EXC-2017-03 shall be applicable to this approval.

5. EXCEPTION

A Heart of the City Exception is granted to allow the construction of the proposed project with 100% of the building frontage along Stevens Creek Boulevard and 100% of the rear of the building to be occupied by non-retail uses.

6. 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.

7. 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.

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

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PASSED AND ADOPTED this 23rd day of May, 2017, at the Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

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

ATTEST:

APPROVED:

Benjamin Fu
Assist. Dir. of Community Development

Don Sun
Chair, Planning Commission



CYPRESS PROPERTIES
INCORPORATED

2191 E. Bayshore Road, Suite 220, Palo Alto, California 94303 (650) 424-8383 FAX (650) 424-8226

Timothy G. Sheehan
Constance B. Seymour
Frank J. Pokigo, Jr.

John L. deBenedetti
1936 - 2007

November 10, 2016

Mr. Gian Paolo Martire
Associate Planner
10300 Torre Avenue
Cupertino, CA 95014-3255

Re: Charities Housing Project
19160 Stevens Creek Boulevard
Cupertino, California:

Dear Gian:

Thank you for meeting with me last week concerning the Charities Housing project at 19160 Stevens Creek Boulevard adjacent to our office building at 19200 Stevens Creek.

I understand because the project is a proposed senior housing project, the governing rules for parking and building coverage are much more liberal as demonstrated by their plans. My most pressing concern is the cross access proposed.

The ingress and egress off of Stevens Creek works fine as it should; however, the 25ft driveway easement access at the rear of the project is ill-advised. The easement indicated was forced on our building at 19200 at the last minute by the City over 35 years ago for the purpose of integrating office uses between Finch Avenue and Tantau and was to continue through to Tantau Avenue.

Over the years uses changed. The corner at Tantau is commercial with a drive off Tantau leading to the next property, a low income residential development with access to Stevens Creek, to Tantau, and out to the back parking and drive through easement. I assume to cross 19160 Stevens Creek and tie to the rear access to 19200 Stevens Creek. The residential development between 19160 and the corner commercial has restricted access by gating the proposed access easement most likely for traffic and security concerns. The Charities Housing project does not have access to Tantau nor does our building as originally intended, which I think is much more logical and acceptable. For security and traffic reason it is desirable to not have office and commercial traffic mix with residential traffic.

Mr Gian Paolo Martire
November 10, 2016
Page Two

Unfortunately, over the years we have experienced excessive drive through traffic from our neighbors and the high school along with the littering and overflow parking from the existing residential. All of which is a continuing maintenance effort and expense. I would like to strongly suggest that the 25ft. rear easement be gated for only garbage service use and fire department access. Charities Housing can maintain their security and safety with their ingress and egress out to Sevens Creek. They do not need to grant my tenants, the tenants next door, the high school or anyone else access to their living environment, especially due to the senior element of the residents. Additionally, the northerly access easement toward Stevens Creek should be eliminated with the approval of the Charities development.

I would be glad to answer any further questions. We look forward to supporting this project with the condition of limited ingress and egress over the easement for fire department and garbage services only.

Regards,



Timothy G. Sheehan

c Kathy Robinson

RECEIVED

NOV 14 2016

BY: _____



STEVEN CREEK VILLAGE, INC.

19140 Steven Creek Blvd.
Cupertino, CA 95014

February 14, 2017

Kathy Robinson, Director of Housing Development
- Charities Housing
1400 Parkmoor Ave., Suite 190
San Jose, CA 95126

Re: Dedication of Easement from Stevens Creek Village Property-19140 Stevens Creek Blvd.

Dear Kathy:

Steven Creek Village, Inc. appreciated the opportunity to meet with you last Friday, February 10th to discuss and consider the dedication of a reciprocal easement between Stevens Creek Village property and your proposed development adjacent to the site. After further reviewing this request, unfortunately we are unable to grant this request for the dedication of future easement from your property through Stevens Creek Village for the following reasons:

- The dedication of the easement would impact our existing joint use ingress and egress and parking agreement with the commercial property next to our site. Since the proposed easement would also run through the commercial property, they would also be required to be a party to any future dedication (and could potentially affect our joint use parking agreement); and there is already a heavy traffic burden to the site;
- The dedication of the easement would severely impact the overall security of our property;
- The existing security gate which provides ingress and egress to our site would have to be removed to accommodate your vehicular traffic or the gate access code would have to be provided to your future residents (we cannot support either alternative for the safety of our residents and their personal belongings);
- Based on our discussion, secondary access (Emergency Vehicle Access-EVA) will be provided for the Fire Department and to facilitate trash removal, through the property west of your site, the need for the easement dedication across the Stevens Creek Village is not a health and safety issue; and
- The concerns about traffic safety from vehicles coming in and out of the site from Stevens Creek Blvd. and South Tantau Ave during am/pm rush hour.

Based on our initial review, we strongly support your development and look forward to working with you in the future, but cannot go forward with this request allowing public access through our site which

would not be approved by our tenants as they are already dissatisfied with the number of vehicles and strangers. If you have any future questions regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Morgan", with a long, sweeping horizontal stroke extending to the right.

Ron Morgan
President/CEO



CYPRESS PROPERTIES
INCORPORATED

2191 E. Bayshore Road, Suite 220, Palo Alto, California 94303 (650) 424-8383 FAX (650) 424-8226

Timothy G. Sheehan
Constance B. Seymour
Frank J. Pokigo, Jr.

John L. deBenedetti
1936 - 2007

February 21, 2017

Mr. Gian Paolo Martire
Associate Planner
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014-3255

Re: Charities Housing Project
19160 Stevens Creek Boulevard
Cupertino, California:

Dear Gian:

Thank you again for meeting with me last Thursday. I know you were busy and we had previously discussed my thoughts; however, I am not sure the planning staff appreciates our real concerns and acknowledges the fact that planning guidelines are just guidelines and are not always applicable. A non-secure open access for through traffic to Charities senior development at 19160 Stevens Creek would be ill-advised due to potential problems with congestion, security, and safety. I am aware that the "Connectivity" guidelines in Cupertino's Plan suggest this approach, but in reality should only be followed if it logically works safely and is appropriate. Mixing office use traffic and high school traffic with a senior housing development is not the best planning approach in this instance. As you are aware, the existing Stevens Creek Village next to the Charities proposed project found that "Connectivity" didn't work for them and determined there was a real necessity to block off and secure their access and parking.

Our building at 19200 Stevens Creek has enough issues with the high school and adjacent preschool traffic and Stevens Creek Village located 75ft. away using our parking. Over the years our Cypress Building has experienced excessive drive through traffic from the neighboring property uses and the high school. Then we have the additional littering and overflow parking especially from the high school. This has resulted in increased operating costs to pay for site clean-up and increased staffing and unsafe conditions in the parking lot. We actually had to install traffic bumps in our small lot at the cost of \$5,000 a couple of years ago just to slow down the drivers cutting through to Stevens Creek Boulevard.

Mr. Gian Paolo Martire
February 21, 2017
Page 2

As the neighboring properties along Stevens Creek Blvd. are no longer office uses, (Charities Seniors and Stevens Creek Village) the need for ingress and egress easement to integrate office uses" is no longer warranted.

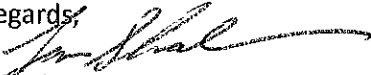
Cypress Properties supports the development proposed by Charities Housing to build an affordable senior housing development at 19160 Stevens Creek Blvd. We, however, are not supportive of having the easement points used for drive thru traffic by the public, the Cypress office tenants, or the senior residents and their visitors.

It is our preference that the 25' easement at the rear of property(s) be used only for EVA and trash removal purposes and secured by a limited access permanent gate similar to the gate Charites has at their Mt View development. The 25' easement toward the front of the property, near Stevens Creek Blvd. should be abandoned. I believe Charities Housing is in agreement with this.

We are also not in favor of removing the property line fence, between 19200 and 19160 Stevens Creek Blvd, properties. Unlimited access by foot traffic between the two properties will encourage/ enable the students and public to take short cuts out to Stevens Creek adding to the difficulty of providing reasonable maintenance, safety and security. "Good fences make for good neighbors".

Please let me know if you would like to discuss further.

Regards,



Tim Sheehan, Manager
Cypress Building Associates LLC

c Benjamin Fu
Kathy Robinson



OFFICE OF COMMUNITY DEVELOPMENT
PLANNING DIVISION

CITY HALL
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255
(408) 777-3308 • FAX (408) 777-3333 • planning@cupertino.org

Memo

To: File No. DP-2016-02, ASA-2016-15, & EXC-2017-03
From: Gian Paolo Martire, Associate Planner, City of Cupertino
CC: Aarti Shrivastava, Assistant City Manager
Benjamin Fu, Assistant Director of Community Development
Date: March 6, 2017
Re: Exempting the Use Permit requirement for a proposed senior affordable housing development and CEQA Exemption (Charities Housing)

The Charities Housing development site was allocated 11 units based on an 85% buildout in the Community Vision 2015-2040 (General Plan). To achieve the highest buildout onsite (19 units), the Density Bonus would be based on a 100% buildout, or 14 units¹. According to the Development Standards and Design Guidelines of the Heart of the City Specific Plan (HOC) (1.01.010.B.), the following applies to Housing Element Sites and other residential development proposals on non-Housing Element Sites:

B. Residential – Residential density shall be per the General Plan Land Use and zoning maps. On sites with a mixed-use residential designation, residential is a permitted use only on Housing Element sites. Conditional use permits will be required for residential units on mixed-use Housing Element sites that propose units above the estimates in the Housing Element, and on Non- Housing Element mixed-use sites.

The sentence underlined above would require the applicant to submit for a Use Permit for the three (3) unit increase in the base buildout. However, the project is exempt from a Use Permit under the provisions of Gov. Code Section 65589.4. The attachment *Use Permit Exemption Under 65589.4* demonstrates how the proposed development meets the Code's requirement and thresholds for infill, density, affordability, conformance to local land use designations, and size.

¹ The General Plan allows a density of 25 units an acre. The site is approximately .5485 acres, thus the allowed buildout would be 13.7. On January 1, 2017, AB 2501 requires that local jurisdictions round up density numbers for affordable housing developments.

Further, the project has been found to be exempt from CEQA under 21159.21 (Exemption for Qualified Housing), 21159.23 (Exemption for Affordable Low Income Housing), 15192 (Threshold Requirements for Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects), and 15194 (Affordable Housing Exemption) of the Government Code. Although the City cannot require a Use Permit, the development is subject to other discretionary approvals applicable to the project.

Attachments: Use Permit Exemption Under 65589.4
Charities Housing – CEQA Compliance

Use Permit Exemption Under 65589.4

Charities Housing Compliance with 65589.4 of the Government Code		
Code Section	Project Adherence	Additional Comments
(a) An attached housing development shall be a permitted use not subject to a conditional use permit on any parcel zoned for an attached housing development if local law so provides or if it satisfies the requirements of subdivision (b) and either of the following:	According to the Development Standards and Design Guidelines of the Heart of the City Specific Plan (HOC) (1.01.010.B.), On sites with a mixed-use residential designation, residential is a permitted use only on Housing Element sites.	Applicant will have to submit for a HOC Exception as the development is not mixed use.
(1) The attached housing development satisfies the criteria of Section 21159.22, 21159.23, or 21159.24 of the Public Resources Code.	The project meets the Standards in Section 21159.21 and at least 21159.23. See the following Table Charities Housing Compliance with 21159.21 and 21159.23 of the Government Code	
(b) At least 10 percent of the units of the attached housing development shall be available at affordable housing cost to very low income households, as defined in Section 50105 of the Health and Safety Code, or at least 20 percent of the units of the attached housing development shall be available at affordable housing cost to lower income households, as defined in Section 50079.5 of the Health and Safety Code, or at least 50 percent of the units of the attached housing development available at affordable housing cost to moderate-income households, consistent with Section 50052.5 of the Health and Safety Code. The developer of the attached housing development shall provide sufficient legal commitments to the local agency to ensure the continued availability and use of the housing units for very low, low-, or moderate-income households for a period of at least 30 years.	The intended residents will be seniors 62 and older. With the exception of the manager's unit, 100% of the households will be restricted to incomes which range between 30% and 50% of Area Median Income. Under the terms of City funding, the project will be required to remain 100% affordable for 99 years to qualified households.	

Charities Housing Compliance with 21159.21 and 21159.23 of the Government Code		
Code Section	Project Adherence	Additional Comments
21159.21 A housing project qualifies for an exemption from this division pursuant to Section 21159.22, 21159.23, or 21159.24 if it meets the criteria in the applicable section and all of the following criteria:		
(a) The project is consistent with any applicable general plan, specific plan, and local coastal program, including any mitigation measures required by a plan or program, as that plan or program existed on the date that the application was deemed complete and with any applicable zoning ordinance, as that zoning ordinance existed on the date that the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.	As a Housing Element Site, the project is consistent with zoning, HOC, and the General Plan. According to the Development Standards and Design Guidelines of the Heart of the City Specific Plan (HOC) (1.01.010.B.), on sites with a mixed-use residential designation, residential is a permitted use only on Housing Element sites.	
(b) Community-level environmental review has been adopted or certified.	The General Plan Amendment, Housing Element Update, and Associated Rezoning EIR (State Clearinghouse No. 2014032007) analyzed the applicable density and use for the site. Please refer to sections 3.7.4.4 Housing Element Site 4 (Barry Swenson) and 4.9 Land Use and Planning of the EIR for an analysis. The EIR was certified on December 4, 2014 by City Council.	"Community-level environmental review" includes an EIR on a general plan, general plan update, or housing element. Pub. Resources Code § 21159.20(b)(1)
(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.	The project is located within an urban service area, and there are no deficiencies in available utilities, as shown in the EIR for the General Plan update. The project applicant has committed to pay all applicable development fees.	
(d) The site of the project does not contain wetlands, does not have any value as a wildlife habitat, and the project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete. For the purposes of this subdivision, "wetlands" has the same meaning as in Section 328.3 of Title 33 of the Code of Federal Regulations and "wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.	The site is currently a small isolated vacant lot surrounded by qualified urban uses. According to Figure ES-1 of Community Vision 2015 – 2040, is within the Urban Forest area of the City, with no wetlands onsite or in the vicinity. Figures 4.3-1 and 4.3-2 in the EIR for the General Plan provide that development and land use activities in the proposed project area occurs in an urbanized area where special-status species are generally not expected to occur. The potential for occurrence of special-status species in developed areas is generally very remote in comparison to undeveloped lands with natural habitat that contain essential habitat characteristics for the range of species known from the west Cupertino vicinity.	

Use Permit Exemption Under 65589.4

Charities Housing Compliance with 21159.21 and 21159.23 of the Government Code		
Code Section	Project Adherence	Additional Comments
(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.	Site is not listed as a hazardous waste site.	
(f) The site of the project is subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity. (1) If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements. (2) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.	The site is not a regulated hazardous materials cleanup site. Phase 1 and Phase 2 ESAs were completed by an Environmental Professional, and no contamination was found that would prohibit residential development. The reports found that no evidence of any current or past uses in the area that would have the potential for releasing hazardous substances that present a risk to human health or the environment, and that the location of the site showed no significant hazards from surrounding properties or activities. Please refer to section 6 (<i>Conclusions</i>) of the <i>Phase II Environmental Site Assessment Report</i> completed by SLR dated June 13, 2016.	
(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1.	No historical resources are onsite or in the vicinity.	
(h) The project site is not subject to any of the following: (1) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard. (2) An unusually high risk of fire or explosion from materials stored or used on nearby properties. (3) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency. (4) Within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone. (5) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.	It is an urban site not located in a high wildland fire hazard; delineated earthquake fault zone; landslide hazard, flood plain, or restriction zone, as shown in the Safety Element of the General Plan. The site is surrounded by Cupertino High School and single family uses to the south, a high-density residential development to the east, an office building to the west, and a mixed use development (Main Street) to the north, which do not pose an unusually high risk of fire or explosion from stored materials, or risk of a public health exposure.	
(i)(1) The project site is not located on developed open space. (2) For the purposes of this subdivision, "developed open space" means land that meets all of the following criteria: (A) Is publicly owned, or financed in whole or in part by public funds. (B) Is generally open to, and available for use by, the public. (C) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities. (3) For the purposes of this subdivision, "developed open space" includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.	The project site has not been developed for open space uses.	
(j) The project site is not located within the boundaries of a state conservancy.	Not located within the borders of a state conservancy.	
21159.23 (a) This division does not apply to any development project that consists of the construction, conversion, or use of residential housing consisting of 100 or fewer that is affordable to low-income households if both of the following criteria are met:	The project consists of 19 units. With the exception of the manager's unit, 100% of the households will be restricted to incomes which range between 30% and 50% of Area Median Income.	"Low- and moderate income households" 150191(f) [referencing Health & Safety Code § 50093]

Use Permit Exemption Under 65589.4

Charities Housing Compliance with 21159.21 and 21159.23 of the Government Code		
Code Section	Project Adherence	Additional Comments
		<p>“Low-income households” – 15191(g) [[referencing Health & Safety Code §§ 50093 and 50105]]</p> <p>“Lower income households” – 15191(h) [referencing Health & Safety Code § 50079.5]</p>
(1) The developer of the development project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.	The intended residents will be seniors 62 and older. With the exception of the manager’s unit, 100% of the households will be restricted to incomes which range between 30% and 50% of Area Median Income. Under the terms of City funding, the project will be required to remain 100% affordable for 99 years to qualified households.	
(2) The development project meets all of the following requirements:		
(A) The project satisfies the criteria described in Section 21159.21.	See above.	
(B) The project site meets one of the following conditions: (i) Has been previously developed for qualified urban uses. (ii) The parcels immediately adjacent to the site are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses, and the site has not been developed for urban uses and no parcel within the site has been created within 10 years prior to the proposed development of the site.	The immediately adjacent parcels are developed with qualified urban uses. The parcel to the east is a high density housing development, the parcel to the west is a multi-story office building, and the parcels to the south include Cupertino High School and multiple single family homes.	“Qualified urban use” is defined as “any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. CEQA Guidelines § 15191(k).
(C) The project site is not more than five acres in area.	net lot area of 0.5485 acres	
(D) The project site is located within an urbanized area or [FN1] within a census-defined place with a population density of at least 5,000 persons per square mile or, if the project consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.	The 2010 US Census estimated that the population per square mile to be 5,179.6. The US Census 2015 estimates that the density is 5,379.39 per square mile.	The City is 11.26 square miles
(b) Notwithstanding subdivision (a), if a project satisfies all of the criteria described in subdivision (a) except subparagraph (D) of paragraph (2) of that subdivision, this division does not apply to the project if the project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile.	N/A; meets all of subdivision (a)	
(c) Notwithstanding subdivision (b), this division applies to a project that meets the criteria of subdivision (b), if there is a reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.	N/A; meets all of subdivision (a)	
(d) For the purposes of this section, “residential” means a use consisting of either of the following: (1) Residential units only. (2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15 percent of the total floor area of the project.	100% residential	

CHARITIES HOUSING – CEQA COMPLIANCE

Charities Housing Compliance with 21159.21 (Exemption for Qualified Housing) and 21159.23 (Exemption for Affordable Low Income Housing) of the Government Code		
Code Section	Project Adherence	Additional Comments
21159.21 A housing project qualifies for an exemption from this division pursuant to Section 21159.22, 21159.23, or 21159.24 if it meets the criteria in the applicable section and all of the following criteria:		
(a) The project is consistent with any applicable general plan, specific plan, and local coastal program, including any mitigation measures required by a plan or program, as that plan or program existed on the date that the application was deemed complete and with any applicable zoning ordinance, as that zoning ordinance existed on the date that the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.	As a Housing Element Site, the project is consistent with zoning, HOC, and the General Plan. According to the Development Standards and Design Guidelines of the Heart of the City Specific Plan (HOC) (1.01.010.B.), on sites with a mixed-use residential designation, residential is a permitted use only on Housing Element sites.	
(b) Community-level environmental review has been adopted or certified.	The <i>General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR</i> (State Clearinghouse No. 2014032007) analyzed the applicable density and use for the site. Please refer to sections 3.7.4.4 <i>Housing Element Site 4 (Barry Swenson)</i> and 4.9 <i>Land Use and Planning</i> of the EIR for an analysis.	“Community-level environmental review” includes an EIR on a general plan, general plan update, or housing element. Pub. Resources Code § 21159.20(b)(1)
(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.	It is located within an urban service area.	
(d) The site of the project does not contain wetlands, does not have any value as a wildlife habitat, and the project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete. For the purposes of this subdivision, “wetlands” has the same meaning as in Section 328.3 of Title 33 of the Code of Federal Regulations and “wildlife habitat” means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.	None identified.	
(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.	Site is not listed as a hazardous waste facility.	
(f) The site of the project is subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity. (1) If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements. (2) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.	The site is not a regulated hazardous materials cleanup site. Phase 1 and Phase 2 ESAs were performed, and no contamination was found that would prohibit residential development. Please refer to section 6 (<i>Conclusions</i>) of the <i>Phase II Environmental Site Assessment Report</i> completed by SLR dated June 13, 2016.	
(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1.	No historical resources are onsite or in the vicinity that would be impacted.	
(h) The project site is not subject to any of the following: (1) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.	Not located in any of the listed areas.	

CHARITIES HOUSING – CEQA COMPLIANCE

Charities Housing Compliance with 21159.21 (Exemption for Qualified Housing) and 21159.23 (Exemption for Affordable Low Income Housing) of the Government Code		
Code Section	Project Adherence	Additional Comments
<p>(2) An unusually high risk of fire or explosion from materials stored or used on nearby properties.</p> <p>(3) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.</p> <p>(4) Within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.</p> <p>(5) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.</p>		
<p>(i)(1) The project site is not located on developed open space.</p> <p>(2) For the purposes of this subdivision, “developed open space” means land that meets all of the following criteria:</p> <p>(A) Is publicly owned, or financed in whole or in part by public funds.</p> <p>(B) Is generally open to, and available for use by, the public.</p> <p>(C) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.</p> <p>(3) For the purposes of this subdivision, “developed open space” includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.</p>	Not located in any of the listed areas.	
<p>(j) The project site is not located within the boundaries of a state conservancy.</p>	Not located in a state conservancy.	
<p>21159.23 (a) This division does not apply to any development project that consists of the construction, conversion, or use of residential housing consisting of 100 or fewer that is affordable to low-income households if both of the following criteria are met:</p>	The project consists of 19 units. With the exception of the manager’s unit, 100% of the households will be restricted to incomes which range between 30% and 50% of Area Median Income.	<p>“Low- and moderate income households” 150191(f) [referencing Health & Safety Code § 50093]</p> <p>“Low-income households” – 15191(g) [[referencing Health & Safety Code §§ 50093 and 50105]]</p> <p>“Lower income households” – 15191(h) [referencing Health & Safety Code § 50079.5]</p>
<p>(1) The developer of the development project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households, as defined in Section 50079.5 of the Health and Safety Code, for a period of at least 30 years, at monthly housing costs, as determined pursuant to Section 50053 of the Health and Safety Code.</p>	The intended residents will be seniors 62 and older. With the exception of the manager’s unit, 100% of the households will be restricted to incomes which range between 30% and 50% of Area Median Income. Under the terms of City funding, will be required to remain 100% affordable for 55 years to qualified households.	
<p>(2) The development project meets all of the following requirements:</p>		
<p>(A) The project satisfies the criteria described in Section 21159.21.</p>	See above.	
<p>(B) The project site meets one of the following conditions:</p> <p>(i) Has been previously developed for qualified urban uses.</p> <p>(ii) The parcels immediately adjacent to the site are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses and the remaining 25 percent of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses, and the site has not been developed for urban uses and no parcel within the site has been created within 10 years prior to the proposed development of the site.</p>	The immediately adjacent parcels are developed with qualified urban uses. The parcel to the east is a high density housing development, the parcel to the west is a multi-story office building, and the parcels to the south include Cupertino High School and multiple single family homes.	“Qualified urban uses” is defined in CEQA Guidelines Section 15191; see below.
<p>(C) The project site is not more than five acres in area.</p>	Net lot area of 0.5485 acres	

CHARITIES HOUSING – CEQA COMPLIANCE

Charities Housing Compliance with 21159.21 (Exemption for Qualified Housing) and 21159.23 (Exemption for Affordable Low Income Housing) of the Government Code		
Code Section	Project Adherence	Additional Comments
(D) The project site is located within an urbanized area or [FN1] within a census-defined place with a population density of at least 5,000 persons per square mile or, if the project consists of 50 or fewer units, within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.	The 2010 US Census estimated that the population per square mile to be 5,179.6. The US Census 2015 estimates that the density is 5,379.39 per square mile.	The City is 11.26 square miles
(b) Notwithstanding subdivision (a), if a project satisfies all of the criteria described in subdivision (a) except subparagraph (D) of paragraph (2) of that subdivision, this division does not apply to the project if the project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile.	N/A; meets all of subdivision (a)	
(c) Notwithstanding subdivision (b), this division applies to a project that meets the criteria of subdivision (b), if there is a reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.	N/A; meets all of subdivision (a)	
(d) For the purposes of this section, “residential” means a use consisting of either of the following: (1) Residential units only. (2) Residential units and primarily neighborhood-serving goods, services, or retail uses that do not exceed 15 percent of the total floor area of the project.	100% residential	

Charities Housing Compliance with 15192 (Threshold Requirements for Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects) and 15194 (Affordable Housing Exemption) of the Government Code.		
Code Section	Project Adherence	Additional Comments
<u>15192. Threshold Requirements for Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects: In order to qualify for an exemption set forth in sections 15193, 15194 or 15195, a housing project must meet all of the threshold criteria set forth below:</u>		
(a) The project must be consistent with: (1) Any applicable general plan, specific plan, or local coastal program, including any mitigation measures required by such plan or program, as that plan or program existed on the date that the application for the project pursuant to Section 65943 of the Government Code was deemed complete; and (2) Any applicable zoning ordinance, as that zoning ordinance existed on the date that the application for the project pursuant to Section 65943 of the Government Code was deemed complete, unless the zoning of project property is inconsistent with the general plan because the project property has not been rezoned to conform to the general plan.	Refer to response to section 21159.21(a) of the government code	
(b) Community-level environmental review has been adopted or certified.	Refer to response to section 21159.21(b) of the government code	
(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.	Refer to response to section 21159.21(c) of the government code	
(d) The site of the project: (1) Does not contain wetlands, as defined in Section 328.3 of Title 33 of the Code of Federal Regulations. (2) Does not have any value as an ecological community upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection. (3) Does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game	None identified	

CHARITIES HOUSING – CEQA COMPLIANCE

Charities Housing Compliance with 15192 (Threshold Requirements for Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects) and 15194 (Affordable Housing Exemption) of the Government Code.		
Code Section	Project Adherence	Additional Comments
Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code. (4) Does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.		
(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.	Refer to response to section 21159.21(e) of the government code	
(f) The site of the project is subject to a preliminary endangerment assessment prepared by an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity. (1) If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements. (2) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.	Refer to response to section 21159.21(f) of the government code	
(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1.	Refer to response to section 21159.21(g) of the government code	
(h) The project site is not subject to wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.	Not located in any of the listed areas.	
(i) The project site does not have an unusually high risk of fire or explosion from materials stored or used on nearby properties.	No hazardous materials stored onsite or nearby.	
(j) The project site does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.	The Phase I & II analyzed the risk of a public health exposure and did not find anything that would pose a risk or exceed any standards established by any state or federal agency. Please refer to section 6 (<i>Conclusions</i>) of the <i>Phase II Environmental Site Assessment Report</i> completed by SLR dated June 13, 2016.	
(k) Either the project site is not within a delineated earthquake fault zone or a seismic hazard zone, as determined pursuant to Section 2622 and 2696 of the Public Resources Code respectively, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake or seismic hazard.	Not located within a delineated earthquake fault zone or a seismic hazard zone.	
(l) Either the project site does not present a landslide hazard, flood plain, flood way, or restriction zone, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.	The project site does not present a landslide hazard, flood plain, flood way, or restriction zone	
(m) The project site is not located on developed open space.	Refer to response to section 21159.21(i) of the government code	
(n) The project site is not located within the boundaries of a state conservancy.	Refer to response to section 21159.21(j) of the government code	
(o) The project has not been divided into smaller projects to qualify for one or more of the exemptions set forth in sections 15193 to 15195.	The project is one development on a single lot.	
15194 (Affordable Housing Exemption): CEQA does not apply to any development project that meets the following criteria:		
(a) The project meets the threshold criteria set forth in section 15192.	See above	
(b) The project meets the following size criteria: the project site is not more than five acres in area.	Refer to response to section 21159.23(C) of the government code	

CHARITIES HOUSING – CEQA COMPLIANCE

Charities Housing Compliance with 15192 (Threshold Requirements for Exemptions for Agricultural Housing, Affordable Housing, and Residential Infill Projects) and 15194 (Affordable Housing Exemption) of the Government Code.		
Code Section	Project Adherence	Additional Comments
<p>(c) The project meets both of the following requirements regarding location:</p> <p>(1) The project meets one of the following location requirements relating to population density:</p> <p>(A) The project site is located within an urbanized area or within a census-defined place with a population density of at least 5,000 persons per square mile.</p> <p>(B) If the project consists of 50 or fewer units, the project site is located within an incorporated city with a population density of at least 2,500 persons per square mile and a total population of at least 25,000 persons.</p> <p>(C) The project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile and there is no reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.</p> <p>(2) The project meets one of the following site-specific location requirements:</p> <p>(A) The project site has been previously developed for qualified urban uses; or</p> <p>(B) The parcels immediately adjacent to the project site are developed with qualified urban uses.</p> <p>(C) The project site has not been developed for urban uses and all of the following conditions are met:</p> <ol style="list-style-type: none"> 1. No parcel within the site has been created within 10 years prior to the proposed development of the site. 2. At least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses. 3. The existing remaining 25 percent of the perimeter of the site adjoins parcels that have previously been developed for qualified urban uses. 	<p>The propose project is a 19 unit development in the City of Cupertino which, according to the 2010 US Census, estimated that the population per square mile to be 5,179.6. The US Census 2015 estimates that the density is 5,379.39 per square mile. The prior use on the site was a residence and is completely surrounded by qualified urban uses.</p>	<p>“Qualified urban use” is defined as “any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses. CEQA Guidelines § 15191(k).</p> <p>“Urbanized area” – 15191(m)</p>
<p>(d) The project meets both of the following requirements regarding provision of affordable housing.</p> <p>(1) The project consists of the construction, conversion, or use of residential housing consisting of 100 or fewer units that are affordable to low-income households.</p> <p>(2) The developer of the project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least 30 years, at monthly housing costs deemed to be “affordable rent” for lower income, very low income, and extremely low income households, as determined pursuant to Section 50053 of the Health and Safety Code.</p>	<p>The proposed project is 19 units and will be required to remain 100% affordable for 55 years to qualified households.</p>	<p>“Low- and moderate income households” 150191(f) [referencing Health & Safety Code § 50093]</p> <p>“Low-income households” – 15191(g) [[referencing Health & Safety Code §§ 50093 and 50105]]</p> <p>“Lower income households” – 15191(h) [referencing Health & Safety Code § 50079.5]</p>



19160 Stevens Creek

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Project Summary Table

Address	19160 Stevens Creek Blvd. Cupertino, CA 95014
Site Area	24,446 SF (.56 Acre)
APN	375-07-001
Units	18 Studios ,1 2-Bedroom
Parking	19 Spaces (1 H/C), 10 Bicycle
Gross Building Square Footage	Gross Building Area: 12,996 SF (Includes exit balconies and private balconies)
	Excluding Interior Unit Space: 4822 SF

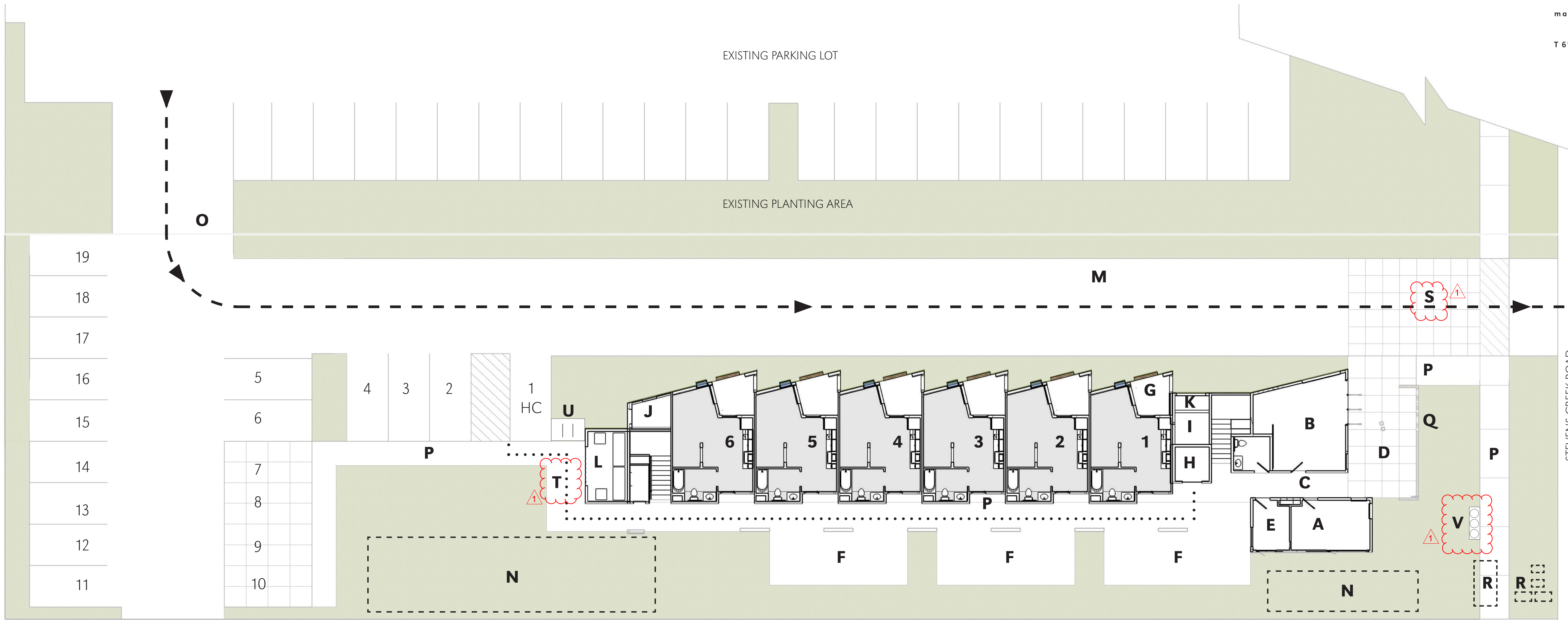
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19160 STEVENS CREEK
19160 Stevens Creek Blvd, Cupertino, CA
Charities Housing Development Corp.

