



**COMMUNITY DEVELOPMENT DEPARTMENT**

CITY HALL

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**CITY COUNCIL STAFF REPORT**

Meeting: February 2, 2016

**Subject**

Review and consider two development proposals (the Goodyear Tire and Oaks sites) submitted, for consideration by the City Council to authorize the applicants to submit an application for General Plan Amendments and staff to commence environmental and project review. (Application No.(s): GPAAuth-2015-01 & GPAAuth-2015-02; Applicant: KT Urban, Mark Tersini and De Anza Ventures (Oaks shopping center); Location: 21255-21755 Stevens Creek Boulevard, 10931 N. De Anza Boulevard (Goodyear Tire); APN: 326-27-039, -040 and -041; 326-10-058)

**Recommended Action**

Staff recommends that the City Council adopt Resolution No. 16-013 (Attachment A) after determining which applications, if any, are authorized to move forward to apply for General Plan Amendments.

**Discussion**

**Background**

On September 1, 2015, the City Council adopted procedures for considering future General Plan amendments. The new procedures provide the following benefits over the previous process whereby General Plan amendments were processed as they were received:

- Provide ability to achieve orderly development of the City through a managed process;
- Ensure that additional development can achieve/improve facility/service and quality of life standards for the community;
- Provide opportunity for early community input;
- Consider impact on staff and other resources.

Pursuant to the new procedures, the City Council will evaluate General Plan Amendment proposals for authorization as follows (see Attachment A.1 for adopted Council policy):

- GPA applications would be considered by the Council twice every year;

- The Council may allow applications to be re-considered at a continued hearing by the City Council to submit revisions/additional information within 30 days.
- Applications that are rejected would wait for a year before re-applying (i.e. they would not be allowed to re-apply in the 6 month subsequent cycle).

The deadline to apply for consideration in the 2016 First Cycle by the City Council was November 16, 2015. The City received two applications for authorization for General Plan amendments – one for the Goodyear Tire Site and one for the Oaks Site. The Analysis section below reviews the projects based on the evaluation criteria set forth in the procedures adopted by the Council.

## **Analysis**

### **Introduction**

#### **1. Goodyear Tire Site**

The proposal for redevelopment of the Goodyear Tire site is a request for authorization of a General Plan amendment application which would facilitate development of a new 270-room, nine-story hotel, approximately 105' in height, with approximately 5,727 square feet of conference space and restaurant (See Attachment B.)

The project is located on a 1.29 gross-acre site on the west side of N. De Anza Boulevard between Hwy 280 and Homestead Road. It currently houses a Goodyear Tire store.

#### **2. The Oaks Shopping Center**

The proposal for redevelopment of the Oaks site is a request for authorization of a General Plan amendment application which would facilitate development of 280,000 square feet, 88-foot tall office building, 200-room, 77-foot tall hotel, 270 residential units (including 40 senior age-restricted market-rate and 30 below-market-rate, senior age-restricted units) and 47,660 square feet of retail, in two 60-foot tall buildings and one 45-foot tall building (See Attachment C.)

The approximately 8.1 gross-acre site is bounded by Stevens Creek Boulevard to the south, Mary Avenue to the east and north and Hwy 85 to the west. Currently, the site is occupied by ~73,056 square feet of commercial uses that include a theater and retail.

### Evaluation Criteria

Based on the criteria in the policy adopted by the City Council on September 1, 2015, the projects have been evaluated based on:

- General Plan goals achieved by the project:
  - Site and architectural design and neighborhood compatibility – does the project exhibit superior quality of site layout and project design? Is the project compatible with the surrounding uses?
  - Fiscal impacts, including a diverse economic base – would the project have positive or negative one-time and ongoing impacts to the City’s fiscal base?
  - Provision of affordable housing – does the project provide or otherwise promote affordable housing above and beyond typical City requirements?
  - Environmental sustainability – to what extent does the project include features including green building, site design and project operation principles, that promote environmental sustainability above and beyond the City’s typical requirements?
- General Plan amendments requested – number and type of General Plan amendments requested by the applicant.
- Proposed voluntary community amenities – what is the per-square-foot amount of community amenities offered by the applicant?
- Staff time and resources required to process the project – would the amount of staff time and resources require hiring of staff or consultants to process the project? It should be noted that applicants would be required to pay the full cost of processing the project, including staff and consultant time and materials.

Table 1 includes a high-level analysis of how each application addresses these criteria. A brief discussion of the projects is provided later in this report.

**TABLE 1: SUMMARY EVALUATION OF THE DEVELOPMENT PROPOSALS**

<b>Project</b>	<b>Site and architectural design and neighborhood compatibility</b>	<b>Fiscal impacts, including a diverse economic base</b>	<b>Provision of affordable housing</b>	<b>Environmental sustainability</b>	<b>General Plan amendments requested</b>	<b>Proposed voluntary community amenities</b>	<b>Staff time and resources (1)</b>
<b>1.Goodyear Tire</b>	<p>a. Site and Architectural design – satisfactory but further review required for circulation, site planning and landscaping.</p> <p>b. Neighborhood compatibility – generally compatible in terms of land use. Height significantly taller than surrounding buildings.</p>	<p>a. Could add another full service hotel in Cupertino</p> <p>b. Transient Occupancy Tax Revenue to the city estimated at \$1.621M net annually</p>	<p>No additional benefits in terms of affordable housing.</p>	<p>a. Green Roof at Mezzanine level</p> <p>b. Proposed shuttle service for guests</p> <p>c. Project will meet all other statutorily required environmental sustainability features</p>	<p>a. Height Increase from 45 feet to 105 feet</p> <p>b. Hotel allocation: 270 rooms</p> <p>c. Slope line (setback : height) reduction from 1 : 1 to 0.25 : 1 (see discussion later)</p>	<p>a. School resources – none</p> <p>b. Public open space – none</p> <p>c. Public Facilities – proposed complimentary use of conference facilities for - Cupertino residents on weekends. However, program and specifics have not been provided.</p> <p>d. Transportation Facilities – none.</p> <p>Total - \$0/square foot.</p>	<p>0.3FTE (full-time equivalent) of staff time and consultants for environmental review, etc.</p>

