

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 FOR FAÇADE MODIFICATIONS TO AN EXISTING COMMERCIAL
BUILDING (TARGET) AND SITE IMPROVEMENTS INCLUDING
RESTRIPING, AND THE CREATION OF TWO PUBLIC PORTALS ALONG
STEVENS CREEK BLVD. AND SAICH WAY, LOCATED AT 20745 STEVENS
CREEK BLVD. (APN 326-32-005)

SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2018-01
Applicant: Jennifer Kirby (Kimley-Horn)
Location: 20745 Stevens Creek Blvd.

SECTION II: FINDINGS FOR ARCHITECTURAL AND SITE APPROVAL PERMIT:

WHEREAS, the Planning Commission of the City of Cupertino received an application for an Architectural and Site Approval to consider allowing façade modifications to an existing commercial building and to consider site improvements including restriping, and the creation of two public portals 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 proposal is a remodel of the existing retail building with no increase to the square footage. The remodel includes a new shade canopy at the existing entrance, the addition of a new entrance on the west elevation, an enhanced online pick up entrance on the south elevation toward the eastern edge of the building and a secondary online order pick up entrance on the east elevation, two new public plazas along Saich Way and Stevens Creek Blvd., new wall treatments and the integration of a mural on the existing building façade, restriping of parking stalls, and new landscaping and trees around the site. The elements of the proposal contributes to the overall improvement of public health, safety, general welfare, and convenience by providing public amenities. Therefore, the proposal will not be detrimental or injurious to property or improvements in the vicinity.

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.

Excepting where the proposed wood paneling highlights the entrances as focal points, the proposal does not change the overall building bulk and maintains the existing massing and scale. The wood paneling better distinguishes the entry points and the additional 2'-6" height serves as a counter balance to the other proposed elements. The proposed increase in height at these areas is consistent with the zoning and the General Plan. The proposal improves and mitigates the existing massing of the building by utilizing different materials that define and divide the wall planes.

- 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's mass and bulk remains unchanged and the proposed canopy and façade treatments utilizes materials that are consistent with a contemporary aesthetic. The proposal includes upgrading existing stucco walls with wood paneling, green screens, murals and materials that are compatible with adjacent development. The location of utility and storage areas remain unchanged and located at the rear of the building. The proposal also includes planting of ground cover and trees along the building, between parking stalls where there are no existing trees, and enhanced paving is proposed at pedestrian walkways. Furthermore, existing trees in the parking lot and landscape areas are preserved to keep the mature canopies that exists on-site.

Final lighting for the development will 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.

As part of the proposal the pedestrian experience along Saich Way and Stevens Creek Blvd will be improved by detaching the sidewalk from the curb and buffering the sidewalk with a landscape park strip. Additionally, the building abuts a multi-family residential neighborhood and the proposal includes the installation of green screens to visually buffer and improve the rear of the building.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the maps, facts, exhibits, testimony, staff's report and presentation, 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-2018-01 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. ASA-2018-01 as set forth in the Minutes of Planning Commission Meeting of August 14, 2018 and are 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 drawn by Kimley-Horn entitled "Target Cupertino Store Remodel" consisting of twenty-five (25) sheets labeled as T1.1, C0.0, C0.1, C0.2, C1.0, C2.0, L1.0, L1.1, L1.2, L1.3, L1.4, L2.0, L2.1, L2.2, L3.0, L3.1, L3.2, A201, LP-103, and four renderings 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. 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.

4. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. TR-2018-04 shall be applicable to this approval.

5. EXTERIOR BUILDING MATERIALS/TREATMENTS

The final building exterior plan shall closely resemble the details shown on the original approved plans. Final building exterior treatment plan (including but not limited to details on exterior color, materials, architectural treatments, doors, windows, lighting fixtures, and/or embellishments) shall be reviewed and approved by the Director of Community Development prior to issuance of building permits to ensure quality and consistency. Any exterior changes determined to be substantial by the Director of Community Development shall either require a modification to this permit or a new permit based on the extent of the change.

