

CC 03-21-2023

Oral  
Communications

Written  
Communications

**From:** [Rhoda Fry](#)  
**To:** [City Clerk](#); [City Council](#)  
**Subject:** March 2021 Cupertino City Council Oral Communications  
**Date:** Tuesday, March 21, 2023 11:17:03 AM  
**Attachments:** [Why Did Cupertino Receive Zero Tax Dollars.pdf](#)

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Why Did Cupertino Receive ZERO Income from CDTFA in February while other cities received their share?

City Tax Income from CDTFA (California Department of Tax and Fee Administration)

Monthly Payments to Cities and Counties from the 1% Local Sales and Use Tax

Fiscal Year	Fiscal Year	Jurisdiction Id	Jurisdiction	Year To	Distributed	Distributed	Distributed
From	To			Date	December	January	February
2022	2023	43012	CUPERTINO	29577275	6275185.8	6266361.1	0
2022	2023	43008	CAMPBELL	10196246	1053799.3	837054.4	1754697
2022	2023	43009	LOS ALTOS	2141091.7	225000.35	227855.92	269888.5
2022	2023	43005	MOUNTAIN VIEW	16592981	1820517.4	1524655.5	2700500
2022	2023	43014	SARATOGA	1002401.2	95506.16	98997.96	169792.4
2022	2023	43007	SUNNYVALE	25196550	2756341	2546380.5	4666143

source: <https://www.cdtfa.ca.gov/dataportal/dataset.htm?url=MonthlyLocalAllocationCities>

**From:** [Peggy Griffin](#)  
**To:** [City Council](#); [Pamela Wu](#)  
**Cc:** [City Clerk](#); [City of Cupertino Audit Committee](#)  
**Subject:** 2023-03-21 City Council Mtg-ORAL COMMUNICATIONS- City lost \$12M!!!  
**Date:** Tuesday, March 21, 2023 4:33:43 PM  
**Attachments:** [Page 42-CDFT Audit-FY\\_2022-23\\_Adopted\\_Budget.pdf](#)  
[Why Did Cupertino Receive Zero Tax Dollars.pdf](#)  
[Jan-Mar 2023 CDFT Local Sales Tax for Cupertino LOCAL 43012.pdf](#)

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please include this email and all 3 attachments as part of Written Communications for tonight's 3/21/2023 City Council meeting.

Dear City Council, City Manager and Director Alfaro,

I've been concerned about the significant loss in revenue that has been discussed many times so I've been looking into the tax revenue the city receives.

Q1: Why did the City not receive ANY sales tax dollars in February 2023?

See attached PDF: "Why Did Cupertino Receive Zero Tax Dollars.pdf"

**IMPORTANT POINTS:**

- City got dinged \$12M – and the City Treasurer KNEW on 2/15/2023 because the monthly ETF transfer did not happen! This major financial hit is on the city's CDFTA 2/15/2023 statement.
- City got dinged \$323,511.51 on 3/10/2023 – and the City Treasurer KNEW it!

**QUESTIONS:**

Q2: Why wasn't Council AND the public informed of this massive multi-million dollar loss in revenue?

It's been over a month since the City Treasurer has known about this.

Q3: Why wasn't the Audit Committee made aware of this when they met on 2/27/2023?

Q4: How much more will the city lose?

Q5: Why did this happen?

Q6: Does the city still have to give 35% of this loss in sales tax to Apple and Insight?

In last year's FY 2022-23 Adopted Budget, on PDF Page 42 second paragraph from the bottom it states that there is a CDFTA Audit that will potentially impact sales tax revenue for FY 2022-23.

**FROM PAGE 42 of document** [https://apps.cupertino.org/pdf/FY\\_2022-23\\_Adopted\\_Budget.pdf](https://apps.cupertino.org/pdf/FY_2022-23_Adopted_Budget.pdf):

General Fund revenues are projected to be \$94.7 million, up \$5.0 million, or 5.6%, from the FY 2021-22 Adopted Budget. In FY 2020-21, sales tax revenues experienced an unprecedented increase due to increased demand for technology during the transition to remote work and increased state-wide online sales. Sales tax is expected to be lower in FY 2022-23 compared to FY 2020-21 as the California Department of Tax and Fee Administration (CDTFA) is currently auditing one of the City's sales tax revenue sources. The impact of this audit is unknown but has the potential to significantly affect the City's sales tax revenues. Once more information is known, staff will bring updates to Council. Property tax revenues will increase slightly. Transient occupancy taxes will continue to be heavily impacted as business travel slowly recovers.

Staff has known for over a month (before Feb. 15, 2023) and has not brought this to Council - \$12M+ gone! These are our tax dollars. It impacts decisions.

REQUEST: Please present this in a public hearing where the public and Council members can ask questions – NOT an Informational Item or a Council Memo.

Sincerely,  
Peggy Griffin



## Changes to the Budget and Policies

### Revised Fees

City Council approved the FY 2022-23 fee schedules on May 19, 2022. The increased fees are estimated to result in increased revenues of approximately \$92,662 in the General Fund and \$158,000 in the Enterprise Funds.

### Investment Policy

The City Council annually updates and adopts a City Investment Policy that complies with State statutes on allowable investments. An external auditor performs agreed-upon procedures to review City compliance with the policy. The Audit Committee reviews the policy and acts as an investment oversight committee. City Council approved the current City Investment Policy on May 19, 2022.

### GANN Appropriations Limit

The City's FY 2022-23 appropriations limit is \$122,756,522, an increase of \$8.1 million, or 7.1%, from the FY 2021-22 limit of \$114,666,491. If a city exceeds the legal limit, excess tax revenue must be returned to the State or citizens through refunds, rebates, or other means that may be determined at that time. For FY 2022-23, the City's estimated appropriations of proceeds from taxes, less statutory exclusions, do not appear to exceed the limit and are not expected to present a constraint on current or future deliberations.

### Revised Fund Balance and Use of One-Time Funds Policy

On March 8, 2022, City Council approved updates to the Committed, Unassigned Fund Balance and Use of One-Time Funds Policy. The Economic Uncertainty Reserve was increased from \$19 million to \$24 million to align with increases in the City's revenues and expenditures. A Capital Projects Reserve of \$10 million was created to fund capital projects. Finally, \$2 million was transferred to the Section 115 Pension Trust to fund pension costs.

## Budget by Fund

### General Fund

The General Fund pays for core services such as public safety, public works, planning and community development, park maintenance, code enforcement, and the administrative services required to support them. The revenue used to pay for these services comes primarily from local taxes such as sales tax, property tax, transient occupancy tax, charges for service, and other discretionary sources. General Fund resources fund operations that do not have other dedicated funding sources.

General Fund revenues are projected to be \$94.7 million, up \$5.0 million, or 5.6%, from the FY 2021-22 Adopted Budget. In FY 2020-21, sales tax revenues experienced an unprecedented increase due to increased demand for technology during the transition to remote work and increased state-wide online sales. Sales tax is expected to be lower in FY 2022-23 compared to FY 2020-21 as the California Department of Tax and Fee Administration (CDTFA) is currently auditing one of the City's sales tax revenue sources. The impact of this audit is unknown but has the potential to significantly affect the City's sales tax revenues. Once more information is known, staff will bring updates to Council. Property tax revenues will increase slightly. Transient occupancy taxes will continue to be heavily impacted as business travel slowly recovers.

General Fund expenditures are \$95.2 million, representing a \$5.4 million, or 6.0% increase from the FY 2021-22 Adopted Budget. The increase is primarily due to the addition of 14 positions and the addition of a \$2.5 million transfer to the Capital Reserve. In the past, transfers to the Capital Reserve were not programmed in the Adopted Budget; instead, funds were transferred to the Capital Reserve as a mid-year budget adjustment. Due to the uncertainty of the pandemic, the City implemented significant budget reduction strategies in FY 2020-21,

# CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

## STATEMENT OF BRADLEY-BURNS LOCAL TAX DISTRIBUTION

Juris Code: 43012

Date: 01/06/2023

For the periods shown below

**Payee: CITY OF CUPERTINO**  
**CITY TREASURER**

Current Distributions	NOV 2022	9,861.08
Current Advance	NOV 2022	6,256,500.00
Prior Credits		0.00
<hr/>		
Balance	NOV 2022	6,266,361.08
Total Payment (by EFT)		6,266,361.08

Current Distributions Breakdown by Period:

Distribution Prior to 2nd Quarter 2022	745.32
Distribution 2nd Quarter 2022	-8,486.09
Distribution 3rd Quarter 2022	4,800.32
Distribution 4th Quarter 2022	12,801.53
Distribution 1st Quarter 2023	0.00
Current Distributions (As Above)	9,861.08

If you would like to request older statements or have any questions, please contact CDTFA Local Revenue Branch by email at [jservices@cdtfa.ca.gov](mailto:jservices@cdtfa.ca.gov), phone at (916) 324-3000, or mail:

California Department of Tax and Fee Administration  
Local Revenue Branch, MIC: 27  
PO Box 942879  
Sacramento, CA 94279-0027

# CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

## STATEMENT OF BRADLEY-BURNS LOCAL TAX DISTRIBUTION

Juris Code: 43012


Date: 02/15/2023

For the periods shown below


**Payee: CITY OF CUPERTINO**  
**CITY TREASURER**

Net Collections	4th QTR 2022		12,317,517.20
County Tax Share	4th QTR 2022		0.00
<hr/>			
Total Due	4th QTR 2022		12,317,517.20
Prior Credits			0.00
Prior Distributions	4th QTR 2022		-33,246.87
Prior Advances	4th QTR 2022		-12,508,300.00
Adjusted Cost of Admin			-99,481.84
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Balance	4th QTR 2022		-323,511.51
Total Payment (by EFT)			0.00
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Why was Cupertino charged \$12.5M? Due to CDFT Audit? Will there be more?



Amount still owed, carried over to March 2023.



**Total Due Breakdown by Period:**

Distribution Prior to 2nd Quarter 2022	9,013.22
Distribution 2nd Quarter 2022	-7,062.75
Distribution 3rd Quarter 2022	20,302.38
Distribution 4th Quarter 2022	12,295,264.35
Distribution 1st Quarter 2023	0.00
Total Due (As Above)	12,317,517.20

If you would like to request older statements or have any questions, please contact CDTFa Local Revenue Branch by email at [jservices@cdtfa.ca.gov](mailto:jservices@cdtfa.ca.gov), phone at (916) 324-3000, or mail:

California Department of Tax and Fee Administration  
Local Revenue Branch, MIC: 27  
PO Box 942879  
Sacramento, CA 94279-0027

# CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

## STATEMENT OF BRADLEY-BURNS LOCAL TAX DISTRIBUTION

Juris Code: 43012

Date: 03/10/2023

For the periods shown below

**Payee: CITY OF CUPERTINO**  
**CITY TREASURER**

Current Distributions	JAN 2023		76,579.21
Current Advance	JAN 2023		2,833,500.00
Prior Credits		Carried over from previous month.	-323,511.51
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Balance	JAN 2023		2,586,567.70
Total Payment (by EFT)			2,586,567.70

### Current Distributions Breakdown by Period:

Distribution Prior to 3rd Quarter 2022	1,038.42
Distribution 3rd Quarter 2022	87.58
Distribution 4th Quarter 2022	75,025.28
Distribution 1st Quarter 2023	427.93
Distribution 2nd Quarter 2023	0.00
Current Distributions (As Above)	76,579.21

If you would like to request older statements or have any questions, please contact CDTFA Local Revenue Branch by email at [jservices@cdtfa.ca.gov](mailto:jservices@cdtfa.ca.gov), phone at (916) 324-3000, or mail:

California Department of Tax and Fee Administration  
Local Revenue Branch, MIC: 27  
PO Box 942879  
Sacramento, CA 94279-0027

CC 03-21-2023

Item No.3

Consider staff reports  
and the attachments  
provided at the June 21,  
2022 and March 7, 2023  
for Chamber of  
Commerce

Written  
Communications

**From:** [Kitty Moore](#)  
**To:** [City Clerk](#); [Kirsten Squarcia](#)  
**Subject:** Pull Consent Agenda Item 3 and add Written Communications  
**Date:** Tuesday, March 21, 2023 3:10:38 PM  
**Attachments:** [Purchasing Policy Cupertino.pdf](#)  
[Chamber Summary .pdf](#)  
[5. Cupertino Chamber PAC - Stip.pdf](#)

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Dear City Clerk,

Please pull Consent Item 3 and please add the attachments to Agenda Item 3 today.

Thank you,

Kitty Moore



**Kitty Moore**  
Councilmember  
City Council  
Kmoore@cupertino.org  
(408) 777-1389



**CHAPTER 3.22: PURCHASE OF SUPPLIES, MATERIALS, EQUIPMENT AND SERVICES**

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## Section

- 3.22.010 Purpose of chapter.
- 3.22.020 Definitions.
- 3.22.030 Purchasing Officer.
- 3.22.040 Purchase orders or check requests needed-Use of petty cash funds.
- 3.22.050 Availability of funds.
- 3.22.060 Purchasing requirements.
- 3.22.070 Exemptions.

**3.22.010 Purpose of Chapter.**

This chapter is enacted to set forth policy to establish efficient procedures for the purchase of supplies, materials, equipment and services at the lowest possible cost commensurate with quality needed, and to clearly define authority for the purchasing function of the City.

(Ord. 1582, § 1 (part), 1992)

**3.22.020 Definitions.**

For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them by this section.

1. "Bid" means any proposal submitted to the City in competitive bidding for City purchases and contracts for supplies, materials, equipment, and/or services.
2. "Lowest responsible bidder" means the lowest monetary bidder who has demonstrated the attribute of trustworthiness as well as quality, fitness, capacity and experience to satisfactorily perform the contract.
3. "Purchases." Purchases of supplies and equipment shall include leases or rentals, as well as transactions by which the City acquires ownership.
4. "Purchasing Officer" means the City Manager or any other official or officials designated in writing by the City Manager for administration of this chapter.
5. "Services" means any and all services including, but not limited to, equipment service contracts.

The term does not include services rendered by City officers or employees, or professional or other services which are by nature unique or for which the procedure for procurement is specifically provided by law.

6. "Supplies," "materials" and "equipment" means any and all articles, things or tangible personal property furnished to or to be used by the City.

(Ord. 1897, § 1 (part), 2002; Ord. 1582, § 1 (part), 1992)

**3.22.030 Purchasing Officer.**

A. The Purchasing Officer of the City is vested with the authority for the purchase of supplies, materials, equipment and services. When the provisions and intent of this chapter may be best served by so doing, the Purchasing Officer may

authorize in writing any department to investigate, solicit bids or to negotiate the purchase or award of contracts for supplies, materials, equipment or services for that department, provided that such shall be done in conformity with the procedures prescribed by this chapter or by duly adopted administrative rules and regulations pertaining thereto.

B. The Purchasing Officer shall have the responsibility and authority to:

1. Purchase or contract for materials, supplies, equipment and services to be performed as may be required by any department of the City in accordance with procedures prescribed by this chapter or by such administrative rules and regulations as the Purchasing Officer may adopt pursuant thereto;

2. Prepare and adopt administrative rules and regulations not in conflict with the provisions of this chapter for the purpose of carrying out the requirements and intent of this purchasing system.

(Ord. 1582, § 1 (part), 1992)

### **3.22.040 Purchase Orders or Check Requests Needed-Use of Petty Cash Funds.**

A. Purchases of supplies, materials, equipment or services shall be made only by means of purchase orders or check requests processed and issued pursuant to this chapter. The purchase orders or check requests shall be valid only when signed by the City Manager, the Purchasing Officer or other persons as may be designated by the Purchasing Officer to act in his behalf.

B. Nothing herein shall preclude the use of authorized petty cash funds for purposes intended by their establishment.

(Ord. 1582, § 1 (part), 1992)

### **3.22.050 Availability of Funds.**

The Purchasing Officer shall not issue any purchase order or check request, or award any contract for the acquisition of supplies, materials, equipment or services, unless there exists an unencumbered appropriation in the funds as approved by City Council resolution adopting procedures for administration of the annual budget. The appropriate account and funds shall be encumbered immediately after the issuance of the purchase order or check request or award of contract.

(Ord. 1582, §1 (part), 1992)

### **3.22.060 Purchasing Requirements.**

A. Open Market Purchases. The Purchasing Officer may award contracts or issue purchase orders or check requests for the acquisition of supplies, materials, equipment or services in the open market without observing the competitive bidding procedure contained in this Chapter when the dollar value will foreseeably equal, or be less than, the amount for public works contracts described in section 22032(a) of the Public Contracts Code.

B. Purchases Approved by City Council-Application of Formal Competitive Bidding Procedures. In instances where the acquisition of supplies, materials, equipment or services will foreseeably result in the issuance of a purchase order, check request, or the award of a contract with a dollar value in excess of the required dollar value for public works contracts described in section 22032(b) of the Public Contracts Code, such will be authorized only by action of the City Council.

Such action shall be taken after the formal competitive bidding procedures described in this section are followed, unless pursuant to a written recommendation of the City Manager, the City Council finds that the use of the formal competitive bidding procedure is not practical due to limitations on source of supply, necessary restrictions in specifications, necessary standardization, quality considerations, or if other valid reasons for waiving the formal competitive bidding process procedures appear. Upon making such a finding, the Council may direct the Purchasing Officer to dispense with the formal competitive procedure and make the purchase on the open market or through any other procedure which meets the City's requirements.

C. Formal Competitive Bidding Procedures. The formal bidding procedures required for purchases described in Section 3.22.060B are as follows:

1. Notice Inviting Bids.



a. Notice inviting bids shall include:

- i. A distinct description of the supplies, materials, equipment or services to be purchased;
- ii. The location where bid blanks, specifications and requests for proposals may be secured;
- iii. The time and place for opening bids;

iv. A statement that the City has the authority to reject any and all bids and may waive any minor technicality or variance found in a bid document.

b. The notice inviting bids shall be published at least fourteen calendar days before the date of opening of bids in a newspaper of general circulation printed or published in the City. Such notice may also be mailed to any vendor or provider which the Purchasing Officer has reason to believe may be in a position to provide the subject supplies, material, equipment or services to the City.

2. Opening of Bids. Bids shall be opened in public by the City Clerk at the time and place stated in the notice inviting bids. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than fifteen calendar days after the bid opening. Any bid which is received after the time specified in the notice shall be returned unopened.

3. Award of Contract. Contracts shall be awarded by the City Council to the lowest responsible bidder except as otherwise provided in this chapter.

4. Award to Next Lowest Bidder-Failure to Execute Contract. The City Council may, on refusal or failure of the successful bidder to execute the contract within ten days after the date the notice of award of contract is mailed, unless the City is responsible for the delay, award it to the next lowest responsible bidder.

5. Award of Contract to the Next Lowest Bidder-Lowest Bidder Irresponsible-Notice and Hearing.

A. The City Council, in its sole discretion, may reject the lowest monetary bid for purchases of supplies, materials, equipment or services upon a specific finding that the lowest monetary bidder is not responsible. To determine responsibility, the City Council may consider, among other things, the bidder's financial responsibility, level of experience and whether the bidder has failed to complete or deliver any supplies, materials, equipment or services in other projects.

B. If the City Council rejects the lowest bid upon its determination that the lowest bidder is not responsible, the City shall:

i. Give notice of the City Council's decision to the lowest monetary bidder, setting forth the reasons why the bidder is not considered the lowest responsible bidder;

ii. Give the bidder the opportunity to ask for a pre-award hearing before the City Council on the issue;

iii. If the hearing is requested, agendaize the matter before the City Council, giving written notice of such hearing to all bidders;

iv. After hearing, the City Council shall make a finding, supported by the evidence on the record as to the nonresponsibility of the lowest monetary bidder.

6. Rejection of Bids-Identical Bids-Absence of Bids. The City Council, in its sole discretion, may:

a. Reject any bids presented and re-advertise for new bids;

b. Reject any bid that fails to meet the requirements of the formal bidding procedure in any respect;

c. If two or more bids are the same and the lowest, the City Council may accept the one it chooses;

d. If no bids are received, the City Council may direct the Purchasing Officer to purchase the supplies, materials, equipment or services without further adherence to the formal bidding procedure;

e. Waive any minor irregularities or variances in any bid received.

D. Informal Competitive Bidding Procedures. In instances where the purchase of supplies, materials, equipment or services will foreseeably result in the issuance of a purchase order, check request or the award of a contract with a dollar value of greater than the amount for public works contracts described in section 22032(a) of the public contract code but equals, or is less than the amount for public works contracts described in section 22032(b) of the public contracts code, the Purchasing Officer may award contracts or issue purchase orders or check requests for the purchase of supplies,

materials, equipment or services.

Such action shall be taken only after the informal competitive bidding procedure described in subsection E below is followed unless the City Manager finds in writing that the use of the informal competitive bidding procedure is not practical due to limitations on source of supply, necessary restrictions in specifications, necessary standardization, quality considerations, or if other valid reasons for waiving the informal competitive bidding process procedure appear. Upon making such a finding, the City Manager may direct the Purchasing Officer to dispense with the informal competitive bidding procedure and make the purchase on the open market or through any other procedure which meets the City's requirements.

E. Informal Competitive Bidding Procedure for Purchases Described in Subparagraph D. Above.

i. The procedures described in subsections 3.22.060 C I a and C2-C6 of this chapter are applicable except that the duties described thereunder which are performed by the City Council are performed under these informal procedures by the Purchasing Officer. Determinations of the Purchasing Officer are subject to appeal pursuant to Chapter 1.16 of the City's ordinance code.

ii. Publication of notice inviting informal bids is not required.

(Ord. 1897, § 1 (part), 2002; Ord. 1582, § 1 (part), 1992)

### **3.22.070 Exemptions.**

Notwithstanding any provision of this chapter to the contrary, the Purchasing Officer, with the written concurrence of the City Manager, is authorized to issue a purchase order or check request, or award a contract, without adherence to the other provisions of this chapter under following instance:

A. Emergency Purchases. The immediate requirement of an item necessary for the continued operation of a department or for the preservation of life or property shall be deemed an emergency. A full report of the circumstances of emergency purchase in excess of the amount described in subsection 3.22.060B shall be filed with the City Council at its next regular meeting after the purchase was made.

B. Recurring or Essential Services. Purchase orders or check requests, including payment of claims against the City where reasonable advanced estimates of costs cannot be determined for essential services of a recurring nature. Included, but not limited to, this authorization are such items as utility services, approved claims for liability under the City's insurance program, renewal premium for authorized insurance policies, all expenditures for the City's payroll and employee benefits and other matters involving unknown estimates of costs.

C. Purchases From Other Public Agencies. Purchases of supplies, materials, equipment or services from any other public agency created under the laws of the State of California or the United States Government are exempt from the bidding requirements of this chapter.

D. Professional Services. Professional services including, but not limited to, services of lawyers, architects, engineers, land surveyors, artists and accountants are exempt from the bidding requirements of this chapter.

(Ord. 1897, § 1 (part), 2002; Ord. 1582, § 1 (part), 1992)

## **CHAPTER 3.23: PUBLIC WORKS CONTRACT AND BIDDING PROCEDURES**

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### **Section**

3.23.010 Purpose.

3.23.020 Definitions.

3.23.030 Competitive bidding.

3.23.040 Notice inviting bids.

3.23.050 Presentation of bids-Security required-Subcontractor designated in bid.

3.23.060 Opening bids.

- 3.23.070 Award of contract.
- 3.23.080 Forfeiture of security.
- 3.23.090 Award of contract to next lowest bidder-Failure to execute contract.
- 3.23.100 Award of contract to next lowest bidder-Lowest bidder irresponsible-Notice and hearing.
- 3.23.110 Rejection of bids-Identical bids-Absence of bids.
- 3.23.120 Informal bidding procedure for public works projects.
- 3.23.130 Exempt from bidding requirements.
- 3.23.140 Performance bond of successful bidder.
- 3.23.150 Deposit of proceeds.
- 3.23.160 Additional work by City authority.
- 3.23.170 Deletions of work by City authority.

### **3.23.010 Purpose.**

This chapter is enacted to enhance competition, to prevent corruption and undue influence in the awarding of public works contracts, and to clarify the City's competitive bidding requirements established pursuant to Part 3 of the California Public Contract Code, Sections 20100 et seq.

(Ord. 1583, § 1 (part), 1992)

### **3.23.020 Definitions.**

As used in this chapter, the following terms, phrases, words and their derivations shall have the meanings given in this section:

1. "Bid" means any proposal submitted to the City in competitive bidding for the construction, alteration, repair or improvement of any structure, building, road or other improvement of any kind.
2. "Lowest responsible bidder" means the lowest monetary bidder who has demonstrated the attribute of trustworthiness as well as quality, fitness, capacity and experience to satisfactorily perform the public works contract sought.
3. "Public works contract" means an agreement for the erection, construction, alteration, repair or improvement of any public structure, building, road or other public improvement of any kind.
4. "Public works project" means:
  - a. The erection, improvement, painting or repair of public buildings and works;
  - b. Work to protect against overflow of streams, bays, waterfronts or embankments;
  - c. Street or sewer work except for maintenance or repair thereof;
  - d. Furnishing supplies or materials for any such project, including the maintenance or repair of streets or sewers.

(Ord. 1897, § 2 (part), 2002; Ord. 1583, § 1 (part), 1992)

### **3.23.030 Competitive Bidding.**

Except as otherwise provided for in this chapter, public works projects with an estimated dollar value in excess of the required dollar value for competitive bidding established by section 22032(a) of the California Public Contracts Code, as may be amended, shall be contracted for pursuant to the procedures prescribed in this chapter.

(Ord. 1897, § 2 (part), 2002; Ord. 1583, § 1 (part), 1992; Ord. 16- 2143, § 1, 2016)

### **3.23.040 Notice Inviting Bids.**

The notice inviting bids shall be in the form and published as follows:

A. Notices inviting bids shall include:

1. A distinct description of the public works project to be performed;
2. The location where bid blanks and specifications may be secured;
3. The time and place for opening bids;
4. The type and amount of bidder's security required;
5. The class of license required for the public works to be performed; and
6. A statement that the City has the authority to reject any and all bids and may waive any minor technicality or variance from the bid specifications.

B. The notice inviting bids shall be:

1. Published in a newspaper of general circulation printed and published in the City at least the number of days specified in Section 22037 of the California Public Contract Code, as may be amended, before the opening of bids; and
2. Provided to all construction and trade journals specified in Section 22036 of the California Public Contract Code, or as may be amended, at least the number of days and by the methods set forth in Section 22037 of the California Public Contracts Code, as may be amended.

(Ord. 1897, § 2 (part), 2002; Ord. 1583, § 1 (part), 1992; Ord. 16-2143, § 2, 2016)

### **3.23.050 Presentation of Bids-Security Required-Subcontractor Designated in Bid.**

A. All bids shall be presented under sealed cover (identified as bids on the envelope), submitted to the City Clerk and accompanied by one of the following forms of bidder's security:

1. Cash;
2. A cashier's check made payable to the City;
3. A certified check made payable to the City;
4. A bidder's bond executed by an admitted surety insurer, made payable to the City.

B. The security shall be in an amount equal to at least ten percent of the amount of the bid, or such other sum as may be authorized by the California Public Contract Code. A bid shall not be considered unless one of the forms of bidder's security is enclosed with it.

C. Upon award of the contract to the lowest responsible bidder, the security of an unsuccessful bidder shall be returned in a reasonable period of time, but in no event shall such security be held by the City beyond ninety days from the date the notice of award of contract is mailed.

D. All bidders on a public works project must designate in their bids the name, address, the portion of the work each subcontractor will perform, and other information as required by Section 4101(a)(1) of the California Public Contract Code, as may be amended, of each subcontractor:

1. Who will perform work exceeding one-half of one percent of the prime contractor's total bid, or
2. Who meet or exceed the thresholds for specific types of work as specified in Section 4101(a)(1) of the California Public Contracts Code, as may be amended.

E. The prime contractor shall list only one subcontractor for each portion of work as is defined by the prime contractor in their bid.

(Ord. 1897, § 2 (part), 2002; Ord. 1583, § 1 (part), 1992; Ord. 16-2143, § 3, 2016)

### **3.23.060 Opening Bids.**

Bids shall be opened in public at the time and place stated in the notice inviting bids. A tabulation of all bids received shall be open for public inspection during regular business hours for a period of not less than fifteen calendar days after the bid opening. Any bid which is received after the time specified in the notice shall be returned unopened.

(Ord. 1583, § 1 (part), 1992)

### **3.23.070 Award of Contract.**

Contracts shall be awarded by the City Council to the lowest responsible bidder except as otherwise provided in this chapter.

(Ord. 1583, § 1 (part), 1992)

### **3.23.080 Forfeiture of Security.**

If the successful bidder fails to execute the contract within ten days after the date the notice of award of contract is mailed, unless the City is responsible for the delay, the amount of the bidder's security shall be forfeited to the City except as provided in Section 3.23.090.

(Ord. 1583, § 1 (part), 1992)

### **3.23.090 Award of Contract to next Lowest Bidder-Failure to Execute Contract.**

The City Council may, on refusal or failure to the successful bidder to execute the contract within ten days after the date the notice of award of contract is mailed, unless the City is responsible for the delay, award it to the next lowest responsible bidder. If the City Council awards the contract to the second lowest bidder, the amount of the lowest bidder's security shall be applied by the City to the difference between the low bid and the second lowest bid, and the surplus, if any, shall be returned to the lowest bidder if cash or a check is used, or to the bidder's surety if a bond is used.

(Ord. 1583, § 1 (part), 1992)

### **3.23.100 Award of Contract to Next Lowest Bidder-Lowest Bidder Irresponsible-Notice and Hearing.**

A. The City Council, in its sole discretion, may reject the lowest bid upon specific findings that the lowest bidder is not responsible. To determine responsibility, the City Council may consider, among other things, the bidder's financial responsibility, type of license, type of equipment, number of years experience in construction work, other projects bidder worked on in the last five years, whether bidder has failed to complete any contract and bidder's ability to be bonded.

B. If the City Council rejects the lowest bid upon its determination that the lowest bidder is not responsible, the City shall do the following:

1. Give notice of the City Council's decision to the lowest bidder, setting forth the reasons why he/she is not considered the lowest "responsible" bidder;
2. In the notice, give bidder an opportunity to ask for a pre-award hearing before the City Council on the issue;
3. If hearing is requested, agenda the matter pursuant to California Government Code hearing requirements;
4. After the hearing, the City Council shall make a finding, supported by the evidence on the record, as to the nonresponsibility of the lowest bidder.

(Ord. 1897, § 2 (part), 2002; Ord. 1583, § 1 (part), 1992)

### **3.23.110 Rejection of Bids-Identical Bids-Absence of Bids.**

The City Council, in its sole discretion, may:

- A. Reject any bids presented and readvertise for new bids;
- B. Reject any bid that fails to meet the bidding requirements in any respect;
- C. If two or more bids are the same and the lowest, the City Council may accept the one it chooses;
- D. If no bids are received, the City Council may have the project done without further complying with this chapter;
- E. Waive minor irregularities in any bid received.

(Ord. 1583, § 1 (part), 1992)

### **3.23.120 Informal Bidding Procedure for Public Works Projects.**

Except as otherwise required by this chapter or under state or federal law, the bidding procedures of this chapter may be dispensed with for public works projects with an estimated dollar value equal to or less than the required dollar value specified in Subdivision (b) of Section 22032 of the Public Contract Code, and the following informal bidding procedures substituted:

A. The City shall maintain a list of qualified contractors, identified according to categories of work. Minimum criteria for compilation of the contractor list shall be determined by the California Uniform Construction Cost Accounting Commission ("Commission"). All contractors on the list for the category of work being bid and/or all construction trade journals specified by the Commission shall be mailed a notice inviting informal bids, unless the product or service is proprietary.

B. All mailing of notices to contractors and construction trade journals shall be completed not less than the number of days specified in Section 22304(c) of the California Public Contract Code, or as may be amended, before the date of opening the bids.

C. The City Council hereby delegates the authority to award contracts pursuant to informal bidding to the City Manager or other person designated in writing by the City Manager.