Project	Site and architectural design and neighborhood compatibility	Fiscal impacts, including a diverse economic base	Provision of affordable housing	Environmental sustainability	General Plan amendments requested	Proposed voluntary community amenities	Staff time and resources (1)
2. Oaks	<p>a. Site and Architectural design – satisfactory but needs more common and private open space. Further review required for circulation.</p> <p>b. Neighborhood compatibility – office use not consistent with the General Plan. Height is taller than surrounding buildings.</p>	<p>Net fiscal impact on General Fund:</p> <p>a. Project as proposed: positive \$1.19 million</p> <p>b. Residential and Hotel project: positive \$1.0 million</p> <p>c. Residential and Office project: negative \$7,000</p> <p>d. Residential only project: negative \$85,000</p>	<p>a. 22 very low-income senior age-restricted units</p> <p>b. 8 low-income senior age-restricted units <b>(2)</b></p>	<p>a. Built with environmentally preferable products with a high-recycled content, sensitive to the use of natural resources.</p> <p>b. All other statutory requirements for project construction for environmental sustainability required including LEED Silver or equivalent certification.</p>	<p>a. Change in Land use designation: From Commercial / Residential To Commercial / Office / Residential</p> <p>b. Office allocation: 280,000 sq. ft.</p> <p>c. Hotel allocation: 200-rooms</p>	<p>A voluntary community amenities package of \$4.1 million is proposed. <b>(3)</b></p> <p>Proposed Amenities that qualify as Voluntary community amenities:</p> <p>a. School Resources: \$1.1 million (Contribution toward permanent room facilities)</p> <p>b. Public Facilities: \$1.1 million (Contribution toward Civic Center improvements)</p> <p>c. Open Space: \$450,000 towards park improvements and art</p> <p>d. Transportation: \$1.15 million (Traffic calming on Mary Avenue – includes some required improvements along Mary Avenue as well); and \$400,000 for a citywide shuttle program.</p> <p>Total – \$4.1 million or \$5.49/ square foot of office, hotel, retail and residential development.</p>	<p>0.5FTE of staff time plus additional consultants for environmental review, etc.</p>

Project	Site and architectural design and neighborhood compatibility	Fiscal impacts, including a diverse economic base	Provision of affordable housing	Environmental sustainability	General Plan amendments requested	Proposed voluntary community amenities	Staff time and resources (1)
						<p>Proposed Amenities that do not qualify (valued at \$4.182 million by applicant)</p> <p>a. Parcel Tax if condominiums approved – This is a tax and not a community amenity (\$2 MN over 20 years). Also, there are only a limited number of years left on parcel tax Measures A and J – not 20 years.</p> <p>b. Cash contribution for signage improvements for school routes – This contribution is to De Anza College and to not the City (\$100,000)</p> <p>c. 72 parking spaces for De Anza college students – Unclear where these are located and what value it is to the residents of Cupertino (\$32,400).</p> <p>d. Traffic Improvements on Stevens Creek Blvd – These would be project requirements and not additional improvements (\$450,000)</p> <p>e. Signage for Safe Routes to</p>	

Project	Site and architectural design and neighborhood compatibility	Fiscal impacts, including a diverse economic base	Provision of affordable housing	Environmental sustainability	General Plan amendments requested	Proposed voluntary community amenities	Staff time and resources (1)
						School – Beneficiary identified as De Anza College and not the Elementary or High School Districts or the City (\$100,000) f. Provision of affordable housing (2) (\$1.1 million) g. Economic Development: Seed money for City office Incubator program (currently there is no such program) (\$500,000)	

- (1) All staff time and resources will be paid for by applicant
- (2) Density bonus requested. Results in generation of approximately 70 market rate units above maximum yield on site. Applicant is also requesting additional incentives and waivers including an increase in the height of all structures on the site above the maximum allowable height, parking reductions, slope line reductions, setback reductions and reductions in required common open space.
- (3) A detailed discussion of the voluntary community amenities is provided in the project overview.