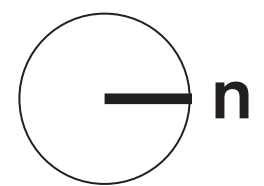
Project 16111

11.30.16
02.23.17
04.06.17 Resubmittal 1

SCALE: 1"=10'0"

SITE PLAN

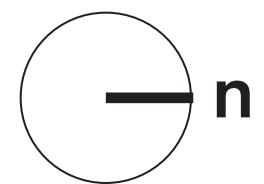
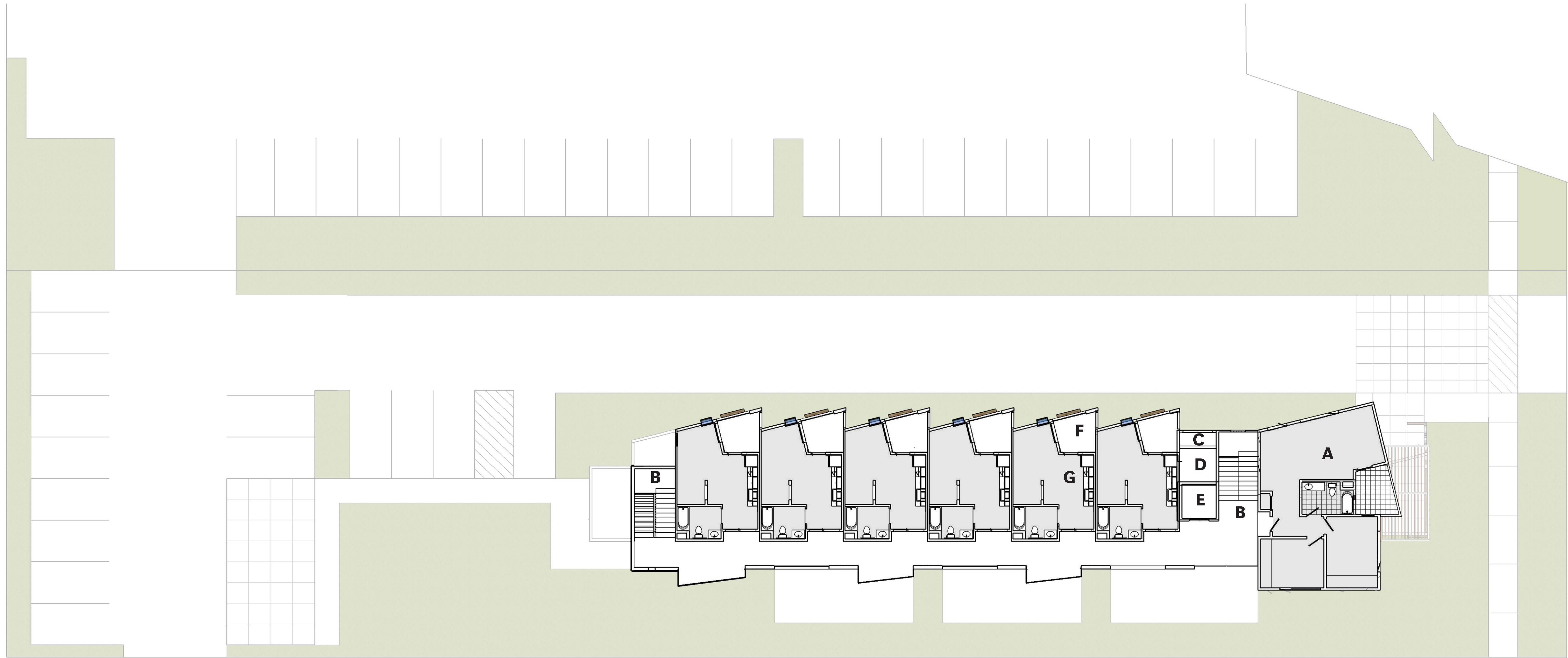
A1



KEY

- A.** OFFICE
- B.** LOUNGE
- C.** BREEZEWAY
- D.** ENTRY PATIO
- E.** LAUNDRY
- F.** SHARED PATIO
- G.** PRIVATE PATIO/BALCONY
- H.** ELEVATOR
- I.** MACHINE ROOM
- J.** WATER HEATERS
- K.** ELEC. CLOSET
- L.** TRASH
- M.** 20' WIDE DRIVE
- N.** BIORETENTION
- O.** DRIVEWAY EASEMENT
- P.** PATHWAY
- Q.** LOW WALL
- R.** EXISTING UTILITIES
- S.** PATH OF TRASH TRUCK TRAVEL
- T.** ACCESSIBLE PATH OF TRAVEL
- U.** BIKE RACKS
- V.** WASTE TRIO RECEPTACLE

L. TRASH
Enclosure size: 8' 7" x 15' 5" 132 SF
Containers:
- Garbage: (1) steel commercial bin
2 cubic yards
- Recyclables: (1) steel commercial bin
2 cubic yards
- Organics: (2) plastic residential cart
96-gallon



- KEY**
- A.** STAFF UNIT
 - B.** STAIRS
 - C.** ELEC. ROOM
 - D.** MACHINE ROOM
 - E.** ELEVATOR
 - F.** PRIVATE PATIO-BALCONY
 - G.** STUDIO UNIT

19160 STEVENS CREEK
19160 Stevens Creek Blvd, Cupertino, CA
Charities Housing Development Corp.

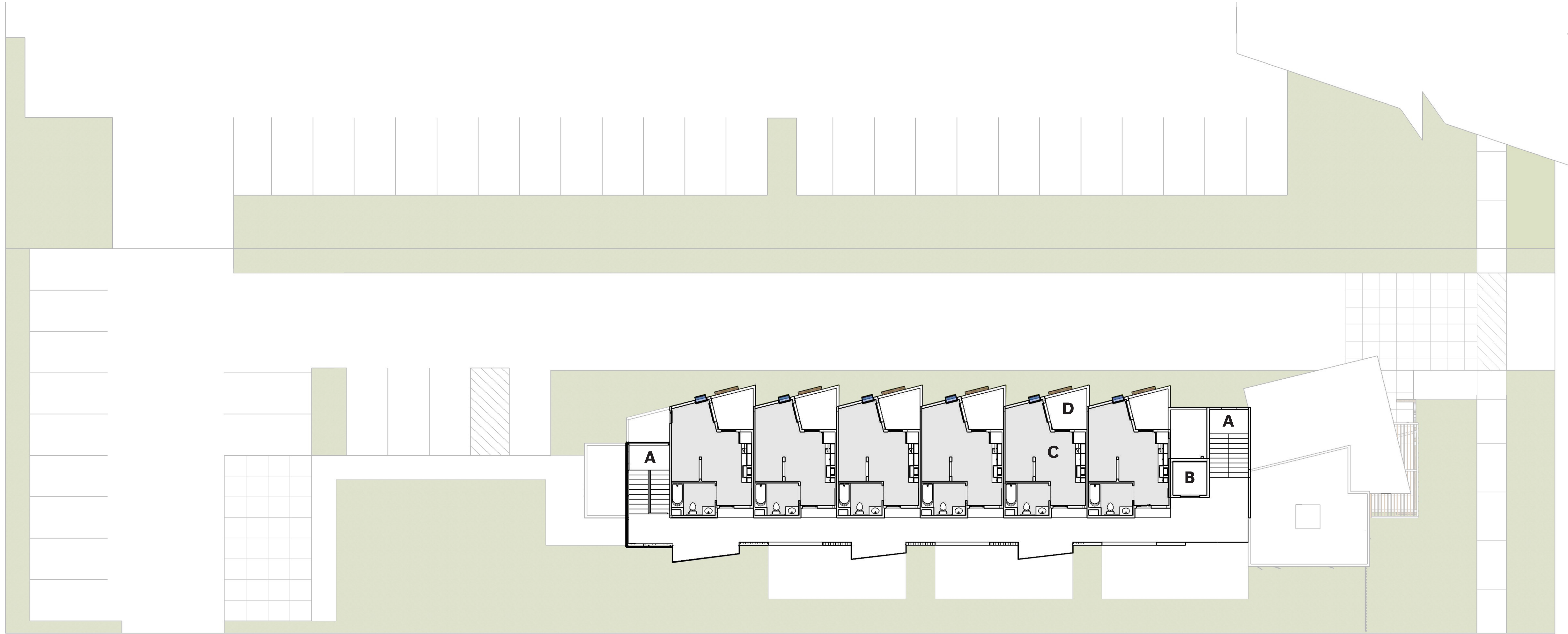
Project 16111

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02.23.17
04.06.17 Resubmittal 1

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LEVEL 2

A2.1

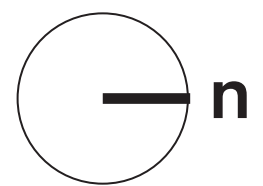


19160 STEVENS CREEK
19160 Stevens Creek Blvd, Cupertino, CA
Charities Housing Development Corp.

Project 16111

11.30.16
02.23.17
04.06.17 Resubmittal 1

SCALE: 1"=10'0"

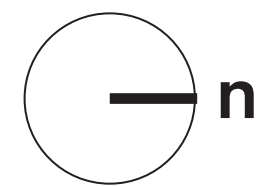
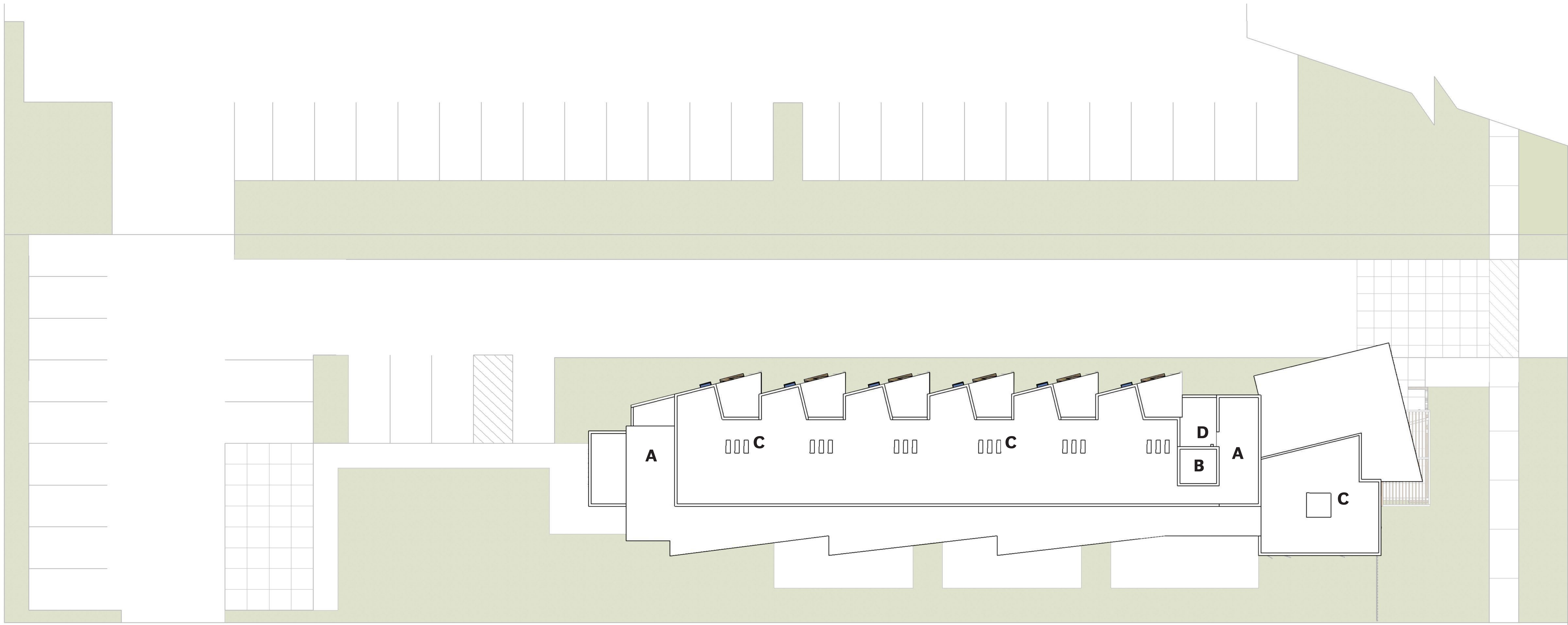


KEY

- A.** STAIRS
- B.** ELEVATOR
- C.** STUDIO UNIT
- D.** PRIVATE PATIO-BALCONY

LEVEL 3

A2.2



KEY

- A.** STAIRS
- B.** ELEVATOR
- C.** WALL DUCTLESS SPLIT SYSTEM
- D.** FIRE ACCESS LADDER

19160 STEVENS CREEK
19160 Stevens Creek Blvd, Cupertino, CA
Charities Housing Development Corp.

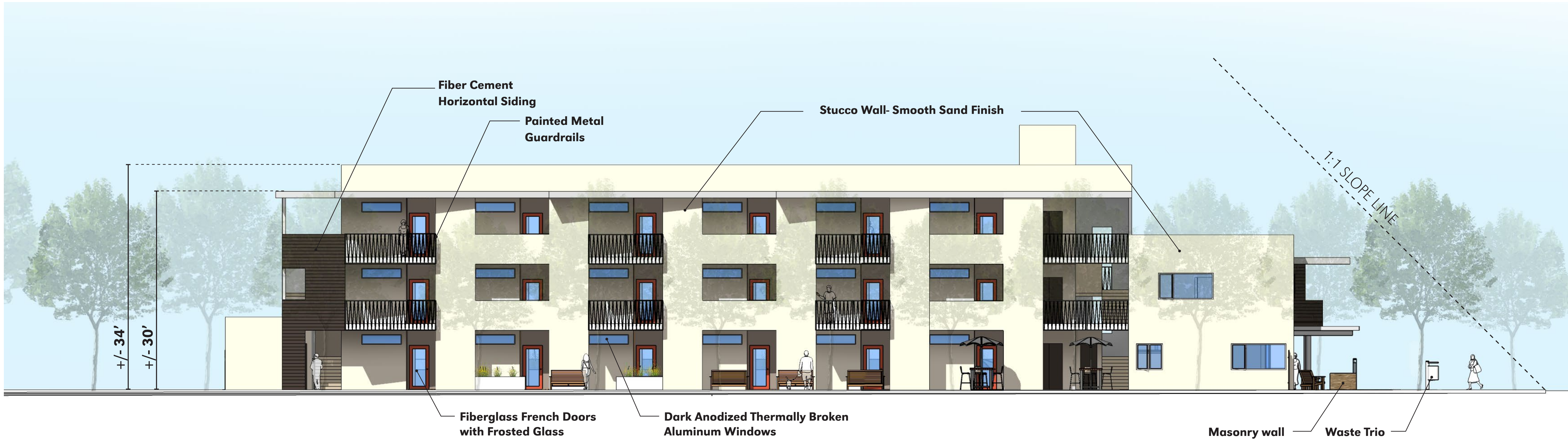
Project 16111

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04.06.17 Resubmittal 1

SCALE: 1"=10'0"

ROOF PLAN

A2.3



East Elevation



West Elevation

19160 STEVENS CREEK
19160 Stevens Creek Blvd, Cupertino, CA
Charities Housing Development Corp.

Project 16111

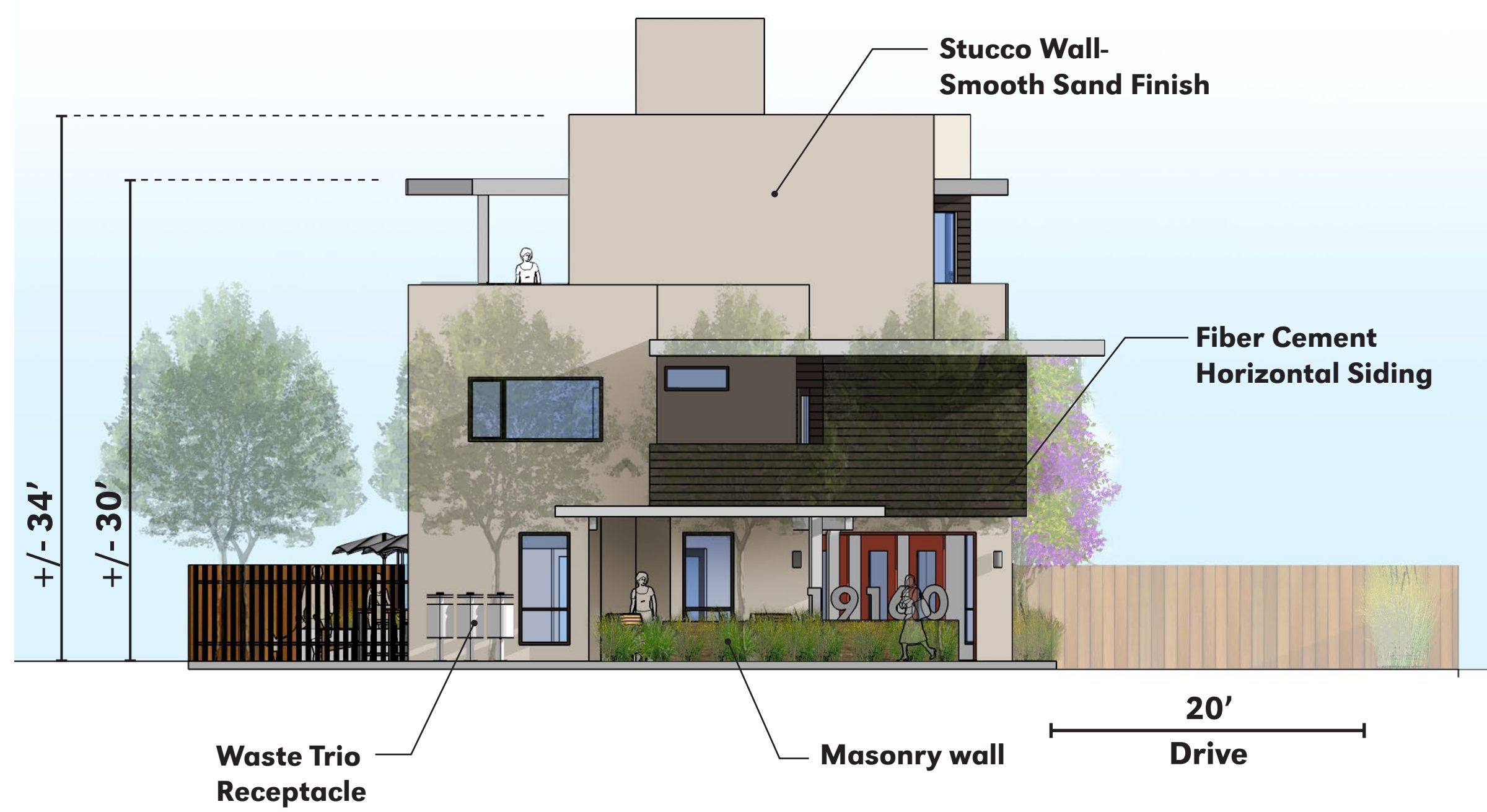
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02.23.17
04.06.17 Resubmittal 1

ELEVATIONS

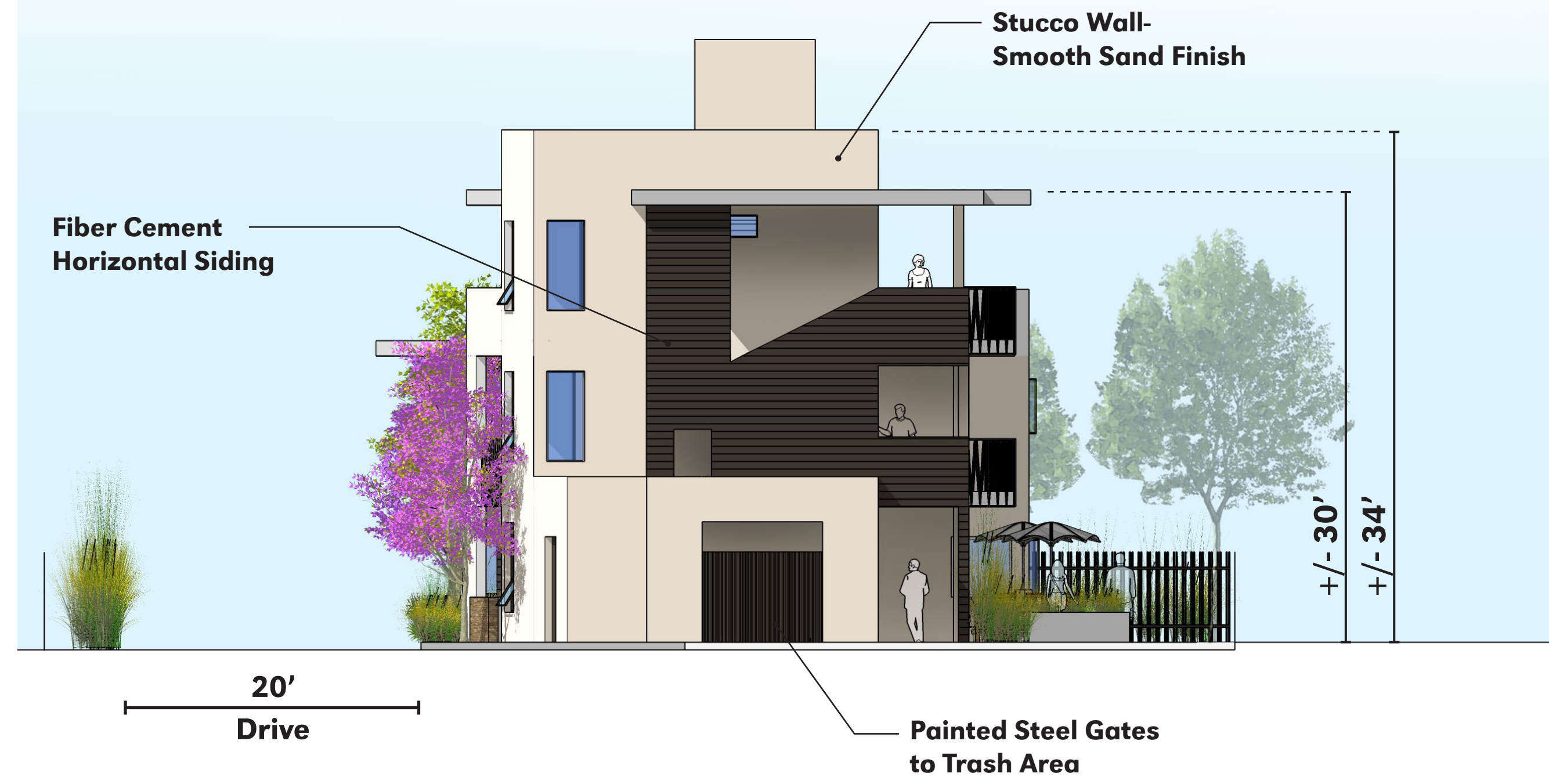
ALL MECHANICAL AND OTHER EQUIPMENT ON THE BUILDING SHALL BE SCREENED SO THEY ARE NOT VISIBLE FROM PUBLIC STREET AREAS OR ADJOINING DEVELOPMENTS.



A3




North Elevation



South Elevation

19160 STEVENS CREEK
19160 Stevens Creek Blvd, Cupertino, CA
Charities Housing Development Corp.

Project 16111

11.30.16
02.23.17
04.06.17 Resubmittal 1 

ELEVATIONS



A4



North View from Street



North View from Street



South View from Parking



South View from Parking

19160 STEVENS CREEK
19160 Stevens Creek Blvd, Cupertino, CA
Charities Housing Development Corp.

Project 16111

11.30.16

02.23.17

04.06.17 Resubmittal 1

PERSPECTIVE
VIEWS

A5



View from West



View from East

19160 STEVENS CREEK
19160 Stevens Creek Blvd, Cupertino, CA
Charities Housing Development Corp.

Project 16111

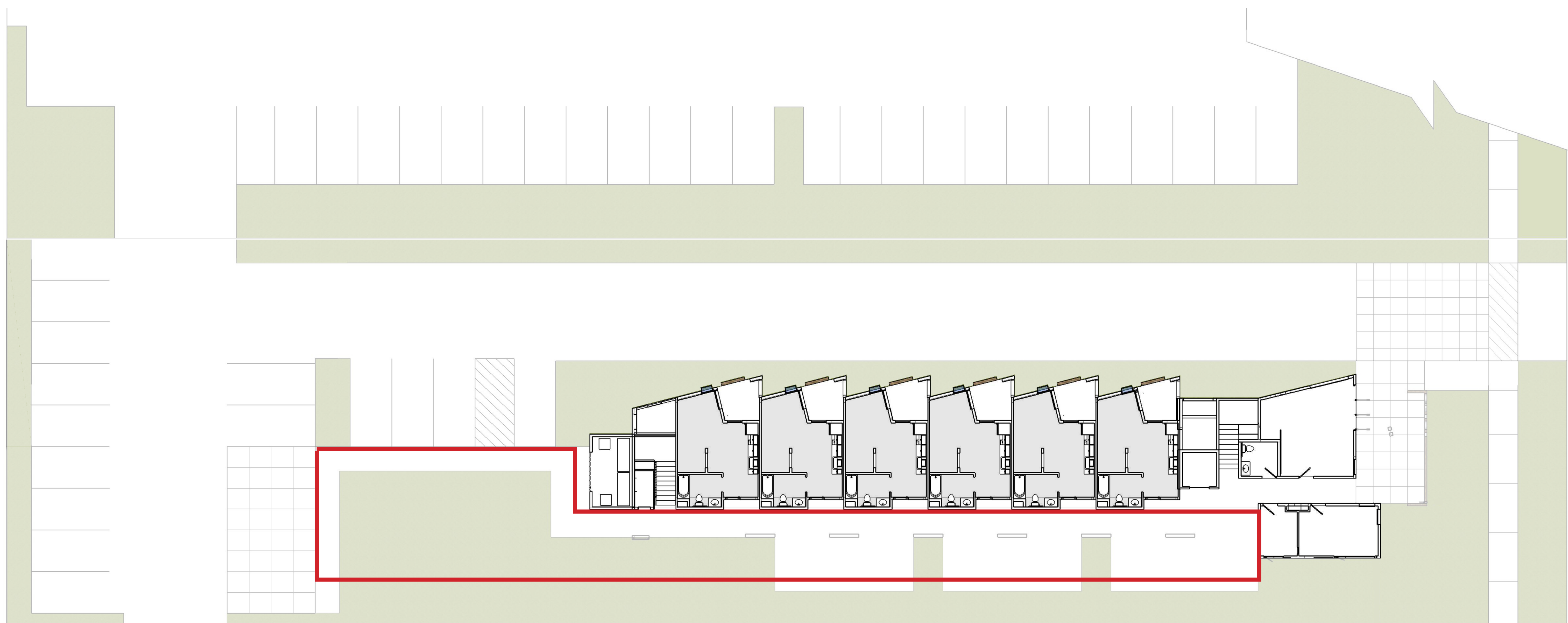
11.30.16

02.23.17

04.06.17 Resubmittal 1 

PERSPECTIVE
VIEWS

A6



STEVENS CREEK ROAD

19160 STEVENS CREEK

19160 Stevens Creek Blvd, Cupertino, CA

Charities Housing Development Corp.

Project 16111

11.30.16
02.23.17
04.06.17 Resubmittal 1

SCALE: 1"=10'0"

OPEN SPACE

A7

SHARED OPEN SPACE (OUTLINED ABOVE):

MINIMUM REQUIRED OPEN SPACE: (19 X 150 SF) = **2850 SF**

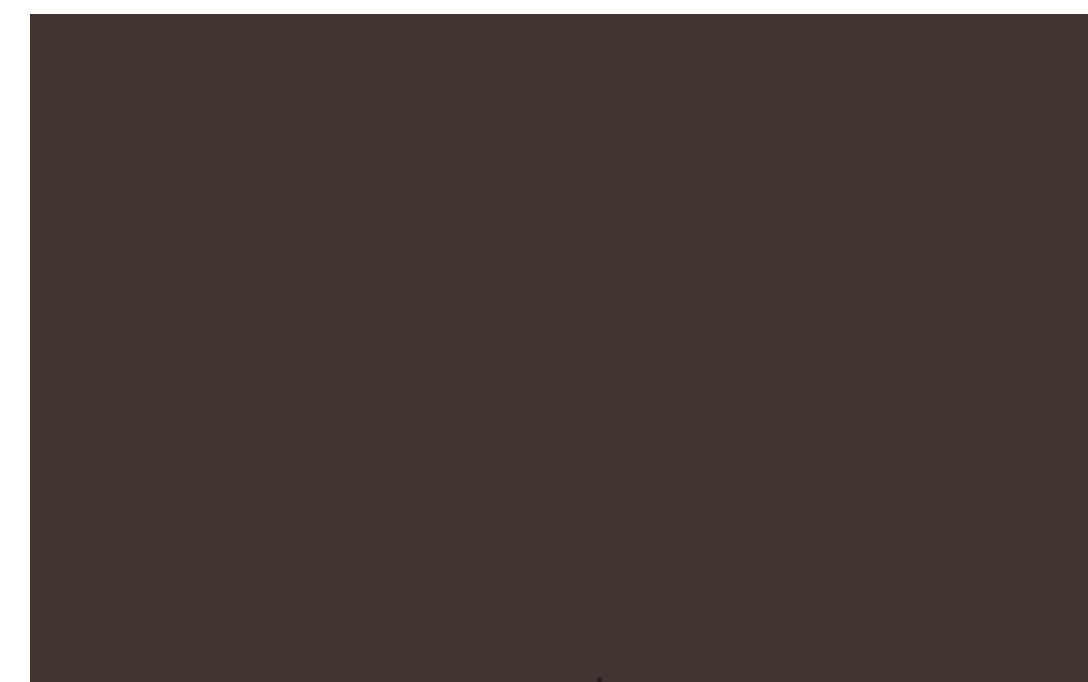
PROVIDED SHARED OPEN SPACE = **3483 SF**

PRIVATE OPEN SPACE:

ALL UNITS ARE PROVIDED WITH PRIVATE OPEN SPACE OF 60 SF OR GREATER. THE STAFF UNIT IS PROVIDED WITH 78 SF OF PRIVATE OPEN SPACE.



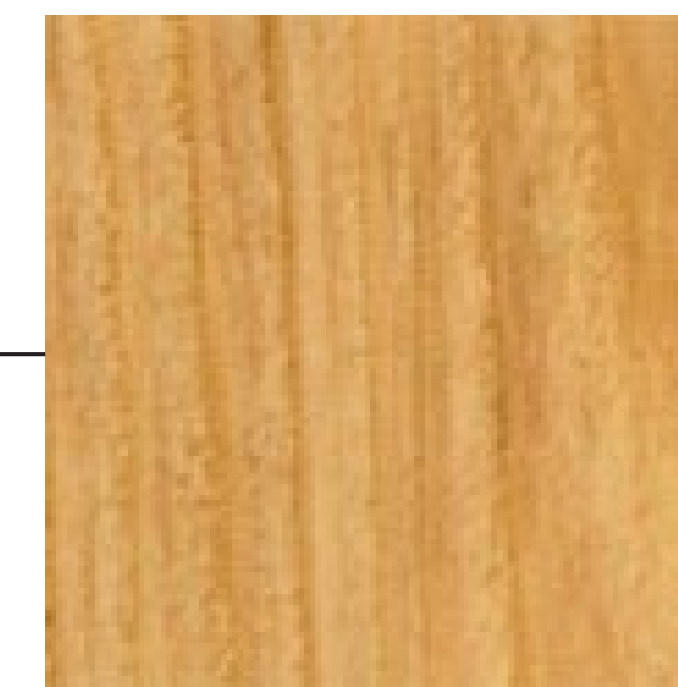
Doors
Color: Cayenne SW6881



Fiber Cement Horizontal Siding
Color: Black Bean SW 6006



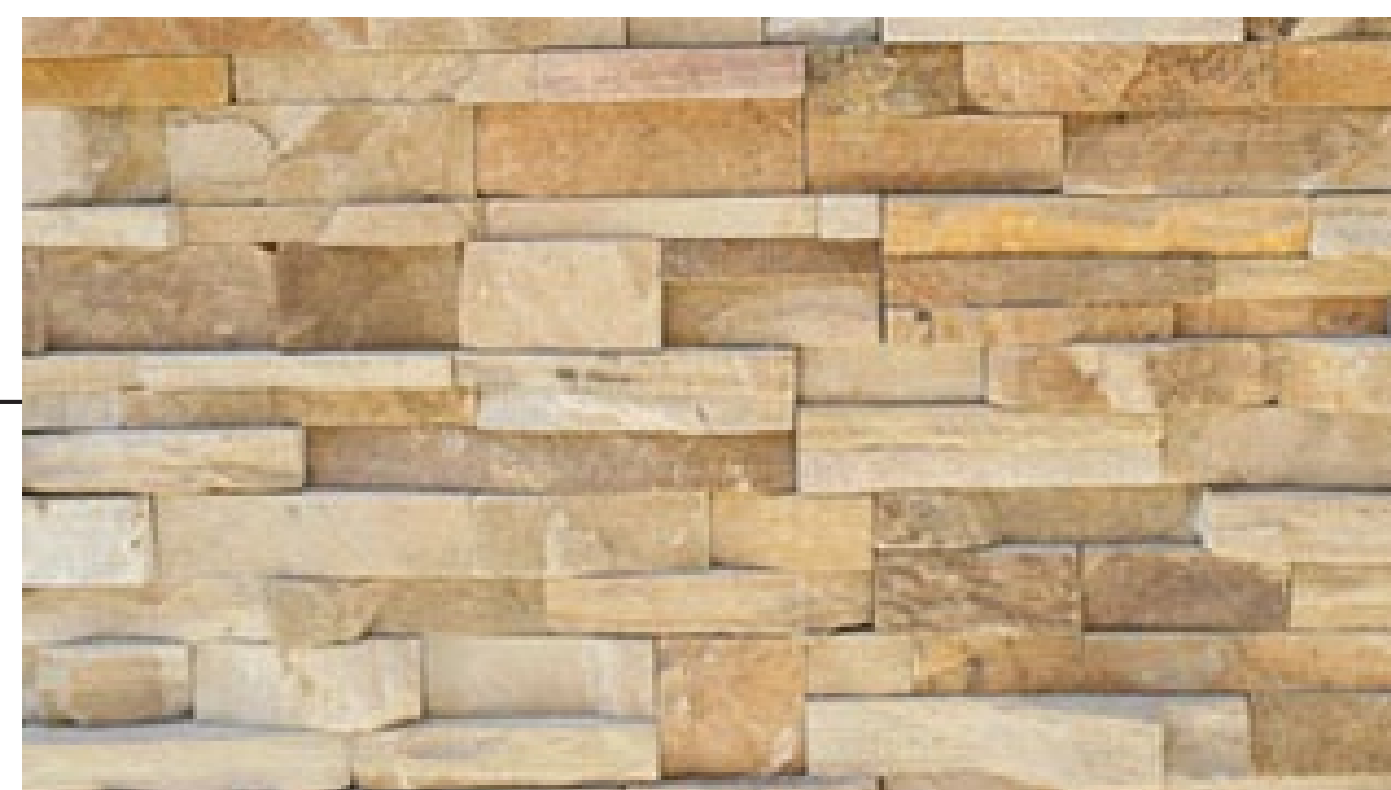
Stucco
Sand Finish
Color: Milk Glass (DEW358)



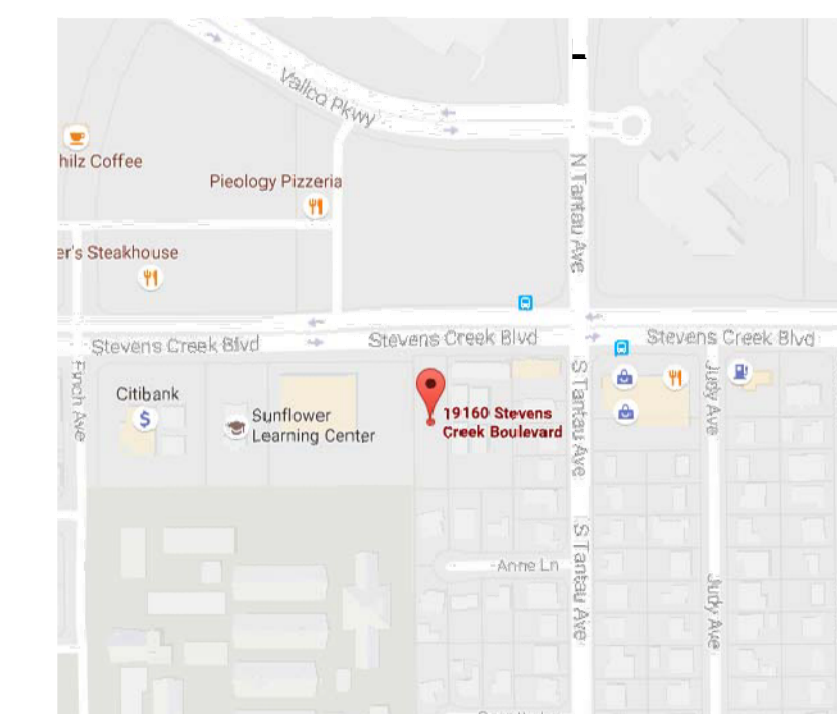
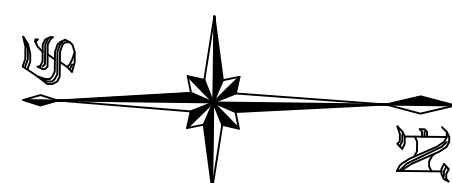
Soffit
Color: TWP 300 Clear



Window Frames
Anodized aluminum
Color: Black



Stone Veneer at Low Wall
Honey Wheat Natural Stone
Veneer Panel
P S Inc



VICINITY MAP
N.T.S.

PARCEL B

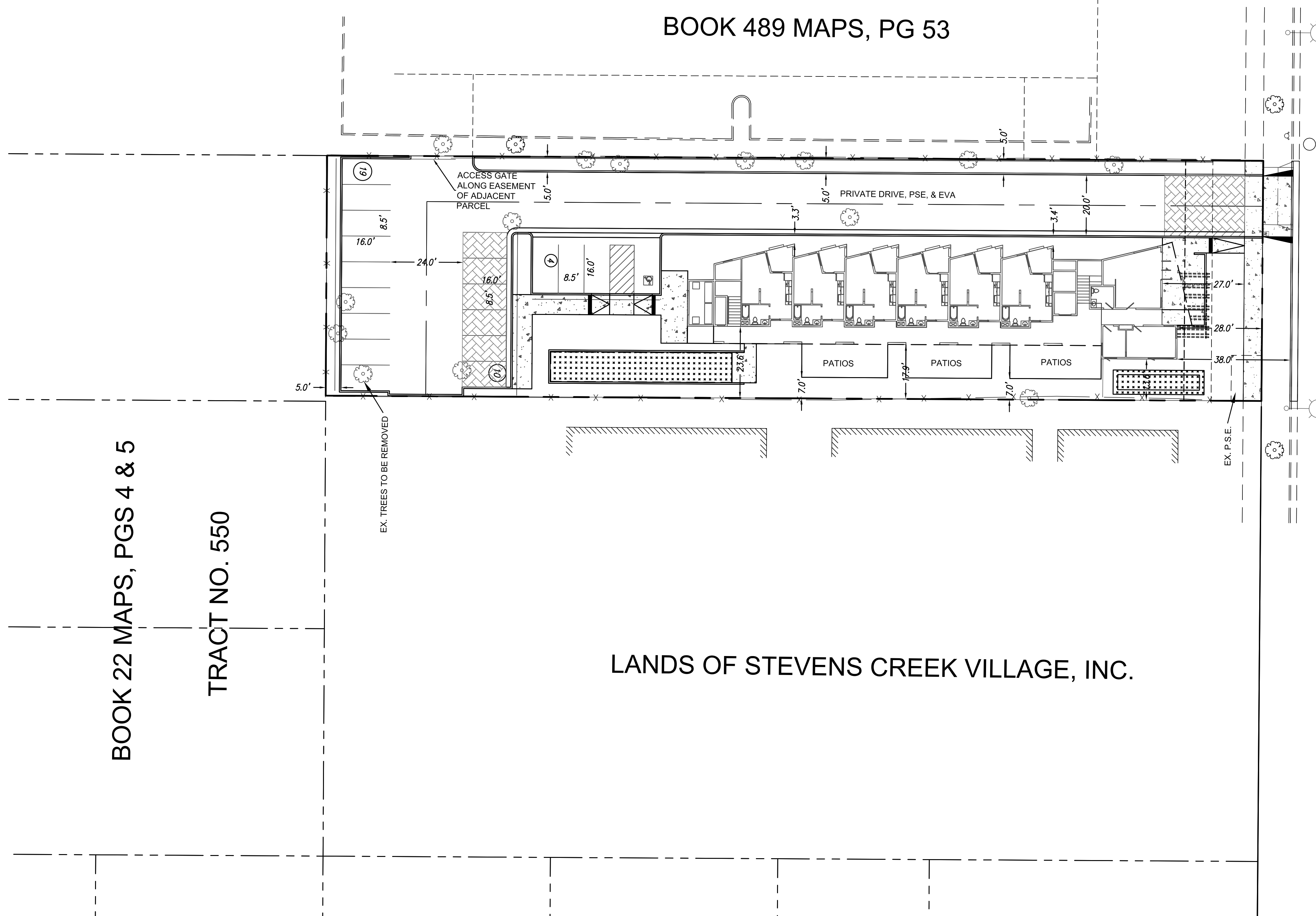
PARCEL MAP

BOOK 489 MAPS, PG 53

STEVENS CREEK BOULEVARD

PROJECT SUMMARY TABLE

ITEM	EXISTING	PROPOSED
GENERAL PLAN	HEART OF THE CITY SP	HEART OF THE CITY SP
ZONING	P (CG, RES)	P (CG, RES)
SITE AREA		
NET AREA	24,455 SF/0.56 AC	23,893 SF/0.55 AC
GROSS AREA	24,455 SF/0.56 AC	24,455 SF/0.56 AC
DENSITY CALC	0	33.9 DU/AC GROSS
# UNITS	0	18 STUDIO APTS/1-2 BEDROOM
STRUCTURE HEIGHT		
HEIGHT	0	35' TO PARAPET/30' TO TOP OF ROOF
# STORIES	0	3
SETBACKS		
FRONT	35'	35' FROM EDGE OF CURB
REAR	20'	20'
SIDE	10'	10'
BUILDING AREA		
1 ST FLOOR	0	3150 SF
2 ND FLOOR	0	5091 SF
3 RD FLOOR	0	3301 SF
FAR	N/A	N/A
HEIGHT FROM GRADE	N/A	35' TO PARAPET/30' TO TOP OF ROOF
BUILDING PAD ELEVATION	N/A	100 FT
CURB ELEVATION		100.36 FT
PARKING		
REQUIRED	0	19
PROPOSED		19
EXISTING USES:	VACANT	SENIOR APARTMENTS
PAVING AREA:	474 SF	14,540 SF
LANDSCAPE AREA	24,791 SF	6,849 SF



BOOK 22 MAPS, PGS 4 & 5

TRACT NO. 550

LANDS OF STEVENS CREEK VILLAGE, INC.