(Ord. 1632, 1993; Ord. 1583, § 1 (part), 1992; Ord. 16- 2143, § 4, 2016)

### **3.23.130 Exempt from Bidding Requirements.**

The following are exempt from competitive bidding requirements:

A. Professional Services. Includes, but is not restricted to, services of lawyers, architects, engineers, land surveyors, artists, and accountants;

B. Maintenance. Includes the maintenance and repair of streets and sewers, but does not include the furnishing of materials for such maintenance;

C. Emergency Work. If there is a great public calamity, such as an extraordinary fire, flood, storm, epidemic or other disaster, or if it is necessary to do emergency work to prepare for national or local defense, the City Council may pass a resolution by a four-fifths vote declaring that the public interest and necessity demand the immediate expenditure of public money to safeguard life, health or property. Upon adoption of the resolution, the City may expend any sum required in the emergency without complying with this chapter;

D. Small Contracts. Any contract for public works projects with an estimated dollar value equal to or less than the required dollar value for competitive bidding established by section 22032(a) of the California Public Contracts Code;

E. Meaningless Bids. Where the nature of the subject of the contract is such that competitive proposals would not produce an advantage and when the advertisement for competitive bidding would be undesirable, impracticable or impossible;

F. Performance of Project After Rejection of Bids. After rejection of bids presented, the City Council may pass a resolution by a four-fifths vote declaring that the project can be performed more economically by day labor or the materials or supplies furnished at a lower price in the open market. Upon adoption of the resolution, the City is relieved from further

compliance with formal bidding requirements.

(Ord. 1897, § 2 (part), 2002; Ord. 1583, § 1 (part), 1992)

### **3.23.140 Performance Bond of Successful Bidder.**

The City Manager has authority to require a performance bond before entering a contract, in such amount as the City Manager finds reasonably necessary to protect the best interests of the City or as may be required by law. If the City requires a performance bond, the form and amount of the bond shall be described in the notice inviting bids.

(Ord. 1583, § 1 (part), 1992)

### **3.23.150 Deposit of Proceeds.**

The cash or proceeds collected pursuant to this chapter shall be deposited in the fund out of which the expenses of preparation and printing of the plans and specifications, estimates of cost and publication of notice are paid.

(Ord. 1583, § 1 (part), 1992)

### **3.23.160 Additional Work by City Authority.**

Notwithstanding the provisions of this chapter, if the Director of Public Works determines that additional or extra work on any public works project is required to complete the project as originally intended, the Director of Public Works is authorized to approve contract change orders for additional or extra work on any public works contract without complying with the bidding requirements established in this chapter, provided that each individual contract change order does not exceed the required dollar value for bidding established by Section 22032 of the California Public Contract Code; and, further, that the aggregate total of all such contract change orders for any one public works project does not exceed the value of the project contingency established for the project at the time the contract is awarded. Under this same authority, the Director of Public Works is authorized to approve extensions of time to public works contracts up to a maximum of sixty calendar days.

(Ord. 1900, § 1, 2002)

### **3.23.170 Deletions of Work by City Authority.**

The City reserves the right to delete up to twenty-five percent of the work on a public works contract where such deletions would advance the project as originally contemplated.

(Ord. 1583, § 1 (part), 1992)

CITY OF CUPERTINO PURCHASING POLICY Effective September 1, 2013

<b>Type</b>	<b>Form</b>	<b>Category</b>	<b>Process</b>	<b>Authorization</b>
<p>General Supplies (Operating or maintenance supplies and materials, general meeting expenses, licenses, subscriptions, memberships, mileage reimbursements, tools, furniture, equipment.)</p> <p>General Services (Operating or maintenance services, recurring services, essential or emergency services or purchases from public agencies.)</p>	<p>Petty Cash Voucher (up to \$75); or Check Request; or Partial Receipt of Purchase Order with or without contract</p>			
		Up to \$45,000	No specific requirements. Muni Code Sec 3.22.060A	Form authorized by designated supervisor. Note: Services of temporary personnel authorized by HR Mgr.
		\$45,001 to \$175,000	Informal competitive bidding process or RFP. Code Sec 3.22.060D	Form authorized by department head. Note: Services of temporary personnel authorized by HR Mgr.
		Greater than \$175,000	Formal competitive bidding or RFP with approval from the City Manager. Code Sec 3.22.060B.	Form authorized by department head. Contract approved by City Manager/City Council.
Utility Payments	Invoices		Summarized and paid by Finance; copies sent to PW Supervisor.	Payment authorized by PW Supervisor (may be after payment process).



CITY OF CUPERTINO PURCHASING POLICY Effective September 1, 2013

<b>Type</b>	<b>Form</b>	<b>Category</b>	<b>Process</b>	<b>Authorization</b>
Construction Contracts	Contract; Construction documents and specifications approved by Dir. of Public Works or his designee	Up to \$45,000	No bidding required. Code Sec 3.23.130D	Contract authorized by designated supervisor
		\$45,001 to \$175,000	Informal competitive bidding process. Code Sec 3.23.120	Contract authorized by department head.
		Greater than \$175,000	Formal competitive bidding approved by Department Head. Formal construction documents approved by Dir. of Public Works. Code Sec 3.23.030 through 3.23.120	Contract approved by City Manager/City Council.
Professional Services (including but not limited to lawyers, architects, engineers, land surveyors, artists and accountants)  OR from another Public Agency created under California or US Gov't laws	Petty Cash Voucher (up to \$75); or Check Request; or Partial Receipt of Purchase Order with or without contract	Up to \$45,000	No bidding required. Code Sec 3.22.070D and 3.23.130A	Form authorized by designated supervisor.
		\$45,001 to \$175,000	No bidding required. Code Sec 3.22.070D and 3.23.130A	Form authorized by department head.
		Greater than \$175,000	No bidding required. Code Sec 3.22.070D and 3.23.130A	Form authorized by department head. Contract approved by City Manager/City Council.
Expense Reimbursements and Advance Payment	Petty Cash Voucher (up to \$75); or Check Request; or Reimbursement of Expenses	Any amount	See Administrative Procedure I-12 and Unrepresented Employees' Compensation Program Policy No. 3	Form authorized by designated supervisor.
Educational Reimbursements	Request for Educational Reimbursement of Expenses	Up to \$1,200 per year	See Administrative Procedure II-2; Memorandum of Understandings with CEA and OE3	Authorized by Human Resources and department head.

**Recipient Committee  
Campaign Statement  
Cover Page**

(Government Code Sections 84200-84216.5)

COVER PAGE

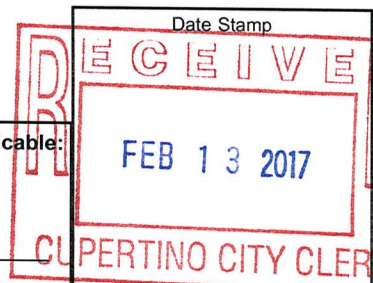
CALIFORNIA  
FORM

**460**

SEE INSTRUCTIONS ON REVERSE

Statement covers period  
from 07/01/2016  
through 12/31/2016

Date of election if applicable:  
(Month, Day, Year)



Page 1 of 12  
For Official Use Only

**1. Type of Recipient Committee:** All Committees – Complete Parts 1, 2, 3, and 4.

- ☐ Officeholder, Candidate Controlled Committee  
☐ State Candidate Election Committee  
☐ Recall  
(Also Complete Part 5)
- ☒ General Purpose Committee  
☒ Sponsored  
☐ Small Contributor Committee  
☐ Political Party/Central Committee
- ☐ Primarily Formed Ballot Measure Committee  
☐ Controlled  
☐ Sponsored  
(Also Complete Part 6)
- ☐ Primarily Formed Candidate/Officeholder Committee  
(Also Complete Part 7)

**2. Type of Statement:**

- ☐ Preelection Statement  
☒ Semi-annual Statement  
☐ Termination Statement  
(Also file a Form 410 Termination)
- ☒ Amendment (Explain below)
- ☐ Quarterly Statement  
☐ Special Odd-Year Report  
☐ Supplemental Preelection Statement - Attach Form 495

UPDATED SCHEDULE D

**3. Committee Information**

I.D. NUMBER  
1299673

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)  
CUPERTINO CHAMBER OF COMMERCE PAC

STREET ADDRESS (NO P.O. BOX)

CITY STATE ZIP CODE AREA CODE/PHONE

MAILING ADDRESS (IF DIFFERENT) NO. AND STREET OR P.O. BOX

CITY STATE ZIP CODE AREA CODE/PHONE

OPTIONAL: FAX / E-MAIL ADDRESS

**Treasurer(s)**

NAME OF TREASURER

ANDREW WALTERS

MAILING ADDRESS

CITY STATE ZIP CODE AREA CODE/PHONE

NAME OF ASSISTANT TREASURER, IF ANY

MAILING ADDRESS

CITY STATE ZIP CODE AREA CODE/PHONE

OPTIONAL: FAX / E-MAIL ADDRESS

**4. Verification**

I have used all reasonable diligence in preparing and reviewing this statement and under penalty of perjury under the laws of the State of California that the foregoing

attached schedules is true and complete. I certify

Executed on 2/8/2017  
Date

Executed on \_\_\_\_\_  
Date

Executed on \_\_\_\_\_  
Date

Executed on \_\_\_\_\_  
Date

By \_\_\_\_\_  
Signature of Controlling Officeholder, Candidate, State Measure Proponent or Responsible Officer of Sponsor

By \_\_\_\_\_  
Signature of Controlling Officeholder, Candidate, State Measure Proponent

By \_\_\_\_\_  
Signature of Controlling Officeholder, Candidate, State Measure Proponent

FPPC Form 460 (Jan/2016)

FPPC Advice: advice@fppc.ca.gov (866/275-3772)

www.fppc.ca.gov

# Schedule A Monetary Contributions Received

Amounts may be rounded  
to whole dollars.

SCHEDULE A

Statement covers period from <u>07/01/2016</u> through <u>12/31/2016</u>		<b>CALIFORNIA FORM 460</b>
		Page <u>4</u> of <u>12</u>
		I.D. NUMBER <u>1299673</u>

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

CUPERTINO CHAMBER OF COMMERCE PAC

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
07/01/2016	KEITH WARNER [REDACTED]	<input checked="" type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC	MANAGING PARTNER PACIFIC WORKPLACES	100.00	100.00	
08/22/2016	SAN JOSE WATER COMPANY [REDACTED]	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		1,000.00	1,000.00	
11/02/2016	SAND HILL PROPERTY COMPANY AND AFFILIATED ENTITIES [REDACTED]	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		6,906.66	25,000.00	
11/02/2016	SAND HILL PROPERTY COMPANY AND AFFILIATED ENTITIES [REDACTED]	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		5,023.12	25,000.00	
11/02/2016	SAND HILL PROPERTY COMPANY AND AFFILIATED ENTITIES [REDACTED]	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		650.53	25,000.00	
<b>SUBTOTAL \$</b>				13,680.31		

## Schedule A Summary

- Amount received this period – itemized monetary contributions.  
(Include all Schedule A subtotals.) ..... \$ 26,100.00
- Amount received this period – unitemized monetary contributions of less than \$100 ..... \$ 0.00
- Total monetary contributions received this period.  
(Add Lines 1 and 2. Enter here and on the Summary Page, Column A, Line 1.) ..... **TOTAL \$** 26,100.00

\*Contributor Codes  
IND – Individual  
COM – Recipient Committee  
(other than PTY or SCC)  
OTH – Other (e.g., business entity)  
PTY – Political Party  
SCC – Small Contributor Committee

# Schedule A (Continuation Sheet) Monetary Contributions Received

Amounts may be rounded  
to whole dollars.

SCHEDULE A (CONT.)

Statement covers period		<b>CALIFORNIA FORM 460</b>
from	07/01/2016	
through	12/31/2016	Page 5 of 12
NAME OF FILER		I.D. NUMBER
CUPERTINO CHAMBER OF COMMERCE PAC		1299673

DATE RECEIVED	FULL NAME, STREET ADDRESS AND ZIP CODE OF CONTRIBUTOR (IF COMMITTEE, ALSO ENTER I.D. NUMBER)	CONTRIBUTOR CODE *	IF AN INDIVIDUAL, ENTER OCCUPATION AND EMPLOYER (IF SELF-EMPLOYED, ENTER NAME OF BUSINESS)	AMOUNT RECEIVED THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
11/02/2016	SAND HILL PROPERTY COMPANY AND AFFILIATED ENTITIES <div></div>	<input type="checkbox"/> IND <input type="checkbox"/> COM <input checked="" type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC		12,419.69	25,000.00	
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
		<input type="checkbox"/> IND <input type="checkbox"/> COM <input type="checkbox"/> OTH <input type="checkbox"/> PTY <input type="checkbox"/> SCC				
SUBTOTAL \$				12,419.69		

## \*Contributor Codes

IND – Individual  
COM – Recipient Committee  
(other than PTY or SCC)  
OTH – Other (e.g., business entity)  
PTY – Political Party  
SCC – Small Contributor Committee



**Schedule D**  
**Summary of Expenditures**  
**Supporting/Opposing Other**  
**Candidates, Measures and Committees**

Amounts may be rounded  
to whole dollars.

Statement covers period		CALIFORNIA FORM		<b>460</b>
from	07/01/2016			
through	12/31/2016	Page 6 of 12		
NAME OF FILER			I.D. NUMBER	
CUPERTINO CHAMBER OF COMMERCE PAC			1299673	

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

CUPERTINO CHAMBER OF COMMERCE PAC

DATE	NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE	TYPE OF PAYMENT	DESCRIPTION (IF REQUIRED)	AMOUNT THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
10/31/2016	LIANG CHAO SCHOOL BOARD MEMBER CUPERTINO UNION SCHOOL DISTRICT	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	LIT	2,393.69	6,219.25	
	<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose					
10/31/2016	MEASURE C CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input checked="" type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure	LIT	2,393.69	17,695.92	
	<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose					
10/31/2016	MEASURE D CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input checked="" type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure	LIT	2,393.69	2,393.69	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
SUBTOTAL \$				7,181.07		

**Schedule D Summary**

- Contributions and independent expenditures made this period of \$100 or more. (Include all Schedule D subtotals.) ..... \$ 34,921.81
- Unitemized contributions and independent expenditures made this period of under \$100 ..... \$ 0.00
- Total contributions and independent expenditures made this period. (Add Lines 1 and 2. Do not enter on the Summary Page.) ..... **TOTAL \$** 34,921.81

**Schedule D  
(Continuation Sheet)  
Summary of Expenditures  
Supporting/Opposing Other  
Candidates, Measures and Committees**

Amounts may be rounded  
to whole dollars.

SCHEDULE D (CONT.)

Statement covers period		<b>CALIFORNIA FORM 460</b>
from	07/01/2016	
through	12/31/2016	Page <u>7</u> of <u>12</u>
NAME OF FILER		I.D. NUMBER
CUPERTINO CHAMBER OF COMMERCE PAC		1299673

DATE	NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE	TYPE OF PAYMENT	DESCRIPTION (IF REQUIRED)	AMOUNT THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
10/31/2016	STEVEN SCHARF City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	LIT	2,393.69	6,219.25	
	<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose					
10/31/2016	MEASURE B COUNTY OF SANTA CLARA	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	LIT	2,393.70	2,393.70	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
11/01/2016	LIANG CHAO SCHOOL BOARD MEMBER CUPERTINO UNION SCHOOL DISTRICT	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	LIT	1,921.84	6,219.25	
	<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose					
11/01/2016	MEASURE C CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input checked="" type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure	LIT	7,687.37	17,695.92	
	<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose					
SUBTOTAL \$				14,396.60		

**Schedule D  
(Continuation Sheet)  
Summary of Expenditures  
Supporting/Opposing Other  
Candidates, Measures and Committees**

Amounts may be rounded  
to whole dollars.

SCHEDULE D (CONT.)

Statement covers period from 07/01/2016 through 12/31/2016	<b>CALIFORNIA FORM 460</b>
Page 8 of 12	

NAME OF FILER

CUPERTINO CHAMBER OF COMMERCE PAC

I.D. NUMBER

1299673

DATE	NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE	TYPE OF PAYMENT	DESCRIPTION (IF REQUIRED)	AMOUNT THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
11/01/2016	STEVEN SCHARF City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	LIT	1,921.84	6,219.25	
	<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose					
11/03/2016	LIANG CHAO SCHOOL BOARD MEMBER CUPERTINO UNION SCHOOL DISTRICT	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	LIT	1,903.72	6,219.25	
	<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose					
11/03/2016	MEASURE C CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input checked="" type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure	LIT	7,614.86	17,695.92	
	<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose					
11/03/2016	STEVEN SCHARF City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	LIT	1,903.72	6,219.25	
	<input type="checkbox"/> Support <input checked="" type="checkbox"/> Oppose					
<b>SUBTOTAL \$</b>				13,344.14		

**Recipient Committee  
Campaign Statement  
Cover Page**

(Government Code Sections 84200-84216.5)

COVER PAGE

<b>RECEIVED</b> JAN 31 2019 CUPERTINO CITY CLERK	<b>CALIFORNIA FORM 460</b>
	Page <u>1</u> of <u>13</u> For Official Use Only

SEE INSTRUCTIONS ON REVERSE

**Statement covers period**  
from 10/21/2018  
through 12/31/2018

**Date of election if applicable:**  
(Month, Day, Year)

**1. Type of Recipient Committee:** All Committees – Complete Parts 1, 2, 3, and 4.

- |                                                                                                                                                                                                                             |                                                                                                                                                                            |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> Officeholder, Candidate Controlled Committee<br><input type="radio"/> State Candidate Election Committee<br><input type="radio"/> Recall<br><i>(Also Complete Part 5)</i>                          | <input type="checkbox"/> Primarily Formed Ballot Measure Committee<br><input type="radio"/> Controlled<br><input type="radio"/> Sponsored<br><i>(Also Complete Part 6)</i> |
| <input checked="" type="checkbox"/> General Purpose Committee<br><input checked="" type="radio"/> Sponsored<br><input type="radio"/> Small Contributor Committee<br><input type="radio"/> Political Party/Central Committee | <input type="checkbox"/> Primarily Formed Candidate/Officeholder Committee<br><i>(Also Complete Part 7)</i>                                                                |

**2. Type of Statement:**

- |                                                                                      |                                                                               |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| <input type="checkbox"/> Preelection Statement                                       | <input type="checkbox"/> Quarterly Statement                                  |
| <input checked="" type="checkbox"/> Semi-annual Statement                            | <input type="checkbox"/> Special Odd-Year Report                              |
| <input type="checkbox"/> Termination Statement<br>(Also file a Form 410 Termination) | <input type="checkbox"/> Supplemental Preelection Statement - Attach Form 495 |
| <input type="checkbox"/> Amendment (Explain below)                                   |                                                                               |

**3. Committee Information**

I.D. NUMBER  
1299673

COMMITTEE NAME (OR CANDIDATE'S NAME IF NO COMMITTEE)  
CUPERTINO CHAMBER OF COMMERCE PAC

STREET ADDRESS (NO P.O. BOX)

MAILING ADDRESS (IF DIFFERENT) NO. AND STREET OR P.O. BOX

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_ AREA CODE/PHONE \_\_\_\_\_

OPTIONAL: FAX / E-MAIL ADDRESS

**Treasurer(s)**

NAME OF TREASURER

RICHARD ABDALAH

MAILING ADDRESS

NAME OF ASSISTANT TREASURER, IF ANY

SAMUEL HARVEY

MAILING ADDRESS

OPTIONAL: FAX / E-MAIL ADDRESS

**4. Verification**

I have used all reasonable diligence in preparing and reviewing this statement and to the best of my knowledge the information contained herein and in the attached schedules is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on 1/29/19  
Date

Executed on \_\_\_\_\_  
Date

Executed on \_\_\_\_\_  
Date

Executed on \_\_\_\_\_  
Date

By \_\_\_\_\_

By \_\_\_\_\_  
Signature of Controlling Officeholder, Candidate, State Measure Proponent or Responsible Officer of Sponsor

By \_\_\_\_\_  
Signature of Controlling Officeholder, Candidate, State Measure Proponent

By \_\_\_\_\_  
Signature of Controlling Officeholder, Candidate, State Measure Proponent

FPPC Form 460 (Jan/2016)

FPPC Advice: advice@fppc.ca.gov (866/275-3772)

www.fppc.ca.gov



**Schedule D**  
**Summary of Expenditures**  
**Supporting/Opposing Other**  
**Candidates, Measures and Committees**

Amounts may be rounded  
to whole dollars.

Statement covers period		CALIFORNIA FORM <b>460</b>	
from	10/21/2018	Page	5 of 13
through	12/31/2018	I.D. NUMBER	1299673

SEE INSTRUCTIONS ON REVERSE

NAME OF FILER

CUPERTINO CHAMBER OF COMMERCE PAC

DATE	NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE	TYPE OF PAYMENT	DESCRIPTION (IF REQUIRED)	AMOUNT THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
10/26/2018	HUNG WEI City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF CANVASSING	7,222.23	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
10/26/2018	HUNG WEI City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF CNS	1,111.11	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
10/26/2018	HUNG WEI City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF WEB	1,111.11	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
SUBTOTAL \$				9,444.45		

**Schedule D Summary**

- Contributions and independent expenditures made this period of \$100 or more. (Include all Schedule D subtotals.) ..... \$ 29,610.36
- Unitemized contributions and independent expenditures made this period of under \$100 ..... \$ 0.00
- Total contributions and independent expenditures made this period. (Add Lines 1 and 2. Do not enter on the Summary Page.) ..... **TOTAL \$** 29,610.36

**Schedule D**  
**(Continuation Sheet)**  
**Summary of Expenditures**  
**Supporting/Opposing Other**  
**Candidates, Measures and Committees**

Amounts may be rounded  
to whole dollars.

SCHEDULE D (CONT.)

Statement covers period		<b>CALIFORNIA FORM 460</b>
from <u>10/21/2018</u>		
through <u>12/31/2018</u>		Page <u>6</u> of <u>13</u>
NAME OF FILER		I.D. NUMBER
CUPERTINO CHAMBER OF COMMERCE PAC		1299673

DATE	NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE	TYPE OF PAYMENT	DESCRIPTION (IF REQUIRED)	AMOUNT THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
10/26/2018	HUNG WEI City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF LIT	425.67	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
10/26/2018	ORRIN MAHONEY City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF CANVASSING	7,222.23	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
10/26/2018	ORRIN MAHONEY City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF CNS	1,111.11	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
10/26/2018	ORRIN MAHONEY City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF WEB	1,111.11	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
SUBTOTAL \$				9,870.12		

**Schedule D**  
**(Continuation Sheet)**  
**Summary of Expenditures**  
**Supporting/Opposing Other**  
**Candidates, Measures and Committees**

Amounts may be rounded  
to whole dollars.

SCHEDULE D (CONT.)

Statement covers period		<b>CALIFORNIA FORM 460</b>
from 10/21/2018		
through 12/31/2018		Page 7 of 13
NAME OF FILER		I.D. NUMBER
CUPERTINO CHAMBER OF COMMERCE PAC		1299673

DATE	NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE	TYPE OF PAYMENT	DESCRIPTION (IF REQUIRED)	AMOUNT THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
10/26/2018	ORRIN MAHONEY City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF LIT	425.67	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
10/26/2018	SAVITA VAIDHYANATHAN City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF CANVASSING	7,222.23	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
10/26/2018	SAVITA VAIDHYANATHAN City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF CNS	1,111.11	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
10/26/2018	SAVITA VAIDHYANATHAN City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF WEB	1,111.11	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
SUBTOTAL \$				9,870.12		

**Schedule D**  
**(Continuation Sheet)**  
**Summary of Expenditures**  
**Supporting/Opposing Other**  
**Candidates, Measures and Committees**

Amounts may be rounded  
to whole dollars.

SCHEDULE D (CONT.)

Statement covers period		<b>CALIFORNIA FORM 460</b>
from	10/21/2018	
through	12/31/2018	Page 8 of 13
NAME OF FILER		I.D. NUMBER
CUPERTINO CHAMBER OF COMMERCE PAC		1299673

DATE	NAME OF CANDIDATE, OFFICE, AND DISTRICT, OR MEASURE NUMBER OR LETTER AND JURISDICTION, OR COMMITTEE	TYPE OF PAYMENT	DESCRIPTION (IF REQUIRED)	AMOUNT THIS PERIOD	CUMULATIVE TO DATE CALENDAR YEAR (JAN. 1 - DEC. 31)	PER ELECTION TO DATE (IF REQUIRED)
10/26/2018	SAVITA VAIDHYANATHAN City Council Member CITY OF CUPERTINO	<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input checked="" type="checkbox"/> Independent Expenditure	IND OF LIT	425.67	29,870.00	
	<input checked="" type="checkbox"/> Support <input type="checkbox"/> Oppose					
		<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure				
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose					
		<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure				
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose					
		<input type="checkbox"/> Monetary Contribution <input type="checkbox"/> Nonmonetary Contribution <input type="checkbox"/> Independent Expenditure				
	<input type="checkbox"/> Support <input type="checkbox"/> Oppose					
SUBTOTAL \$				425.67		

efile GRAPHIC print - DO NOT PROCESS

As Filed Data -

DLN: 93493318137849

Form 990

Department of the Treasury  
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)

Do not enter social security numbers on this form as it may be made public

Go to [www.irs.gov/Form990](http://www.irs.gov/Form990) for instructions and the latest information.

OMB No 1545-0047

2018

Open to Public Inspection

A For the 2019 calendar year, or tax year beginning 01-01-2018 , and ending 12-31-2018

B Check if applicable

☐ Address change

☐ Name change

☐ Initial return

☐ Final return/terminated

☐ Amended return

☐ Application pending

C Name of organization

CUPERTINO CHAMBER OF COMMERCE

Doing business as

Number and street (or P O box if mail is not delivered to street address)

Room/suite

20455 SILVERADO AVENUE

City or town, state or province, country, and ZIP or foreign postal code

CUPERTINO, CA 95014

F Name and address of principal officer

ANDREW WALTERS

110 W TAYLOR STREET

SAN JOSE, CA 95110

D Employer identification number

94-1501489

E Telephone number

(408) 252-7054

G Gross receipts \$ 381,760

I Tax-exempt status

☐ 501(c)(3) ☒ 501(c) ( 6 ) ◀ (insert no ) ☐ 4947(a)(1) or ☐ 527

J Website: ▶ WWW.CUPERTINO-CHAMBER.ORG

K Form of organization ☒ Corporation ☐ Trust ☐ Association ☐ Other ▶

L Year of formation 1954

M State of legal domicile CA

Part I

Summary

Activities & Governance

1 Briefly describe the organization's mission or most significant activities

TO PROVIDE AND PROMOTE AN ACTIVE, REWARDING, PROFITABLE EXPERIENCE FOR OUR BUSINESS MEMBERS

2 Check this box ☐ if the organization discontinued its operations or disposed of more than 25% of its net assets

3 Number of voting members of the governing body (Part VI, line 1a) . . . . .

4 Number of independent voting members of the governing body (Part VI, line 1b) . . . . .

5 Total number of individuals employed in calendar year 2018 (Part V, line 2a) . . . . .

6 Total number of volunteers (estimate if necessary) . . . . .

7a Total unrelated business revenue from Part VIII, column (C), line 12 . . . . .

7b Net unrelated business taxable income from Form 990-T, line 34 . . . . .

Revenue

8 Contributions and grants (Part VIII, line 1h) . . . . .

9 Program service revenue (Part VIII, line 2g) . . . . .

10 Investment income (Part VIII, column (A), lines 3, 4, and 7d ) . . . . .

11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e)

12 Total revenue—add lines 8 through 11 (must equal Part VIII, column (A), line 12)

Expenses

13 Grants and similar amounts paid (Part IX, column (A), lines 1–3 ) . . . . .

14 Benefits paid to or for members (Part IX, column (A), line 4) . . . . .

15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5–10)

16a Professional fundraising fees (Part IX, column (A), line 11e) . . . . .

b Total fundraising expenses (Part IX, column (D), line 25) ▶0

17 Other expenses (Part IX, column (A), lines 11a–11d, 11f–24e) . . . . .

18 Total expenses Add lines 13–17 (must equal Part IX, column (A), line 25)

19 Revenue less expenses Subtract line 18 from line 12 . . . . .

Net Assets or Fund Balances

20 Total assets (Part X, line 16) . . . . .

21 Total liabilities (Part X, line 26) . . . . .

22 Net assets or fund balances Subtract line 21 from line 20 . . . . .

Prior Year

93,912

694

152,850

247,456

Beginning of Current Year

676,627

6,429

670,198

Current Year

115,663

0

698

174,244

290,605

0

218,169

0

85,892

304,061

-13,456

End of Year

663,628

6,886

656,742

Part II

Signature Block

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge

\*\*\*\*\*

Signature of officer

2019-11-14

Date

ANDREW WALTERS, PRESIDENT

Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name

Preparer's signature

Date 2019-11-14

Check ☐ if self-employed

PTIN P01568974

Firm's name ▶ WHEELER ACCOUNTANTS LLP

Firm's EIN ▶ 26-1508234

Firm's address ▶ 1475 SARATOGA AVE STE 100

Phone no (408) 252-1800

SAN JOSE, CA 951294951

May the IRS discuss this return with the preparer shown above? (see instructions) . . . . . ☐ Yes ☐ No

For Paperwork Reduction Act Notice, see the separate instructions. Cat No 11282Y Form 990 (2018)

**Part II Fundraising Events.** Complete if the organization answered "Yes" on Form 990, Part IV, line 18, or reported more than \$15,000 of fundraising event contributions and gross income on Form 990-EZ, lines 1 and 6b. List events with gross receipts greater than \$5,000.

		(a) Event #1	(b) Event #2	(c) Other events	(d)
		<u>DIWALI FESTIVAL</u> (event type)	<u>LUNAR NEW YEAR</u> (event type)	<u>5</u> (total number)	Total events (add col (a) through col (c))
Revenue	<b>1</b> Gross receipts . . . . .	112,400	23,800	58,486	194,686
	<b>2</b> Less Contributions . . . . .				
	<b>3</b> Gross income (line 1 minus line 2) . . . . .	112,400	23,800	58,486	194,686
Direct Expenses	<b>4</b> Cash prizes . . . . .				
	<b>5</b> Noncash prizes . . . . .				
	<b>6</b> Rent/facility costs . . . . .				
	<b>7</b> Food and beverages . . . . .				
	<b>8</b> Entertainment . . . . .				
	<b>9</b> Other direct expenses . . . . .	39,295	10,076	27,234	76,605
	<b>10</b> Direct expense summary Add lines 4 through 9 in column (d) . . . . . ▶				76,605
	<b>11</b> Net income summary Subtract line 10 from line 3, column (d) . . . . . ▶				118,081

**Part III Gaming.** Complete if the organization answered "Yes" on Form 990, Part IV, line 19, or reported more than \$15,000 on Form 990-EZ, line 6a.

		(a) Bingo	(b) Pull tabs/Instant bingo/progressive bingo	(c) Other gaming	(d) Total gaming (add col (a) through col (c))
Revenue	<b>1</b> Gross revenue . . . . .				
Direct Expenses	<b>2</b> Cash prizes . . . . .				
	<b>3</b> Noncash prizes . . . . .				
	<b>4</b> Rent/facility costs . . . . .				
	<b>5</b> Other direct expenses . . . . .				
	<b>6</b> Volunteer labor . . . . .	<input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	<input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	<input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	
<b>7</b> Direct expense summary Add lines 2 through 5 in column (d) . . . . . ▶					
<b>8</b> Net gaming income summary Subtract line 7 from line 1, column (d) . . . . . ▶					

**9** Enter the state(s) in which the organization conducts gaming activities \_\_\_\_\_

**a** Is the organization licensed to conduct gaming activities in each of these states? ☐ Yes ☐ No

**b** If "No," explain \_\_\_\_\_

**10a** Were any of the organization's gaming licenses revoked, suspended or terminated during the tax year? ☐ Yes ☐ No

**b** If "Yes," explain \_\_\_\_\_

# 990 Schedule O, Supplemental Information

Return Reference	Explanation
FORM 990, PAGE 6, PART VI, LINE 7B	EACH REGULAR MEMBER IS ENTITLED TO ONE VOTE ON EACH MATTER SUBMITTED TO A VOTE OF THE MEMBERS

# 990 Schedule O, Supplemental Information

Return Reference	Explanation
FORM 990, PAGE 6, PART VI, LINE 12C	MEMBERS, OFFICERS, AND DIRECTORS ARE REQUIRED TO EXERCISE THE DUTY OF CARE AND LOYALTY



SCHEDULE R  
(Form 990)

Department of the Treasury  
Internal Revenue Service

Related Organizations and Unrelated Partnerships

▶ Complete if the organization answered "Yes" on Form 990, Part IV, line 33, 34, 35b, 36, or 37.  
▶ Attach to Form 990.  
▶ Go to [www.irs.gov/Form990](http://www.irs.gov/Form990) for instructions and the latest information.

