

EXHIBIT 1

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MODEL ORDINANCE

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CUPERTINO AMENDING CHAPTER 19.28, SINGLE FAMILY RESIDENTIAL ZONES (R1) OF THE CUPERTINO MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF CUPERTINO DOES ORDAIN AS FOLLOWS:

Chapter 19.28 of the Municipal Code of Cupertino is hereby amended to read as follows:

Chapter 19.28

SINGLE-FAMILY RESIDENTIAL (R1~~R-1~~) ZONES

Sections:

- 19.28.010 Purposes.
- 19.28.020 Applicability of rRegulations.
- 19.28.030 Permitted ~~u~~Uses.
- 19.28.040 Conditional ~~u~~Uses.
- 19.28.050 ~~Site-d~~Development rRegulations (Site).
- 19.28.060 Development regulations (Building). ~~Lot coverage, building setbacks, height restrictions and privacy mitigation measures for nonaccessory buildings and structures.~~
- 19.28.070 Landscape Requirements.
- 19.28.080~~19.28.070~~ Permitted ~~y~~Yard ~~e~~Encroachments.
- 19.28.090 Minor Residential Permit.
- 19.28.100 Two-Story Residential Permit.
- ~~19.28.110~~~~19.28.080~~ Exceptions ~~for prescriptive design regulations.~~
- ~~19.28.090 Residential design approval.~~
- 19.28.120~~19.28.100~~ Development rRegulations–Eichler (R1-e~~R-1e~~).
- 19.28.130~~19.28.105~~ Development rRegulations–(R1-a~~R-1a~~).
- ~~19.28.110 Procedure for exceptions and residential design approvals.~~
- ~~19.28.120 Solar design.~~
- 19.28.140~~19.28.130~~ Interpretation by the Planning Director.
- ~~19.28.140 Appendix A Landscape Mitigation Measures.~~
- ~~19.28.150 Appendix B Release of Privacy Protection Measures.~~
- ~~19.28.160 Appendix C Privacy Protection Planting Affidavit.~~

19.28.010 Purposes.

R1 ~~R-1~~ single-family residence districts are intended to create, preserve and enhance areas suitable for detached dwellings in order to:

- A. Enhance the identity of residential neighborhoods;
- B. Ensure provision of light, air and a reasonable level of privacy to individual residential parcels;
- C. Ensure a reasonable level of compatibility in scale of structures within residential neighborhoods;
- D. Reinforce the predominantly low-intensity setting in the community; (Ord. 1868, (part), 2001; Ord. 1860, §1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1601, Exh. A (part), 1992)

19.28.020 Applicability of Regulations.

No building, structure or land shall be used, and no building or structure shall be hereafter erected, structurally altered or enlarged in an [R1 R-1](#) single-family residence district other than in conformance with the provisions of this chapter and other applicable provisions of this title. (Ord. 1860, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1601, Exh. A (part), 1992)

19.28.030 Permitted Uses.

The following uses shall be permitted in the [R1 R-1](#) single-family residence district:

- A. Single-family use;
- B. A second dwelling unit conforming to the provisions, standards and procedures described in Chapter 19.82, except for those second dwelling units requiring a conditional use permit;
- C. Accessory facilities and uses customarily incidental to permitted uses and otherwise conforming with the provisions of Chapter 19.80 of this title;
- D. Home occupations ~~when accessory to permit requirements contained in~~ [accordance with the provisions of](#) Chapter 19.92;
- E. Horticulture, gardening, and growing of food products for consumption by occupants of the site;
- F. Residential care facility that is licensed by the appropriate State, County agency or department with six or less residents, not including the provider, provider family or staff;
- G. Small-family day care home;
- [H. Group care activities with six or fewer people;](#)
- ~~H.I.~~ The keeping of a maximum of four adult household pets, provided that no more than two adult dogs or cats may be kept on the site;
- ~~I.J.~~ Utility facilities essential to provision of utility services to the neighborhood but excluding business offices, construction or storage yards, maintenance facilities, or corporation yards;
- ~~J.K.~~ Large-family day care homes, which meets the parking criteria contained in Chapter 19.100 and which is at least three hundred feet from any other large-family day care home. The Director of Community Development or his/her designee shall administratively approve large day care homes to ensure compliance with the parking and proximity requirements;
- ~~K.L.~~ Congregate residence with ten or less residents. (Ord. 1860, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1688, § 3 (part), 1995; Ord. 1657, (part), 1994; Ord. 1601, Exh. A (part), 1992)

19.28.040 Conditional Uses.

The following uses may be conditionally allowed in the ~~R1 R-1~~ single-family residence district, subject to the issuance of a conditional use permit:

- A. Issued by the Director of Community Development:
 1. Temporary uses, subject to regulations established by Chapter 19.124;
 2. Large-family day care home, which otherwise does not meet the criteria for a permitted use. The conditional use permit shall be processed as provided by Section 15.97.46(3) of the State of California Health and Safety Code;
 3. Buildings or structures which incorporate solar design features that require variations from setbacks upon a determination by the Director that such design feature or features will not result in privacy impacts, shadowing, intrusive noise or other adverse impacts to the surrounding area;
 4. Second dwelling units which require a conditional use permit pursuant to Chapter 19.84;
 5. Home occupations requiring a conditional use permit pursuant to Chapter 19.92 of this title.
- B. Issued by the Planning Commission:
 1. Two-story structures in an area designated for a one-story limitation pursuant to Section 19.28.060 ~~G(6)E2~~ of this chapter, provided that the Planning Commission determines that the structure or structures will not result in privacy impacts, shadowing, or intrusive noise, odor, or other adverse impacts to the surrounding area;
 2. Group care activities with greater than six persons;
 3. Residential care ~~facilities~~ facility that fall into the following categories: that is not required to obtain a license by the State, County agency or department and has six or less residents, not including the providers, provider family or staff;
 - a. Facility that is not required to obtain a license by the State, County agency or department and has six or less residents, not including the providers, provider family or staff;
 - b. Facility that has the appropriate State, County agency or department license and seven or greater residents, not including the provider family or staff, is a minimum distance of five hundred feet from the property boundary of another residential care facility;
 - c. Facility that is not required to obtain a license by the State, County agency or department and has seven or greater residents, not including the provider family or staff, is a minimum distance of five hundred feet from the property boundary of another residential care facility;
 4. ~~Residential care facility that has the appropriate State, County agency or department license and seven or greater residents, not including the provider family or staff, is a minimum distance of five hundred feet from the property boundary of another residential care facility;~~
 5. ~~Residential care facility that is not required to obtain a license by the State, County agency or department and has seven or greater residents, not including the provider family or staff, is a minimum distance of five hundred feet from the property boundary of another residential care facility;~~

