

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 6871

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
RECOMMENDING APPROVAL OF DEVELOPMENT PERMIT TO ALLOW
THE DEMOLITION OF AN EXISTING PUBLIC STORAGE FACILITY
AND THE CONSTRUCTION OF A NEW PUBLIC STORAGE FACILITY
CONSISTING OF TWO (2) FOUR (4)-STORY BUILDINGS WITH BASEMENTS
LOCATED AT 20565 VALLEY GREEN DRIVE

SECTION I: PROJECT DESCRIPTION

Application No.: DP-2018-03
Applicant: Andres Friedman
Property Owner: Storage Equities, Inc.
Location: 20565 Valley Green Drive (APN: 326-10-044)

SECTION II: FINDINGS FOR DEVELOPMENT PERMIT:

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

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

WHEREAS, 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 15332, and the exemption in CEQA Guidelines section 15183, for the reasons set forth in the staff report dated May 28, 2019 and incorporated herein; 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:

- a) 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 an update to the existing storage facility that will consolidate nine (9) structures totaling 54,186 sq. ft., and replace the facility with a new Public Storage facility into two (2) buildings measuring a total of 263,671 sq. ft. The project provides new landscaping screening from adjacent residential and offices uses. The building has been designed to blend into the surrounding area by creating an updated building design that incorporates different building materials (i.e. spandrel, glass, metal panels, etc.) and updated landscaping throughout the site. Therefore, the proposal will not be detrimental or injurious to property or improvements in the vicinity.

- b) The proposed development will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan and the purpose of the City's zoning ordinances.

The General Plan land use designation for the property is Industrial/Residential. The existing and proposed use (a storage facility) is consistent with the General Plan. The subject property is zoned as Planned Development Zoning District with General Commercial, Light Industrial and Residential uses (P(CG, ML, RES)). The underlying ML zoning district permits warehousing uses. Therefore, as a warehouse use in the industrial zone, the proposed project is a permitted use consistent with the planned development zoning district. The proposed development has met the applicable development standards of the general plan and zoning district such as height, setbacks, and parking regulations. Therefore, the proposed development is consistent with the purpose of the City's zoning ordinance; and

WHEREAS, on May 28, 2019, the Planning Commission held a duly noticed public hearing to receive public testimony on the Project, including the categorical exemption in CEQA Guidelines section 15332 and the exemption in CEQA Guidelines section 15183 and reviewed and considered the information contained in the staff report pertaining to the Project, all other pertinent documents, and all written and oral statements received by the Planning Commission at or prior to the public hearing; and

NOW, THEREFORE, BE IT RESOLVED that after careful consideration of the CEQA exemption memorandum, maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this resolution beginning on PAGE 3 thereof,

1. The Planning Commission exercises its independent judgment and determines that the Project is exempt from CEQA pursuant to CEQA Guidelines section 15332 and the exemption in CEQA Guidelines section 15183. The exemption in CEQA Guidelines

section 15332 applies to an infill development project which 1) is consistent with the applicable General Plan designation and all applicable General Plan policies, as well as the applicable Zoning designations and regulations; 2) occurs within the City limits on a site of less than 5 acres in size that is substantially surrounded by urban uses; 3) is located on a site that has no value for endangered, rare or threatened species; 4) would not result in any significant effects related to traffic, noise, air quality or water quality; and 5) can be adequately served by all required utilities and public services. The exemption in CEQA Guidelines section 15183 applies to a project that is consistent with General Plan designations and zoning for the site described in the General Plan, the potential impacts of which would be substantially mitigated by the imposition of uniformly applied standard conditions of approval. The General Plan Amendment, Housing Element Update, and Associated Rezoning Final Environmental Impact Report (SCH No. 2014032007), certified by the City Council on December 4, 2014, was prepared consistent with the requirements for applicability of streamlining under CEQA Guidelines Section 15183(d)(2), and there are no environmental effects that are peculiar to the proposed project or project site that were not analyzed in the General Plan EIR;

2. The application for a Development Permit, Application no. DP-2018-03 is hereby recommended to be approved; and

The subconclusions upon which the findings and conditions specified in this Resolution are based are contained in the Public Hearing record concerning Application no.(s) DP-2018-03 as set forth in the Minutes of the Planning Commission Meeting of May 28, 2019, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPARTMENT.

1. APPROVED EXHIBITS

Approval recommendation is based on the plan set dated February, 4, 2019 consisting of 26 sheets labeled as, "A Redevelopment for Public Storage" labeled as Sheet 1-26, prepared by KSP Studio and BKF; 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 nos. ASA-2018-04, EXC-2018-01 and TR-2019-11 are concurrently enacted, and shall be applicable to this approval.

4. **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.

5. **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.

6. **HOUSING MITIGATION FEES**

The applicant shall participate in the City's Below Market Rate (BMR) Housing Program by paying the applicable housing mitigation fees prior to issuance of building permits per the Housing Mitigation Manual.

7. **PUBLIC ART REQUIREMENT**

Public art shall be provided for the project in accordance with General Plan Policy 2-66 and the City's Public Art Ordinance (Chapter 19.148 of the Cupertino Municipal Code). The minimum expenditure for the artwork, including, but not limited to design, fabrication, and installation is one (1) percent of the construction valuation for the first \$100 million on construction valuation, or 0.9% of construction valuation for valuation in excess of \$100 million. The project pro forma shall be provided to the City to confirm the project budget. The public art plans (including location and design) shall be reviewed by the Fine Arts Commission during the building permit stage, in advance of final occupancy. Once approved by the Fine Arts Commission, the public artwork shall be installed to the satisfaction of the City prior to final occupancy. In the event the developer or property owner determines that the placement of artwork on a particular property may not be feasible, the developer or property may apply to the Fine Arts Commission for an in-lieu payment alternative as indicated in Chapter 19.148 of the Cupertino Municipal Code. The in lieu payment shall be 1.25% of the construction valuation.

8. **DEMOLITION REQUIREMENTS**

All demolished building and site materials shall be recycled to the maximum extent feasible subject to the Building Official. The applicant shall provide evidence that materials were recycled prior to occupancy.