OMB No 1545-0047

2018

Open to Public Inspection

Name of the organization  
CUPERTINO CHAMBER OF COMMERCE

Employer identification number  
94-1501489

Part I Identification of Disregarded Entities

Complete if the organization answered "Yes" on Form 990, Part IV, line 33.

(a) Name, address, and EIN (if applicable) of disregarded entity	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Total income	(e) End-of-year assets	(f) Direct controlling entity

Part II Identification of Related Tax-Exempt Organizations

Complete if the organization answered "Yes" on Form 990, Part IV, line 34 because it had one or more related tax-exempt organizations during the tax year.

(a) Name, address, and EIN of related organization	(b) Primary activity	(c) Legal domicile (state or foreign country)	(d) Exempt Code section	(e) Public charity status (if section 501(c)(3))	(f) Direct controlling entity	(g) Section 512(b)(13) controlled entity?	
						Yes	No
(1)CUPERTINO CHAMBER PAC 20455 SILVERADO AVE  CUPERTINO, CA 95014 26-0482223	PAC	CA	527		N/A		No

GALENA WEST  
Chief of Enforcement  
THERESA GILBERTSON  
Senior Commission Counsel  
Fair Political Practices Commission  
1102 Q Street, Suite 3000  
Sacramento, CA 95811  
Telephone: (916) 323-6421  
Email: tgilbertson@fppc.ca.gov

Attorneys for Complainant  
Enforcement Division of the Fair Political Practices Commission

BEFORE THE FAIR POLITICAL PRACTICES COMMISSION  
STATE OF CALIFORNIA

In the Matter of:

CUPERTINO CHAMBER PAC and  
ANDREW WALTERS,

Respondents.

FPPC Case No. 2016-20089

STIPULATION, DECISION AND ORDER

**INTRODUCTION**

Cupertino Chamber PAC (“Committee”) is a city general purpose committee. At relevant times, Andrew Walters (“Walters”) served as the treasurer. The Committee and Walters violated the Political Reform Act (the “Act”)<sup>1</sup> by failing to timely file two 24-hour independent expenditure reports and two 24-hour contribution reports.

**SUMMARY OF THE LAW**

The Act and its regulations are amended from time to time. The violations in this case occurred in 2016. For this reason, all legal references and discussions of law pertain to the Act’s provisions as they existed at that time—unless otherwise noted.

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<sup>1</sup> The Political Reform Act—sometimes simply referred to as the Act—is contained in Government Code sections 81000 through 91014. All statutory references are to this code. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to this source.

## **Need for Liberal Construction and Vigorous Enforcement of the Political Reform Act**

When enacting the Political Reform Act, the people of California found and declared that previous laws regulating political practices suffered from inadequate enforcement by state and local authorities.<sup>2</sup> Thus, it was decreed that the Act “should be liberally construed to accomplish its purposes.”<sup>3</sup>

One purpose of the Act is to promote transparency by ensuring that receipts and expenditures in election campaigns are fully and truthfully disclosed so that voters are fully informed and improper practices are inhibited.<sup>4</sup> Along these lines, the Act includes a comprehensive campaign reporting system.<sup>5</sup> Another purpose of the Act is to provide adequate enforcement mechanisms so that the Act will be “vigorously enforced.”<sup>6</sup>

### **24-Hour Contribution Reports**

Each committee that makes or receives a late contribution shall report the late contribution within 24-hours of making or receiving the contribution.<sup>7</sup> A late contribution means a contribution, including a loan, that totals in the aggregate one thousand dollars (\$1,000) or more and is made to or received by a candidate, a controlled committee, or a committee formed or existing primarily to support or oppose a candidate or measure during the 90-day period preceding the date of the election, or on the date of the election, at which the candidate or measure is to be voted on.<sup>8</sup>

For the November 8, 2016 General Election, the 90-day reporting period started on August 10, 2016. Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a statement shall be extended to the next regular business day.<sup>9</sup>

### **24-Hour Independent Expenditure Reports**

Each committee that makes or receives a late independent expenditure shall report the late independent expenditure within 24-hours of making or receiving the independent expenditure.<sup>10</sup> A late independent expenditure means an independent expenditure that totals in the aggregate one thousand

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<sup>2</sup> Section 81001, subdivision (h).

<sup>3</sup> Section 81003.

<sup>4</sup> Section 81002, subdivision (a).

<sup>5</sup> Sections 84200, et seq.

<sup>6</sup> Section 81002, subdivision (f).

<sup>7</sup> Section 84203.

<sup>8</sup> Section 82036.

<sup>9</sup> Regulation 18116, subdivision (a).

<sup>10</sup> Section 84204.

dollars (\$1,000) or more and is made for or against a specific candidate or measure involved in an election during the 90-day period preceding the date of the election or on the date of the election.<sup>11</sup>

For the November 8, 2016 General Election, the 90-day reporting period started on August 10, 2016. Whenever the deadline falls on a Saturday, Sunday, or official state holiday, the filing deadline for a statement shall be extended to the next regular business day.<sup>12</sup>

### **Joint and Several Liability**

Every committee must have a treasurer.<sup>13</sup> Under the Act, it is the duty of the treasurer of a controlled committee to ensure that the committee complies with all the requirements of the Act concerning the receipt, expenditure, and reporting of funds.<sup>14</sup> The treasurer may be held jointly and severally liable, along with the committee, for violations committed by the committee.<sup>15</sup>

### **SUMMARY OF THE FACTS**

The Committee has been a general purpose committee since 2007 and is sponsored by the Cupertino Chamber of Commerce. During the November 8, 2016 General Election, the Committee was responsible for producing three mass mailings in the last nine days before the election. Specifically, the Committee distributed mailings on October 31, 2016, November 1, 2016, and November 3, 2016 and spent approximately \$34,921. The three mailings each featured communications advocating for the support or opposition of candidates, city measures, and a county measure.

The three mailings advocated opposing the candidacy of Steven Scharf, a candidate running for Cupertino City Council. The three mailings advocated opposing the candidacy of Liang Chao, a candidate running for Cupertino Union School District. The first mailer also advocated supporting Measure B, a county measure to authorize a countywide sales tax in Santa Clara County for transportation needs. Steven Scharf and Liang Chao were successful candidates. Measure B passed.

This financial activity was reported by the Committee as independent expenditures on a 24-hour independent expenditure report. The report was faxed to the City of Cupertino on Friday, November 4, 2016 at 7:44pm, as the City Clerk at the time did not yet accept electronic filings in 2016. The City Clerk,

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<sup>11</sup> Section 82036.5.

<sup>12</sup> Regulation 18116, subdivision (a).

<sup>13</sup> 84100.

<sup>14</sup> Sections 81004, 84100, 84213, and Regulation 18427.

as per internal policy for receiving documents after business hours, marked the report as filed on the next business day, Monday, November 7, 2016.

Date of IE	Pro Rata Share/ Amount	In support of (S)/ In opposition of (O)	Due	Filed by Fax
Mailer 1	\$2,393	City Council candidate, Steven Scharf (O)	11/1/16	11/4/16
10/31/16	\$2,393	Cupertino Unified School District candidate, Liang Chao (O)		
Total: \$7,179	\$2,393	County Measure B (S)		
Mailables 2	\$1,921	City Council candidate, Steven Scharf (O)	11/2/16	11/4/16
11/1/16	\$1,921	Cupertino Unified School District candidate, Liang Chao (O)		
Total: 3,842				
Mailer 3	\$1,903	City Council candidate, Steven Scharf (O)	11/4/16	11/4/16
11/3/16	\$1,903	Cupertino Unified School District candidate, Liang Chao (O)		
Total: \$3,806				

The same three mailings also advocated opposing city Measure C and supporting city Measure D. This activity was reported as nonmonetary contributions to the primarily formed committee, No on C and Yes on D – Cupertino Neighbors, Educators, and the Cupertino Chamber of Commerce for the Sensible and Sustainable Revitalization of Vallco, with major funding by Sand Hill Property Company and Vallco Property Owner LLC. Measure C and Measure D were competing measures and related to development standards and the disposition of the Vallco Shopping District, owned by the Sand Hill Property Company. Both measures failed.

This activity was reported by the Committee as a non-monetary contribution on a 24-hour contribution report. The report was faxed to the City of Cupertino on Friday, November 4, 2016 at 7:44pm. The City Clerk, as per their internal policy for receiving documents after business hours, marked the report as filed on the next business day, Monday, November 7, 2016.

//

Date of Non-Mon	Pro Rata Share/ Amount	In support of (S)/ In opposition of (O)	Due	Filed by Fax
Mailer 1 10/31/16	\$4,787	City Measure C (O) City Measure D (S)  Non-Mon to No on C and Yes on D (ID #1383796)	11/1/16	11/4/16
Mailer 2 11/1/16	\$7,687	City Measure C (O) City Measure D (S)  Non-Mon to No on C and Yes on D (ID #1383796)	11/2/16	11/4/16
Mailer 3 11/3/16	\$7,614	City Measure C (O) City Measure D (S)  Non-Mon to No on C and Yes on D (ID #1383796)	11/4/16	11/4/16

The Committee filed 24-hour reports prior to the election. As the Committee's only reportable activity for 2016 occurred in the last 16-days prior to the election, no pre-election statements were required for the November 8, 2016 General Election. As a result, the Committee's activity was not disclosed to the public until the day before the election, including the fact that the Sand Hill Property Company contributed \$25,000 after the mailers were ordered and distributed and that this amount constituted about 94% of the Committee's contributions in 2016. The Committee therefore sent the mailers without needing to disclose on the mailers that the developer had provided substantial funding for the mailers.

## VIOLATIONS

### **Count 1: Failure to Timely File 24-Hour Independent Expenditure Reports**

The Committee and Walters failed to timely file two 24-hour independent expenditure reports to disclose independent expenditures totaling approximately \$4,787 due November 1, 2016 and \$7,687 due November 2, 2016 in violation of Section 84204.

### **Count 2: Failure to Timely File 24-Hour Contribution Reports**

The Committee and Walters failed to timely file two 24-hour contribution reports to disclose contributions totaling approximately \$7,179 due November 1, 2016 and \$3,842 due November 2, 2016 in violation of Section 84203.

## PROPOSED PENALTY

This matter consists of two counts. The maximum penalty that may be imposed is \$5,000 per count. Thus, the maximum penalty that may be imposed is \$10,000.<sup>16</sup>

In determining the appropriate penalty for a particular violation of the Act, the Commission considers the facts of the case, the public harm involved, and the purposes of the Act. Also, the Commission considers factors such as: (a) the seriousness of the violation; (b) the presence or absence of any intention to conceal, deceive or mislead; (c) whether the violation was deliberate, negligent or inadvertent; (d) whether the violation was isolated or part of a pattern; (e) whether corrective amendments voluntarily were filed to provide full disclosure; and (f) whether the violator has a prior record of violations.<sup>17</sup>

Failure to timely file 24-hour contribution and independent expenditure reports can cause serious harm, as it deprives the public of timely disclosure of the Committee's actions before an election. It is particularly egregious when the disclosure is required during the last 16-days before the election, as it is the only means of disclosure regarding late, potentially impactful advocacy just before votes are cast. The Committee sent out advertisements without having the cash on hand to pay for them and the interested party, Sand Hill Property Company, paid for a portion of the advertisements when it was too late to change the disclosure on the mailings. In mitigation, the Committee and Walters, have no prior enforcement history and Sand Hill Property Company was properly reported as a contributor on the 24-hour reports that were filed by fax on November 4, 2016. The required campaign statements were filed prior to the election. However, the Committee failed to include the required phrase "Paid for by" and did not include the exact name of the committee listed on the statement of organization on two of the three mailers. The return address for the mailers did list "Cupertino Chamber PAC" or "Cupertino Chamber of Commerce PAC." This is not being pursued as a separate charge in consideration for this stipulated agreement but is considered an aggravating factor.

Additionally, the Commission considers penalties in prior cases with comparable violations. A recent similar case respect to Counts 1 and 2 is: *In the Matter of Tracy Firefighters Association PAC, Eric Oliveri, Carlos Hampton, Scott Byers, and Justin Lagasa*, FPPC Case No. 16/757. The respondents were

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<sup>16</sup> See Section 83116, subd. (c).

<sup>17</sup> Regulation 18361.5, subd. (d).

1 a sponsored city general purpose committee and failed to timely file four 24-hour contribution reports for  
2 six late contributions totaling \$11,914. On December 19, 2019, the Commission imposed a penalty of  
3 \$2,500.

4 Here, the Committee failed to timely file two 24-hour contribution reports disclosing a total of  
5 \$12,474 and two 24-hour independent expenditures reports disclosing a total of \$11,021. In mitigation, the  
6 two late filed reports were filed prior to the election, albeit after regular business hours on Friday. However,  
7 the untimely disclosure led to limited public notice that the mailers were supported by Sand Hill, a  
8 developer that would be impacted by the passing or failing of Measures C or D. Therefore, a penalty of  
9 \$2,500 for Counts 1 and 2 is justified.

10 After considering the factors listed in Regulation 18361.5, prior similar cases, and other relevant  
11 facts, a penalty of \$5,000 is recommended against the Committee and Walters.

## 12 CONCLUSION

13 Complainant, the Enforcement Division of the Fair Political Practices Commission, and  
14 Respondent Cupertino Chamber PAC and Andrew Walters, hereby agree as follows:

15 1. Respondents violated the Act as described in the foregoing pages, which are a true and  
16 accurate summary of the facts in this matter.

17 2. This stipulation will be submitted for consideration by the Fair Political Practices  
18 Commission at its next regularly scheduled meeting—or as soon thereafter as the matter may be heard.

19 3. This stipulation resolves all factual and legal issues raised in this matter—for the purpose  
20 of reaching a final disposition without the necessity of holding an administrative hearing to determine the  
21 liability of Respondents pursuant to Section 83116.

22 4. Respondents have consulted with their attorney, Jim Sutton of the Sutton Law Firm, and  
23 understand, and hereby knowingly and voluntarily waive, all procedural rights set forth in Sections  
24 83115.5, 11503, 11523, and Regulations 18361.1 through 18361.9. This includes, but is not limited to the  
25 right to appear personally at any administrative hearing held in this matter, to be represented by an attorney  
26 at Respondents' own expense, to confront and cross-examine all witnesses testifying at the hearing, to  
27 subpoena witnesses to testify at the hearing, to have an impartial administrative law judge preside over the  
28 hearing as a hearing officer, and to have the matter judicially reviewed.



1           5.       Respondents agree to the issuance of the decision and order set forth below. Also,  
2 Respondents agree to the Commission imposing against them an administrative penalty in the amount of  
3 \$5,000. One or more payments totaling said amount—to be paid to the General Fund of the State of  
4 California—is/are submitted with this stipulation as full payment of the administrative penalty described  
5 above, and same shall be held by the State of California until the Commission issues its decision and order  
6 regarding this matter.

7           6.       If the Commission refuses to approve this stipulation—then this stipulation shall become null and  
8 void, and within fifteen business days after the Commission meeting at which the stipulation is rejected,  
9 all payments tendered by Respondents in connection with this stipulation shall be reimbursed to  
10 Respondents. If this stipulation is not approved by the Commission, and if a full evidentiary hearing before  
11 the Commission becomes necessary, neither any member of the Commission, nor the Executive Director,  
12 shall be disqualified because of prior consideration of this Stipulation.

13           7.       The parties to this agreement may execute their respective signature pages separately. A  
14 copy of any party's executed signature page, including a hardcopy of a signature page transmitted via fax  
15 or as a PDF email attachment, is as effective and binding as the original.

16       Dated: \_\_\_\_\_

\_\_\_\_\_  
Galena West, Chief of Enforcement  
Fair Political Practices Commission

19       Dated: \_\_\_\_\_

\_\_\_\_\_  
Andrew Walters,  
Individually and on behalf of the Cupertino Chamber  
PAC

The foregoing stipulation of the parties “Cupertino Chamber PAC, and Andrew Walters,” FPPC Case No. 2016-20089, is hereby accepted as the final decision and order of the Fair Political Practices Commission, effective upon execution below by the Chair.

IT IS SO ORDERED.

Dated: \_\_\_\_\_

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Richard C. Miadich, Chair  
Fair Political Practices Commission

CC 03-21-2023

Item No. 5  
Consider authorizing  
execution of a  
Maintenance Services  
Contract for City-owned  
orchards

Written  
Communications

**From:** [EAC Chair](#)  
**To:** [City Council](#)  
**Cc:** [Cupertino City Manager's Office](#); [City Clerk](#); [Shani Kleinhaus](#); [Connie Cunningham](#)  
**Subject:** Public Comment: Item 5 – Consider authorizing execution of a Maintenance Services Contract for City-owned orchards  
**Date:** Tuesday, March 21, 2023 5:15:06 PM  
**Attachments:** [Item 5 - SCVAS public comment.pdf](#)

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Wei and Councilmembers,

We would like to propose edits to the Maintenance Services Contract for City-owned orchards as listed in Item 5 of the Consent Calendar in order to add wildlife and creek protections. We will speak to this item during the City Council meeting should it be pulled from the Consent Calendar. We are attaching the suggested language that should be added to the contract in this email (see PDF). This is language taken from the Blackberry Farm Golf Course Maintenance Services Contract that was revised last October with edits appropriate for City-owned orchards, so this should be familiar to you and City Staff already.

Regards,

Annie Yang

Environmental Action Committee Chair  
Santa Clara Valley Audubon Society  
22221 McClellan Rd  
Cupertino, CA 95014  
[eac@scvas.org](mailto:eac@scvas.org)



March 21, 2023

RE: Item 5 – Consider authorizing execution of a Maintenance Services Contract for City-owned orchards

Dear Mayor Wei and Councilmembers,

We would like to propose edits to the Maintenance Services Contract for City-owned orchards as listed in Item 5 of the Consent Calendar. The draft contract lacks wildlife and creek protections, such as those in the Blackberry Farm Golf Course Maintenance Services Contract. As you may remember, the initial version of the current Blackberry Farm Golf Course Maintenance Services Contract did not include wildlife and creek protections, which we pointed out last October. The City subsequently and promptly added that language into the contract, and we appreciate the City doing that so swiftly. Many wildlife protections in the Blackberry Farm Golf Course Maintenance Services Contract, such as those protecting birds during the nesting season, apply to City-owned orchards. Therefore, much of the same language should be added to the Maintenance Services Contract for City-owned orchards.

Below is the language taken from the Blackberry Farm Golf Course Maintenance Services Contract, with appropriate edits in red, for your consideration to be added to the Maintenance Services Contract for City-owned orchards.

#### WILDLIFE CONSIDERATIONS

Contractor is to note that a number of federally- and state-protected wildlife species inhabit the Stevens Creek corridor ~~and portions of the golf course~~. Among the species are steelhead fish, turtles, woodrats, various birds of prey such as hawks, owls and white-tailed kites, and various migratory birds and songbirds. These animals and their habitat are protected by various federal and state regulations. Those regulations affect activities that could affect wildlife directly or indirectly, including actions on the golf course that could affect the creek and its water quality. Such actions include fertilizer use, pesticide use, irrigation practices, ~~operation of the golf course ponds~~, vehicle washing, and other procedures.

Contractor shall meet with City staff and representatives annually to review maintenance activities relative to these considerations. Contractor is encouraged ~~[to]~~ meet with City representatives more frequently as needed to ensure compliance. Further considerations are noted below.

#### NESTING BIRDS

Contractor shall be aware of nesting birds on trees ~~within the golf course~~ [in the orchard]. If tree trimming or removal is required during the nesting period, the Contractor shall conduct a survey for nesting birds ~~on the entire golf course~~ prior to performing the work.

## TERRESTRIAL WILDLIFE

VEGETATION TRIMMING AND REMOVAL: No ~~vegetation along the creek edge or any trees in any location on the golf course~~ shall be trimmed or removed from February 1 to August 31, unless it has been reviewed for presence of nests and protected wildlife by a biologist or qualified professional or the City Naturalist.

TREE REMOVAL: Certain trees are protected by City ordinance. No tree shall be removed or significantly pruned without advance approval by the City representative.

BIRD BREEDING SEASON: Breeding season for raptors, birds of prey such as hawks and owls, is normally from February 1 to August 31, with highest activity usually from early or mid March onward. Most such birds and their nests and breeding are protected by law. Routine ~~golf course operations~~ [orchard maintenance] may proceed during breeding season. However, during this time contractor shall endeavor to reduce disturbing activities, such as loud noises or vibration, within 250 feet of a raptor nest site and within 400 feet of a white-tailed kite nest site. Songbird nests are generally protected within a 100 foot radius.

RODENTICIDE USE: Use of any and all rodenticides [to poison squirrels, gophers, mice, rats] or chemicals is banned, unless authorized in advance in writing by the City.

EMISSIONS: Contractor is to minimize the use of exhaust- and emission-producing equipment to the extent compatible with performance of the work. Contractor shall favor the use of equipment powered by electrical, batteries or hand rather than diesel, gas or oil, as feasible.

### WILDLIFE REPORTING:

Contractor shall report any observations of the following to the City representative within 1 working day:

- active raptor nests turtles
- woodrats [potentially San Francisco dusky-footed woodrat]
- frogs (potentially California red-legged frog) salamanders [potentially California tiger salamander]
- other potentially protected wildlife

### WATER QUALITY CONSIDERATIONS: Protection of Creek & Ponds

RUNOFF: No runoff from any applications of chemicals, pesticides or fertilizer shall flow into creeks or ponds [nor to drainage inlets that discharge to creeks or ponds], including runoff from allowable products. No runoff other than clean rainwater shall flow into the creek. Contractor shall consider weather conditions and watering regimes in order to schedule application of fertilizer, pesticides and chemicals in a manner that prevents runoff to creeks or ponds. Contractor shall operate irrigation system and watering activities in a manner that prevents irrigation runoff as well. Contractor shall monitor and test for runoff of any chemicals, pesticides, or fertilizer to ensure runoff does not occur.

EQUIPMENT WASHING: All equipment shall be washed ~~within the equipment wash-off area in the golf maintenance yard, or in an equivalent offsite~~ [in a] facility that filters wash water and is connected to the sanitary sewer system. ~~Screens shall be cleaned of grass clippings and other material after each use.~~ No washing is permitted elsewhere.

We hope that you add these protections into the contract.

Regards,

Annie Yang

Cupertino Resident  
Environmental Action Committee Chair  
Santa Clara Valley Audubon Society  
22221 McClellan Rd  
Cupertino, CA 95014  
[eac@scvas.org](mailto:eac@scvas.org)


**From:** [Liang Chao](#)  
**To:** [City Clerk](#)  
**Subject:** Written Communication: Questions for Agenda Item 5 : Contract for city orchards:  
**Date:** Tuesday, March 21, 2023 4:33:14 PM

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Please enter the list of questions to staff into the written communication for the 3/21 Council meeting.



**Liang Chao**  
Council Member  
City Council  
[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)  
408-777-3192



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**From:** Liang Chao <[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)>  
**Sent:** Monday, March 20, 2023 11:17 AM  
**To:** Pamela Wu <[PamelaW@cupertino.org](mailto:PamelaW@cupertino.org)>  
**Cc:** Matt Morley <[MattM@cupertino.org](mailto:MattM@cupertino.org)>  
**Subject:** Re: Questions for Agenda Item 5 : Contract for city orchards:

Regarding Q6, the staff report states "Maintenance of these orchards is supportive of Cupertino's Climate Action Plan 2.0, under the Working with Nature strategic pillar. Proper orchard tree maintenance ensures the trees stay healthy and provide the best fruit production annually."

Could you elaborate a bit more on how maintaining these fruit trees fits in the Climate Action Plan 2.0?

Thanks!

Liang



**Liang Chao**  
Council Member  
City Council  
[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)  
408-777-3192



---

**From:** Liang Chao



**Sent:** Monday, March 20, 2023 11:12 AM

**To:** Pamela Wu <PamelaW@cupertino.org>

**Cc:** Matt Morley <MattM@cupertino.org>

**Subject:** Questions for Agenda Item 5 : Contract for city orchards:

Thank you for including the draft contract and the list of companies who submitted bids and their bidding amount in the agenda packet. I would have liked to see the RFP to provide context.

Questions for Agenda Item 5: Contract for city orchards:

Q1: How many staff members the city previous use to maintain the orchards in Stocklmeir and Blackberry Farm? Will there be a staffing adjustment to remove the extra (and now vacant) staffing positions?

The staff report states "Currently, only one of the orchards near Varian Park is maintained by a contractor and the remaining two orchards at Stocklmeir and Blackberry Farm are maintained by City employees. **Due to the lack of staffing resources**, the City is unable to provide maintenance to a level that is satisfactory to the City. Staff is proposing to use an experienced and qualified contractor to maintain all three orchards."

Q2: How does the city utilize these city-owned orchards? For educational purposes or any other purposes? How does the city utilize the fruits produced?

Q3: How many acres of land in each of the three parks with orchards?

Q4: How much water is it estimated that these orchards consume?

Q5: What will be the performance assessment criteria and process before the city decides whether to renew the contract?

Q6: Are these fruit trees native plants? What's their impact or contribution on biodiversity? What's their role in the city's Climate Action Plan 2.0? (Just curious if there is any)

Thanks.

Liang

**Liang Chao**  
Council Member  
City Council  
LiangChao@cupertino.org



408-777-3192



CC 03-21-2023

Item No. 6



Consider authorizing  
execution of an On-Call  
Tree Maintenance  
Services Contract with  
West Coast Arborists, Inc

Written  
Communications

**From:** [Liang Chao](#)  
**To:** [City Clerk](#)  
**Subject:** Written Communication: Questions for Agenda Item 6 : Contract for on-call tree maintenance  
**Date:** Tuesday, March 21, 2023 4:33:43 PM

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Please enter the list of questions to staff into the written communication for the 3/21 Council meeting.

	<b>Liang Chao</b> Council Member City Council LiangChao@cupertino.org 408-777-3192						
							

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**From:** Liang Chao  
**Sent:** Monday, March 20, 2023 11:30 AM  
**To:** Pamela Wu <PamelaW@cupertino.org>  
**Cc:** Matt Morley <MattM@cupertino.org>  
**Subject:** Questions for Agenda Item 6 : Contract for on-call tree maintenance

I understand the need for on-call tree maintenance services, especially as we are experiencing storming weather this year. I just wish to ensure a fair and transparent process for all applicants.

Q1: Please provide the RFP for context.

Q2: I believe the state law requires the city to choose the lowest bid, unless the city council adopted a resolution to allow another to select based on the qualifications. What resolution the city has adopted for tree maintenance service to allow selection based on both bid amount and qualification?

The staff report states "This is an on-call contract to provide services on unanticipated needs. As a means of comparing potential costs of the proposal, each vendor provided sample unit or line item pricing in the RFP for services that the City would likely request the successful firm to perform. When tree maintenance services are needed, the unit prices will be used to determine the overall cost of the work request. Based on these unit costs and an assessment of the qualifications of each firm, West Coast Arborists was identified as the most advantageous vendor for the City."

I understand that the lowest bid may not always be the best method. But the intent is to ensure fair opportunity for everyone, especially underprivileged businesses.

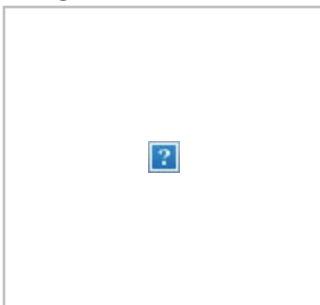
Q3: What evaluation criteria or scoring methods were used to determine the qualification of the applicants? Are the criteria made available to the applicants in the RFP?

Q4: What's the unit costs and ranking of qualification of all 6 of the firms who submitted their responses to RFP?

Q5: Has the city or any city staff worked with any of the 6 firms before or do they have existing contract with the city?

Thanks.

Liang



**Liang Chao**

Council Member

City Council

LiangChao@cupertino.org

408-777-3192



CC 03-21-2023

Item No. 7  
Petitioner's  
Presentation

Written  
Communications

# The Public Storage Sign Mistake & How We Can Fix It

## 1. Why Reconsider the February 7 Council Vote?

Council voted to approve a Public Storage sign without having necessary data/direction to make an informed decision

## 2. Why Deny the Sign Application?

The Proposed Sign does not meet the Municipal Code



# You Only Need ONE Reason to Reconsider and There are Many!

This Response to the Staff report addresses 3 areas (CMC 2.08.096)

1. Evidence improperly excluded from hearing
2. Council had unfair hearing
3. Council inadvertently abused its discretion

Now you have the opportunity to  
Respond to your Residents'  
Health and Safety needs and to  
follow the Municipal Code

*My apologies for using the harsh language of improper exclusion, unfair, abuse of discretion – those are required by code*



“The Sign Ordinance provides the regulations that the City has adopted to ensure that signage does not impinge upon the aesthetics of the City and does not inconvenience the public”

<https://www.cupertino.org/our-city/departments/community-development/planning/non-residential-mixed-use-development/sign-information>



Public Nuisance – excessively bright lights on building and sign **all night long**  
The building's excessive exterior lighting gives you an idea as to the impact of the proposed sign

# Missteps During the Sign Approval Process

1) You could not have a fair hearing because relevant evidence was improperly excluded. You were told that you had to vote for 1 freeway-oriented sign because the building had none. In fact, **the building already its one allowable freeway-oriented sign.**

A business is allowed to have 1 freeway-oriented sign (CMC 19.104.200)

"Freeway oriented Sign" = located within 660 ft of a freeway and visible from a freeway (CMC 19.08.030 S.7)

Existing Sign Visible from Freeway – Brighter than Green Freeway Sign (and excessive illumination on building)



# Mistakes Happen – We Can Fix This

Staff Report (2/7 page 2) assumes that only sign 2 and 3 are freeway-oriented and **incorrectly assumes that sign 1 is not freeway-oriented**: *"Sign 1", proposed on the east elevation of Building One, is not oriented toward I280 (see Figure 2). Of the three wall signs, two (2) are freeway oriented where only one is permitted."*

As mentioned in the Reconsideration Petition, Sign #1 is visible from the highway 280, which is proved to be visible and considered to be a freeway-oriented sign on the previous slide. (CMC 19.104.220 Freeway Orientation – 1 per business/tenant in a building).

**Council rendered a decision that was not supported by findings of fact.**

FYI – Planning staff who allowed the building no longer work for the City

Sign 1 "east"  
Sign 2, 3 exclusively Freeway oriented





2) It might not have been obvious at first, but the homes and hotel across the freeway are being flooded with **light pollution all night long**. The fact that the proposed sign directly faces homes across the freeway, was improperly excluded. The sign has HUGE 4' 6" tall illuminated letters.

Your Constituents are Directly Impacted (**and were not noticed**):

- De Anza Forge
- Markham
- Cupertino Hotel

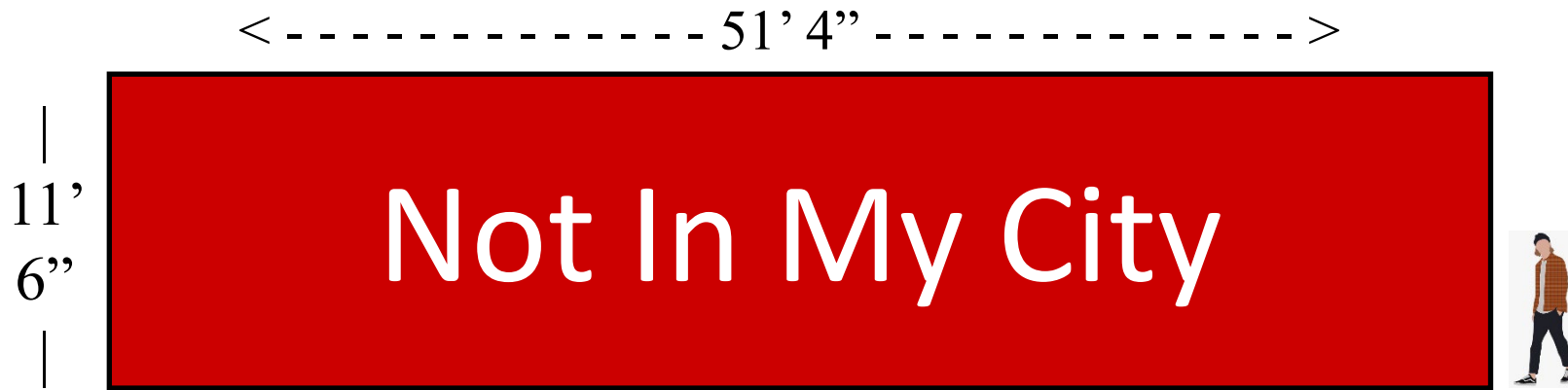


Actual Setting  
(Blue arrow is  
proposed sign 3)



**The Voices of Your Most Impacted Constituents were Muted**

3) The sign (#3) has the appearance of being 625 sq ft, but the Council was told it was 165 sq ft. **An explanation as to how signs are measured was improperly excluded, leading one to believe that the sign would be smaller** (by nearly a factor of 4).