~~6.4.~~ Congregate residence with eleven or more residents, which is a minimum distance of one thousand feet from the boundary of another congregate residence and has a minimum of seventy-five square feet of usable rear yard area per occupant. (Ord. 1860, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1784, (part), 1998; Ord. 1688, §3 (part), 1995; Ord. 1657, (part), 1994; Ord. 1618, (part), 1993; Ord. 1601, Exh. A (part), 1992)

19.28.050 Site-Development Regulations (Site).

A. Lot Area Zoning Designations.

1. Lot area shall correspond to the number (multiplied by one thousand square feet) following the ~~R1R-1~~ zoning symbol. Examples are as follows:

Zoning Symbol	Number	Minimum Lot Area in Square Feet
<u>R1</u>	<u>5</u>	<u>5,000</u>
R1R-1	6	6,000
R1R-1	7.5	7,500
R1R-1	10	10,000
R1R-1	20	20,000

~~The minimum lot size in an R-1 zone is six thousand square feet.~~

2. Lots, which contain less area than required by subsection A(1) of this section, Section 19.28.050 A-1, but not less than five thousand square feet, may nevertheless be used as building sites, provided that all other applicable requirements of this title are fulfilled.
- B. Lot Width. The minimum lot width shall be sixty feet measured at the front-yard setback line, except in the R1-5 district where the minimum lot width is fifty feet.
- C. Development on Slopes of Thirty Percent or Greater.
1. Site plans for all development proposals shall include topographical information at contour intervals not to exceed ten feet. Areas where slopes are thirty percent or greater shall be identified on the site development plan.
 2. Buildings proposed on a portion of a lot with slopes of thirty percent or greater shall be developed in accordance with the site development and design standards specified in Sections 19.40.050 through 19.40.140 of the Residential Hillside ordinance, Chapter 19.40, or the ~~R1R-1~~ zoning ordinance, Chapter 19.28, whichever specific regulation is more restrictive.
 3. No structure or improvements shall occur on slopes of thirty percent or greater unless an exception is granted in accordance with Section 19.40.140, unless no more than five hundred square feet of development, including grading and structures, occurs on an area with a slope of thirty percent or greater. (Ord. 1886, (part), 2001; Ord. 1868, (part), 2001; Ord. 1860, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1635, § 1 (part), 1993; Ord. 1601, Exh. A (part), 1992)

D. An application for building permits filed and accepted by the City (fees paid and permit number issued) on or before **January 1, 2005** may proceed with application processing under the ordinances in effect at that time.

19.28.060 Development Regulations (Building).~~Lot Coverage, Building Setbacks, Height Restrictions and Privacy Mitigation Measures for Nonaccessory Buildings and Structures.~~

- A. Lot Coverage. The maximum lot coverage shall be forty-five percent of the net lot area. An additional five percent of lot coverage is allowed for roof overhangs, patios, porches and other similar features not substantially enclosed by exterior walls.
- B. Floor Area Ratio. The objective of the floor area ratio (FAR) is to set an outside (maximum) limit for square footage. The FAR shall be used in conjunction with the residential development standards and guidelines in this ordinance in determining whether the mass and scale of the project is compatible with the surrounding neighborhood.
1. The maximum floor area ratio of all structures on a lot shall be forty-five percent.~~Any new single-story house, or single-story addition to an existing house may not cause the floor area ratio of all structures on the lot to exceed forty-five percent.~~
 - 2.~~Any new two-story house, or second-story addition to an existing house, may not cause the floor area ratio of all structures on the lot to exceed thirty-five percent, unless discretionary design approval is first obtained from the Design Review Committee pursuant to Section 19.28.090. In no event shall such floor area ratio exceed forty-five percent of the net lot area.~~
 - 3.~~The floor area of a second story shall not exceed thirty-five percent of the existing or proposed first story or six hundred square feet, whichever is greater.~~
 2. The maximum floor area of a second story shall be fifty percent of the existing or proposed first story floor area, or eight hundred square feet, whichever is greater.
 3. Interior areas with heights above sixteen feet, measured from the floor to the top of the roof-rafters, have the mass and bulk of a two-story house and shall be counted as floor area.
 - a. If the house is a two-story house, this area will count as second story floor area; otherwise, the area will count as first floor area.
 - b. A floor area allowance of seventy-five square feet shall be provided for two-story projects to partially offset the stairway area that would otherwise be counted under subsection B(3) of this section.
- C. Design Guidelines.
1. Any new two-story house, or second-story addition to an existing house, shall be generally consistent with the adopted single-family residential guidelines. The Director of Community Development shall review the project and shall determine that the following items are met prior to issuance of building permits:
 - a. The mass and bulk of the design ~~shall~~ should be reasonably compatible with the predominant neighborhood pattern. ~~New construction shall not be disproportionately larger than or out of scale with the neighborhood pattern in terms of building forms, roof pitches, eave heights, ridge heights, and entry feature heights;~~

- b. New construction should be harmonious in scale and design with the predominant neighborhood pattern.
- ~~b.c.~~ The design ~~shall~~ should use vaulted ceilings rather than high exterior walls to achieve higher volume interior spaces;
- ~~e.d.~~ ~~For projects with three-car garages oriented to the public right-of-way, the wall plane of the third space shall be set back a minimum of two feet from the wall plane of the other two spaces, or shall incorporate a tandem space.—~~There ~~shall~~ should not be a three-car wide driveway curb cut.
- e. No more than fifty percent of the front elevation of a house should consist of garage area.
- f. Long, unarticulated, exposed second story walls should be avoided since it can increase the apparent mass of the second story.
- g. The current pattern of side setback and garage orientation in the neighborhood should be maintained.
- h. When possible, doors, windows and architectural elements should be aligned with one another vertically and horizontally and symmetrical in number, size and placement.
- i. Porches are encouraged.
- j. Living area should be closer to the street, while garages should be set back more.
- k. All second story roofs should have at least a one-foot roof overhang.

~~2.If the Director does not find that the proposal is generally consistent with this section, then an application must be made for design approval from the Design Review Committee pursuant to Section 19.28.090.~~

D. Setback—First Story (~~Nonaccessory Structures~~):

1. Front Yard. The minimum front yard setback is twenty feet; provided, that for a curved driveway the setback shall be a minimum of fifteen feet as long as there are no more than two such fifteen-foot setbacks occurring side by side.
2. Side Yard. The combination of the two side yard setbacks shall be fifteen feet, except that no side yard setback may be less than five feet. ~~At least one of two side yard setbacks must be no less than ten feet. The other side yard setback must be no less than five feet.~~

~~Notwithstanding the above, a lot less than sixty feet in width and less than six thousand square feet shall have a minimum side yard setback of five feet on each side yard. In instances where an addition is proposed to an existing building having both side yard setbacks less than ten feet, the wider setback shall be retained and the narrower setback must be at least five feet. In the case of a corner lot, a minimum side yard setback of twelve feet on the street side of the lot is required.~~

- a. For a corner lot, the minimum side-yard setback on the street side of the lot is twelve feet. The other side yard setback shall be no less than five feet.
- b. For interior lots in the R1-5 district, the side yard setbacks are five feet on both sides.