CHARITIES HOUSING

1400 PARKMOOR AVE., 3150
SAN JOSE, CA 95126
Telephone: 408-550-8311

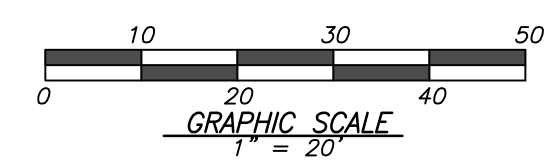
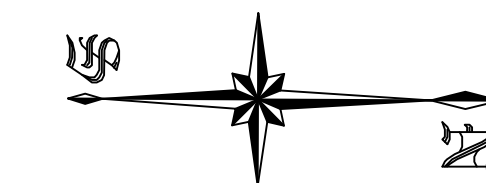
SITE PLAN
CHARITIES HOUSING
19160 STEVENS CREEK BOULEVARD
CUPERTINO, CALIFORNIA

Charles W. Davidson Co.

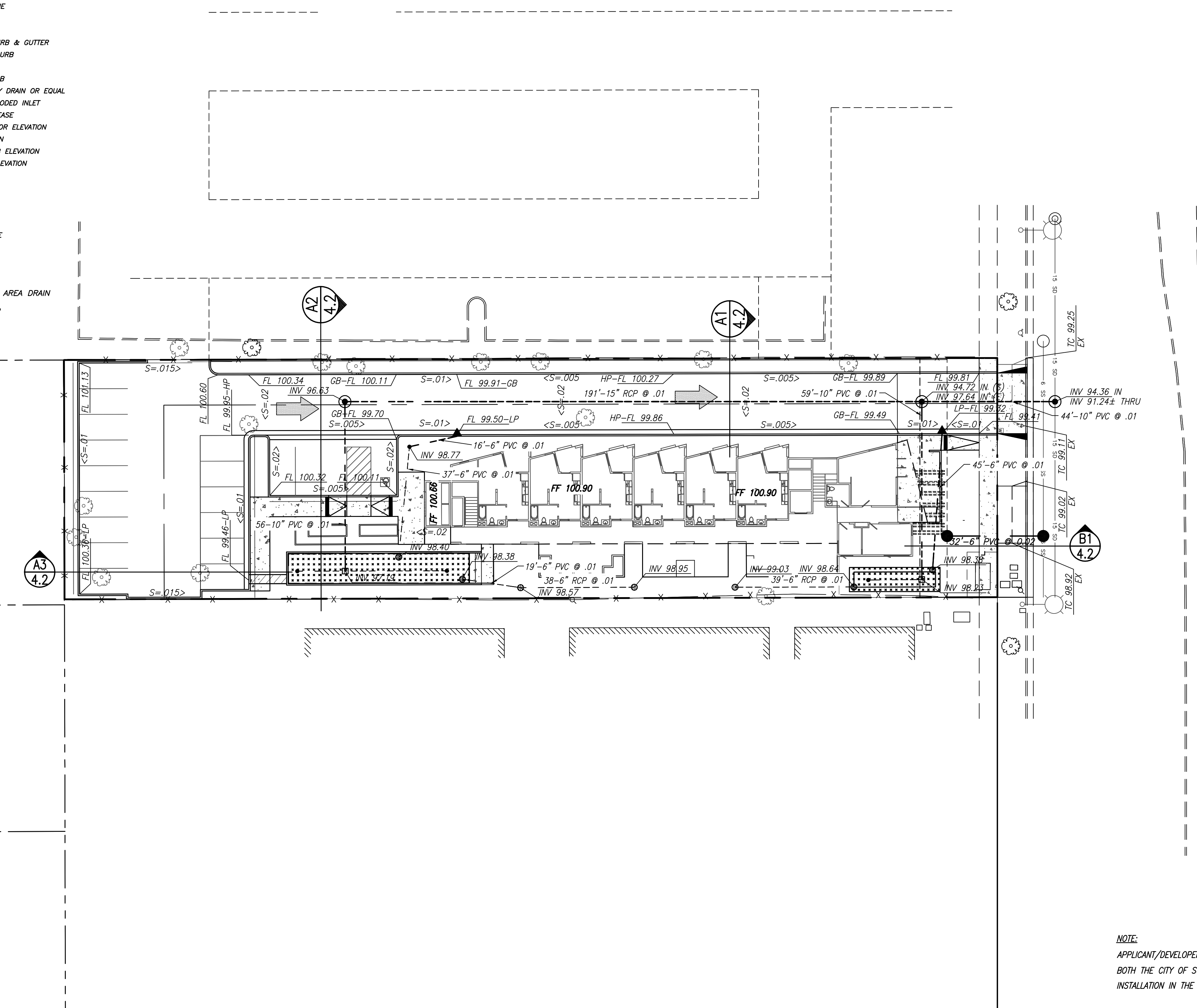
A CALIFORNIA CORPORATION
CONSULTING CIVIL ENGINEERS
255 W. JULIAN ST. #200 SAN JOSE, CA 95110-2406
TEL. (408) 295-9162 FAX (408) 993-1511

Revisions:	

Date: 3-31-17 Job No.: 1937
Scale: 1" = 20' Drawn By: S.K.D.
Sheet No: **1**
of _____ Sheets



LEGEND		DESCRIPTION
---	---	PROPERTY LINE
---	---	CENTERLINE
---	---	CONTOUR
---	---	CONCRETE CURB & GUTTER
---	---	DEPRESSED CURB
---	---	SOUND WALL
---	---	VERTICAL CURB
---	---	V-12 CHRISTY DRAIN OR EQUAL
---	---	STANDARD HOODED INLET
---	---	POSITIVE RELEASE
---	---	FINISHED FLOOR ELEVATION
---	---	PAD ELEVATION
---	---	TOP OF CURB ELEVATION
---	---	FLOW LINE ELEVATION
---	---	GRADE
---	---	SLOPE
---	---	GRADE BREAK
---	---	TOP OF WALL
---	---	SECTION NAME
---	---	PAVERS
---	---	LANDSCAPE AREA DRAIN
---	---	BUBBLE UP
---	---	CLEAN OUT
---	---	SDMH
---	---	SSMH



FIRE DEPARTMENT NOTES

- Comment #1: 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.
- Comment #2: **Fire Sprinklers Required:** Since the Fire Department has agreed to the compromises noted herein, in order to maintain a minimally acceptable level of life safety, the Fire Sprinkler System shall be an NFPA 13 Light Hazard System.
- Comment #3: **Fire Alarm System Required:** As defined in the currently adopted edition of CFC Sec. 907, as adopted and amended by the CUPMC.
- Comment #4: **FIRE APPARATUS ACCESS ROADS:** the Fire Department has agreed to the following compromise: Aerial Access as required and defined in the SCCFD Standard Detail and Specification will not be required for this project. The proposed 20-foot road is accepted. (refer to SCCFD A-1)
- Comment #5: **Fire Department (Engine) Driveway Turnaround Required:** the Fire Department has agreed to the following compromise: a turnaround as required and defined in SCCFD SD&S A-1 will not be required.
- Comment #6: **Ground ladder access:** the Fire Department has agreed to the following compromise: Ground ladder rescue from second and third floor rooms and roof access will not be required in those locations where the property cannot accommodate such access. A permanently fixed ladder will allow emergency access from the second-story roof of the Lounge/Laundry rooms. 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 in these areas that can accommodate such spaces. 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
- Comment #7: **EMERGENCY RESPONDER RADIO COVERAGE:** 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. CFC 510.1
- Comment #8: **Construction Site Fire Safety:** All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification S1-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. CFC Chp. 33
- Comment #9: **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
- Comment #10: **KEY BOXES:Where required.** Where access to or within a structure or an area is restricted because of secured openings or where immediate access is necessary for lifesaving or firefighting purposes, the fire code official is authorized to require a key box to be installed in an approved location. The key box shall be of an approved type listed in accordance with UL 1037, and shall contain keys to gain necessary access as required by the fire code official. CFC Sec. 506.1

NOTE:
 APPLICANT/DEVELOPER/CONTRACTOR SHALL OBTAIN ENCROACHMENT PERMITS FROM BOTH THE CITY OF SUNNYVALE AND THE CITY OF CUPERTINO FOR SANITARY SEWER INSTALLATION IN THE PUBLIC RIGHT-OF-WAY.

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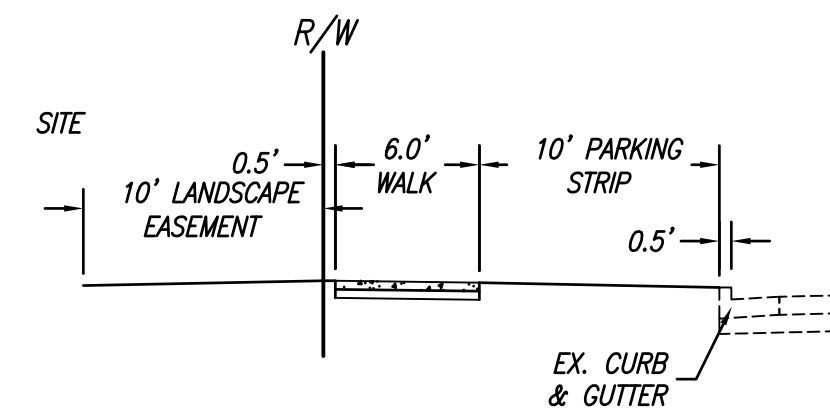
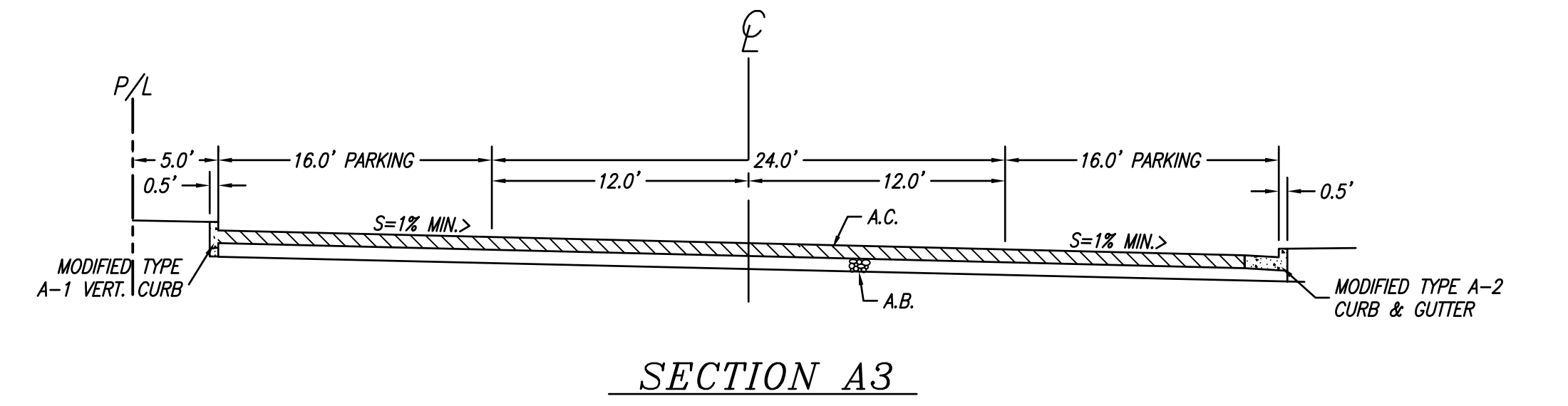
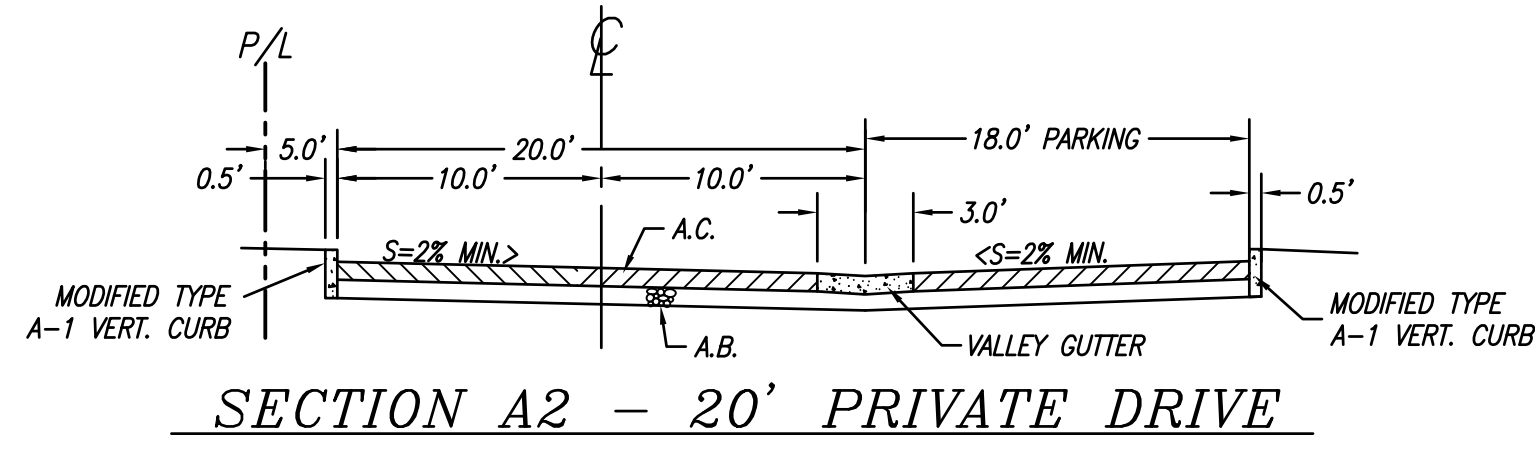
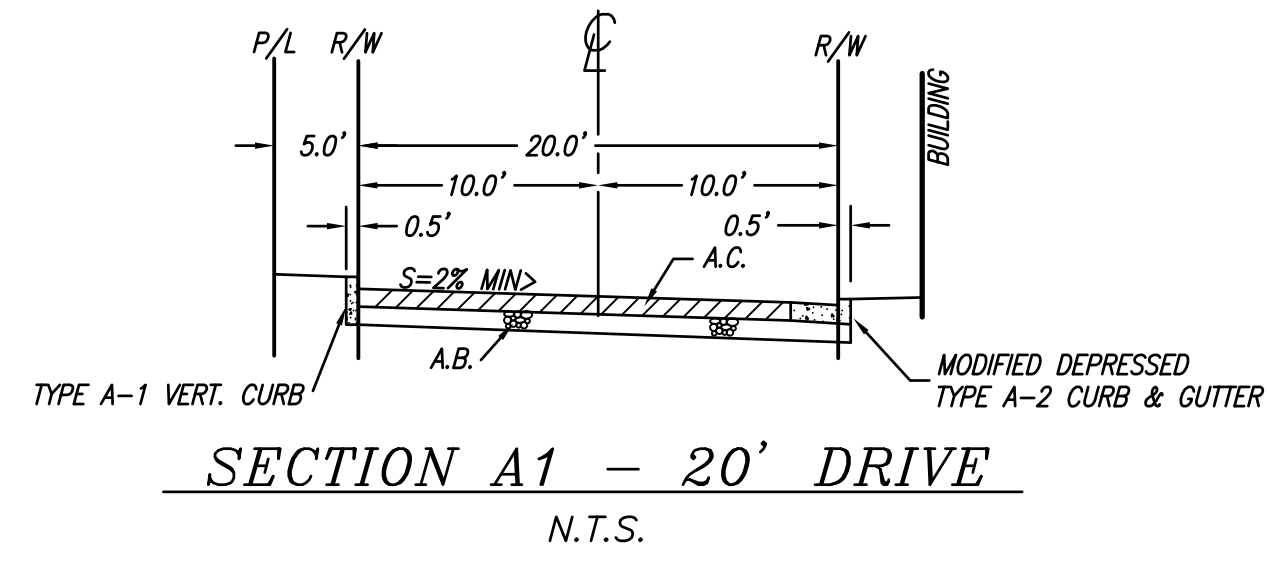
CHARITIES HOUSING
 1400 PARKMOOR AVENUE, SUITE 190
 SAN JOSE, CA 95126
 Telephone: (408) 550-8300
 Fax: (408) 550-8339

CONCEPTUAL GRADING AND DRAINAGE PLAN
LANDS OF CHARITIES HOUSING
 19160 STEVENS CREEK BLVD
 CUPERTINO, CALIFORNIA

PD_

Charles W. Davidson Co.
 A CALIFORNIA CORPORATION
 CONSULTING CIVIL ENGINEERS
 255 W. JULIAN ST. #200 SAN JOSE, CA 95110-2406
 TEL. (408) 295-9162 FAX (408) 993-1511

Revisions:	Date: 3-31-17	Job No.: 1937
	Scale: 1" = 20'	Drawn By: L.L.
	Sheet No:	
	4.1	
	of	Sheets



SECTION B1 - EX STEVENS CREEK BOUEVARD
N.T.S.

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CHARITIES HOUSING

1400 PARKMOOR AVENUE, SUITE 190
SAN JOSE, CA 95126
Telephone: (408) 550-8300
Fax: (408) 550-8339

GRADING AND DRAINAGE PLAN LANDS OF CHARITIES HOUSING 19160 STEVENS CREEK BLVD CUPERTINO, CALIFORNIA

PD_

Charles W. Davidson Co.

A CALIFORNIA CORPORATION
CONSULTING CIVIL ENGINEERS
255 W. JULIAN ST. #200 SAN JOSE, CA 95110-2406
TEL. (408) 295-9162 FAX (408) 993-1511

Revisions:	

Date: 3-31-17 Job No.: 1937
Scale: 1" = 20' Drawn By: L.L.

Sheet No:

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of Sheets

PROJECT INFORMATION:

SOIL TYPES: ALLUVIAL DEPOSITS CONSISTING OF CLAY, SANDS AND GRAVEL.

GROUND WATER DEPTH: XX-XXX FEET BELOW THE GROUND SURFACE.

NAME OF RECEIVING WATER BODY: XXXXX

100 YEAR FLOOD ELEVATION: AE XXX' TO XXX'

POLLUTANTS AND POLLUTANT SOURCE AREAS:

SEDIMENT: ROADS, PARKING LOTS AND ROOFS

THE MAIN COMPONENT OF TOTAL SUSPENDED SOLIDS (TSS), AND IS DETRIMENTAL TO AQUATIC LIFE. THEY ALSO TRANSPORT POLLUTANTS SUCH AS TRACE METAL, NUTRIENTS, AND HYDROCARBONS THAT ATTACH TO EACH PARTICLE.

ORGANIC COMPOUNDS: AUTOMOTIVE FLUIDS, PESTICIDES AND FERTILIZERS

ORGANIC COMPOUNDS OFTEN ATTACH TO SOIL PARTICLES

NUTRIENTS: ORGANIC LITTER, FERTILIZERS, FOOD WASTE, SEWAGE AND SEDIMENT.

NUTRIENTS INCLUDE NITROGEN, PHOSPHORUS AND OTHER ORGANIC COMPOUNDS.

EXCESS NUTRIENTS IMPACT CREEK HEALTH AND IMPAIR USE OF WATER IN WATER SUPPLY SOURCES BY PROMOTING EXCESSIVE GROWTH OF ALGAE OR VEGETATION.

METALS: MOTOR VEHICLES, ROOFING AND CONSTRUCTION MATERIALS AND CHEMICALS.

TRACE METALS SUCH AS COPPER, LEAD, CADMIUM, CHROMIUM, NICKEL AND ZINC CAN BE TOXIC TO AQUATIC ORGANISMS AND, IN ACCUMULATED QUANTITIES, CAN CONTAMINATE DRINKING WATER SUPPLIES.

BACTERIA & VIRUSES: ANIMAL EXCREMENT (AREAS WHERE PETS ARE OFTEN WALKED), SANITARY OVERFLOW, AND TRASH HANDLING AREAS (DUMPSTERS).

BACTERIA & VIRUSES MAY POSE PUBLIC HEALTH AND SAFETY CONCERNS IF THEY ARE PRESENT IN DRINKING WATER SOURCES.

OIL & GREASE: MOTOR VEHICLES, FOOD SERVICE ESTABLISHMENTS AND FUELING STATIONS.

OIL & GREASE ACT AS CARRIERS FOR HEAVY METALS AND CONTAIN HYDROCARBON COMPOUNDS, WHICH EVEN AT LOW CONCENTRATIONS MAY BE TOXIC TO AQUATIC ORGANISMS.

STORMWATER TREATMENT SUMMARY

THE INFILL SITE WILL BE DESIGNED TO MINIMIZE THE DIRECTLY CONNECTED IMPERVIOUS AREA (DCA). THE DOWNSPOUTS WILL NOT BE DIRECTLY CONNECTED TO THE STORM SEWER SYSTEM AND WILL BE DIRECTED INTO THE LANDSCAPE AREAS. AS PER THE 50% RULE THE "INTERVENING PERVIOUS AREAS RECEIVING RUNOFF (P) MUST BE AT LEAST ONE HALF THE SIZE OF IMPERVIOUS SURFACE AREAS GENERATING RUNOFF (I). $P > OR = \frac{1}{2}I$."

THE SITE IS IN THE HM INCLUSION AREA. HOWEVER THE SITE CREATES AND/OR REPLACES <1AC OF IMPERVIOUS AREA, THEREFORE HMP IS NOT REQUIRED.

STANDARD LID IS INFEASIBLE FOR THIS SITE DUE TO THE AMOUNT OF LANDSCAPE VS. IMPERVIOUS AREA & THE SOIL TYPE PER CITY REQUIREMENTS.

THE SOILS HAVE A SATURATION HYDRAULIC CONDUCTIVITY (K_{SAT}) THAT WILL NOT ALLOW INFILTRATION OF 80% OF THE ANNUAL RUNOFF, THEREFORE INFILTRATION IS INFEASIBLE.

THE POTENTIAL RAINWATER CAPTURE AREA WAS CALCULATED. IT WAS DETERMINED THAT THE LANDSCAPE AREA IS LESS THAN 2.5 TIMES THE SIZE OF THE POTENTIAL RAINWATER CAPTURE AREA.

IT WAS DETERMINED THAT NUMBER OF DWELLING UNITS PER IMPERVIOUS ACRE WAS LESS THAN 120.

THEREFORE RAINWATER HARVESTING IS INFEASIBLE.

THEREFORE, THE SITE WILL USE BIO-RETENTION TO TREAT IMPERVIOUS AREAS. A RANGE OF TREATMENT MEASURES MAY BE UTILIZED FOR THIS INFILL SITE, INCLUDING BUT NOT LIMITED TO BIO-RETENTION, AND SELF TREATING AREAS.

THIS WILL MAXIMIZE THE OPPORTUNITY FOR THE RUNOFF TO BE CLEANED BEFORE IT ENTERS THE COLLECTION SYSTEM.

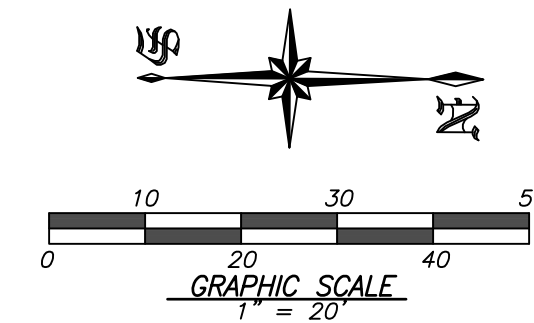
THESE MEASURES WILL BE MAINTAINED BY A HOME OWNERS ASSOCIATION OR EQUAL.

"XXXXX XXXXX CALIFORNIA FLOOD IMPACT STUDY UPDATE", FINAL REPORT, JANUARY XX, 2016 BY XXX & XXXX

MITIGATION MEASURES

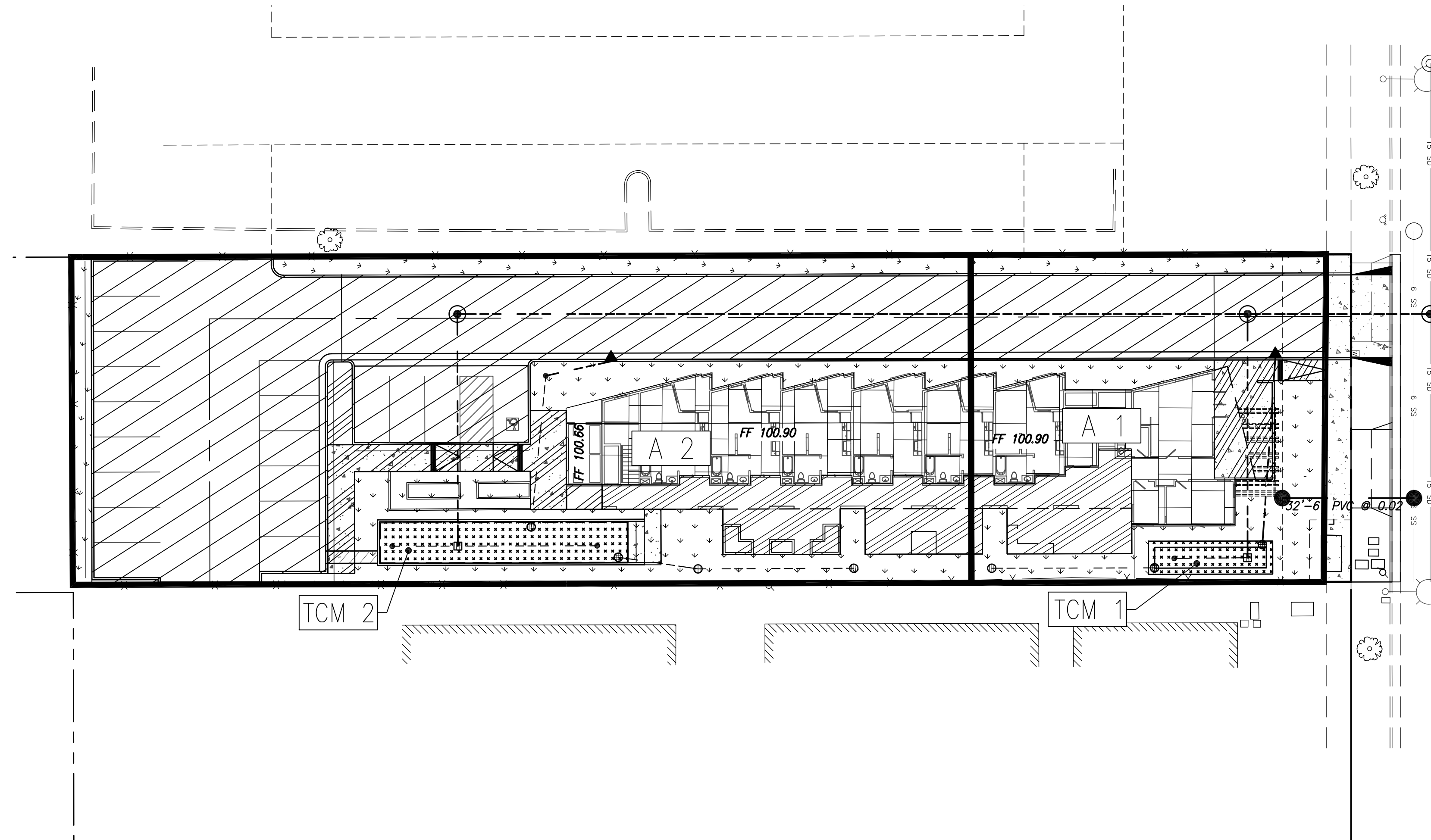
THE APPLICANT SHALL PLACE ALL STRUCTURAL PADS SO THAT THE LOWEST ADJACENT GRADE TO EACH HOUSING STRUCTURE IS ABOVE THE BASE FLOOD ELEVATION. THE HIGHEST BASE FLOOD ELEVATION ACROSS THE PROJECT SITE IS APPROXIMATELY 217.1 FEET NAVD

(TO CONVERT BASE FLOOD ELEVATIONS PUBLISHED IN NGVD29 TO NAVD, ADD 2.78 FEET.)



STORMWATER LEGEND

- LANDSCAPE AREA
- ROOF AREA
- PRIVATE DRIVE
- DRIVEWAYS
- BIORETENTION



LEGEND

EXISTING	PROPOSED	DESCRIPTION
---	---	PROPERTY LINE
---	---	CENTERLINE
---	---	CONTOUR
---	---	CONCRETE CURB & GUTTER
---	---	DEPRESSED CURB
---	---	SOUND WALL
---	---	VERTICAL CURB
---	---	V-12 CHRISTY DRAIN
---	---	STANDARD HOODED INLET
---	---	POSITIVE RELEASE
---	---	FINISHED FLOOR ELEVATION
---	---	PAD ELEVATION
---	---	TOP OF CURB ELEVATION
---	---	FLOW LINE ELEVATION
---	---	X160.00
---	---	GRADE
---	---	S=100+
---	---	SLOPE
---	---	GRADE BREAK
---	---	TOP OF WALL
---	---	LANDSCAPE AREA
---	---	ROOF AREA
---	---	STREET AREA
---	---	PAVER AREA

SECTION NAME: A 4.1

		Job # 1937			
		Date: 11/8/16			
No. of Units	18			Total Site sq. ft. 23892	
Pervious and Impervious Surfaces Comparison					
Project Phase Number: (N/A, 1, 2, etc.)	N/A	Total Site (acres): 0.55			
Total Site Existing Impervious Surfaces (square feet):	474	Total Area of Site Disturbed (acres): 0.58			
		Existing Condition of Site Area Disturbed (+/- sq.ft.)		Proposed Condition of Site Area Disturbed (+/- sq.ft.)	
		Replaced (1)		New (2)	
Impervious Surfaces				total new	
Roof Area(s)	0	0		3,707	
Parking	0	0		0	
Sidewalks, Patios, Driveways, etc.	0	0		3,136	
Sidewalks (Public)	474	474		190	
Streets (Private)	0	0		10,274	
Total Impervious Surfaces:	474	474		17,307	
Pervious Surfaces					
Landscape Areas	24,791	6,849		0	
Pervious Pavers	0	0		0	
Other Pervious Surfaces (green roof, etc.)	0	0		0	
Total Pervious Surfaces:	24,791	6,849		0	
Total Proposed Impervious Surfaces = Total Proposed Replaced + New Impervious Surfaces:				17,781	
Total Proposed Pervious Surfaces = Total Proposed Replaced + New Pervious Surfaces:				6,849	
Total Disturbed Area:				24,630	

Regulated Project: Any project that creates new and/or replaces (individually or collectively) 10,000 square feet or more of impervious surface area. Additional data verifying the percent replacement of impervious surface area may be requested for any Regulated Project that appears to be subject to Provisions C.3.b.i.(1)(c) or C.3.b.ii.(1)(c) (commonly known as "the 50% Rule").

Footnotes:
 1 Proposed Replaced Impervious Surface: All impervious surfaces added to any area of the site that was a previously existing impervious surface.
 2 Proposed New Impervious Surface: All impervious surfaces added to any area of the site that was a previously existing pervious surface.

Stormwater Treatment Areas Table

AREA ID	Description	Total Area (SF)	Areas			Hardscape Area (SF)	Pervious (SF)	Impervious (SF)	TCM ID	Type of mitigation that will be used	
			Perm. Paver Area (SF)	Landscape Area (SF)	Rooftop Area (SF)						
1	Building/Private Drive/Landscape	6,773	0	2,314	1,573	1,803	1,083	2,314	4,459	1	Bioretention
2	Building/Private Drive/Landscape	17,203	0	4,535	2,134	8,481	2,053	4,535	12,668	2	Bioretention
Totals		23,976	0	6,849	3,707	10,284	3,136	6,849	17,127		

* Bay Area Stormwater Management Agencies Association (BASMAA); Start at the Source, Design Guidance Manual For Stormwater Quality Protection (1999 Ed.), pg. 34.
 ** Per Chapter 2 (Section 2.3.1) of Stormwater Control Handbook, Roadway Projects that add new sidewalk along an existing roadway are exempt from the C3 requirements

Flow-Based Treatment Measures - Bioretention

Area ID	TCM ID	Description	Drainage Area				Bioretention Sizing		
			Total Ac	Total ft	Pervious sf	Impervious sf	Sizing Factor 4% *	Surface Area Required sf	Surface Area Provided sf
A1	1	Building/Private Drive/Landscape	0.16	6,773	2,314	4,459	0.040	178	240
A2	2	Building/Private Drive/Landscape	0.39	17,203	4,535	12,668	0.040	507	600

* Calculations are based on the 4% sizing method

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CHARITIES HOUSING

1400 PARKMOOR AVENUE, SUITE 190
 SAN JOSE, CA 95126
 Telephone: (408) 550-8300
 Fax: (408) 550-8339

**STORM WATER TREATMENT PLAN
 LANDS OF CHARITIES HOUSING
 19160 STEVENS CREEK BLVD
 CUPERTINO, CALIFORNIA**

PD_

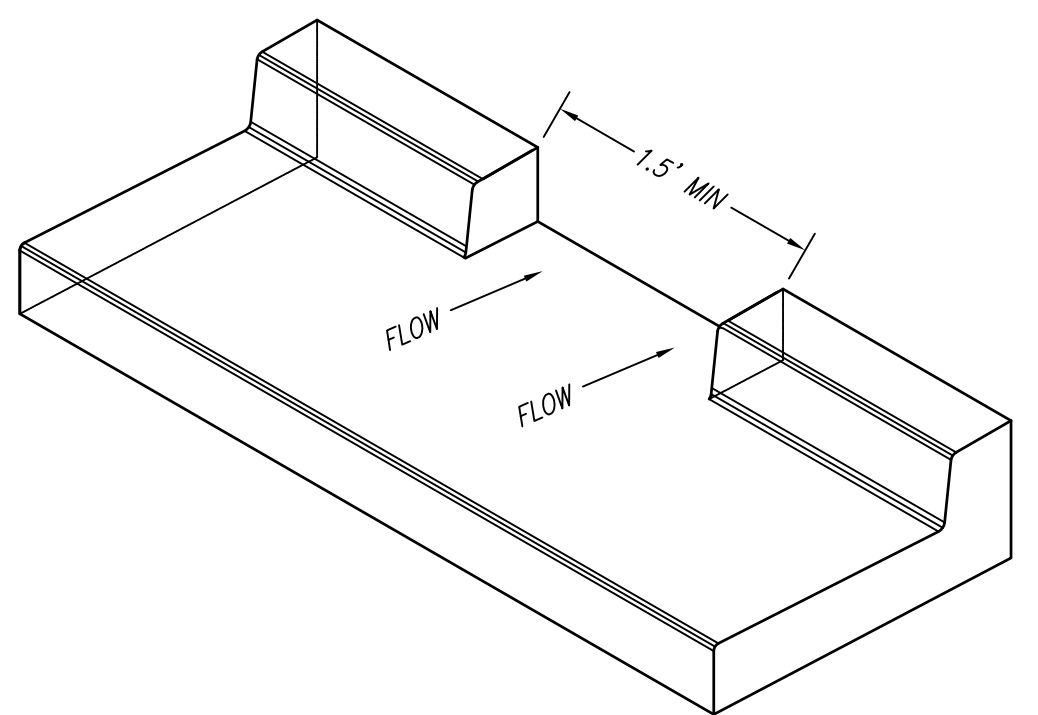
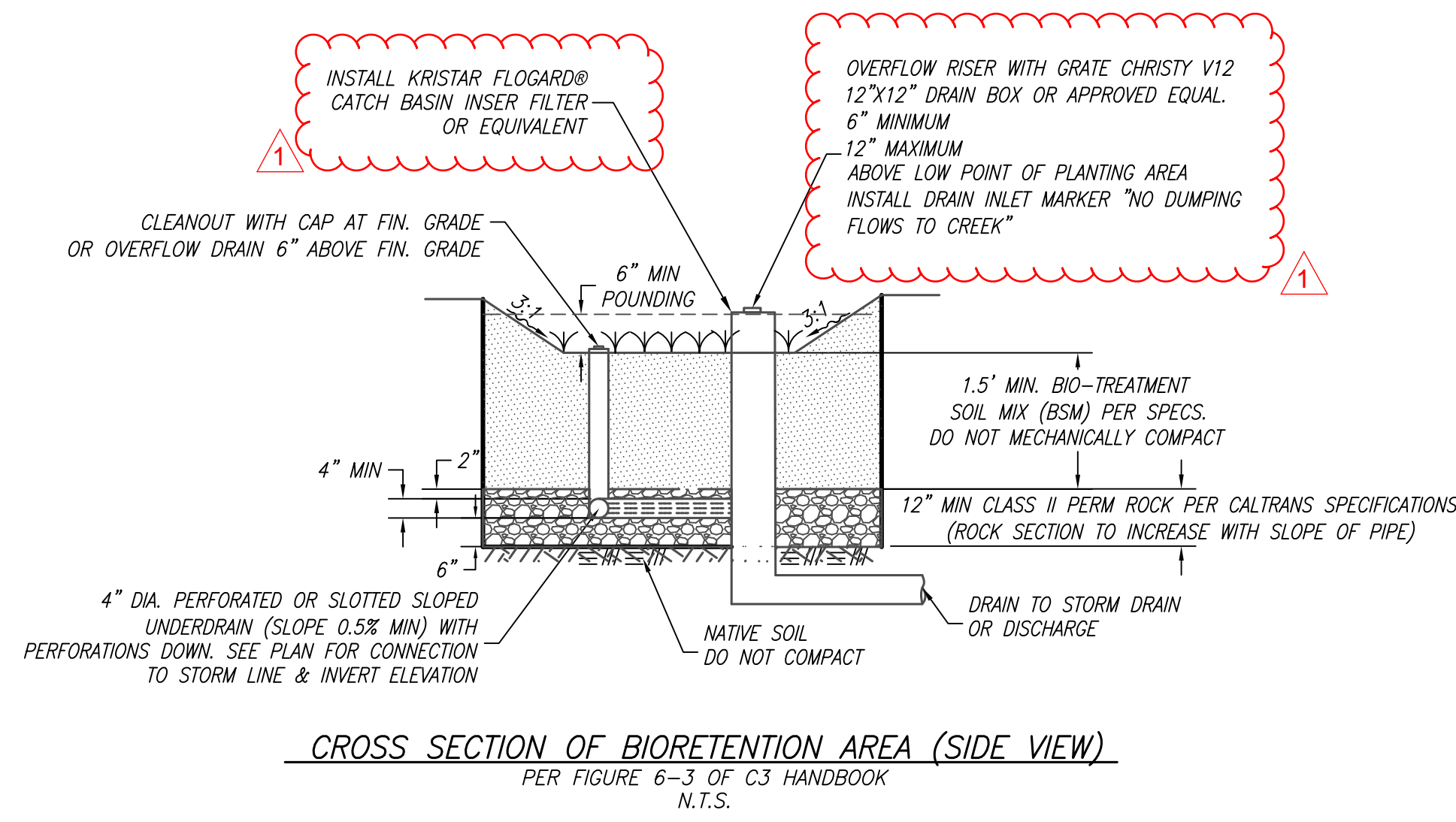
Charles W. Davidson Co.