6. WINDOW DETAILS

The frontage windows shall be kept open and transparent to the greatest extent possible. The final storefront design and window display shall be reviewed and approved by the Director of Community Development prior to issuance of building permits for tenant improvements. No changes shall be made to the transparency of the windows without the express approval of the Director of Community Development.

7. PROJECT AMENDMENTS

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

8. LANDSCAPE PROJECT SUBMITTAL

Prior to issuance of building permits, the applicant shall submit a full Landscape Documentation Package, per sections 14.15.050 A, B, C, and D of the Landscape Ordinance, **for projects with landscape area 500 square feet or more** or elect to submit a Prescriptive Compliance Application per sections 14.15.040 A, B, and C **for projects with landscape area between 500 square feet and 2,500 square feet**. The Landscape Documentation Package or Prescriptive Compliance Application shall be reviewed and approved to the satisfaction of the Director of Community Development prior to issuance of building permits, and additional requirements per sections 14.15.040 D, E, F, and G or 14.15.050 E, F, G, H, and I will be required to be reviewed and approved prior to final inspections.

9. LANDSCAPE INSTALLATION REPORT

The project is subject to all provisions delineated in the Landscape Ordinance (CMC, Chapter 14.15). A landscape installation audit shall be conducted by a certified landscape professional after the landscaping and irrigation system have been installed. The findings of the assessment shall be consolidated into a landscape installation report.

The landscape installation report shall include, but is not limited to: inspection to confirm that the landscaping and irrigation system are installed as specified in the landscape and irrigation design plan, system tune-up, system test with distribution uniformity, reporting overspray or run-off that causes overland flow, and preparation of an irrigation schedule.

The landscape installation report shall include the following statement: "The landscape and irrigation system have been installed as specified in the landscape and irrigation design plan and complies with the criteria of the ordinance and the permit."

10. LANDSCAPE AND IRRIGATION MAINTENANCE

Per the Landscape Ordinance (CMC, Chapter 14.15), a maintenance schedule shall be established and submitted to the Director of Community Development or his/her designee, either with the landscape application package, with the landscape installation report, or any time before the landscape installation report is submitted.

a) Schedules should take into account water requirements for the plant establishment period and water requirements for established landscapes.

b) Maintenance shall include, but not be limited to the following: routine inspection; pressure testing, adjustment and repair of the irrigation system; aerating and 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. SCREENING

All mechanical and other equipment on the building or on the site shall be screened so they are not visible from public street areas or adjoining developments. Screening materials/colors shall match building features and materials. The height of the screening shall be taller than the height of the mechanical equipment that it is designed to screen. The location of equipment and necessary screening shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

12. 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.

Signage is not approved with this use permit application. Signage shall conform to the City Sign Code.

13. LIGHTING

On-site lighting must be in conformance with Cupertino Municipal Code Chapter 19.60 and 19.124 and automatic teller machine lighting, specifically, shall meet minimum standards required by the State of California Business and Professions Code.

14. DEMOLITION REQUIREMENTS

All demolished building and site materials shall be recycled to the maximum extent feasible, in accordance with the City's Recycling and Diversion of Construction and Demolition Waste under Chapter 16.72 of the Cupertino Municipal Code. The

applicant shall provide evidence that materials were recycled prior to issuance of final demolition permits.

15. 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.

16. 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.

17. 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 BUILDING DIVISION

18. LOADING ZONE

The applicant shall ensure that the proposed drive-up area must be marked as loading zone only on the construction plans.

SECTION IV: CONDITIONS ADMINSTERED BY THE PUBLIC WORKS DEPARTMENT

19. BUS STOP LOCATIONS

The Developer shall coordinate with Valley Transportation Authority (VTA) on proposed and existing bus stop and shelter locations on Stevens Creek Blvd and Saich Way, and any temporary locations needed for construction. Provide a letter of consent from VTA regarding the proposed bus stop improvements and/or any temporary bus stop locations or service interruptions.