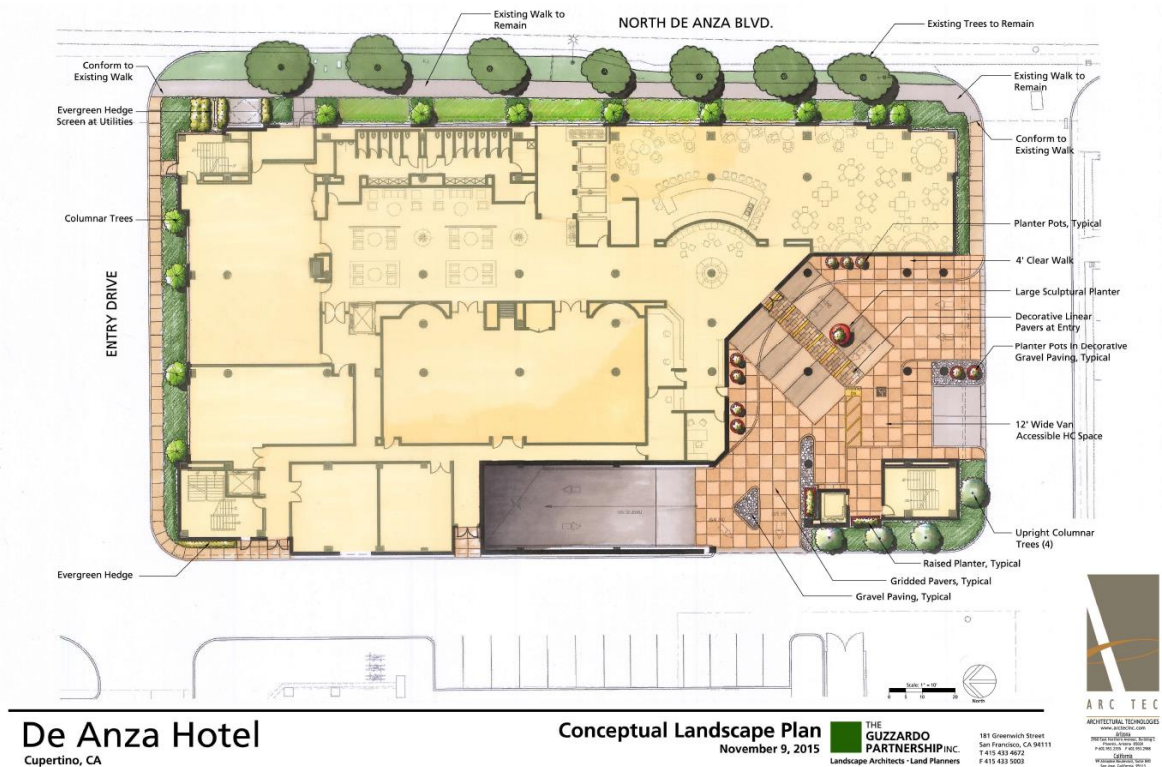
### Evaluation of Project Proposals:

The following is a high-level evaluation of project proposals related to compliance with the City's General Plan.

### Goodyear Tire site

**Location** – 10931 N. De Anza Blvd.

**Project Description** - The proposal for redevelopment of the Goodyear Tire site is a request for authorization of a General Plan amendment application which would facilitate development of a new 270-room, nine-story hotel, with approximately 5,727 square feet of conference space and restaurant on a 1.23 –acre site.



### Project Location and Surrounding Uses

The project is located in the northern portion of the City generally northwest of intersection of N. De Anza Boulevard and Interstate 280. The site contains an existing 8,323 square feet auto repair center. The site is accessed via two driveways on N. De Anza Boulevard and provides access for the Homestead Shopping center, and its loading areas, to the west of it.



Surrounding uses include a strip shopping center to the north, the Homestead shopping center to the northwest, a 96-unit, three-story townhome condo complex to the southwest, the four-story Cupertino Inn (126 rooms) to the south and the 140-unit, three-story, Aviare development to the east. Heights of the various buildings range from one story to four stories at a maximum of 45 feet.

### **Application Overview**

The project site is in the North De Anza Gateway within the Homestead Special Area, which includes residential, commercial, office and hotel uses along Homestead Road, between Interstate 280 and the Sunnyvale city limit. The General Plan identifies this area as a major mixed-use corridor that continues to be a predominantly mixed-use area with a series of neighborhood commercial centers and multi-family housing. Table 2 contains project data along with General Plan amendments or variances requested and/or required.

**Table 2: Good Year Tire Project Data**

<b><u>Requirement/Standard</u></b>	<b><u>Allowed/Required</u></b>	<b><u>Proposed</u></b>	<b><u>Comments</u></b>
General Plan designation	Commercial/Residential	No change	-
Zoning designation	P (CG-rg) – Planned Development ( General Commercial) with special development conditions	No change	<i>Hotel uses allowed in CG zoning districts with a Conditional Use Permit.</i>
Development allocation			
Hotel	<i>None available</i>	<i>270 rooms</i>	<i>GPA requested.</i>
Commercial	8,323 s.f. existing	9,487 s.f. proposed	<i>Will need a transfer of commercial allocation.</i>
<i>Restaurant</i>	-	3,760 s.f.	
<i>Conference Facilities</i>	-	5,727 s.f.	
Height	<i>45 feet</i>	<i>105 feet</i>	<i>GPA requested.</i>
Slope line (setback:height)	<i>1 : 1</i>	<i>0.25 : 1</i>	<i>GPA requested.</i>
Setbacks	-	-	-
<i>Front</i>	None required except to: – Ensure sufficient space for adequate light, air and visibility at intersections – Assure general conformity to yard requirements of adjacent or nearby zones, lot or parcels – Promote excellence in development	~ 20 feet	<i>Measured from existing property line. This setback reduces to ~5 feet with a required dedication along N. De Anza Blvd. Additional setback may be required for aesthetics and landscaping opportunities.</i>
<i>Minimum side and rear</i>	None required	Varies b/n 20 & 40 feet	

<u>Requirement/Standard</u>	<u>Allowed/Required</u>	<u>Proposed</u>	<u>Comments</u>
Building area	Existing – 8,323 s.f.	Proposed – 201,638 s.f.	-
Lot coverage	Existing – 15% (no maximum requirements)	Proposed – 53.7%	-
Parking			
<i>Vehicles - 1/room + 1/employee</i>	280 spaces	208 spaces	<i>Parking study needed as required by the City's Parking Ordinance.</i>
<i>Restaurant Facilities</i>	1/3 seats + 1/employee	0	
<i>Conference Facilities</i>	To be determined through parking study	0	
<i>Bikes - 5% of auto parking</i>	14	0	<i>Bike parking required</i>

### **Site and Architectural Design and Neighborhood Compatibility:**

- The site is generally satisfactory with active uses including the lobby and restaurant along N. De Anza Boulevard and the vehicular entry to the underground basement at the rear of the site. Additional, site planning review may be required to reorganize some back of house activities located at the northeast corner of the building. Parking is located underground minimizing the height of the building. However, additional review will need to be conducted to ensure that the circulation meets sightlines and other safety requirements.
- The architectural and site design quality needs further development. The design and massing could be improved to reduce the height and bulk of the building and ensure that the building can fit in better with the lower buildings surrounding it. The selection of materials needs further review.
- The small size of the site does not allow for landscaping or large setbacks. Further review would be required to look at opportunities to add landscaping and trees to screen and enhance the project.
- The site plan would need to make the following changes:
  - The building wall along N. De Anza Boulevard could be moved approximately 15 feet to the west to allow adequate light, air and provide opportunities for landscaping due to a required dedication along N. De Anza Boulevard. The determination of slope line (setback to height ratio) is incorrect on the proposed plans. It appears that the slope line is calculated from the existing property line. However, the slope line is measured from the face of curb rather than property line, and therefore the final slope line variance would be less intensified than shown on plan since the curb line is not proposed/anticipated to move with this development.