9. **PRE-CONSTRUCTION MEETING AND CONSTRUCTION MANAGEMENT PLAN**

A demolition and construction management plan shall be submitted and reviewed prior to building permit issuance. Prior to commencement of construction activities, the applicant shall arrange for a pre-construction meeting with the pertinent departments (Building, Planning, and Public Works) to review the prepared construction management plan, to ensure that construction complies with the conditions of approval, staging of construction equipment is appropriate, tree protection measures are in place, public access routes are identified, and noise and dust control measures are established. The plan shall include but not be limited to the following:

- a. Appropriate construction staging area
- b. Hours of construction
- c. Compliance with the City noise ordinance
- d. Best management practices
- e. Any other measures as determined to be appropriate by the Director of Community Development

10. **DUST CONTROL**

The following construction practices shall be implemented during all phases of construction for the proposed project, and shall be incorporated into the construction management plan(s), to prevent visible dust emissions from leaving the site:

- a. Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- c. Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d. Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- e. The applicant shall incorporate the City's construction best management practices into the building permit plan set.

11. **GRADING AND CONSTRUCTION HOURS AND NOISE LIMITS**

The applicant shall indicate compliance with the following grading and construction hours and noise limit requirements on all demolition, construction

and grading permits, and in the construction management plan(s), unless otherwise indicated.

- a. All grading activities shall be limited to the dry season (April 15 to October 1), unless permitted otherwise by the Director of Public works.
- b. Construction hours and noise limits shall be compliant with all requirements of Chapter 10.48 of the Cupertino Municipal Code.
- c. Grading, street construction, underground utility and demolition hours for work done more than 750 feet away from residential areas shall be limited to Monday through Friday, 7 a.m. to 8 p.m. and Saturday and Sunday, 9 a.m. to 6 p.m. Grading, street construction, demolition or underground utility work within 750 feet of residential areas shall not occur on Saturdays, Sundays, holidays, and during nighttime period as defined in Section 10.48.053(b) of the Municipal Code.
- d. Construction activities shall be limited to Monday through Friday, 7 a.m. to 8 p.m. and Saturday and Sunday, 9 a.m. to 6 p.m. Construction activities are not allowed on holidays as defined in Chapter 10.48 of the Municipal Code. Night time construction is allowed if compliant with nighttime standards of Section 10.48 of the Cupertino Municipal Code.
- e. Rules and regulations pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of an applicant appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.
- f. The applicant shall be responsible for educating all contractors and subcontractors of said construction restrictions.

12. BAAQMD BASIC CONTROL MEASURES

Project shall comply with the Bay Area Quality Management District's Basic Construction Mitigation Measures to reduce construction fugitive dust impacts as follows:

- a. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- b. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- c. All visible mud or dirt tracked-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. All vehicle speeds on unpaved roads shall be limited to 15 mph.
- e. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.

- f. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- g. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- h. A publicly visible sign shall be posted with the telephone number and person to contact at the City of Cupertino regarding dust complaints. This person shall respond and take corrective action within 48 hours. The BAAQMD phone number shall also be visible to ensure compliance with applicable regulations.

Applicant shall indicate compliance with BAAQMD's basic control measures on all demolition, construction and grading permits and construction management plan(s).

13. **BIRD AND NEST SAFETY**

Applicant shall indicate compliance with the following Bird and Nest Safety requirements on all demolition, construction and grading permits and construction management plan(s).

- a. Construction and tree removal/pruning activities shall be scheduled to avoid the nesting season to the extent feasible. If feasible, tree removal and/or pruning shall be completed before the start of the nesting season to help preclude nesting. The nesting season for most birds and raptors in the San Francisco Bay area extends from February 1 through August 31.
- b. If it is not possible to schedule construction activities between September 1 and January 31, then a qualified ornithologist shall conduct a preconstruction survey to identify active bird nests that may be disturbed during project construction. This survey shall be completed no more than seven days prior to the initiation of demolition/construction activities (including tree removal and pruning). During this survey, the ornithologist shall inspect all trees and other possible nesting habitats in and immediately adjacent to the construction areas for nests.
- c. If the survey does not identify any nesting birds that would be affected by construction activities, no further mitigation is required. If an active nest is found sufficiently close to work areas to be disturbed by these activities, the ornithologist (in consultation with the California Department of Fish and Wildlife) shall designate a construction-free buffer zone (typically 300 feet for raptors and 100 feet for non-raptors) to be established around the nest to ensure

that no nests of species protected by the MBTA and California Fish and Game Code will be disturbed during construction activities. The buffer shall remain in place until a qualified ornithologist has determined that the nest is no longer active.

- d. A final report on nesting birds and raptors, including survey methodology, survey date(s), map of identified active nests (if any), and protection measures (if required), shall be submitted to the Planning Manager, through the building permit review process, and be completed to the satisfaction of the Community Development Director prior to the start of grading.

14. **ARCHAEOLOGICAL RESOURCES**

Applicant shall indicate compliance with Archaeological Resource requirements on all demolition, construction and grading permits and construction management plan(s).

- a. If human remains are encountered at the site, all work in the immediate vicinity of the discovery shall cease and necessary steps to ensure the integrity of the immediate area shall be taken.
- b. The Santa Clara County Coroner shall be notified immediately.
- c. The Coroner shall then determine whether the remains are Native American. If the Coroner determines the remains are Native American, the Coroner shall notify the California Native American Heritage Commission (NAHC) within 24 hours, who will, in turn, notify the person the NAHC identifies as the Most Likely Descendent (MLD) of any human remains.
- d. Further actions shall be determined, in part, by the desires of the MLD. The MLD has 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery.
- e. If the MLD does not make recommendations within 48 hours, the owner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance. Alternatively, if the owner does not accept the MLD's recommendations, the owner or the descendent may request mediation by the NAHC.

15. **GREEN BUILDING**

The project shall be constructed in accordance with the City's Green Building Ordinance (Chapter 16.58 of the Cupertino Municipal Code). The applicant shall obtain LEED Silver certification or an alternative reference standard in accordance with the ordinance since the building size is over 50,000 square feet. Third party LEED certification or alternative reference standard is required per the ordinance criteria.

16. 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.

17. SITE LIGHTING

All new lighting must conform to the standards in the Parking Regulations Ordinance, and the final lighting plan (including a detailed photometric plan) shall be reviewed and approved by the Director of Community Development prior to building permit issuance. A report from a licensed lighting engineer may be required to confirm all exterior lighting throughout the site complies with the City's Ordinance.

18. ROOFTOP EQUIPMENT SCREENING

All mechanical and other equipment on the building or on the site shall be screened so they are not visible from public street areas or adjoining developments. The height of the screening shall be taller than the height of the mechanical equipment that it is designed to screen. A line of sight plan may be required to demonstrate that the equipment will not be visible from any public right-of-way. The location of the equipment and necessary screening shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

19. SITE IMPROVEMENTS

All proposed site improvements shall be completed prior to final occupancy of any structures approved in conjunction with the project.