20. STREET IMPROVEMENTS & DEDICATION

Provide street frontage improvements and dedications along the project to the satisfaction of the Director of Public Works. All land containing portions of public sidewalk shall be dedicated in fee to the City. Provide a typical 0,5-foot offset from back of sidewalk for the right-of-way dedication along Stevens Creek Blvd, Saich Way, and Alves Drive. Sidewalk along Stevens Creek Blvd and Saich Way shall be replaced in accordance with the Heart of the City guidelines.

Street improvements may include, but not be limited to, new detached sidewalk, new ADA ramp, driveways, storm drain lateral, street tree installations, and street light and/or pedestrian push button relocation.

21. CURB AND GUTTER IMPROVEMENTS

Curbs and gutters, sidewalks and related structures shall be installed in accordance with grades and standards as specified by the Director of Public Works. The transition from monolithic to detached sidewalk shall be constructed per City Standard Detail 1-28. The southernmost driveway on Saich Way shall be narrowed to a width that is satisfactory to the Director of Public Works.

22. PEDESTRIAN AND BICYCLE IMPROVEMENTS

Developer shall provide pedestrian and bicycle related improvements (e.g. walkway and bicycle racks, etc.) consistent with the Cupertino Bicycle Transportation Plan and the Pedestrian Transportation Plan, and as approved by the Director of Public Works. This will include a contribution of \$75,000 towards the future Stevens Creek Blvd Class IV Separated Bike Lanes.

23. GRADING

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

24. DRAINAGE

Drainage shall be provided to the satisfaction of the Director of Public Works. If the project increases the existing impervious area, 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), improvements to impacted portions of the downstream City owned storm drain system, bioretention basins, Low Impact Development treatment facilities, vegetated areas, 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 Director of Public Works. Any storm water overflows or surface sheeting should be directed away from neighboring private properties and to the public right of way as much as reasonably possible. Any proposed connections to the City storm drain systems shall be designed to connect at manholes.

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.

25. C.3 REQUIREMENTS

C.3 regulated improvements are required for all projects creating and/or replacing 10,000 S.F. or more of impervious surface (collectively over the entire project site). The developer shall reserve a minimum of 4% of developable surface area for the placement of low impact development measures, for storm water treatment, unless an alternative storm water treatment plan, that satisfies C.3 requirements, is approved by the Director of Public Works. Trees and plants within the treatment measures shall be consistent with the Plant List in the Santa Clara Valley Urban Runoff Pollution Prevention Program C.3 Stormwater Handbook, Appendix D.

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.

26. ENCROACHMENT PERMIT, FEES AND BONDS

The project developer shall obtain an encroachment permit prior to any work to commence within the public right-of-way and shall pay fees and bonds, including but not limited to checking and inspection fees, storm drain fees, park dedication fees and fees for under grounding of utilities. Said fees shall be paid prior to issuance of construction permits.

Fees:

- | | |
|--------------------------------|--|
| a. Checking & Inspection Fees: | Per current fee schedule (\$823.70) |
| b. Grading Permit: | Per current fee schedule (\$2,825 or 6% of improvement costs) |
| c. Storm Drainage Fee: | Per current fee schedule (\$4,550 per AC) |
| d. Encroachment Permit Fee: | Per current fee schedule (\$2,436.63 or 5% of improvement costs) |
| e. Storm Management Plan Fee | Per current fee schedule (\$1,208) |

Bonds:

Encroachment Bond: 100% of Off-site Improvements

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.

27. 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. TRAFFIC CONTROL PLAN

The developer must submit a traffic control plan by a Registered Traffic Engineer to be approved by the City. The plan shall include a temporary traffic control plan for work in the right of way as well as a routing plan for all vehicles used during construction. All traffic control signs must be reviewed and approved by the City prior to commencement of work. The City has adopted Manual on Uniform Traffic Control Devices (MUTCD) standards for all signage and striping work throughout the City.

33. STREET TREES

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

34. 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.

PASSED AND ADOPTED this 14th day of August, 2018, 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

Geoff Paulsen
Chair, Planning Commission