- Driveway along the north side of the building:
  - The north building wall would need to be moved by approximately 15 feet to the south to allow for a required 30 foot driveway along the north of the property per the conditions of approval of the established zoning for the property (Zoning Ordinance No. 436.) The ordinance requires “three car widths” which is estimated to be 30 feet, since travel lanes for a single car is 10 feet at a minimum. Since this zoning requirement also applies to the Homestead Shopping Center, it would be prudent for this driveway to align with the location of the driveway connecting to that property. An amendment to that ordinance or a variance from that requirement would be required in order to allow the building wall to remain at its currently proposed location. However, the applicant has not indicated that they wish to apply for a variance or amendment to that ordinance.
  - Would be better aligned with the Homestead Shopping Center if the north building wall proposed is moved to the south.
- Finally, fire code requires 26’ width for all drive aisles adjacent to building frontages. This needs to be verified.

#### **Net Fiscal Impacts:**

- The applicant estimates transient occupancy tax (TOT) revenues to the City to be \$2,838,240, based on an 85% occupancy rate. An analysis of fiscal impacts to the City has been prepared by the EPS, a third-party consulting firm, which indicates that a more conservative estimate is net revenue of \$1.7 - 2.6 million. (See Attachment E.1.)
- The project could diversify the City’s economic base by adding a second full-service hotel in Cupertino. The applicant states that this would be the only full-service hotel in Cupertino upon construction; however, Juniper Hotel (formerly Cypress Hotel) is considered a full-service hotel.

#### **Provision of affordable housing:**

- The proposal does not include any affordable housing. However, the applicant will be required to pay any applicable affordable housing fees as a project requirement.

#### **Environmental Sustainability:**

- The Green roof at mezzanine level would reduce air quality impacts, increase energy efficiency, increase roof longevity, and facilitate stormwater/clean water control measures. This could be a project requirement and not an additional enhancement since the site is tight and many opportunities to meet stormwater control requirements do not exist.

- Proposed shuttle service for guests would reduce vehicle miles traveled and greenhouse gas emissions. However, this would likely be a project requirement and not a project amenity beyond statutory requirements.
- Additional measures and analysis regarding landscape, water and energy use, stormwater management, greenhouse gas emissions and waste management would be refined and expanded at the formal application stage. However, it does not appear that these measures would go above and beyond statutory requirements.

### **Voluntary Community Amenities Proposed:**

Table 3 below lists the proposed community amenities by the applicant and staff's analysis of the proposal.

**Table 3: Proposed Voluntary Community Amenities**

<b>Categories</b>	<b>Proposed</b>	<b>Beneficiary</b>	<b>Value</b>	<b>Comments</b>
School resources	None	N/A	\$0	
Public open space	None	N/A	\$0	
Public facilities	Complementary use of conference facilities to Cupertino residents on weekends, as available. Hours, length of agreement, rates and facility details are not specified.	Residents, when available	\$0	The value of this proposed amenity cannot accurately be quantified due to lack of details
Transportation facilities	Shuttles for guests and employees similar to shuttle available for the existing Cupertino Inn Hotel on the adjacent parcel.	Guests and Employees	\$0	This is a typical project requirement for hotels and not a community amenity
Total Value			\$0	
Total Value/square foot			\$0	

### **Oaks Shopping Center**

**Project Location** – 21255 – 21755 Stevens Creek Boulevard

**Project Description** – The proposal for redevelopment of the Oaks site is a request for authorization of a General Plan amendment application which would facilitate development of 280,000-square foot, 7-story office building, 200-room, 6-story tall hotel, 270 residential units (including 40 market-rate senior age-restricted and, 30 below-market-rate senior age-restricted units), in two 5-story buildings and one 5-story tall building and 47,660-square feet of retail replacing an ~73,056 sq. ft. commercial center.



### **Project Location and Surrounding Uses**

The project is located in the western portion of the City at the northeast intersection of Stevens Creek Boulevard and State Route 85. Mary Avenue forms the eastern border of the site and wraps around the site, forming the northern border. The site contains an existing ~73,056 square foot commercial shopping center, with oak trees surrounding and distributed throughout the site. The site is accessed from Stevens Creek Boulevard and from Mary Avenue.

Surrounding uses include a 517-unit (2-story) apartment complex to the north, Highway 85 to the west, De Anza College and Flint Center (3-story; 109-feet) to the south across Stevens Creek Boulevard, and the Senior Center and Memorial Park to the east. The tallest structures in this area which exceed the City's 45-foot height restrictions are located at the De Anza College campus.

### **Application Overview**

The project is located in the Heart of the City Specific Plan. This area of the City is identified as an area to accommodate a variety of land use opportunities of well-planned and designed commercial, office, residential development, enhanced activity nodes, and safe and efficient circulation and access for all modes of transportation between activity centers that help focus and support activity in the centers. Table 4 contains project data along with General Plan amendments or variances requested and/or required.