- c. For lots that have more than two side yards, the setback shall be consistent for all side yards between the front property line and the rear property line.
 - 3. Rear Yard. The minimum rear yard setback is twenty feet. ~~The rear setback may be reduced to ten feet if, after the reduction, the usable rear yard is not less than twenty times the lot width as measured from the front setback line.~~
 - a. With a Minor Residential Permit subject to Section 19.28.090, the rear setback may be reduced to ten feet if, after the reduction, the usable rear yard is not less than twenty times the lot width as measured from the front setback line.
 - 4. Garage. The front face of a garage in an R1 district shall be set back a minimum of twenty feet from a street property line.
 - a. For projects with three-car garages oriented to the public right-of-way, the wall plane of the third space shall be set back a minimum of two feet from the wall plane of the other two spaces.
- E. Setback–Second Floor (~~Nonaccessory Structures~~):
 - 1. The minimum front and rear setbacks are twenty-five feet.
 - 2. In the case of a flag lot, the minimum setback is twenty feet from any property line. ~~The minimum side setbacks are ten feet, provided that in the case of a flag lot, the minimum setback is twenty feet from any property line, and in the case of a corner lot, a minimum of twelve feet from a street side property line and twenty feet from any rear property line of an existing, developed single family dwelling.~~
 - 3. In the case of a corner lot, a minimum setback is twelve feet from a street side property line and twenty feet from any rear property line of a single-family dwelling.
 - 3. ~~Setback Surcharge. A setback distance equal to fifteen feet shall be added in whole or in any combination to the front and side yard setback requirements specified in subsection E2 of this section. A minimum of five feet of the fifteen feet shall be applied to the side yard(s).~~
 - 4. ~~Accessory Buildings/Structures. Chapter 19.80 governs setbacks, coverage and other standards for accessory structures.~~
 - 5. ~~The height of second story walls are regulated as follows:~~
 - a. ~~Fifty percent of the total perimeter length of second story walls shall not have exposed wall heights greater than six feet, and shall have a minimum two foot high overlap of the adjoining first story roof against the second floor wall. The overlap shall be structural and shall be offset a minimum of four feet from the first story exterior wall plane.~~
 - b. ~~All second story wall heights greater than six feet, as measured from the second story finished floor, are required to have building wall offsets at least every twenty four feet, with a minimum two foot depth and six-foot width. The offsets shall comprise the full height of the wall plane.~~
 - c. ~~All second story roofs shall have a minimum of one foot eaves.~~
- F. Basements.
 - 1. The number, size and volume of lightwells and basement windows and doors shall be the minimum required by the Uniform Building Code for egress, light and

- ventilation, except that in the case of a single-story house with a basement, one lightwell may be up to ten feet wide and up to ten feet long.
2. No part of a lightwell retaining wall may be located within a required setback area except as follows:
 - a. The minimum side setback for a lightwell retaining wall shall be five feet;
 - b. The minimum rear setback for a lightwell retaining wall shall be ten feet.
 3. Lightwells that are visible from a public street shall be screened by landscaping.
 4. Railings for lightwells shall be no higher than three feet in height and shall be located immediately adjacent to the lightwell.
 5. The perimeter of the basement and all lightwell retaining walls shall be treated and/or reinforced with the most effective root barrier measures, as determined by the Director of Community Development.

G. Height.

1. Maximum Building Height. The height of any principal dwelling in an R1 zone shall not exceed twenty-eight feet, not including fireplace chimneys, antennae or other appurtenances.
2. Building Envelope (One Story).
 - a. The maximum exterior wall height and building height of single-story structures and single-story sections of two-story structures must fit into a building envelope defined by:
 1. A ten-foot high vertical line measured from natural grade measured at the property line;
 2. A twenty-five-degree roof line angle projected inward at the ten-foot high line referenced in subsection G(2)(a)(1) of this section.
 - b. Notwithstanding the building envelope in subsection G(2)(a) of this section, a gable end of a roof enclosing an attic space may have a maximum wall height of seventeen feet to the peak of the roof as measured from natural grade, or up to twenty feet with a Minor Residential Permit.
3. Building Envelope (Two Story).
 - a. The maximum exterior wall height and building height of two-story structures must fit into a building envelope defined by:
 1. A ten-foot high vertical line measured from natural grade at the property line;
 2. A forty-five degree roof line angle projected inward at the ten-foot high line referenced in subsection G(3)(a)(1) of this section.
4. Second Story Wall Heights. Fifty percent of the total perimeter length of second story walls shall not have exposed wall heights greater than six feet, and shall have a minimum two-foot high overlap of the adjoining first story roof against the second story wall. The overlap shall be structural and shall be offset a minimum of four feet from the first story exterior wall plane.
 - a. The Director of Community Development may approve an exception to this regulation based on the findings in Section 19.28.110 D.
5. Entry Feature Height. The maximum entry feature height shall be fourteen feet.

6. Areas Restricted to One Story. The City Council may prescribe that all buildings within a designated area be limited to one story in height (not exceeding eighteen feet) by affixing an “i” designation to the R1 zoning district.

~~G. Additional Site Requirements.~~

~~1. Height.~~

~~a. Maximum Building Height. The height of any principal dwelling in an R-1 zone shall not exceed twenty-eight feet, not including fireplace chimneys, antennae or other appurtenances.~~

~~b. The maximum exterior wall height and building height on single-story structures and single-story sections of two-story structures must fit into a building envelope defined by:~~

~~i. A twelve-foot high vertical line measured from natural grade and located five feet from property lines;~~

~~ii. A twenty-five-degree roof line angle projected inward at the twelve-foot high line referenced in subsection F1bi of this section.~~

~~Notwithstanding the above, a gable end of a roof enclosing an attic space may have a maximum wall height of twenty feet to the peak of the roof as measured from natural grade.~~

~~2. Heights exceeding twenty feet shall be subject to the setback regulations in subsection E of this section.~~

~~3. Areas Restricted to One Story. The City Council may prescribe that all buildings within a designated area be limited to one story in height (not exceeding eighteen feet) by affixing to the R-1 zoning district, the designation “i”; provided however, that the limitation may be removed through use permit approval, as provided in Section 19.28.040B by the Planning Commission.~~

~~4. The maximum entry feature height, as measured from finish grade to the top of the wall plate, shall be fourteen feet.~~