Letters 4' 6" tall (total of 165 sq ft of illuminated white letters); Person is about 6' tall

Staff could have asked the applicant if the sign plan could be shown. And staff could have provided a schematic with the length and height of the orange wall (11' 6" x 51' 4"), the height of the letters (4' 6"), and a photograph of a similar sign on the building which is about 1/3 of the size of the proposed sign.



An illuminated sign is not measured by the size of the rectangle, it is measured by the area of the illuminated letters.



4) You were not told that the building was supposed to be nearly invisible from the freeway; how can you justify approving highly visible signage now? Planning Commission approved this building because it was given the impression that this would be a low-key, low-impact building. A low-impact building doesn't require multiple signs, illuminated signs, or giant signs. The previous building had no freeway-oriented sign for 40 years. Now, Public Storage wants 3 freeway-oriented signs for advertising purposes that are visible to motorists driving by at "75 mph."

Staff Report 2/7: allowing more than one wall-mounted sign to a single business is contrary to the intent and purpose of the Sign Ordinance (CMC 19.104), which seeks to balance the architectural and aesthetic harmony of signs into the overall building design but still allow for good sign visibility for both the public and the needs of businesses, without over-signage.

Applicant:

"We did a couple of visibility studies to see the impact from the freeway"  
"from the 280, you can barely see the property"  
"even when we are at 4 stories"

Relevant Evidence was  
Improperly Excluded



5) Council assumed that the Cupertino Hotel sign looked just like the proposed Public Storage sign. Even the existing Public Storage sign, which is 1/3 the size of the proposed sign, is more impactful. Council approved the new Public Storage sign based on the false assumption that it would be the only freeway-oriented sign and its impact would be comparable to that of the hotel.



Photo taken from 280 on-ramp North



Existing Sign on East Side of Building

Council abused its discretion by rendering a decision which was not supported by findings of fact

6) Council was unable to provide a fair hearing because Council failed to obtain clear instructions from staff.

- The City Attorney was not provided the opportunity to explain why the prior Planning Commission's decision had no legal standing. Planning Commission had listed non-compliance with the sign ordinance as one of its reasons for denial. Consequently, Council could have been confused as to what reasons they could give for rejecting the applicant's appeal.
- Council received inconsistent and conflicting direction from staff members.
- After Public Comment had closed, staff told Council that they could only base their decision on a certain portion of the municipal code. Consequently, the residents were denied the opportunity to provide relevant testimony.
- Council was confused about whether they could vote for 0, 1 or 2 signs. Council was given the impression that they had to vote for at least 1 sign, when in fact they could vote for 0.
- Council was told that the proposed sign is compliant with CMC 19.104.220 Design Criteria and it is not. However, it was up to Council to determine compliance, not staff. Council was not shown the code, even after it was requested by a council member. The Design Criteria, which is key to sign-approval, was improperly excluded. It is so important that it is listed 12 times in the Municipal Code!



# All Signs are Subject to Design Criteria

7) The **CMC 19.104.220 Design Criteria, which is key to approving signs, was improperly excluded** from the staff report and from the hearing – even after a councilmember requested its display – and subsequently asked for a continuance. The development requirements were also improperly excluded.

**CMC 19.104.220 C. The sign shall also be compatible with the aesthetic character of the surrounding developments and neighborhood** With the exception of Public Storage, the area is residential and office per the N De Anza special area of the General Plan. In fact, a proposal to replace the single-story Public Storage buildings in 2006 with 3-story buildings was recommended for rejection by the City Planning department because it was an intensification of a non-conforming use. Staff was also concerned that a new 3-story tall building would be prominently visible from Interstate 280.

No adjacent offices have wall signs – the maximum size for a wall sign is 40 square feet. In order to be compatible, the existing sign at 52.5 square feet would need to be reduced – or not be there at all. It has been illuminated all night long in spite of complaints. (The new sign would be 165.8 sq ft)



South Side is dark at night and faces offices. Somewhat compatible.

East Side nearest freeway is bright, faces adjacent homes, visible from freeway.  
Not compatible



## All Signs are Subject to Design Criteria (page 2)

CMC 19.104.220 color and illumination shall not produce a distraction to motorists

The applicant stated that he would want the sign to be visible to motorists passing by at 75 mph. Consequently, the new sign would produce a distraction. All De Anza Forge residents will be blinded by the sign when they enter their driveway, a **Safety Hazard**.

CMC 19.104.220 color and illumination shall not produce a distraction to residents

Because the smaller sign produces a distraction, the larger one will too. Public Storage is not complying with Municipal Code and turning off the sign by 11PM – a **Health Hazard**. Allowing lights to shine into bedrooms until 11PM – or at anytime – is a **Public Nuisance**.



Unfortunately, Council Conflated Objective Criteria with Design Criteria



## Case Study: How a Good Sign Program Works

*The Sign Ordinance provides the regulations that the City has adopted to ensure that signage does not impinge upon the aesthetics of the city and does not inconvenience the public*

[cupertino.org/our-city/departments/community-development/planning/non-residential-mixed-use-development/sign-information](http://cupertino.org/our-city/departments/community-development/planning/non-residential-mixed-use-development/sign-information)

### 1. **Determine Size** limit depending on building size

Commercial Maximum = 200 square feet; Office Maximum = 40 square feet (CMC 19.104.140)

### 2. **Determine Illumination** limit

Commercial/Office/Industrial = 250 ft-L; Others = 100 ft-L

The **foot-lambert readings shall be used as a guide** by staff to evaluate signs which are deemed to be a **problem to passing motorists or residents in the surrounding neighborhood**. The **color** and thickness of the sign panels as well as the **brightness** of the bulbs used to illuminate the sign shall be designed in such a manner as to **avoid excessive illumination and glare**. (CMC 19.104.230)

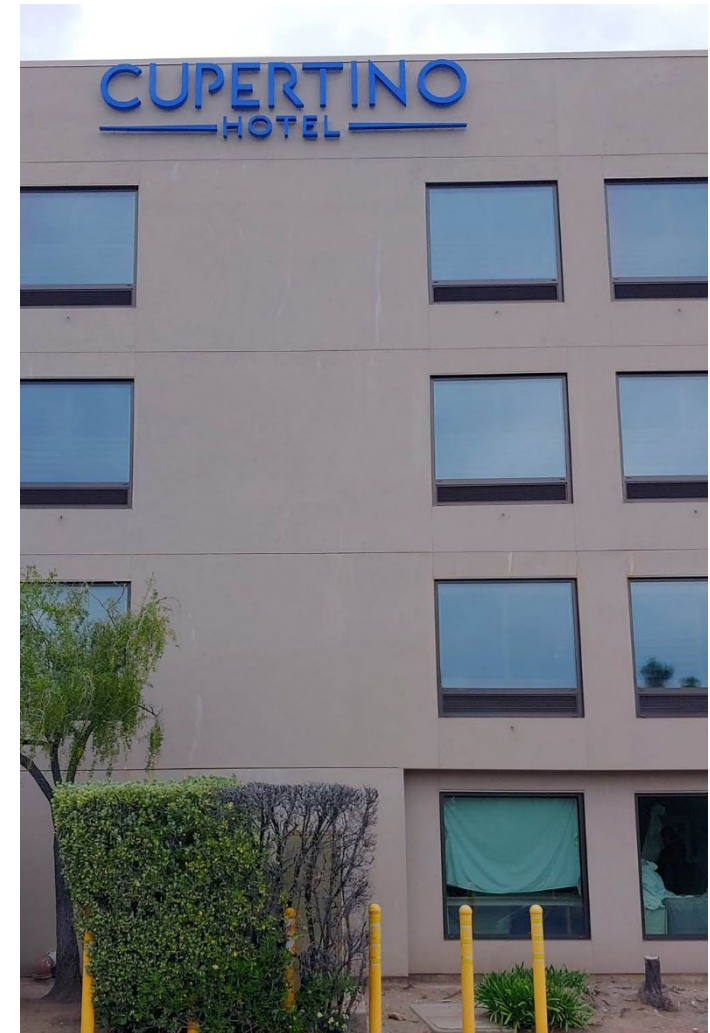
### 3. **Refine Design** basic design guidelines are needed in order to maintain the City's high quality appearance (CMC 19.104.220)

- compatible with the aesthetic character of the surrounding developments and neighborhood
- color and illumination shall not produce distraction to motorists or nearby residents

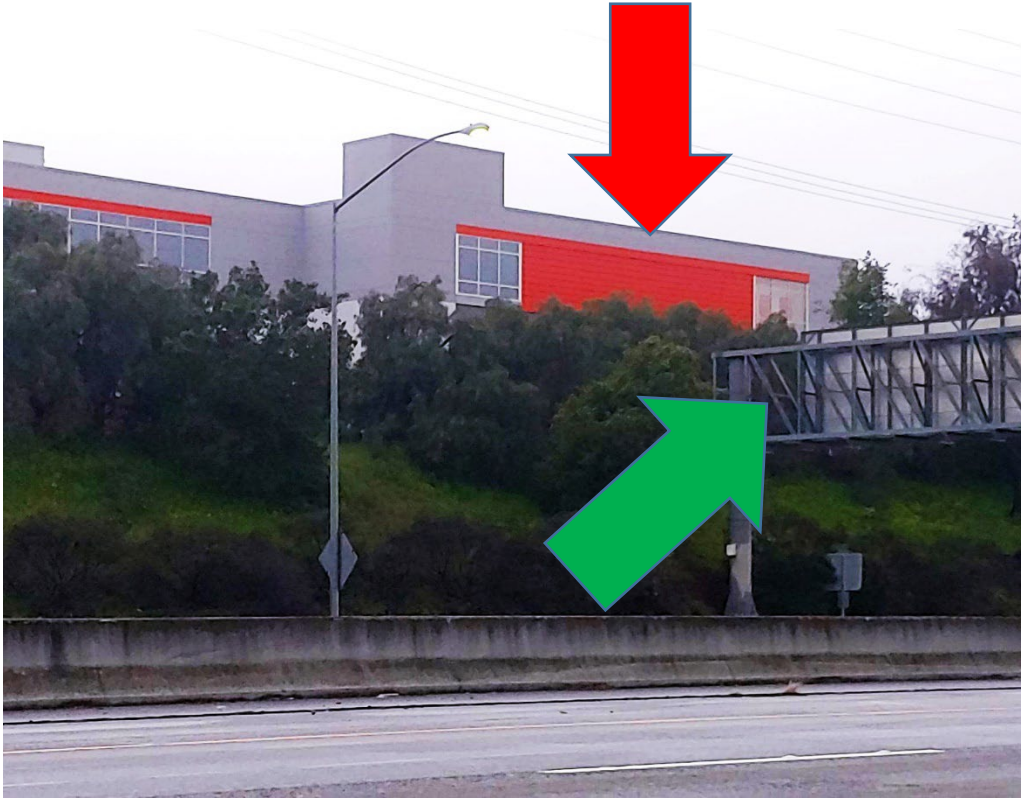
### 4. **Notice Impacted Residents**, including those beyond minimum 300' requirement. "The City may also give notice of public hearings/public meetings in any other manner it deems necessary or desirable. If the Director of Community Development believes the project may have impacts beyond the range of the mailed notice, particularly on nearby residential areas, the Director, in his or her discretion, may expand noticing beyond the stated requirements" (CMC 19.12.110 E)

"Following the formal application, the applicant worked with Staff to further refine the plans, including the size of the sign, percentage of store front area, and illumination intensity."

Applied May 2 2016, Approved August 9 2016 (PC Staff Report 8/9/2016)



# Comparing Public Storage with Hyatt House



## What Makes Public Storage Different?

- Not supposed to be visible from the freeway
- Extremely Visible (effect on adjacent freeway sign?)
- Faces Residents' Homes
- Intensification of a Non-Conforming Use
- Violates Municipal Code



## Mistakes Happen – We Can Fix This!

Accepting that the hearing went wrong and rejecting the sign proposal allows the applicant to re-apply and work with staff and propose a more appropriate signage

## Consequences of Accepting the Sign

Public Nuisance, Health Hazard, Safety Hazard, Excessive Energy Use, Light Pollution  
Please also do something about the excessive illumination on the building

## Question?

If my home was allowed to have only 1 swimming pool and I already had one that was accidentally permitted as a small hot tub, upon realizing that error, would the City allow me to have a second swimming pool?

## Public Outcry

- Many Personal Letters
- Over 144 signatures from change.org petition to:  
Say No to Huge Illuminated Sign Facing 280 on Cupertino Public Storage Building
- Audubon Society Action Alert: Tell Cupertino to say no to lighted sign
- Sierra Club Loma Prieta Chapter: Call to Action

# Now you Have over 7 Reasons Why you must Reconsider this Application, You Only Need 1

1. The building already its one allowable freeway-oriented sign.
2. The fact that the proposed sign directly faces homes across the freeway, was improperly excluded. By failing to notify your most impacted residents, they were muted.
3. An explanation as to how signs are measured was improperly excluded, leading you to believe that the sign would be smaller (by nearly a factor of 4).
4. You were not told that the building was supposed to be nearly invisible from the freeway; how can you justify approving highly visible signage now?
5. Council approved the new sign based on the false assumption that it would be the only freeway-oriented sign and its impact would be comparable to that of the hotel.
6. Council was unable to provide a fair hearing because Council failed to obtain clear instructions from staff.
7. CMC 19.104.220 Design Criteria, which is key to approving signs, was improperly excluded.

## Cyrah Caburian

---

**From:** Rhoda Fry <fryhouse@earthlink.net>  
**Sent:** Monday, October 10, 2022 2:51 PM  
**To:** City of Cupertino Planning Commission  
**Cc:** City Clerk  
**Subject:** RE: Planning Commission 10/11/22 Agenda Item #2 Not in Favor of Sign Exemption

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I have additional comments pertaining to this item. I am concerned that these signs will be distracting to motorists, particularly on Highway 280 after dark. This issue is addressed twice within the municipal code that applies to signage as follows:

19.104.050 Sign Permit Application–Review Criteria.

B. The proposed sign's color and illumination is not in conflict with the safe flow of traffic on the City streets.

19.104.220 Design Criteria–Permanent Signs.

G. The sign's color and illumination shall not produce distraction to motorists or nearby residents.

Sincerely,  
Rhoda Fry

## Cyrah Caburian

---

**From:** Rani Fischer <ranif@scvas.org>  
**Sent:** Monday, October 10, 2022 4:58 PM  
**To:** City of Cupertino Planning Commission  
**Cc:** Shani Kleinhaus  
**Subject:** Item 2 on the October 11 Agenda- illuminated Signs at 20565 Valley Green Drive  
**Attachments:** Cupertino Illuminated Signs.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cahar Scharf and Planning Commissioners,

The Santa Clara Valley Audubon Society is an environmental organization based in Cupertino. We have engaged in many Cupertino planning efforts over the past twenty years, and write today to express our opposition to freeway- facing illuminated signs. Please see our letter attached.

Thank you,

Rani Fischer  
Santa Clara Valley Audubon Society  
Environmental Advocacy Assistant





October 10, 2022

Cupertino Planning Commission  
[planningcommission@cupertino.org](mailto:planningcommission@cupertino.org)

Re: Item 2 on the October 11 Agenda:

Please do not allow illuminated Signs at 20565 Valley Green Drive

Dear Chair Scharf and Planning Commissioners,

The Santa Clara Valley Audubon Society is an environmental organization based in Cupertino. We have engaged in many Cupertino planning efforts over the past 20 years, and write today to express our concern regarding freeway facing illuminated signs. We ask:

- Please do not approve a Sign Exception to allow any illuminated/electronic wall signs on the storage facility buildings.
- If illuminated/electronic signs are considered, please:
  - Conduct a public survey to gauge community support
  - Require CEQA analysis to study the impact on aesthetic, driver safety, and biological resources.

Previous Approval On June 18, 2019, City Council approved a Development Permit (DP-2018-03), Architectural Site Approval (ASA-2018-04), Fence Exception (EXC-2018-01), and Tree Removal Permit (TR-2019-11) to allow the construction of a new storage facility consisting of two (2) four (4) story buildings. Signage details were excluded from those permit applications. Staff has now evaluated signage proposals. Our concerns are focused on the lighting of the proposed signs, and we ask the commission not to approve lighting on any sign.

#### 1. City Code

City code section 19.104.220 Design Criteria–Permanent Signs, G. provides, “The sign's color and illumination shall not produce distraction to motorists or nearby residents.” (Ord. 21-2234, Att. A (§ 9, part), 2021; Ord. 2085, § 2 (part), 2011)

The intent of freeway facing signs is clearly to distract motorists and draw their attention. Thus, freeway facing signs, especially illuminated signs, are not consistent with Cupertino's design criteria.

#### 2. CEQA

We believe that the proposed freeway facing illuminated signs must require CEQA review and public outreach to analyze and mitigate impacts to the scenic quality of the I-280 corridor.

Interstate 280 in Santa Clara County, including the section along Cupertino, is eligible for Scenic Highway designation (see Figure 1). Electronic, digital and illuminated signs clutter and degrade visual quality and aesthetic resources. I-280 in this section has wide shoulders, berms and trees all intended to create a visual buffer along the freeway, and limit visual interference from businesses and urban activities (see Figure 2). The impacts of I-280 facing illuminated signs should be analyzed in a public CEQA process.

Figure 1:

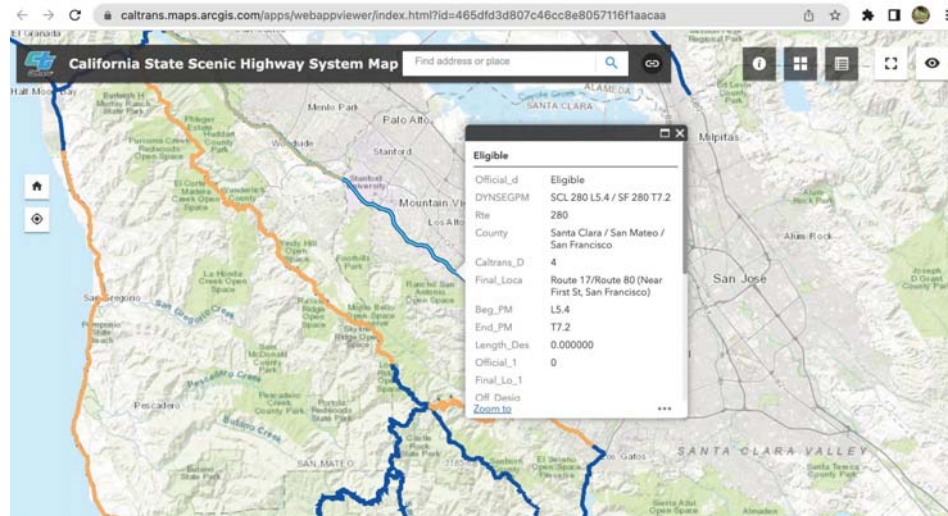
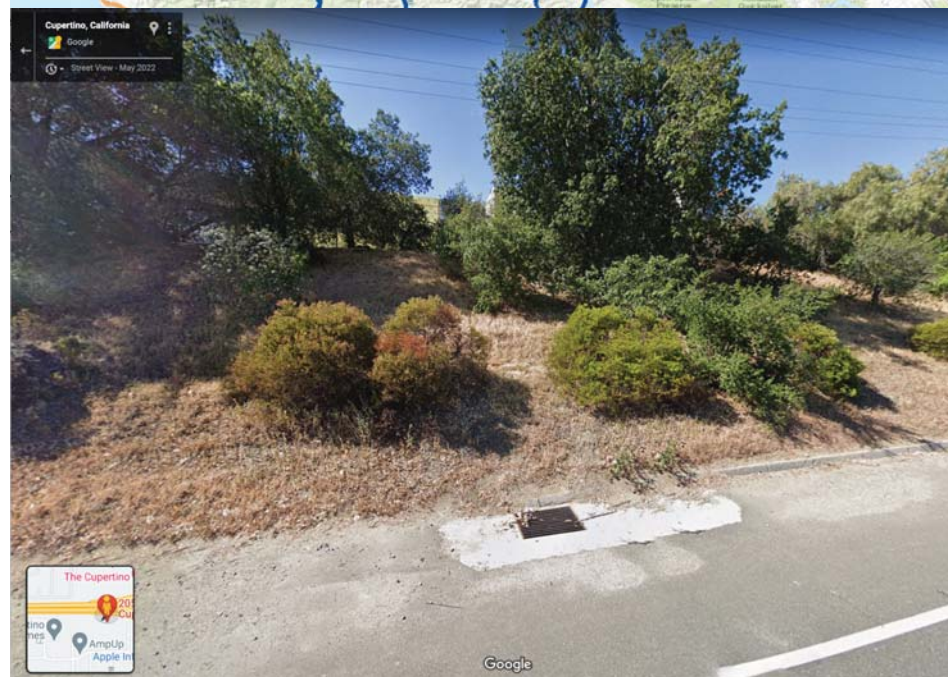


Figure 2:



Thank you for your attention,

Rani Fischer  
 Santa Clara Valley Audubon Society  
 Environmental Advocacy Assistant

## Cyrah Caburian

---

**From:** Brian Schmidt <brian@greenfoothills.org>  
**Sent:** Tuesday, October 11, 2022 5:58 PM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Subject:** Planning Commission 10/11/22 Agenda Item #2: Please do not allow illuminated signs facing Highway 280 Exemption

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning Commission:

Green Foothills strongly supports the protection of the night sky and applauds Cupertino for its Dark Sky ordinance. In keeping with the spirit of protecting the night sky, we ask you not to approve any illuminated signs facing Highway 280. Besides being a distraction for drivers, they add cumulatively to the light pollution while not assisting local traffic. In the modern age of smart phone maps, people do not need these signs to find a business, and the light pollution hurts everyone.

Sincerely,  
Brian Schmidt

--



**Brian Schmidt**

Policy and Advocacy Director

(415) 994-7403 | [greenfoothills.org](http://greenfoothills.org)

*Celebrating 60 years of protecting local nature.*

[Get tickets](#) for our Nature's Inspiration extravaganza on September 25th!



## Cyrah Caburian

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**From:** Cyrah Caburian  
**Sent:** Thursday, October 13, 2022 10:33 AM  
**To:** Rhoda Fry  
**Subject:** RE: Why didn't my comments make it into the public record?

(City Clerk and Planning Commission moved to bcc)

Good morning Rhoda,

Thank you for the email and apologize that your email from Sunday evening was not included though the emails were. I just uploaded the late written communications this morning around the time of your email (which includes Brian of Greenfoothill's email); that being said, I will reupload to include your comments as submitted. Feel free to contact me with any questions.

Best,



### Cyrah Caburian

Administrative Assistant  
Community Development  
cyrahc@cupertino.org  
(408) 777-1374



---

**From:** Rhoda Fry <fryhouse@earthlink.net>  
**Sent:** Thursday, October 13, 2022 10:04 AM  
**To:** City Clerk <CityClerk@cupertino.org>; City of Cupertino Planning Commission <PlanningCommission@cupertino.org>  
**Subject:** Why didn't my comments make it into the public record?

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi City Clerk,  
I'm looking at the public record for this meeting and do not see my comments posted as shown below.  
I understand that Greenfoothills also wrote the Planning Commission and do not see their comments either.  
Can you correct the administrative record?  
Thanks,  
Rhoda

---

**From:** Rhoda Fry [<mailto:fryhouse@earthlink.net>]  
**Sent:** Sunday, October 9, 2022 1:00 AM  
**To:** 'planningcommission@cupertino.org' <[planningcommission@cupertino.org](mailto:planningcommission@cupertino.org)>  
**Cc:** 'City Clerk' <[CityClerk@cupertino.org](mailto:CityClerk@cupertino.org)>  
**Subject:** Planning Commission 10/11/22 Agenda Item #2 Not in Favor of Sign Exemption

Dear Planning Commission,

I am writing you regarding the Planning Commission on 10/11/22 Agenda Item #2 for a sign exemption. I am not in favor of large illuminated signs that would face Highway 280. Two illuminated signs, totaling ~320 square feet, would directly face the freeway and a third of ~50 square feet would likely be visible from the freeway. This agenda item can be found here:

<https://cupertino.legistar.com/LegislationDetail.aspx?ID=5868412&GUID=E33E36EA-CD6C-45FE-AB5C-8114692E266E&Options=&Search=>

Concerns:

1. Has this item been reviewed by the Environmental Review Committee?
2. The City of Cupertino recently passed a Dark Sky Ordinance to protect birds and other wildlife and it is surprising to see that the City would consider approving an exemption for illuminated signage that would increase the number of allowed signs.
3. Having an illuminated sign facing Highway 280 would create a significant and unavoidable impact to a portion of Highway 280 that is eligible to be a State Scenic Highway (adjacent portions of Highway 280 are already designated as State Scenic Highways). <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways> Consequently, I do not believe that this project is not exempt from CEQA.
4. Please consider this story from KQED that explains, “Why Aren’t Any Billboards on 280?” <https://www.kqed.org/news/11805469/why-arent-any-billboards-on-280>
5. Page 5 of the Staff Report states, “This project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) per Sections 15301: Existing Facilities.” However, this project has not even completed construction according to the building permit history. Out of 8 permits pulled, only two are finalized – for demolition and temporary power. Even more confusing, a permit was already issued for illuminated signs (it appears to have expired). All of this makes the project really look like it is piecemealing or segmenting of CEQA; this does not look good and it might not even be allowable. Consequently, this project is likely not exempt from CEQA. Please read on to find the permit history.
6. According to the staff report, “The City’s Building Division, Public Works Department, Environmental Services Division, and the Santa Clara County Fire Department have reviewed the project and have no objections.” How about the California Department of Transportation / Caltrans?
7. If you absolutely must approve signs facing 280, please do not allow them to be illuminated.
8. Does the City of Cupertino want to be known for defiling one of California’s eligible State Scenic Highways?

Please find below a permit history (extracted from the database on 10/09/2022):

Date: 11/18/2019

Permit #: BLD-2019-1380

Status: Issued

Description: PUBLIC STORAGE - BUILDING B - NEW 4 STORY BUILDING WITH BASEMENT (137,140 SF)REV #1- REVISED SHORING PLAN TO SHOW ONE EXCAVATION FOR BUILDINGS B IN LIEU OF SEPARATE EXCAVATIONS PER BUILDING; REVISED ASSOCIATED ARCHITECTURAL AND CONSULTANT PLANS (SEE NARRATIVE IN DOCUMENTS PORTLET/PDOX FOR COMPLETE DESCRIPTION OF CHANGES) - APPROVED 2/24/2021REV #2 - REVISE A FEW UTILITY ITEMS PER CALWATER AND CLEAN UP ROOF DRAINS DISCREPANCIES - CIVIL AND PLUMB BULLETIN 2; REVISE DOORS IN FARE WALL TO BE ADA COMPLIANT, REVISE DOOR HARDWARE - ACRH - ELEC BULLETIN 4; REVISE DIMENSIONS AND NOTING TO CLEAN UP DISCREPANCIES - STRUCT BULLETIN 4; ADD EXHAUST FAN FRO FIRE PUMP ROOM - MECH BULLETIN 4 - APPROVED 7/21/2021REV # 3 - REVISED DISCREPANCIES ON ROOF DRAINS (CIVIL & PLUMBING - BULLETIN 7); REVISED METAL PANEL AND SOME PAINT CALL OUT THE ELEVATION AND SECTIONS - BULLETIN 7. UPDATED THE SOLAR PANEL SPECIFICATIONSREV #4 - ADD TWO HOUR RATED SHAFT AROUND FIRE SPRINKLE PIPING BEHIND ELEVATORS - APPROVED 7/1/2022REV#5 - SEE NARRATIVE - DEF#1 - ELEVATOR PACKAGE - APPROVED 5/26/21DEF#2 - REVISED ACCESS CONTROL SYSTEM-APPROVED 4/21/2021DEF#3 - EXTERIOR METAL CANOPY - APPROVED 11/9/21DEF#4 - UNIT STORAGE LOCKERS - APPROVED 07/28/2021-DEF#5 - EXTERIOR PANELS - APPROVED 04/05/2022DEF#4 REV#1 - LOCKER DOORS ADJUSTED (9)-



Date: 11/18/2019  
Permit #: BLD-2019-1381  
Status: Issued

PUBLIC STORAGE - SITE IMPROVEMENTS REV # 1 - REVISED A FEW UTILITY ITEMS PER CAL WATER AND CLEANED UP A FEW DISCREPANCIES ON ROOF DRAINS (CIVIL AND PLUMBING - BULLETIN 2 & 5); REVISED WATER SERVICE FOR LANDSCAPE - BULLETIN 5; SHIFTED DRAINS - BULLETIN 7

Date: 11/18/2019  
Permit #: BLD-2019-1385  
Status: Issued

PUBLIC STORAGE - BUILDING A - NEW 4-STORY BUILDING WITH BASEMENT (134,358 SF) REV #1 - REVISED SHORING PLAN TO SHOW ONE EXCAVATION FOR BUILDING A IN LIEU OF SEPARATE EXCAVATIONS PER BUILDING; REVISED ASSOCIATED ARCHITECTURAL AND CONSULTANT PLANS (SEE NARRATIVE IN DOCUMENTS PORTLET/PDOX FOR DESCRIPTION OF CHANGES.) - APPROVED 02/24/2021 REV #2 - REVISE A FEW UTILITY ITEMS PER CAL WATER AND CLEAN UP ROOF DRAINS DISCREPANCIES - CIVIL AND PLUM - BULLETIN 2; REVISE DOORS IN FARE WALL TO BE ADA COMPLIANT, REVISE DOOR HARDWARE - ACRH -ELEC BULLETIN 4; REVISE DIMENSIONS AND NOTING TO CLEAN UP DISCREPANCIES - STRUCT BULLETIN 4; ADD EXHAUST FAN FOR FIRE PUMP ROOM - MECH BULLETIN 4 - APPROVED 09/27/2021 REV # 3 - REVISED DISCREPANCIES ON ROOF DRAINS (CIVIL & PLUMBING - BULLETIN 7); REVISED METAL PANEL AND SOME PAINT CALL OUT THE ELEVATION AND SECTIONS REV # 4 - REVISED OFFICE PLAN AND ADDED A UNISEX RESTROOM BESIDE OFFICE - (BULLETIN 8) REV#5 - SEE NARRATIVE-DEF#1 - ELEVATOR PACKAGE-APPROVED 5/25/2021 DEF#2 - REVISED ACCESS CONTROL SYSTEM-APPROVED 4/21/2021 DEF # 3 - EXTERIOR METAL CANOPY - APPROVED 09/28/2021 DEF#4 - UNIT STORAGE LOCKERS - APPROVED 07/28/21 DEF# 4 - REV # 1 - REVISE LOCKERS FOR BUILDING (A) - APPROVED 07/13/2022 DEF#5 - EXTERIOR PANELS - APPROVED 07/13/2022

Date: 12/4/2019  
Permit #: BLD-2019-1495  
Status: Finaled  
DEMO (9) ONE STORY STORAGE BUILDINGS AND SITE WORK (54,186 SF).

Date: 11/20/2020  
Permit #: BLD-2020-1945  
Status: Issued  
TEMPORARY CONSTRUCTION TRAILER (480 SF).

Date: 1/5/2021  
Permit #: BLD-2021-0020  
Status: Issued  
PUBLIC STORAGE (N) 306-PANEL ROOF MOUNTED PV SYSTEM (100 kW); (N) SOLAR PANELBOARD (200 AMP); (N) FUSED AC DISCONNECT. REV#1 - UPDATED THE SOLAR PANEL SPECIFICATIONS-APPROVED 8/3/2021

Date: 1/28/2021  
Permit #: BLD-2021-0191  
Status: Finaled  
PUBLIC STORAGE - TEMP POWER FOR CONSTRUCTION SITE (2) 100 AMP SUB-PANELS; AND (1) 100 AMP SUB-PANEL FOR THE CONSTRUCTION TRAILER.