A CALIFORNIA CORPORATION
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 255 W. JULIAN ST. #200 SAN JOSE, CA 95110-2406
 TEL. (408) 295-9162 FAX (408) 993-1511

Revisions: _____

Date: 3-31-17 Job No.: 1937
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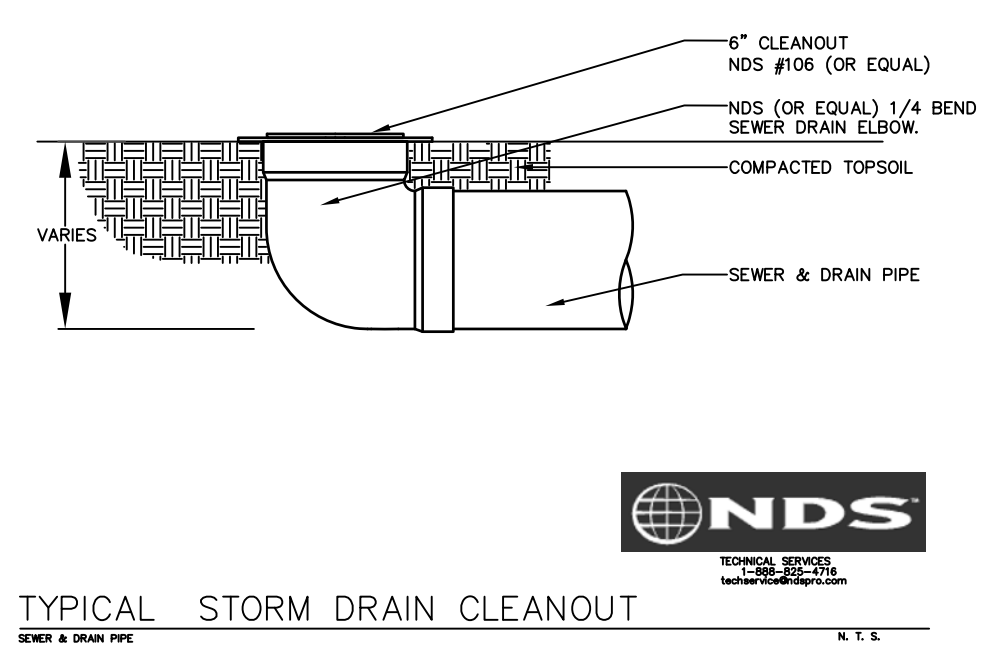
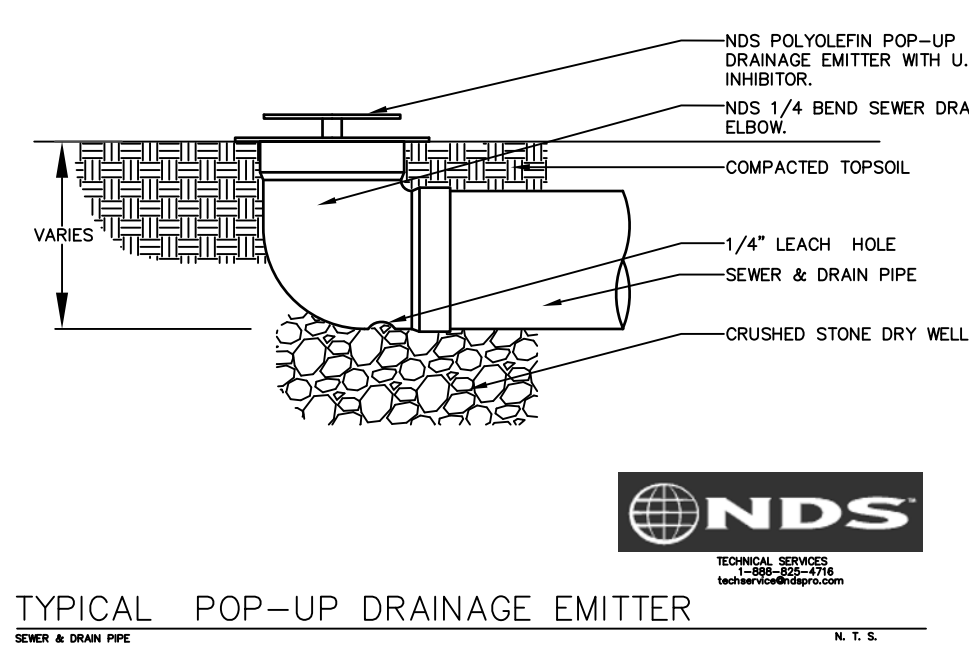
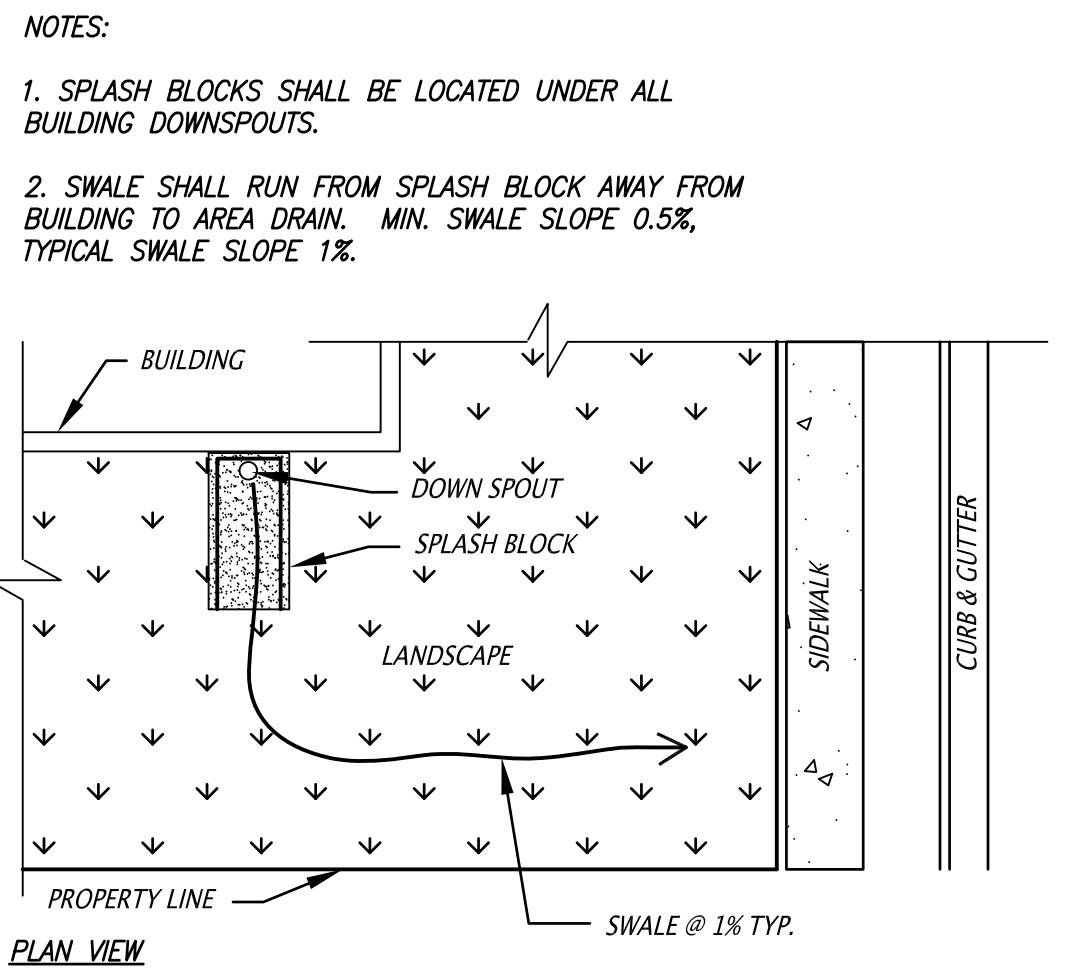
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 of _____ Sheets



BIO-RETENTION LAYOUT DETAILS

BIORETENTION AREA MAINTENANCE PLAN

- OBJECTIVES**
THE PRINCIPAL MAINTENANCE OBJECTIVE IS TO PREVENT SEDIMENT BUILDUP AND CLOGGING, WHICH REDUCES POLLUTANT REMOVAL EFFICIENCY AND MAY LEAD TO BIORETENTION AREA FAILURE.
- ROUTINE MAINTENANCE ACTIVITIES, AND THE FREQUENCY AT WHICH THEY WILL BE CONDUCTED:**
 - REMOVE OBSTRUCTIONS, DEBRIS AND TRASH FROM BIORETENTION AREA AND DISPOSE OF PROPERLY. MONTHLY, OR AS NEEDED AFTER STORM EVENTS.
 - INSPECT BIORETENTION AREA TO ENSURE THAT IT DRAINS BETWEEN STORMS AND WITHIN FIVE DAYS AFTER RAINFALL. MONTHLY, OR AS NEEDED AFTER STORM EVENTS.
 - INSPECT INLETS FOR CHANNELS, SOIL EXPOSURE OR OTHER EVIDENCE OF EROSION. CLEAR OBSTRUCTIONS AND REMOVE SEDIMENT. MONTHLY, OR AS NEEDED AFTER STORM EVENTS.
 - REMOVE AND REPLACE ALL DEAD AND DISEASED VEGETATION. TWICE A YEAR.
 - MAINTAIN VEGETATION AND THE IRRIGATION SYSTEM. PRUNE AND WEED TO KEEP BIORETENTION AREA NEAT AND ORDERLY IN APPEARANCE. BEFORE WET SEASON BEGINS, OR AS NEEDED.
 - CHECK THAT MULCH IS AT APPROPRIATE DEPTH (3 INCHES PER SOIL SPECIFICATIONS) AND REPLENISH AS NECESSARY BEFORE WET SEASON BEGINS. MONTHLY.
 - INSPECT BIORETENTION AREA USING THE ATTACHED INSPECTION CHECKLIST. MONTHLY, OR AFTER LARGE STORM EVENTS, AND AFTER REMOVAL OF ACCUMULATED DEBRIS OR MATERIAL.
- PROHIBITIONS**
THE USE OF PESTICIDES AND QUICK RELEASE FERTILIZERS SHALL BE MINIMIZED, AND THE PRINCIPLES OF INTEGRATED PEST MANAGEMENT (IPM) FOLLOWED:
 - EMPLOY NON-CHEMICAL CONTROLS (BIOLOGICAL, PHYSICAL AND CULTURAL CONTROLS) BEFORE USING CHEMICALS TO TREAT A PEST PROBLEM.
 - PRUNE PLANTS PROPERLY AND AT THE APPROPRIATE TIME OF YEAR.
 - PROVIDE ADEQUATE IRRIGATION FOR LANDSCAPE PLANTS. DO NOT OVER WATER.
 - LIMIT FERTILIZER USE UNLESS SOIL TESTING INDICATES A DEFICIENCY. SLOW-RELEASE OR ORGANIC FERTILIZER IS PREFERABLE. CHECK WITH MUNICIPALITY FOR SPECIFIC REQUIREMENTS.
 - PEST CONTROL SHOULD AVOID HARMING NON-TARGET ORGANISMS, OR NEGATIVELY AFFECTING AIR AND WATER QUALITY AND PUBLIC HEALTH. APPLY CHEMICAL CONTROLS ONLY WHEN MONITORING INDICATES THAT PREVENTATIVE AND NON-CHEMICAL METHODS ARE NOT KEEPING PESTS BELOW ACCEPTABLE LEVELS. WHEN PESTICIDES ARE REQUIRED, APPLY THE LEAST TOXIC AND THE LEAST PERSISTENT PESTICIDE THAT WILL PROVIDE ADEQUATE PEST CONTROL. DO NOT APPLY PESTICIDES ON A PRESCHEDULED BASIS.
 - SWEEP UP SPILLED FERTILIZER AND PESTICIDES. DO NOT WASH AWAY OR BURY SUCH SPILLS.
 - DO NOT OVER APPLY PESTICIDE. SPRAY ONLY WHERE THE INFESTATION EXISTS. FOLLOW THE MANUFACTURER'S INSTRUCTIONS FOR MIXING AND APPLYING MATERIALS.
 - ONLY LICENSED, TRAINED PESTICIDE APPLICATORS SHALL APPLY PESTICIDES.
 - APPLY PESTICIDES AT THE APPROPRIATE TIME TO MAXIMIZE THEIR EFFECTIVENESS AND MINIMIZE THE LIKELIHOOD OF DISCHARGING PESTICIDES INTO RUNOFF. WITH THE EXCEPTION OF PRE-EMERGENT PESTICIDES, AVOID APPLICATION IF RAIN IS EXPECTED.
 - UNWANTED/UNUSED PESTICIDES SHALL BE DISPOSED AS HAZARDOUS WASTE.
- VECTOR CONTROL**
 - OBJECTIVE:** TO PREVENT CONDITIONS WITHIN SWALES THAT ATTRACT AND/OR PROMOTE THE GROWTH OF DISEASE VECTORS, INCLUDING BUT NOT LIMITED TO MOSQUITOS, RODENTS, AND FLIES.
 - MAINTENANCE ACTIVITIES FOR VECTOR CONTROL**
 - INSPECTIONS: REGULAR INSPECTIONS WILL DETERMINE IF SWALES HAVE POOLS OF STANDING WATER OR DEBRIS ACCUMULATION. INSPECTIONS WILL BE CONDUCTED PRIOR TO THE RAINY SEASON, AFTER MAJOR STORM EVENTS, AND AT LEAST ONCE DURING THE DRY SEASON TO ASCERTAIN THAT STANDING WATER DRAINS FROM THE SWALE WITHIN 5 DAYS.
 - HOLES IN GROUND: ABATE POTENTIAL VECTORS BY FILLING HOLES IN THE GROUND IN AND AROUND THE SWALE AND BY INSURING THAT THERE ARE NO AREAS WHERE WATER STANDS LONGER THAN 5 DAYS FOLLOWING A STORM.
 - OTHER MAINTENANCE ACTIVITIES: IF ANY OBSTRUCTIONS DEVELOP (E.G. DEBRIS ACCUMULATION, INVASIVE VEGETATION, CLOGGING OF OUTLETS AND/OR UNDER DRAINS) WITHIN THE SWALE, APPROPRIATE MAINTENANCE ACTIVITIES SHALL BE IMPLEMENTED TO CORRECT THE OBSTRUCTION. REFER TO SECTION 3 FOR DETAILS ON SPECIFIC MAINTENANCE ACTIVITIES.
 - MOSQUITO ABATEMENT:** THE AUTHORITY IN SANTA CLARA COUNTY IN CHARGE OF MOSQUITO ABATEMENT SHALL BE CONTACTED AS NEEDED FOR ASSISTANCE SHOULD ANY MOSQUITO ISSUES ARISE. MOSQUITO LARVICIDES SHOULD BE APPLIED ONLY WHEN ABSOLUTELY NECESSARY AND THEN ONLY BY A LICENSED PROFESSIONAL OR CONTRACTOR.
- CORRESPONDENCE**
CORRESPONDENCE REGARDING OPERATIONS, INSPECTIONS AND MAINTENANCE OF THE STORM WATER TREATMENT MEASURES WILL BE PROVIDED TO THE CITY OF SAN JOSE'S ENVIRONMENTAL SERVICES DIVISION AS REQUIRED AND ACCORDING TO THE SCHEDULE OUTLINED IN THE OPERATIONS AND MAINTENANCE AGREEMENT.



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Splash Blocks

If rain is not drained away from the wall of a building, the standing water can damage the foundation or cause damp basement walls. Nitterhouse Splash Blocks divert water away from the foundation and help to prevent soil erosion.

This is our newest design in durable and attractive splash blocks. Each is machine manufactured to quality standards.

Splash Block

Dimensions: 12" x 24" x 2-7/8"
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SPLASH BLOCK IMAGE



CHARITIES HOUSING

1400 PARKMOOR AVENUE, SUITE 190
SAN JOSE, CA 95126
Telephone: (408) 550-8300
Fax: (408) 550-8339

**STORM WATER TREATMENT PLAN
LANDS OF CHARITIES HOUSING**

19160 STEVENS CREEK BLVD
CUPERTINO, CALIFORNIA

PD_

Charles W. Davidson Co.
A CALIFORNIA CORPORATION
CONSULTING CIVIL ENGINEERS

255 W. JULIAN ST. #200 SAN JOSE, CA 95110-2406
TEL. (408) 295-9162 FAX (408) 993-1511

Revisions:	
REVISED: 2-4-16	
REVISED: 5-9-16	

Date: 3-31-17 Job No.: 1937
Scale: N.T.S. Drawn By: L.L.

Sheet No: **4.4**
of _____ Sheets

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ARCHER STUDIOS
San Jose, CA, SEA



PARKSIDE STUDIOS
Sunnyvale, CA, SEA



HOMESAFE
San Jose, CA, SEA



MAGNOLIA COURT
Manteca, CA, SEA



PASEO SENTER
San Jose, CA, CHARITIES HOUSING



BRISAS DE PAZ
Desert Hot Springs, CA, SEA



CORONADO SENIOR HOUSING
Coronado, CA, SEA



ARCHER STUDIOS
San Jose, CA, SEA

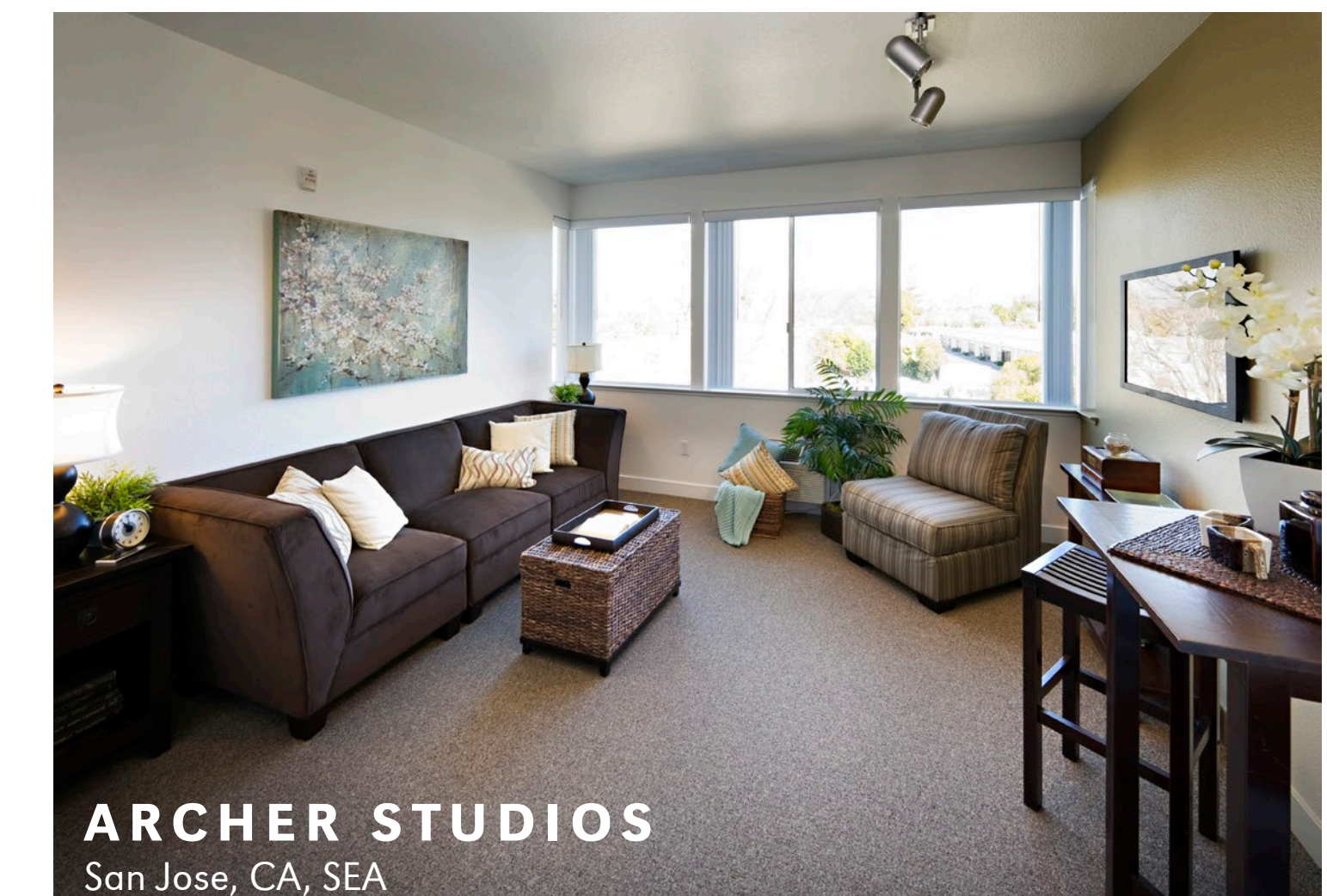


TALMADGE
San Diego, CA, SEA

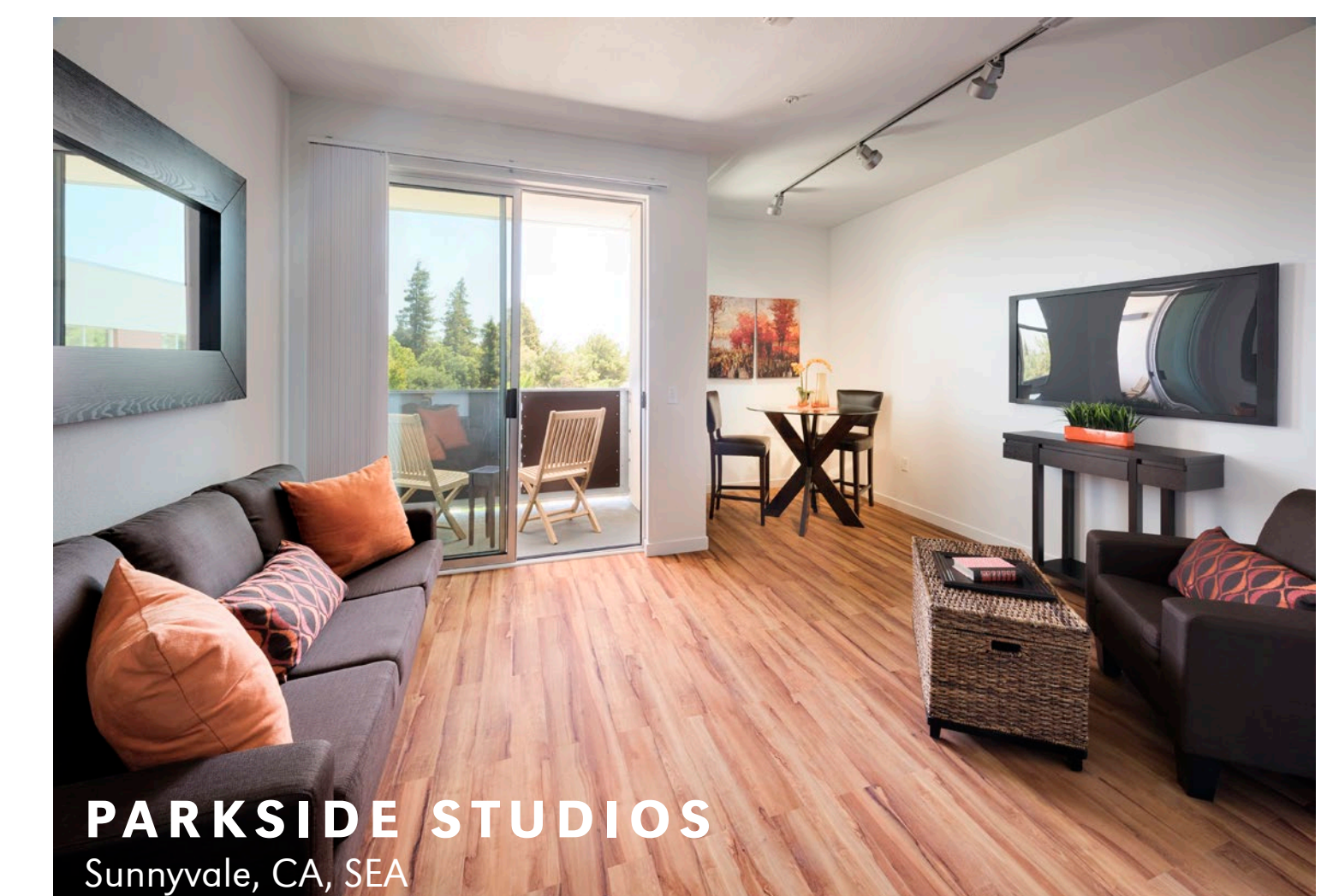
SAMPLE AFFORDABLE HOUSING DEVELOPMENTS

SIMILAR PROJECTS

SAMPLE STUDIO INTERIORS



ARCHER STUDIOS
San Jose, CA, SEA



PARKSIDE STUDIOS
Sunnyvale, CA, SEA



PARKSIDE STUDIOS
Sunnyvale, CA, SEA

STUDIO E
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T 619.235.9262 F 619.235.0522

19160 STEVENS CREEK

19160 Stevens Creek Blvd, Cupertino, CA

Charities Housing Development Corp.

Project 16111

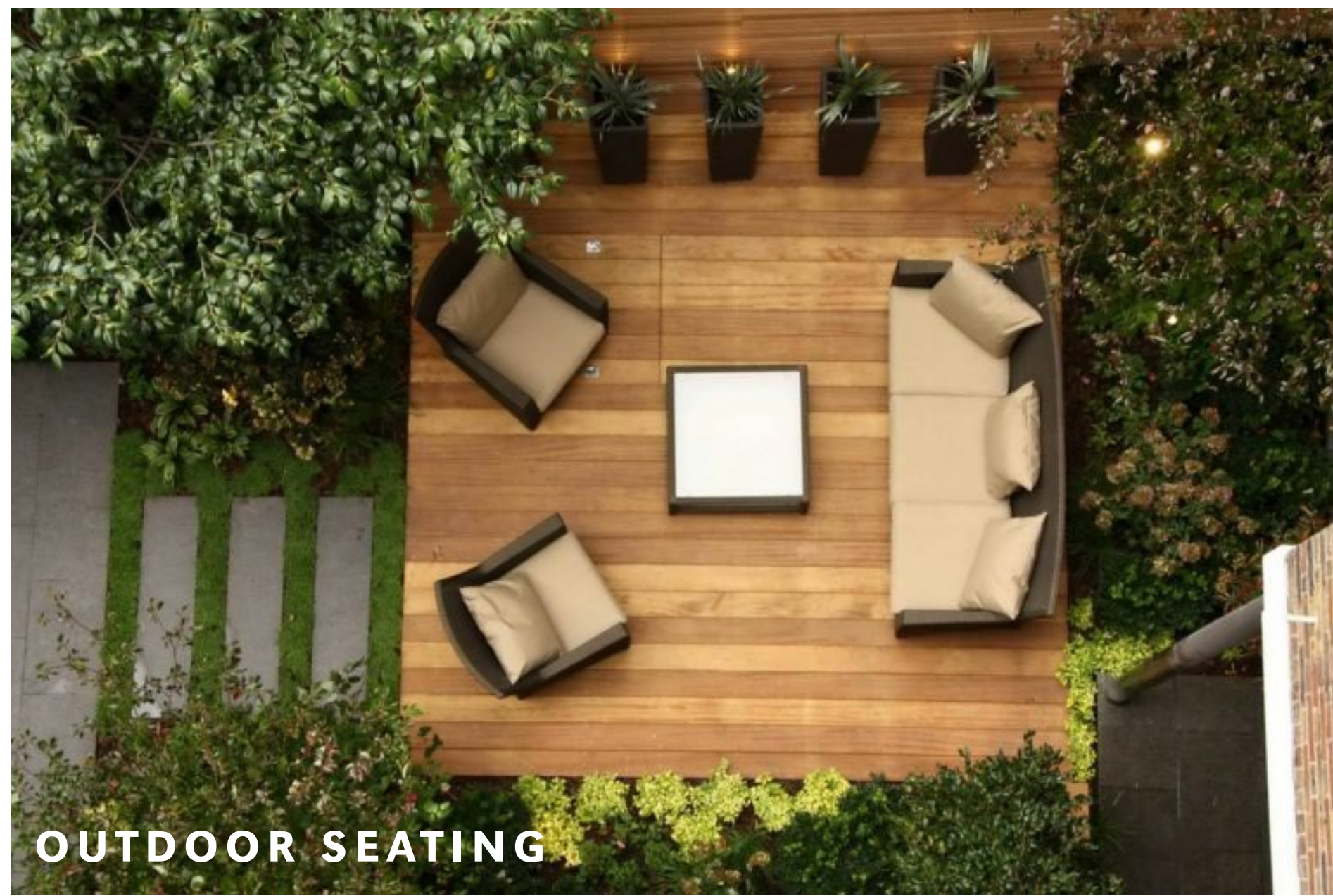
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04.06.17 Resubmittal 1

DESIGN
EXHIBITS

E1



OUTDOOR SEATING



OUTDOOR DINING



BOCCE COURT



PORCH CHAIRS



VEGETABLE GARDEN

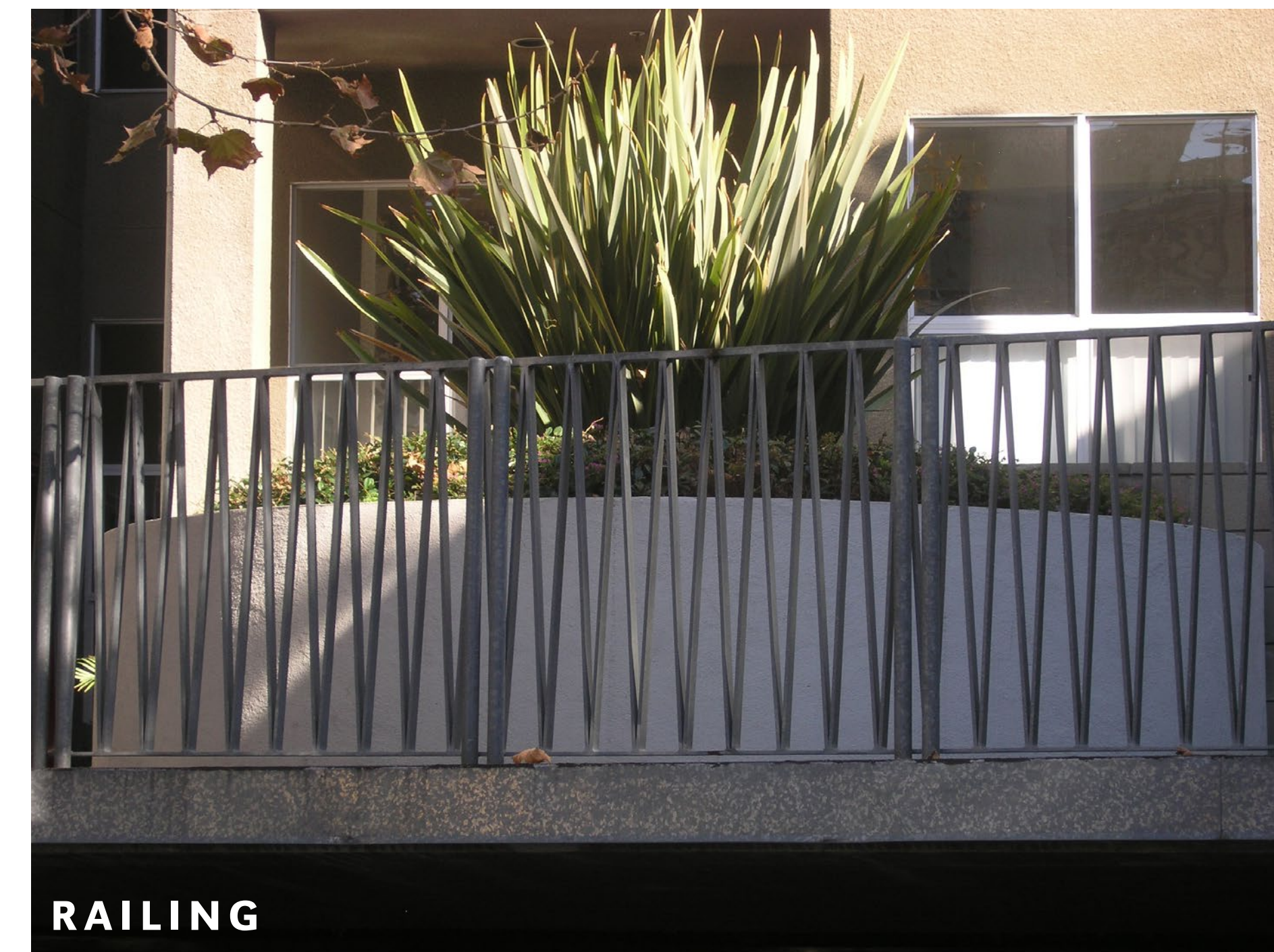


BBQ

CHARACTER & QUALITY



SIGNAGE



RAILING

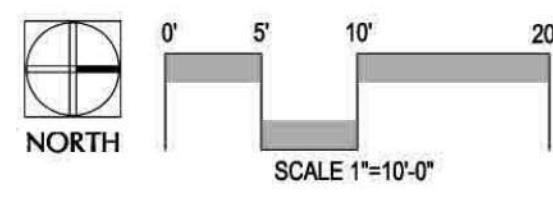


FOLDING DOORS

DETAILS

PROJECT NOTES:

- 1) THE PROPOSED LANDSCAPE & IRRIGATION WILL COMPLY WITH THE STATE OF CALIFORNIA MODEL WATER EFFICIENT LANDSCAPE ORDINANCE AND ALL CITY OF CUPERTINO WATER RESTRICTIONS.
- 2) NO TURF/LAWN IS PROPOSED.
- 3) WORK WITHIN THE PUBLIC RIGHT-OF-WAY SHALL CONFORM TO THE CUPERTINO "HEART OF THE CITY SPECIFIC PLAN", PARTICULARLY THE EAST STEVENS CREEK BLVD SECTION. THIS WILL INCLUDE ASH TREES AND LOW-GROWING SHRUBS AND GROUNDCOVER WITHIN THE PARKWAY AND LANDSCAPE EASEMENT.



CANDIDATE PLANT LEGEND

SYMBOL	BOTANICAL & COMMON NAME	MIN. SIZE
'HEART OF THE CITY' STREET TREE - EAST STEVENS CREEK 24" BOX		
	FRAXINUS UHDEI -EVERGREEN ASH	
FLOWERING ACCENT TREE 24" BOX		
	LAGERSTROEMIA INDICA -CRAPE MYRTLE	
	ROBINIA 'PURPLE ROBE' -ROBINIA	
	CASSIA LEPTOPHYLLA -GOLD MEDALLION TREE	
	PYRUS C. 'CHANTICLEER' -FLOWERING PEAR	
PROJECT PERIMETER TREE 15 GAL.		
	TRISTANIA CONFERTA -BRISBANE BOX	
	PITTOSPORUM 'SILVER SHEEN' -SILVER SHEEN KOHUHU	
	ARBUSUTUS MARINA -MADRONE	
	DODONEA V. 'PURPUREA' -PURPLE HOPSEED	
PARKING AREA TREE 24" BOX		
	ULMUS P. 'DRAKE' -EVERGREEN ELM	
	GEIJERA PARVIFLORA -AUSTRALIAN WILLOW	
	RHUS LANCEA -AFRICAN SUMAC	
SMALL ACCENT TREE 36" BOX		
	CERCIS OCCIDENTALIS -WESTERN REDBUD	
	CERCIS OCCIDENTALIS -WESTERN REDBUD	

SYMBOL	BOTANICAL & COMMON NAME	MIN. SIZE
PERENNIALS, SUCCULENTS, SHRUBS, GROUNDCOVERS 1 GAL.		
	DIETES VEGETA -FORTNIGHT LILY	
	GREVILLEA 'NOELLII' -NOEL'S GREVILLEA	
	BERBERIS SPP. -OREGON GRAPE VARIETIES	
	LANTANA MONTEVIDENSIS -TRAILING LANTANA	
	ROSMARINUS SPP. -ROSEMARY	
	SALVIA SPP. -SAGE	
	MUHLENBERGIA RIGENS -DEER GRASS	
	FESTUCA MAIREI -ATLAS FESCUE	
	CALLISTEMON 'LITTLE JOHN' -DWF BOTTLEBRUSH	
	MYOPORUM 'PACIFICA' -PACIFIC MYOPORUM	
	AGAVE SPP. -AGAVE	
	SENECIO WANDRALISCAE -BLUE CHALK STICKS	
	SEDUM SPP. -STONECROP	
	SISYRINCHIUM BELLUM -BLUE EYED GRASS	
	POLYSTICHYUM MUNITUM -WESTERN SWORD FERN	
STORMWATER TREATMENT BASIN PLANTS 1 GAL.		
	HELIOTRICHON SEMPERVIRENS -BLUE OAT GRASS	
	FESTUCA MAIREI -ATLAS FESCUE	
	FESTUCA RUBRA CVS. -RED FESCUE	
	CAREX PRAEGRACILIS -WESTERN MEADOW SEDGE	
	FESTUCA O. GLAUCA -BLUE FESCUE	
	CAREX PANSA -CALIFORNIA MEADOW SEDGE	

SYMBOL	BOTANICAL & COMMON NAME	MIN. SIZE
WOODY SHRUBS 5 GAL.		
	RHAMNUS C. 'MOUND SAN BRUNO' -COFFEEBERRY	
	DODONEA V. PURPUREA -PURPLE HOP-BUSH	
	ARBUSUTUS UNEDO -DWF. STRAWBERRY MADRONE	
	ELAEAGNUS PUNGENS -SILVERBERRY	
	OSMANTHUS FRAGRANS -SWEET OLIVE	
	PRUNUS C. 'BRIGHT N' TIGHT' -CAROLINA LAUREL	
	MYRICA CALIFORNICA -PACIFIC WAX MYRTLE	
	MYRTUS COMMUNIS -MYRTLE	
VINES 5 GAL.		
	HARDENBERGIA VIOLACEA -LILAC VINE	
	FICUS REPENS -CREEPING FIG	

19160 STEVENS CREEK

 19160 Stevens Creek Blvd, Cupertino, CA

 Charities Housing Development Corp.