~~5. No blank single-story side walls longer than sixteen feet shall face a public right-of-way without at least one of the following: (a) at least one offset with a minimum two-foot depth and six-foot width; the offset shall comprise the full height of the wall plane; (b) window of at least thirty inches by thirty inches; (c) entry feature leading to a door; (d) trellis with landscape screening.~~

~~6. Exceptions for Hillside Areas. Notwithstanding any provisions of subsection F1 of this section to the contrary, the Planning Commission may make an exception for heights to exceed twenty-eight feet under certain circumstances:~~

~~a. The subject property is in a hillside area and has slopes of ten percent or greater;~~

~~b. Topographical features of the subject property make an exception to the standard height restrictions necessary or desirable;~~

~~c. In no case, shall the maximum height exceed thirty feet for a principal dwelling or twenty feet for an accessory building or dwelling;~~

~~d. In no case, shall the maximum height of a structure located on prominent ridgelines, on or above the four-hundred-fifty-foot contour exceed twenty feet in height.~~

H. Second Story Decks. All new or expanded second story decks with views into neighboring residential side or rear yards shall file for a Minor Residential Permit subject

to Section 19.28.090 in order to protect the privacy of adjoining properties. The goal of the permit requirement is not to require complete visual protection but to address privacy protection to the greatest extent while still allowing the construction and use of an outdoor deck. This section applies to second-story decks, patios, balconies, or any other similar unenclosed features.

1. A second-story deck or patio may encroach three feet into the front setback for the principal dwelling.
2. The minimum side-yard setback shall be fifteen feet.
3. The minimum rear-yard setback shall be twenty feet.

I. 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 of adjoining property owners. Any solar structure that requires variation from the setback or height restrictions of this chapter may be allowed only upon issuance of a Minor Residential Permit subject to Section 19.28.090.

~~H. Privacy Protection Requirements:~~

~~1. Required Landscape Planting:~~

~~a. Requirement. In order to address privacy protection and the reduction in visible building mass of new two-story homes and additions, tree and/or shrub planting is required.~~

~~b. Planting Plan. A building permit application for a new two-story house or a second-story addition shall be accompanied by a planting plan which identifies the location, species and canopy diameter of existing trees or shrubs subject to staff approval. New trees or shrubs shall be required on the applicant's property within a cone of vision defined by a thirty degree angle from the side window jambs of all second-story windows (Exhibit 1). New trees or shrubs are not required to replace existing trees or shrubs if an Internationally Certified Arborist or Licensed Landscape Architect verifies that the existing trees/shrubs are consistent with the intent of Appendix A. Applicants for new two-story homes and additions must plant a tree in front of new second stories in the front yard setback area unless there is a conflict with the tree canopies of the public street tree (Appendix A, page 2). The planting is required on the applicant's property, unless the options listed in subsection F1d of this section is applied. This option does not apply to the front yard tree-planting requirement.~~

~~c. Planting Requirements. The minimum size of the proposed trees shall be twenty-four inch box and eight foot minimum planting height. The minimum size of the shrubs shall be fifteen-gallon and six-foot planting height. The planting must be able to achieve a partial screening within three years from planting. The species and planting distance between trees shall be governed by Appendix A. The trees or shrubs shall be planted prior to issuance of a final occupancy permit. An affidavit of planting is required in order to obtain the final occupancy permit (Appendix C).~~

- ~~d. Options. Where planting is required, the applicant may plant on the affected property owners lot in lieu of their own lot or the affected property owner may modify the numbers of shrubs or trees, their types and locations by submitting a waiver to the Community Development Department along with the building permit (Appendix B). This option does not apply to the required tree planting in front yards.~~
- ~~e. Applicability. This requirement shall apply to second story windows and decks with views into neighboring residential yards. Skylights, windows with sills more than five feet above the finished second floor, windows with permanent, exterior louvers up to six feet above the finished second floor, and obscured, non-openable windows are not required to provide privacy protection planting.~~
- ~~f. Maintenance. The required plants shall be maintained. Landscape planting maintenance includes irrigation, fertilization and pruning as necessary to yield a growth rate expected for a particular species. Where required planting dies it must be replaced within thirty days with the size and species as described in Appendix A of this chapter and an updated planting plan shall be provided to the Community Development Department. The affected property owner with privacy protection planting on his or her own lot is not required to maintain the landscaping. (Ord. 1868, (part), 2001; Ord. 1863, (part), 2000; Ord. 1860, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1808 (part), 1999; Ord. 1799 § 1, 1998; Ord. 1784, (part), 1998; Ord. 1637, (part), 1993; Ord. 1635, (part), 1993; Ord. 1630, (part), 1993; Ord. 1601, Exh. A (part), 1992)~~

19.28.070 Landscape Requirements.

To mitigate privacy impacts and the visual mass and bulk of new two-story homes and additions, tree and/or shrub planting is required. The intent of this section is to provide substantial screening within three years of the planting.

- A. Applicability. This requirement shall apply to new two-story homes, second-story decks, two-story additions, or modifications to the existing second-story decks or existing windows on existing two-story homes that increase privacy impacts on neighboring residents. Skylights, windows with sills more than five feet above the finished second floor, windows with permanent, exterior louvers up to six feet above the finished second floor, and obscured, non-openable windows are not required to provide privacy protection planting.
- B. Privacy Planting Plan. Proposals for a new two-story house or a second story addition shall be accompanied by a privacy planting plan which identifies the location, species and canopy diameter of existing and proposed trees or shrubs.
 - 1. New trees or shrubs shall be required on the applicant's property to screen views from second-story windows. The area where planting is required is bounded by a thirty-degree angle on each side window jamb. The trees or shrubs shall be planted prior to issuance of a final occupancy permit.
 - a. New trees or shrubs are not required to replace existing trees or shrubs if an Internationally Certified Arborist or Licensed Landscape Architect

verifies that the existing trees/shrubs have the characteristics of privacy planting species, subject to approval by the Director of Community Development.

b. Affected property owner(s) may choose to allow privacy planting on their own property. In such cases, the applicant must plant the privacy screening prior to issuance of a building permit.

2. Waiver. These privacy mitigation measures may be modified in any way with a signed waiver statement from the affected property owner. Modifications can include changes to the number of shrubs or trees, their species or locations.

C. Front-Yard Tree Planting. Applicants for new two-story homes and two-story additions must plant a tree in front of new second stories in the front yard setback area. The tree shall be 24 inch-box or larger, with a minimum height of six feet. The Director of Community Development can waive this front-yard tree if there is a conflict with existing mature tree canopies on-site or in the public right-of-way.