Date: 7/6/2021  
Permit #: BLD-2021-1294  
Status: Issued  
PUBLIC STORAGE - INSTALL (7) (N) SIGNS (648 SF) TOTAL : - (3) ILLUMINATED CHANNEL LETTER WALL SIGNS: SIGN #1 (82 SF), SIGN #3 (265 SF) , SIGN #6 (265 SF) - (3) DIRECTIONAL SIGNS NON ILLUMINATED: SIGN #2 (3 SF), SIGN #4 (2 SF), SIGN #5 (2 SF)- (1) GROUND LED ILLUMINATED MONUMENT SIGN: SIGN # 7 (30 SF)

Thank You for your consideration.

Warm Regards,  
Rhoda Fry

CC: Santa Clara Valley Audubon Society, Greenfoothills, City Council

Dear City Council:

We are deeply disappointed and troubled that the City Council has allowed Public Storage to install very large illuminated signage, that will face the 280 freeway and our condo at the De Anza Forge. We implore you to please rescind the approval, since the huge bright sign will be detrimental for the residents and homeowners of the De Anza Forge community.

The bright and disturbing indoor lights of the Public Storage buildings, which are left on 24/7, are already really disruptive for the De Anza Forge residents. However, adding huge illuminated lettering, spelling out "Public Storage", would only further increase the buildings brightness and make it an even bigger visual eyesore. Public storage doesn't care about what their impact is on the neighborhood or community, they only care about making money. Nor can they be trusted to follow Cupertino Sign Ordinances, which require them to turn off their illuminated signs at 11pm. Public Storage currently has an east-facing sign, which is illuminated all night long and shines directly into the windows of the adjacent condos. We fear this same scenario will occur with the newly approve sign. The illuminated sign shouldn't have been allowed, nor should Public Storage's bright indoor lights be allowed to be left on all night long.

When the newly approved sign is erected, it will further increase the amount of light pollution the De Anza Forge residents will be subjected to, coming inside our homes. Not to mention, it will make our homes less desirable and decrease our property values, if we were to rent or sell it in the future. The light emanating from the Public Storage buildings and sign are not a nightlight we want in our homes.

Unfortunately, the two newly-built, 4-story Public Storage buildings are now the first thing you see when you look out of our bedroom and living-room windows, since they are now at eye level with our condo. We bought our condo in 1985, even before the Cupertino Hotel (formerly Cupertino Inn) was built, when our condo still had the beautiful unobstructed views of the mountains and there was a lot more greenery. I think around that time, the one-story Public Storage facility was originally built, as well. In fact, in all the 40 years that it's been at that location, Public Storage has never had a sign facing the freeway to advertise its location, much less needed one that was illuminated. We don't think it should have been necessary for them to have one now. Plus, due to the large size of both buildings and their trademark burnt orange and grey color, they are very hard to be missed from the freeway and have easy brand recognition from the building's color scheme. The buildings are the sign. (A sign that sticks out like a sore thumb.)

The problem is, we have put the wants of a corporation over the wellbeing of the Cupertino residents. We fear, we are also setting a dangerous precedent for future businesses to erect similar, very large illuminated signs, at the expense of the community. Once completed, Vallco will surely be the next location, where businesses will be requesting freeway-visible sign approval from the City Council. Let's leave the bright lights and lit signs for Las Vegas and not Cupertino. The only entity benefiting from the approved illuminated signage is Public Storage; not OUR overall community. We respectfully implore you to please rescind the approval of Public Storage's illuminated sign.

Sincerely,

Rolf and Karin Meyer

Owners of:

Celeste Circle



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Tfou; X feoftebz-Gfcsvbsz 26-3134 951 QN  
Up; DjzDnfs!A dvqfsu!pp !sh<djz!pvodj!A dvqfsu!pp !sh  
Tvckfdu; Op !Tivn j!bufe Qvcn!d!Tupshf !Tjhot!p!d!ph !u!f Gsf!fx bz

Dear City Council:

Please do not allow Public Storage to have illuminated signage facing the freeway until 11pm daily. This signage would be visible from my home and would absolutely disrupt my quality of life. The proposed lighted sign is 165 square feet on an orange background measuring over 800 square feet. In October, the Planning Commission denied any signage facing the freeway per CMC 19.104; in February, the City Council ignored their decision. As a compromise, I am respectfully requesting that the signage have no illumination.

The sign does not help prospective customers to find the building and is big enough for advertising the business during daylight hours. The Planning Commission's informational packet contained the plan details and the lighting schedule. The City Council was not given this information prior to their meeting. Here are excerpts of the plan:

2023: [City Council February 7, 2023 Televised Regular City Council Meeting \(6:45\) - Feb 7th, 2023](#)

2022: [Planning Commission October 11, 2022 6:45 PM - Oct 11th, 2022](#)

Sincerely,

Cupertino Residents,

Winifred Shum and Byron Chan

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Dear City Council Members,

I was dismayed to hear that a huge neon sign on the Public Storage facility is even being considered. Light pollution, driver safety and visual blight are real issues. With everyone using navigation systems and google maps, giant signage is unnecessary and unsightly. We rarely look at street signs anymore, trusting that our nav system will know the way. Highway 280 is such a scenic highway. Visitors always comment on the fabulous scenic drive from Cupertino to SF, let's keep it that way and say no to giant illuminated signs along the freeway. As a culture we are constantly bombarded with advertising. Please keep this stretch of highway and our city free of signs. They are not attractive. They are distracting, energy consuming, and devalue the quality of life for residents and with navigation systems have outlived their usefulness. Please adhere to Cupertino's sign ordinance that requires signs not to be distracting to motorists and residents. Finally please initiate the designation of the Cupertino section of Highway 280 as a Scenic Highway. Thank you,  
Paula Wallis  
Long time Cupertino Resident.

Gspn; BmfsuMff!=btufftwA hn bjoon ?  
Tfou; Uvftbz-N bsd i 25-3134 23 44 BN  
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Buubdinfout; JN H`8877.3 /qfh

Dear members of the Cupertino City Council,

Our family lives in the De Anza Forge Condominiums on Celeste Circle which is directly across the 280 freeway from the new multi-story Public Storage building that is on Valley Green Drive in Cupertino.

We heard that Public Storage plans to install a new large sign on the side of the building facing the 280 freeway. Please do not allow the new sign to go up. That sign would be visible from our bedroom windows and would impact our quality of life.

Public Storage has been lighting up their building all night long - attached and pasted below is a picture of the lights we can already see from our first floor condo unit and is already a nuisance. Adding more light would impact our quality of life and the value of our property. Our daughter is currently in high school and needs a good night's sleep every school night.

Highway 280 is designated as a "Scenic Highway" between the highway 17 interchange and SF. The multi-story Public Storage building is already an eyesore from the freeway and adding a large lighted sign on top of the existing lighting would essentially make it like a billboard, which are prohibited on scenic highways.

In addition, the new sign would violate the City's sign ordinance, "The Sign Ordinance provides the regulations that the City has adopted to ensure that signage does not impinge upon the aesthetics of the city and does not inconvenience the public . . ."

<https://www.cupertino.org/our-city/departments/community-development/planning/non-residential-mixed-use-development/sign-information>

Thank you for your time and consideration,

Albert Lee.

Production Engineer at [REDACTED]

[REDACTED]  
[REDACTED] Celeste Circle, Cupertino, CA 95014



It was so nice to chat with you this morning. Thank you for listening to my concerns.

The building lights from Public Storage are very bright in the living room windows of my condo unit and they are disrupting a peaceful and quiet living. I attach the photo herewith. Even a small flood light from Cupertino Storage from two stories down is frankly annoying. If the illuminated signs are approved, I'm sure other businesses, including Cupertino Storage, want to follow and build more illuminations; and our neighborhood will be full of lights. I believe you would agree that the residents' quality of living matters. I sincerely hope the illuminated sign request won't be approved.

Please advise me anything further if you would need from my end. I am happy to accommodate them to keep the living space comfortable.

Thank you for your attention to my and all the neighbors' concerns.

On Wed, Feb 15, 2023 at 9:32 PM Jamie Kata [REDACTED] wrote:

Hello again,

Please find the attached photo. I thought it was a good idea how the new building looks from the windows. It's flashy as it stands, not very harmonious in our residential area.

I hope this would take to the better decisions.

1  
Jamie

Sent from my iPhone

> On Feb 14, 2023, at 8:29 PM, Jamie Katayama [REDACTED] > wrote:

>

> Dear City Council,

>

> Please do not allow Public Storage to have illuminated signage facing the freeway until 11pm daily. This signage would be visible from my property. It will surely disrupt the quality of life.

>

> The proposed lighted sign is 165 square feet on an orange background measuring over 800 square feet. In October, the Planning Commission denied any signage facing the freeway per CMC 19.104; in February, the City Council ignored their decision.

>

> As a compromise, I am respectfully requesting that the signage have no illumination. The sign does not help prospective customers to find the building and is big enough for advertising the business during daylight hours.

>

> Best regards,

>

> Jamie Katayama |

[REDACTED]

Gspn; Tibolbs!=hbsjlbqbu/tibolbsA hn bjd n ?  
Tfou; Gsjebz-Gfcsvbsz 28-3134 5,39 QN  
Up; gszipvtfA fbsuimj1,ofu  
Dd; Thoup`b`sbpA zbipp /pn  
Tvckfdu; Gxe;Sfrvftuph !sf dpotje fbuipo pgtuif kmboofe !jwn jbufoe ksf fx bz .psjfoufe Qvcnjl!  
Buubdinfout; Djz Dpvodjmfufsqeg

----- Forwarded message -----

From: **Shankar** [REDACTED]  
Date: Fri, Feb 17, 2023 at 4:25 PM  
Subject: Requesting reconsideration of the planned illuminated freeway-oriented Public Storage sign  
To: <[citycouncil@cupertino.org](mailto:citycouncil@cupertino.org)>

Hello Cupertino City Council,

I am Shankar Garikapati, a homeowner & resident of Cupertino, and I love this city. However, I would like to express my frustration and concern with some of the recent developments regarding the planned installation of illuminated Signs by the Public Storage company. Both of my bedrooms are in the line of sight to the newly constructed public storage and to the newly approved external signage, and therefore I would be among the cohort of people most impacted by this project.

I live with my wife and young kids aged five and seven. With the new proposed lighting, I am strongly concerned about the impact to sleep and health of my family. You should be aware that *"due excess or poorly timed artificial light exposure can cause a person's circadian rhythm to be misaligned with the day-night schedule. This can throw their sleep out-of-whack and induce other concerning health impacts including worsened metabolism, weight gain, cardiovascular problems, and perhaps even an elevated cancer risk"*, citing from Sleep foundation website (<https://www.sleepfoundation.org/bedroom-environment/light-and-sleep>).

Given that these risks are well known, I have no doubt in my mind that all of the council members who have approved this project proposal are motivated by their personal interest in power rather than serving the interests of the community they have been elected for. I hope my letter provokes at least some of you to do the right thing and stand against corporate greed which puts profits over everything else !

I welcome you to visit my community and home during night time to check for yourself the impact it will cause to the community.

Thank you for your time,

Shankar Garikapati

CC 03-21-2023

Item No. 7

Consider petition for  
reconsideration regarding  
two requested freeway-  
oriented signs for Public  
Storage

Written Communications



**From:** [Peter](#)  
**To:** [City Council](#); [City Clerk](#)  
**Subject:** Meeting 3/21: Public Storage  
**Date:** Sunday, March 19, 2023 7:02:22 PM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

We live right across I-280, facing the Public Storage building directly. The building's light has been on every night, which has greatly impacted our life. It sheds a lot of light into our bedroom at night, even with our sun screens completely off.

Now it looks like Public Storage is planning for another huge illuminated sign. As a resident of Cupertino impacted by the existing lighting of the building, I'd like the council to consider:

1. not allowing the new freeway-facing sign to be put on
2. asking Public Storage to turn off the lights at night after 10pm.

Thanks,  
Fei

**From:** [Liang Chao](#)  
**To:** [City Clerk](#)  
**Subject:** Fwd: Reconsideration Form and Attachments, please acknowledge receipt  
**Date:** Sunday, March 19, 2023 6:52:58 PM  
**Attachments:** [Public Storage Reconsideration Form.pdf](#)  
[ATTACHMENT A RESOLUTION.PDF](#)  
[ATTACHMENT B REJECTION.PDF](#)

---

This petition for reconsideration is supposed to include two attachments, but they are not included in the agenda packet, which makes the agenda packet incomplete, I think.

Please enter this to the written communication for the 3/21 council meeting.

And I wonder whether these two attachments should be sent to all Councilmembers as desk items for completeness of evidence.

Thanks!

Liang



---

**From:** Rhoda Fry <fryhouse@earthlink.net>  
**Sent:** Friday, February 17, 2023 11:43 AM  
**To:** Liang Chao <LiangChao@cupertino.org>  
**Subject:** FW: Reconsideration Form and Attachments, please acknowledge receipt

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

---

**From:** Rhoda Fry [mailto:fryhouse@earthlink.net]  
**Sent:** Friday, February 17, 2023 11:42 AM  
**To:** 'Kirsten Squarcia' <KirstenS@cupertino.org>; 'City Clerk' <CityClerk@cupertino.org>  
**Subject:** Reconsideration Form and Attachments, please acknowledge receipt

Dear City Clerk,

Please find attached a Reconsideration Form and Attachments, please  
acknowledge receipt.

Warm Regards,

Rhoda Fry

408-529-3560

Date: February 17, 2023  
From:  
Rhoda Fry (and Cupertino Residents Doe 0 – 100)  
10351 San Fernando Avenue  
Cupertino, CA 95014-2832  
fryhouse@earthlink.net  
408-529-3560



OFFICE OF THE CITY CLERK

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366  
CUPERTINO.ORG

**RECONSIDERATION PETITION**

**NOTICE:** *Reconsideration petitions are only accepted for adjudicatory matters that are quasi-judicial decisions by the City Council. The reconsideration petition is subject to the requirements of and must comply with section 2.08.096 of the Cupertino Municipal Code, available in the City Clerk's office or online at [http://www.amlegal.com/cupertino\\_ca/](http://www.amlegal.com/cupertino_ca/). Please review this form carefully and provide a detailed explanation for each item. Failure to meet the requirements of section 2.08.096 may result in rejection of the reconsideration petition.*

**1. Project for which you are requesting reconsideration:**

Application No.: EXC-2022-003

Applicant(s) Name: David Ford, All Sign Services; Location: 20565 Valley Green Dr.; APN: 326-10-044

**3. Contact information for party requesting reconsideration:**

Name: Rhoda Fry (and Cupertino Residents Doe 0 – 100)

Address: 10351 San Fernando Avenue, Cupertino CA 95014-2832

Phone: 408-529-3560

Email: fryhouse@earthlink.net

**4. Date of Council meeting considering the project for which you are requesting reconsideration:**

February 7, 2023

*Reconsideration petitions must be filed within ten (10) calendar days of the date of the Clerk's notice.*

## 5. Details of grounds for reconsideration (Cupertino Municipal Code Section 2.08.096).

A petition for reconsideration must specify, in detail, each and every ground for reconsideration. Failure to specify the particular ground(s) for reconsideration will preclude any omitted ground(s) from being raised or litigated in a subsequent judicial proceeding.

In addition, the grounds for reconsideration are limited to the criteria listed below. Failure to meet these grounds may result in rejection of the petition for reconsideration. Check all grounds that apply and provide detailed explanations of the facts supporting each ground for reconsideration (provide supporting documentation and attach additional sheets if necessary):

**By this statement, all information on the City of Cupertino website pertaining to the 10/21/22 Planning Commission meeting and the 2/7/2023 City Council meeting and other documents pertaining to the Public Storage site, the General Plan, the North De Anza Boulevard Special Center plan, and the CMC are included in this document.**

✓ An offer of new relevant evidence which, in the exercise of reasonable diligence, could not have been produced at any earlier city hearing.

*Explanation of new evidence and why it could not have been produced earlier:*

The City was likely unaware of Public Storage's updated image policies that tout that "the building is the sign." Public Storage's architect said in this blog post: "We had seven different types of signs," she said. "Now, not only do we now have a consolidated sign, the new building is the sign." <https://www.publicstorage.com/blog/public-storage/public-storage-locations-get-a-new-look> In spite of the following business hours, Office Hours Mon-Sun 8:00am to 7:00pm and Gate Access Hours Mon-Sun 6:00am to 9:00pm, the Cupertino Public Storage building is illuminated 24x7. If the building is indeed the sign, it must not be illuminated 24x7. Moreover, it is much too large to have that much illumination. Interestingly, two sides of the building that are visible from the freeway are illuminated – the backside that faces offices remains dark. Additionally, the illuminated sign that faces the adjacent condominiums remains illuminated after 11pm which is a code violation. The excessive light is a public nuisance to residents. See also EXHIBIT 1.

✓ An offer of relevant evidence which was improperly excluded at any prior city hearing.



*Explain relevant evidence and how, when it was excluded at a prior hearing:*

A. The council packet did not show the setting of the building within the community and how it looked from various residences/hotel or freeway at different times of day. How could the City Council make an informed decision about freeway-oriented signage without this information? Furthermore, on February 13, I spoke with Planner Martire and lamented that the proposed illuminated freeway-oriented Public Storage sign would be in a line view of many residents' homes. He was surprised and unaware that residents would be facing the signs. If he had known, then perhaps the council would have been given more information. The proposed signs are in a direct line view of the De Anza Forge Condominiums and can be seen from the Markham Apartments and the Cupertino Hotel along with the freeway. The City Council was denied substantial evidence. Refer to EXHIBIT 1 (setting) and EXHIBIT 2 (nighttime photographs).

B. Council was not provided with detailed images or specifications of the proposed illuminated Public Storage sign along with other illuminated signage facing the freeway. In fact, there are no similarly situated properties in the City. The only illuminated sign that somewhat faces the freeway is the Cupertino Hotel. Council was not given any tools to compare the Cupertino hotel sign with the proposed Public Storage sign. Its sign is on the northbound onramp, not on the freeway. It is barely visible driving South on 280 and not at all going North. Nor does it appear to directly face dwelling units in the way that the Public Storage building does. I walked the length of the condo complex adjacent to Public Storage and climbed up to the fence-line and could not see the Cupertino Hotel sign. It is possible that residents on higher floors might have a glimpse of the sign. If council had made a site visit or had images of the Cupertino Hotel sign along with the Public Storage sign (even the one that is installed provides some insight), they would have realized that these two properties are very different and would need to be treated differently (19.104.220 C. The sign shall also be compatible with the aesthetic character of the surrounding developments and neighborhood.)

Council was not provided visuals on the levels of illumination, this would have been needed to provide an informed decision on the subjective criteria in 19.104.220 ("the aesthetic appearance of signs is subjective"). When comparing the illumination between the proposed Public Storage Sign and the Cupertino Hotel Sign, there is no comparison. But the council was not provided a side-by-side comparison. Public Storage is bright white and huge and the Hotel is soothing dark blue and is of modest size. Although the proposed sign is within the foot-lamberts requirements for signage, no explanation of what it means or what it looks like was provided. A foot-lambert refers to the amount of illumination per square foot. So the bigger the signage, the more illumination it will have. Note that the applicant explained that he wants signage to be visible to motorists traveling 70 to 75 miles per hour (which is speeding in our community) past the property. (19.104.220 G. The sign's color and illumination shall not produce distraction to motorists or nearby residents.) In other words, the applicant wants motorists to be distracted by his advertising sign.

If council had gone on an appropriate site visit or been provided appropriate information, they could have made an informed decision to either not allow any illumination or even no signage.

	
<p>Installed sign as viewed from adjacent condo. The illuminated portion of the sign is reportedly 52 square feet. The illuminated portion of the freeway-facing sign would be 165 square feet. This gives an idea as to how bright it would be. The letters appear much brighter than the building's interior lighting. This photo was taken between 10:30 pm and 11:00 pm on 2/15/2023. <b>IMAGINE A SIGN 3X LARGER THAN THE ABOVE. IS IT COMPARABLE TO THE CUPERTINO HOTEL?</b></p>	<p><b>CUPERTINO HOTEL:</b> This photo has been enlarged. Otherwise you would not be able to recognize it. This is a view of Cupertino Hotel from the on-ramp to 280 North from De Anza. On the freeway heading south, the blue sign was sometimes hidden and other times very subdued. I was unable to see the sign from the condos across the freeway having walked the fence line and even climbed up to it. It is unlikely that much of this sign is visible from the condos. Pphoto was taken between 10:30 pm and 11pm on 2/15/2023.</p>

C. Please bear with me on this section – it is rather long but makes a point. The council packet failed to explain that the new public storage building is an intensification of a non-conforming use within the North De Anza Boulevard Special Center. **Consequently, it is even more important that the look of the building and its signage conform to adjacent uses.**

Resolution 19-072 describing the architectural and site approval permit included boilerplate text pertaining to signage, “(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.” The document as a whole makes various promises that pertain to the entire building and signage, including but not limited to: (see ATTACHMENT A for the entire resolution)

- “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” and
- “development should be designed to protect residents from noise, traffic, light and visually intrusive effects” and
- “provide shielding to prevent spill- over light to adjoining property owners”

Regarding the North De Anza Boulevard Special Center: The new building (4 stories 264K square feet per <https://www.cupertino.org/our-city/departments/community-development/planning/major-projects/public-storage> ) is four times the size as the building it replaces and has 2600 units. In 2006, Public Storage proposed a new building in this same location (Application U3-2006-03, ASA-2006-05, EA2006-06. This proposed building (3 stories 155K square feet) was estimated at three times the size of the original and the Planning Department recommended against it and the Planning Commission concurred:

Public Storage is located in the North De Anza Boulevard Special Center in which self-storage is a non-conforming use, the description of the Special Center has not changed in decades. The 2006 recommendation for rejection noted that the replacement building would be substantially inconsistent with the area and would significantly intensify the use of the site,




“The proposed mini-storage facility is a non-office use that does not promote these General Plan policies for maintaining cohesive office parks and, therefore, staff believes that the project, which will significantly intensify the use of the site as a mini-storage facility by almost tripling the amount of existing mini-storage building area, will conflict with these policies. The proposed project will offer very little public and community benefit, as it is anticipated to generate a minimal amount of retail sales tax to the City for its sales of packing/boxing supplies, and is substantially inconsistent with the surrounding uses of the area that include office and multiple-family residential.”

Additionally, “Staff is also concerned about the height of the proposed buildings as they will be prominently visible from Interstate 280, the new condominium development currently under construction to the east, the existing residential neighborhood to the west and the two-story office buildings occupied by Apple to the south.” The new building has 32 parking spaces and the rejected smaller building had 80 parking spaces. (<https://www.cupertino.org/our-city/departments/community-development/planning/major-projects/public-storage>)

**Because the new building is even more visible than the proposed 2006 building, its visual impacts from I-280 are greater today than they were in 2006. Consequently, every possible measure must be taken to minimize its impacts, including signage, on residents. See ATTACHMENT B for 2006 Public Storage rejection.**

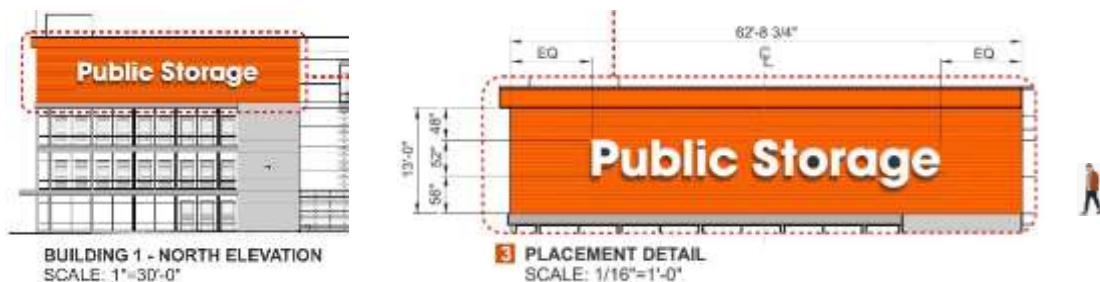


D. The Council was not provided information on how the signs are measured. **The way the signage has been measured is deceiving.** The large sign is made up of orange stripes with white lettering on top. Only the outline of the white lettering is measured in determining the sign's size. The rest of the building is silver gray and tan. Here is the new Cupertino Public Storage building with the sign already installed that does not face the freeway.

		
<p>Daytime photo from website of Cupertino building. The sign is made up of orange stripes with white lettering on top.  <a href="https://www.publicstorage.com/blog/public-storage/cupertino-storage-units-reopen-near-apple-campus">https://www.publicstorage.com/blog/public-storage/cupertino-storage-units-reopen-near-apple-campus</a></p>	<p>Nighttime photo around 10:30PM as seen from adjacent condo complex. Sign and lights remain on after 11pm. The words even appear brighter than the interior lighting. The proposed freeway-oriented lettering portion of the sign is over three times larger.</p>	<p>Note that the back of the building, which faces Apple office buildings has no orange rectangles. Consequently, the orange rectangles really do look like signs. Also, the back is not illuminated at night.</p>

Following is an excerpt of the plan in the Planning Commission packet. A reasonable person who looks at the outlined portion of the image on the left sees an image similar to the one above: a sign made up of orange stripes with white lettering on top. The measurement of this outlined area is shown on the right. It measures about 800 square feet. The maximum signage area per CMC is 200 square feet. **Effectively, the proposed sign exceeds the 200 square-foot maximum.** The measurement provided to council was the minimum circumference of the illuminated lettering; this is deceiving.

The staff had many creative options at its disposal to show the public and council the true scale of the proposed sign. Next to the right schematic, I've added an approximate 6-foot tall human for illustrative purposes.





✓ Proof of facts which demonstrate that the City Council proceeded without, or in excess of its, jurisdiction.

*Explain facts and how those facts show that the Council operated outside its jurisdiction:*

No validation from Caltrans that the proposal was compliant.

✓ Proof of facts which demonstrate that the City Council failed to provide a fair hearing.

*Explain facts and how those facts demonstrate failure to provide a fair hearing:*

A. The “approval authority” for Freeway Oriented signs is the Planning Commission per CMC Table 19.104.200. It is customary for Planning Commissioners to make site visits. Because the Council became the approval authority for a Planning Commission decision, they should have made a site visit in order to provide a fair hearing.

B. Council was told that the Planning Commission’s decision was not valid – but a portion of their denial was based on information in the signage CMC 19.104. The denial stated: “The location of Signs Two and Three along the north elevations of Buildings One and Two could result in a situation that is materially detrimental to the public health, safety, or welfare to the community...” This would imply that the Council was not permitted to vote on the basis of public health, safety, and community welfare which is incorrect. The video meeting shows much confusion on the part of the staff and council members.

C. The council packet lacked clear instructions on what was being voted on and what criteria needed to be used for the vote. This is surprising because this was the second hearing for the sign. During the planning commission, the city attorney told the planning commission that their approval / denial of the sign was discretionary. How did that meeting go wrong and why weren’t the issues that created a de novo hearing at the council resolved? Because the council did not have an appropriate rubric, the council could not provide a fair hearing. **The packet failed to explain council could vote for 0, 1 or 2 freeway-facing signs. The packet failed to provide the relatively short criteria upon which they would be voting.** At a minimum, Council needed this:

**19.104.050 Sign Permit Application–Review Criteria.**

The Approval Body shall review the sign application to ensure that the following criteria are met:

- A. The proposed sign meets the requirements of this title or any special conditions imposed in the development.
- B. The proposed sign's color and illumination is not in conflict with the safe flow of traffic on the City streets.
- C. The sign is in conformance with the Design Criteria in Section [19.104.220](#).

**19.104.220 Design Criteria–Permanent Signs.**

Although the aesthetic appearance of signs is subjective, the City recognizes that certain basic design guidelines are needed in order to maintain the City's high quality appearance. The following criteria shall be incorporated into the design of signs.

C. All signs shall be architecturally compatible and in harmony with the building with which it is principally associated, by incorporating its colors, materials, shape and design. The sign shall also be compatible with the aesthetic character of the surrounding developments and neighborhood.

- E. Sign copy shall be simple and concise, without excessive description of services or products.
- F. Internally illuminated signs shall not have a directly visible light source.
- G. The sign's color and illumination shall not produce distraction to motorists or nearby residents.

D. The lack of clarity in the packet was further muddled by conflicting instructions from the City manager, attorney, and planner. Examples include, the attorney gave an explanation and the city manager said no, let me explain. The planner’s presentation failed to mention that the City Council had the discretion reject all freeway-oriented signs per CMC 19.104. Councilmember Chao asked whether council can uphold the planning commission decision to deny both signs and the City Manager Wu said no, but then explained that the council could deny both signs or allow one (two signs were not provided as an option). The council could not come to the same conclusion as the planning commission? The City Attorney said that the Planning Commission decision was not legally justifiable but did not describe how. The council would need to find a

legally justifiable basis to deny the sign – but what were the specifics of the basis? He wound up being interrupted by the manager. Council would need to find a legally justifiable basis to deny the sign, but what would have basis be? The council could approve additional signs – but could they deny all freeway facing signs? And there are design criteria that all signs must meet – and what are they? Chao asks if staff thought there was justification to deny both signs. City manager implies no. City Attorney stated that grounds for denial is if design criteria is not met, but Council is not provided the criteria. City manager says that once you have a freeway facing sign that it is subject to planning commission's approval. You just have to watch the video. It is just too confusing.

The planner said the sign met requirements for size and lighting but failed to spell out that there were additional criteria, some of which is subjective. After council struggled in its deliberation and were obviously confused, staff requested a break. They came back in another failed attempt to clarify instructions. The planner showed only the text of 19.104.050, not 19.104.220. The planner told council that the signage was compliant with 19.104.050 which incorporated 19.104.220, leading council members to believe that they had to vote in favor of the signage. But it was up to the council to make that determination. The City manager corrected the planner. Who is the council supposed to listen to? The attorney, the city manager, the expert planner? **The three staff members did not reconcile clear direction to the council even after having called for a break.** Further, the text of 19.104.220 was not shown in the packet or at the council meeting. Even after Councilmember Moore asked that 19.104.220 be displayed, it was not. **Council needs clear instructions in the packet and during meetings in order to provide a fair hearing.**

E. It bears repeating that the City Attorney stated that the council decision needed to be made on design criteria but staff never provided the City Council Design Criteria (CMC 19.104.220), which is relatively short.

F. Had the neighbors across the freeway been notified, the council would have received significant input from neighbors about the proposed signage. It is appropriate to extend notification when there are special circumstances that cause unexpected impacts. We know that freeway-oriented signage is special because approval authority is assigned to the planning commission instead of the Community Development Director for other signs. See EXHIBIT 3 for the types of letters they would have received – these are letters that we sent after the hearing when residents learned of council's decision. Because of this, council was incapable of providing a fair hearing.

G. Recall, the City Council was being asked to make a decision that normally has the Planning Commission as Approval Authority. Specifically, the Planning Commission is the Approval Authority for Freeway-Oriented signs (19.104.200). Councilmember Moore, is the only councilmember with Planning Commission experience and mentions distracting spillover lighting. She asked that the short text of 19.104.220, upon which the decision would be rendered, be displayed for all councilmembers to see. It was not. She also asked for a continuation of this agenda item and gave her reasons. It was not. Consequently, council was unable to have a fair hearing and was hampered in its ability to make an informed decision.

H. It is hard to understand the fairness of a hearing when a building that has not even received its final inspection report is considered an existing building. The original plan set did contain signage that is very similar to the current proposal.

I. The council's lack of planning commission experience and access to the municipal code that explains the intent of the sign ordinance outlined in 19.104.010 hindered their ability to have a fair hearing. Was this intent fulfilled? The Planning Commission understood that the purpose of

the sign was mainly advertising. The council did not understand how to balance the needs of the community with the desires of the business to advertise per 19.104.010.

**19.104.010 Purpose and Intent.**

- A. The purpose of the sign ordinance is to identify and enhance businesses while maintaining the aesthetic appearance of the City.
- B. A good sign program will provide information to the public concerning a particular business or use and will serve the visual and aesthetic desires of the community.
- C. The City has adopted this title with the intent to:
  1. Provide architectural and aesthetic harmony of signs as they relate to building design and surrounding landscaping;
  2. Provide regulations of sign dimensions and quantity which will allow for good visibility for the public and the needs of the business while providing for the safety of the public by minimizing distraction to the motorist and pedestrian;
  3. Provide for sign regulations that will be compatible with the building, siting, and the land uses the signs are intended to identify;
  4. Provide for maintenance of existing signs and a program for bringing nonconforming signs into conformance with the standards of this title as changes are made to the signs or businesses;
  5. Provide procedures which will facilitate the efficient processing of sign applications; and
  6. Provide design criteria which will promote attractive and effective signs for Cupertino residents, businesses, employees and visitors.