Project 16111

 11.30.16

 02.23.17

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CONCEPTUAL LANDSCAPE PLAN

L1



OFFICE OF COMMUNITY DEVELOPMENT

CITY HALL

10300 TORRE AVENUE • CUPERTINO, CA 95014-3255

(408) 777-3308 • FAX (408) 777-3333 • planning@cupertino.org

PLANNING COMMISSION STAFF REPORT

Meeting: May 23, 2017

SUBJECT

Municipal Code Amendments to regulate the placement of storage containers and temporary fencing (Chapter 9.22 - Property Maintenance), size of signage notice boards for development (Chapter 19.12 - Administration), size of Accessory Dwelling Units (Chapter 19.112 - Accessory Dwelling Units in R-1, RHS, A and A-1 Zones), and including amendments to various other chapters of Title 19 – Zoning of the Municipal Code, including but not limited to, Chapter 19.08 (Definitions), Chapter 19.28 (Single-Family Residential (R-1) Zones), Chapter 19.40 (Residential Hillside (RHS) Zones), Chapter 19.60 (General Commercial (CG) Zones), and 19.116 (Conversions of Apartment Projects to Common Interest Developments) for compliance with State Law, readability, clarifications, and internal consistency. (Application No. MCA-2017-03; Applicant: City of Cupertino; Location: City-wide)

RECOMMENDED ACTION

That the Planning Commission recommend that the City Council:

1. Find that the proposed actions are exempt from CEQA; and
2. Adopt “An ordinance of the City Council of the City of Cupertino amending Chapter 9.22, Property Maintenance, Chapter 19.12, Administration, Chapter 19.112, Accessory Dwelling Units In R-1, Rhs, A and A-1 Zones, and Minor Amendments in Chapter 19.08, Definitions, Chapter 19.24, Agricultural (A) And Agricultural-Residential (A-1) Zones, Chapter 19.28, Single-Family Residential (R-1) Zones, Chapter 19.36, Multiple-Family Residential (R-3) Zones, Chapter 19.40, Residential Hillside (RHS) Zones, Chapter 19.60, General Commercial (CG) Zones, Chapter 19.64, Permitted, Conditional And Excluded Uses In Office And Industrial Zones And 19.116, Conversions Of Apartment Projects To Common Interest Developments” (Attachment 1).

DISCUSSION

Background

Periodically language in the Municipal Code is reviewed to ensure consistency with State Law, internal consistency, clarifications, corrections, and to propose changes to existing text to adequately address issues that arise in the community. At this time, revisions have been identified to the following chapters in the General Provisions and Zoning Titles:

1. Chapter 9.22 – Property Maintenance
2. Chapter 19.08 – Definitions; and
3. Chapter 19.112 – Accessory Dwelling Units in R-1, RHS, A, and A-1 Zones

In addition, minor corrections and edits have been made for consistency, readability or clarifications to these and other chapters of Title 19. The amendments proposed have been identified with strikethroughs and underlines (as appropriate) in Attachment 2. Note that language that has been moved is indicated in green text with double underlines and/or strikethroughs.

Analysis

Revisions

1. Chapter 9.22, Property Maintenance

The Cupertino Municipal Code Chapter 9.22, Property Maintenance, establishes the minimum standards, in conjunction with other standards in the code, for the maintenance for all building exteriors, premises and vacant land.

- a. Storage Containers: The code currently does not specifically address the placement of storage containers. They are currently regulated as accessory structures and allowed in areas not visible from a right-of-way or sidewalk, such as side yards or backyards. Recently, the City has been receiving several complaints regarding storage containers not being allowed for a variety of reasons, such as getting ready for a move or construction or transfer of materials to a long term storage facility. In order to address these needs, while ensuring that storage containers do not create an unsightly nuisance in neighborhoods, staff is recommending a revision to the ordinance.

The proposed revision would allow the placement of storage containers in visible yard areas on two (2) occurrences a year for up to fifteen (15) days at a time during any calendar year to allow loading and unloading of items from the container. Staff reviewed the policies regulating the placement of storage containers in surrounding cities in proposing the amendments (see Attachment 3). The results show a wide range of regulations from disallowing storage containers for any purpose, to allowing them

for short periods of time (up to 72 hours), or only allowing them with ongoing active construction activity. The proposed revisions are intended to help address the short term needs of residents while limiting the long term impacts on the neighborhood. Long term storage would continue to be allowed if in compliance with the Accessory Structures ordinance.

- b. Temporary Fencing: Temporary Fencing is allowed only in conjunction with ongoing construction as regulated by Chapter 19.48, Fences, of the Municipal Code. The proposed revision clarifies that temporary fencing that is visible from a right-of-way or sidewalk is only allowed for the duration of a construction project.

2. Chapter 19.112, Accessory Dwelling Units in R-1, RHS, A, and A-1 Zones

Chapter 19.112, Accessory Dwelling Units in R-1, RHS, A and A-1 zones is intended to promote the goal of affordable housing within the City through provision of additional housing in certain zoning districts in a manner which minimizes adverse impacts of accessory dwelling units (ADUs) on neighborhoods in compliance with State Law.

- a. Minimum size of ADUs – State law requires that at a minimum ADUs must be the size of an efficiency unit defined as a unit no less than 150 sq. ft. This clarification has been added to Chapter 19.112.
- b. Size of Attached ADUs – Clarifications have been made to ensure that the allowable size of attached accessory dwelling units do not exceed the size of the principal dwelling unit in conformance with the provisions of AB 2299 (Bloom) and Government Code Section 65852.2.
- c. Maximum Size of ADUs – In late 2016, the ADU ordinance was amended to comply with recent changes to State Law. At that time, it appeared that cities were required to adopt an increase in the maximum allowable size of ADUs, up to the maximum allowed under state law. The changes adopted were as follows:

	Previous size (allowed prior to Jan. 2017)	Current size (allowed after Jan. 2017)
Lots < 10,000 s.f.	640 s.f.	800 s.f.
Lots ≤ 10,000 s.f.	800 s.f.	1,200 s.f.

At that time, both the Planning Commission and City Council had indicated concerns about the increase in the sizes of ADUs proposed. Upon further review, it appears based on advice from the CA Department of Housing and Community Development (HCD) that the City may regulate the maximum size of ADUs to be smaller than the maximum allowed under State Law.

ADUs serve a much needed gap in available affordable housing opportunities within the City. The number of ADUs developed contribute toward the affordable housing target of the City's Regional Housing Needs Allocation (RHNA) (the city's portion of the regional housing needs established by the state and allocated by the Association of Bay Area Governments (ABAG)). On the other hand, new restrictions on the parking requirements cities can impose with the development of ADUs for both the ADU and, in the event of garage conversions, on the principal dwelling unit, could create adverse impacts on neighborhoods.

While a change to the maximum size of ADUs is not proposed in the draft ordinance, should the Planning Commission recommend that the ordinance revert to the previous size of ADUs allowed, it will be forwarded to the City Council for its consideration.

3. Chapter 19.12 – Administration

Chapter 19.12, Administration, establishes the procedures for the discretionary review of development in the City in order to ensure compliance with City development requirements and policies.

- a. Site Notices – Chapter 19.12 establishes the noticing requirements for all development projects. Currently, the code requires that all site notices be at least two (2) feet by three (3) feet in size. In practice, only site notices for Single Family Residential projects and certain Tree Removal Permits in R1 and R2 zoning districts are required to be noticed with a two (2) feet by three (3) feet sign while all other projects are required to erect site signage that is four (4) feet by six (6) feet in size. This ongoing practice related to the site noticing for different types of projects is proposed to be added in the language of the ordinance.

Clarification and Readability

To ensure that the Municipal Code is easy to understand and read, the following edits have been proposed:

1. Move and consolidate some text in Chapter 9.22, Property Maintenance, into a table for ease of use and readability;
2. Move text and eliminate redundant language in Chapter 19.12, Administration;
3. Move and consolidate existing text regarding the calculation of Floor Area Ratio (FAR) for properties zoned RHS into one subsection in Chapter 19.40, Residential Hillside (RHS). Currently, this calculation is scattered in varying subsections within Table 19.40.060. No changes to the method of calculating the FAR or any other development standards is proposed.

4. Existing text has been moved to either more appropriate sections or to eliminate redundancy within Chapter 19.116, Conversions of Apartment Projects to Common Interest Developments. In addition, minor edits have been made to clarify processing requirements that do not change regulations.

Consistency:

Minor amendments have been made throughout Title 19 to ensure that the Municipal Code is consistent with the requirements of state law or is internally consistent, to the extent that terms are consistently used, and appropriate definitions referenced in the various chapters as follows.

1. Amendment to the definition of "Living Space" (consistent with state law);
2. Consistent use of the term "structure" in reference to development standards;
3. Update references to General Plan figures due to change in figure numbers; and
4. Reference to existing definitions have been updated.

ENVIRONMENTAL ASSESMENT

The project is categorically exempt as there is no potential for this action to cause a significant effect on the environment and/or any project would be exempt under relevant provisions of CEQA guidelines, including, but not limited to Existing Facilities (Sec. 15301), Replacement or Reconstruction (Sec. 15302), or Construction or Conversion of Small Structures (Sec. 15303).

PUBLIC NOTICING & OUTREACH

The following noticing has been conducted for this project:

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none"> ▪ Legal ad placed in newspaper (at least 10 days prior to hearing) ▪ Display ad placed in newspaper (at least 10 days prior to hearing) 	<ul style="list-style-type: none"> ▪ Posted on the City's official notice bulletin board (five days prior to hearing) ▪ Posted on the City of Cupertino's Web site (five days prior to hearing)

PUBLIC COMMENTS

As of the posting of this Staff Report, no public comments have been received.

NEXT STEPS

The recommendations made by the Planning Commission will be forwarded to the City Council for consideration.

Prepared by: Gian Paolo Martire, Associate Planner

Piu Ghosh, Principal Planner

Reviewed by: Benjamin Fu, Assistant Director of Community Development

Approved by: Aarti Shrivastava, Assistant City Manager

ATTACHMENTS

1. Draft Resolution of the Planning Commission recommending adoption of the Draft Ordinance.
2. Redline document indicating changes in Chapters 9.22, 19.08, 19.12, 19.24, 19.28, 19.36, 19.40, 19.60, 19.64, 19.112, and 19.116.
3. Policies of surrounding cities regarding storage containers.

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE
AMENDING CHAPTER 9.22, PROPERTY MAINTENANCE, CHAPTER 19.12,
ADMINISTRATION, CHAPTER 19.112, ACCESSORY DWELLING UNITS IN R-1,
RHS, A AND A-1 ZONES, AND MINOR AMENDMENTS IN CHAPTER 19.08,
DEFINITIONS, CHAPTER 19.24, AGRICULTURAL (A) AND AGRICULTURAL-
RESIDENTIAL (A-1) ZONES, CHAPTER 19.28, SINGLE-FAMILY RESIDENTIAL
(R-1) ZONES, CHAPTER 19.36, MULTIPLE-FAMILY RESIDENTIAL (R-3) ZONES,
CHAPTER 19.40, RESIDENTIAL HILLSIDE (RHS) ZONES, CHAPTER 19.60,
GENERAL COMMERCIAL (CG) ZONES, CHAPTER 19.64, PERMITTED,
CONDITIONAL AND EXCLUDED USES IN OFFICE AND INDUSTRIAL ZONES
AND 19.116, CONVERSIONS OF APARTMENT PROJECTS TO COMMON
INTEREST DEVELOPMENTS

The Planning Commission recommends approval of the proposed Ordinance in substantially the form as shown in Exhibit "A" attached hereto and entitled:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
AMENDING CHAPTER 9.22, PROPERTY MAINTENANCE, CHAPTER 19.12,
ADMINISTRATION, CHAPTER 19.112, ACCESSORY DWELLING UNITS IN R-1,
RHS, A AND A-1 ZONES, AND MINOR AMENDMENTS IN CHAPTER 19.08,
DEFINITIONS, CHAPTER 19.24, AGRICULTURAL (A) AND AGRICULTURAL-
RESIDENTIAL (A-1) ZONES, CHAPTER 19.28, SINGLE-FAMILY RESIDENTIAL (R-
1) ZONES, CHAPTER 19.36, MULTIPLE-FAMILY RESIDENTIAL (R-3) ZONES,
CHAPTER 19.40, RESIDENTIAL HILLSIDE (RHS) ZONES, CHAPTER 19.60,
GENERAL COMMERCIAL (CG) ZONES, CHAPTER 19.64, PERMITTED,
CONDITIONAL AND EXCLUDED USES IN OFFICE AND INDUSTRIAL ZONES
AND 19.116, CONVERSIONS OF APARTMENT PROJECTS TO COMMON
INTEREST DEVELOPMENTS.

PASSED AND ADOPTED this 23rd day of May 2017, at a Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

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

ATTEST:

APPROVED:

Benjamin Fu
Assistant Community Development Director

Don Sun
Chair, Planning Commission

EXHIBIT "A"

Draft Ordinance No. 16-XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CHAPTER 9.22, PROPERTY MAINTENANCE, CHAPTER 19.12, ADMINISTRATION, CHAPTER 19.112, ACCESSORY DWELLING UNITS IN R-1, RHS, A AND A-1 ZONES, AND MINOR AMENDMENTS IN CHAPTER 19.08, DEFINITIONS, CHAPTER 19.24, AGRICULTURAL (A) AND AGRICULTURAL-RESIDENTIAL (A-1) ZONES, CHAPTER 19.28, SINGLE-FAMILY RESIDENTIAL (R-1) ZONES, CHAPTER 19.36, MULTIPLE-FAMILY RESIDENTIAL (R-3) ZONES, CHAPTER 19.40, RESIDENTIAL HILLSIDE (RHS) ZONES, CHAPTER 19.60, GENERAL COMMERCIAL (CG) ZONES, CHAPTER 19.64, PERMITTED, CONDITIONAL AND EXCLUDED USES IN OFFICE AND INDUSTRIAL ZONES AND 19.116, CONVERSIONS OF APARTMENT PROJECTS TO COMMON INTEREST DEVELOPMENTS

WHEREAS, this Ordinance is determined to be not a project under the requirements of the California Quality Act of 1970, together with related State CEQA Guidelines (collectively, "CEQA") in that proposed Ordinance is categorically exempt as there is no potential for this action to cause a significant effect on the environment and/or any project would be exempt under relevant provisions of CEQA guidelines, including, but not limited to Existing Facilities (Sec. 15301), Replacement or Reconstruction (Sec. 15302), or Construction or Conversion of Small Structures (Sec. 15303).

WHEREAS, the City Council is the decision-making body for this Ordinance; and

WHEREAS, the City Council before taking action on this Ordinance has reviewed the not a project determination and exemption, and using its independent judgment, determines the Ordinance to be not a project or exempt from CEQA as stated above;

NOW, THEREFORE, THE CITY COUNCIL OF THE OF CITY OF CUPERTINO DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.22, of Title 9 of the Cupertino Municipal Code is hereby amended to read as follows:

CHAPTER 9.22: PROPERTY MAINTENANCE

Section

9.22.010 Purpose.

9.22.020 Unlawful acts.

9.22.030 Penalties.

9.22.040 Enforcement of other laws unaffected.

9.22.050 Notice to Franchise Tax Board.

9.22.010 Purpose.

The purpose of this chapter is to promote the health, safety and welfare of the people of the City of Cupertino, and to protect the City's neighborhoods against blighting and deteriorating influences or conditions that contribute to the downgrading of neighborhood aesthetics and property values by establishing minimum standards, in addition to standards contained in other laws, rules and regulations, for the maintenance of all building exteriors, premises and vacant land.

9.22.020 Unlawful Acts.

Except for any property which has a valid permit to maintain such a condition, no owner(s), agent(s) or lessee(s) or other person(s) occupying or having control of any real property (including City property) within the City shall maintain or allow to be maintained any of the following conditions except as allowed in Table 9.22.020:

Table 9.22.020 Unlawful Acts	In any front, side or rear yard areas visible from a public street or sidewalk
A. Storage or placement of any of the following that could be unsightly and/or constitute an attractive nuisance:	
1. Household appliances, equipment, machinery, or furniture, other than that designed and used for outdoor activities, including, but not limited to, refrigerators, washing machines, sinks, stoves, heaters, boilers, tanks, or any part of any listed item;	Not Allowed in excess of 72 hours

Table 9.22.020 Unlawful Acts	In any front, side or rear yard areas visible from a public street or sidewalk
2. Loose materials, including but not limited to, sand dirt, gravel, concrete or any similar materials;	Not Allowed, except if screened with temporary construction fencing while permitted, active and continuous, construction is occurring on the property
3. Building materials, including but not limited to, lumber, fixtures, or salvage materials recovered during demolition;	Not Allowed, except if screened with temporary construction fencing while permitted, active and continuous, construction is occurring on the property
4. Temporary Fencing;	Not Allowed, except while permitted, active and continuous, construction is occurring on the property
5. Storage Containers and similar items;	Not Allowed on more than two (2) occasions in a calendar year and not more than fifteen (15) days on each occasion.
B. An accumulation of:	
1. Glass, paper, metal, plastic, or other recyclables	Not Allowed
2. Litter, junk, machine parts, scrap material, waste paper, boxes and cartons, packing materials, combustible trash, tires, or vehicle parts;	Not Allowed
C. Dead, decayed, or diseased trees, weeds, or other vegetation likely to cause a fire or health hazard, an infestation, or a habitat for rodents;	Not Allowed
D. A lack of adequate landscaping, or groundcover sufficient to prevent blowing dust and erosion;	Not Allowed
E. Tree stump(s) with a trunk diameter greater than six inches and a height of greater than 2.5 feet. As used herein "tree stump" means the base part of a tree or the trunk protruding above ground in which 90% or more of the foliage or canopy of the tree has been removed. This prohibition applies to all tree stumps in the City including those described in Chapters 14.12 (Street Trees) and in Chapter 14.18 (Protected Trees). Excepted from this prohibition are trees which are pollarded in accordance with the American National Standards Institute (ANSI) A300-2001 standards.	Not Allowed

Table 9.22.020 Unlawful Acts	In any front, side or rear yard areas visible from a public street or sidewalk
F. Maintenance of any structure in a state of substantial deterioration, where such condition would have a tendency to depreciate the aesthetic and property values of surrounding properties, including but not limited to, peeling paint on a façade, broken windows, damaged porches, broken steps, roofs in disrepair, and other such deterioration or disrepair not otherwise constituting a violation;	Not Allowed

9.22.030 Penalties.

Any person who violates the provisions of this chapter shall upon conviction be guilty of an infraction punishable in accordance with the provisions of Chapter 1.12.

9.22.040 Enforcement of Other Laws Unaffected.

Nothing in this chapter affects the power of the City or authorized law enforcement officers to prosecute violators of any statute of the State of California or other ordinances of the City (including the provisions of Chapters 1.09 and Section 1.12.030 regarding nuisance abatement.)

9.22.050 Notice to Franchise Tax Board.

If a property owner fails to correct a violation relating to substandard housing within six months or the time prescribed in a written notice of violation, whichever is later, the City Manager or his designee may submit a notice of noncompliance to the Franchise Tax Board to prohibit individuals, banks and corporations from claiming deductions for interest, taxes, depreciation or amortization with respect to the substandard housing pursuant to the provisions of Sections 17274 and 24436.5, as applicable, of the California Revenue and Taxation Code.

SECTION 2. Cupertino Municipal Code section 19.08.030L of Chapter 19.08 of Title 19 is amended by editing the following definition:

"Living space" means, for the purposes of Chapter 19.112, Accessory Dwelling Units in R-1, RHS, A and A-1 Zones, the same as that set forth in CA Government Code Section 65852.2(i).

SECTION 3. Table 19.20.020 of Section 19.12.030 of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

Table 19.12.030: Approval Authority

<u>Type of Permit or Decision</u> ^{A, B}	<u>Administrative Review</u>	<u>Design Review Committee</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Public Hearing/ Public Meeting/ Comment Period</u> ^C	<u>Noticing/ Noticing Radius</u> ^D	<u>Posted Site Notice</u>	<u>Expiration Date</u> ^E	<u>Chapter/ Findings</u>
General Plan Amendment									
Major ^F	-	-	R	F	PH	CA. Govt. Code 65350-65362	Yes	-	CA. Govt. Code 65350-65362
Minor ^G	-	-	R	F	PH		Yes	-	
Zoning Map Amendments									
Major ^F	-	-	R	F	PH	CA. Govt. Code 65853 - 65857	Yes	-	19.152.020
Minor ^G	-	-	R	F	PH		Yes	-	
Zoning Text Amendments	-	-	R	F	PH	CA. Govt. Code 65853 - 65857	-	-	19.152.030
Specific Plans	-	-	R	F	PH	CA. Govt. Code 65350-65362	-	-	20.04.030
Development Agreements	-	-	R	F	PH	CA. Govt. Code 65867	Yes	-	19.144.120
Development Permits									
Major ^{F, H}	-	-	F/R	A ¹ /F	PM	19.12.110/ 300'	Yes	2 years	19.156.050
Minor ^G	F	-	A ¹	A ²	PM		Yes	2 years	
Conditional Use Permits									
Major ^{F, H, I}	F	-	A ¹ /F/R	A ¹ /A ² /F	PH	CA. Govt. Code 65905	Yes	2 years	19.156.050
Minor ^{G, I}	F	-	A ¹ /F/R	A ¹ /A ² /F	PH		Yes	2 years	

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Temporary	F	-	A ¹	A ²	-	None	No	1 year	19.160.030
Density Bonus (Residential)			R	F	Based on concurrent application			19.52	
Adult-Oriented Commercial Activity (CUP)		-	R	F	PH	CA. Govt. Code 65905/ 300'	Yes	2 years	19.128.030& 19.128.040
Architectural and Site Approval									
Major ^J	F	-	A ¹	A ²	PM	19.12.110/ Adjacent	Yes	2 years	19.168.030
Minor ^K	F	-	A ¹	A ²	PM		Yes	2 years	
Amendment									
Major ^{E, H}	-	-	F	A ¹	Varies ^L	Depends on permit being amended ^L	Yes	2 years	19.44, 19.144 19.156, 19.164
Minor ^G	F	-	A ¹	A ²	Varies ^L		Yes	2 years	
Minor Modification	F	-	A ¹	A ²	-	None	No	2 years	19.164
Hillside Exception/ Height Exception / Heart of the City Exception ^I	-	-	F	A ¹	PH	19.12.110/ 300'	Yes	2 years	19.40.080, 19.24.070, 19.136.090
Variance	F	-	A ¹	A ²	PH	CA. Govt. Code 65905	Yes	2 years	19.156.060

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Status of non-conforming Use	-	-	F	A ¹	PH	19.12.110/ 300'	Yes	-	19.140.110
Wireless Antennas ^I	F	-	F/ A ¹	A ²	Varies ^I	Depends on application type	Yes	2 years	19.136.090
Signs									
Permits	F	-	A ¹	A ²	-	None	No	1 year	19.104
Neon, Reader board & Freeway Oriented Signs ^I	-	F	F	A ^{1M}	PM	19.12.110/ 300'	No	1 year	19.104
Programs	F	-	A ¹	A ²	-	None	No	1 year	19.104
Exceptions ^I	-	F	-	A ^{1M}	PM	19.12.110/ Adjacent	Yes	1 year	19.104.290
Parking Exceptions ^I	F	F	A ¹	A ^{1L} /A ²	Varies ^N	19.12.110/ Adjacent/ 300' ^O	Yes	1 year	19.124.050
Fence Exceptions	-	F	-	A ^{1L}	PM	19.12.110/ Adjacent	Yes	1 year	19.48.060
Front Yard Interpretation	F	-	A ¹	A ²	PM	19.12.110/ Adjacent	Yes	1 year	19.08
R1 Ordinance Permits									
Two-story ^I	F	F	F/A ¹	A ^{1L} /A ²	Varies ^I	19.12.110/	Yes	1 year	19.28.140

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Minor Residential	F	-	A ¹	A ²	CP	Adjacent	No	1 year	
Exceptions ^I	-	F	-	A ^{1M}	PM		Yes	1 year	
Protected Trees									
Tree Removal	F	-	A ¹	A ²	CP	Adjacent unless exempt	Yes	1 year	14.18.180
Heritage Tree Designation & Removal	-	-	F	A ¹	PM	19.12.110/300'	Yes	-	14.18
Tree Management Plan	F	-	A ¹	A ²	-	None	No	-	14.18
Retroactive Tree Removal	F	-	A ¹	A ²	-	None	No	-	14.18
Reasonable Accommodation	F	-	A ¹	A ²	-	None	No	1 year	19.52.050
Extensions ^P									
Parking, Fence & Sign Exceptions & Front Yard Interpretations	F	-	A ¹	A ²	-	None	No	1 year	

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Neon, Reader board & Freeway Oriented Signs	F		A ¹	A ²	-	None	No	1 year	
Two Story Permits, Minor Residential Permits and Exceptions	F		A ¹	A ²	-	None	No	1 year	
Tree Removals	F	-	A ¹	A ²	-	-	No	1 year	
All other projects	F	-	A ¹	A ²	-	19.12.110/ None	No	2 years	

Key:

R – Review and recommendation body	F – Final decision-making body unless appealed
A ¹ – Appeal Body on first appeal	A ² – Appeal body on second appeal
PH – Public Hearing	PM – Public Meeting
CP – Comment Period	

Notes:

- A. Permits can be processed concurrently with other applications, at the discretion of the Director of Community Development.
- B. Projects with combined applications shall be processed at the highest level of approval in conformance with Section 19.04.090.
- C. Public Hearing: Projects types that need noticing pursuant to the CA Government Code; Public Meeting: Project types that need only a mailed notice and no newspaper notices; Comment Period: Project types that need only a mailed notice and do not need a public hearing or public meeting.
- D. Noticing Radius of an application in a combined application shall correspond to the maximum noticing radius required for any one of the applications.
- E. Expiration date of an application in a combined application shall correspond to the maximum expiration date allowed for any one of the development applications (not including Subdivision Map Act applications, General Plan Amendments and Zoning Map or Text Amendments.)
- F. Major General Plan Amendment, Conditional Use Permit, Development Permit application - for more than ten thousand square feet of commercial and/or industrial and/or office and/or other non-residential use, or greater than six residential units
- G. Minor General Plan Amendment, Conditional Use Permit, Development Permit application - for ten thousand square feet or less of commercial and/or industrial and/or office and/or other non-residential use, or six or less residential units.
- H. City Council review for applications with new development greater than fifty thousand square feet of commercial, and/or greater than one hundred thousand square feet of industrial and/or office and/or other non-residential use, and/or greater than fifty residential units.
Planning Commission review for all other applications.
- I. Please see specific zoning district regulations or chapters in this title that apply to the subject property or project for approval authority.
- J. Major Architectural and Site Approval application - architectural and site approval for all projects that are not a Minor Architectural and Site Approval application.
- K. Minor Architectural and Site Approval application - single family home in a planned development zoning district, minor building architectural modifications, landscaping, signs and lighting for new development, redevelopment or modification in such zones where review is required and minor modifications of duplex and multi-family buildings.
- L. Meeting type and noticing are dependent on the underlying permit being modified.
- M. Appeals of Design Review Committee decisions shall be heard by the City Council.
- N. Parking Exceptions approved by the Director of Community Development need a comment period.

Parking Exceptions approved by the Design Review Committee need a public meeting.

- O. Parking Exceptions in Single-family residential (R1) zones and Duplex (R2) zones need adjacent noticing.

All other Parking Exceptions need notices within three hundred feet of the exterior boundary of the subject property.

- P. Application must be filed prior to expiration date of permit. Permit is extended until decision of the Approval Body on the extension.

SECTION 4. Section 19.12.080 of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.12.080 Application Process

Unless otherwise specified in this title, all applications for permits, permit modifications, amendments and other matters pertaining to this Chapter shall be filed with the Director of Community Development with the following:

- A. An application for permit may be made by the owner of record, his or her agent, lessee(s) of property, or person(s) who have contracted to purchase or lease property contingent upon their ability to acquire the necessary permit under this title and who have written authorization from the property owner to make an application.
- B. Application shall be made on a form provided by the City, and shall contain the following, unless waived by the Director of Community Development based on the scope of the proposed project:
 - 1. A complete legal description of the subject property and map showing the location of the property for which the permit is sought;
 - 2. A preliminary title report of the subject property;
 - 3. The proposed site development plan indicating: the location of all buildings and structures; the location and types of land uses; paved areas, such as roadways, driveways and walkways; and general landscaping scheme;
 - 4. Architectural drawings of the proposed development, building additions or other structures. Drawings shall indicate building height, colors, materials, window treatment and other architectural features;
 - 5. Maps showing the locations of buildings;
 - 6. Renderings showing building heights and square footages;
 - 7. Maps showing the precise location of roads, streets, alleys and access points;
 - 8. A traffic analysis, if required;
 - 9. A construction plan,

10. Any property/development with a Homeowner's Association (HOA) or Architectural Review Board (ARB) shall provide a letter of approval from said HOA Board or ARB.
 11. The Director of Community Development may reasonably require additional information which is pertinent and essential to the application.
 12. Zoning Map or Text Amendments shall also include information required per Chapter 19.152.
 - a. Zoning applications for Planned Development Zoning Districts shall also include information required per Section 19.80.040;
 - b. Zoning applications for Multi-Family (R3) Residential shall also include information required per Section 19.36.040; and
 - c. Zoning applications for Residential Single-family Cluster (R1C) initiated by a property owner, or his or her designee, shall also include items identified in Section 19.44.050H.
 13. Planned Development Permit and Development Permit applications shall also include information required per Section 19.156.010;
 14. Conditional Use Permits and Variances shall also include information required per Section 19.156.020.
 15. Density Bonus Permit applications shall also include information required per Section 19.56.060.
 16. Conversion of Apartment Projects to Common Interest Developments applications shall also include information required per Section 19.116.050.
 17. Sign Permit Applications should also include information required per Section 19.104.040.
- C. Application shall be accompanied by the fee prescribed by City Council resolution, no part of which shall be returnable to the applicant.

SECTION 5. Section 19.12.100 of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.12.100 Decision

- A. The Approval Authority is granted the authority to make the decision to grant, deny, or impose conditions or restrictions on a permit or other action on a permit as well as to conduct and make any decisions necessary for environmental review under the California Environmental Quality Act.
- B. Unless postponed or continued with the mutual consent of the Director of Community Development and the applicant and written confirmation from the applicant, a decision shall be rendered:

1. No later than sixty (60) days following the date the application is deemed complete and either categorically exempt under the California Environmental Quality Act (CEQA) or the adoption of a negative declaration or one hundred and eighty (180) days of certification of an Environmental Impact Report (EIR).
2. Notwithstanding the above, no later than one hundred and fifty (150) days upon receipt of a complete application for a new personal wireless communication facility or ninety (90) days upon receipt of an application for collocation of a personal wireless communication facility/antennas.

SECTION 6. Section 19.12.110 of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.12.110 Noticing.

- A. Notice of Public Hearing: Noticing shall be provided in the following manner for applications that need a public hearing:
1. Notice of hearing shall be given by publication once in a local newspaper of general circulation not less than ten days prior to the date of the hearing as provided in Section 65090 of the California Government Code;
 2. The City shall mail written notice by first class mail to:
 - a. Each owner of record of real property within the noticing radius per Section 19.12.030 of the exterior boundary of the property for which the application is made as the owner of record is shown in the last tax assessment roll pursuant to Section 65091 of the California Government Code;
 - b. Owner(s) of subject site or his or her authorized agent
 - c. Project applicant(s)
 - d. Local agencies expected to provide water, sewage, streets, roads, schools or other essential facilities or services to the proposed project;
 - e. Any individual or entity that has filed a written request with the City Clerk requesting notification of public hearings
 3. If the number of owners to whom notice would be mailed or delivered pursuant to subsection A2 above is greater than one thousand, in lieu of mailed or delivered notice, the Director may provide published notice as provided in Government Code Section 65091(3).
 4. The notice shall contain the following:
 - a. The exact address of the property, if known, or the location of the property, if the exact address is not known;
 - b. The date on which action on the application will be taken;

- c. A brief description, the content of which shall be in the sole discretion of the City, of the proposed project;
- d. Reference to the application on file for particulars;
- e. A statement that any interested person, or agent thereof, may contact the city for additional information and/or plans.

Typographical and/or publishing errors shall not invalidate the notice nor any City action related to the notice.

B. Notice of Public Hearing for Zoning Text Amendments:

- 1. For amendments to zoning regulations: Notice of such hearing (publication) shall be given in the manner prescribed in Section 19.12.110 A(1) of this chapter.
- 2. For amendments to permitted uses of real property: Notice (mailing or publication) shall be given pursuant to Sections 19.12.110 A(2) or A(3), as the case may be.

C. Notice of Public Meeting: For projects requiring notice of a public meeting, notice shall be mailed in accord with 19.12.110A(2) or A(3), as the case may be, at least ten days prior to the date of the meeting date.

D. Notice of Comment Period: For projects requiring notice of a comment period, notice shall be mailed in accord with 19.12.110A(2) and A(5), fourteen calendar days prior to the date of action on the application.

- 1. For permits issued pursuant to Chapter 19.28, Single Family Residential, the mailed notice shall include a copy of the site plan and elevation plans of the proposed project.
- 2. For permits issued pursuant to Chapter 14.18, Protected Trees, the mailed notice shall include a copy of the site plan and tree replacement/mitigation plan.

E. The City may also give notice of public hearings/public meetings in any other manner it deems necessary or desirable. If the Director of Community Development believes the project may have impacts beyond the range of the mailed notice, particularly on nearby residential areas, the Director, in his or her discretion, may expand noticing beyond the stated requirements in Section 19.12.030.

Compliance with the procedures set forth in this section shall constitute a good-faith effort to provide notice, and the failure to provide notice, and the failure of any to receive notice, shall not prevent the City from proceeding with a hearing, meeting or from taking any action nor affect the validity of any action.

F. Posted Site Notice:

- 1. Applicants shall install notice(s) on the subject site that is/are clearly visible and legible from the right-of-way in accord with the requirements of Table 19.12.030.

- a. Applicants must install a site notice in the front yard of the subject site.
 - b. For all applications other than Two Story Permits, Residential Design Review and Tree Removal applications in R1 or R2 zones, if the subject site has more than one property line abutting a street, the applicant may be required to install more than one notice.
2. The notice shall be a weatherproof sign, firmly attached to 5 foot tall posts and:
 - a. For Two Story Permits, Residential Design Review, and Tree Removal applications in R1 or R2 zones, shall be at least 2 feet tall and 3 feet wide.
 - b. For all other applications that need a site notice, shall be at least 4 feet tall and 6 feet wide.
 3. The notice shall be placed at least 14 days prior to the decision/public hearing and shall remain in place until an action has been taken on the application and the appeal period has passed.
 4. The notice shall contain the following:
 - a. The exact address of the property, if known, or the location of the property, if the address is not known;
 - b. A brief description of the proposed project, the content of which shall be at the sole discretion of the City;
 - c. City contact information for public inquiries;
 - d. A deadline for the submission of public comments;
 - e. If proposing a physical alteration to an existing building or new buildings, at least one of the following visual representations of the proposed project:
 - i. A color perspective drawing or three-dimensional (3-D) photographic simulation of the proposed project, in a size deemed appropriate by the Director of Community Development.
 - ii. For Two Story Permits and Residential Design Review applications, a color or black and white perspective drawing or three-dimensional (3-D) photographic simulation of the proposed project, at least 11 inches by 17 inches in size.
 - iii. Visual Representation is not required for applications that do not have a material change in the physical appearance of the property.

SECTION 7. Section 19.12.180 of Chapter 19.12 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.12.180 Expiration, Extension and Revocation.

A. Expiration.

1. Approval on a permit or variance shall become null and void and of no effect, within the time frame specified in Section 19.12.030 following its issuance, unless a shorter or longer time period is specifically prescribed in the conditions of permit or variance, unless:
 - a. A building permit is filed and accepted by the City (fees paid and control number issued.) In the event that a building permit expires for any reason, the permit shall become null and void.
 - b. A permit or variance shall be deemed “vested” when actual substantial and continuous activity has taken place upon the land subject to the permit or variance or, in the event of the erection or modification of a structure or structures, when sufficient building activity has occurred and continues to occur in a diligent manner.
2. Notwithstanding subsection 1 of this section, if the use for which a conditional use permit was granted and utilized has ceased or has been suspended for one year or more, the permit becomes null and void.
3. Unless a variance or exception has expired pursuant to subsection 1 of this section, it shall continue to exist for the life of the existing structure or such structure as may be constructed pursuant to the approval, unless a different time period is specified in its issuance. A variance or exception from the parking and loading regulations, and a sign exception shall be valid only during the period of continuous operations of the use and/or structure for which the variance or exception was issued.

B. Extensions. A permit or variance may, in accord with Section 19.12.030, Approval Authority, be extended for the time frame specified in Section 19.12.030, upon timely submittal of an application with the Director of Community Development prior to expiration.

C. Violation. Once a permit or variance is effective, any and all conditions of approval imposed shall become operative, and the violation of any of them constitute a violation of this Code.

D. Revocation.

1. Process: In any case where, in the judgment of the Director, substantial evidence indicates that the conditions of a permit or variance have not been implemented, or where the permit or variance is being conducted in a manner detrimental to

the public health, safety, and welfare, the Director shall set a date for a public hearing before the decision maker granting the original permit or variance, and notice a public hearing in accordance with Section 19.12.110, Noticing, of this code.