**Table 4: Oaks Project Data**

<u>Requirement/Standard</u>	<u>Allowed/Required</u>	<u>Proposed</u>	<u>Comments</u>
General Plan designation	Commercial/Residential	Commercial/Office/ Residential	<i>GPA requested. Alternatively, a change in General Plan designation requested under “mixed use project” incentive under Density Bonus Law. However, office uses are not planned and do not exist in this subarea within Heart of the City.</i>
Zoning designation	Planned Zoning with General Commercial and Residential uses – P(CG, Res)	Planned Zoning with General Commercial, Professional Office and Residential uses	<i>Rezoning required. Alternatively, rezoning requested under “mixed use project” incentive under Density Bonus Law. Professional Office includes medical offices. Final zoning designation to be determined.</i>
Lot coverage	~ 25% existing No Maximum Restrictions	46%	
Floor Area Ratio	0.20 existing No Maximum	0.68	
Development allocation:			
Office	-	280,000 sq. ft. *	<i>Requesting allocation from Major Employer pot. However, applicant does not qualify as a Major Employer. Therefore, GPA requested. Alternatively, allocation requested as part of the “mixed use project” Incentive under Density Bonus Law.</i>
Retail	~73,056 sq. ft.	47,660 sq. ft.	
Hotel	None available	200 rooms *	<i>GPA requested. Alternatively, Hotel allocation requested as part of the “mixed use project” Incentive under Density Bonus Law.</i>
Residential - Total	~194 units †	270 units	<i>Under Density Bonus Law, with 11% very low income BMR units proposed,</i>
Very low income units	-	(11%) 22 units (senior)	
Low income units	-	(4%) 8 units (senior)	

<b><u>Requirement/Standard</u></b>	<b><u>Allowed/Required</u></b>	<b><u>Proposed</u></b>	<b><u>Comments</u></b>
<i>Market rate units (including Density Bonus units)</i>	-	240 units (including 40 senior units)	maximum 35% density bonus allowed, for total of 262 units. City has discretion to consider and grant a larger density bonus. With 270 units, density bonus would = ~39%.
Height	45 feet	Up to 88 feet *	GPA requested. Alternatively, increased heights requested as an Incentive under Density Bonus Law.
Office Building	45 feet	88 feet *	
Hotel Building	45 feet	70 feet *	
Apartment Buildings	45 feet	Three buildings – 60 feet *	
Slope line (setback : height)			
Stevens Creek Boulevard	1 : 1	1 : 3*	GPA requested. Alternatively, change in slope line requested as a waiver under Density Bonus Law.
Mary Avenue	-	1 : 3.5	1:1 slope line does not apply.
Setbacks			
Front (South property line - Stevens Creek Blvd)	9 foot setback from property line + 26 feet landscape easement = 35 foot total	35 foot setback for buildings from edge of curb.	
Side – Interior (West property line – along State Route 85)	1/2 height of building (44 feet) or 10 feet whichever is greater	25 feet	Requires Heart of the City Exception. Alternatively, change in setback standard requested as a Waiver under Density Bonus Law.
Side– Street side (North property line - Mary Ave)	9 feet	~ 20 feet (for Hotel) ~ 14 feet (for Residential)	Heart of the City Specific Plan recommends (but does not require) that the minimum frontage requirements on Stevens Creek Boulevard be applied to corner lots.
Parking			
Vehicular Parking	1,972 spaces and parking study needed	1,208 (including 74 tandem spaces)	Parking study needed for non-residential portion of project since reduced parking proposed as required by the City's Parking Ordinance. Reduction in residential parking standards requested under Density Bonus Law.
Office – 1/285 s.f.	982 spaces	485 spaces	
Hotel – 1/room + 1/employee	220 spaces	138 spaces	
Hotel bar + restaurant	Parking study needed	~32 spaces	
Conference facilities		~7 spaces	
Residential – 2/unit	540 spaces	349 spaces	
Retail – 1/250 (higher for restaurants)	191 spaces	236 spaces	

<b><u>Requirement/Standard</u></b>	<b><u>Allowed/Required</u></b>	<b><u>Proposed</u></b>	<b><u>Comments</u></b>
Bike Parking – 5% of auto	152 spaces	220 spaces	
Open space			
Private Open Space – Res.	60 sq. ft./unit	60 sq. ft./unit	
Common Open Space			<i>Heart of the City Exception required. Alternatively, reduction in common open space standards requested as a waiver under Density Bonus Law. Applicant is requesting that a plaza shared with retail uses, an interior linear median shared with retail uses and access paths also shared with retail, office and public use be applied toward this requirement.</i>
<i>Residential Common Open Space - Total</i>	<i>150 sq. ft./unit or 40,500 sq. ft. total</i>	<i>155 sq. ft./unit or 41,956 sq. ft. total</i>	
<i>Residential Landscape</i>	<i>70 – 80% of total common open space or between 28,500 sq. ft. – 32,400 sq. ft.</i>	<i>~ 25% of total common open space or ~10,435 sq. ft.</i>	
<i>Residential Hardscape</i>	<i>20 – 30% of total common open space or between 8,100 sq. ft. and 12,150 sq. ft.</i>	<i>~ 75% of total common open space or ~31,521 sq. ft.</i>	
<i>Office and Retail Common Open Space</i>	<i>2.5% of gross floor area</i>	<i>~9.5% of gross floor area</i>	<i>Some areas such as drop-off areas and medians are not useable. Hotel does not require Common Open Space in Heart of the City Specific Plan.</i>

† Maximum residential yield dependent on net acreage of site. Applicant has not indicated the net acreage after dedications. Net acreage has been estimated by staff upon consultation with the Public Works Department at ~7.79 acres.