20. 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."

21. LANDSCAPE INSTALLATION/REHABILITATION SUBMITTAL

Prior to issuance of building permits, the applicant shall submit a Prescriptive Compliance Application per sections 14.15.040 A, B, and C of the Landscape Ordinance. The Water-Efficient Design Checklist (Appendix A of Chapter 14.15), landscape design plans, and irrigation plans shall be reviewed and approved to the satisfaction of the Director of Community Development prior to issuance of building permits. A full Landscape Documentation Package submittal will be required.

22. NOISE LEVELS AND ABATEMENT

Project use shall comply with the City's Community Noise Control Ordinance at all times. Should the project exceed any of the stipulated maximum noise levels outlined in the City's Community Noise Control Ordinance, an acoustical engineer may be required to submit noise attenuation measures to the satisfaction of the Director of Community Development at the applicant's expense.

23. 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.

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

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant

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

SECTION IV: CONDITIONS ADMINISTERED BY THE PUBLIC WORKS DEPARTMENT

1. PUBLIC INFRASTRUCTURE CONTRIBUTIONS

Prior to Building Final Occupancy, the Developer shall offer a 12-foot wide easement to the City for a future multi-use trail facility along the entire north side of the property and shall install a new wrought iron fence between the future easement and the storage facility to the satisfaction of the Director of Public Works. The easement area shall be stripped and covered with filter fabric and drain rock, in which the City shall maintain upon completion of the dedication. The easement agreement language shall allow for the City to make improvements for any future multi-use trail facility, which could include, but not be limited to, trail infrastructure, such as pathways, benches, water fountains, fences, and landscaping.

2. STREAMSIDE PERMIT

Prior to building permit issuance, the Project may be subject to applying for a Streamside Modification Permit due to its proximity to the Junipero Serra Channel, which will be determined upon review of the Building Permit application. The purpose of this permit is to ensure that the project does not adversely impact the adjacent channel.

3. 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. All improvements must be completed and accepted by the City prior to Building Final Occupancy.

4. PEDESTRIAN AND BICYCLE IMPROVEMENTS

Developer shall provide pedestrian and bicycle related improvements (e.g. walkways, bicycle racks, etc.) consistent with the 2016 Cupertino Bicycle Transportation Plan and the 2018 Cupertino Pedestrian Transportation Plan, and

as approved by the Director of Public Works. All improvements must be completed and accepted by the City prior to Building Final Occupancy. All improvements must be completed and accepted by the City prior to Building Final Occupancy.

5. **GRADING**

Prior to building permit issuance, 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 may be required. Please contact Army Corp of Engineers and/or Regional Water Quality Control Board as appropriate.

6. **DRAINAGE**

Prior to building permit issuance, drainage shall be provided to the satisfaction of the Director of Public Works. Hydrology and pre- and post-development hydraulic calculations must be provided to indicate whether additional storm water control measures are to be constructed or renovated. The storm drain system may include, but is not limited to, subsurface storage of peak stormwater flows (as needed), bioretention basins, vegetated swales, and hydrodynamic separators to reduce the amount of runoff from the site and improve water quality. The storm drain system shall be designed to detain water on-site (e.g., via buried pipes, retention systems or other approved systems and improvements) as necessary to avoid an increase of the ten percent flood water surface elevation to the satisfaction of the 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.

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.

7. **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.

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.

8. **DEVELOPMENT FEES AND BONDS**

Prior to building permit issuance, the Developer shall provide for payment of fees and bonds, including but not limited to plan check and inspection fees, storm drain fees, park dedication fees and fees for undergrounding of utilities.

Fees:

- | | |
|----------------------------------|---|
| a. Plan Check & Inspection Fees: | Per current fee schedule (\$857) |
| b. Grading Permit: | Per current fee schedule (\$2,941 or 6% of improvement costs) |
| c. Storm Drainage Fee: | Per current fee schedule (\$4,902 per AC) |
| d. Traffic Impact Fee: | Per current fee schedule (\$6,236 per new peak-hour trip generated) |
| e. Storm Management Plan Fee: | Per current fee schedule (\$1,382) |
| f. Streamside Permit Fee: | Per current fee schedule (\$348) |

Bonds:

Faithful Performance Bond: 100% of Off-site and On-site Improvements

Labor & Material Bond: 100% of Off-site and On-site Improvement

On-site Grading Bond: 100% of site improvements.

The fees described above are imposed based upon the current fee schedule adopted by the City Council. However, the fees imposed herein may be modified at the time of recordation of a final map or issuance of a building permit in the event of said change or changes, the fees changed at that time will reflect the then current fee schedule.

9. **TRANSPORTATION IMPACT FEES**

Prior to building permit issuance, the Project is subject to the payment of Traffic Impact Fees under the City's Transportation Impact Fee Program (Chapter 14.02 of Cupertino Municipal Code).

10. **SURVEYS**

Prior to building permit issuance, a Boundary Survey and a Horizontal Control Plan will be required for all new construction to ensure the proposed building will be set based on the boundary survey and setback requirements.

11. TRASH, RECYCLING AND COMPOST ENCLOSURES

Trash enclosure plans must be designed in accordance with the City's Public Works Guidelines posted at www.cupertino.org/nowaste, and to the satisfaction of the Environmental Programs Manager. Clearance by the Public Works Department is required prior to obtaining a building permit. (Sections 9.18.210 H & K of Cupertino Municipal Code)

12. UNDERGROUND UTILITIES

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

13. TRANSFORMERS & CABINETS

Electrical transformers, telephone cabinets and similar equipment shall be placed in underground vaults. The developer must receive written approval from both the Public Works Department and the Community Development Department prior to installation of any above ground equipment. Should above ground equipment be permitted by the City, equipment and enclosures shall be screened with fencing and landscaping such that said equipment is not visible from public street areas, as determined by the Community Development Department. Transformers shall not be located in the front or side building setback area.

14. WATER BACKFLOW PREVENTERS

Domestic and Fire Water Backflow preventers and similar above ground equipment shall be placed away from the public right of way and site driveways to a location approved by the Cupertino Planning Department, Santa Clara County Fire Department and the water company.

15. 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.

16. 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, prior to building permit issuance 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.

17. 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.

18. 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.

19. TRAFFIC CONTROL PLAN

For any work to be performed in the public right-of-way, 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.