2. Findings: A permit may be revoked or modified if any one of the following findings can be made:
 - i. That the permit was obtained by misrepresentation or fraud;
 - ii. That the improvement, use or activity authorized in compliance with the permit had ceased or was suspended for one year or more;
 - iii. That one or more of the conditions of the permit have not been met; or
 - iv. That the owner or occupant of the property is conducting the use or any associated or other use of the property in violation of the law.

In the case of revocation of a sign permit, the sign was abandoned for a period of thirty days.

SECTION 8. The text prior to Table 19.24.050 in Section 19.24.050 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

Table 19.24.050 sets forth the rules and regulations pertaining to the development of structures on property zoned Agricultural (A) and Agricultural-Residential (A-1).

SECTION 9. The text prior to Table 19.28.070 in Section 19.28.070 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

Table 19.28.070 sets forth the rules and regulations pertaining to the development of structures on property zoned R1-5, 6, 7.5, 8, 10, 20 etc., and R1-6e in the Single-Family Residential District.

SECTION 10. The text prior to Table 19.36.070 in Section 19.36.070 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

Table 19.36.070 sets forth the rules and regulations pertaining to the development of structures on property zoned multiple-family residential (R-3).

SECTION 11. Chapter 19.40.050 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

19.40.050 Site Development Regulations.

The following guidelines, shown in Table 19.40.050, are a compilation of policies described in the General Plan and are intended to govern the preparation of development plans in RHS zones. All provisions of this section, except subsections A, B

and C, may be deviated from with a Hillside Exception in accordance with Section 19.40.040 and 19.40.070.

Table 19.40.050: Site Development Regulations		
A. Density		
1. Dwelling Unit Density	Unit	Determined by Appendix F of the General Plan based upon slope density standards described therein.
2. Transfer of density credits		Density credits derived from application of a slope density formula to a lot or a group of lots may not be transferred to property outside any approved subdivision or parcel map boundary.
B. Minimum Lot Area		
1. By zoning district symbol:		Lot area shall correspond to the number (multiplied by one thousand square feet) following the RHS zoning symbol. Examples: RHS-20: Minimum lot size of 20,000 square feet (20 * 1,000 s.f.) RHS-120: Minimum lot size of 120,000 square feet (120 * 1,000 s.f.) RHS-218: Minimum lot size of 218,000 square feet (218 * 1,000 s.f.)
2. For subdivision		Minimum lot area shall be in accordance with Appendix F of the General Plan, unless clustered in accordance with Section 18.52.030 (Hillside Subdivisions). The minimum lot area shall be 10,000 square feet for each unit in a clustered subdivision.
3. Subdividable lots		Lot size zoning designation shall be assigned at time of subdivision
4. Non-subdividable legally-created, developed lots		Shall reflect the existing lot size
C. Minimum Lot Width		
		a. 70 feet at front setback line. b. No minimum lot width for lots served by private driveway and which do not adjoin a public street.
D. Development on Substandard Lots		A Hillside Exception shall be obtained to construct structures or improvements on existing vacant legal lots.
E. Site Grading		
1. Maximum Grading Quantity		a. Cumulative total of 2,500 cubic yards, cut plus fill. Includes: grading for building pad, yard areas, driveway and all other areas requiring grading. Excludes: basements b. All cut and fill shall be rounded to contour with natural contours and planted with landscaping which meets the requirements in Section 19.40.050G
2. Graded Area		Shall be limited to the building pad area to the greatest extent possible

3. Multiple Driveways	Grading quantities shall be divided equally among the participating lots. E.g., two lots sharing a driveway shall divide the driveway grading quantity in half. The divided share will be charged against the grading quantity allowed for that lot development.
4. Flat Yard Area	Limited to a maximum of 2,500 square feet, excluding driveways
E. Site Grading (Cont.)	
5. Soil Erosion and Screening of Cut and Fill Slopes Plan	A licensed landscape architect shall review grading plans and shall, in consultation with the applicant and the City Engineer, submit a plan to prevent soil erosion and to screen cut and fill slopes.
F. Landscaping	
1. Tree Planting Plan	Shall be prepared by a licensed landscape architect to: a. Screen the residential structures to the greatest possible extent b. Reintroduce trees on barren slopes which were denuded by prior agricultural activities. Must comply with the Chapter 14.15, Landscaping Ordinance and Wildland Urban Interface Fire Area (WUIFA) requirements
2. Landscape Requirements	
3. Installation of Landscape Improvements	Must be installed prior to final occupancy unless it is not practicable. If not installed, the applicant shall post a bond, cash or other security to insure installation within an 18 month period from occupancy.
4. Landscape Maintenance	All such landscape areas shall be properly maintained in conformance with the requirements of Chapter 14.15, Landscape Ordinance.
5. Native Trees	Should be integrated into the site design to the greatest extent possible.
G. Watercourse Protection	
1. Watercourse and Existing Riparian Vegetation	Any watercourse identified in Figure HS – 6 in the City's General Plan and its existing riparian vegetation must be shown on all development plans.
2. Setback	The setback shall be measured from the top of bank of the watercourses or from existing riparian vegetation, whichever is greater. The setback from riparian vegetation will be measured from the drip line perimeter. All new development, including structures, grading and clearing, must be set back as follows.
a. Lots < 1 acre	50 feet
b. Lots ≥ 1 acre	100 feet
H. Development Near Prominent Ridgelines	

1. New structures	Shall not disrupt a 15% site line from a prominent ridge as identified in Appendix A. The fifteen percent site line shall be measured from the top of ridge at the closest point from the structure.
2. Additions to existing structures within the 15% site line of prominent ridgeline	May not further encroach into the site line. For example, the addition may not add height or bulk which may increase the disruption to the fifteen percent ridgeline site line.
3. Impracticable Clause	If (1) and (2) above are not practicable, alternatives may be considered through the exception process.
I. Development on Slopes of ≥ 30%	Hillside Exception required for all grading, structures and other development > 500 square feet.
J. Trail Linkages and Lots Adjoining Public Open Spaces Site Plan	<ol style="list-style-type: none"> 1. Site plan must identify trail linkages as shown in the General Plan Trail Plan, on and adjacent to the site. 2. If a trail linkage is identified across a property being developed, development shall not take place within that area unless approved through the exception process. 3. For lots adjoining Public Open Spaces, driveways and buildings shall be located as far as feasible from the Public Open Space and designed in a manner to minimize impacts on the Public Open Space.
K. Views and Privacy	It is not the responsibility of City Government to ensure the privacy protection of the building permit applicant or owners of surrounding properties that may be affected by the structure under construction. However, the Director of Community Development may confer with the building permit applicant to discuss alternate means of preventing privacy intrusion and preserving views.

19.40.060 Building Development Regulations.

All provisions of this section may be deviated from upon obtaining a Hillside Exception in accordance with Section 19.40.070.

Table 19.40.060 sets forth the rules and regulations pertaining to the development of structures on property zoned Residential Hillside (RHS).

Table 19.40.060: Building Development Regulations

A. Floor Area Ratio (FAR)

<p>1. Maximum Allowable Development</p>	<p>Lesser of:</p> <ul style="list-style-type: none"> ▪ 6,500 square feet; or ▪ 4,500 square feet plus 59.59 square feet for every 1,000 square feet over 10,000 square of net lot area, times the slope adjustment factor pursuant to Section 19.40.060(A)(2)* <p>*Formula = $(4,500 + \left(\frac{\text{Net Lot Area} - 10000}{1000} \right) (59.59)) \times (\text{Slope Adjustment Factor})$</p>			
<p>2. Slope Adjustment Factor based on Average Slope of Net Lot Area</p>			<p>Avg. Slope</p>	<p>Reduction (1.5 x (Average Slope – 0.1))</p>
	<p>a. Average Slope ≤ 10%</p>	<p>No reduction in allowable floor area Slope Adjustment Factor = 1</p>	<p>≤ 10%</p>	<p>0%</p>
	<p>b. Average Slope between 10% and 30%</p>	<p>A reduction in allowable floor area by one and one-half percent (1.5%) for each percent of slope over 10 percent. Slope Adjustment Factor = $(1 - (1.5 \times (\text{Average slope of net lot area} - 0.1)))$</p>	<p>11% 12% 13% 14% 15% 16% 17% 18% 19% 20% 21% 22% 23% 24% 25% 26% 27% 28% 29%</p>	<p>1.5% 3% 4.5% 6% 7.5% 9% 10.5% 12% 13.5% 15% 16.5% 18% 19.5% 21% 22.5% 24% 25.5% 27% 28.5%</p>
	<p>c. Average Slope ≥ 30%</p>	<p>Allowable floor area shall be reduced by a constant 30 percent Slope Adjustment Factor = $(1 - 0.3)$</p>	<p>≥ 30%</p>	<p>30%</p>

3. Additional Regulations for Lots Within Clustered Subdivisions where Land is Reserved for Common Open Space				
a. Lot Area for calculating FAR	May count a proportionate share of the reserved private open space to arrive at lot area for purposes of calculating FAR.			
b. Maximum FAR prior to slope consideration	No developable lot in a cluster development can exceed forty-five-percent floor area ratio, prior to applying the slope adjustment factor, when a portion of the private open space is attributed to the lot area for calculating FAR			
c. Average slope of lot	Calculated on the developable lot only.			
B. Height of Buildings and Structures	Limited to 30 feet			
C. Setbacks				
	First Floor		Second Floor	Habitable Third Floor (or portions of structures taller than 20 feet)
1. Front-yard				
a. Slope ≤ 20%	20 feet	Driveway and garage must be designed to enable vehicles to park off-street	25 feet	25 feet
b. Slope > 20%	10 feet		25 feet	25 feet
2. Side-yard				
a. Interior Side	10 feet		15 feet	20 feet
b. Street Side on Corner Lot	15 feet		15 feet	20 feet
3. Rear-yard	20 feet		25 feet	25 feet
D. Second Story Decks and Patios Minimum Setbacks				
	First Floor		Second Floor	Habitable Third Floor (or portions of structures taller than 20 feet)
1. Front Yard	-		17 feet	17 feet
2. Side Yard	-		15 feet	15 feet
3. Rear Yard	-		20 feet	20 feet
E. Downhill Facing Elevation				
1. Second Story Downhill Facing Wall Plane Offset				

<p>a. Offset from First Floor Downhill Wall Plane</p>	<p>i. Average of 7 feet 6 inches for 75% of the second story downhill facing wall plane shall be setback and ii. Not less than five feet. iii. The remaining 25% may not extend past the first story wall plane.</p>
<p>b. Multiple Downhill Facing Wall Planes</p>	<p>Offset shall apply only the primary setback affected.</p>
<p>c. Offset from First Floor Roofed Porches</p>	<p>i. Offset may be measured from the outside perimeter of first-story roofed porches. ii. Roof of the porch must match, in pitch and style, the roof of the main structure. iii. Porch must be at least 5 feet in width and extend the length of the wall on which it is located.</p>
<p>2. Maximum Wall Height on Downhill Elevation</p>	<p>15 feet</p>
<p>F. Permitted Yard Encroachments</p>	
<p>1. Extension of a Legal Non-conforming Wall Plane for structures not located within a prominent ridgeline site line</p>	<p>a. Where a building legally constructed according to existing first floor yard and setback regulations at the time of construction encroaches upon present required first floor setbacks, one encroaching side of the existing structure may be extended along existing building lines. b. Only one such extension shall be permitted for the life of the building. c. Encroachments into a required yard which are the result of the granting of a variance may not be further extended. d. Further encroachment into a required setback is not allowed. I.e., a non-conforming setback may not be further reduced. e. In no case shall any wall plane of a first-story addition be placed closer than three feet to any property line.</p>
<p>2. Architectural Features</p>	<p>a. May extend into a required yard a distance not exceeding three feet. b. No architectural feature, or combination thereof, whether a portion of a principal or accessory structure, may extend closer than three feet to any property line.</p>
<p>G. Accessory Structures (including attached patio covers)</p>	<p>As allowed by Chapter 19.100, Accessory Buildings/Structures</p>
<p>H. Design Standards</p>	
<p>1. Building and Roof Forms</p>	

a. Natural Contours	Building shall follow as closely as possible the primary natural contour of the lot.
b. Building Mass and Roof Pitches	The main building mass shall be on the upslope side of the building and the roof pitches shall trend downslope.
c. Second Story Dormers	Permitted within the second story setbacks as long as they are minor in shape and size.
d. Downhill Elevation of main structure	Shall have a minimum of four offset building and roof elements to provide varied building forms to produce shadow patterns which reduce the impact of visual mass.
e. High Wall Planes	Wall planes exceeding one story or 20 feet in height, whichever is more restrictive, shall contain architectural elements in order to provide relief and to break up expansive wall planes.
2. Colors	
a. Natural Earth Tones	All structures on the lot shall use natural earth tone and/or vegetation colors which complement the natural surroundings. Natural earth-tone and vegetation colors include natural hues of brown, green and shades of gray.
b. Reflectivity Value	Shall not exceed 60 on a flat surface
3. Outdoor Lighting	
a. Tennis Court and Other Recreational Purposes	High-intensity lights not permitted.
b. Motion-activated Security Lights	1. Shall not exceed 100 watts and 2. Must be shielded to avoid all off-site intrusion.
c. Other lighting	Must be directed to meet the particular need.
I. Geologic and Soils Reports	
1. Applicability	A geological report prepared by a certified engineering geologist and a soils report prepared by a registered civil engineer qualified in soils mechanics by the State shall be submitted prior to issuance of permits for construction of any building or structure which: a. Is located on property in an RHS zoning district which has been designated by the General Plan to be within a geological hazard area; and b. Where an addition, alteration or repair of an existing building or structure include at least one of the following: i. The improvements include increasing the occupancy capacity of the dwelling such as adding a bedroom or secondary unit, or ii. The cost of the completed addition, alteration or repairs will,

	during any period of twelve months, exceed twenty-five percent of the value of the existing improvements as determined by the building official based on current per foot value of the proposed structure to the existing structure's value on a parcel of property. For the purposes of this section, the value of existing improvements shall be deemed to be the estimated cost to rebuild the improvements in kind, which value shall be determined by the building official.
2. Content of Reports	<p>These reports shall contain, in addition to the requirements of Chapter 16.12 of this code, the following:</p> <ol style="list-style-type: none"> a. All pertinent data, interpretations and evaluations, based upon the most current professionally recognized soils and geologic data; b. The significance of the interpretations and evaluations with respect to the actual development or implementation of the intended land use through identification of any significant geologic problems, critically expansive soils or other unstable soil conditions which if not corrected may lead to structural damage or aggravation of these geologic problems both on-and off-site; c. Recommendations for corrective measures deemed necessary to prevent or significantly mitigate potential damages to the proposed project and adjacent properties or to otherwise insure safe development of the property; d. Recommendations for additional investigations that should be made to insure safe development of the property; e. Any other information deemed appropriate by the City Engineer.
3. Incorporation of Recommendations	All building and site plans shall incorporate the above-described corrective measures and must be approved by the City Engineer, prior to building permit issuance.
J. Private Roads and Driveways	
1. Pavement Width and Design	The pavement width and design for a private road or common driveway serving two to five lots and a single-lot driveway shall comply with development standards contained in the Hillside Subdivision Ordinance, Chapter 18.52 of this code.
2. Reciprocal Ingress/Egress Easement and Reciprocal Maintenance Agreement	<p>The property owner for a lot served by a private road or common driveway shall, prior to issuance of building permits, record an appropriate deed restriction guaranteeing the following, to adjoining property owners who utilize the private road or common driveway for the primary access to their lot(s):</p> <ol style="list-style-type: none"> a. Reciprocal ingress/egress easement, and

	b. Participation in a reciprocal maintenance agreement.
K. Solar Design	The setback and height restrictions provided in this chapter may be varied for a structure utilized for passive or active solar purposes, provided that no such structure shall infringe upon solar easements or adjoining property owners. Variation from the setback or height restrictions of this chapter may be allowed only upon issuance of an Administrative Conditional Use Permit subject to Chapter 19.12.

SECTION 10. Row 29 of Table 19.60.030 of Section 19.60.030 in Chapter 19.60.030 of Title 19 of the Cupertino Municipal Code is hereby amended to be read as follows:

19.60.030 Permitted, Conditional and Excluded Uses.

Permitted, Conditional and Excluded Uses that may be conducted from property zoned general commercial (CG), are identified in Table 19.60.030, Permitted, Conditional and Excluded Uses in General Commercial Zoning Districts below.

Table 19.60.030: Permitted, Conditional and Excluded Uses in General Commercial Zoning Districts		
Uses		CG
29. Automotive service stations, automobile washing facilities		CUP - PC

SECTION 11. Row 14 of Table 19.64.020 of Section 19.64.020 in Chapter 19.64.020 of Title 19 of the Cupertino Municipal Code is hereby amended to read as follows:

19.64.020 Permitted, Conditional and Excluded Uses in Office and Industrial Zones.

Table 19.64.020 sets forth the Permitted, Conditional and Excluded Uses in Office and Industrial zones.

Table 19.64.020: Permitted, Conditional and Excluded Uses in Office and Industrial Zones					
Uses	Zoning Districts				
	OA	OP	MP	ML	ML- rc
14. Automotive service stations, automobile washing facilities;	-	-	-	CUP - PC	-

SECTION 11. Chapter 19.112.030 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

19.112.030 Site Development Regulations.

Site Development Regulations for Accessory Dwelling Units are as identified in Table 19.112.030.

Table 19.112.030: Site Development Regulations for Accessory Dwelling Units

		Attached to Principal Dwelling Unit		Detached
		Conversion of portions of existing structures to an accessory dwelling unit	New addition to existing accessory dwelling unit and new accessory dwelling unit	
A.	Size of living space, exclusive of decks			
	1. Minimum size	150 s.f.		
	2. Maximum size			
	a. Lots < 10,000	50 percent of the existing living space of the principal dwelling unit or 800 s.f. , whichever is more restrictive.		800 s.f.
	b. Lots 10,000	50 percent of the existing living space of the principal dwelling unit or 1,200 s.f., whichever is more restrictive.		1,200 s.f.
B.	Second-story accessory dwelling unit	Allowed if the unit: 1. Is a conversion of existing second story portions of the principal dwelling unit; and 2. Complies with applicable landscape requirements to adjoining dwellings consistent with Section 19.28.120		Not allowed
C.	Parking			
	1. Parking for accessory dwelling unit	None	One additional off-street parking space shall be provided, if the principal dwelling unit has less than the minimum off-street parking spaces for the applicable residential zoning district in which it is located, as required in Chapter 19.124 unless the unit meets the following requirements: a. Is within one-half (1/2) mile of a public transit stop; or b. Located in an architecturally and historically significant historic district; or c. Occupant of the ADU is not allowed/offered a required on-street parking permit; or d. Located within one block of a car share vehicle pick-up location.	

Table 19.112.030: Site Development Regulations for Accessory Dwelling Units				
		Attached to Principal Dwelling Unit		Detached
		Conversion of portions of existing structures to an accessory dwelling unit	New addition to existing accessory dwelling unit and new accessory dwelling unit	
	2. Replacement parking spaces when new accessory dwelling unit converts existing covered, uncovered or enclosed parking spaces required for the principal dwelling unit	<p>a. Replacement spaces must be provided for the principal dwelling unit to meet the minimum off-street parking spaces for the applicable residential zoning district in which it is located, as required in Chapter 19.124.</p> <p>b. Replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to covered spaces, uncovered spaces, tandem spaces or by use of mechanical automobile parking lifts.</p> <p>c. Any replacement parking spaces provided must comply with the development regulations for the applicable zoning district in which it is located, Chapter 19.124, Parking and Chapter 19.100, Accessory Buildings/Structures.</p>		
D.	Direct outside access	<p>1. Independent outdoor access must be provided without going through the principal dwelling unit.</p> <p>2. Where second-story accessory dwelling units are allowed, entry shall not be provided by an exterior staircase.</p>		
E.	Screening from public street	All access to accessory dwelling units shall be screened from a public street.		

SECTION 11. Sections 19.116.030 through 19.116.060 of Chapter 19.116 of Title 19 of the Cupertino Municipal Code is hereby amended to be numbered, entitled, and to read as follows:

19.116.030 General Regulations.

A. Community Impacts.

1. Residential Displacement.

a. i. In no case shall an apartment project be converted to a common interest development unless and until it can reasonably be demonstrated that comparable replacement housing exists within the housing market area to accommodate those residents displaced as a direct result of the proposed conversion. The developer shall provide a relocation/displacement plan which illustrates that sufficient replacement housing is available in the housing market area within a price range which is equal to or is less than twenty-five percent of the household income of the tenants to be displaced, or not to exceed the rent being paid for the existing rental unit to be converted, whichever is higher.

ii. As used in this section "housing market area" means that area bounded by Fremont Avenue located in the City of Sunnyvale, to the north, Lawrence Expressway to the east, Prospect Road to the south, hence along a line generally following the westerly boundary of the Cupertino Urban Service Area northerly to Highway 280, hence easterly along Highway 280 to Foothill Boulevard, hence northerly along Foothill Boulevard to Homestead Road, hence easterly along Homestead to Highway 85, hence northerly along Highway 85 to Fremont Avenue.

b. Replacement housing must be shown to meet any special needs of disabled tenants, which are presently available in the project proposed to be converted, such as facilities for the handicapped, elderly, families with children, and availability of public transportation for the elderly or residents who do not own an automobile. The plan shall also demonstrate that all other provisions relating to tenant protection addressed in the chapter have been fulfilled.

c. A developer may meet the above requirements through the provision of mitigating factors to diminish the number and/or aid relocation of, displaced tenants within the project. Such mitigating measures may include, but are not limited to, discounting the price of project units to tenant buyers, offering a moving allowance, extending leases, or providing below-market-rate units.

d. Notwithstanding the above provisions, in no case shall an apartment house be converted to a common interest development when the vacancy rate for apartment houses within the housing market area is less than five percent at the time of application and has averaged five percent over the past six months as determined by surveys conducted by the Director of Community Development.

1. Conformity with the General Plan. No conversion of apartment houses to community houses to common interest developments shall be permitted unless and until the City Council of the City of Cupertino finds that the proposed conversion will not conflict with the housing goals and policies of the General Plan and will not adversely impact the local school system.

2. Prohibition of Discriminating Against Prospective Buyers with Children. In no case shall a common interest development which has been converted, and which can reasonably accommodate children, as determined in each case by the City Council, limit initial sales to households or individuals without children.

B. Tenant Protection.

1. The developer shall provide each tenant an irrevocable, nontransferable, preemptive right to purchase a unit or right of exclusive occupancy at a price not greater than the price offered to the general public for such unit. Such right shall be irrevocable for a period of ninety days after the commencement of sales or the issuance of the final public report by the real estate commissioner. Tenants shall have the right to the unit presently occupied and then to other units in the project only after they have

been declined for purchase and vacated by the occupying tenants. In no case shall an existing tenant have a preemptive right to more than one unit.

2. The developer shall offer a ninety-day extension of tenancy after the expiration of a lease or rental agreement which would expire prior to or at the time of commencement of sales or issuance of the final public report by the real estate commissioner.

3. The developer shall permit a tenant to terminate any lease or rental agreement without any penalty whatsoever after notice has been given of the intention to convert to a common interest development if such tenant notifies the developer in writing thirty days in advance of such termination.

C. Buyer Protection. The developer shall furnish each prospective purchaser of a unit, a true copy of the conditional use permit issued under this chapter and a copy of each of the following informational documents (the permit and documents shall be printed in Spanish or the purchaser's native language if requested):

1. Property report;
2. Structural pest control report;
3. Structural report and building department report;
4. Building history report;
5. Statement of compliance (Form 643) pursuant to 10 California Administrative Code, Section 2792.9, or its successor, relating to operating and maintenance funds during startup;
6. Soils report as determined in each case by the Director of Planning and Development;
7. Certificate of compliance and occupancy.

D. Building and Site Improvements.

1. All private streets, driveways and parking areas for the common interest developments shall be improved and constructed with a structural section and site dimensions in accordance with the standards of the City of Cupertino and shall be designed to ensure that access for municipal services shall not be denied any dwelling unit therein by reason of deteriorated or impassable private streets, driveways or parking areas, as determined by the Director of Public Works or his or her designee.

2. Sewage collection and water distribution lines on private property and property under common ownership shall be covered by one of the following responsibilities.

a. All lines owned and maintained by the corporations shall be constructed to the City of Cupertino Standard Specifications for Public Works. Water metering and billing shall be provided at each individual townhouse lot as well as for the entire development using a master meter. The difference between the sum of the individual

meters and the reading of the master meter will be billed to the corporate structure. A separate sewer lateral shall be provided to serve each individual parcel.

b. All lines to be owned and maintained by the City of Cupertino, a private water utility and/or the Cupertino Sanitary District shall be placed in asphalt concrete driveways, or a covered concrete line trench, acceptable to the Director of Public Works, or appropriate representation of the private water utility or sanitary district (with the necessary public utility easement running through the project) so as to provide accessibility for the maintenance of the lines. A water meter and sewer lateral shall be provided to serve each individual parcel.

c. In cases of conversion to a common interest development not involving individual ownership of separate parcels (e.g., community apartments, stock cooperatives, planned developments, etc.), separate utility services will not be required. In these cases, utilities will be billed to the homeowners association and a cash deposit to secure payment of the bill will be required.

3. Undergrounding Requirements. All structures being converted from individual, corporate or partnership ownership of apartment houses to common interest developments shall, within the exterior boundary lines of such property, have all electrical, communication and similar distribution, service wires and/or cables placed underground.

4. Compliance with Codes. The design, improvement and/or construction of a common interest development shall conform to and be in full accordance with all requirements of all building, fire and housing codes, zoning provisions and other applicable local, State or federal laws or ordinances relating to protection of public health and safety, in effect at the time of the filing of the tentative map. Also, any violations of the latest adopted edition of the Uniform Housing Code as prepared by the International Conference of Building Officials, or its successor, relating specifically to provisions protecting health and safety of residents, shall be corrected, and any equipment or facilities which the Building Official determines are deteriorated or hazardous shall be repaired or replaced. In particular, the developer shall repair or replace any damaged or infested areas in need of repair or replacement as shown in the structural pest report. The interpretation of what constitutes a hazard to public health and safety shall be made by the Director of Community Development, or his or her designee.

5. Separate Metering. The consumption of gas and electricity within each dwelling unit shall be separately metered so that the unit owner can be separately billed for each utility. The requirements of this subsection may be waived where the Director of Community Development finds that such would not be practical or reasonable. In all cases, a water shutoff valve shall be provided for each unit.

6. Shock Mounting of Mechanical Equipment. All permanent mechanical equipment, including domestic appliances, which is determined by the building official

to be a source or a potential source of vibration or noise, shall be shock-mounted, isolated from the floor and ceiling, or otherwise installed in a manner approved by the Building Official to lessen the transmission of vibration and noise.

7. Separate Electrical Panel Boards. Each unit shall have its own panel board of adequate capacity to accommodate all electrical outlets which serve that unit.

8. Impact Sound Insulation. The applicant/owner shall demonstrate that wall and ceiling assemblies conform to the sound insulation performance criteria promulgated in Title 25, California Administrative Code, Section 1092, or its successor, and that any floor covering which is replaced similarly provides the same or greater insulation qualities.

9. Storage Requirements. Private, enclosed, weatherproofed and lockable outdoor storage space shall be provided for each dwelling unit according to the following schedule:

Number of Bedrooms	Minimum Space in Cubic Feet	Least Dimension
Studio or 1	150	2 feet
2	200	2 feet
3	250	2 feet
4	300	2 feet

The above space shall be provided in the garage or parking area or contiguous to each unit. This requirement may be waived by the Director of Community Development if it is determined that sufficient storage space exists to reasonably attain this standard.

10. Private and Common Area Open Space. The adequacy of open space shall be reviewed in terms of area and privacy standards. Private outdoor space shall be provided for each unit, where practical. The amount of space shall be determined in each case by the size of the unit and amount of common open space. Adjoining units shall be redesigned or landscaped in such a manner so as to preclude visual intrusion into private outdoor yards or interior spaces, where practical.

11. Noise Mitigation. Appropriate site design and construction techniques shall be utilized to ensure isolation from excessive noise sources outside of the project boundary and to ensure acoustical privacy between adjoining units. If the Director of Community Development determines that an excessive external noise source exists, the developer shall retain an acoustical engineer to evaluate the noise impact on the proposed residential development and develop mitigation measures. The construction shall comply with the applicable City ordinances and State codes relating to sound transmission control to ensure acoustical privacy between adjoining dwelling units.

12. Interim Maintenance Standards. The developer shall be responsible for

improving and maintaining the structures and landscaping in accordance with the approved architectural and landscaping plans and good maintenance practices prior to turning them over to the homeowners association. A performance bond shall be collected to ensure compliance with this requirement.

19.116.040 Parking.

A. Off-Street Parking. The project shall provide parking consistent with the multi-family zoning district and the owner shall demonstrate that additional spaces exist to reasonably accommodate guest parking.

B. Applicability of City Ordinances Regulating Parking of Trailers and Recreational Vehicles, Etc. Chapter 19.124, regulating parking and trailers, repairing vehicles, etc., shall apply to the private street(s) and to all parking along such street(s). The parking of recreational vehicles such as boats, trailers, etc., shall be prohibited throughout the entire development unless such parking is within an enclosed area. Vehicular curb parking along the private street(s) shall be prohibited except in designated areas. Appropriate "No Parking" signs shall be installed by the applicant.

19.116.050 Application Requirements.

A. In addition to the requirements of Title 18 of this code (Subdivisions) and the Subdivision Map Act, an application for the conversion of rental housing into any common interest development shall require the submittal of the following data, which data must be submitted to the Director of Community Development at the same time the tentative map is submitted:

1. A complete legal description of the property;
2. Certification that all tenants in any buildings or structure proposed to be converted have been notified individually and in writing prior to the time of filing an application hereunder;
3. A boundary map showing the existing topography of the site and the location of all existing easements, structures and other improvements, and trees over four inches in diameter;
4. The proposed organizational documents. In addition to such covenants, conditions and restrictions that may be required by the Bureau of Real Estate of the State of California pursuant to Title 6 (Condominiums) of the Civil Code or other State laws or policies, the organization documents shall provide for the following:
 - a. Conveyance of units,
 - b. Assignment of parking and management of common areas within the project,
 - c. A proposed annual operating budget containing a sinking fund to accumulate reserve funds to pay for major anticipated maintenance, repair or replacement expenses,

- d. FHA regulatory agreement, if any,
- e. The most recent balance sheet of the association,

5. A provision that the annual assessments to members of any association shall provide for penalties for late payments and reasonable attorney's fees and costs in the event of default of the members;

6. A provision that allows the association to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties after any association assumes control of the project or any time thereafter;

7. A property report describing the condition and estimating the remaining useful life of each of the following elements of each structure situated within the project proposed for conversion: roofs, foundations, exterior paint, paved surfaces, mechanical systems, electrical systems, plumbing systems, including sewage systems, sprinkler systems for landscaping, utility delivery systems, central or community heating and air conditioning systems, fire protection systems including any automatic sprinkler systems, alarm systems, or standpipe systems, and structural elements. Such report shall be prepared by a registered civil or structural engineer, or a licensed general building contractor or general engineering contractor;

8. A structural pest report prepared by a licensed structural pest control operator pursuant to Section 8516 of the CA Business and Professions Code, relating to written reports on the absence or presence of wood-destroying pests or organisms;

9. A structural report describing the physical elements of the project that also identifies any structural elements which are known to be structurally defective or unsafe so as to impose a hazard to the health and safety of the occupants or users of the improvements, with the final map submittal. The Director of Community Development shall maintain a form containing a reasonable list of physical elements to be described in the report, which form shall be made available to the applicant. The applicant shall arrange for project inspections by the Building Department to verify the accuracy of the deficiencies noted in the structural report. The Building Official shall prepare a report detailing building code deficiencies or other health and safety deficiencies which must be corrected prior to sale of units of occupancy;

10. A building history report including the following:

- a. The date of construction of all elements of the project,
- b. A statement of the major uses of the project since construction,
- c. The date and description of each major repair of any element since the date of construction,
- d. The date and description of each major renovation of any element since the date of construction,

e. A statement regarding current ownership of all improvements and underlying land,

f. The name and address of each present tenant of the project,

g. Failure to provide information required by subsections A1 through A6 of this section, inclusive, shall be accompanied by an affidavit, given under penalty of perjury, setting forth in detail all efforts undertaken to discover such information and all reasons why such information cannot be obtained;

11. A rental history detailing the size in square footage, the current or last rental rate, the monthly rental rate for the preceding two years, and the monthly vacancy over the preceding two years of each rental unit proposed to be converted;

12. Condominium Plan. The application for final subdivision map shall include a copy of the condominium plan prepared pursuant to the CA Civil Code, Section 1351. The plan shall be submitted for the information of the local governing body and need not be part of the subdivision map;

13. Project Organization. A written description regarding the proposed project organization including the use and control of the common elements and recreation facilities within the project shall be submitted with the tentative map. The statement shall detail any proposed control of common facilities to be retained by the developer or to be owned or maintained by any other organization other than the homeowners association or unit owners.

14. True Copy of Application for Final Public Report and Supplemental Questionnaire. The application shall include the following information, except that if the information required to be furnished below is not available at time of application, as a condition of approval of the permits issued pursuant to this Chapter, the developer shall provide this information to the City within ten days of issuance by the Bureau of Real Estate:

a. A true copy of each application submitted to the Bureau of Real Estate of the State of California for issuance of a final public report for the project proposed for conversion, including all attachments and exhibits required pursuant to Section 11011 of the Business and Professions Code.

b. A true copy of the statement of compliance (Form 643, as amended) pursuant to 10 California Administrative Code, Section 2792.9, or its successor, relating to operating and maintenance funds during the early stages of ownership and operation by the homeowner's association.

c. A statement whether the developer will provide any capital contribution to the homeowner's association for deferred maintenance of the common areas, and if so, the sum and date on which the association will receive said sum;

d. A true copy of the supplemental questionnaire for apartments converted to

common interest developments submitted to the Bureau of Real Estate of the State of California, including all attachments and exhibits.

15. Relocation Displacement Plan. A relocation displacement plan shall detail the number of residents which will be displaced as a result of the proposed conversion and document the reasonable availability of comparable replacement housing in the Cupertino area within a rental range equal to the range which the tenants have paid as detailed in a rental report (See Section 19.116.050A11) or within a price range which is equal to or less than twenty-five percent of the income range of each household to be displaced as a result of the conversion whichever is higher. Additionally, replacement housing must be shown to meet any special needs, which are presently available in the project, of displaced tenants such as facilities for the handicapped, elderly, households with children, and availability of public transportation for the elderly or resident buyers who are temporarily displaced pending completion of improvements to the units being purchased;

16. Soils Report. A true copy of the soils report originally prepared for the subject property. In cases where a soils report has never been prepared or when information in previous reports is considered insufficient, then the developer shall provide a soils report prepared by a registered civil engineer, or equivalent, which details information as determined by the Director of Public Works;

17. All information required by Chapter 18.16 or Chapter 18.20, as the case may be, Chapter 19.12, Chapter 19.80, and such information which the Planning Commission or the Director of Community Development determines is necessary to evaluate the proposed project.

19.116.060 Application Procedures.

A. Zoning. Any apartment house project proposed to be converted to a common interest development shall be rezoned to the R1C (single-family cluster) or P(Res) (planned development project with residential intent) zoning district.

B. Use Permit and Tentative Map or Parcel Map Required. No conversion shall be permitted unless and until a conditional use permit and tentative map or parcel map has been applied for and issued pursuant to and in accordance with the provisions of this chapter and the requirements of the Subdivision Map Act or its successor.

C. Property and Structural Pest Report.

1. After reviewing the property, structural and structural pest reports required to be submitted pursuant to Section 19.116.050A8 and inspecting the structures situated within the project when he or she deems such inspection necessary, the Building Official shall identify all items if evidenced by such reports and/or inspection to be hazardous to the life, health or safety of the occupants of such structure within the project, or the general public. Each permit issued hereunder shall require all of such items to be

corrected to the satisfaction of the Building Official.

2. The Building Official shall review the property report and may require its revision and resubmission if he or she determines that substantial evidence shows that any statement therein is without foundation or fact. The report may be revised to reflect improvement, repair or replacement.

D. Project Organization Document Review. The project organization documents shall be submitted to the City Attorney for a determination that such documents comply with the requirements of this chapter and the applicable State laws.

E. Compliance with Housing, Building Codes and Fire Regulations. If the proposed project does not comply with the provisions of the State of California Uniform Building Code and regulations of the Santa Clara Central Fire Protection District, and/or the Building Official identifies items to be corrected as provided in the above, any use permit issued pursuant to this part shall require the developer to furnish a bond, in a penal amount equal to the reasonable estimated cost to bring their project into compliance with such codes, such fire regulations and/or such identified items to be corrected. The bond shall run in favor of the individual purchasers and the homeowners association and shall provide for reasonable attorney's fees in the event of default by the principal. The City shall hold the bond pending issuance of the certificate of completion.

F. Public Hearings.

1. The City Council is the approval authority for condominium conversion applications with a recommendation for approval or denial from the Planning Commission.

2. If the City Council approves the proposed conversion, the applicant will be required to submit detailed plans with an application for Architectural and Site Approval for any exterior alterations or improvements to the buildings and/or landscaping. The Planning Commission will make a final recommendation to the City Council regarding the improvements. The City Council's final action will be a review of the architectural plan to determine approval or denial of the project.

3. The final map for the project will be reviewed in compliance with Title 18, Subdivisions of the Municipal Code.

G. Letter Certifying Compliance. The Director of Community Development shall cause a final inspection of all buildings and structures to be made, upon request by the developer, to determine that the requirements of this chapter have been fulfilled. The Building Official shall then mark the inspection report to show the corrections, repairs and replacements which have been made. If complete, the Director will cause to be issued a letter certifying compliance with all of the conditions and approvals and with this title and authorize sale and/or occupancy of the units. No building or unit applied for under this chapter shall be sold without the letter certifying compliance and approving occupancy.

SECTION 12: Severability.

Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 13: Effective Date.

This Ordinance shall take effect thirty days after adoption as provided by Government Code Section 36937.

SECTION 14: Certification.

The City Clerk shall certify to the passage and adoption of this Ordinance and shall give notice of its adoption as required by law. Pursuant to Government Code Section 36933, a summary of this Ordinance may be published and posted in lieu of publication and posting of the entire text.

SECTION 15: Continuity.

To the extent the provisions of this Ordinance are substantially the same as previous provisions of the Cupertino Municipal Code, these provisions shall be construed as continuations of those provisions and not as amendments of the earlier provisions.

