

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
APPROVING A PARKING EXCEPTION TO ALLOW OFF-SITE PARKING AND
A NON-CONFORMING ON-SITE PARKING LOT DESIGN, LOCATED AT 1170
YORKSHIRE DRIVE

SECTION I: PROJECT DESCRIPTION

Application No.: EXC-2023-009
Applicant: Grace Stanat on behalf of Tessellations
Location: 1170 Yorkshire Drive, APN: 362 08 001

SECTION II: FINDINGS FOR A PARKING EXCEPTION:

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

WHEREAS, pursuant to the provisions of the California Environmental Quality Act of 1970 (Public Resources Code section 21000 et seq.) ("CEQA"), together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) (hereinafter, "CEQA Guidelines"), the City staff has independently studied the proposed Project and has determined that the Project is exempt from environmental review pursuant to the categorical exemption in CEQA Guidelines section 15301 for the reasons set forth in the staff report dated December 5, 2023 and incorporated herein; and

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

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

WHEREAS, the City Council finds as follows with regard to this application:

- a) The literal enforcement of this chapter will result in restrictions inconsistent with the spirit and intent of this chapter;

Table 19.124.040 (A) of the City's Parking Ordinance requires the project to provide a total of 148 parking spaces on site, the existing public school site has a total of 47 parking spaces

available, resulting in a deficit of 101 stalls in the proposed parking supply. However, Municipal Code Chapter 19.124 provides for alternative parking considerations through the exception process. The applicant has proposed the use of an off-site parking lot for staff parking and shuttling of staff from the off-site parking lot to the site. This off-site location would accommodate an additional 81 parking spaces. Additionally, the applicant has proposed 20 alternative parking spaces on-site which would accommodate the total required number of parking spaces. Applying the standard requirements for on-site parking and conforming parking stall and aisle sizes on this property would result in a site that is significantly developed with parking and would remove valuable open space. The development would be detrimental to the peace and enjoyment of neighboring property owners or residents and would therefore be inconsistent with the stated intent of Chapter 19.124.

- b) The granting of the exception will not be injurious to property or improvements in the area nor be detrimental to the public safety, health and welfare;
Given that the project is consistent with the General Plan and Zoning Ordinances and has been designed to be compatible with and respectful of adjoining land uses, the project 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.
- c) The exception to be granted is one that will require the least modification and the minimum variance to accomplish the purpose;
See Section A above.
- d) The proposed exception will not result in significant impacts to neighboring properties;
Given that the project proposes the minimum supply required by the Municipal Code and there are traffic management measures proposed by the applicant and included in the conditions of approval, the proposed exception is not anticipated to result in significant parking impacts to neighboring properties.

WHEREAS, the City Council is the approval authority for this project and is granted the authority by the Municipal Code to exercise its independent judgment, based on the record before it, for purposes of the California Environmental Quality Act; and

NOW, THEREFORE, BE IT RESOLVED that the City Council takes the following actions:

1. Exercises its independent judgment and determines that the Project is exempt from CEQA pursuant to CEQA Guidelines section 15301. The Class 1 exemption applies to existing facilities that involve negligible or no expansion of existing or former use. The proposed project includes only minor alterations to the existing school facility. Therefore, the proposed project would not involve the expansion

of the former use (Section 15301, Class 1), will not significantly expand the use beyond the current use that already exists or previously existed, and will not have a significant effect on the environment.

2. Approves the application for a Parking Exception, Application no. EXC-2023-009 subject to conditions which are enumerated in this Resolution beginning on PAGE 3 thereof. The conclusions and sub-conclusions upon which the findings and conditions specified in this resolution are based, including those contained in the Public Hearing record concerning Application No. EXC-2023-009 as set forth in the Minutes of City Council Meeting of December 5, 2023, are hereby incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval is based on the plan set entitled and documentation entitled “Regnart Elementary School Fabric Shade Structure” prepared by i Parch Architect, consisting of 8 sheets showing the existing site plan, and “Tessellations Project Description for Cupertino Planning Division” and “Applicant Response # 1 (October 9, 2023)” prepared by Tessellations School staff, consisting of 34 sheets, except as may be amended by conditions in this resolution.

2. ACCURACY OF PROJECT PLANS

The applicant/property owner is responsible to verify all pertinent property data including but not limited to property boundary locations, building setbacks, property size, building square footage, any relevant easements and/or construction records. Any misrepresentation of any property data may invalidate this approval and may require additional review.

3. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file no. U-2023-002 shall be applicable to this approval.

4. PARKING EXCEPTION APPROVAL AND PROJECT AMENDMENTS

Parking Exception approval is granted to allow for the use of an off-site parking lot and shuttle system and an alternative on-site parking lot design to accommodate 20 parking spaces. The Director of Community Development may approve minor modifications to the locations of the tandem and regular stalls, and the quantity of regular stalls, provided it does not reduce stalls below the approved parking ratio.