- ✓ Proof of facts which demonstrate that the City Council abused its discretion by:
- o (a) Not preceding in a manner required by law; and/or
  - o (b) Rendering a decision which was not supported by findings of fact; and/or
  - o (c) Rendering a decision in which the findings of fact were not supported by the evidence.

*Explain facts and how those facts demonstrate abuse of discretion related to items (a)-(c):*

When council was told that the Cupertino Hotel sign also faced the freeway, some left to the conclusion that it was similar to the proposed Public Storage sign. As shown earlier in this document, it is not. Council relied on the assumption that the signs and locations of the signs are similar but they are not. Council decision was not supported by facts.

6. Signature(s) *Rhoda Fry* (and other Cupertino Residents)

PS – per code, I respectfully request refund of fees. Thank You.

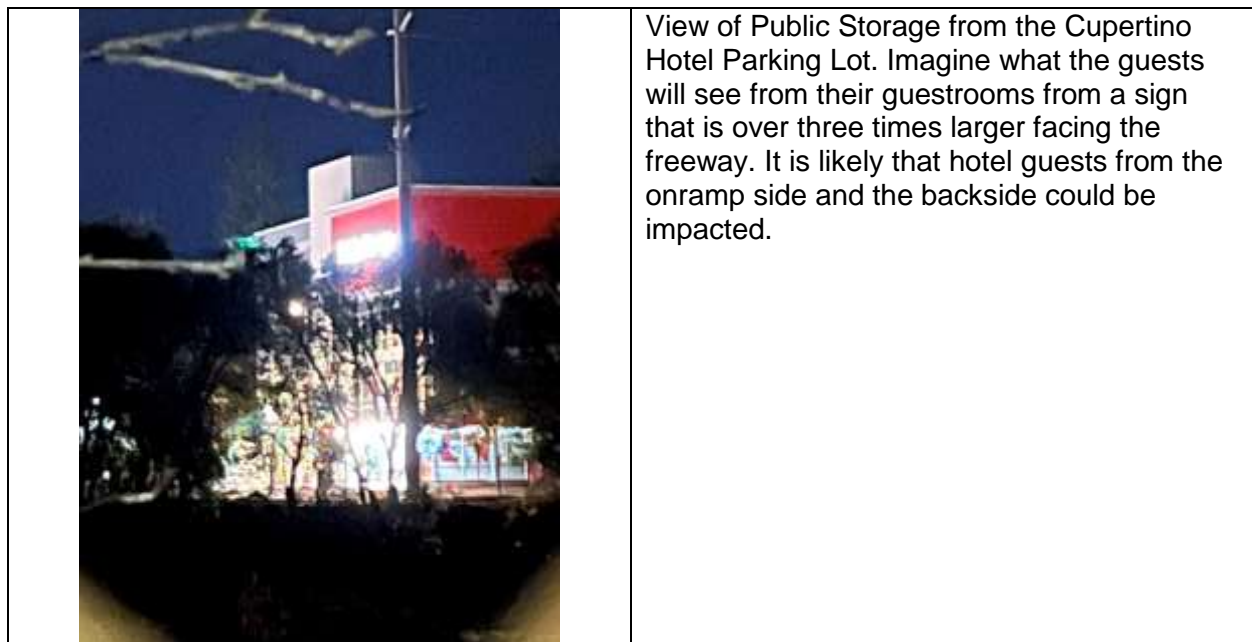
Please complete form, include reconsideration fee of \$356.20 pursuant to Resolution No. 22-049 payable to City of Cupertino and return to the attention of the City Clerk, 10300 Torre Avenue, Cupertino, California (408) 777-3223.

*Acceptance of a petition by the City Clerk is for timeliness purposes only and does not constitute a determination that the petition meets the requirements for reconsideration under section 2.08.096 of the Municipal Code. The City reserves the right to review petitions after submission and reject those that do not meet the criteria set forth in Cupertino Municipal Code Section 2.08.096.*

**PAYMENT PROOF**



**EXHIBIT 1 – Residents and Hotel Guests who will see the Illuminated Public Storage Sign**





**EXHIBIT 2 –Existing Public Storage Sign, Cupertino Hotel Sign, Views from De Anza Forge**

	
<p>Installed sign as viewed from adjacent condo. The illuminated portion of the sign is reportedly 52 square feet. The illuminated portion of the freeway-facing sign would be 165 square feet. This gives an idea as to how bright it would be. The letters appear much brighter than the building's interior lighting. This photo was taken between 10:30 pm and 11:00 pm on 2/15/2023.</p> <p><b>IMAGINE A SIGN 3X LARGER THAN THE ABOVE. IS IT COMPARABLE TO THE CUPERTINO HOTEL?</b></p>	<p><b>CUPERTINO HOTEL:</b> This photo has been enlarged. Otherwise you would not be able to recognize it. This is a view of Cupertino Hotel from the on-ramp to 280 North from De Anza. On the Freeway heading north, it was sometimes hidden and other times very subdued. I was unable to see the sign from the condos across the freeway having walked the fence line and even climbed up to it. It is unlikely that much of this sign is visible from the condos. This photo was taken between 10:30 pm and 11:00 pm on 2/15/2023.</p>
	
<p>View from a lower unit in a De Anza Forge condo.</p>	<p>View from a different unit in a De Anza Forge condo.</p>

These photos were taken between 10:30 pm and 11:00 pm on 2/15/2023 at the De Anza Forge Condominiums along the various areas that face the freeway. The sign would be installed at the highest point on the building. In all cases, the photos are taken from a vantage point that is further away from the Public Storage building than a view from a condo.



**EXHIBIT 3 – EXCERPTS LETTERS RECEIVED BY CITY CLERK/COUNCIL FROM  
NEIGHBORS WHO WOULD BE AFFECTED BY SIGNAGE BETWEEN 2/8 and 2/16  
(names/addresses redacted)**

My name is [REDACTED] and I own a condo in the DeAnza Forge community [REDACTED]  
[REDACTED]

Please do not allow Public Storage to have illuminated signage facing the freeway until 11pm daily. This signage will be visible from my home and disrupt our quality of life. The proposed lighted sign is 165 square feet on an 800+ square-foot orange background. In October, the Planning Commission denied any signage facing the freeway per CMC 19.104; in February, the City Council ignored their decision. The City Council should have upheld the Planning Commission's determination; there should be no sign. Alternatively, as a compromise, I am respectfully requesting that the signage have no illumination. The sign does not help prospective customers to find the building and is big enough for advertising the business during daylight hours.

I am also very concerned about highway/driving safety with that proposed illuminated sign.

---

Please do not allow Public Storage to have illuminated signage facing the freeway, especially if it is lit until 11pm daily. The lights from the Public Storage are already very bright in the evening. Adding large illuminated lettering onto the side of the buildings would only further increase the buildings brightness and make it an even bigger visual eyesore. Nearby residents don't want a nightlight. It would only further increase the amount of light pollution coming inside our homes. Not to mention, it would make our homes less desirable, if we were to rent or sell it in the future.

The two newly-built, 4-story Public Storage buildings are now the first thing you see when you look out of our bedroom and living-room windows, since they are now at eye level with our condo. We bought our condo in 1985, even before the Cupertino Inn was built, when our condo still had the beautiful unobstructed views of the mountains and there were a lot more planted trees everywhere. I think around that time, the one-story Public Storage facility was originally built in Cupertino, as well. In fact, in all the 40 years that it's been at that location, Public Storage has never had a sign facing the freeway to advertise its location, much less needed one that was illuminated. We don't think it should be necessary for them to have one now. Due to the large size of both buildings and their trademark burnt orange and grey color, they are very hard to be missed from the freeway. Illuminating the name of the company, so that it can further advertise its brand, at the detriment of the neighbors and the driving cars, should not be allowed. Let's leave the bright lights and lit signs for Las Vegas and not Cupertino. The only entity benefiting from the proposed illuminated signage would be Public Storage; not the overall community. I am respectfully requesting that the signage have no illumination.

---

All view access to the mountains cutoff by building line.

Thank you so much for taking away what little view we had.

Photo; Feb 15, 735a





Dear City Council:

Please do not allow Public Storage to have illuminated signage facing the freeway until 11pm daily. This signage will be visible from my home and disrupt my quality of life. The proposed lighted sign is 165 square feet on an 800+ square-foot orange background.

- The building has already cutoff good views of the mountains. Had it been one story lower, the tops of the mountains would be visible. Maybe it doesn't matter to you but it mattered to me. Public Storage wins. I lose. Poor choice by allowing this.
- Now to make it worse already the hallways are lighted projecting across the highway into bedroom.

Photo : 1020p, Feb 14th, 2023



Views of mountains gone.

- To make matters worse, the illuminated sign will be visible from many of the condominiums at De Anza Forge. We already lost a view to the south of the mountains, there will be a large obtrusive lighted sign directly in the sight-line. This will negatively affect the value of all condominiums in the complex.

- In October, the Planning Commission denied any signage facing the freeway per CMC 19.104;
- in February, the City Council ignored their decision. The City Council should have upheld the Planning Commission's determination; there should be no sign.

Alternatively, as a compromise, I am respectfully requesting that the signage have no illumination. The sign does not help prospective customers to find the building and is big enough for advertising the business during daylight hours.

Furthermore, do you think this building meets the City Council's promise made specifically for this building? Resolution 19-072 stated "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."

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If the new City Council truly cares about the residents of Cupertino, please do not allow Public Storage to have an illuminated signage facing the freeway until 11pm daily. This signage would be visible from home and would disrupt our quality of life. The proposed lighted sign is 165 square feet on an orange background measuring over 800 square feet.

Would you like it if you lived here and you saw that sign each night?

In October, the Planning Commission denied any signage facing the freeway per CMC 19.104. In February, the City Council ignored their decision. As a compromise, I am respectfully requesting that the signage have no illumination. The sign does not help prospective customers find the building and is large enough to advertise their business during daylight hours.

I feel this is a very reasonable request. I am not asking for the removal of the sign. Please reconsider so that the signage is not lit up when it's dark.

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Please do not allow Public Storage to have illuminated signage facing the freeway until 11pm daily. This signage will be visible from my home and disrupt my quality of life. The proposed lighted sign is 165 square feet on an 800+ square-foot orange background. In October, the Planning Commission denied any signage facing the freeway per CMC 19.104; in February, the City Council ignored their decision. The City Council should have upheld the Planning Commission's determination; there should be no sign. Alternatively, as a compromise, I am respectfully requesting that the signage have no illumination. The sign does not help prospective customers to find the building and is big enough for advertising the business during daylight hours.

Furthermore, do you think this building meets the City Council's promise made specifically for this building? Resolution 19-072 stated "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."

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Please do not allow Public Storage to have illuminated signage facing the freeway until 11pm daily. This signage would be visible from my property. It will surely disrupt the quality of life.

The proposed lighted sign is 165 square feet on an orange background measuring over 800 square feet. In October, the Planning Commission denied any signage facing the freeway per CMC 19.104; in February, the City Council ignored their decision.

As a compromise, I am respectfully requesting that the signage have no illumination. The sign does not help prospective customers to find the building and is big enough for advertising the business during daylight hours.

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Please don't allow public storage to have signage facing the freeway until 11 pm daily.

This signage would be visible from my home and would disrupt my quality of life. The proposed illuminated sign is 165 square feet with an orange background measuring over 800 square feet.

In October, the Planning Commission denied any signage facing the freeway per CMC 19.104; in February, the City Council ignored their decision. As a compromise, I am respectfully requesting that the signage have no illumination. The sign does not help prospective customers to find the building and is big enough for advertising the business during daylight hours.

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Please do not allow Public Storage to have illuminated signage facing the freeway until 11pm daily. This signage would be visible from my home and would disrupt my quality of life. The proposed lighted sign is 165 square feet on an orange background measuring over 800 square feet. In October, the Planning Commission denied any signage facing the freeway per CMC 19.104; in February, the City Council ignored their decision. As a compromise, I am respectfully requesting that the signage have no illumination. The sign does not help prospective customers to find the building and is big enough for advertising the business during daylight hours.

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Please do not allow Public Storage to have illuminated signage and room lighting facing the freeway until 11p.m. daily. This signage and bright room lighting showing bright orange doors is visible from my home and has been disrupting my quality of life. The proposed lighted sign is 16 square feet on an orange background measuring over 800 square feet.

In October, the Planning Commission denied any signage facing the freeway per CMC 19.104; in February, the City Council ignored their decision. As a compromise, I am respectfully requesting that the signage have no illumination and room lightening will be either shut off or significantly dimmed so that the light pollution will not cause sleep disturbance for the residents. The sign does not help prospective customers to find the building and is big enough for advertising the business during daylight hours and bright ugly room lighting is just wasting precious community electricity.

Please do not allow Public Storage to put up an enormous illuminated sign facing 280. The building, which was recently constructed, already interferes with the quality of my life since it is lit up all night long and the light goes directly into my condo on the other side of the freeway. The proposed illuminated light would only make the problem worse, especially during the summer months when windows are kept open to let cool air in (letting in also the view of a large glowing sign). Where I once had a lovely view of the

mountains, I now have an ugly grey building blocking it, with the threat of an enormous illuminated Public Storage sign being placed upon it. Please do not allow this to happen.

In October, the Planning Commission denied any signage facing the freeway per CMC 19.1-4, so it seems like this should not happen.

I look forward to seeing the action you take in this matter.

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The newly-built Public Storage building is a problem. I live in a condominium De Anza behind Homestead Square Shopping Center, facing to Freeway 280. Recently the new building was built and the building is a total obstacle for all the residents in my neighbors. We could see the mountains over Freeway 280 but now we cannot enjoy the view. What we see through the windows is just a storage building. It's worse. The building has large windows and the corridors are lit by the light until late at night. But I have never saw a soul in the corridor. The building in front of our residence is ugly at daytime. The building with lighted windows is ugly at night. The Public Storage building is already a problem.

And now.

Please do not allow Public Storage to have illuminated signage facing the freeway until 11pm daily. This signage would be visible from my home and would disrupt my quality of life. The proposed lighted sign is 165 square feet on an orange background measuring over 800 square feet. In October, the Planning Commission denied any signage facing the freeway per CMC 19.104; in February, the City Council ignored their decision. As a compromise, I am respectfully requesting that the signage have no illumination. The sign does not help prospective customers to find the building and is big enough for advertising the business during daylight hours.

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**RESOLUTION NO. 19-072**

**A RESOLUTION OF THE CUPERTINO CITY COUNCIL APPROVING 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 LOCATED 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 City Council 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 City Council has held at least one public hearing in regard to the application; and

WHEREAS, the Planning Commission held a public hearing on May 28, 2019 and recommended that the City Council approve the application, subject to conditions; 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 City Council 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 June 18, 2019, the City Council 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 City Council 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 City Council 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 City Council Meeting on June 18, 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. EAST ELEVATION**

The applicant shall work with the City to neutralize the building color and materials along the eastern elevation, and shall modify the vegetation, as necessary, to improve the aesthetics of the project. The modification shall be reviewed and approved by the Director of Community Development prior to the issuance of building permits.

**7. MAXIMUM PARAPET HEIGHT**

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

**8. 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.

**9. 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.

**10. 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 this 18<sup>th</sup> day of June, 2019, by the following vote:

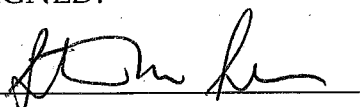

Vote                      Members of the City Council

AYES:            Scharf, Chao, Paul, Sinks, Willey

NOES:           None

ABSENT:       None

ABSTAIN:       None

SIGNED:	
	24 June 2019
Steven Scharf, Mayor City of Cupertino	Date
ATTEST:	
	6/24/19
Grace Schmidt, City Clerk	Date

**CITY OF CUPERTINO**

**10300 Torre Avenue, Cupertino, California 95014**

**DEPARTMENT OF COMMUNITY DEVELOPMENT REPORT FORM**

**Application:** U-2006-03, ASA-2006-05, EA-2006-06

**Agenda Date:** May 9, 2006

**Applicant:** Timothy Reeves, on behalf of Public Storage

**Owner:** Public Storage, Inc.

**Location:** 20565 Valley Green Drive, APN 326-10-044

**APPLICATION SUMMARIES:**

USE PERMIT and ARCHITECTURAL & SITE APPROVAL to demolish an existing 53,890 square foot, single-story storage facility and construct a 155,253 square foot, three-story storage facility.

**RECOMMENDATION:**

Staff recommends that the Planning Commission recommend to the City Council:

1. Approval of the negative declaration, file no. EA-2006-06
2. Denial of the Use Permit, file no. U-2006-03, based on the model resolution.
3. Denial of the Architectural & Site Approval, file no. ASA-2006-05, based on the model resolution.

**Project Data:**

<b>General Plan Designation:</b>	Industrial/Residential
<b>Zoning Designation:</b>	P (CG, ML, Res 4-10)
<b>Specific Plan:</b>	North De Anza Boulevard Special Center
<b>Site Area:</b>	130,469 square feet (2.99 acres)
<b>Existing Building SF:</b>	53,890 square feet (to be demolished)
<b>Proposed Building SF:</b>	<b>Building A:</b> 74,511 square feet <b>Building B:</b> 80,742 square feet
	<b>Total Building SF:</b> 155,253 square feet

<b>Building Coverage:</b>	39.6%
<b>Floor Area Ratio:</b>	1.19
<b>Building Height:</b>	43 feet maximum, 45 allowed
<b>Required Parking:</b>	N/A
<b>Provided Parking:</b>	80 spaces
<b>Hours of Operation (Storage):</b>	6:00 a.m. - 9:00 p.m. (same as existing hours)
<b>Hours of Operation (Office):</b>	9:00 a.m. - 5:00 p.m. (same as existing hours)
<b>Total Employees:</b>	5 employees
<b>Employees at any one time:</b>	2 employees

**Environmental Assessment:** Negative Declaration

**BACKGROUND:**

Development of the site will require removal of all of the existing mini-storage buildings on the property, consisting of nine single-story buildings with an associated rental office. The project site is surrounded by Interstate 280 to the north, existing two-story office buildings and Valley Green Drive to the south, a condominium development (Oak Park Village) under construction to the east and a multiple-family residential neighborhood to the west. The site is accessed from Valley Green Drive by a 30-foot wide driveway easement that is on the adjacent properties to the south and east.

**DISCUSSION:****Site Layout.**

The proposed project is comprised of two three-story buildings in the center of the property. Building A is proposed to be 74,511 square feet and will include 631 storage units with an associated 1,100 square foot rental office. Building B is proposed to be 80,742 square feet with 537 rental units. Eighty parking spaces will be provided around the new buildings. Landscaping will be provided along the perimeter of the site.

The site is located within a Planned Development zoning district, which does not provide setback standards. The proposed project will have a setback of 51 feet from the northern property line (adjacent to Interstate 280), a 15 foot rear yard setback from the southern property line, a 54 foot setback from the eastern property line (that includes half of the 30-foot driveway easement) and 50 feet from the western property line (adjacent to the multiple-family residential neighborhood).

**Architecture and Building Materials.**

The architecture of the buildings has been designed to be compatible with the Oak Park Village condominium development with respect to wall articulations, building shapes and variation of wall heights. The proposed buildings provide considerable wall articulations to break up the 370-foot wall lengths of each building.

Additionally, varying wall heights have been proposed by incorporating different roof shapes and wall heights. The buildings' heights are consistent with the adjacent three-story, 45-foot height Oak Park Village development. However, the existing two-story office buildings to the south are considerably lower, with a height of approximately 33 feet to the top of roof and 36 feet to the top of parapet.

The building materials include use of stucco EIFs (exterior insulation and finish systems), split face concrete masonry blocks, cornice treatments and metal awnings. The applicant is proposing to use a combination of gray, sand, and white colors for the building. Metal awnings are proposed to be painted orange to match the corporate logo color of Public Storage.

Although the buildings have been designed to be compatible with the surrounding uses, staff believes they will appear industrial, with a significant amount of three-story high wall area without windows and significant use of concrete split face masonry block units. Therefore, the proposed project will still appear somewhat different from the surrounding developments. The Oak Park Village condominiums will have a significant amount of window area and will have a stucco exterior, as do the existing two-story office buildings to the south.

Staff is also concerned about the height of the proposed buildings as they will be prominently visible from Interstate 280, the new condominium development currently under construction to the east, the existing residential neighborhood to the west and the two-story office buildings occupied by Apple to the south.

#### **Landscaping.**

Existing landscaped areas include a planter area adjacent to the rental office building at the entrance to the project site, some redwood trees along the northern property line at the entrance to the site, and a five-foot landscaped area with redwood and fern pine trees. Landscape screening of the site benefits from the landscaping on adjacent properties, including eucalyptus trees in a planter area on the adjacent property to the south and mature trees planted in the Interstate 280 right-of-way landscape area between the freeway and the project site.

The conceptual landscape plan provides enhanced landscaping, due to additional setbacks provided by the new buildings. No existing trees will be removed. The landscape plan provides for new and extended landscape planter areas around the perimeter of the site, including a 10-foot wide planter along the northern property line, a 15-foot wide planter along the southern property line, a 25-foot planter along the western property line and a 30-foot planter along the eastern property line. Additionally, planter areas will be installed between parking spaces along the northern elevation of the building to accommodate new magnolia trees.

Staff finds that although the applicant is significantly increasing landscape area along the perimeter of the project site, the number of trees to be added appears minimal. If the Planning Commission recommends approval of the project, staff recommends that the Commission require additional trees on the site.

**Public Art.** The recently adopted General Plan requires that new projects of 50,000 square feet or more contribute ¼% of their construction valuation toward public art. If the Planning Commission recommends approval of the project, a condition of approval requires public art for this project.

**Parking.**

The City's parking ordinance does not include a parking requirement for storage facilities. As a result, a parking study was prepared by TJKM Transportation Consultants to determine the parking demands of the project. The study was based upon analysis of the entry/exit log data for the month of March and driveway counts collected during the evening peak period between 4:00 p.m. and 6:00 p.m. on a weekday.

The study was also based upon a total projected building square footage of approximately 204,000 square feet and 83 parking spaces. Since preparation of this parking study, the proposed square footage of the building was reduced to 155,253 square feet and 80 parking spaces. Staff believes that the proposed number of parking spaces will be sufficient to accommodate the use.

**North De Anza Special Center**

The project site is located in the North De Anza Special Center area. Per the General Plan, this area focuses on development activities including office, industrial, research and development with supporting commercial and residential uses. Developments in this area are required to adhere to design elements by providing extensive landscape setbacks/corridors adjacent to De Anza Boulevard. Since the site has no direct street frontage, the landscape setback/corridor requirements do not apply.

**Maintaining Cohesive Commercial Centers and Office Parks**

The General Plan includes policies for the maintenance of cohesive commercial centers and office parks, which encourage new development and expansion of commercial/office uses within these areas. The project site is located in an area identified as an office park.

The proposed mini-storage facility is a non-office use that does not promote these General Plan policies for maintaining cohesive office parks and, therefore, staff believes that the project, which will significantly intensify the use of the site as a mini-storage facility by almost tripling the amount of existing mini-storage building area, will conflict with these policies. The proposed project will offer very little public and community benefit, as it is anticipated to generate a minimal amount of retail sales tax to the City for its sales of packing/boxing supplies, and is substantially inconsistent with the surrounding uses of the area that include office and multiple-family residential. More importantly, the substantial intensification of this site will preclude future development of the site for future expansion of an office park, and particularly a high tech office park currently occupied by Apple.

Although the applicant has made substantial design changes to provide a design that is compatible with surrounding buildings, staff believes that the proposed project does not follow the policies for maintaining cohesive commercial/office parks. Therefore,



staff does not support the proposed project, particularly since these policies were developed by the recently adopted General Plan of November 2005, and recommends that the Planning Commission recommend denial of the project.

**Environmental Review.**

The Environmental Review Committee (ERC) reviewed this project on April 12, 2006 and recommended approval of a negative declaration for this project. Items discussed included additional landscaping to be provided on the site, staffing and hours of operation, and parking.

**Enclosures:**

Model Resolutions recommending Denial

Model Resolutions recommending Approval

Exhibit A: Public Storage Project Description

Exhibit B: General Plan policy for Maintaining Cohesive Commercial Centers and Office Parks

Exhibit C: Parking study prepared by TJKM Traffic Consultants dated March 20, 2006  
Initial Study and ERC Recommendation  
Plan Set

Submitted by: Aki Honda, Senior Planner

Approved by: Steve Piasecki, Director of Community Development



G: CupertinoNT/Planning/PDREPORT/pcUserereports/2006ureports/ciddyU-2006-03.doc

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

MODEL RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO  
RECOMMENDING DENIAL OF A USE PERMIT TO DEMOLISH AN EXISTING 53,890  
SQUARE FOOT, SINGLE-STORY STORAGE FACILITY AND CONSTRUCT A 155,253  
SQUARE FOOT, THREE-STORY STORAGE FACILITY ACCESSED FROM VALLEY  
GREEN DRIVE (PUBLIC STORAGE).

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SECTION I: FINDINGS

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

WHEREAS, the necessary public notices have been given in accordance with the Procedural Ordinance of the City of Cupertino, and the Planning Commission has held one or more public hearings on this matter; and

WHEREAS, the applicant has not met the burden of proof required to support said application; and has not satisfied the following requirements:

- 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;
- 2) The proposed use will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan and the purpose of this title; and
- 3) The proposed development is consistent with the North De Anza Boulevard Special Center area.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter, the application for Use Permit is hereby recommended for denial, subject to the conditions which are enumerated in this Resolution beginning on Page 2 thereof; 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-2006-03 as set forth in the Minutes of the Planning Commission Meeting of May 9, 2006, and are incorporated by reference as though fully set forth herein.

SECTION II: PROJECT DESCRIPTION

Application No.: U-2006-03 (EA-2006-06)  
Applicant: Timothy Reeves (Public Storage)  
Location: 20565 Valley Green Drive

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PASSED AND ADOPTED this 9th day of May 2006, at a Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS:  
NOES: COMMISSIONERS:  
ABSTAIN: COMMISSIONERS:  
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

---

Steve Piasecki  
Director of Community Development

---

Marty Miller, Chairperson  
Planning Commission

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

MODEL RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO  
RECOMMENDING DENIAL OF AN ARCHITECTURE AND SITE APPROVAL TO  
DEMOLISH AN EXISTING 53,890 SQUARE FOOT, SINGLE-STORY STORAGE  
FACILITY AND CONSTRUCT A 155,253 SQUARE FOOT, THREE-STORY STORAGE  
FACILITY ACCESSED FROM VALLEY GREEN DRIVE (PUBLIC STORAGE).

---

SECTION I: FINDINGS

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

WHEREAS, the necessary public notices have been given in accordance with the Procedural Ordinance of the City of Cupertino, and the Planning Commission has held one or more public hearings on this matter; and

WHEREAS, the applicant has not met the burden of proof required to support said application; and has not satisfied the following requirements:

- 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;
- 2) The proposed use will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan and the purpose of this title; and
- 3) The proposed development is consistent with the North De Anza Boulevard Special Center area.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter, the application for Architectural and Site Approval is hereby recommended for denial, subject to the conditions which are enumerated in this Resolution beginning on Page 2 thereof; and

That the subconclusions upon which the findings and conditions specified in this resolution are based and contained in the public hearing record concerning Application No. ASA-2006-05 as set forth in the Minutes of the Planning Commission Meeting of May 9, 2006, and are incorporated by reference as though fully set forth herein.

---

SECTION II: PROJECT DESCRIPTION

Application No.: ASA-2006-05 (EA-2006-06)  
Applicant: Timothy Reeves (Public Storage)  
Location: 20565 Valley Green Drive

---

PASSED AND ADOPTED this 9th day of May 2006, at a Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS:  
NOES: COMMISSIONERS:  
ABSTAIN: COMMISSIONERS:  
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

---

Steve Piasecki  
Director of Community Development

---

Marty Miller, Chairperson  
Planning Commission

**From:** [Liang Chao](#)  
**To:** [City Clerk](#)  
**Subject:** Fwd: Public Storage Already Has Freeway-Facing Signage and more  
**Date:** Sunday, March 19, 2023 6:47:30 PM  
**Attachments:** [ATTACHMENT A RESOLUTION.PDF](#)

---

Please enter this into the written communication for 3/21 council meeting.

Thanks!



---

**From:** Rhoda Fry <[fryhouse@earthlink.net](mailto:fryhouse@earthlink.net)>  
**Sent:** Wednesday, March 8, 2023 3:41 PM  
**To:** Christopher Jensen <[ChristopherJ@cupertino.org](mailto:ChristopherJ@cupertino.org)>  
**Cc:** Luke Connolly <[LukeC@cupertino.org](mailto:LukeC@cupertino.org)>; City Council <[CityCouncil@cupertino.org](mailto:CityCouncil@cupertino.org)>; City of Cupertino Planning Commission <[PlanningCommission@cupertino.org](mailto:PlanningCommission@cupertino.org)>; Pamela Wu <[PamelaW@cupertino.org](mailto:PamelaW@cupertino.org)>  
**Subject:** Public Storage Already Has Freeway-Facing Signage and more

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Chris,

As I mentioned to you briefly last night, after further research on the signage at the new Public Storage building, I realized that the building already has a "freeway-oriented sign" on the east elevation (the short end of the building on the De Anza exit side). Consequently, that signage should have gone to the Planning Commission. In spite of complaints to 311, the sign has remained illuminated all night long and shines directly into the windows of the adjacent condos (as does the interior and exterior lighting). Even if the building were to be illuminated until 11PM, all that light would be a public nuisance. Additionally, the signage does not uphold the intent of resolution 19-072 attached: the design of the building is to emulate an office building (2b) and the eastern elevation was to be modified to improve the aesthetics of the project (6). As our City continues to densify, we need to carefully consider the interfaces between residential and commercial land-uses.

Driving on the freeway, you'll notice that the existing Public Storage sign is by far more visible than the Cupertino Hotel sign, which runs parallel to the freeway. I can see how the Planning Department might have assumed that the east elevation sign is not oriented toward the freeway because it does not run parallel. However, the definition of "oriented" in our Cupertino Municipal Code is clear – it is about being visible.

"Freeway oriented sign" means any sign which is located within six hundred sixty feet and visible from a freeway right-of-way as defined by Section 5200 of the California Business and Professions Code.  
[https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino\\_ca/0-0-0-93096#JD\\_Chapter19.08](https://codelibrary.amlegal.com/codes/cupertino/latest/cupertino_ca/0-0-0-93096#JD_Chapter19.08)

Below are views of the views from the adjacent condos and from the freeway (sign is upper left):



I would also like to draw to your attention that the objective building's freeway-oriented lighting is to draw attention to the building from the freeway. Public Storage's design objective is to have the building be the sign, which is in opposition to the City's resolution. Read Public Storage's story here: <https://www.publicstorage.com/blog/public-storage/public-storage-locations-get-a-new-look>. Also notice below that the back of the building is acceptably dark at night and its windows are frosted.



Here is the modest non-illuminated directional sign on Valley Green Drive which highlights the fact that the existing illuminated sign is excessive (the newly approved sign running parallel to the freeway would be 3 times larger). The freeway-oriented interior lighting should be off at night and the existing freeway-oriented sign should be used only to identify the building - - - office buildings in Cupertino don't have signs that large.



Thank you for looking into this and for retaining our community values.

Sincerely,  
Rhoda Fry (40 year resident, 2022 recipient CREST award for Public Safety)



**From:** [Liang Chao](#)  
**To:** [City Clerk](#)  
**Subject:** Fwd: Can I take you on a Public Storage Tour?  
**Date:** Sunday, March 19, 2023 6:40:46 PM  
**Attachments:** [image002.png](#)  
[ATTACHMENT A RESOLUTION.PDF](#)

---

I did go on this tour on the 3/15 around 7:30pm.  
Please enter this into the written communication for the 3/21 meeting.



---

**From:** Rhoda Fry <[fryhouse@earthlink.net](mailto:fryhouse@earthlink.net)>  
**Sent:** Thursday, March 9, 2023 11:12 AM  
**To:** Kitty Moore <[kmoore@cupertino.org](mailto:kmoore@cupertino.org)>; Liang Chao <[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)>  
**Subject:** Can I take you on a Public Storage Tour?