INTRODUCED at a regular meeting of the Cupertino City Council the ____ day of _____ 2016 and **ENACTED** at a regular meeting of the Cupertino City Council on this ____ of _____ 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

City Clerk

Mayor, City of Cupertino

CHAPTER 9.22: PROPERTY MAINTENANCE

Section

9.22.010 Purpose.

9.22.020 Unlawful acts.

~~9.22.030 Exemptions.~~

~~9.22.040~~9.22.030 Penalties.

~~9.22.050~~9.22.040 Enforcement of other laws unaffected.

~~9.22.060~~9.22.050 Notice to Franchise Tax Board.

9.22.010 Purpose.

The purpose of this chapter is to promote the health, safety and welfare of the people of the City of Cupertino, and to protect the City's neighborhoods against blighting and deteriorating influences or conditions that contribute to the downgrading of neighborhood aesthetics and property values by establishing minimum standards, in addition to standards contained in other laws, rules and regulations, for the maintenance of all building exteriors, premises and vacant land.

9.22.020 Unlawful Acts.

Except for any property which has a valid permit to maintain such a condition~~been approved by the City for such use~~, no owner(s), agent(s) or lessee(s) or other person(s) occupying or having control of any real property (including City property) within the City shall maintain or allow to be maintained any of the following conditions except as allowed in Table 9.22.020~~in any front, side or back yard areas visible from a public street or sidewalk~~:

<u>Table 9.22.020 Unlawful Acts</u>	<u>In any front, side or rear yard areas visible from a public street or sidewalk</u>
A. <u>Storage or placement of any of the following that could be unsightly and/or constitute an attractive nuisance:</u>	
1. <u>Household appliances, equipment, machinery, or furniture, other than that designed and used for outdoor activities, including, but not limited to, refrigerators, washing machines, sinks, stoves, heaters, boilers, tanks, or any part of any listed item;</u>	<u>Not Allowed in excess of 72 hours</u>

Text moved to Tables

<u>Table 9.22.020 Unlawful Acts</u>	<u>In any front, side or rear yard areas visible from a public street or sidewalk</u>
2. <u>Loose materials, including but not limited to, sand dirt, gravel, concrete or any similar materials;</u>	<u>Not Allowed, except if screened with temporary construction fencing while permitted, active and continuous, construction is occurring on the property</u>
3. <u>Building materials, including but not limited to, lumber, fixtures, or salvage materials recovered during demolition;</u>	<u>Not Allowed, except if screened with temporary construction fencing while permitted, active and continuous, construction is occurring on the property</u>
4. <u>Temporary Fencing;</u>	<u>Not Allowed, except while permitted, active and continuous, construction is occurring on the property</u>
5. <u>Storage Containers and similar items;</u>	<u>Not Allowed on more than two (2) occasions in a calendar year and not more than fifteen (15) days on each occasion.</u>
<u>B. An accumulation of:</u>	
1. <u>Glass, paper, metal, plastic, or other recyclables</u>	<u>Not Allowed</u>
2. <u>Litter, junk, machine parts, scrap material, waste paper, boxes and cartons, packing materials, combustible trash, tires, or vehicle parts;</u>	<u>Not Allowed</u>
<u>C. Dead, decayed, or diseased trees, weeds, or other vegetation likely to cause a fire or health hazard, an infestation, or a habitat for rodents;</u>	<u>Not Allowed</u>
<u>D. A lack of adequate landscaping, or groundcover sufficient to prevent blowing dust and erosion;</u>	<u>Not Allowed</u>
<u>E. Tree stump(s) with a trunk diameter greater than six inches and a height of greater than 2.5 feet. As used herein "tree stump" means the base part of a tree or the trunk protruding above ground in which 90% or more of the foliage or canopy of the tree has been removed. This prohibition applies to all tree stumps in the City including those described in Chapters 14.12 (Street Trees) and in Chapter 14.18 (Protected Trees). Excepted from this prohibition are trees which are pollarded in accordance with the American National Standards Institute (ANSI) A300-2001 standards.</u>	<u>Not Allowed</u>

Text moved to Tables and Proposed changes

Text moved to Tables

<u>Table 9.22.020 Unlawful Acts</u>	<u>In any front, side or rear yard areas visible from a public street or sidewalk</u>
<p><u>F. Maintenance of any structure in a state of substantial deterioration, where such condition would have a tendency to depreciate the aesthetic and property values of surrounding properties, including but not limited to, peeling paint on a façade, broken windows, damaged porches, broken steps, roofs in disrepair, and other such deterioration or disrepair not otherwise constituting a violation;</u></p>	<p><u>Not Allowed</u></p>

Text moved to Tables

~~A. The storage of any refrigerator, washing machine, sink, stove, heater, boiler, tank, or any other household appliance, equipment, machinery or furniture other than that designed and used for outdoor activities or any part of any listed item for a period in excess of seventy two consecutive hours;~~

~~B. An accumulation of glass, paper, metal, plastic or other recyclables;~~

~~C. Dead, decayed or diseased trees, weeds or other vegetation likely to cause a fire or health hazard, an infestation or a habitat for rodents;~~

~~D. An accumulation of litter, junk, machine parts, scrap material, waste paper, boxes and cartons, packing materials, combustible trash, tires or vehicle parts;~~

~~E. A tree stump (or stumps) with a trunk diameter greater than six inches and a height of greater than 2.5 feet. As used herein "tree stump" means the base part of a tree or the trunk protruding above ground in which 90% or more of the foliage or canopy of the tree has been removed. Excepted from this prohibition are trees which are pollarded in accordance with the American National Standards Institute (ANSI) A300-2001 standards. This prohibition applies to stumps of all trees in the City including those described in Chapters 14.12 (Street Trees) and in Chapter 14.18 (Protected Trees);~~

~~F. The maintenance of any structure in a state of substantial deterioration, such as peeling paint on a facade, broken windows, damaged porches, broken steps, roofs in disrepair and other such deterioration or disrepair not otherwise constituting a violation, where such condition would have a tendency to depreciate the aesthetic and property values of surrounding properties;~~

~~G. A lack of adequate landscaping or groundcover sufficient to prevent blowing dust and erosion;~~

Text moved to Tables

~~H. Except for construction purposes on a continuous basis for a period not to exceed six months any storage of sand, dirt, gravel, concrete or any similar materials liable to constitute an attractive nuisance hazardous to small children;~~

~~I. Except for construction purposes on a continuous basis for a period not to exceed six months any storage of lumber, salvage materials, building materials or fixtures.~~

9.22.030 Exemptions.

~~The provisions of this chapter shall not apply in the following circumstances where:~~

~~1. Building materials and equipment are stored during the period of time continuous construction is occurring on the property;~~

~~2. The property owner, agent or lessee has a valid permit from the city, state or federal government to maintain the condition.~~

9.22.0409.22.030 Penalties.

Any person who violates the provisions of this chapter shall upon conviction by guilty of an infraction punishable in accordance with the provisions of Chapter 1.12.

9.22.0509.22.040 Enforcement of Other Laws Unaffected.

Nothing in this chapter affects the power of the City or authorized law enforcement officers to prosecute violators of any statute of the State of California or other ordinances of the City (including the provisions of Chapters 1.09 and Section 1.12.030 regarding nuisance abatement.)

9.22.0609.22.050 Notice to Franchise Tax Board.

If a property owner fails to correct a violation relating to substandard housing within six months or the time prescribed in a written notice of violation, whichever is later, the City Manager or his designee may submit a notice of noncompliance to the Franchise Tax Board to prohibit individuals, banks and corporations from claiming deductions for interest, taxes, depreciation or amortization with respect to the substandard housing pursuant to the provisions of Sections 17274 and 24436.5, as applicable, of the California Revenue and Taxation Code.

[Title 10 – Chapter 19.04 – No Change]

Chapter 19.08: Definitions

[Sections 19.08.010 –19.08.020 – No Change]

19.08.030 Definitions.

Throughout this title the following words and phrases shall have the meanings ascribed in this section.

A. "A" Definitions:

[NO CHANGE]

B. "B" Definitions:

[NO CHANGE]

C. "C" Definitions:

[NO CHANGE]

D. "D" Definitions:

[NO CHANGE]

E. "E" Definitions:

[NO CHANGE]

F. "F" Definitions:

[NO CHANGE]

G. "G" Definitions:

[NO CHANGE]

H. "H" Definitions:

[NO CHANGE]

I. "I" Definitions:

[NO CHANGE]

J. "J" Definitions:

[NO CHANGE]

K. "K" Definitions:

[NO CHANGE]

L. "L" Definitions:

"Landscaping" means an area devoted to or developed and maintained with native or exotic planting, lawn, ground cover, gardens, trees, shrubs, and other plant materials, decorative outdoor landscape elements, pools, fountains, water features, paved or decorated surfaces of rock, stone, brick, block or similar material (excluding driveways, parking, loading or storage areas), and sculptural elements.

"Late evening activities" means an activity which maintains any hours of operation during the period of eleven p.m. to seven a.m.

"Legal substandard lot" means any parcel of land or lot recorded and legally created by the County or City prior to March 17, 1980, which lot or parcel is of less area than required in the zone; or lots or parcels of record which are reduced to a substandard lot size as a result of required street dedication unless otherwise provided in the City of Cupertino General Plan. The owner of a legally created, substandard property which is less than six thousand square feet but equal to or greater than five thousand square feet may utilize such parcel for residential purposes. The owner of a legally created parcel of less than five thousand square feet may also develop the site as a single-family residential building site if it can be demonstrated that the property was not under the same ownership as any contiguous property on the same street frontage as of or after July 1, 1984.

"Lightwell" means an excavated area required by the Uniform Building Code to provide emergency egress, light and ventilation for below grade rooms.

"Liquor store" means a use requiring a State of California "off-sale general license" (sale for off-site consumption of wine, beer and/or hard liquor) and having fifty percent or more of the total dollar sales accounted for by beverage covered under the off-sale general license.

"Living space" means, for the purposes of Chapter 19.112, Accessory Dwelling Units in R-1, RHS, A and A-1 Zones, habitable space and sanitation the same as that set forth in CA Government Code Section 65852.2(i).

"Loading space" means an area used for loading or unloading of goods from a vehicle in connection with the use of the site on which such space is located.

"Lodging" means the furnishing of rooms or groups of rooms within a dwelling unit or an accessory building on a transient basis, whether or not meals are provided to the person. Lodging shall be subject to the residential density requirements of the district in which the use is located.

"Lodging unit" means a room or group of rooms not including a kitchen, used or intended for use by overnight or transient occupants as a single unit, whether located in a hotel or a dwelling unit providing lodging where designed or used for occupancy by more than two persons; each two-person capacity shall be deemed a separate lodging

Consistency with State Law

unit for the purpose of determining residential density; each two lodging units shall be considered the equivalent of one dwelling unit.

"Lot" means a parcel or portion of land separated from other parcels or portions by description, as on a subdivision or record of survey map, or by metes and bounds, for purpose of sale, lease or separate use.

1. "Corner lot" means a lot situated at the intersection of two or more streets, or bounded on two or more adjacent sides by street lines.

2. "Flag lot" means a lot having access to a street by means of a private driveway or parcel of land not otherwise meeting the requirement of this title for lot width.

3. "Interior lot" means a lot other than a corner lot.

4. "Key lot" means the first lot to the rear of a corner lot, the front line of which is a continuation of the side line of the corner lot, and fronting on the street which intersects or intercepts the street on which the corner lot fronts.

"Lot area" means the area of a lot measured horizontally between boundary lot lines, but excluding a portion of a flag lot providing access to a street and lying between a front lot line and the street, and excluding any portion of a lot within the lines of any natural watercourse, river, stream, creek, waterway, channel or flood control or drainage easement and excluding any portion of a lot acquired, for access and street right-of-way purposes, in fee, easement or otherwise.

"Lot coverage" means the following:

1. "Single-family residential use" means the total land area within a site that is covered by buildings, including all projections, but excluding ground-level paving, landscape features, lightwells, and open recreational facilities. Sheds are included in lot coverage.

2. "All other uses except single-family residential" means the total land area within a site that is covered by buildings, but excluding all projections, ground-level paving, landscape features, and open recreational facilities.

"Lot depth" means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line, or to the most distant point on any other lot line where there is no clear rear lot line.

"Lot line" means any boundary of a lot.

1. "Front lot line" means on an interior lot, the lot line abutting a street, or on a corner lot, the shorter lot line abutting a street, or on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained. Lot line length does not include arc as identified on corner parcels.

2. "Interior lot line" means any lot line not abutting a street.

3. "Rear lot line" means the lot line not intersecting a front lot line which is most distant from and the most closely parallel to the front lot line. A lot bounded by only three lot lines will not have a rear lot line.

4. "Side lot line" means any lot line which is not a front or rear lot line.

5. "Street lot line" means any lot line abutting a street.

"Lot of record" means a lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds which has been recorded.

"Lot width" means the horizontal distance between side lot lines, measured at the required front setback line.

"Lower-income household" means a household whose gross income does not exceed that established by Health and Safety Code Section 50079.5, as may be amended.

M. "M" Definitions:

[NO CHANGE]

N. "N" Definitions:

[NO CHANGE]

O. "O" Definitions:

[NO CHANGE]

P. "P" Definitions:

[NO CHANGE]

Q. "Q" Definitions:

[NO CHANGE]

R. "R" Definitions:

[NO CHANGE]

S. "S" Definitions:

[NO CHANGE]

T. "T" Definitions:

[NO CHANGE]

U. "U" Definitions:

[NO CHANGE]

V. "V" Definitions:

[NO CHANGE]

W. "W" Definitions:

[NO CHANGE]

X. "X" Definitions:

[NO CHANGE]

Y. "Y" Definitions:

[NO CHANGE]

Z. "Z" Definitions:

[NO CHANGE]

[Section 19.12.010 – 19.12.020 – No Change]

19.12.030 Approval Authority

Table 19.12.030 shows the approval authority, Noticing Radius, Expiration Date and Extension Dates for different types of Permits.

Table 19.12.030: Approval Authority

Corrections & Clarifications

<u>Type of Permit or Decision</u> ^{A, B}	<u>Administrative Review</u>	<u>Design Review Committee</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Public Hearing/ Public Meeting/ Comment Period</u> ^C	<u>Noticing/ Noticing Radius</u> ^D	<u>Posted Site Notice</u>	<u>Expiration Date</u> ^E	<u>Chapter/ Findings</u>
General Plan Amendment									
Major ^F	-	-	R	F	PH	CA. Govt. Code 65350-65362	Yes	-	CA. Govt. Code 65350- 65362
Minor ^G	-	-	R	F	PH		Yes	-	
Zoning Map Amendments									
Major ^F	-	-	R	F	PH	CA. Govt. Code 65853 - 65856 65857	Yes	-	19.152.020
Minor ^G	-	-	R	F	PH		Yes	-	
Zoning Text Amendments	-	-	R	F	PH	CA. Govt. Code 65853 - 65856 65857	-	-	19.152.030
Specific Plans	-	-	R	F	PH	CA. Govt. Code 65350-65362	-	-	20.04.030
Development Agreements	-	-	R	F	PH	CA. Govt. Code 65867	Yes	-	19.144.120
Development Permits									
Major ^{F, H}	-	-	F/R	A ¹ /F	PM	19.12.110/ 300'	Yes	2 years	

<u>Type of Permit or Decision</u> ^{A, B}	<u>Administrative Review</u>	<u>Design Review Committee</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Public Hearing/ Public Meeting/ Comment Period</u> ^C	<u>Noticing/ Noticing Radius</u> ^D	<u>Posted Site Notice</u>	<u>Expiration Date</u> ^E	<u>Chapter/ Findings</u>
Minor ^G	F	-	A ¹	A ²	PM		Yes	2 years	19.156.050
Conditional Use Permits									
Major ^{F, H, I}	F	-	A ¹ /F/R	A ¹ /A ² /F	PH	CA. Govt. Code 65905	Yes	2 years	19.156.050
Minor ^{G, I}	F	-	A ¹ /F/R	A ¹ /A ² /F	PH		Yes	2 years	
Temporary	F	-	A ¹	A ²	-	None	No	1 year	None 19.160.030
Density Bonus (Residential)			R	F	Based on concurrent application				19.52
Adult-Oriented Commercial Activity (CUP)		-	R	F	PH	CA. Govt. Code 65905/ 300'	Yes	2 years	19.128.030 & 19.128.040
Architectural and Site Approval									
Major ^J	F	-	A ¹	A ²	PM	19.12.110/ Adjacent	Yes	2 years	19.168.030
Minor ^K	F	-	A ¹	A ²	PM		Yes	2 years	
Amendment									
Major ^{F, H}	-	-	F	A ¹	<u>PM/PH Varies</u> ^L	<u>Depends on permit being amended</u> <u>19.12.110/ 300'</u> ^L	Yes	2 years	19.44, <u>19.144</u>
Minor ^G	F	-	A ¹	A ²	<u>PM/PH Varies</u> ^L		Yes	2 years	19.156, 19.164
Minor Modification	F	-	A ¹	A ²	-	None	No	2 years	19.164

Clarifications

<u>Type of Permit or Decision</u> ^{A, B}	<u>Administrative Review</u>	<u>Design Review Committee</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Public Hearing/ Public Meeting/ Comment Period</u> ^C	<u>Noticing/ Noticing Radius</u> ^D	<u>Posted Site Notice</u>	<u>Expiration Date</u> ^E	<u>Chapter/ Findings</u>
Hillside Exception/ Height Exception / Heart of the City Exception ¹	-	-	F	A ¹	PH	19.12.110/ 300'	Yes	2 years	19.40.080, 19.24.070, 19.136.090
Variance	F	-	A ¹	A ²	PH	CA. Govt. Code 65905	Yes	2 years	19.156.060
Status of non-conforming Use	-	-	F	A ¹	PH	19.12.110/ 300'	Yes	-	19.140.110
Wireless Antennas ¹	F	-	F/ A ¹	A ²	Varies ¹	Depends on application type	Yes	2 years	19.136.090
Signs									
Permits	F	-	A ¹	A ²	-	None	No	1 year	19.104
Neon, Reader board & Freeway Oriented Signs ¹	-	F	F	A ¹ LM	PM	19.12.110/ 300'	No	1 year	19.104
Programs	F	-	A ¹	A ²	-	None	No	1 year	19.104
Exceptions ¹	-	F	-	A ¹ LM	PM	19.12.110/ Adjacent	Yes	1 year	19.104.290
Parking Exceptions ¹	F	F	A ¹	A ^{1L} / A ²	Varies MN	19.12.110/ Adjacent/ 300' NO	Yes	1 year	19.124.050
Fence Exceptions	-	F	-	A ^{1L}	PM	19.12.110/ Adjacent	Yes	1 year	19.48.060
Front Yard Interpretation	F	-	A ¹	A ²	PM	19.12.110/	Yes	1 year	19.08

<u>Type of Permit or Decision</u> ^{A, B}	<u>Administrative Review</u>	<u>Design Review Committee</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Public Hearing/ Public Meeting/ Comment Period</u> ^C	<u>Noticing/ Noticing Radius</u> ^D	<u>Posted Site Notice</u>	<u>Expiration Date</u> ^E	<u>Chapter/ Findings</u>
						Adjacent			
R1 Ordinance Permits									
Two-story ¹	F	F	F/A ¹	A ^{1L} /A ²	Varies ¹	19.12.110/ Adjacent	Yes	1 year	19.28.140
Minor Residential	F	-	A ¹	A ²	CP		No	1 year	
Exceptions ¹	-	F	-	A ^{1LM}	PM		Yes	1 year	
Protected Trees									
Tree Removal	F	-	A ¹	A ²	CP	Adjacent unless exempt/ Depending on type of application	Yes	1 year	14.18.180
Heritage Tree Designation & Removal	-	-	F	A ¹	PM	19.12.110/ 300'	Yes	-	14.18
Tree Management Plan	F	-	A ¹	A ²	-	None	No	-	14.18
Retroactive Tree Removal	F	-	A ¹	A ²	-	None	No	-	14.18
Reasonable Accommodation	F	-	A ¹	A ²	-	None	No	1 year	19.52.050
Extensions ^{OP}									
Parking, Fence & Sign Exceptions & Front Yard Interpretations	F	-	A ¹	A ²	-	None	No	1 year	

Clarifications

<u>Type of Permit or Decision</u> ^{A, B}	<u>Administrative Review</u>	<u>Design Review Committee</u>	<u>Planning Commission</u>	<u>City Council</u>	<u>Public Hearing/ Public Meeting/ Comment Period</u> ^C	<u>Noticing/ Noticing Radius</u> ^D	<u>Posted Site Notice</u>	<u>Expiration Date</u> ^E	<u>Chapter/ Findings</u>
Neon, Reader board & Freeway Oriented Signs	F		A ¹	A ²	-	None	No	1 year	
Two Story Permits, Minor Residential Permits and Exceptions	F		A ¹	A ²	-	None	No	1 year	
Tree Removals	F	-	A ¹	A ²	-	-	No	1 year	
All other projects	F	-	A ¹	A ²	-	19.12.110/ None	No	2 years	

Key:

R – Review and recommendation body	F – Final decision-making body unless appealed
A ¹ – Appeal Body on first appeal	A ² – Appeal body on second appeal
PH – Public Hearing	PM – Public Meeting
CP – Comment Period	

Notes:

- A. Permits can be processed concurrently with other applications, at the discretion of the Director of Community Development.
- B. Projects with combined applications shall be processed at the highest level of approval in conformance with Section 19.04.090.
- C. Public Hearing: Projects types that need noticing pursuant to the CA Government Code; Public Meeting: Project types that need only a mailed notice and no newspaper notices; Comment Period: Project types that need only a mailed notice and do not need a public hearing or public meeting.
- D. Noticing Radius of an application in a combined application shall correspond to the maximum noticing radius required for any one of the applications.

- E. Expiration date of an application in a combined application shall correspond to the maximum expiration date allowed for any one of the development applications (not including Subdivision Map Act applications, General Plan Amendments and Zoning Map or Text Amendments.)
- F. Major General Plan Amendment, Conditional Use Permit, Development Permit application - for more than ten thousand square feet of commercial and/or industrial and/or office and/or other non-residential use, or greater than six residential units
- G. Minor General Plan Amendment, Conditional Use Permit, Development Permit application - for ten thousand square feet or less of commercial and/or industrial and/or office and/or other non-residential use, or six or less residential units.
- H. City Council review for applications with new development greater than fifty thousand square feet of commercial, and/or greater than one hundred thousand square feet of industrial and/or office and/or other non-residential use, and/or greater than fifty residential units.
Planning Commission review for all other applications.
- I. Please see specific zoning district regulations or chapters in this title that apply to the subject property or project for approval authority.
- J. Major Architectural and Site Approval application - architectural and site approval for all projects that are not a Minor Architectural and Site Approval application.
- K. Minor Architectural and Site Approval application - single family home in a planned development zoning district, minor building architectural modifications, landscaping, signs and lighting for new development, redevelopment or modification in such zones where review is required and minor modifications of duplex and multi-family buildings.
- L. Meeting type and noticing are dependent on the underlying permit being modified.
- ~~L.M.~~ Appeals of Design Review Committee decisions shall be heard by the City Council.
- ~~M.N.~~ Parking Exceptions approved by the Director of Community Development need a comment period.
Parking Exceptions approved by the Design Review Committee need a public meeting.
- ~~N.O.~~ Parking Exceptions in Single-family residential (R1) zones and Duplex (R2) zones need adjacent noticing.
All other Parking Exceptions need notices within three hundred feet of the exterior boundary of the subject property.
- ~~O.P.~~ Application must be filed prior to expiration date of permit. Permit is extended until decision of the Approval Body on the extension.

[Sections 19.12.040 – 19.12.070 – No Change]

19.12.080 Application Process

~~The following provisions outline the requirements for the filing of applications for permits, entitlements, amendments, and approvals. Unless otherwise specified in this title, all applications for permits, entitlements, amendments and approvals required by this title shall be filed in compliance with this section.~~

Applications for permits, permit modifications, amendments and other matters pertaining to this Chapter shall be filed with the Director of Community Development with the following:

- A. An application for permit may be made by the owner of record, his or her agent, lessee(s) of property, or person(s) who have contracted to purchase or lease property contingent upon their ability to acquire the necessary permit under this title and who have written authorization from the property owner to make an application.
- B. Application shall be made on a form provided by the City, and shall contain the following, unless waived by the Director of Community Development based on the scope of the proposed project:
 1. A complete legal description of the subject property and map showing the location of the property for which the permit is sought;
 2. A preliminary title report of the subject property;
 3. The proposed site development plan indicating: the location of all buildings and structures; the location and types of land uses; paved areas, such as roadways, driveways and walkways; and general landscaping scheme;
 4. Architectural drawings of the proposed development, building additions or other structures. Drawings shall indicate building height, colors, materials, window treatment and other architectural features;
 5. Maps showing the locations of buildings;
 6. Renderings showing building heights and square footages;
 7. Maps showing the precise location of roads, streets, alleys and access points;
 8. A traffic analysis, if required;

Redundancy

9. A construction plan,
 10. Any property/development with a Homeowner's Association (HOA) or Architectural Review Board (ARB) shall provide a letter of approval from said HOA Board or ARB.
 11. The Director of Community Development may reasonably require additional information which is pertinent and essential to the application.
 12. Zoning Map or Text Amendments shall also include information required per Chapter 19.152.
 - a. Zoning applications for Planned Development Zoning Districts shall also include information required per Section 19.80.040;
 - b. Zoning applications for Multi-Family (R3) Residential shall also include information required per Section 19.36.040; and
 - c. Zoning applications for Residential Single-family Cluster (R1C) initiated by a property owner, or his or her designee, shall also include items identified in Section 19.44.050H.
 13. Planned Development Permit and Development Permit applications shall also include information required per Section 19.156.010:
 14. Conditional Use Permits and Variances shall also include information required per Section 19.156.020.
 15. Density Bonus Permit applications shall also include information required per Section 19.56.060.
 16. Conversion of Apartment Projects to Common Interest Developments applications shall also include information required per Section 19.116.050.
 17. Sign Permit Applications should also include information required per Section 19.104.040.
- C. Application shall be accompanied by the fee prescribed by City Council resolution, no part of which shall be returnable to the applicant.
- ~~D. The Approval Authority is granted the authority to make the decision to grant, deny, or impose conditions or restrictions on a permit or other action on a permit as well as to conduct and make any decisions necessary for environmental review under the California Environmental Quality Act.~~

Moved to Section 19.12.100 below

[Section 19.12.090 – No Change]

19.12.100 Decision

A. The Approval Authority is granted the authority to make the decision to grant, deny, or impose conditions or restrictions on a permit or other action on a permit as well as to conduct and make any decisions necessary for environmental review under the California Environmental Quality Act.

B. Unless postponed or continued with the mutual consent of the Director of Community Development and the applicant and written confirmation from the applicant, a decision shall be rendered:

1. No later than sixty (60) days following the date the application is deemed complete and either categorically exempt under the California Environmental Quality Act (CEQA) or the adoption of a negative declaration or one hundred and eighty (180) days of certification of an Environmental Impact Report (EIR).
2. Notwithstanding the above, no later than one hundred and fifty (150) days upon receipt of a complete application for a new personal wireless communication facility or ninety (90) days upon receipt of an application for collocation of a personal wireless communication facility/antennas.

19.12.110 Noticing.

A. Notice of Public Hearing: Noticing shall be provided in the following manner for applications that need a public hearing:

1. Notice of hearing shall be given by publication once in a local newspaper of general circulation not less than ten days prior to the date of the hearing as provided in Section 65090 of the California Government Code;
2. The City shall mail written notice by first class mail to:
 - a. Each owner of record of real property within the noticing radius per Section 19.12.030 of the exterior boundary of the property for which the application is made as the owner of record is shown in the last tax assessment roll pursuant to Section 65091 of the California Government Code;
 - b. Owner(s) of subject site or his or her authorized agent
 - c. Project applicant(s)

Moved from
Section 19.12.090
above

- d. Local agencies expected to provide water, sewage, streets, roads, schools or other essential facilities or services to the proposed project;
 - e. Any individual or entity that has filed a written request with the City Clerk requesting notification of public hearings
3. If the number of owners to whom notice would be mailed or delivered pursuant to subsection A2 above is greater than one thousand, in lieu of mailed or delivered notice, the Director may provide published notice as provided in Government Code Section 65091(3).
 4. The notice shall contain the following:
 - a. The exact address of the property, if known, or the location of the property, if the exact address is not known;
 - b. The date on which action on the application will be taken;
 - c. A brief description, the content of which shall be in the sole discretion of the City, of the proposed project;
 - d. Reference to the application on file for particulars;
 - e. A statement that any interested person, or agent thereof, may contact the city for additional information and/or plans.

Typographical and/or publishing errors shall not invalidate the notice nor any City action related to the notice.

B. Notice of Public Hearing for Zoning Text Amendments:

1. For amendments to zoning regulations: Notice of such hearing (publication) shall be given in the manner prescribed in Section 19.12.110 A(1) of this chapter.
2. For amendments to permitted uses of real property: Notice (mailing or publication) shall be given pursuant to Sections 19.12.110 A(2) or A(3), as the case may be.

C. Notice of Public Meeting: For projects requiring notice of a public meeting, notice shall be mailed in accord with 19.12.110A(2) or A(3), as the case may be, at least ten days prior to the date of the meeting date.

- D. Notice of Comment Period: For projects requiring notice of a comment period, notice shall be mailed in accord with 19.12.110A(2) and A(5), fourteen calendar days prior to the date of action on the application.
1. For permits issued pursuant to Chapter 19.28, Single Family Residential, the mailed notice shall include a copy of the site plan and elevation plans of the proposed project.
 2. For permits issued pursuant to Chapter 14.18, Protected Trees, the mailed notice shall include a copy of the site plan and tree replacement/mitigation plan.
- E. The City may also give notice of public hearings/public meetings in any other manner it deems necessary or desirable. If the Director of Community Development believes the project may have impacts beyond the range of the mailed notice, particularly on nearby residential areas, the Director, in his or her discretion, may expand noticing beyond the stated requirements in Section 19.12.030.

Compliance with the procedures set forth in this section shall constitute a good-faith effort to provide notice, and the failure to provide notice, and the failure of any to receive notice, shall not prevent the City from proceeding with a hearing, meeting or from taking any action nor affect the validity of any action.

F. Posted Site Notice:

1. Applicants shall install notice(s) on the subject site that is/are clearly visible and legible from the ~~street-right-of-way~~ in accord with the requirements of Table 19.12.030.
 - a. Applicants must install a public-site notice in the front yard of the subject site.
 - b. For all applications other than Two Story Permits, Residential Design Review and Tree Removal applications in R1 or R2 zones, if the subject site has more than one property line abutting a street, the applicant may be required to install more than one notice.
2. The notice shall be a weatherproof sign, ~~at least 2 feet tall and 3 feet wide~~, firmly attached to ~~a~~ 5 foot tall posts and:
 - a. For Two Story Permits, Residential Design Review, and Tree Removal applications in R1 or R2 zones, shall be at least 2 feet tall and 3 feet wide.
 - a.b. For all other applications that need a site notice, shall be at least 4 feet tall and 6 feet wide.

Clarification

3. The notice shall be placed at least 14 days prior to the decision/public hearing and shall remain in place until an action has been taken on the application and the appeal period has passed.
4. The notice shall contain the following:
 - a. The exact address of the property, if known, or the location of the property, if the address is not known;
 - b. A brief description of the proposed project, the content of which shall be at the sole discretion of the City;
 - c. City contact information for public inquiries;
 - d. A deadline for the submission of public comments;
 - e. If proposing a physical alteration to an existing building or new buildings, at least one of the following visual representations of the proposed project:
 - i. A color perspective drawing or three-dimensional (3-D) photographic simulation of the proposed project, in a size deemed appropriate by the Director of Community Development.
 - ii. For Two Story Permits and Residential Design Review applications, a color or black and white perspective drawing or three-dimensional (3-D) photographic simulation of the proposed project, at least 11 inches by 17 inches in size.
 - iii. Visual Representation is not required for applications that do not have a material change in the physical appearance of the property.

[Sections 19.12.120 – 19.12.170 – No Change]

19.12.180 Expiration, Extension and Revocation.

A. Expiration.

1. Approval on a permit or variance shall become null and void and of no effect, within the time frame specified in Section 19.12.030 following its issuance, unless a shorter or longer time period is specifically prescribed in the conditions of permit or variance, unless:

- a. A building permit is filed and accepted by the City (fees paid and control number issued.) In the event that a building permit expires for any reason, the permit shall become null and void.
 - b. ~~The permit or variance has been used.~~ A permit or variance shall be deemed ~~to be "used"~~ "vested" when actual substantial and continuous activity has taken place upon the land subject to the permit or variance or, in the event of the erection or modification of a structure or structures, when sufficient building activity has occurred and continues to occur in a diligent manner.
2. Notwithstanding subsection 1 of this section, if the use for which a conditional use permit was granted and utilized has ceased or has been suspended for one year or more, the permit becomes null and void.
 3. Unless a variance or exception has expired pursuant to subsection 1 of this section, it shall continue to exist for the life of the existing structure or such structure as may be constructed pursuant to the approval, unless a different time period is specified in its issuance. A variance or exception from the parking and loading regulations, and a sign exception shall be valid only during the period of continuous operations of the use and/or structure for which the variance or exception was issued.
- B. Extensions. A permit or variance may, in accord with Section 19.12.030, Approval Authority, be extended for the time frame specified in Section 19.12.030, upon timely submittal of an application with the Director of Community Development prior to expiration.
- C. Violation. Once a permit or variance is effective, any and all conditions of approval imposed shall become operative, and the violation of any of them constitute a violation of this Code.

D. 1. Revocation.

1. Process: In any case where, in the judgment of the Director, substantial evidence indicates that the conditions of a permit or variance have not been implemented, or where the permit or variance is being conducted in a manner detrimental to the public health, safety, and welfare, the Director shall set a date for a public hearing before the decision maker granting the original permit or variance, and notice a public hearing in accordance with Section 19.12.110, Noticing, of this code.
2. Findings: A permit may be revoked or modified if any one of the following findings can be made:
 - i. That the permit was obtained by misrepresentation or fraud;
 - ii. That the improvement, use or activity authorized in compliance with the permit had ceased or was suspended for one year or more;
 - iii. That one or more of the conditions of the permit have not been met; or

- iv. That the owner or occupant of the property is conducting the use or any associated or other use of the property in violation of the law.

In the case of revocation of a sign permit, the sign was abandoned for a period of thirty days.

[Sections 19.16.010 – 19.24.040 – No Change]

19.24.050 Building Development Regulations.

Table 19.24.050 sets forth the rules and regulations ~~for building pertaining to the development of structures on property zoned in~~ Agricultural (A) and Agricultural-Residential (A-1) ~~Zoning Districts~~.

TABLE 19.24.050 – NO CHANGE

Consistency

[Sections 19.24.050 – 19.28.060 – No Change]

19.28.070 Building Development Regulations.

Table 19.28.070 sets forth the rules and regulations pertaining to the ~~for principal-building~~ development of structures on property~~ies~~ zoned R1-5, 6, 7.5, 8, 10, 20 etc., and R1-6e in the Single-Family Residential District.

TABLE 19.28.070 – NO CHANGE

Consistency

[Sections 19.28.80 –19.36.060 – No Change]

19.36.070 Building Development Regulations.

Table 19.36.070 sets forth the rules and regulations pertaining to the development of ~~buildings-structures~~ on property zoned multiple-family residential (R-3).

[Table 19.36.070 – NO CHANGE]

Consistency

[Sections 19.36.080 –19.40.040 – No Change]

19.40.050 Site Development Regulations.

The following guidelines, shown in Table 19.40.050, are a compilation of policies described in the General Plan and are intended to govern the preparation of development plans in RHS zones. All provisions of this section, except subsections A,

B and C, may be deviated from with a Hillside Exception in accordance with Section 19.40.040 and 19.40.070.

Table 19.40.050: Site Development Regulations	
A. Density	
1. Dwelling Unit Density	Determined by Appendix F of the General Plan based upon slope density standards described therein.
2. Transfer of density credits	Density credits derived from application of a slope density formula to a lot or a group of lots may not be transferred to property outside any approved subdivision or parcel map boundary.
B. Minimum Lot Area	
1. By zoning district symbol:	Lot area shall correspond to the number (multiplied by one thousand square feet) following the RHS zoning symbol. Examples: RHS-20: Minimum lot size of 20,000 square feet (20 * 1,000 s.f.) RHS-120: Minimum lot size of 120,000 square feet (120 * 1,000 s.f.) RHS-218: Minimum lot size of 218,000 square feet (218 * 1,000 s.f.)
2. For subdivision	Minimum lot area shall be in accordance with Appendix F of the General Plan, unless clustered in accordance with Section 18.52.030 (Hillside Subdivisions). The minimum lot area shall be 10,000 square feet for each unit in a clustered subdivision.
3. Subdividable lots	Lot size zoning designation shall be assigned at time of subdivision
4. Non-subdividable legally-created, developed lots	Shall reflect the existing lot size
C. Minimum Lot Width	a. 70 feet at front setback line. b. No minimum lot width for lots served by private driveway and which do not adjoin a public street.
D. Development on Substandard Lots	A Hillside Exception shall be obtained to construct structures or improvements on existing vacant legal lots.
E. Site Grading	
1. Maximum Grading Quantity	a. Cumulative total of 2,500 cubic yards, cut plus fill. Includes: grading for building pad, yard areas, driveway and all other areas requiring grading. Excludes: basements b. All cut and fill shall be rounded to contour with natural contours and planted with landscaping which meets the requirements in Section 19.40.050G

Table 19.40.050: Site Development Regulations	
2. Graded Area	Shall be limited to the building pad area to the greatest extent possible
3. Multiple Driveways	Grading quantities shall be divided equally among the participating lots. E.g., two lots sharing a driveway shall divide the driveway grading quantity in half. The divided share will be charged against the grading quantity allowed for that lot development.
4. Flat Yard Area	Limited to a maximum of 2,500 square feet, excluding driveways
E. Site Grading (Cont.)	
5. Soil Erosion and Screening of Cut and Fill Slopes Plan	A licensed landscape architect shall review grading plans and shall, in consultation with the applicant and the City Engineer, submit a plan to prevent soil erosion and to screen cut and fill slopes.
F. Landscaping	
1. Tree Planting Plan	Shall be prepared by a licensed landscape architect to:
2. Landscape Requirements	a. Screen the residential structures to the greatest possible extent b. Reintroduce trees on barren slopes which were denuded by prior agricultural activities. Must comply with the Chapter 14.15, Landscaping Ordinance and Wildland Urban Interface Fire Area (WUIFA) requirements
3. Installation of Landscape Improvements	Must be installed prior to final occupancy unless it is not practicable. If not installed, the applicant shall post a bond, cash or other security to insure installation within an 18 month period from occupancy.
4. Landscape Maintenance	All such landscape areas shall be properly maintained in conformance with the requirements of Chapter 14.15, Landscape Ordinance.
5. Native Trees	Should be integrated into the site design to the greatest extent possible.
G. Watercourse Protection	
1. Watercourse and Existing Riparian Vegetation	Any watercourse identified in Figure HS-6-G in the City's General Plan and its existing riparian vegetation must be shown on all development plans.
2. Setback	The setback shall be measured from the top of bank of the watercourses or from existing riparian vegetation, whichever is greater. The setback from riparian vegetation will be measured from the drip line perimeter. All new development, including structures, grading and clearing, must be set back as follows.