D. Species List. The Planning Division shall maintain a list of allowed privacy planting trees and shrubs. The list shall include allowed plant species, minimum size of trees and shrubs, expected canopy or spread size, and planting distance between trees.

E. Covenant. The property owner shall record a covenant with the Santa Clara County Records Office that requires the retention of all privacy planting, or use of existing vegetation as privacy planting, prior to receiving a final building inspection from the Building Division. This regulation does not apply to situations described in subsection B(1)(b) of this section.

F. Maintenance. The required plants shall be maintained. Landscape planting maintenance includes irrigation, fertilization and pruning as necessary to yield a growth rate expected for a particular species.

G. Replacement. Where required planting is removed or dies it must be replaced within thirty days with privacy tree(s) of similar size as the tree(s) being replaced, unless it is determined to be infeasible by the Director of Community Development.

19.28.070 Permitted Yard Encroachments.

A. Where a building legally constructed according to existing yard and setback regulations at the time of construction encroaches upon present required yards and setbacks, one encroaching side yard setback may be extended along its existing building lines if the addition receives a Minor Residential Permit and conforms to the following: to no less than three feet from the property line if the applicant obtains written consent from the adjoining property owner thereby affected and receives approval from the Director of Community Development. Only one such extension shall be permitted for the life of such building. This section applies to the first story only and shall not be construed to allow the further extension of an encroachment by any building, which is the result of the granting of a variance or exception, either before or after such property become part of the City.

1. The extension or addition may not further encroach into any required setback and the height of the existing non-conforming wall and the extended wall may not be increased.

2. The maximum length of the extension is fifteen feet.

3. The extension of any wall plane of a first-story addition is not permitted to be within three feet of any property line.
4. Only one such extension shall be permitted for the life of such building.
5. This section applies to the first story only and shall not be construed to allow the further extension of an encroachment by any building, which is the result of the granting of a variance or exception, either before or after such property become part of the City.

~~B. The extension or addition may not further encroach into any required setback; e.g., a single story may be extended along an existing five-foot side yard setback even though the side yard does not equal ten feet. However, in no case shall any wall plane of a first-story addition be placed closer than three feet to any property line.~~

~~C.B.~~ Architectural features (not including patio covers) may extend into a required yard a distance not exceeding three feet, provided that no architectural feature or combination thereof, whether a portion of a principal or auxiliary structure, may extend closer than three feet to any property line. (Ord. 1886, (part), 2001; Ord. 1868, (part), 2001; Ord. 1860, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1808, (part), 1999; Ord. 1618, (part), 1993; Ord. 1601, Exh. A (part), 1992)

19.28.090 Minor Residential Permits.

Projects that require a Minor Residential Permit shall be reviewed in accordance with this section. The purpose of this process is to provide affected neighbors with an opportunity to comment on new development that could have significant impacts on their property or the neighborhood as a whole.

A. Notice of Application. Upon receipt of a complete application, a notice shall be sent by first class mail to all owners of record of real property (as shown in the last tax assessment toll) that are adjacent to the subject property, including properties across a public or private street. The notice shall invite public comment by a determined action date and shall include a copy of the development plans, eleven inches by seventeen inches in size.

B. Decision. After the advertised deadline for public comments, the Director of Community Development shall approve, conditionally approve, or deny the application. The permit can be approved only upon making all of the following findings:

1. The project is consistent with the Cupertino General Plan, any applicable specific plans, zoning ordinance and the purposes of this title.
2. The granting of the permit will not result in a condition that is detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or welfare.
3. The proposed project is harmonious in scale and design with the general neighborhood.
4. Adverse visual impacts on adjoining properties have been reasonably mitigated.

C. Notice of Action. The City Council, Planning Commission, applicant and any member of the public that commented on the project shall be notified of the action by first class mail and electronic mail. Any interested party may appeal the action pursuant to Chapter 19.136, except that the Planning Commission will make the final action on the appeal.

D. Expiration of a Minor Residential Permit. Unless a building permit is filed and accepted by the City (fees paid and control number issued) within one year of the Minor

Residential Permit approval, said approval shall become null and void unless a longer time period was specifically prescribed by the conditions of approval. In the event that the building permit expires for any reason, the Minor Residential Permit shall become null and void. The Director of Community Development may grant a one-year extension without a public notice if an application for a Minor Modification to the Minor Residential Permit is filed before the expiration date and substantive justification for the extension is provided.

E. Concurrent Applications. At the discretion of the Director of Community Development, a Minor Residential Permit can be processed concurrently with other discretionary applications.

19.28.100 Two-Story Residential Permit.

Two-story additions or two-story new homes require a Two-Story Residential Permit in accordance with this section. Two-story projects with a floor area ratio under 35% shall require a Level I Two-Story Residential Permit, while a two-story project with a floor area ratio over 35% shall require a Level II Two-Story Residential Permit.

A. Notice of Application (Level I). Upon receipt of a complete application, a notice shall be sent by first class mail to all owners of record of real property (as shown in the last tax assessment toll) that are adjacent to the subject property, including properties across a public or private street. The notice shall invite public comment by a determined action date and shall include a copy of the development plans, eleven inches by seventeen inches in size.

1. Posted Notice. The applicant shall install a public notice in the front yard of the subject site that is clearly visible from the public street. The notice shall be a weatherproof sign, at least two feet tall and three feet wide firmly attached to a five-foot tall post. The notice shall remain in place until an action has been taken on the application and the appeal period has passed. The sign shall contain the following:

a. The exact address of the property, if know, 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, which shall be at least fourteen days after the date the notice is posted;

e. A black and white orthographic rendering of the front of the house, at least eleven inches by seventeen inches in size. The City shall approve the illustration or rendering prior to posting.

B. Notice of Application (Level II). Upon receipt of a complete application, a notice shall be sent by first class mail to all owners of record of real property (as shown in the last tax assessment toll) that are adjacent to the subject property, including properties across a public or private street. The notice shall invite public comment by a determined action date and shall include a copy of the development plans, eleven inches by seventeen inches in size.

1. Posted Notice. The applicant shall install a public notice consistent with subsection A(1) of this section, except that a colored perspective rendering shall be required instead of a black and white orthographic rendering.
- C. Decision. After the advertised deadline for public comments, the Director of Community Development shall approve, conditionally approve, or deny the application. The permit can be approved only upon making all of the following findings:
1. The project is consistent with the Cupertino General Plan, any applicable specific plans, zoning ordinance and the purposes of this title.
 2. The granting of the permit will not result in a condition that is detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or welfare.
 3. The proposed project is harmonious in scale and design with the general neighborhood.
 4. Adverse visual impacts on adjoining properties have been reasonably mitigated.
- D. Notice of Action. The City Council, Planning Commission, applicant and any member of the public that commented on the project shall be notified of the action by first class mail and electronic mail. Any interested party may appeal the action pursuant to Chapter 19.136, except that the Planning Commission will make the final action on the appeal.
- E. Expiration of a Two-Story Permit. Unless a building permit is filed and accepted by the City (fees paid and control number issued) within one year of the Two-Story Permit approval, said approval shall become null and void unless a longer time period was specifically prescribed by the conditions of approval. In the event that the building permit expires for any reason, the Two-Story Permit shall become null and void. The Director of Community Development may grant a one-year extension without a public notice if an application for a Minor Modification to the Two-Story Permit is filed before the expiration date and substantive justification for the extension is provided.
- F. Concurrent Applications. At the discretion of the Director of Community Development, a Two-Story Permit can be processed concurrently with other discretionary applications.