### **Site and Architectural Design and Neighborhood Compatibility**

- Site plan layout strives to retain some of the existing retail uses, which is encouraged in the General Plan. Active retail uses are provided in the proposed project.
- Addition of hotel and office uses creates a tight site configuration, resulting in reduction of required and useable common open space and increased height for retail/residential component.
- Heights along Stevens Creek Boulevard are taller than adjacent buildings, except for the 109 foot tall Flint Center, which is set back considerably from the street. Heights along Mary Avenue to the north of the site have been reduced for the residential buildings proposed to be more in scale with the Glenbrook apartment buildings across the street. However, this may still be an issue for the proposed hotel building.
- Architectural review will be required to review massing, building articulation and materials. The buildings may need to have upper floors reduced or set back along the street to ensure that they fit in with the heights of the surrounding buildings.



- The proposed buildings lack distinctive entry features, roof forms and variety of facades as encouraged by the Heart of the City Specific Plan

The project site is included in the City's 2014-2022 Housing Element with a 200 unit capacity and an allowed density of 25 units/acre and an acreage of ~8 acres. However, the maximum residential yield for the site (at 25 units/acre) is ~194 units since, after dedications, the net acreage of the site is ~7.79 acres. This is because at that time of adoption of the Housing Element, the net acreage of the site after dedications was not known. This has not been provided by the applicant at this time and has been estimated in consultation with Public Works staff.

The project proposes to provide 11% of the allowed number of units, as very low income units and an additional 4% of the allowed number of units, as low income units, for a total of 15% affordable units. With 15% affordable units, the project will not be required to pay any Below Market Rate Housing Mitigation Fees. It also qualifies for various regulatory incentives under the State's Density Bonus law.

### **State Density Bonus Law Provisions**

Because the project includes 11% very low income units, the project is eligible for a density bonus and other modifications of the City's usual development standards.

**Density Bonus** - State Density Bonus Law allows a project to receive the maximum density bonus of 35%, in exchange for providing 11% very low income units. This would allow 262 units total (194 allowed units + 68 bonus units). The proposed number of units is 270 units, or 8 more units than the project is entitled to, even with a 35% density bonus. The City's local density bonus ordinance (Section 19.56.030F(6)) allows the City to grant bonuses greater than 35% in exchange for more than the required affordable units or other amenities, but this is solely at the City's discretion. Should the project be considered at the proposed number of residential units, the density bonus would be ~39%.

**Parking Reductions** - State Density Bonus Law states that projects with affordable units cannot be required to provide more than one parking space for studio and one-bedroom units; two parking spaces for 2- and 3-bedroom units; and 2.5 parking spaces for 4-bedroom units and larger. The project does not propose any 4-bedroom units or larger. The developer is proposing to provide 349 spaces for the residential portion rather than the City's required 540 spaces. If authorized, the final parking count will be confirmed during project review. The applicant is also proposing parking reductions and shared parking for the non-residential portion as indicated in Table 4. A parking study will be required to analyze the proposal.

**Incentives and Concessions** - State Density Bonus Law allows this developer to request two incentives and concessions. Permissible incentives and concessions include, but are not limited to:

1. *Modifications of development standards*: Reducing development standards or a zoning code requirement or architectural design requirement, such as setbacks, square footage, or height, which results in identifiable, financially sufficient, and actual cost reductions;
2. *Mixed-Use Project*: Approving mixed-use zoning in conjunction with a housing project, if the non-residential land uses will reduce the cost of the housing development, and if the non-residential land uses are compatible with the housing project and the existing or planned development in the area where the proposed housing project will be located;
3. Other regulatory incentives or concessions proposed by the developer or the City, which result in identifiable, financially sufficient, and actual cost reductions.

Incentives and concessions are intended to make the affordable housing financially feasible. The City's density bonus ordinance requires the developer to provide a pro forma to demonstrate that the incentives and concessions are actually needed to provide the affordable housing.

**Waivers of Development Standards** - State Density Bonus Law also allows the developer to request waivers of any development standards (setback, height, etc.) that will "physically preclude" the project from being built with the density bonus and incentives that the project is entitled to. The City first needs to determine what incentives the developer is entitled to and then can evaluate any requests for waivers to determine if they are needed. The developer needs to demonstrate that the City's usual development standards will "physically preclude" the project from being built with the density bonus and incentives.

Under State Density Bonus law, if a proposed housing development qualifies for a density bonus and a parking reduction, the City must grant them if it approves the project. Requests for incentives and waivers are more discretionary. An incentive must be necessary to provide for affordable housing costs. If, for instance, the density bonus by itself provides adequate additional profit to provide for affordable housing costs, the City is not required to approve any incentives. Additionally, any proposed mixed use (such as the hotel and office proposed here) must: 1) reduce the cost of the housing development; 2) be compatible with the housing development; and 3) be compatible with existing or planned development in the area. As noted previously, currently, the

City's adopted General Plan and Specific Plan for the sub-area that this proposed project is located in, does not plan for or have any existing office uses.

Waivers must be granted only if they would "physically preclude" development of the proposed housing with the incentives and density bonus that the project is entitled to.

***Project Requests:***

The applicant has indicated that the project needs the modifications of development standards identified in Table 5 below, in order to make the development financially feasible with the proposed affordable units. It appears that the applicant is both: 1) requesting a general plan amendment to allow office use, receive an office and hotel allocation and increase heights and amend slope lines; and 2) indicating that the aforementioned requests are 'incentives' required to make the project financially feasible. However, the applicant has not provided any supporting financial documentation required by the City's Density Bonus Ordinance in order to allow determination of whether the incentives are needed to make the project feasible, nor has the applicant provided adequate information to determine if the waivers are necessary at this time.