Clarification

Table 19.40.050: Site Development Regulations	
a. Lots < 1 acre	50 feet
b. Lots ≥ 1 acre	100 feet
H. Development Near Prominent Ridgelines	
1. New structures	Shall not disrupt a 15% site line from a prominent ridge as identified in Appendix A. The fifteen percent site line shall be measured from the top of ridge at the closest point from the structure.
2. Additions to existing structures within the 15% site line of prominent ridgeline	May not further encroach into the site line. For example, the addition may not add height or bulk which may increase the disruption to the fifteen percent ridgeline site line.
3. Impracticable Clause	If (1) and (2) above are not practicable, alternatives may be considered through the exception process.
I. Development on Slopes of ≥ 30%	Hillside Exception required for all grading, structures and other development > 500 square feet.
J. Trail Linkages and Lots Adjoining Public Open Spaces Site Plan	<ol style="list-style-type: none"> 1. Site plan must identify trail linkages as shown in the General Plan Trail Plan, on and adjacent to the site. 2. If a trail linkage is identified across a property being developed, development shall not take place within that area unless approved through the exception process. 3. For lots adjoining Public Open Spaces, driveways and buildings shall be located as far as feasible from the Public Open Space and designed in a manner to minimize impacts on the Public Open Space.
K. Views and Privacy	It is not the responsibility of City Government to ensure the privacy protection of the building permit applicant or owners of surrounding properties that may be affected by the structure under construction. However, the Director of Community Development may confer with the building permit applicant to discuss alternate means of preventing privacy intrusion and preserving views.

19.40.060 Building Development Regulations.

All provisions of this section may be deviated from upon obtaining a Hillside Exception in accordance with Section 19.40.070.

Table 19.40.060 sets forth the rules and regulations pertaining to the development of structures on property zoned Residential Hillside (RHS).

	<u>c. Average Slope ≥ 30%</u>	Allowable floor area shall be reduced by a constant 30 percent Slope Adjustment Factor = (1 - 0.3)	≥ 30%	30%
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<u>1. Maximum Allowable house size</u>	6,500 square feet
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2. Unclustered Development

<u>a. Lots < 10,000 square feet (net lot area)</u>	45% of net lot area
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	4,500 square feet plus 59.59 square feet for every 1,000 square feet over 10,000 square feet of net lot area.
--	---

<u>b. Lots ≥ 10,000 square feet (net lot area)</u>	$A = \left(\frac{B - 10000}{1000} \right) (59.59) + 4,500$
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	<p>Formula:</p> <p>A = Maximum allowable house size prior to instituting the maximum 6,500 square foot building size.</p> <p>B = Net lot area.</p>
--	--

Clarification

3. Additional Regulations for Lots Within Clustered Subdivisions where Land is Reserved for Common Open Space

a. Lot Area for calculating FAR	May count a proportionate share of the reserved private open space to arrive at lot area for purposes of calculating FAR.
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b. Maximum FAR prior to slope consideration	No developable lot in a cluster development can exceed forty-five-percent floor area ratio, prior to <u>applying the slope consideration adjustment factor</u> , when a portion of the private open space is attributed to the lot area for calculating FAR
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c. Average slope of lot	Calculated on the developable lot only.
-------------------------	---

4. Slope Adjustment Criteria

Text moved up

	<p>Allowable floor area, prior to instituting the maximum 6,500 square foot allowable building size, shall be reduced by one and one half percent (1.5%) for each percent of slope over 10 percent.</p>
--	--

<u>a. Lots with Average Slope > 10% and < 30%</u>	<p>Formula: C = A x (1 - (1.5 x (D - 0.1)))</p> <p>A = Maximum allowable house size based on subsection 1 above prior to instituting the maximum 6,500 square foot building.</p> <p>C = Maximum allowable building for lots with greater than 10% average slope.</p> <p>D = Average percent slope of net lot area.</p>
---	--

Text moved up

<u>b. Lots with Average Slope ≥ 30 %</u>	<u>Allowable floor area shall be reduced by a constant 30 percent.</u>		
	<u>Ave. slope (D)</u>	<u>Reduction (1.5 x (D - 0.1))</u>	
	<u>10% or less</u>	<u>0%</u>	
	<u>11%</u>	<u>1.5%</u>	
	<u>12%</u>	<u>3%</u>	
	<u>13%</u>	<u>4.5%</u>	
	<u>14%</u>	<u>6%</u>	
	<u>15%</u>	<u>7.5%</u>	
	<u>16%</u>	<u>9%</u>	
	<u>17%</u>	<u>10.5%</u>	
	<u>18%</u>	<u>12%</u>	
	<u>19%</u>	<u>13.5%</u>	
	<u>20%</u>	<u>15%</u>	
	<u>21%</u>	<u>16.5%</u>	
	<u>22%</u>	<u>18%</u>	
	<u>23%</u>	<u>19.5%</u>	
	<u>24%</u>	<u>21%</u>	
	<u>25%</u>	<u>22.5%</u>	
	<u>26%</u>	<u>24%</u>	
	<u>27%</u>	<u>25.5%</u>	
	<u>28%</u>	<u>27%</u>	
<u>29%</u>	<u>28.5%</u>		
<u>30% or greater</u>	<u>30%</u>		
B. Height of Buildings and Structures	Limited to 30 feet		
C. Setbacks			
	First Floor	Second Floor	Habitable Third Floor (or portions of structures taller than 20 feet)
1. Front-yard			
a. Slope ≤ 20%	20 feet	25 feet	25 feet

b. Slope > 20%	10 feet	Driveway and garage must be designed to enable vehicles to park off-street	25 feet	25 feet
2. Side-yard				
a. Interior Side	10 feet		15 feet	20 feet
b. Street Side on Corner Lot	15 feet		15 feet	20 feet
3. Rear-yard	20 feet		25 feet	25 feet
D. Second Story Decks and Patios Minimum Setbacks				
	First Floor	Second Floor	Habitable Third Floor (or portions of structures taller than 20 feet)	
1. Front Yard	-	17 feet	17 feet	
2. Side Yard	-	15 feet	15 feet	
3. Rear Yard	-	20 feet	20 feet	
E. Downhill Facing Elevation				
1. Second Story Downhill Facing Wall Plane Offset				
a. Offset from First Floor Downhill Wall Plane	i. Average of 7 feet 6 inches for 75% of the second story downhill facing wall plane shall be setback and ii. Not less than five feet. iii. The remaining 25% may not extend past the first story wall plane.			
b. Multiple Downhill Facing Wall Planes	Offset shall apply only the primary setback affected.			
c. Offset from First Floor Roofed Porches	i. Offset may be measured from the outside perimeter of first-story roofed porches. ii. Roof of the porch must match, in pitch and style, the roof of the main structure. iii. Porch must be at least 5 feet in width and extend the length of the wall on which it is located.			
2. Maximum Wall Height on Downhill Elevation	15 feet			
F. Permitted Yard Encroachments				

<p>1. Extension of a Legal Non-conforming Wall Plane for structures not located within a prominent ridgeline site line</p>	<p>a. Where a building legally constructed according to existing first floor yard and setback regulations at the time of construction encroaches upon present required first floor setbacks, one encroaching side of the existing structure may be extended along existing building lines.</p> <p>b. Only one such extension shall be permitted for the life of the building.</p> <p>c. Encroachments into a required yard which are the result of the granting of a variance may not be further extended.</p> <p>d. Further encroachment into a required setback is not allowed. I.e., a non-conforming setback may not be further reduced.</p> <p>e. In no case shall any wall plane of a first-story addition be placed closer than three feet to any property line.</p>
<p>2. Architectural Features</p>	<p>a. May extend into a required yard a distance not exceeding three feet.</p> <p>b. No architectural feature, or combination thereof, whether a portion of a principal or accessory structure, may extend closer than three feet to any property line.</p>
<p>G. Accessory Structures (including attached patio covers)</p>	<p>As allowed by Chapter 19.100, Accessory Buildings/Structures</p>
<p>H. Design Standards</p>	
<p>1. Building and Roof Forms</p>	
<p>a. Natural Contours</p>	<p>Building shall follow as closely as possible the primary natural contour of the lot.</p>
<p>b. Building Mass and Roof Pitches</p>	<p>The main building mass shall be on the upslope side of the building and the roof pitches shall trend downslope.</p>
<p>c. Second Story Dormers</p>	<p>Permitted within the second story setbacks as long as they are minor in shape and size.</p>
<p>d. Downhill Elevation of main structure</p>	<p>Shall have a minimum of four offset building and roof elements to provide varied building forms to produce shadow patterns which reduce the impact of visual mass.</p>
<p>e. High Wall Planes</p>	<p>Wall planes exceeding one story or 20 feet in height, whichever is more restrictive, shall contain architectural elements in order to provide relief and to break up expansive wall planes.</p>
<p>2. Colors</p>	

a. Natural Earth Tones	All structures on the lot shall use natural earth tone and/or vegetation colors which complement the natural surroundings. Natural earth-tone and vegetation colors include natural hues of brown, green and shades of gray.
b. Reflectivity Value	Shall not exceed 60 on a flat surface
3. Outdoor Lighting	All outdoor lighting shall be identified on the site development plan.
a. Tennis Court and Other Recreational Purposes	High-intensity lights not permitted.
b. Motion-activated Security Lights	1. Shall not exceed 100 watts and 2. Must be shielded to avoid all off-site intrusion.
c. Other lighting	Must be directed to meet the particular need.
I. Geologic and Soils Reports	
1. Applicability	<p>A geological report prepared by a certified engineering geologist and a soils report prepared by a registered civil engineer qualified in soils mechanics by the State shall be submitted prior to issuance of permits for construction of any building or structure which:</p> <ul style="list-style-type: none"> a. Is located on property in an RHS zoning district which has been designated by the General Plan to be within a geological hazard area; and b. Where an addition, alteration or repair of an existing building or structure include at least one of the following: <ul style="list-style-type: none"> i. The improvements include increasing the occupancy capacity of the dwelling such as adding a bedroom or secondary unit, or ii. The cost of the completed addition, alteration or repairs will, during any period of twelve months, exceed twenty-five percent of the value of the existing improvements as determined by the building official based on current per foot value of the proposed structure to the existing structure's value on a parcel of property. For the purposes of this section, the value of existing improvements shall be deemed to be the estimated cost to rebuild the improvements in kind, which value shall be determined by the building official.
2. Content of Reports	<p>These reports shall contain, in addition to the requirements of Chapter 16.12 of this code, the following:</p> <ul style="list-style-type: none"> a. All pertinent data, interpretations and evaluations, based upon the most current professionally recognized soils and geologic data; b. The significance of the interpretations and evaluations with respect to the actual development or implementation of the intended land use

	<p>through identification of any significant geologic problems, critically expansive soils or other unstable soil conditions which if not corrected may lead to structural damage or aggravation of these geologic problems both on-and off-site;</p> <p>c. Recommendations for corrective measures deemed necessary to prevent or significantly mitigate potential damages to the proposed project and adjacent properties or to otherwise insure safe development of the property;</p> <p>d. Recommendations for additional investigations that should be made to insure safe development of the property;</p> <p>e. Any other information deemed appropriate by the City Engineer.</p>
3. Incorporation of Recommendations	All building and site plans shall incorporate the above-described corrective measures and must be approved by the City Engineer, prior to building permit issuance.
J. Private Roads and Driveways	
1. Pavement Width and Design	The pavement width and design for a private road or common driveway serving two to five lots and a single-lot driveway shall comply with development standards contained in the Hillside Subdivision Ordinance, Chapter 18.52 of this code.
2. Reciprocal Ingress/Egress Easement and Reciprocal Maintenance Agreement	<p>The property owner for a lot served by a private road or common driveway shall, prior to issuance of building permits, record an appropriate deed restriction guaranteeing the following, to adjoining property owners who utilize the private road or common driveway for the primary access to their lot(s):</p> <p>a. Reciprocal ingress/egress easement, and</p> <p>b. Participation in a reciprocal maintenance agreement.</p>
K. Solar Design	The setback and height restrictions provided in this chapter may be varied for a structure utilized for passive or active solar purposes, provided that no such structure shall infringe upon solar easements or adjoining property owners. Variation from the setback or height restrictions of this chapter may be allowed only upon issuance of an Administrative Conditional Use Permit subject to Chapter 19.12.

[Section 19.40.070 –19.60.020 – No Change]

19.60.030 Permitted, Conditional and Excluded Uses.

Permitted, Conditional and Excluded Uses that may be conducted from property zoned general commercial (CG), are identified in Table 19.60.030, Permitted, Conditional and Excluded Uses in General Commercial Zoning Districts below.

Table 19.60.030: Permitted, Conditional and Excluded Uses in General Commercial Zoning Districts		
Uses	Zoning Districts	CG
#1 - #28 – NO CHANGE		
29. Automotive <u>Automobile</u> service stations, automobile washing facilities		CUP - PC
#30 - #41 – NO CHANGE		

Clarification

Key:	
P –	Permitted Use
--	Not Allowed
CUP - Admin. –	Conditional Use Permit issued by the Director of Community Development
CUP - PC –	Conditional Use Permit issued by the Planning Commission
CUP - CC –	Conditional Use Permit issued by the City Council
Ex –	Excluded Uses

[Section 19.60.040 –19.64.010 – No Change]

19.64.020 Permitted, Conditional and Excluded Uses in Office and Industrial Zones.

Table 19.64.020 sets forth the Permitted, Conditional and Excluded Uses in Office and Industrial zones.

Table 19.64.020: Permitted, Conditional and Excluded Uses in Office and Industrial Zones					
Uses	Zoning Districts				
	OA	OP	MP	ML	ML- rc
#1 - #13 – NO CHANGE					
14. Automobile <u>Automotive</u> service stations, automobile washing facilities;	-	-	-	CUP PC	-
#15 - #88 – NO CHANGE					

Clarification

Key:	
P –	Permitted Use
--	Not Allowed
CUP - Admin. –	Conditional Use Permit issued by the Director of Community Development
CUP - PC –	Conditional Use Permit issued by the Planning Commission
CUP - CC –	Conditional Use Permit issued by the City Council
Ex –	Excluded Uses

[Section 19.64.030 –19.112.020 – No Change]

19.112.030 Site Development Regulations.

Site Development Regulations for Accessory Dwelling Units are as identified in Table 19.112.030.

Table 19.112.030: Site Development Regulations for Accessory Dwelling Units				
		Attached to Principal Dwelling Unit		Detached
		Conversion of portions of existing structures to an accessory dwelling unit	New addition to existing accessory dwelling unit and new accessory dwelling unit	
A.	Maximum s Size of living space, exclusive of decks			
	<u>1. Minimum size</u>	<u>150 s.f.</u>		
	<u>2. Maximum size</u>			
	<u>4a.</u> Lots < 10,000	<u>50 percent of the existing living space of the principal dwelling unit or 800 s.f., whichever is more restrictive.</u>		800 s.f.
	<u>2b.</u> Lots 10,000	<u>50 percent of the existing living space of the principal dwelling unit or 1,200 s.f., whichever is more restrictive.</u>		1,200 s.f.
B.	Second-story accessory dwelling unit	Allowed if the unit: 1. Is a conversion of existing second story portions of the principal dwelling unit; and 2. Complies with applicable landscape requirements to adjoining dwellings consistent with Section 19.28.120		Not allowed
C.	Parking			

Consistency with State Law

Clarification

Table 19.112.030: Site Development Regulations for Accessory Dwelling Units

		Attached to Principal Dwelling Unit		Detached
		Conversion of portions of existing structures to an accessory dwelling unit	New addition to existing accessory dwelling unit and new accessory dwelling unit	
	1. Parking for accessory dwelling unit	None	One additional off-street parking space shall be provided, if the principal dwelling unit has less than the minimum off-street parking spaces for the applicable residential zoning district in which it is located, as required in Chapter 19.124 unless the unit meets the following requirements: a. Is within one-half (1/2) mile of a public transit stop; or b. Located in an architecturally and historically significant historic district; or c. Occupant of the ADU is not allowed/offered a required on-street parking permit; or d. Located within one block of a car share vehicle pick-up location.	
	2. Replacement parking spaces when new accessory dwelling unit converts existing covered, uncovered or enclosed parking spaces required for the principal dwelling unit	a. Replacement spaces must be provided for the principal dwelling unit to meet the minimum off-street parking spaces for the applicable residential zoning district in which it is located, as required in Chapter 19.124. b. Replacement spaces may be located in any configuration on the same lot as the accessory dwelling unit, including but not limited to covered spaces, uncovered spaces, tandem spaces or by use of mechanical automobile parking lifts. c. Any replacement parking spaces provided must comply with the development regulations for the applicable zoning district in which it is located, Chapter 19.124, Parking and Chapter 19.100, Accessory Buildings/Structures.		
D.	Direct outside access	1. Independent outdoor access must be provided without going through the principal dwelling unit. 2. Where second-story accessory dwelling units are allowed, entry shall not be provided by an exterior staircase.		

Table 19.112.030: Site Development Regulations for Accessory Dwelling Units				
		Attached to Principal Dwelling Unit		Detached
		Conversion of portions of existing structures to an accessory dwelling unit	New addition to existing accessory dwelling unit and new accessory dwelling unit	
E.	Screening from public street	All access to accessory dwelling units shall be screened from a public street.		

[Section 19.112.040 –19.116.020 – No Change]

19.116.030 General Regulations.

A. Community Impacts.

1. Residential Displacement.

a. i. In no case shall an apartment project be converted to a common interest development unless and until it can reasonably be demonstrated that comparable replacement housing exists within the housing market area to accommodate those residents displaced as a direct result of the proposed conversion. The developer shall provide a relocation/displacement plan which illustrates that sufficient replacement housing is available in the housing market area within a price range which is equal to or is less than twenty-five percent of the household income of the tenants to be displaced, or not to exceed the rent being paid for the existing rental unit to be converted, whichever is higher.

ii. As used in this section "housing market area" means that area bounded by Fremont Avenue located in the City of Sunnyvale, to the north, Lawrence Expressway to the east, Prospect Road to the south, hence along a line generally following the westerly boundary of the Cupertino Urban Service Area northerly to Highway 280, hence easterly along Highway 280 to Foothill Boulevard, hence northerly along Foothill Boulevard to Homestead Road, hence easterly along Homestead to Highway 85, hence northerly along Highway 85 to Fremont Avenue.

b. Replacement housing must be shown to meet any special needs of disabled tenants, which are presently available in the project proposed to be converted, such as facilities for the handicapped, elderly, families with children, and availability of public transportation for the elderly or residents who do not own an automobile. The plan shall also demonstrate that all other provisions relating to tenant protection addressed in the chapter have been fulfilled.

c. A developer may meet the above requirements through the provision of mitigating factors to diminish the number and/or aid relocation of, displaced tenants

within the project. Such mitigating measures may include, but are not limited to, discounting the price of project units to tenant buyers, offering a moving allowance, extending leases, or providing below-market-rate units.

d. Notwithstanding the above provisions, in no case shall an apartment house be converted to a common interest development when the vacancy rate for apartment houses within the housing market area is less than five percent at the time of application and has averaged five percent over the past six months as determined by surveys conducted by the Director of Community Development.

1. Conformity with the General Plan. No conversion of apartment houses to community houses to common interest developments shall be permitted unless and until the City Council of the City of Cupertino finds that the proposed conversion will not conflict with the housing goals and policies of the General Plan and will not adversely impact the local school system.

2. Prohibition of Discriminating Against Prospective Buyers with Children. In no case shall a common interest development which has been converted, and which can reasonably accommodate children, as determined in each case by the City Council, limit initial sales to households or individuals without children.

B. Tenant Protection.

1. The developer shall provide each tenant an irrevocable, nontransferable, preemptive right to purchase a unit or right of exclusive occupancy at a price not greater than the price offered to the general public for such unit. Such right shall be irrevocable for a period of ninety days after the commencement of sales or the issuance of the final public report by the real estate commissioner. Tenants shall have the right to the unit presently occupied and then to other units in the project only after they have been declined for purchase and vacated by the occupying tenants. In no case shall an existing tenant have a preemptive right to more than one unit.

2. The developer shall offer a ninety-day extension of tenancy after the expiration of a lease or rental agreement which would expire prior to or at the time of commencement of sales or issuance of the final public report by the real estate commissioner.

3. The developer shall permit a tenant to terminate any lease or rental agreement without any penalty whatsoever after notice has been given of the intention to convert to ~~community housing~~ a common interest development if such tenant notifies the developer in writing thirty days in advance of such termination.

C. Buyer Protection. The developer shall furnish each prospective purchaser of a unit, a true copy of the conditional use permit issued under this chapter and a copy of each of the following informational documents (the permit and documents shall be printed in Spanish or the purchaser's native language if requested):

1. Property report;
2. Structural pest control report;
3. Structural report and building department report;

Consistency

4. Building history report;
5. Statement of compliance (Form 643) pursuant to 10 California Administrative Code, Section 2792.9, or its successor, relating to operating and maintenance funds during startup;
6. Soils report as determined in each case by the Director of Planning and Development;
7. Certificate of compliance and occupancy.

D. Building and Site Improvements.

1. All private streets, driveways and parking areas for the common interest developments shall be improved and constructed with a structural section and site dimensions in accordance with the standards of the City of Cupertino and shall be designed to ensure that access for municipal services shall not be denied any dwelling unit therein by reason of deteriorated or impassable private streets, driveways or parking areas, as determined by the Director of Public Works or his or her designee.

2. Sewage collection and water distribution lines on private property and property under common ownership shall be covered by one of the following responsibilities.

a. All lines owned and maintained by the corporations shall be constructed to the City of Cupertino Standard Specifications for Public Works. Water metering and billing shall be provided at each individual townhouse lot as well as for the entire development using a master meter. The difference between the sum of the individual meters and the reading of the master meter will be billed to the corporate structure. A separate sewer lateral shall be provided to serve each individual parcel.

b. All lines to be owned and maintained by the City of Cupertino, a private water utility and/or the Cupertino Sanitary District shall be placed in asphalt concrete driveways, or a covered concrete line trench, acceptable to the Director of Public Works, or appropriate representation of the private water utility or sanitary district (with the necessary public utility easement running through the project) so as to provide accessibility for the maintenance of the lines. A water meter and sewer lateral shall be provided to serve each individual parcel.

c. In cases of conversion to a common interest development not involving individual ownership of separate parcels (e.g., community apartments, stock cooperatives, planned developments, etc.), separate utility services will not be required. In these cases, utilities will be billed to the homeowners association and a cash deposit to secure payment of the bill will be required.

3. Undergrounding Requirements. All structures being converted from individual, corporate or partnership ownership of apartment houses to common interest developments shall, within the exterior boundary lines of such property, have all electrical, communication and similar distribution, service wires and/or cables placed underground.

4. Compliance with Codes. The design, improvement and/or construction of a

common interest development shall conform to and be in full accordance with all requirements of all building, fire and housing codes, zoning provisions and other applicable local, State or federal laws or ordinances relating to protection of public health and safety, in effect at the time of the filing of the tentative map. Also, any violations of the latest adopted edition of the Uniform Housing Code as prepared by the International Conference of Building Officials, or its successor, relating specifically to provisions protecting health and safety of residents, shall be corrected, and any equipment or facilities which the Building Official determines are deteriorated or hazardous shall be repaired or replaced. In particular, the developer shall repair or replace any damaged or infested areas in need of repair or replacement as shown in the structural pest report. The interpretation of what constitutes a hazard to public health and safety shall be made by the Director of Community Development, or his or her designee.

5. **Separate Metering.** The consumption of gas and electricity within each dwelling unit shall be separately metered so that the unit owner can be separately billed for each utility. The requirements of this subsection may be waived where the Director of Community Development finds that such would not be practical or reasonable. In all cases, a water shutoff valve shall be provided for each unit.

6. **Shock Mounting of Mechanical Equipment.** All permanent mechanical equipment, including domestic appliances, which is determined by the building official to be a source or a potential source of vibration or noise, shall be shock-mounted, isolated from the floor and ceiling, or otherwise installed in a manner approved by the Building Official to lessen the transmission of vibration and noise.

7. **Separate Electrical Panel Boards.** Each unit shall have its own panel board of adequate capacity to accommodate all electrical outlets which serve that unit.

8. **Impact Sound Insulation.** The applicant/owner shall demonstrate that wall and ceiling assemblies conform to the sound insulation performance criteria promulgated in Title 25, California Administrative Code, Section 1092, or its successor, and that any floor covering which is replaced similarly provides the same or greater insulation qualities.

9. **Storage Requirements.** Private, enclosed, weatherproofed and lockable outdoor storage space shall be provided for each dwelling unit according to the following schedule:

Number of Bedrooms	Minimum Space in Cubic Feet	Least Dimension
Studio or 1	150	2 feet
2	200	2 feet
3	250	2 feet
4	300	2 feet

The above space shall be provided in the garage or parking area or contiguous to each unit. This requirement may be waived by the Director of Community Development if it is determined that sufficient storage space exists to reasonably ~~fill-attain~~ this standard.

10. Private and Common Area Open Space. ~~The Planning Commission and City Council shall review~~†The adequacy of open space shall be reviewed in terms of area and privacy standards. Private outdoor space shall be provided for each unit, where practical. The amount of space shall be determined in each case by the size of the unit and amount of common open space. Adjoining units shall be redesigned or landscaped in such a manner so as to preclude visual intrusion into private outdoor yards or interior spaces, where practical.

11. Noise Mitigation. Appropriate site design and construction techniques shall be utilized to ensure isolation from excessive noise sources outside of the project boundary and to ensure acoustical privacy between adjoining units. If the Director of Community Development determines that an excessive external noise source exists, the developer shall retain an acoustical engineer to evaluate the noise impact on the proposed residential development and develop mitigation measures. The construction shall comply with the applicable City ordinances and State codes relating to sound transmission control to ensure acoustical privacy between adjoining dwelling units.

12. Interim Maintenance Standards. The developer shall be responsible for improving and maintaining the structures and landscaping in accordance with the approved architectural and landscaping plans and good maintenance practices prior to turning them over to the homeowners association. A performance bond shall be collected to ensure compliance with this requirement.

19.116.040 Parking.

A. Off-Street Parking. The project shall provide parking consistent with the multi-family ~~zone-zoning district~~ and the owner shall demonstrate that additional spaces exist to reasonably accommodate guest parking.

B. Applicability of City Ordinances Regulating Parking of Trailers and Recreational Vehicles, Etc. Chapter 19.124, regulating parking and trailers, repairing vehicles, etc., shall apply to the private street(s) and to all parking along such street(s). The parking of recreational vehicles such as boats, trailers, etc., shall be prohibited throughout the entire development unless such parking is within an enclosed area. Vehicular curb parking along the private street(s) shall be prohibited except in designated areas. Appropriate "No Parking" signs shall be installed by the applicant.

19.116.050 Application Requirements.

A. In addition to the requirements of Title 18 of this code (~~subdivisions~~Subdivisions)

and the Subdivision Map Act, an application for the conversion of rental housing into ~~community housing~~any common interest development shall require the submittal of the following data, which data must be submitted to the Director of Community Development at the same time the tentative map is submitted:

Consistency

1. A complete legal description of the property;

2. Certification that all tenants in any buildings or structure proposed to be converted have been notified individually and in writing prior to the time of filing an application hereunder;

3. A boundary map showing the existing topography of the site and the location of all existing easements, structures and other improvements, and trees over four inches in diameter;

Clarification

4. The proposed organizational documents. In addition to such covenants, conditions and restrictions that may be required by the ~~Department-Bureau~~ of Real Estate of the State of California pursuant to Title 6 (Condominiums) of the Civil Code or other State laws or policies, the organization documents shall provide for the following:

- a. Conveyance of units,
- b. Assignment of parking and management of common areas within the project,
- c. A proposed annual operating budget containing a sinking fund to accumulate reserve funds to pay for major anticipated maintenance, repair or replacement expenses,
- d. FHA regulatory agreement, if any,
- e. The most recent balance sheet of the association,

5. A provision that the annual assessments to members of any association shall provide for penalties for late payments and reasonable attorney's fees and costs in the event of default of the members;

6. A provision that Aallows the association to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties after any association assumes control of the project or any time thereafter;

Clarification

7. A property report describing the condition and estimating the remaining useful life of each of the following elements of each structure situated within the project proposed for conversion: roofs, foundations, exterior paint, paved surfaces, mechanical systems, electrical systems, plumbing systems, including sewage systems, sprinkler systems for landscaping, utility delivery systems, central or community heating and air conditioning systems, fire protection systems including any automatic sprinkler systems, alarm systems, or standpipe systems, and structural elements. Such report shall be prepared by a registered civil or structural engineer, or a licensed general building contractor or general engineering contractor;

8. A structural pest report prepared by a licensed structural pest control operator pursuant to Section 8516 of the CA Business and Professions Code, relating to written reports on the absence or presence of wood-destroying pests or organisms;

9. A structural report describing the physical elements of the project ~~shall be submitted to the Planning Department with the final map. The report shall~~ that also ~~identify~~ identifies any structural elements which are known to be structurally defective or unsafe so as to impose a hazard to the health and safety of the occupants or users of the improvements, with the final map submittal. The Director of Community Development shall maintain a form containing a reasonable list of physical elements to be described in the report, which form shall be made available to the applicant. The applicant shall arrange for project inspections by the Building Department to verify the accuracy of the deficiencies noted in the structural report. The Building Official shall prepare a report detailing building code deficiencies or other health and safety deficiencies which must be corrected prior to sale of units of occupancy;

10. A building history report including the following:

- a. The date of construction of all elements of the project,
- b. A statement of the major uses of the project since construction,
- c. The date and description of each major repair of any element since the date of construction,

- d. The date and description of each major renovation of any element since the date of construction,

- e. A statement regarding current ownership of all improvements and underlying land,

- f. The name and address of each present tenant of the project,

- g. Failure to provide information required by subsections A1 through A6 of this section, inclusive, shall be accompanied by an affidavit, given under penalty of perjury, setting forth in detail all efforts undertaken to discover such information and all reasons why such information cannot be obtained;

11. A rental history detailing the size in square footage, the current or last rental rate, the monthly rental rate for the preceding two years, and the monthly vacancy over the preceding two years of each rental unit proposed to be converted;

12. Condominium Plan. The application for final subdivision map shall include a copy of the condominium plan prepared pursuant to the CA Civil Code, Section 1351. The plan shall be submitted for the information of the local governing body and need not be part of the subdivision map;

13. Project Organization. A written description regarding the proposed project organization including the use and control of the common elements and recreation facilities within the project shall be submitted ~~to the Planning Department~~ with the tentative map. The statement shall detail any proposed control of common facilities to be retained by the developer or to be owned or maintained by any other organization other than the homeowners association or unit owners.

14. True Copy of Application for Final Public Report and Supplemental Questionnaire. The application shall include the following information, except that if the

Clarification/Redundancy

Redundancy

Clarification

information required to be furnished below is not available at time of application, as a condition of approval of the permits issued pursuant to this Chapter, the developer shall provide this information to the City within ten days of issuance by the Bureau of Real Estate:

a. A true copy of each application submitted ~~for issuance of a final public report~~ to the ~~Department~~ Bureau of Real Estate of the State of California ~~for issuance of a final public report~~ for the project proposed for conversion, including all attachments and exhibits ~~thereto~~ required ~~by the Department~~ pursuant to Section 11011 of the Business and Professions Code.

b. A true copy of the statement of compliance (Form 643, as amended) pursuant to 10 California Administrative Code, Section 2792.9, or its successor, relating to operating and maintenance funds during the early stages of ownership and operation by the homeowner's association startup.

c. A statement whether the developer will provide any capital contribution to ~~our~~ the homeowner's association for deferred maintenance of the common areas, and if so, the sum and date on which the association will receive said sum;

15d. A true copy of the supplemental questionnaire for apartments converted to common interest developments submitted to the ~~Department~~ Bureau of Real Estate of the State of California ~~for the project proposed for conversion, and shall include including~~ all attachments and exhibits ~~thereto~~;

provided, however, that to the extent the information required to be furnished pursuant to subsections A14 and A15 of this section is not available at the time of application, any conditional use permit issued under this part shall require the developer to furnish such information to the City within ten days of issuance by the Department of Real Estate;

1615. Relocation Displacement Plan. A relocation displacement plan shall detail the number of residents which will be displaced as a result of the proposed conversion and document the reasonable availability of comparable replacement housing in the Cupertino area within a rental range equal to the range which the tenants have paid as detailed in a rental report (See Section 19.116.050A11) or within a price range which is equal to or less than twenty-five percent of the income range of each household to be displaced as a result of the conversion whichever is higher. Additionally, replacement housing must be shown to meet any special needs, which are presently available in the project, of displaced tenants such as facilities for the handicapped, elderly, households with children, and availability of public transportation for the elderly or resident buyers who are temporarily displaced pending completion of improvements to the units being purchased;

1716. Soils Report. A true copy of the soils report originally prepared for the subject property. In cases where a soils report has never been prepared or when information in previous reports is considered insufficient ~~as determined by the Director of Planning and~~

Moved from below

Clarification

Moved above

~~Development~~, then the developer shall provide a soils report prepared by a registered civil engineer, or equivalent, which details information as determined by the Director of Public Works;

~~1817.~~ All information required by Chapter 18.16 or Chapter 18.20, as the case may be, Chapter 19.12, ~~and~~ Chapter 19.80, and such information which the Planning Commission or the Director of Community Development determines is necessary to evaluate the proposed project.

19.116.060 Application Procedures.

A. Zoning. Any apartment house project proposed to be converted to a common interest development shall be rezoned to the R1C (single-family cluster) or P(~~Res~~) (planned development project with ~~single-family~~ residential intent) zoning district.

B. Use Permit and Tentative Map or Parcel Map Required. No conversion shall be permitted unless and until a conditional use permit and tentative map or parcel map has been applied for and issued pursuant to and in accordance with the provisions of this chapter and the requirements of the Subdivision Map Act or its successor.

C. Property and Structural Pest Report.

1. After reviewing the property, structural and structural pest reports required to be submitted pursuant to Section 19.116.050A8 and inspecting the structures situated within the project when he or she deems such inspection necessary, the Building Official shall identify all items if evidenced by such reports and/or inspection to be hazardous to the life, health or safety of the occupants of such structure within the project, or the general public. Each permit issued hereunder shall require all of such items to be corrected to the satisfaction of the Building Official.

2. The Building Official shall review the property report and may require its revision and resubmission if he or she determines that substantial evidence shows that any statement therein is without foundation or fact. The report may be revised to reflect improvement, repair or replacement.

D. Project Organization~~al~~ Document Review. The project organization~~al~~ documents shall be submitted to the City Attorney for a determination that such documents comply with the requirements of this chapter and the applicable State laws.

E. Compliance with Housing, Building Codes and Fire Regulations. If the proposed project does not comply with the provisions of the State of California Uniform Building Code and regulations of the Santa Clara Central Fire Protection District, and/or the Building Official identifies items to be corrected as provided in the above, any use permit issued pursuant to this part shall require the developer to furnish a bond, in a penal amount equal to the reasonable estimated cost to bring their project into compliance with such codes, such fire regulations and/or such identified items to be corrected. The bond shall run in favor of the individual purchasers and the homeowners association and shall

provide for reasonable attorney's fees in the event of default by the principal. The City shall hold the bond pending issuance of the certificate of completion.

F. Public Hearings.

1. ~~The tentative map, use permit and rezoning portion of the application will be heard in a public hearing before the Planning Commission. The City Council is the approval authority for condominium conversion applications with a recommendation for approval or denial from the Planning Commission will recommend either approval or denial to the City Council.~~

2. If the City Council approves the proposed conversion, the applicant will be required to submit detailed ~~site improvement~~ plans with an application for Architectural and Site Approval to the Planning Commission for any exterior alterations or improvements to the buildings and/or landscaping.

~~2.~~ The Planning Commission will make a final recommendation to the City Council regarding the improvements. The City Council's final action will be a review of the architectural plan ~~and final map~~ to determine approval or denial of the project.

3. The final map for the project will be reviewed in compliance with Title 18, Subdivisions of the Municipal Code.

G. Letter Certifying Compliance. The Director of Community Development shall cause a final inspection of all buildings and structures to be made, upon request by the developer, to determine that the requirements of this chapter have been fulfilled. The Building Official shall then mark the inspection report to show the corrections, repairs and replacements which have been made. If complete, the Director will cause to be issued a letter certifying compliance with all of the conditions and approvals and with this title and authorize sale and/or occupancy of the units. No building or unit applied for under this chapter shall be sold without the letter certifying compliance and approving occupancy.

Clarification

Attachment 3: Policies of Surrounding Cities Regarding Storage Containers

Cities	If visible from public right-of-way/sidewalk
Sunnyvale	<ul style="list-style-type: none"> ▪ Not allowed
Mountain View	<ul style="list-style-type: none"> ▪ Only allowed during active building construction and as approved by Building Official with active building permit.
Palo Alto	<ul style="list-style-type: none"> ▪ Only allowed for ninety (90) days at an active construction site with valid building permit ▪ Subject to Accessory Structure setbacks (not within the front yard.)
Campbell	<ul style="list-style-type: none"> ▪ In conjunction with active building permit as approved by the Building Official. ▪ One (1) year from date of installation
Los Gatos	<ul style="list-style-type: none"> ▪ Up to seventy-two (72) hours and no more than two (2) occasions in a calendar year; or ▪ When engaged in ongoing construction activity, with an active building permit.
Los Altos	<ul style="list-style-type: none"> ▪ No more than three days (72 hours) in one week
Saratoga	<ul style="list-style-type: none"> ▪ No more than five (5) consecutive days and not in excess of a total of eighteen days in any calendar year.
Cupertino	<ul style="list-style-type: none"> ▪ Existing: Not allowed ▪ Proposed: Not allowed in excess of up to fifteen (15) days and no more two (2) occasions in a calendar year