20. FIRE PROTECTION

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

21. SANTA CLARA COUNTY FIRE DEPARTMENT

A letter of clearance for the project shall be obtained from the Santa Clara County Fire Department prior to issuance of building permits. Clearance should include written approval of the location of any proposed Fire Backflow Preventers, Fire Department Connections and Fire Hydrants (typically Backflow Preventers should be located on private property adjacent to the public right of way, and fire department connections must be located within 100' of a Fire Hydrant).

22. FIRE HYDRANT

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

23. CALIFORNIA WATER SERVICE COMPANY CLEARANCE

Provide California Water Service Company approval for water connection, service capability and location and layout of water lines and backflow preventers before issuance of a building permit approval.

24. DEDICATION OF UNDERGROUND WATER RIGHTS

Prior to building permit issuance, the 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.

25. SANITARY DISTRICT

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

26. UTILITY EASEMENTS

Clearance approvals from the agencies with easements on the property (including PG&E, AT&T, and California Water Company, and/or equivalent agencies) will be required prior to issuance of building permits.

27. ENVIRONMENTAL PROGRAMS DIVISION OF APPROVAL FOR TENANT IMPROVEMENTS AND DEVELOPMENT

The applicant and property must comply with the requirements of the Environmental Programs Division Conditions of Approval for Tenant Improvements and Development.

SECTION V: CONDITIONS ADMINISTERED BY THE SANTA CLARA COUNTY FIRE DEPARTMENT**1. EMERGENCY RADIO RESPONDER COVERAGE:**

Emergency responder radio coverage in new buildings. All new buildings shall have approved radio coverage for emergency responders within the building based upon the existing coverage levels of the public safety communication systems of the jurisdiction at the exterior of the building. This section shall not require improvement of the existing public safety communication systems. Refer to CFC Sec. 510 for further requirements. Emergency Radio Responder Coverage requirements applies to both buildings.

2. FIRE SPRINKLERS REQUIRED:

Approved automatic sprinkler systems in new and existing buildings and structures shall be provided in the locations described in this Section or in Sections 903.2.1 through 903.2.18 whichever is the more restrictive. For the purposes of this section, firewalls used to separate building areas shall be constructed in accordance with the California Building Code and shall be without openings or penetrations. NOTE: The owner(s), occupant(s) and any contractor(s) or subcontractor(s) are responsible for consulting with the water purveyor of record in order to determine if any modification or upgrade of the existing water service is required. A State of California

licensed (C-16) Fire Protection Contractor shall submit plans, calculations, a completed permit application and appropriate fees to this department for review and approval prior to beginning their work. CFC Sec. 903.2 as adopted and amended by CMC.

3. **STANDPIPES REQUIRED**

Standpipe systems shall be provided in new buildings and structures in accordance with this section. Fire hose threads used in connection with standpipe systems shall be approved and shall be compatible with fire department hose threads. The location of fire department hose connections shall be approved. Standpipes shall be manual wet type. In buildings used for high-piled combustible storage, fire hose protection shall be in accordance with Chapter 32. Installation standard. Standpipe systems shall be installed in accordance with this section and NFPA 14 as amended in Chapter 47. CFC Sec. 905

4. **WATER SUPPLY REQUIREMENTS**

Potable water supplies shall be protected from contamination caused by fire protection water supplies. It is the responsibility of the applicant and any contractors and subcontractors to contact the water purveyor supplying the site of such project, and to comply with the requirements of that purveyor. Such requirements shall be incorporated into the design of any water-based fire protection systems, and/or fire suppression water supply systems or storage containers that may be physically connected in any manner to an appliance capable of causing contamination of the potable water supply of the purveyor of record. Final approval of the system(s) under consideration will not be granted by this office until compliance with the requirements of the water purveyor of record are documented by that purveyor as having been met by the applicant(s). 2016 CFC Sec. 903.3.5 and Health and Safety Code 13114.7.

5. **PUBLIC FIRE HYDRANT(S) REQUIRED**

Provide public fire hydrant(s) at location(s) to be determined jointly by the Fire Department and San Jose Water Company. Maximum hydrant spacing shall be 500 feet, with a minimum single hydrant flow of 500 GPM at 20 psi, residual. Fire hydrants shall be provided along required fire apparatus access roads and adjacent public streets. CFC Sec. 507, and Appendix B and associated Tables, and Appendix C. Identify the location of all existing and new fire hydrants to comply with above mentioned code section. All new hydrants to comply with hydrant spacing requirements.

6. REQUIRED FIRE DEPT. ACCESS

Commercial and Industrial Developments

- a. Buildings exceeding three stories or 30 feet in height. Buildings or facilities exceeding 30 feet (9144 mm) or three stories in height shall have a least two means of fire apparatus access for each structure.
- b. Buildings exceeding 62,000 square feet in area. Buildings or facilities having a gross building area of more than 62,000 square feet (5760 mm) shall be provided with two separate and approved fire apparatus access roads.
- c. Exception: Projects having a gross building area of up to 124,000 square feet (11520 mm) that have a single approved fire apparatus access road when all buildings are equipped throughout with approved automatic sprinkler systems. CFC Sec.903 as adopted and amended by CMC.

7. FIRE ALARM REQUIREMENTS

Refer to CFC Sec. 907 and the currently adopted edition of NFPA 72.

8. TIMING OF INSTALLATION

When fire apparatus access roads or a water supply for fire protection is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternative methods of protection are provided. Temporary street signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles in accordance with Section 505.2 CFC Sec. 501.4

9. BUILDINGS AND FACILITIES

Approved fire apparatus access roads shall be provided for every facility, building or portion of building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150' of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. CFC 503.1.1 Currently there are two portions of rear walls that are outside of the 150' prescribed distance. Per CFC Section 503.1.1 Exception 1.1 The building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, thus 200' would be acceptable.

10. REQUIRED AERIAL ACCESS

- a. Where required: Buildings or portions of buildings or facilities exceeding 30 feet (9144 mm) in height above the lowest level of fire department vehicle access shall be provided with approved fire apparatus access roads capable of accommodating fire department aerial apparatus. Overhead utility and power lines shall not be located within the aerial fire apparatus access roadway.

- b. Width: Fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925) in the immediate vicinity of any building or portion of building more than 30 feet (9144 mm) in height.
- c. Proximity to building: At least one of the required access routes meeting this condition shall be located within a minimum of 15 feet (4572) and a maximum of 30 feet (9144mm) from the building, and shall be positioned parallel to one entire side of the building, as approved by the fire code official. CFC Chp. 5 and SCCFD SD&S A-1. Provide additional information on the site access plans to show compliance with above requirements. Received request for modification/AMM appeal regarding site access that was included in this resubmittal, in which SCCFD has approved.