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Council Members Chao and Moore,

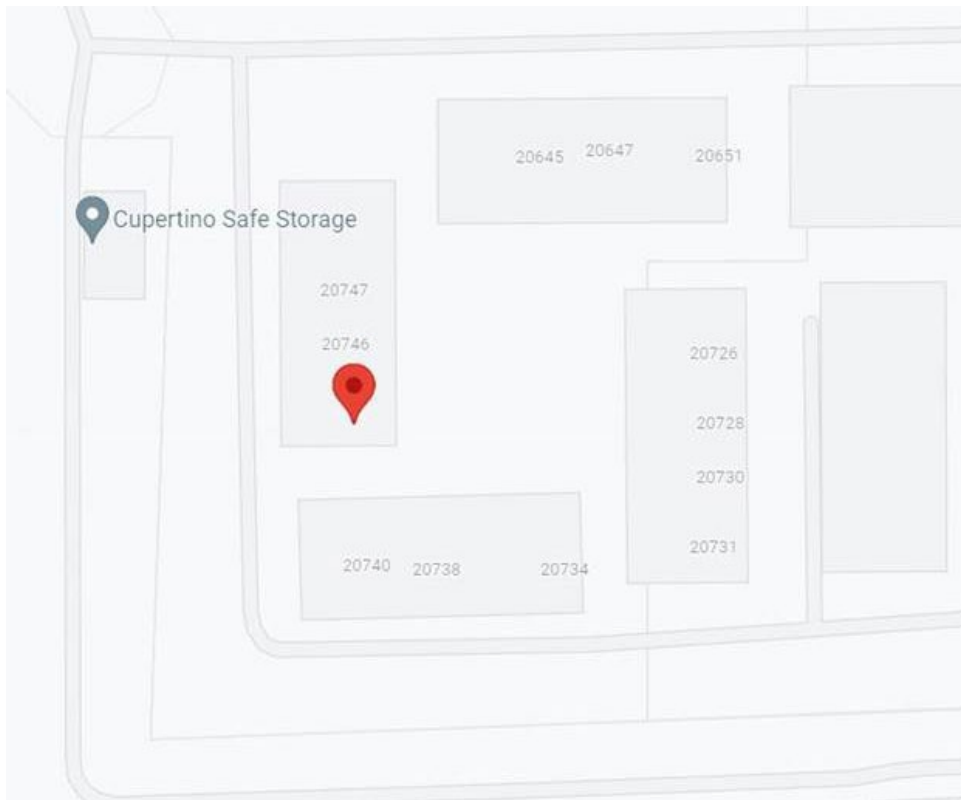
Can I take you on a Public Storage Tour? After multiple visits, I have gained a number of insights and appreciate your interest. It is best to go before sunrise or after sunset.

Please let me know what dates/times work for you.

I understand that if I take you on a tour that you will be required to mention ex parte communication with me. This is a good thing because it demonstrates your interest in the issue.

My suggested tour starts at the condos across the freeway near 20744 Celeste Circle and ends at the 20565 Valley Green Dr, Cupertino, CA 95014  
(that way we don't have to make a U-turn on De Anza)

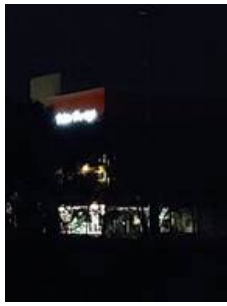
1. Start on the long driveway near 20744 Celeste Circle – I've always found parking there  
(there happens to be another storage company located adjacent to these condos)



2. Walk up the stairs between the buildings and look between the buildings to see what residents see at night. Then walk around the swimming pool to access the other half of the complex that faces the freeway. You might run into some residents along the way as I have before. This photo is taken from a resident's condo and you can get a pretty good idea of what it would look like by walking the property. I have met residents from the adjacent apartment building who say that light is spilling into their area as well. The amount of light from those upper stories, gives you an idea as to how much light would be coming from the proposed new sign.



3. As you drive over to Public Storage, notice the existing signage (about 1/3 of the size of the proposed signage) as you cross over the freeway. It is much more noticeable than the Cupertino Hotel sign.



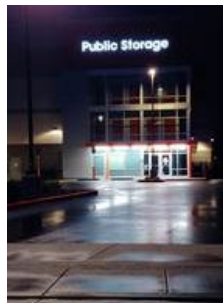
4. Upon entering the driveway, notice the modest directional signage. This is an appropriate size.



5. Take a look at the non-descript back side of the building with frosted windows. It has a minimal amount of down lighting. Here is a day picture and night picture.



6. Take a look at the side of the building that faces the adjacent condos – both lighting and privacy issues. Look for the Cupertino Hotel sign across the freeway – it is very hard to see!!! After many complaints, Public Storage has turned off the lighting where the orange doors are but not the lower lighting or the sign. See below of before and after. Having the sign illuminated all night long is a code violation. Note also that City's resolution for this building (attached) was to improve the aesthetics of this side of the building. Having looked at the plans, this does not appear to have happened.



This sign on the short end of the building is a freeway-oriented sign (as defined by municipal code – within 660 ft and visible from freeway)! Consequently the Council vote on February 7 wound up voting for a second freeway-oriented sign. Reminder, per the Municipal Code, the Planning Commission can vote for ZERO signs if it does not meet design criteria or requirements imposed by the development. The Planning Commission can also vote for ONE sign. And the Planning Commission can make an exception and vote for more signs.

7. As you leave the self-storage parking lot, turn right into the office complex parking lot and get a better look at the back side of the building facing the offices.

The issue to be heard on March 21 will apply only to the second freeway-oriented sign (now that we have established that Public Storage already has one) – seeing the amount of light given off from the building gives you an idea as to the impact that four-and-one-half foot tall letters would have on the residents. Worse, moving forward, I am worried about future developments. Did you know that there are at least four self-storage businesses in Cupertino? Another replacement self-storage building was recently approved – how might its signage affect residents if this one is approved? What about other developments as we densify our City?

Please also keep in mind the architectural and site approval permit that stipulated that the building is supposed to emulate an office building (attached). Office buildings don't have big signs. Why? They're limited to signage that is 40 square feet. Commercial buildings are allowed 200 sq ft. If the Public Storage building is supposed to look like an office building, then should it be limited to signage that is 40 square feet? See excerpt of page 3 of 2022 Planning Packet:



Some Excerpts of the Municipal Code:

**19.104.010 Purpose and Intent.**

- A. The purpose of the sign ordinance is to identify and enhance businesses while maintaining the aesthetic appearance of the City.
- B. A good sign program will provide information to the public concerning a particular business or use and will serve the visual and aesthetic desires of the community.
- C. The City has adopted this title with the intent to:
  1. Provide architectural and aesthetic harmony of signs as they relate to building design and surrounding landscaping;
  2. Provide regulations of sign dimensions and quantity which will allow for good visibility for the public and the needs of the business while providing for the safety of the public by minimizing distraction to the motorist and pedestrian;
  3. Provide for sign regulations that will be compatible with the building, siting, and the land uses the signs are intended to identify;
  4. Provide for maintenance of existing signs and a program for bringing nonconforming signs into conformance with the standards of this title as changes are made to the signs or businesses;
  5. Provide procedures which will facilitate the efficient processing of sign applications; and
  6. Provide design criteria which will promote attractive and effective signs for Cupertino residents, businesses, employees and visitors.

**19.104.050 Sign Permit Application–Review Criteria.**

The Approval Body shall review the sign application to ensure that the following criteria are met:

- A. The proposed sign meets the requirements of this title or any special conditions imposed in the development.
- B. The proposed sign's color and illumination is not in conflict with the safe flow of traffic on the City streets.
- C. The sign is in conformance with the Design Criteria in Section 19.104.220.

**19.104.220 Design Criteria–Permanent Signs.**

Although the aesthetic appearance of signs is subjective, the City recognizes that certain basic design guidelines are needed in order to maintain the City's high quality appearance. The following criteria shall be incorporated into the design of signs.

- C. All signs shall be architecturally compatible and in harmony with the building with which it is principally associated, by incorporating its colors, materials, shape and design. The sign shall also be compatible with the aesthetic character of the surrounding developments and neighborhood.
- G. The sign's color and illumination shall not produce distraction to motorists or nearby residents.

Thank you for your interest,

Rhoda Fry  
(408) 529-3560



**From:** [Liang Chao](#)  
**To:** [City Clerk](#)  
**Subject:** Public Storage sign - petition  
**Date:** Monday, March 20, 2023 10:48:47 AM

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Please enter this petition into the meeting record since it should be part of the meeting record.

<https://www.change.org/p/say-no-to-huge-illuminated-sign-facing-280-on-public-storage-building>

And the videos it includes:

- See video on how this building turned out in comparison to plan: <https://youtu.be/duCbf8is4l0>
- See video on public comment about the sign after City Council approved it: <https://youtu.be/MVLVzVu2vY0>

=====

## **Say No to Huge Illuminated Sign Facing 280 on Cupertino Public Storage Building Agenda #7**



[Rhoda Fry](#) started this petition to Cupertino City Council Cupertino City Council and [1 other](#)

Stop Giant Illuminated Commercial Sign Facing Highway 280 (3/21 Agenda #7)

Have you noticed the new Public Storage building facing Highway 280 near De Anza? The building was supposed to resemble an office building that would not be seen from the freeway. Now they want to install a huge illuminated sign with four-and-a-half foot tall letters along a 50-foot long orange wall that will be distracting to motorists and nearby residents. The sign will beam into the homes of residents until 11PM nightly and brighten our



mostly-dark Highway 280.

**\* Please Do Not give money to change .org to promote this petition \***

If City Council approves this sign, then any business facing the freeway or residents' homes might claim entitlement to having their own sign which will forever impact the quality of life of Cupertino residents.

The Santa Clara Valley Audubon Society has also created a call to action:  
SCVAS Action Alert: Tell Cupertino to say no to lighted  
sign <http://hosted.verticalresponse.com/756507/a6fe1796c4/282972443/ae0cc1ebd3/>

The City Council meeting is on March 21 at 6:45 PM in Community Hall next to the library at: 10800 Torre Ave, Cupertino, CA 95014

What You Can Do:

1. Go to the Meeting In Person and speak or attend online

Register for zoom here:

[https://cityofcupertino.zoom.us/webinar/register/WN\\_G-KTGVhYR\\_GYoe-yz0zkRg](https://cityofcupertino.zoom.us/webinar/register/WN_G-KTGVhYR_GYoe-yz0zkRg)

2. Write to City Council

TO: citycouncil@cupertino.org; CityClerk@cupertino.org

SUBJECT: Agenda Item #7 No Public Storage Sign

Dear City Council,

On March 21, please vote no on the Public Storage freeway-facing sign. Our community begs you to reconsider your February vote to allow Public Storage to have a new huge sign with 4-and-a-half-foot tall illuminated letters that face the freeway. Unfortunately, the staff report lacked the facts you needed to make an informed decision such as the Cupertino Municipal code 19.104.220 C. and G. that dictates that "The sign shall also be compatible with the aesthetic character of the surrounding developments and neighborhood" and "The sign's color and illumination shall not produce distraction to motorists or nearby residents." You were neither shown that the sign would face condominiums nor that the building already had its one allowable freeway-oriented sign. Moreover, this building was approved on the basis of it not being visible from the freeway. Public Storage needs to have a sign program that meets the needs of your constituents. You can get an idea as to how bad

the sign is by driving by the over-illuminated building at night; this needs to be fixed because it is a distraction to motorists and residents. Vote no on the new sign.

Sincerely,

It is best to write a letter on how you would be affected by the sign and its illumination on the freeway.

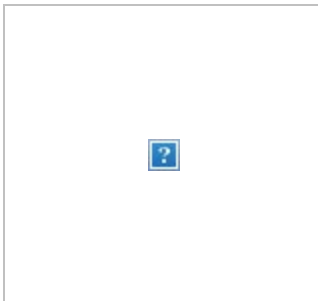
**\* Please Do Not give money to change .org to promote this petition \***

This petition will have a very short lifespan and it is not worthwhile to promote it with your money. Ask your community to sign on, write your own personal letter, and show up at City Council on March 21 at 6:45 PM (next to the Cupertino Library).



See video on how this building turned out in comparison to plan: <https://youtu.be/duCbf8is4I0>

See video on public comment about the sign after City Council approved it: <https://youtu.be/MVLVzVu2vY0>



**Liang Chao**

Council Member

City Council

LiangChao@cupertino.org

408-777-3192



**From:** [Peter Prekler](#)  
**To:** [City Clerk](#); [City Council](#)  
**Subject:** Meeting 3/21: Public Storage  
**Date:** Thursday, March 16, 2023 10:56:19 PM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Madam / Sir,

Please do not vote for installing the 50 feet long orange sign facing the Highway 280 also our living room and office . I'm sure there it is not allowed to have such big signs next to the freeway as it is distracting for the drivers. According to my knowledge Public Storage doesn't really need a sign anyway, if someone really wants find one can easily search for the nearest one on the internet. The building itself is ugly enough already , I don't know why people want to make it more unbearable to watch.

Please be respectful and consider that we live here in the front of that eyesore of a building, that sign will not help to increasing our apartments worth either.

Please consider also to forbid for Public Storage any signs facing the Highway 280, as it can cause accidents, if people just watching the signs. The ramp of De Anza Blvd is right here next to that building, drivers should concentrate on the traffic not on unnecessary signs.

Sincerely

Peter Prekler

20717 Celeste Cir, Cupertino

**From:** [Nina Daruwalla](#)  
**To:** [City Council](#); [City Clerk](#); [Cupertino City Manager's Office](#); [City Attorney's Office](#); [Nina Daruwalla](#)  
**Date:** Monday, March 20, 2023 12:32:30 PM

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council, City Manager, and City Attorney,  
I am writing to express my deep concern about the proposed construction of a very bright sign across from our community. As a local resident, I strongly oppose this proposal and urge you to reject it.

The construction of a bright sign will not only be an eyesore but also a disturbance to the peace and tranquility of our neighborhood. The brightness of the sign would be extremely bothersome to local residents, making it difficult to relax in the comfort of our own homes. Moreover, it would be a significant distraction to drivers on the road, increasing the risk of accidents and endangering the safety of our community.

I urge you to consider the impact that this proposed sign will have on our community, and prioritize the well-being and comfort of local residents. As elected officials, you have a responsibility to listen to the voices of the people you represent and act in their best interests. Please do not allow the construction of this bright sign and protect the integrity of our community.

**The De Anza Forge Condominium Homeowners Association represents 96 homeowners.** We are asking that you mitigate the impacts of the new Public Storage building on our health, safety, and quality of life.

Most IMP- it is a **Safety Issue disturbing the Drivers on Highway 280**, distracting them with bright lights which natural instinct will have them look up to see the sign!! The Community of De Anza Forge which is right across the freeway from them will also have light shine into homes and destroy the enjoyment of personal homes!

**Key Points:**

1. We were Never notified about the construction of the building which is right AT the Freeway Wall, and now have lost open views
2. We were Never notified that the building would be illuminated all night long, which is a public nuisance
3. We were Never notified about the proposed new illuminated sign. Had we known, we would have protested the sign and are doing so now.
4. The proposed sign **violates the Cupertino Municipal Code 19.104.220 Design Criteria–Permanent Signs**, “The sign shall also be compatible with the aesthetic character of the surrounding developments and neighborhood” and “The sign's color and illumination shall not produce distraction to motorists or nearby residents.”
5. Additionally, the proposed illuminated sign will be a safety hazard, blinding all

residents entering the driveway that is used by all of the homes at De ANza Forge. **Would Any of you like signs like this one put up across the street from Your Homes??**

6. The building, the illumination on the building and the proposed sign, will reduce our property values. This will reduce the value of all the homes facing the freeway by 10% and the remaining homes by 5% as this will need to be disclosed at every sale!

We would not like to seek Legal Assistance on this but if we have to, we will.  
Please mitigate the impacts of this new development to the fullest extent possible.  
Please DO NOT Allow this Large Illuminated Sign to go up and ANY Cost!!  
Thank you for taking the time to read my letter and considering my concerns. I trust that you will make the right decision and reject this proposal.

Sincerely

Nina Daruwalla  
408.219.5743  
Realtor- Coldwell Banker Cupertino.  
Past-Housing Commissioner- City of Cupertino  
Past- Public Safety Commissioner- City of Cupertino

**From:** [Paulina Grzegorek](#)  
**To:** [City Clerk](#); [City Council](#)  
**Subject:** March 21 Agenda #7 No Huge Public Storage Sign Facing Freeway  
**Date:** Monday, March 20, 2023 3:48:44 PM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council:

I am writing for a second time, as I received no response from any member of the city council regarding this problem. Please do not allow Public Storage to put up an enormous illuminated sign facing 280.

The building, which was recently constructed, already interferes with the quality of my life because it is lit up all night long and the light goes directly into my condo on the other side of the freeway. The proposed illuminated light would only make the problem worse, especially during the summer months when windows are kept open to let cool air in (letting in also the view of a large glowing sign). It is a well known fact that light interferes with the quality of sleep, and therefore the quality of life. This light and the sign that provides it will lower the quality of my life. Where I once had a lovely view of the mountains, I now have an ugly grey building blocking it, with the threat of an enormous illuminated Public Storage sign being placed upon it. Please do not allow this to happen.

In October, the Planning Commission denied any signage facing the freeway per CMC 19.1-4, and yet, here it comes...

I look forward to seeing the action you take in this matter.

Sincerely,  
Paulina Grzegorek

**From:** [Liana Crabtree](#)  
**To:** [Hung Wei](#); [Sheila Mohan](#); [Liang Chao](#); [J.R. Fruen](#); [Kitty Moore](#)  
**Cc:** [City Clerk](#)  
**Subject:** written communication: 3/21/2023 Council meeting, Agenda Item 7, reconsideration of the approval of the non-conforming sign on HWY 280  
**Date:** Tuesday, March 21, 2023 1:01:01 AM

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Honorable Mayor Wei, Vice Mayor Mohan, and Council Members Chao, Fruen, and Moore:

Please include my letter as written communication for the 3/21/2023 Council meeting, Agenda Item 7, “Consider petition for reconsideration regarding the City Council decision of February 7, 2023 to uphold the appeal in part, approve one of the two requested freeway-oriented signs, and deny the requested sign exception....”

I request that Council undo its decision from 2/7/2023 that allows a self-storage business to add excessive nighttime lighting and an extra sign that is not compliant with the municipal code by size or number.

An extra sign and excessive nighttime illumination from the sign and the lighted faux hallways would be a distraction for drivers on HWY 280, a nuisance for people living nearby and unable to block the added light from their windows, and is not in keeping with the “scenic highway eligible” designation assigned to HWY 280 in Cupertino.

I note that both the Santa Clara Valley Audubon Society and the Loma Prieta Chapter of the Sierra Club are advising support of the reversal of Council’s 2/7/2023 decision to allow the non-conforming business to add a sign and excessive nighttime lighting to its place of business.

This 1.5 minute video illustrates why the extra sign and excessive nighttime illumination should not be allowed on the building that fronts a highway and the many homes located just beyond the highway:

<https://youtu.be/duCbf8is4I0>

The second highway-facing sign and excessive building lighting Council approved on 2/7/2023 were misrepresented and the decision to allow both should be undone.

Sincerely,

Liana Crabtree  
Cupertino resident



**From:** [Caryl Gorska](#)  
**To:** [Hung Wei](#); [Sheila Mohan](#); [J.R. Fruen](#); [Kitty Moore](#); [Liang Chao](#); [Pamela Wu](#); [Christopher Jensen](#); [City of Cupertino Planning Dept.](#)  
**Cc:** [Caryl Gorska](#)  
**Subject:** Public Storage signage approval  
**Date:** Tuesday, March 21, 2023 1:03:15 PM  
**Attachments:** [PublicStorage.jpeg](#)

---

Dear City Council, Planning Department, City Manager, and City Attorney,

**- pause a minute to take this image in before reading more below -**



This image is of the signage *\*already\** approved and installed. Note that the signage is NOT just the bright white lighted letters, it's the *whole side of the building* that's lit up!

Even this signage is against Cupertino city code 19.104.220 (g) **The sign's color and illumination shall not produce distraction to motorists or nearby residents.**

I don't how this got through in the first place — surely the residents who will suffer weren't consulted. And I would have thought that the first thing our Planning Department does when a project proposal comes through is to check to see if it complies with our own City law.

For the love of your fellow humans, please don't approve more illegal signage at Public Storage!

Thank you,

Caryl Gorska  
10103 Senate Way

Dear City Council, Planning Department, City Manager, and City Attorney,

- pause a minute to take this image in before reading more below -



This image is of the signage *\*already\** approved and installed. Note that the signage is NOT just the bright white lighted letters, it's the *whole side of the building* that's lit up!

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For the love of your fellow humans, please don't approve more illegal signage at Public Storage!

Thank you,

Caryl Gorska  
10103 Senate Way

**From:** [Anne Ezzat](#)  
**To:** [Kirsten Squarcia](#); [City Clerk](#)  
**Subject:** Item #7 Public Storage Sign on Tonight's Agenda  
**Date:** Tuesday, March 21, 2023 10:53:51 AM

---

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Kirsten,

During my public comment on item #7 for the Public Storage Sign reconsideration, I would like to show this YouTube that is on a Change.org petition.

Can you please make sure that I can show it this evening?

<https://www.dropbox.com/s/ekfftoxbdg25wsf/Cupertino%20Public%20Storage%20Plan%20vs%20Actual.mp4?dl=0>

Thanks,

Brooke

**From:** [Angela Ma](#)  
**To:** [City Council](#); [City Clerk](#)  
**Subject:** 3/21 Agenda #7 Public Storage  
**Date:** Tuesday, March 21, 2023 1:03:52 PM

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino City Councilmembers,

I understand that there will be a City Council meeting today at 6:45pm. I will attend via Zoom, as I need to take care of my two children and pick them up from their school's game.

I am an owner and resident at Oak Park Terrace. This new 4-story Public Storage has already obstructed my view of the mountains and horizon, and now, I only see a large building when I look out my windows. I had voiced my concerns and opinions at that time but to no avail. Below is a picture when I look out the window before sunrise and at night time. The lights are extremely bright and blinding as you can see in the picture below, and I can no longer sleep with my curtains and windows opened when the nights are warm. Please do not approve for Public Storage to install highly, lit signs. I can no longer enjoy the view nor enjoy the night sky from my home. Please feel free to contact me with any questions. Thank you for your consideration.

Kind regards,  
Angela J.  
mobile: 415-215-9989



Sent from my iPhone

**From:** [Rhoda Fry](#)  
**To:** [City Clerk](#); [City Council](#)  
**Subject:** March 21 #7 Public Storage - for public comment  
**Date:** Tuesday, March 21, 2023 11:53:33 AM

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Dear City Clerk,  
Please include the following for public comment March 21 #7 Public Storage  
These are calls to action from Audubon, Sierra Club, Change.org, and 2 letters to the editor in the San Jose Mercury News to Say No to the Sign  
Thank You,  
[Rhoda Fry](#)

---

**From:** Santa Clara Valley Audubon Society [mailto:[Santa\\_Clara\\_Valley\\_Audubon\\_Socie@mail.vresp.com](mailto:Santa_Clara_Valley_Audubon_Socie@mail.vresp.com)]  
**Sent:** Friday, March 17, 2023 5:27 PM  
**To:** [fryhouse@earthlink.net](mailto:fryhouse@earthlink.net)  
**Subject:** SCVAS Action Alert: Tell Cupertino to say no to lighted sign



[Click to view this email in a browser](#)

LETTERHEAD\_LOGO



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## Tell Cupertino to say no to lighted sign

### What is happening

The Public Storage facility on Highway 280 near De Anza Boulevard was expected to look like an office building and not be visible from the highway. Instead, it is brightly colored and clearly visible. Now, the owners want to add a second, huge orange illuminated sign to attract motorists' attention.

The Planning Commission previously rejected this sign because it did not meet Cupertino Municipal Code, which requires that a "sign's color and illumination shall not produce distraction to motorists or nearby residents." The City Council approved the sign but was petitioned to reconsider its decision on **Tuesday, March 21**.

### Why it is important

Parts of Highway 280 are designated Scenic Highway, and the Cupertino section is a candidate for Scenic designation. This sign, if approved, could be the first of many highway facing signs that will degrade scenic resources, distract drivers, bring light pollution, and waste energy along Highway 280.

### What you can do

Please help us oppose this project! Watch [this video](#) to see what the facility looks like and the light pollution already coming from the facility without the illuminated sign.

**Please email Mayor Wei and Councilmembers ([citycouncil@cupertino.org](mailto:citycouncil@cupertino.org)).** Tell them a little about yourself, and ask them to:

- Say no to the illuminated sign and to excessive lighting on the Public Storage building
- Stop the proliferation of light pollution and waste of energy
- Adhere to Cupertino sign ordinance that requires that a "sign's color and illumination shall not produce distraction to motorists or nearby residents"
- Initiate the designation of the Cupertino section of Highway 280 as a Scenic Highway

**If you can, please speak at the Council meeting on Tuesday, March 21, to oppose the illuminated sign. The meeting starts at 6:45 p.m. This is item #7 on the [agenda](#).**

- In-person at Cupertino Community Hall (10300 Torre Avenue and 10350 Torre Avenue), or
- Zoom ([register here](#))

Thank you,

**Shani Kleinhaus, PhD**  
**Environmental Advocate**  
**Santa Clara Valley Audubon Society**

Santa Clara Valley Audubon Society  
22221 McClellan Rd  
Cupertino, California 95014  
US

[Read](#) the VerticalResponse marketing policy.



**From:** Sierra Club Loma Prieta Chapter <[reply@emails.sierraclub.org](mailto:reply@emails.sierraclub.org)>

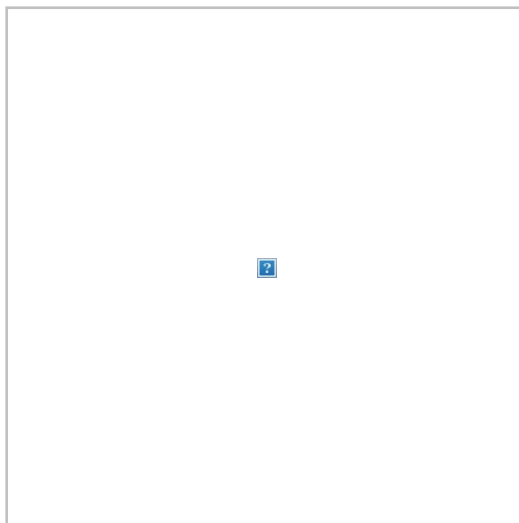
**Date:** March 20, 2023 at 7:00:46 PM PDT

**To:** Subscriber

**Subject:** Your local opportunities to make an impact!

**Reply-To:** Sierra Club Loma Prieta Chapter

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## Call to Action in Cupertino

Dear

Please attend Cupertino's City Council meeting this coming Tuesday (March 21<sup>st</sup>). There will be an agenda item (#7) asking City Council to reverse the decision that it made on February 7 that would allow for reconsideration of allowing a sign with four-and-a-half foot tall letters along a 50 foot long orange wall. The sign is ugly – simply a large orange background with the company's name – it is incompatible with the aesthetic character of the neighborhood. The sign would be facing hwy 280 and would be a potential distraction at night.

It is not compatible with the Cupertino's own ordinance on signs which require architectural harmony and minimization of distraction of vehicle traffic. The sign is brightly illuminated, and it would shine into the homes of De Anza Forge Condominiums. The sign is for an industrial region such as near the airport.

Please either email the council ([citycouncil@cupertino.org](mailto:citycouncil@cupertino.org)) and/or attend the Council Meeting on the 21<sup>st</sup> at 5:30. Emails should refer to Item #7 – Reconsideration of Public Storage Sign.

On February 21, 3 residents spoke out against the City Council's decision to approve the huge, illuminated sign.

You can watch them on YouTube [here](#).

Sincerely,

Gary Latshaw, Guadalupe Regional Group Chair  
Sierra Club Loma Prieta Chapter





## Change.org

### Say No to Huge Illuminated Sign Facing 280 on Cupertino Public Storage Building Agenda #7



[Rhoda Fry](#) started this petition to Cupertino City Council Cupertino City Council and 1 other  
Stop Giant Illuminated Commercial Sign Facing Highway 280 (3/21 Agenda #7)

Have you noticed the new Public Storage building facing Highway 280 near De Anza? The building was supposed to resemble an office building that would not be seen from the freeway. Now they want to install a huge illuminated sign with four-and-a-half foot tall letters along a 50-foot long orange wall that will be distracting to motorists and nearby residents. The sign will beam into the homes of residents until 11PM nightly and brighten our mostly-dark Highway 280.

**\* Please Do Not give money to change .org to promote this petition \***

If City Council approves this sign, then any business facing the freeway or residents' homes might claim entitlement to having their own sign which will forever impact the quality of life of Cupertino residents.

The Santa Clara Valley Audubon Society has also created a call to action: SCVAS Action Alert: Tell Cupertino to say no to lighted sign <http://hosted.verticalresponse.com/756507/a6fe1796c4/282972443/ae0cc1ebd3/>

The City Council meeting is on March 21 at 6:45 PM in Community Hall next to the library at: 10800 Torre Ave, Cupertino, CA 95014

What You Can Do:

1. Go to the Meeting In Person and speak or attend online

Register for zoom here:

[https://cityofcupertino.zoom.us/webinar/register/WN\\_G-KTGVhYR\\_GYoe-yz0zkRg](https://cityofcupertino.zoom.us/webinar/register/WN_G-KTGVhYR_GYoe-yz0zkRg)

2. Write to City Council

TO: [citycouncil@cupertino.org](mailto:citycouncil@cupertino.org); [CityClerk@cupertino.org](mailto:CityClerk@cupertino.org)

SUBJECT: Agenda Item #7 No Public Storage Sign

Dear City Council,

On March 21, please vote no on the Public Storage freeway-facing sign. Our community begs you to reconsider your February vote to allow Public Storage to have a new huge sign with 4-and-a-half-foot tall illuminated letters that face the freeway. Unfortunately, the staff report lacked the facts you needed to make an informed decision such as the Cupertino Municipal code 19.104.220 C. and G. that dictates that "The sign shall also be compatible with the aesthetic character of the surrounding developments and neighborhood" and "The sign's color and illumination shall not produce distraction to motorists or nearby residents." You were neither shown that the sign would face condominiums nor that the building already had its one allowable freeway-oriented sign. Moreover, this building was approved on the basis of it not being visible from the freeway. Public Storage needs to have a sign program that meets the needs of your constituents. You can get an idea as to how bad the sign is by driving by the over-illuminated building at night; this needs to be fixed because it is a distraction to motorists and residents. Vote no on the new sign. Sincerely,

It is best to write a letter on how you would be affected by the sign and its illumination on the freeway.

**\* Please Do Not give money to change .org to promote this petition \***

This petition will have a very short lifespan and it is not worthwhile to promote it with your money. Ask your community to sign on, write your own personal letter, and show up at City Council on March 21 at 6:45 PM (next to the Cupertino Library).



## San Jose Mercury News Letters to the Editor

### Tell Cupertino to say no to lighted sign

The Public Storage facility on Highway 280 near De Anza Boulevard was supposed to emulate an office building (it does not) and not be visible from the highway (it is). Now, they want a huge illuminated sign with four.5-foot-tall letters along a 50-foot orange wall that will distract motorists and residents. Residents already suffer from the building's brightly illuminated fake façade that resembles hallways with orange doors.

On March 21, the City Council will reconsider its February 4-to-1 decision that allowed the sign. The Planning Commission previously rejected it because it didn't meet city code: "... sign's color and illumination shall not produce distraction to motorists or nearby residents." If approved, other businesses might claim entitlement to signs facing residents' homes or our mostly-dark highway.

Write the City Council ([citycouncil@cupertino.org](mailto:citycouncil@cupertino.org)) and say no to the sign and excessive lighting on the Public Storage building.

Rhoda Fry

### Cupertino council should reverse OK for billboard

As a recent college graduate who grew up in the Cupertino area, I am writing to speak out against the addition of a massive illuminated sign directly facing Highway 280.

Besides being a waste of energy, this sign would be a significant source of light pollution, which could have negative effects on motorists, residents and raptors who nest nearby. Furthermore, approval of this sign by the City Council will set a precedent for the potential proliferation of illuminated signs along Highway 280, endangering the designation of this section as a "Scenic Highway."