19.28.110 ~~19.28.080~~ Exceptions for Prescriptive Design Regulations.

Where results inconsistent with the purpose and intent of this chapter result from the strict application of the provisions hereof, exceptions to Sections 19.28.060, 19.28.070 and 19.28.120~~19.28.100~~ may be granted as provided in this section.

- A. Notice of Application. Upon receipt of a complete application, the Community Development Department shall set a time and place for a public hearing before the Design Review Committee and send a notice by first class mail to all owners of record of real property (as shown in the last tax assessment roll) that are within three hundred feet of the subject property. Properties that are adjacent to the subject site, including those across a public or private street, shall receive a reduced scale copy of the plan set with the public notice.
- B. Decision. After closing the public hearing, the decision-maker shall approve, conditionally approve, or deny the application based on the findings in this section. Any interested party can appeal the decision pursuant to Chapter 19.136.
- C. Expiration of an Exception. Unless a building permit is filed and accepted by the City (fees paid and control number issued) within one year of the Exception approval, said approval shall become null and void unless a longer time period was specifically

prescribed by the conditions of approval. In the event that the building permit expires for any reason, the Exception shall become null and void. The Director of Community Development may grant a one-year extension without a public notice if an application for a Minor Modification to the Exception is filed before the expiration date and substantive justification for the extension is provided.

D. Findings for Approval

1. Issued by the Director of Community Development. The Director of Community Development may grant exceptions from the prescriptive design regulation described in Section 19.28.060 G(4) upon making all of the following findings:

- a. The project fulfills the intent of the visible second-story wall height regulation in that the number of two-story wall planes and the amount of visible second story wall area is reduced to the maximum extent possible.
- b. The exception to be granted is one that will require the least modification of the prescribed design regulation and the minimum variance that will accomplish the purpose.
- c. The proposed exception will not result in significant visual impact as viewed from abutting properties.

2. Issued by the Design Review Committee. The Design Review Committee may grant exceptions from the prescriptive design regulations described in Section 19.28.060, except 19.28.060 G(4) and Section 19.28.120 upon making all of the following findings:

- a. The literal enforcement of this chapter will result in restrictions inconsistent with the spirit and intent of this chapter.
- b. The proposed development will not be injurious to property or improvements in the area nor be detrimental to the public safety, health and welfare.
- c. The exception to be granted is one that will require the least modification of the prescribed design regulation and the minimum variance that will accomplish the purpose.
- d. The proposed exception will not result in significant visual impact as viewed from abutting properties.

~~A. Issued by the Director of Community Development. With respect to a request for two-story development which does not meet the development requirements contained in Section 19.28.060H (Privacy Protection Requirements) and Section 19.28.100C, the Community Development Director may grant an exception to allow two-story development if the subject development, based upon substantial evidence, meets all of the following criteria:~~

- ~~1. The literal enforcement of this chapter will result in restrictions inconsistent with the spirit and intent of this chapter.~~
- ~~2. The proposed development will not be injurious to property or improvements in the area nor be detrimental to the public safety, health and welfare.~~
- ~~3. The proposed development is otherwise consistent with the City's General Plan, any applicable specific plan, and with the purposes of this chapter.~~
- ~~4. The adjoining properties are otherwise protected from unreasonable privacy impacts.~~

~~B. Issued by the Design Review Committee (Other Prescriptive Design Regulations). The Design Review Committee may grant exceptions from the prescriptive design regulations described in Section 19.28.060 and Section 19.28.100 exclusive of Section 19.28.060G4 (Hillside Building Heights) upon making all of the following findings:~~

- ~~1. The literal enforcement of the provisions of this chapter will result in restrictions inconsistent with the spirit and intent of this chapter.~~
- ~~2. The granting of the exception will not result in a condition that is materially detrimental to the public health, safety and welfare.~~
- ~~3. The exception to be granted is one that will require the least modification of the prescribed design regulation and the minimum variance that will accomplish the purpose.~~
- ~~4. The proposed exception will not result in significant visual impact as viewed from abutting properties.~~

~~C. Issued by the Planning Commission (Hillside Building Heights). Notwithstanding any provision of Section 19.28.060 G1 to the contrary, the Planning Commission may grant an exception for heights to exceed twenty-eight feet upon making all of the following findings:~~

- ~~1. The subject property is in a hillside area and has slopes of ten percent or greater.~~
- ~~2. Topographical features of the subject property make an exception to the standard height restrictions necessary or desirable.~~
- ~~3. In no case shall the maximum height exceed thirty feet for a principal dwelling or twenty feet for an accessory building.~~
- ~~4. In no case shall the maximum height of a structure located on a prominent ridgeline, on or above the four hundred fifty-foot contour exceed twenty-eight feet. (Ord. 1868, (part), 2001; Ord. 1860, § 1 (part), 2000; Ord. 1844, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1808, (part), 1999)~~

19.28.090—Residential Design Approval.

~~In the event that a proposed development of two stories exceeds a thirty-five percent floor area ratio as prescribed in Section 19.28.060B, or in the event that the Director of Community Development finds that the proposed two-story development does not conform to Section 19.28.060C, the applicant shall apply to the Design Review Committee for design approval to allow for the development; provided, however, in no event shall such application exceed a forty-five percent floor area ratio. In addition to the public hearing and notice requirements described in Section 19.28.110, at least ten days prior to the date of the public hearing, the applicant shall install story poles to outline the proposed building exterior walls and roof as further described by procedures developed by the Director of Community Development.~~

~~The Design Review Committee may grant a special permit only upon making all of the following findings:~~

- ~~A. The project will be consistent with the Cupertino Comprehensive General Plan, any applicable specific plans, zoning ordinances and the purposes of this title.~~
- ~~B. The granting of the special permit will not result in a condition that is detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety or welfare.~~

- ~~C. The proposed addition/home is harmonious in scale and design with the general neighborhood.~~
- ~~D. The proposed addition/home is generally consistent with design guidelines developed by the Director of Community Development.~~
- ~~E. The proposed addition/home will not result in significant adverse visual impacts as viewed from adjoining properties. (Ord. 1868, (part), 2001; Ord. 1860, § 1 (part), 2000; Ord. 1844, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1808, (part), 1999)~~

19.28.120~~19.28.100~~ Development Regulations—Eichler (R1-e)~~(R-1e)~~.