11. ADDRESS IDENTIFICATION

New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Where required by the fire code official, address numbers shall be provided in additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches (101.6 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

12. CONSTRUCTION SITE FIRE SAFETY

All construction sites must comply with applicable provisions of the CFC Chapter 33 and our Standard Detail and Specification SI-7. Provide appropriate notations on subsequent plan submittals, as appropriate to the project. CFC Chp. 33.

13. TIMING OF REQUIRED WATER SUPPLY INSTALLATIONS

Installations of required fire service(s) and fire hydrant(s) shall be tested and accepted by the Fire Department, prior to the start of framing or delivery of bulk combustible materials. Building permit issuance may be withheld until required installations are completed, tested, and accepted. CFC Sec. 501

14. TURN RADIUS (CIRCULATING)

The minimum outside turning radius is 42 feet for required access roadways. Greater radius up to 60 feet may be required where the Fire Department determines that Ladder Truck access is required. Circulating refers to travel along a roadway without dead ends. Revise site plan to show 60' turning radius for aerial access.

15. REQUIRED FIRE FLOW

Confirmed 1,313 gpm @ 20 psi acceptable.

16. FIRE DEPARTMENT CONNECTION LOCATIONS (FDC):

FDC's shall be installed at the street side of the address side of the building. It shall be located within 100 feet of a public fire hydrant and within ten (10) feet of the main PIV. FDC's shall be equipped with a minimum of two (2), two-and-one half (2-1/2") inch national threaded inlet couplings. Exception: FDC's supplying private on-site fire hydrants shall have a minimum four (4) way inlet coupling. See SCCFD Standard SP2 for Installation of Fire Service Underground Piping, FDC's and Fire Hydrants, which has been included.

17. POST INDICATING VALVES (PIV):

On the plans, specify that the PIV shall be installed not less than 40 feet from the building, or at least as far from the building as the height of the wall facing the PIV, in accordance with NFPA 24, 6.2.11 and per SCCFD Standard SP2 for Installation of Fire Service Underground Piping, FDC's and Fire Hydrants.

SECTION VI: CONDITIONS ADMINISTERED BY THE CUPERTINO SANITARY DISTRICT**1. IMPROVEMENT PLANS**

Improvement plans shall be submitted to the District for review and comments.

2. FEES AND PERMITS

Cupertino Sanitary District fees and permits will be required.

PASSED AND ADOPTED this 28th day of May 2019, at the Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS: Vice Chair Saxena, Moore, Fung, Takahashi

NOES: COMMISSIONERS: none

ABSTAIN: COMMISSIONERS: none

ABSENT: COMMISSIONERS: Chair Wang

ATTEST:

APPROVED:

_____/s/Benjamin Fu

_____/s/Vikram Saxena

Benjamin Fu

Vikram Saxena

Acting Dir. of Community Development

Vice Chair, Planning Commission

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 6872

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
RECOMMENDING APPROVAL OF AN ARCHITECTURAL AND SITE
APPROVAL PERMIT TO ALLOW THE DEMOLITION OF AN EXISTING PUBLIC
STORAGE FACILITY AND THE CONSTRUCTION OF A NEW PUBLIC STORAGE
FACILITY CONSISTING OF TWO (2) FOUR (4)-STORY BUILDINGS WITH
BASEMENTS LCOATED AT 20565 VALLEY GREEN DRIVE

SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2018-04
Applicant: Andres Friedman
Property Owner: Storage Equities, Inc.
Location: 20565 Valley Green Drive (APN: 326-10-044)

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 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, 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 15332, and the exemption in CEQA Guidelines section 15183, for the reasons set forth in the staff report dated May 28, 2019 and incorporated herein; 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 proposal, 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 proposed project is a redevelopment of an existing Public Storage facility. The redevelopment allows for continued operation and expansion of the existing use. The project will provide for a new building design that meets new building requirements, provided high quality architecture, and improvements in the vicinity, such as the 12-foot easement along the entire north side of the property for a multi-use trail. The project will also provide increase landscaping and tree canopy coverage throughout the site. 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 19.134, Architectural and Site Review, of the Cupertino Municipal Code, the General Plan, and applicable specific plans, zoning ordinances, conditional use permits, exceptions, subdivision maps, or other entitlements to use which regulate the subject property including, but not limited to, adherence to the following specific criteria:

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

The proposed project complies with primary building height of 45 feet listed in the General Plan: Community Vision 2015-2040. Further, the project is located far from existing multi-story buildings. The gradual transition related to height is completed by the use of various building materials, architectural features, and setbacks that help to avoid abrupt changes in building scale and make the project compatible with any existing and future development(s).

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

The building is designed in a contemporary architectural style to emulate an office building. The architectural style is consistent with the adjacent office building uses and residential building.

The location, height and materials of walls, fencing, and plantings have been designed to harmonize with adjacent structures. Utility structures and trash enclosures have been designed to have landscaping that conceals the structures from adjacent uses. The project uses various planting and ground cover materials to prevent dust and erosion, and the project is only removing trees that are in conflict with necessary improvements to accommodate the proposed project. Additionally, where trees are proposed for removal, new trees are replacing them. Lighting for the development has been reviewed and design to minimize impacts to adjacent developments by preventing spillover light to adjacent properties.

- c) The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures shall minimize traffic hazards and shall positively affect the general appearance of the neighborhood and harmonize with adjacent development; and

Signage approval is not included in this application.

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

The proposed project has increased front and rear setbacks from existing residential development. The project has been designed to protect residents from noise, traffic, light and visually intrusive impacts by placing the active uses more than 150 away from neighboring residential areas. Additionally, the project has incorporated perimeter landscaping to further minimize any visually intrusive effects to adjacent properties.