**Table 5: Proposed Modifications of Development Standards under State Density Bonus Law**

<b>Proposed Incentive/Concession</b>	<b>Proposed Waivers/Reductions</b>
<p><b>Mixed-use Project:</b> approval of a mixed-use project is requested with hotel (200-room, 6-story, 70-feet) and office uses (280,000 sq. ft., 7-story, 88-feet), in conjunction with the retail/residential project (apartments, senior housing, including 15-percent affordable units, total 270 units, 5-levels, 60 feet).</p> <p>Since Office use is not an allowed use under the land use designation, a GPA would be required to change the land use designation to allow this use. The office allocation requested by the applicant is from the major employer category. However, the applicant does not qualify as a major employer. This is also being requested as a GPA, as an alternative.</p> <p>Currently, the zoning allows for commercial (including hotel uses with a Conditional Use Permit) and up to 25 du/net acre (~194 units) of</p>	<p><b>Common Landscaped Open Space for Residential:</b> The "Heart of the City" Specific Plan Section 2.01.010.G requires developments with a residential component to contain landscaped/garden areas and hardscape areas that encourage social interaction. In addition, it requires that 70% to 80% of the total residential common outdoor open space should be landscaped. It also specifies that the location should be in a courtyard, side yard, rear yard or common green for larger developments. The space should be rectilinear with no side less than 15 feet and enclosed 75% by buildings, low walls, low fences or linear landscaping and not bordered by surface parking areas on more than one side.</p> <p>The proposed Oaks project requests that this residential common outdoor open space requirement be waived and that they be allowed to only provide 25% of the residential common outdoor open space to</p>

Proposed Incentive/Concession	Proposed Waivers/Reductions
<p>residential uses. However, a General Plan amendment (GPA) would be required to develop the hotel use since there is no hotel room allocation in the General Plan.</p> <p>The applicant is requesting the City Council to consider approving the entire mixed use project, including the office and hotel uses as an Incentive under the Density Bonus Law.</p>	<p>be landscaped. However, this does include areas that do not meet the requirements and are shared with other uses, not available exclusively to the residential users of the site such as within a plaza shared with retail uses and a linear median shared with the public.</p> <p><b>Reduction in Building Setbacks:</b> Along the western property line facing the Highway 85 on-ramp, the applicant is proposing to reduce the setback from 44 feet down to 25 feet from the property line.</p>
<p><b>Increase the height limits for buildings onsite:</b> The Community Vision 2040 General Plan Chapter 3, Figure LU-1 establishes a maximum height of 45-feet for the site. The project as designed would exceed these height limits as proposed:</p> <ul style="list-style-type: none"> <li>Office Buildings: 88-feet to the roof</li> <li>Hotel Building: 70-feet to the roof</li> <li>Residential Buildings: 60-feet to the roof</li> </ul>	<p><b>Reduction in Building Slopes:</b> The City's General Plan requires the primary bulk of buildings along arterials (Stevens Creek Boulevard, in this case) to maintain below a 1:1 slope line (setback to height) drawn from the street curb line. The proposed Oaks project is requesting a waiver to the slope line requirement. The applicant is proposing a slope line of 1:3 along Stevens Creek Boulevard.</p>
<p><b>Reduction in parking standards:</b> The applicant is also eligible for a reduction in the parking requirement for the entire housing development (including the market-rate housing) as allowed by the State Density Bonus Law, where 2 parking spaces per unit or a parking study is required by the City's Parking Ordinance, as follows:</p> <ul style="list-style-type: none"> <li>1 parking space for 0-1 bedroom units</li> <li>2 parking space for 2-3 bedroom units</li> </ul>	

### **Environmental Sustainability**

The project proponent has identified certain environmentally sustainable features of the project. However, many of the features are simply statutory requirements, as noted below, and not a project bonus.

- LEED Silver certification for all buildings – This is a statutory requirement
- Shuttle service for the hotel – This would likely be a project requirement
- Comply with Municipal Regional Stormwater Permit (MRP) Provision C.3 to address post-construction stormwater management requirements for redevelopment projects – This is a statutory requirement
- Proposed project will feature native and drought-tolerant plants that require minimal supplemental water, paired with efficient irrigation systems to reduce outdoor water usage – This is a statutory requirement and not a project bonus
- The proposed project will be built with environmentally preferable products with a high-recycled content, sensitive to the use of natural resources. – This is encouraged in the General Plan and is a project bonus

### **Proposed Voluntary Community Amenities**

The following tables (Tables 6 and 7) contain the qualifying proposed community amenities and non-qualifying proposed community amenities and staff's analysis of the amenities.

The applicant proposes to enter into a Development Agreement with the City that includes the voluntary community amenities shown in Table 6.

**Table 6: Community Amenity Summary**

	<b>Description</b>	<b>Beneficiary</b>	<b>Amount</b>	<b>Comments</b>
<b>School Resources</b>	Cash contribution for construction of permanent school room facilities	CUSD	\$1.0 million	This is a qualified community amenity because it benefits a school project.
<b>Public Open Space</b>	Cash contributions to the Veterans Memorial at Memorial Park	City of Cupertino	\$250,000	While this is not in a current CIP program, the money is a placeholder and the applicant has indicated that they would be willing to let the City decide on the use of this money.
	Restroom improvement at Memorial Park	City of Cupertino	\$50,000	While this is not in a current CIP program, the money is a placeholder and the applicant has indicated that they would be willing to let the City decide on the use of this money.
<b>Public Facilities</b>	Cash contribution towards the Cupertino Civic Center	City of Cupertino	\$1.1 million	This contribution is a qualified community amenity. \$1.1 million
	Public Art	City of Cupertino	\$150,000 (\$250,000 total including City requirement)	Community amenity portion above City requirements is: \$150,000. The applicant has indicated that they would be willing to let the City decide on the use of this money.