On Tuesday, March 21, the Cupertino City Council will reconsider its approval of this ugly sign. I firmly believe that the safety and comfort of Cupertino's residents and wildlife are worth fighting for, and would urge residents to contact the City Council via email or attend the meeting on March 21 to speak up about this issue.

KC Hetterly, Palo Alto

**From:** [betsy3ross@comcast.net](mailto:betsy3ross@comcast.net)  
**To:** [City Council](#); [City Clerk](#); [Cupertino City Manager's Office](#)  
**Cc:** [Nikki Musso](#); [Stephanie Opsasnick](#); [Deborah Torres](#); [ninadaruwalla@gmail.com](mailto:ninadaruwalla@gmail.com)  
**Subject:** Public Storage Sign by 280  
**Date:** Tuesday, March 21, 2023 12:09:53 PM

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**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

As one of 96 residents in our condominium community I think I can speak for most of us in asking that you deny approval of a large, bright sign on the Public Storage building across from us on the 280 freeway.

My concern is not only the light shining into our windows but also the distraction for drivers on the freeway. And I'm concerned that it will set a precedent and we'll end up with gaudy bright sign up and down the freeway.

Thank you for your consideration.

Betsy Ross  
Board Member/Resident  
20719 Celeste Circle  
Cupertino, CA 95014

**From:** [Connie Cunningham](#)  
**To:** [City Clerk](#); [City Council](#)  
**Cc:** [Pamela Wu](#)  
**Subject:** 23-3-21 CC Agenda Item 7: Sign: Consider petition for reconsideration  
**Date:** Tuesday, March 21, 2023 2:06:57 PM  
**Attachments:** [page1image28459792.png](#)

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### 23-3-21 Agenda Item 7: Sign: Consider petition for reconsideration

Good evening, Mayor, Vice-Mayor and Councilmembers:

I am Connie Cunningham, resident, Audubon Member and Housing Commissioner, speaking for myself only.

If it is possible, I would urge the City to approve this Reconsideration. The illuminated signs are a health and safety hazard. If that is not possible, I would ask that the Council ensure that this does not happen again.

I respect the right of businesses to make a good living, however, businesses have responsibilities to the communities they serve. It may be hard to balance those two needs, but health and safety risks are the most important considerations. City policies establish guidance to help businesses and residents make decisions. A strong safety net is an imperative for government to provide for less fortunate and vulnerable residents in our city.

Consider the current Housing Element process. Affirmatively Furthering Fair Housing is a new law in that process. Those whom we strive to provide with affordable housing will be most harmed by light pollution and other climate change impacts.

<!--[if !supportLists]-->I. <!--[endif]-->First, I urge Public Storage management to consider limiting the hours that they leave lights on to be in keeping with the intent of city ordinances. If business hours end at 9:00 pm, please turn off lights at that time. Please listen to the people who are affected by your work. We want your storage units. We want you to make a good living . We, also, want you to respect the needs of the residents and drivers in and through our community.- your community, too.

<!--[if !supportLists]-->II. <!--[endif]-->Secondly, I urge City Council to direct Staff  
<!--[if !supportLists]-->1) <!--[endif]-->To revise the Sign Ordinance (**CHAPTER 19.104: SIGNS**) to strengthen the requirement for reducing light pollution and light trespass. This would prevent harm to residents and drivers.

<!--[if !supportLists]-->2) <!--[endif]-->The applicant stated that there was precedent for using lighted signs. Wording in our ordinance must clearly state that the fact another firm has a lighted sign does not give added weight to the new request.

I have spoken before about declining biodiversity at City Council. This is just one of many decisions that will impact the health of our residents and biodiversity.

One indicator of the damage caused by light pollution is that birds are dying by the billions because of light pollution. Scientists have warned us that their deaths are a harbinger of the deadly impact of light pollution on the human body. Just like the canary in the coal mine, these birds' untimely deaths can serve to help us save human lives by limiting light pollution.

In Closing:

As a City, it is imperative we change with new knowledge. Light pollution not only harms plants, trees, insects, bees, birds and wildlife. Light pollution also impacts humans (that means all of us here, and those at home watching). Research has shown links with Eye Injury, Sleeplessness, Obesity, Depression, and Breast Cancer. Companies, government and residents must learn and grow together.\*

Thank you for this time to speak.

\*a. Light pollution: The dangers of bright nights, January 14, 2021  
<https://www.dw.com/en/light-pollution-the-dangers-of-bright-skies-at-night/a-56209536>

Excerpt: "Science shows links between artificial light and eye injury, [sleeplessness](#), [obesity](#) and in some cases, even [depression](#). A US study on shift workers from 2007 even makes a connection with breast cancer. It is all related to melatonin, a hormone that is released when it gets dark."

\*b. BBC Future: The argument for switching off lights at night July 19, 2021  
<https://www.bbc.com/future/article/20210719-why-light-pollution-is-harming-our-wildlife>

Excerpt: "That includes us. Humans may create light pollution, but we don't [escape its harmful effects](#). Artificial light affects our melatonin levels, altering our natural circadian rhythm and putting sleep patterns out of whack. Exposure to artificial light at night has also been linked to [diabetes](#), [mood disorders](#) and an [increased risk](#) of breast, prostate, and [other cancers](#).

"There are also huge intangible costs," said Paul Bogard, author of The End of Night: Searching for Natural Darkness in an Age of Artificial Light. "What do we lose when we can't walk out and come face to face with the universe?"

Below is a photo of Cedar Waxwings—they migrate at night through Cupertino every winter. During the day you will see them in flocks of a dozen or twenty or more!



In the photo below on the left are two Cedar Waxwings who have died during migration. The photo, also includes three American Robins who died while migrating through Cupertino.



**From:** [harlan chiu](#)  
**To:** [City Clerk](#); [City Council](#)  
**Subject:** March 21 Agenda #7 No Huge Public Storage Sign Facing Freeway  
**Date:** Tuesday, March 21, 2023 3:44:30 PM  
**Attachments:** [image002.png](#)  
[image001.png](#)

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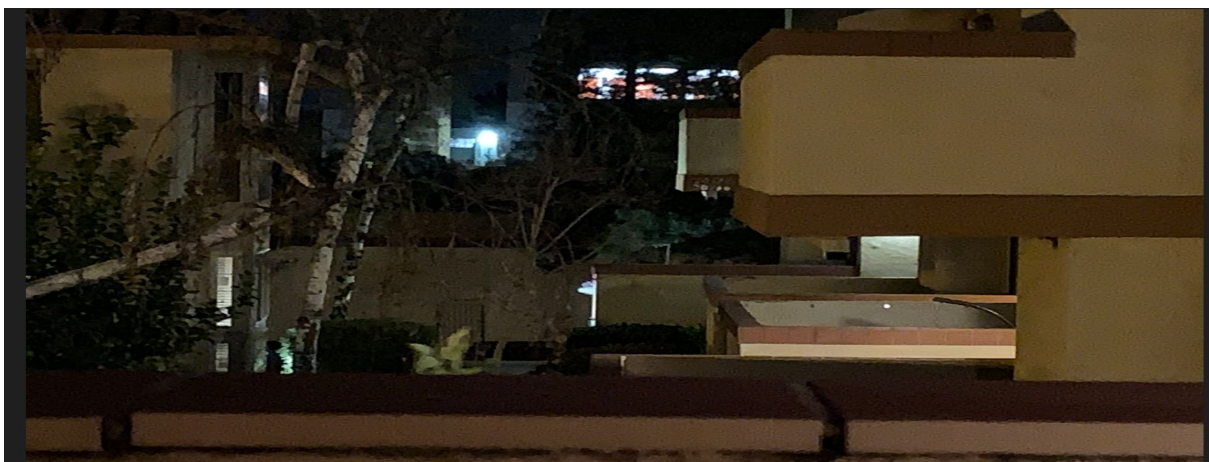
**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino Council members - Hung Wei, Sheila Mohan, Liang Chao, J.R. Fruen, Kitty Moore

I have resided in my current home for the last 15 years at De Anza Forge. The **Public Storage building height and excessive bright lighting** intrudes thru my patio window and into my living room. I share with you a daytime picture of the Public Storage structure with its bright orange color doors and purple trims with great visibility from my living room window: 1) a daytime picture and 2) a night-time picture with the bright glaring lights. What was once a peaceful and harmonious view of the mountains is now a towering gray cement structure with bright contrasting color trims in discordance with the rest of the surroundings of my neighborhood environment.

Please do not allow a **gigantic sign with its bright glaring lights** to be erected in direct line of sight to all of us De Anza forge residents. The current building and bright color scheme already invade the view from the complex entrance as we drive in from our long day at work and especially when we take our daily walks around the complex neighborhood to decompress ourselves. The towering Public Storage erected has already taken over the tranquility of our residence skyscape and by approving this **Signage with Glaring Lights** will make it worse.





Thank you,

Harlan Chiu

Cupertino, De Anza Forge resident of 15 years



Please enter this into the written communication for the 3/21 Council meeting.

(In reverse chronological order)

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**From:** Liang Chao

**Sent:** Sunday, March 19, 2023 11:56 AM

**To:** Luke Connolly <[LukeC@cupertino.org](mailto:LukeC@cupertino.org)>

**Cc:** Gian Martire <[GianM@cupertino.org](mailto:GianM@cupertino.org)>; Piu Ghosh (she/her) <[PiuG@cupertino.org](mailto:PiuG@cupertino.org)>; Pamela Wu <[PamelaW@cupertino.org](mailto:PamelaW@cupertino.org)>

**Subject:** Public Storage: - Compliance with Conditions of Approval

This line of questions may or may not be related to the sign permit application, while I am trying to understand the requirements a development project like Public Storage need to comply with.

As a policymaker, we adopt resolutions and ordinances, I certainly hope that we can hold the project applicants accountable to the requirements we approved the project under, whether they aeconditions of approval or conditions under existing law, such as CMC or the General Plan.

(CQ = Compliance question)

CQ1: I remember that in the June 18, 2019 the Council was concerned of how a Public Storage building would fit into the neighborhood, given that they are right across from a residential development. Thus, we added a condition and the project applicant also promised at the Council meeting to **provide nice landscaping at the front of the building to reduce the impact to the neighborhood.**

I found the following item was indeed added to the "ARCHITECTURAL AND SITE APPROVAL PERMIT" in Resolution 19-072.

"EAST ELEVATION

The applicant shall work with the City to **neutralize the building color and materials** along the eastern elevation, and shall **modify the vegetation, as necessary, to improve the aesthetics of the project.** The modification shall be reviewed and approved by the Director of Community Development prior to the issuance of building permit." (Resolution 19-072 ARCHITECTURAL AND SITE APPROVAL PERMIT)

=> What has been done to "**neutralize the building color and materials**"?

=> What has been done to "**modify the vegetation, as necessary, to improve the aesthetics of the project.**"

When I visited the project last Wednesday, this is what I see:



There is very little vegetation. Perhaps, the plants are just too small right now?

CQ2: The ARCHITECTURAL AND SITE APPROVAL PERMIT states the requirement:

"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. ... **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;**" (Resolution 19-072 ARCHITECTURAL AND SITE APPROVAL PERMIT)

Above is the requirements under the existing regulations.

Below describes how this development will comply with the code:

"The building is designed in a contemporar 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.**"

=> The Public Storage building constructed does not "emulate an office building" at all, especially with the blinding interior light, which spills over the adjoining property and even spilled over to the residential building across the highway. It is not harmonious with the adjacent structure.

I took this photo from the residential development across I-280. The row of bright interior lights are not found in any other building in that neighborhood or zone and is not found anywhere in Cupertino.

How does this Public Storage building harmonize "**the future character of the neighborhood and purposes of the zone in which they are situated,**" which is zoned for office and residential uses.



Residents expect that the City Council adopt policies and then the policies are followed by project applicants and the promises made are not broken.

It is my responsibility as a City Councilmember to ask these questions.

Since the question CQ2 has to do with whether the development, including its signs, is harmonious with the neighborhood and the zone where it's located. It is relevant to the reconsideration for signs too.

Thus, I would appreciate an answer before the meeting.



## **Liang Chao**

Council Member

City Council

[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)

408-777-3192



Please enter this into the written communication for the 3/21 council meeting.

(In Reverse chronological Order)

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**From:** Liang Chao <[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)>

**Sent:** Sunday, March 19, 2023 2:18 PM

**To:** Pamela Wu <[PamelaW@cupertino.org](mailto:PamelaW@cupertino.org)>

**Cc:** Gian Martire <[GianM@cupertino.org](mailto:GianM@cupertino.org)>; Piu Ghosh (she/her) <[PiuG@cupertino.org](mailto:PiuG@cupertino.org)>; Luke Connolly <[LukeC@cupertino.org](mailto:LukeC@cupertino.org)>; Christopher Jensen <[ChristopherJ@cupertino.org](mailto:ChristopherJ@cupertino.org)>

**Subject:** Re: Public Storage and Sign Ordinance

Q10: According to the definition in the CMC and California Business and Professional Code, Sign One on the Public Storage Building is a "freeway oriented sign", since it is "within 660 feet of a freeway" and "visible" from the freeway.

7. **"Freeway oriented sign"** means any sign which is located **within six hundred sixty feet and visible from a freeway right-of-way** as defined by Section 5200 of the California Business and Professions Code. (CMC 19.08.030 Definitions)

5224. **"Visible"** means **capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity**. (California Business Professional Code Section 5224)

This interpretation is consistent with my understanding from Table 19.104.200 in CMC 19.104.200 in my earlier question described in Q2.

To summarize, my interpretation of CMC 19.104.200 is

- One freeway-oriented sign (within 600 feet from the edge of free way and visible) is allowed per business.
- If the freeway-oriented sign is "Oriented to regular street system adjoining the property rather than exclusively visible from the freeway", the approving authority is CDC, provided the sign complies with the existing regulations and conditions of approval.
- If the freeway-oriented sign is "exclusively" visible from the freeway, the approval authority is Planning Commission, provided the sign complies with the existing regulations and conditions of approval.

Is my understanding correct? Or did I misunderstand anything or missed anything?

I looked up the California Business and Professions Code related to freeway signs. It's worth noting the intent and the goal for public benefit of any restriction on freeway signs:.

5226. **The regulation of advertising displays adjacent to any interstate highway or primary highway** as provided in Section 5405 is hereby **declared**

- o **to be necessary to promote the public safety, health, welfare, convenience and enjoyment of public travel,**
- o **to protect the public investment** in such highways,
- o to preserve the scenic beauty of lands bordering on such highways, and
- o to insure that information in the specific interest of the traveling public is **presented safely and effectively,**

recognizing that a reasonable freedom to advertise is necessary to attain such objectives. (California Business and Professions Code 5226)

Thanks,

Liang

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**From:** Liang Chao <[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)>

**Sent:** Sunday, March 19, 2023 12:49 PM

**To:** Pamela Wu <[PamelaW@cupertino.org](mailto:PamelaW@cupertino.org)>

**Cc:** Gian Martire <[GianM@cupertino.org](mailto:GianM@cupertino.org)>; Piu Ghosh (she/her) <[PiuG@cupertino.org](mailto:PiuG@cupertino.org)>; Luke Connolly <[LukeC@cupertino.org](mailto:LukeC@cupertino.org)>; Christopher Jensen <[ChristopherJ@cupertino.org](mailto:ChristopherJ@cupertino.org)>

**Subject:** Re: Public Storage and Sign Ordinance

Q9: Would the internally illuminated bright signs, where each letter by itself a light tube have to follow this city regulation as stated in the Resolution 19-072 ARCHITECTURAL AND SITE APPROVAL PERMIT?

**"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;"** (Resolution 19-072 ARCHITECTURAL AND SITE APPROVAL PERMIT)

I think it should, since it will generate **"spill-over light to adjoining property owners"** and shielding should be provided.

It does not matter what's the source of the light, interior, exterior or from illuminated signs, they are all "lighting from the development".

Right?

Please let me know whether I misunderstood the regulation or have missed anything?

Thanks.

Liang

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**From:** Liang Chao <[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)>

**Sent:** Sunday, March 19, 2023 12:23 PM

**To:** Pamela Wu <[PamelaW@cupertino.org](mailto:PamelaW@cupertino.org)>



Cc: Gian Martire <[GianM@cupertino.org](mailto:GianM@cupertino.org)>; Piu Ghosh (she/her) <[PiuG@cupertino.org](mailto:PiuG@cupertino.org)>; Luke Connolly <[LukeC@cupertino.org](mailto:LukeC@cupertino.org)>; Christopher Jensen <[ChristopherJ@cupertino.org](mailto:ChristopherJ@cupertino.org)>

**Subject:** Re: Public Storage and Sign Ordinance

Q8: Whether the proposed signs comply with the regulation and is harmonious in the neighborhood and the zone?

I also did not realize at the Feb. 7, 2023 meeting that ALL of letters of the "Public Storage" will be illuminated bright white. Sorry for my ignorance for not understanding the terminology used. I thought "internally illuminated with LED lighting" (as stated in the Feb. 7, 2023 staff report) means the illumination would be less since the illumination is not outside.

I found the following image from this petition:

<https://www.change.org/p/say-no-to-huge-illuminated-sign-facing-280-on-public-storage-building>



Now I understand that for the Public Storage sign, all the big bold letters are like light tubes themselves. This is a fact that I did not know on February 7, 2023.

With this new knowledge about the Public Storage signs, I do not think they are harmonious to the neighborhood and the zone where it is located for office and residential use.

I find that this style of illuminated bright white signs are not consistent with the existing regulations as stated in the Resolution 19-072 ARCHITECTURAL AND SITE APPROVAL PERMIT:



"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.**" (Resolution 19-072 ARCHITECTURAL AND SITE APPROVAL PERMIT:)

This style of illuminated bright white signs are not consistent with this description of the development made in Resolution 19-072 ARCHITECTURAL AND SITE APPROVAL PERMIT:

"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.**" (Resolution 19-072 ARCHITECTURAL AND SITE APPROVAL PERMIT)

No other office building in the neighborhood or in the zone uses such illuminated bright white signs today. And no future use in the zone with office and residential uses will likely use such illuminated bright white signs.

Since the Resolution 19-072 ARCHITECTURAL AND SITE APPROVAL PERMIT was not included in the agenda packet for the Feb. 7, 2023 Council meeting, I was not able to make the above findings at the time.

I would like to know the staff's rationale for not providing such finding above in the staff report. Perhaps, there are something I missed or misunderstood?

Thanks.

Liang

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**From:** Liang Chao <[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)>  
**Sent:** Sunday, March 19, 2023 11:00 AM  
**To:** Pamela Wu <[PamelaW@cupertino.org](mailto:PamelaW@cupertino.org)>  
**Cc:** Gian Martire <[GianM@cupertino.org](mailto:GianM@cupertino.org)>; Piu Ghosh (she/her) <[PiuG@cupertino.org](mailto:PiuG@cupertino.org)>; Luke Connolly <[LukeC@cupertino.org](mailto:LukeC@cupertino.org)>; Christopher Jensen <[ChristopherJ@cupertino.org](mailto:ChristopherJ@cupertino.org)>  
**Subject:** Re: Public Storage and Sign Ordinance

Oh, I realized now that the orange part is the wall so it's not part of the "sign". Although the wall does look like a part of the "sign" to a common version looking at the building.

On the Feb. 7, 2023 agenda packet, the dimensions of the sign and the calculation were not provided. I think they are required according to the CMC as a part of the application for the signs.

I assume the numbers for the area of the signs in the staff report are correct. But please provide the dimensions and calculations.

Thanks!

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**From:** Liang Chao <[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)>  
**Sent:** Sunday, March 19, 2023 2:08 AM  
**To:** Pamela Wu <[PamelaW@cupertino.org](mailto:PamelaW@cupertino.org)>  
**Cc:** Gian Martire <[GianM@cupertino.org](mailto:GianM@cupertino.org)>; Piu Ghosh (she/her) <[PiuG@cupertino.org](mailto:PiuG@cupertino.org)>; Luke Connolly <[LukeC@cupertino.org](mailto:LukeC@cupertino.org)>; Christopher Jensen <[ChristopherJ@cupertino.org](mailto:ChristopherJ@cupertino.org)>  
**Subject:** Re: Public Storage and Sign Ordinance

**Q3: The area of Sign One seems to be over 525 sqft according to the Plan Set (below) from the Staff Report for the Oct. 11, 2022 Planning Commission meeting.** The height is 15 feet (46'-31') and the width is 35 feet (35'10" to be exact from the Plain Set), which is about one third of the frontage of 92'.

=> But the staff report in the Feb. 7, 2023 City Council meeting states Sign One has "52 sq. ft. on a 81-foot frontage"

How is the 52 sqft calculated? Why is the "area" of the sign not over 450 sqft as I have estimated?

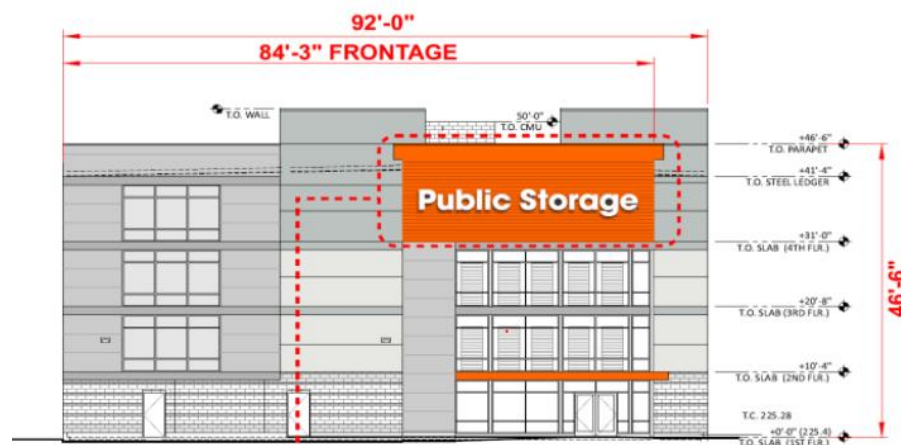
Maybe I don't understand the area requirement (below from the staff report). Why does Sign One comply with this requirement?

"1 s.f. per linear ft of store frontage on which sign is located.

Maximum Area = 200 s.f.

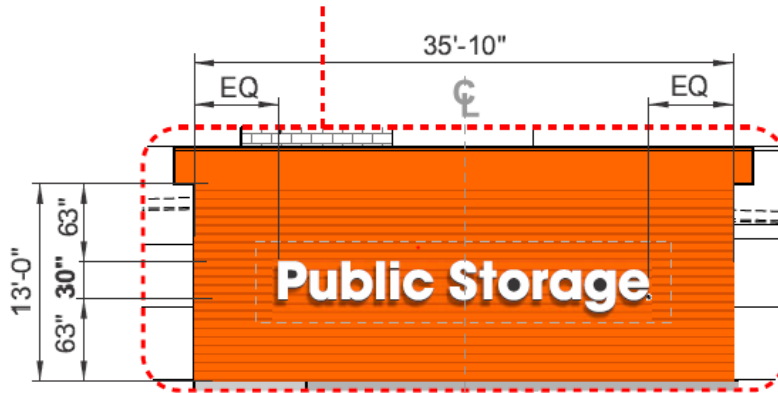
Minimum Area = 20 s.f."

Note that this chart (below) was not provided in the agenda packet for the February 7, 2023 Council meeting.



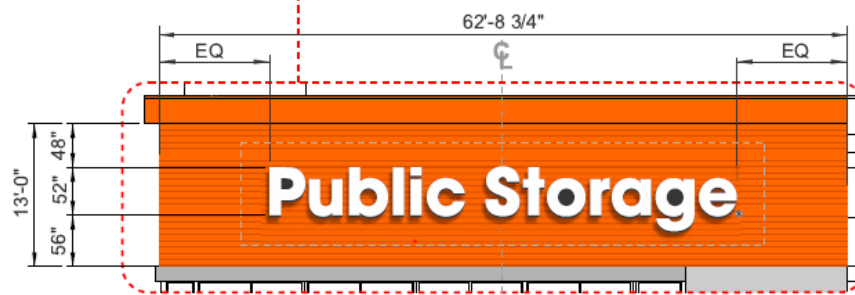
**Figure 3 Sign One**

The Oct. 11, 2022 PC agenda packet also include the Plan Set, which shows the exact dimension of Sign One. This Plan Set is NOT included in the Feb. 7 Council meeting packet either.



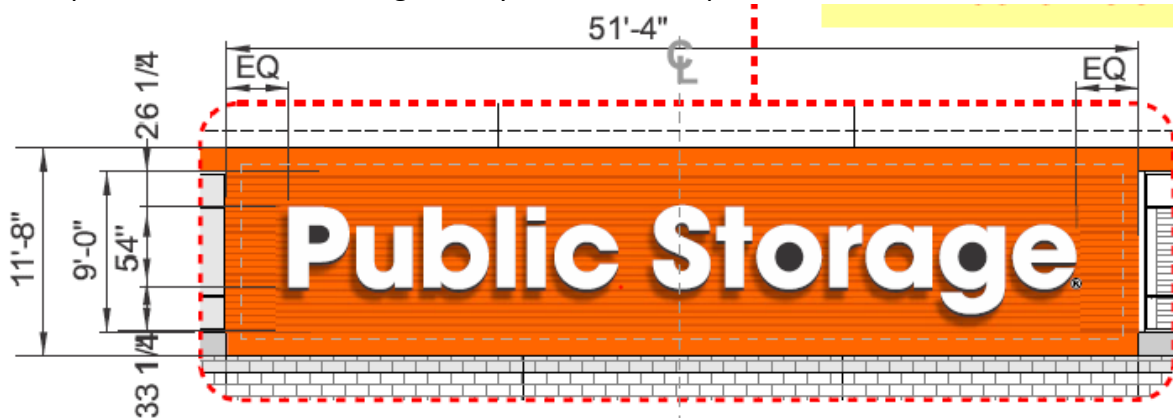
**1 PLACEMENT DETAIL**  
SCALE: 1/16"=1'-0"

Q5: For Sign Two, the maximum area should be 930 sqft. The height is 15 feet and the width is 62 feet (62'-8 3/4" to be exact from the Plain Set). But the staff report states the area as "159 sq. ft. on a 324-foot frontage". Why? How is 159 sqft calculated?



**3 PLACEMENT DETAIL**  
SCALE: 1/16"=1'-0"

Q6: For Sign Three, the maximum area should be 599 sqft. The height is 11.75 feet and the width is 51 feet (51'-4" to be exact from the Plain Set). But the staff report states the area as "165 sq. ft. on a 322-foot frontage". Why? How is 165 sqft calculated?



**6 PLACEMENT DETAIL**  
SCALE: 1/16"=1'-0"

Q7: The staff report for the Feb. 7, 2023 states that "**Council's review of the Planning Commission's determination is de novo**, The Council may affirm or modify the Commission's decision based on evidence presented at the public hearing, including any evidence in the record."

"De novo is a Latin term that means "anew," "from the beginning," or "afresh." When a court hears a case "de novo," it is deciding the issues without reference to any legal conclusion or assumption made by the previous court to hear the case."

([https://www.law.cornell.edu/wex/de\\_novo#:~:text=De%20novo%20is%20a%20Latin,court%20to%20hear%20the%20case.](https://www.law.cornell.edu/wex/de_novo#:~:text=De%20novo%20is%20a%20Latin,court%20to%20hear%20the%20case.))

=> Since the decision was "de novo", I actually did not look at the agenda packet for the Oct. 11, 2022 Planning Commission meeting since I thought I am supposed to make a decision ONLY BASED ON the evidence presented at the February 7, 2023 meeting. Is that correct?

But the Plan Set was NOT in the agenda packet. As a result, the measurements of the signs were not provided in the "evidence" so that I could realistically calculate the area of the signs. Therefore, it seems there were insufficient evidence provided in the February 7, 2023 Council agenda.

Or the evidence made available to the Council on Feb. 7, 2023 would also include anything presented at the Oct. 11, 2022 Planning Commission? Please clarify the legal requirement for "evidence" for such a quasi-judicial decision.

Thanks,

Liang

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**From:** Liang Chao

**Sent:** Sunday, March 19, 2023 12:38 AM

**To:** Pamela Wu <[PamelaW@cupertino.org](mailto:PamelaW@cupertino.org)>

**Cc:** Gian Martire <[GianM@cupertino.org](mailto:GianM@cupertino.org)>; Piu Ghosh (she/her) <[PiuG@cupertino.org](mailto:PiuG@cupertino.org)>; Luke Connolly <[LukeC@cupertino.org](mailto:LukeC@cupertino.org)>; Christopher Jensen <[ChristopherJ@cupertino.org](mailto:ChristopherJ@cupertino.org)>

**Subject:** Public Storage and Sign Ordinance

Hi,

I thought I owe it to the many residents who wrote to the City Council to spend time to understand the ins and outs of our Sign Ordinance, since I did not spend sufficient time last time to truly study the issue, when I only read the staff report. But I should have read the CMC myself as a policymaker, who adopts such policies.

So, please bear with me as I start from scratch to understand the issue involved, regardless of whether it is related to the reconsideration on Tuesday or not. After I fully understand all the issues, I can then comprehend what exactly is involved with the reconsideration.

Q1. The CMC states "All developments in a commercial, office, industrial, institutional, or residential district, with four or more tenant spaces on the same parcel, **shall adopt a comprehensive sign program** to encourage creativity and ensure high quality in the design and display of multiple permanent signs." (CMC 19.104.130.1)

and "**The adoption of a sign program shall be required at the time of the initial construction of a new project.**" (CMC 19.104.130.2)

=> Where do I find the "**comprehensive sign program**", as required by CMC 19.104.130 to be adopted "at the time of initial construction"?

Q2: In the CMC 19.104.200 Freeway Orientation states, under the column header "Approval Authority", it reads "**•Oriented to regular street system adjoining the property rather than exclusively visible from the freeway - CDD**" and under the column header "Review Criteria", it reads "**•Applies to all signs within 660 ft. of "landscaped freeway"** measured from edge of right-of-way"

=> Case 1: Any sign NOT "within 660 ft of landscaped freeway" is NOT a freeway oriented sign, per CMC 19.104.200. Right?

=> Case 2: Any sign "within 660 ft of landscaped freeway" is a freeway oriented sign, per CMC 19.104.200. Right?

=> I am curious why the distance 660 ft was chosen? If any one knows...

=> I assume that I-280 is a landscaped highway. I am curious whether I-85 is one or not?

=> Case 2.1: For any sign "within 660 ft of landscaped freeway" (thus, a freeway oriented sign), if the sign is "Oriented to regular street system adjoining the property rather than exclusively visible from the freeway - CDD" => Such a freeway-oriented sign shall be approved by CDD, right?

=> Case 2.2: For any sign "within 660 ft of landscaped freeway" (thus, a freeway oriented sign), if the sign is exclusively visible from the freeway => Such a freeway oriented sign shall be approved by PC, right?

Thanks.

Liang



## **Liang Chao**

Council Member

City Council

[LiangChao@cupertino.org](mailto:LiangChao@cupertino.org)

408-777-3192



**From:** [Jun Nishimura](#)  
**To:** [City Council](#); [City Clerk](#)  
**Subject:** Public Storage in Cupertino along Freeway 280  
**Date:** Tuesday, March 21, 2023 4:20:29 PM

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CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi,

I was informed that a meeting will take place at 18:45 today, 03-21-2023, regarding a huge sign on the wall of the storage which no driver will watch while driving. You should know who will see the sign. The residents nearby.

I live in a condominium facing to Freeway 280. I could see the mountains over the Freeway some time ago. But not any more. A tall building was constructed which is the Public Storage. There were some buildings between the mountains and us. But the new building is higher than the old ones. Now we don't have scenery to enjoy. Not only that we cannot enjoy the sentry. It's worse. The storage has windows along the corridor. The corridor has electric lights. Now the lights are visible from my residence at night. Not only it's lit up at night. The light is kept on even after mid night. I guess the light is kept on for the whole night, every night, all through the year. And I am forced to notice the night every moment I get into the room facing to the storage.

Now I ask you to make a right decision. Please do not agree to put additional sign and lights. That's for nothing and that will be bad for the residents around. Instead, please force the owner of the storage to cover all the windows of the storage at least. Please try to put your feet onto my shoes. You should imagine how bad it is to witness the storage every day. Please don't the bad situation worse.

Thank you.  
Jun Nishimura  
20708 Celeste Circle, Cupertino