WHEREAS, on May 28, 2019, the Planning Commission held a duly noticed public hearing to receive public testimony on the Project, including the categorical exemption in CEQA Guidelines section 15332 and the exemption in CEQA Guidelines section 15183 and reviewed and considered the information contained in the staff report pertaining to the Project, all other pertinent documents, and all written and oral statements received by the Planning Commission at or prior to the public hearing; and

NOW, THEREFORE, BE IT RESOLVED that after careful consideration of the CEQA exemption memorandum, maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this resolution beginning on PAGE 3 thereof,

1. The Planning Commission exercises its independent judgment and determines that the Project is exempt from CEQA pursuant to CEQA Guidelines section 15332 and the exemption in CEQA Guidelines section 15183. The exemption in CEQA Guidelines section 15332 applies to an infill development project which 1) is consistent with the applicable

General Plan designation and all applicable General Plan policies, as well as the applicable Zoning designations and regulations; 2) occurs within the City limits on a site of less than 5 acres in size that is substantially surrounded by urban uses; 3) is located on a site that has no value for endangered, rare or threatened species; 4) would not result in any significant effects related to traffic, noise, air quality or water quality; and 5) can be adequately served by all required utilities and public services. The exemption in CEQA Guidelines section 15183 applies to a project that is consistent with General Plan designations and zoning for the site described in the General Plan, the potential impacts of which would be substantially mitigated by the imposition of uniformly applied standard conditions of approval. The General Plan Amendment, Housing Element Update, and Associated Rezoning Final Environmental Impact Report (SCH No. 2014032007), certified by the City Council on December 4, 2014, was prepared consistent with the requirements for applicability of streamlining under CEQA Guidelines Section 15183(d)(2), and there are no environmental effects that are peculiar to the proposed project or project site that were not analyzed in the General Plan EIR;

2. The application for an Architectural and Site Approval, Application no. ASA-2018-04 is hereby recommended to be approved; and

The subconclusions upon which the findings and conditions specified in this Resolution are based are contained in the Public Hearing record concerning Application no.(s) ASA-2018-04 as set forth in the Minutes of the Planning Commission Meeting of May 28, 2019, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval recommendation is based on the plan set dated February 4, 2019 consisting of 26 sheets labeled as, "A Redevelopment for Public Storage" labeled as Sheet 1-26, prepared by KSP Studio and BKF; 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 nos. DP-2018-03, EXC-2018-01, and TR-2019-11 are concurrently enacted, and shall be applicable to this approval.

4. 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.

5. FINAL ARCHITECTURAL DETAILS AND EXTERIOR BUILDING MATERIALS

The final building exterior plan shall closely resemble the details shown on the original approved plans. The final building design and exterior treatment plans (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 and through an in-field mock-up of colors prior to application 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. MAXIMUM PARAPET HEIGHT

The proposed parapet architectural feature/screen shall not exceed 37".

7. 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.

8. 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.

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

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

PASSED AND ADOPTED this 28th day of May 2019, at the Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS: Vice Chair Saxena, Moore, Fung, Takahashi
NOES: COMMISSIONERS: none
ABSTAIN: COMMISSIONERS: none
ABSENT: COMMISSIONERS: Chair Wang

ATTEST:

APPROVED:

/s/Benjamin Fu

Benjamin Fu
Acting Dir. of Community Development

/s/Vikram Saxena

Vikram Saxena
Vice Chair, Planning Commission

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 6873

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO APPROVING
A FENCE EXCEPTION TO ALLOW AN ELECTRONIC VEHICLE GATE TO ALLOW
THE DEMOLITION OF AN EXISTING PUBLIC STORAGE FACILITY AND THE
CONSTRUCTION OF A NEW PUBLIC STORAGE FACILITY CONSISTING OF
TWO (2) FOUR (4)-STORY BUILDSIN WITH BASEMENTS
AT 20565 VALLEY GREEN DRIVE

SECTION I: PROJECT DESCRIPTION

Application No.: EXC-2018-01
Applicant: Andres Friedman
Property Owner: Storage Equities, Inc.
Location: 20565 Valley Green Drive (APN: 326-10-044)

SECTION II: FINDINGS FOR FENCE EXCEPTION:

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

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

WHEREAS, 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 15332, and the exemption in CEQA Guidelines section 15183, for the reasons set forth in the staff report dated May 28, 2019 and incorporated herein; 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 literal enforcement of the provisions of this chapter will result in restriction inconsistent with the spirit and intent of this chapter.
Driveway gates are consistent with the intent of the chapter because the proposed driveway gates are in a secluded area and setback more than 180 feet from the property line.
2. The granting of the exception will not result in a condition which is materially detrimental to the public health, safety or welfare.
The proposed driveway gates are located 180 feet away from the property line and adjacent to one (1) of the proposed buildings. A condition of approval has been added from the Santa Clara County Fire Department to ensure access in the event of an emergency.
3. The exception to be granted is one that will require the least modification of the prescribed regulation and the minimum variance that will accomplish the purpose.
The exception is consistent with the fence ordinance, as the driveway gate is located 180 feet from the front property line and more than 500 feet from the nearest public right of way, in a secluded area of the project site. The security gate is not visible from the public right of way.
4. The proposed exception will not result in a hazardous condition for pedestrian and vehicular traffic.
There are no publicly accessible sidewalks to the project site, so there is no hazardous condition for pedestrians. The entry gate is controlled, but has been designed to allow for vehicles to que in the event of multiple vehicles seeking entrance at the same time. The project does not anticipate much traffic; however, the placement of the entry gate has been designed to allow for vehicles to que in the event of multiple vehicles seeking entrance to the site at the same time. The proposed vehicular driveway gate has been reviewed by the Department of Public Works and the Fire Department, and has been determined to not result in a hazardous condition.
5. The proposed development is otherwise consistent with the City's General Plan and with the purpose of this chapter as described in Section 19.48.010
The proposed driveway gate is otherwise consistent with the City's General Plan since the fence is not for a residential building and consistent with the requirements of Section 19.48.010.
6. The proposed development meets the requirements of the Santa Clara Fire Department and Sheriff's Department, and if security gates are proposed, that attempts are made to standardize access.
A condition of approval has been added to ensure standardized access.

7. The fence height for the proposed residential fence is needed to ensure adequate screening and/or privacy.

The proposed fence is not a residential fence and therefore this finding does not apply.

