

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION NO. 16-_____

OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
APPROVING A CONDITIONAL USE PERMIT TO ALLOW A BICYCLE HUB AND SEPARATE
BAR FACILITY WITHIN A CLUB HOUSE LOCATED IN A 942 UNIT APARTMENT
DEVELOPMENT AT 19500 PRUNERIDGE AVENUE

SECTION I: PROJECT DESCRIPTION

Application No.: U-2015-05
Applicant: Carlene Matchniff
Property Owner: Irvine Company
Location: 19500 Pruneridge Ave (APN: 369-06-032, 316-06-037)

SECTION II: FINDINGS FOR CONDITIONAL USE PERMIT:

WHEREAS, the City of Cupertino received an application for a Conditional Use 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 City Council has held at least one public hearing in regard to the application; and

WHEREAS, the Environmental Review Committee reviewed the Mitigated Negative Declaration; and

WHEREAS, the Planning Commission held a public hearing on May 10, 2016 and recommended that the City Council approve the application, subject to conditions, and adopt the Mitigated Negative Declaration; and

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

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

1. The proposed use, 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 bicycle hub provides a location at the corner of Wolfe Road and Pruneridge Avenue that anchors a pedestrian-oriented frontage including a plaza area. The programming would include a gathering space,

repair shop, short-term bike rentals, lockers, restrooms and coffee and juice bar. A separate bar facility would be located within the clubhouse designated for residents only. Both amenities provide on-site resources that encourage car trip reduction for residents, which promotes public health, safety, general welfare, and convenience.

2. The proposed use will be located and conducted in a manner in accord with the Cupertino General Plan and the purpose of this title.

The bar facility within the clubhouse is a residential-serving amenity, located on a site designated as a multi-family residential land use, which is consistent with land use policies of the General Plan. The bicycle hub is intended to be both a resident and a community serving amenity, which is consistent with Goal LU-3, to ensure that project site planning and building design enhance the public realm and integrate with adjacent neighborhoods. The bicycle hub improves bicycle access by providing a gathering space, lockers, repair tools and bicycle rentals.

NOW, THEREFORE, BE IT RESOLVED that after careful consideration of the maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on PAGE 2 thereof, the application for a Use Permit, Application no. U-2015-05 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. U-2015-05 as set forth in the Minutes of City Council, dated June 21, 2016, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE DEPARTMENT OF COMMUNITY DEVELOPMENT

1. APPROVED EXHIBITS

Approval recommendation is based on (1) the architectural, civil, landscape and signage plan set dated received January 29, 2016 consisting of ninety (90) sheets labeled "The Hamptons Redevelopment" and prepared by Arquitectonica, BKF, Olin and RSM Design; (2) colors and materials board dated October 13, 2015 and prepared by Arquitectonica; (3) perspective exhibits labeled "Amenity Deck Views" dated July 29, 2015 prepared by Arquitectonica; and (4) "The Hub Program" as prepared by Irvine Company dated received January 29, 2016, 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 no. DP-2015-04, EA-2015-03, ASA-2015-13, U-2015-05, TR-2015-21, DA-2015-01, and and shall be applicable to this approval.

5. **EXPIRATION**

If the use for which this conditional use permit is granted and utilized has ceased or has been suspended for two year or more, this permit shall be deemed expired and a new use permit application must be applied for and obtained.

6. **RESIDENT-SERVING AMENITY**

The bar facility shall be primarily a resident-serving amenity for residents and their guests and not a commercial use. Any changes to this condition require additional City review and modification to the use permit.

7. **COMMUNITY-SERVING AMENITY**

As stated within the applicant's program materials, the bicycle hub facility shall be an amenity space for Hamptons residents, Apple employees and residents of the surrounding community.

8. **MODIFICATION OF USE PERMIT**

The Director of Community Development is empowered to make or allow adjustments to the operation of the amenities to address any documented problem or nuisance situation that may occur or changes proposed.

9. **REVOCATION OF USE PERMIT**

The Director may initiate proceedings for revocation of the Use Permit in any case where, in the judgment of the Director:

- a. Substantial evidence indicates that the conditions of the conditional use permit have not been implemented, or
- b. Complaints are received related to the tenant under this use permit, and the complaints are not immediately addressed by the property management and/or the tenant, or
- c. Where the permit is being conducted in a manner detrimental to the public health, safety, and welfare, in accord with the requirements of the municipal code.

10. **LAW ENFORMENT SUPPORT**

The property owner shall address security concerns in the event that they arise to the satisfaction of the City. The property owner shall pay for any additional Sheriff enforcement time resulting from documented incidents in the development at the City's contracted hourly rate with the Sheriff Department at the time of the incident. The City reserves the right to require additional security patrols and/or other measures as prescribed by the Sheriff's Office or Code Enforcement.

11. BUSINESS LICENSE

The operator shall obtain a City of Cupertino business license prior to building permit issuance.

12. WINDOW DETAILS

The windows for each the respective amenity shall be kept open and transparent to the greatest extent possible. The final floor plan, storefront design and window display shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

13. SIGNAGE

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

14. ODOR ABATEMENT

Applicant shall install an odor abatement system to reduce odor impacts from any common food preparation area to the adjacent community. The odor abatement system shall be installed prior to final occupancy. Detailed plans shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

15. MECHANICAL AND OTHER EQUIPMENT SCREENING

To the extent possible, unless demonstrated otherwise, to the satisfaction of the Director of Community Development, all mechanical and other equipment shall be placed in areas not visible from the public street areas. In the event that it is not possible to locate such equipment away from the public street areas, 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.

16. 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.

17. 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.

18. 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 at a Regular Meeting of the City Council of the City of Cupertino the 21st day of June 2016, by the following roll call vote:

Vote: Members of the City Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

Grace Schmidt
City Clerk

Barry Chang
Mayor, City of Cupertino