	Description	Beneficiary	Amount	Comments
Transportation	Mary Avenue Road improvements, safety enhancements and safe routes to schools	City of Cupertino	\$1.15 million	Mary Ave road improvement item (excluding frontage improvements and median channelization) is qualified as community amenity: Staff notes that if the Council is supportive, the scope should include the entire length of Mary Ave between Stevens Creek Blvd and Don Burnett Bridge, installation of fiber optic communications along Mary Ave to City's Service Center, green street, and pavement upgrade. Total cost to make the additional and proposed improvements is approximately \$3M. Council can determine whether they wish to fund the balance of the improvements or whether the value proposed by the applicant may be used for another use.
	Cash contribution to city's future senior shuttle program	City of Cupertino	\$400,000	The contribution would be applied to a City-wide shuttle program, not necessarily limited to seniors) and is therefore a qualified community amenity.
Total City Estimated Value of Qualified Community Amenities				\$4.1 million
Total Value per sq. ft.				\$5.49

**Table 7: Non-Qualified Community Amenity Summary**

	<b>Description</b>	<b>Beneficiary</b>	<b>Amount</b>	<b>Comments</b>
<b>School Resources</b>	Parcel Tax (requires Condominium Map on residential component of project)	CUSD / FUHSD	\$0	The project does not include a subdivision map. This is payment of a tax and does not qualify as a community amenity. The applicant estimates this at \$100,000 per year; or \$2 million over 20 years. Existing parcel tax measures sunset in 6–8 years.
	Cash contribution for future study or signage improvements for safe routes to school	De Anza College	\$0	The proposed contribution is not a community amenity because the beneficiary is De Anza College. Applicant estimates this at \$100,000.
<b>Transportation</b>	Stevens Creek Boulevard traffic improvements	City of Cupertino	\$0	The proposed improvements are part of the project requirements and do not qualify as a community amenity. Applicant estimates this at \$450,000.
	72 parking passes to De Anza College annually for five years	De Anza College	\$0	The applicant estimates this cost as \$32,400. However, it does not qualify as a community amenity.
<b>Affordable Housing</b>	Provide affordable housing levels in excess of City requirement	City of Cupertino	\$0	Applicant would have had to pay a Below Market Rate Housing Mitigation Fee if affordable units not provided. However, the applicant is eligible to receive a density bonus of ~62 market rate units, up to two incentives and concessions (mixed use zoning, height, allocation), a parking reduction and an unlimited number of waivers (including setback reductions, reductions in common open areas, etc.) per state law. Applicant estimates this as \$1.1M; however, it does not qualify as an additional benefit, since the applicant does not have to pay the BMR Mitigation fee.
<b>Economic Development</b>	Cash contribution for creation of City office incubator program	City of Cupertino	\$0	The applicant proposes \$500,000. However, it does not qualify as a community amenity.
<b>Applicant Estimated Value of Non-Qualified Community Amenities:</b>				<b>≈ \$ 4.182 million</b>

### **Staff Time and Resources**

The Planning Division will dedicate a project manager (either staff or consultant based on availability) to guide the project through the entitlement process appropriate environmental and city related reviews. Table 1 indicates the staff time estimated for each project. Staff time and consultant costs will be paid for by the applicant.

### **PUBLIC NOTICING & OUTREACH**

The following table (Table 8) indicates the public noticing and outreach conducted on the General Plan authorization project.

**Table 8: Noticing and Outreach**

<b>Noticing, Site Signage</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>▪ Postcard mailed to all postal customers in the City of Cupertino and within 500 feet of subject property (including adjacent cities) if within 500 feet of city boundary (<i>at least 10 days prior to meeting</i>)</li></ul>	<ul style="list-style-type: none"><li>▪ Posted on the City's official notice bulletin board (<i>at least five days prior to the hearing</i>)</li></ul>
<ul style="list-style-type: none"><li>▪ Site signage on subject property (<i>at least 10 days prior to meeting</i>)</li></ul>	<ul style="list-style-type: none"><li>▪ Posted on the City of Cupertino's Web site (<i>at least five days week prior to the hearing</i>)</li></ul>

Additional outreach has been conducted on the City's Social Media platforms and advertising on the City Channel.

As of publication of this staff report on January 27, 2016, staff has received two comments; one questioning why the City of Cupertino would allow General Plan amendments, and the other supporting the bicycle and pedestrian improvements proposed by the Oaks Shopping Center project. The email received is within Attachment D.

### ***Environmental Impact***

The California Environmental Quality Act (CEQA) does not apply since the City Council's action, consideration and authorization of formal applications, is not a project as defined by CEQA.

### **FISCAL IMPACT**

Fiscal impact analysis for each project is included in Attachment E.1 and E.2.



- Good Year Tire: The fiscal impact analysis indicates that the full service hotel currently proposed by the applicant provides the City with a net fiscal positive revenue of \$1.7 – 2.6 million.
- Oaks site: The fiscal impact analysis indicates that as proposed the project would generate a net positive fiscal revenue of \$1.1 million. A sensitivity analysis indicates that the hotel provides the most fiscal benefits in the project. Other portions of the project, including the office development, do not generate significant revenues or negatively impact the City's revenues.

## NEXT STEPS

Projects authorized by the Council to move forward will enter the formal development review process including necessary environmental analysis. The timeline for the projects will begin when the applications are complete and are expected to run about 7-9 months.

Projects additionally have the option to resubmit their application with minor adjustments based on Council input within 30 days of the Council meeting. The applications will be brought back to a subsequent meeting later in Spring 2016.

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## Attachments:

A- Resolution No.16-013 A Resolution authorizing applicants to submit General Plan amendment applications

A.1 City Council policy for General Plan Amendment application procedures

B- Goodyear Tire site project plans

C- The Oaks project plans

D- Comments from the public

E.1- Preliminary Fiscal Impact Analysis for The Goodyear Tire site proposal, prepared by Economics and Planning Systems, Inc., dated January 1, 2016

E.2- Preliminary Fiscal Impact Analysis for The Oaks proposal, prepared by Economics and Planning Systems, Inc., dated January 1, 2016