~~R1-e~~R-1e single-family residence “Eichler districts” protect a consistent architectural form through the establishment of district site development regulations. Regulations found in the other sections of this chapter shall apply to properties zoned R1-e~~R-1e~~. In the event of a conflict between other regulations in this chapter and this section, this section shall prevail. Nothing in these regulations is intended to preclude a harmonious two-story home or second story addition.

- A. Setback—First Story.
 - 1. The minimum front yard setback is twenty feet.
- B. Building Design Requirements.
 - 1. Entry features facing the street shall be integrated with the roof line of the house.
 - 2. The maximum roof slope shall be three-to-twelve~~3:12~~ (rise over run).
 - 3. Wood or other siding material located on walls facing a public street (not including the garage door) shall incorporate vertical grooves, up to six inches apart.
 - 4. The building design shall incorporate straight architectural lines, rather than curved lines.
 - ~~5. Second story building wall offsets described in Section 19.28.060 E5b are not required for homes in the R-1-e zone.~~
 - 5. Section 19.28.060 G(4) shall be considered a guideline in the R1-e district.
 - 6. The first floor shall be no more than twelve inches above the existing grade.
 - 7. Exterior walls located adjacent to side yards shall not exceed nine feet in height measured from the top of the floor to the top of the wall plate.
- C. Privacy Protection Requirements.
 - 1. Side and Rear Yard Facing Second Floor Windows. In addition to other privacy protection requirements in Section 19.28.070~~19.28.060H~~, the following is required for all second story windows:
 - a. Cover windows with exterior louvers to a height of six feet above the second floor; or
 - b. Obscure glass to a height of six feet above the second floor; or
 - c. Have a window sill height of five feet minimum above the second floor. (Ord. 1868, (part), 2001; Ord. 1860, § 1 (part), 2000)

19.28.105~~19.28.130~~ Development Regulations—(R1-a)~~(R-1a)~~

R1-a districts are intended to reinforce the semi-rural setting in neighborhoods with large lots. Regulations found in the other sections of this chapter shall apply to properties zoned R1-a. In the event of a conflict between other regulations in this chapter and this section, this section shall prevail.

- A. Lot Area Zoning Designations. The minimum lot size is ten thousand square feet.

- B. Lot Width. The minimum lot width shall be seventy-five feet measured at the front-yard setback line.
- C. Second Story Area. A second floor shall be no more than forty percent of the first floor, except as follows:
1. A second floor may be at least seven hundred square feet ~~700 sq. ft.~~ in area.
 2. In no case shall a second floor be more than one thousand one hundred square feet ~~1,100 sq. ft.~~ in area.
- D. Setback – First Story.
1. Front Yard. The minimum front yard setback is thirty feet.
 2. Side Yard. The minimum side yard setback is ten feet.
 3. Rear Yard. The minimum rear yard setback is twenty feet.
- E. Setback – Second Story.
1. Front Yard. The minimum front yard setback is thirty feet.
 2. Side Yard. The combined side yard setbacks shall be thirty-five feet, with a minimum of fifteen feet.
 3. Rear Yard. The minimum rear yard setback is forty feet.
 - ~~4. The setback surcharge in Section 19.28.060 E(3) does not apply in this district.~~
- F. Second-story Regulations
1. Second story decks shall conform to the second-story building setbacks, and may be located on the front and rear only.
 2. The second-story shall not cantilever over a first-story wall plane.
 3. The front-facing wall plane(s) of the second-story must be offset a minimum of three feet from the first-story wall plane(s). The intent of this regulation is to avoid a two-story wall plane on the front elevation.
- G. Front Yard Paving. No more than fifty percent ~~50%~~ of the front yard setback area may be covered with a combination of impervious or semi-pervious surfaces. No more than forty percent ~~40%~~ of the front yard setback area may be covered with an impervious surface such as concrete or asphalt.
- H. Heights. The maximum exterior wall height and building height on single-story structures and single-story sections of two-story structures must fit into a building envelope defined by:
1. A twelve-foot high vertical line measured from natural grade and located ten feet from property lines;
 2. A twenty-five degree roof line angle projected inward at the twelve-foot high line referenced in subsection H(2)(1a) of this section.
- I. Variation from the R1 and R1-a regulations shall require a Variance pursuant to Chapter 19.124 of the Cupertino Municipal Code in the R1-a district.
- J. Design Review. All two-story development shall require discretionary review ~~from the Design Review Committee~~ based on Section 19.28.100, except that the Design Review Committee shall approve or deny the project at a public hearing based on the findings in subsection N(1) of this section. ~~Discretionary review processes shall be based on Section 19.28.090 of the Cupertino Municipal Code, except as amended by this ordinance.~~
- K. Design Guidelines. The guidelines in this section shall be used in conjunction with the City’s Single Family Residential Design Guidelines. In cases where there may be conflict between the two sets of guidelines, this Section shall take precedence.

Nonconformance with the guidelines shall be considered acceptable only if the applicant shows that there are no adverse impacts from the proposed project.

1. Second-story windows. Windows on the side elevations should be fixed and obscured to a height of six feet above the second floor, should have permanent exterior louvers to a height of six feet above the second floor or should have sill heights of five feet or greater to mitigate intrusion into a neighbor's privacy.
2. All second story wall heights greater than six feet, as measured from the second story finished floor, should have building wall offsets at least every twenty-four feet, with a minimum four-foot depth and ten-foot width. The offsets should comprise the full height of the wall plane.
3. Section 19.28.060 G(4) ~~E(5)(a)~~ shall be considered a guideline in the R1-a district.

~~4. Section 19.28.060 E(5)(b) shall not apply to the R1-a district.~~

5.4. Garages. The maximum width of a garage on the front elevation should be twenty-five feet, which will accommodate a two-car garage. Additional garage spaces should be provided through the use of a tandem garage or a detached accessory structure at the rear of the property.