WHEREAS, on May 28, 2019, the Planning Commission held a duly noticed public hearing to receive public testimony on the Project, including the categorical exemption in CEQA Guidelines section 15332 and the exemption in CEQA Guidelines section 15183 and reviewed and considered the information contained in the staff report pertaining to the Project, all other pertinent documents, and all written and oral statements received by the Planning Commission at or prior to the public hearing; and

NOW, THEREFORE, BE IT RESOLVED that after careful consideration of the CEQA exemption memorandum, maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this resolution beginning on PAGE 3 thereof,

1. The Planning Commission exercises its independent judgment and determines that the Project is exempt from CEQA pursuant to CEQA Guidelines section 15332 and the exemption in CEQA Guidelines section 15183. The exemption in CEQA Guidelines section 15332 applies to an infill development project which 1) is consistent with the applicable General Plan designation and all applicable General Plan policies, as well as the applicable Zoning designations and regulations; 2) occurs within the City limits on a site of less than 5 acres in size that is substantially surrounded by urban uses; 3) is located on a site that has no value for endangered, rare or threatened species; 4) would not result in any significant effects related to traffic, noise, air quality or water quality; and 5) can be adequately served by all required utilities and public services. The exemption in CEQA Guidelines section 15183 applies to a project that is consistent with General Plan designations and zoning for the site described in the General Plan, the potential impacts of which would be substantially mitigated by the imposition of uniformly applied standard conditions of approval. The General Plan Amendment, Housing Element Update, and Associated Rezoning Final Environmental Impact Report (SCH No. 2014032007), certified by the City Council on December 4, 2014, was prepared consistent with the requirements for applicability of streamlining under CEQA Guidelines Section 15183(d)(2), and there are no environmental effects that are peculiar to the proposed project or project site that were not analyzed in the General Plan EIR;
2. The application for a Fence Exception, Application no. EXC-2018-01 is hereby recommended to be approved; and

The subconclusions upon which the findings and conditions specified in this Resolution are based are contained in the Public Hearing record concerning Application no.(s) EXC-2018-01 as set forth in the Minutes of the Planning Commission Meeting of May 28, 2019, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval recommendation is based on the plan set dated February 4, 2019 consisting of 26 sheets labeled as, "A Redevelopment for Public Storage" labeled as Sheet 1-26, prepared by KSP Studio and BKF;; 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 nos. DP-2018-03, ASA-2018-04, and TR-2019-11 are concurrently enacted, and shall be applicable to this approval.

4. 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.

5. SECURITY GATE LOCATION

The final location of the security gate shall closely resemble the location on the approved plans. The final placement of the gate shall be reviewed and approved by the Director of Community Development prior to issuance of building permits to consistency. Any 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. CONSULTATION WITH OTHER DEPARTMENTS

The applicant is responsible to consult with other departments and/or agencies with regard to the proposed project for additional conditions and requirements. Any misrepresentation of any submitted data may invalidate an approval by the Community Development Department.

7. INDEMNIFICATION

Except as otherwise prohibited by law, the applicant shall indemnify and hold harmless the City, its City Council, and its officers, employees and agents (collectively, the “indemnified parties”) from and against any claim, action, or proceeding brought by a third party against one or more of the indemnified parties or one or more of the indemnified parties and the applicant to attack, set aside, or void this Resolution or any permit or approval authorized hereby for the project, including (without limitation) reimbursing the City its actual attorneys’ fees and costs incurred in defense of the litigation. The applicant shall pay such attorneys’ fees and costs within 30 days following receipt of invoices from City. Such attorneys’ fees and costs shall include amounts paid to counsel not otherwise employed as City staff and shall include City Attorney time and overhead costs and other City staff overhead costs and any costs directly related to the litigation reasonably incurred by City.

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

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 ADMINSTERED BY THE SANTA CLARA COUNTY FIRE DEPARTMENT

1. GATE LOCKS

Locks, if provided, shall be Fire Department approved prior to installation. Gates across the emergency access roadways shall be equipped with an approved access device. If the gates are operated electrically, an approved Knox key switch shall be installed; if they are operated manually, then an approved Knox padlock shall be installed. Gates providing access from a road to a driveway or other roadway shall be at least 30 feet from the road being exited. CFC Sec. 503.6 and 506. 30 feet is minimum requirement.

PASSED AND ADOPTED this 28th day of May 2019, at the Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS: Vice Chair Saxena, Moore, Fung, Takahashi

NOES: COMMISSIONERS: none

ABSTAIN: COMMISSIONERS: none

ABSENT: COMMISSIONERS: Chair Wang

ATTEST:

APPROVED:

_____/s/Benjamin Fu_____
Benjamin Fu
Acting Dir. of Community Development

_____/s/Vikram Saxena_____
Vikram Saxena
Vice Chair, Planning Commission

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 6874

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
RECOMMENDING APPROVAL OF A TREE REMOVAL PERMIT TO ALLOW
THE REMOVAL AND REPLACEMENT OF 17 TREES TO ALLOW THE
DEMOLITION OF AN EXISTING PUBLIC STORAGE FACILITY AND THE
CONSTRUCTION OF A NEW PUBLIC STORAGE FACILITY CONSISTING
OF TWO (2) FOUR (4)-STORY BUILDINGS WITH BASEMENTS LOCATED AT
20565 VALLEY GREEN DRIVE

SECTION I: PROJECT DESCRIPTION

Application No.: TR-2019-11
Applicant: Andres Friedman
Property Owner: Storage Equities, Inc.
Location: 20565 Valley Green Drive (APN: 326-10-044)

SECTION II: FINDINGS FOR TREE REMOVAL PERMIT:

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

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

WHEREAS, 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 15332, and the exemption in CEQA Guidelines section 15183, for the reasons set forth in the staff report dated May 28, 2019 and incorporated herein; 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:

- a) That the location of the trees restricts the economic enjoyment of the property by severely limiting the use of property in a manner typically not experienced by owners of similarly zoned and situated property, and the applicant has demonstrated to the satisfaction of the approval authority that there are no reasonable alternatives to preserve the tree(s).

The proposed trees are in conflict with the proposed new building and site improvements. The demolition of the existing structures and new construction would result in the removal of seventeen (17) trees on site. The species of removal include Coast Redwood, Yucca, and Fern Pine. While the trees are not identified as a protected species as defined by Cupertino Municipal Code Chapter 14.18, these trees are protected under the category of "approved development tree," because they were planted as part of the originally approved development. Therefore, replacement plantings are required for the proposed removal. The required replacement plantings are twenty (20) 24-inch box trees, and the applicant proposes thirty-eight (38) 24-inch box trees, more than meeting the requirement.