The Planning Commission shall review modifications considered major by the Director of Community Development.

5. AUTO PARKING RATIO

The project auto parking supply shall be provided at the rate outlined by the Municipal Code.

6. TOTAL AVAILABLE PARKING

A reduction in the total number of required parking spaces is not approved with this project. The applicant shall provide adequate off-site parking at the location specified at 20900 McClellan Road. In the event, operations at 20900 McClellan Road cease or relocate and the applicant would like to accommodate parking elsewhere, the applicant has the following options with the approval of a Director's Minor Modification:

- a) Modify the business plan to reduce required parking to allow the cars to be parked on site, to be approved by the Director of Community Development; or
- b) Modify the location of the offsite parking lot, to be approved by the Director of Community Development; or
- c) Demonstrate to the City that the parking of cars on site does not affect the parking requirements for the operations via a parking study by an independent traffic/parking consultant, the be reviewed and approved by the Director of Community Development.

7. COORDINATION WITH DEPARTMENTS FOR PARKING IMPROVEMENTS

Any expansion of parking on site shall require review and approval by the property owner, Division of the State Architect Department of Community Development, the Public Works Department, and the Santa Clara County Fire Department. Plans shall be submitted prior to commencement of approved use.

8. TANDEM PARKING STALL MANAGEMENT

Tandem parking stalls shall be reserved for employee use only. Employee vehicles shall be moved when necessary in order to allow employees to leave when their shift is over. The plan shall take into account the start and end times of employees' shifts in order to minimize the amount of vehicle re-parking that needs to occur.

9. TRANSPORTATION DEMAND MEASURES (TDM)

The Director of Community Development has the ability to require additional transportation demand measures (TDM) to address any future parking concerns. Examples of TDM may include, but are not limited to:

- a. Valet service
- b. Off-site parking

- c. Carpool or vanpool services
- d. Additional onsite parking
- e. Transit improvements
- f. Non-motorized improvements
- g. Shift peak-shared parking
- h. Guaranteed ride home
- i. Taxi service
- j. Pricing
- k. Increased shuttle service

10. BICYCLE PARKING

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

11. PAYMENT OF OUTSTANDING FEES

The applicant shall make payment of any outstanding fees associated with this permit prior to the commencement of permitted activities.

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 AND LIMITATION OF LIABILITY

As part of the application, to the fullest extent permitted by law, the applicant shall agree to indemnify, defend with the attorneys of the City's choice, and hold harmless the City, its City Council, and its officers, employees, and agents (collectively, the "indemnified parties") from and against any liability, claim, action, cause of action, suit, damages, judgment, lien, levy, or proceeding (collectively referred to as "proceeding") brought by a third party against one or more of the indemnified parties or one or more of the indemnified parties and the applicant related to any Ordinance, Resolution, or action approving the project, the related entitlements, environmental review documents, finding or determinations, or any other permit or approval authorized for the project. The indemnification shall include but not be limited to damages, fees, and costs awarded against the City, if any, and cost of suit, attorneys' fees, and other costs, liabilities, and expenses incurred in connection with such proceeding whether incurred by the Applicant, the City, or the parties initiating or bringing such proceeding.

The applicant shall agree to (without limitation) reimburse the City its actual attorneys' fees and costs incurred in defense of the litigation. Such attorneys' fees and costs shall include amounts paid to the City's outside counsel and shall include City Attorney time and overhead costs and other City staff overhead costs and any costs directly related to the litigation reasonably incurred by City. The applicant shall likewise agree to indemnify, defend, and hold harmless the indemnified parties from and against any damages, attorneys' fees, or costs awards, including attorneys' fees awarded under Code of Civil Procedure section 1021.5, assessed or awarded against the indemnified parties. The Applicant shall cooperate with the City to enter a Reimbursement Agreement to govern any such reimbursement.

The Applicant shall agree to (without limitation) reimburse the City for all costs incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as an Environmental Impact Report, negative declaration, specific plan, or general plan amendment) if made necessary by proceedings challenging the project approvals and related environmental review, if the applicant desires to continue to pursue the project.

The Applicant shall agree that the City shall have no liability to the Applicant for business interruption, punitive, speculative, or consequential damages.

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.

INTRODUCED this ____ day of _____, 2023, at a Regular Meeting of the City Council of the City of Cupertino and ENACTED on the ____ day of _____, 2023, at a Regular Meeting of the City Council of the City of Cupertino by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

SIGNED: _____ Hung Wei, Mayor City of Cupertino	 _____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	 _____ Date
APPROVED AS TO FORM: _____ Christopher Jensen, City Attorney	 _____ Date