L. Permitted Yard Encroachments.

1. Where a principal building legally constructed according to existing yard and setback regulations at the time of construction encroaches upon present required yards, one encroaching side yard setback may be extended along its existing building line.
 - a. The extension or addition may not further encroach into any required setback and the height of the existing non-conforming wall and the extended wall may not be increased.
 - b. In no case shall any wall plane of a first-story addition be placed closer than three feet to any property line.
 - c. This section does not apply to attached accessory structures such as attached carports.
 - d. This section applies to the first story only and shall not be construed to allow the further extension of an encroachment by any building, which is the result of the granting of a variance or exception, either before or after such property became part of the City.
2. Architectural features (not including patio covers) may extend into a required yard a distance not exceeding three feet, provided that no architectural feature or combination thereof, whether a portion of a principal or auxiliary structure, may extend closer than three feet to any property line.
3. Front Porch. Traditional, open porches are encouraged in this zone. When viewed from the street, a porch should appear proportionally greater in width than in height. A porch differs from an entry element, which has a proportionally greater height than its width. Use of this yard encroachment provision shall require the approval of the Director of Community Development.
 - a. Posts. Vertical structural supports, such as posts, for porches are allowed to encroach two feet into the required front setback. Structural

supports must be designed such that the appearance is not obtrusive or massive.

- b. Columns. The use of large columns or pillars is discouraged.
- c. Fencing. Low, open fencing for porches are allowed to encroach two feet into the required front setback area.
- d. Eave Height. The eave height for a front porch should not be significantly taller than the eave height of typical single-story elements in the neighborhood.
- e. Detailing. Porch elements should have detailing that emphasizes the base and caps for posts and fence elements.
- f. The porch platform and roof overhang may encroach five feet into the required front setback.

M. Landscaping

- 1. Landscaping plans shall be required for all additions or new homes. The purpose of the landscaping is to beautify the property and to achieve partial screening of building forms from the street and adjacent properties. Specific measures are not prescribed. Generally, the landscaping may include shrubbery, hedges, trees, or lattice with vines on fences.
- 2. Landscaping plans for two-story development shall include specific mitigations for impacts from mass, bulk and privacy intrusion as required by Section [19.28.070](#) ~~19.28.060-H~~ of the Cupertino Municipal Code, except that:
 - a. Privacy planting shall have a minimum setback from the property line equivalent to one-quarter of the spread noted on the City list.
 - b. Privacy trees shall have a minimum height of [twelve](#) ~~12~~-feet at the time of planting.
 - c. Front yard tree planting shall be placed such that views from second-story windows across the street to neighboring homes are partially mitigated.
 - d. The Director may waive the front yard tree based on a report from an internationally certified arborist citing conflict with existing mature trees.

N. Design Review [Findings](#). ~~Procedures and Process~~

- ~~1. Posted Notice. For all new construction, the applicant shall install a public notice in the front yard of the subject site that is clearly visible from the public street. The notice shall be a weatherproof sign, at least two feet tall and three feet wide firmly attached to a five-foot post. The notice shall remain in place until an action has been taken on the application and the appeal period has passed. The sign 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. An 11"x17" illustration of the proposed house when viewed from the street. In cases where design review is required, the illustration shall~~

~~be a perspective rendering and shall include the projected action date. The City shall approve the illustration or rendering prior to posting. 2. Adjacent single family residential properties shall receive a reduced scale copy of the proposed plan set with the mailed notice.~~

- ~~3.1.~~ Findings. The Design Review Committee may approve a design review application for two-story development only upon making all of the findings below:
- a. The project is consistent with the Cupertino General Plan and Title 19 of the Cupertino Municipal Code.
 - b. The granting of this permit will not result in detrimental or injurious conditions to property or improvements in the vicinity, or to the public health, safety or welfare.
 - c. The project is generally compatible with the established pattern of building forms, building materials and designs of homes in the neighborhood.
 - d. The project is consistent with the City's single-family residential design guidelines and the guidelines in this chapter and any inconsistencies have been found to not result in impacts on neighbors.
 - e. Significant adverse visual and privacy impacts as viewed from adjoining properties have been mitigated to the maximum extent possible.

~~19.28.110—Procedure for Exceptions and Residential Design Approvals.~~

- ~~A. Public Hearing Notice. Upon receipt of an application for approval, the Director of Community Development shall set a time and place for a public hearing before the relevant decision maker and order the public notice thereof. A notice of the hearing shall be sent by first class mail to all owners of record of real property (as shown in the last tax assessment roll) within three hundred feet of the subject property.~~
- ~~B. Expiration of an Exception or Residential Design Approval. A decision for approval which has not been used within one year following the effective date thereof, shall become null and void and of no effect unless a shorter time period shall specifically be prescribed by the conditions of the exception. An approval shall be deemed to have been "used" when a complete building permit application is submitted to the Chief Building Official, and continues to progress in a diligent manner. In the event that the building permit application expires, the Residential Design Approval shall become null and void. The Director of Community Development may grant one additional one year extension if an application is filed before the expiration date without further notice and hearing.~~
- ~~C. Decision. After closing the public hearing, the decision maker shall approve, conditionally approve, or deny the application.~~
- ~~D. All decisions regarding approvals contained in this section may be appealed by any interested party pursuant to Chapter 19.136. An appeal of the Design Review Committee decision shall be processed in the same manner as an appeal from the decision of the Director of Community Development.~~
- ~~E. Expiration of an Exception or Residential Design Approval. A decision for approval which has not been used within one year following the effective date thereof, shall become null and void and of no effect unless a shorter time period shall specifically be prescribed by the conditions of the exception. An approval shall be deemed to have been "used" in the~~

~~event of the erection of a structure when sufficient building activity has occurred and, continues to occur in a diligent manner. The Director of Community Development may grant one additional one-year extension if an application is filed before the expiration date without further notice and hearing.~~

~~F. Concurrent Applications. Notwithstanding any provision of this chapter to the contrary, an application for exception or residential design review may, at the discretion of the Director of Community Development, be processed concurrently with other land use approvals. (Ord. 1868, (part), 2001; Ord. 1860, § 1 (part), 2000; Ord. 1844, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1808, (part), 1999)~~

19.28.120 — Solar Design.

~~The setback and height restrictions provided in this chapter may be varied for a structure utilized for passive or active solar purposes, in R-1 zones, provided that no such structure shall infringe upon solar easements of adjoining property owners. Any solar structure which requires variation from the setback or height restriction of this chapter shall be allowed only upon issuance of a conditional use permit by the Director of Community Development. (Ord. 1860, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1808, (part), 1999; Ord. 1601, Exh. A (part), 1992)~~

19.28.14019.28.130 Interpretation by the Planning Director.

~~In R1R-1 zones, the Director of Community Development shall be empowered to make reasonable interpretations of the regulations and provisions of this chapter consistent with the legislative intent thereof. Persons aggrieved by an interpretation of the chapter by the Director of Community Development may petition the Planning Commission in writing for review of the interpretation. (Ord. 1860, § 1 (part), 2000; Ord. 1834, (part), 1999; Ord. 1808, (part), 1999; Ord. 1601, Exh. A (part), 1992)~~

~~Strike all sections and exhibits after Section 19.28.130~~