WHEREAS, on May 28, 2019, the Planning Commission held a duly noticed public hearing to receive public testimony on the Project, including the categorical exemption in CEQA Guidelines section 15332 and the exemption in CEQA Guidelines section 15183 and reviewed and considered the information contained in the staff report pertaining to the Project, all other pertinent documents, and all written and oral statements received by the Planning Commission at or prior to the public hearing; and

NOW, THEREFORE, BE IT RESOLVED that after careful consideration of the CEQA exemption memorandum, maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this resolution beginning on PAGE 3 thereof,

1. The Planning Commission exercises its independent judgment and determines that the Project is exempt from CEQA pursuant to CEQA Guidelines section 15332 and the exemption in CEQA Guidelines section 15183. The exemption in CEQA Guidelines section 15332 applies to an infill development project which 1) is consistent with the applicable General Plan designation and all applicable General Plan policies, as well as the applicable Zoning designations and regulations; 2) occurs within the City limits on a site of less than 5 acres in size that is substantially surrounded by urban uses; 3) is located on a site that has no value for endangered, rare or threatened species; 4) would not result in any significant effects related to traffic, noise, air quality or water quality; and 5) can be adequately served by all required utilities and public services. The exemption in CEQA Guidelines section 15183 applies to a project that is consistent with General Plan designations and

zoning for the site described in the General Plan, the potential impacts of which would be substantially mitigated by the imposition of uniformly applied standard conditions of approval. The General Plan Amendment, Housing Element Update, and Associated Rezoning Final Environmental Impact Report (SCH No. 2014032007), certified by the City Council on December 4, 2014, was prepared consistent with the requirements for applicability of streamlining under CEQA Guidelines Section 15183(d)(2), and there are no environmental effects that are peculiar to the proposed project or project site that were not analyzed in the General Plan EIR;

2. The application for a Tree Removal Permit, Application no. TR-2019-11 is hereby recommended to be approved; and

The subconclusions upon which the findings and conditions specified in this Resolution are based are contained in the Public Hearing record concerning Application no.(s) TR-2019-11 as set forth in the Minutes of the Planning Commission Meeting of May 28, 2019, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval recommendation is based on the plan set dated February 4, 2019 consisting of 26 sheets labeled as, "A Redevelopment for Public Storage" labeled as Sheet 1-26, prepared by KSP Studio and BKF,; 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 nos. DP-2018-03, ASA-2018-04, and EXC-2018-01 are concurrently enacted, and shall be applicable to this approval.

4. 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.

5. TREE REPLACEMENTS AND FINAL PLANTING PLAN

The applicant shall plant replacement trees in accordance with the replacements requirements of the Protected Tree Ordinance. The trees shall be planted prior to final occupancy of site permits.

The final planting plan shall be reviewed and approved by the Director of Community Development with consultation by the City's consulting arborist prior to issuance of building permits. The Director of Community Development shall have the discretion to require additional tree replacements as deemed necessary. The City's consulting arborist shall confirm that the replacement trees were planted properly and according to plan prior to final occupancy.

6. TREE PROTECTION

In accordance with the project arborist recommendations, prior to building permit issuance the Applicant shall complete the following:

- a. All tree maintenance and care shall be performed by a qualified arborist with a C-61/D-49 California Contractors License;
- b. Place tree numbers and any protection schemes on all plans;
- c. Place tree protection fencing for an existing trees to remain;
- d. Place tree protection fencing along the row of fern pines and cork oaks near the adjacent site once the building is demolished;
- e. Include a Tree Preservation Plan into the plan set;
- f. Provide a copy of the arborist report to all contractors and project managers;
- g. Pre-construction meeting with the project arborist and/or landscape architect to verify required tree protection is in place; and,
- h. Arrange for the project arborist to monitor and document initial demolition and guarding activity.

In addition to the above, the applicant shall:

- a. For trees to be retained, chain link fencing and other root protection shall be installed around the dripline of the tree prior to any project site work.
- b. No parking or vehicle traffic shall be allowed under root zones, unless using buffers approved by the Project Arborist.
- c. No trenching within the critical root zone area is allowed. If trenching is needed in the vicinity of trees to be retained, the City's consulting arborist shall be consulted before any trenching or root cutting beneath the dripline of the tree.
- d. Wood chip mulch shall be evenly spread inside the tree projection fence to a four-inch depth.
- e. Tree protection conditions shall be posted on the tree protection barriers.
- f. Retained trees shall be watered to maintain them in good health.

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- g. Any willful action by the applicant, contractor and/or subcontractors that causes damage to the retained trees, without proper review by the City to allow additional tree removals, shall cause the applicant to be non-compliant with the City's Municipal Code and could require payment of the Retroactive Tree Removal penalties and fees pursuant to the most recently adopted fee schedule.
- h. A covenant on the property shall be recorded that identifies all the protected trees, prior to final occupancy.

The tree protection measures shall be inspected and approved by the City's consulting arborist prior to issuance of building permits. The City's consulting arborist shall inspect the trees to be retained and shall provide reviews prior to issuance of demolition, grading or building permits. A report ascertaining the good health of the trees mentioned above shall be provided prior to issuance of final occupancy.

5. TREE PROTECTION BOND

The applicant shall provide a tree protection bond in the amount of \$30,000 to ensure protection of ten (10) trees on the site prior to issuance of grading, demolition or building permits. The bond shall be returned after completion of construction, subject to a letter from the City arborist indicating that the trees are in good condition.

6. TREE REPLACEMENT

The applicant shall provide adequate tree replacements for trees proposed to be removed in conjunction with the proposed project. The number, location and type of trees shall be incorporated into the detailed landscape plan to be reviewed and approved by the Director of Community Development prior to issuance of building permits.

7. CONSULTATION WITH OTHER DEPARTMENTS

The applicant is responsible to consult with other departments and/or agencies with regard to the proposed project for additional conditions and requirements. Any misrepresentation of any submitted data may invalidate an approval by the Community Development Department.

7. INDEMNIFICATION

To the extent permitted by law, the applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against 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 and City shall use best efforts to select mutually agreeable legal counsel to defend such action, and the applicant shall pay all compensation for such legal counsel, following the applicant's receipt of invoices from City, together with reasonable supporting documentation. Such compensation shall include reasonable compensation 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. If the applicant and the City cannot in good faith agree on joint counsel, the City shall have the right to retain counsel of its own choosing, separate from the applicant's litigation counsel.

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

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

PASSED AND ADOPTED this 28th day of May 2019, at the Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS: Vice Chair Saxena, Moore, Fung, Takahashi

NOES: COMMISSIONERS: none

ABSTAIN: COMMISSIONERS: none

ABSENT: COMMISSIONERS: Chair Wang

ATTEST:

APPROVED:

_____/s/Benjamin Fu
Benjamin Fu
Acting Dir. of Community Development

_____/s/Vikram Saxena
Vikram Saxena
Vice Chair, Planning Commission