

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, CA 95014

CITY OF CUPERTINO
PLANNING COMMISSION MEETING
DRAFT MINUTES

6:45 P.M.

NOVEMBER 24, 2015

TUESDAY
CITY COUNCIL CHAMBERS

The regular Planning Commission meeting of November 24, 2015, was called to order at 6:45 p.m. in the Cupertino Council Chambers, 10350 Torre Avenue, Cupertino, CA. by Chairperson Winnie Lee.

SALUTE TO THE FLAG

ROLL CALL

Commissioners Present:	Chairperson:	Winnie Lee
	Vice Chairperson:	Alan Takahashi
	Commissioner:	Geoff Paulsen
	Commissioner:	Margaret Gong
Commissioners Absent:	Commissioner:	Don Sun
Staff Present:	Asst. City Manager:	Aarti Shrivastava
	Senior Planner:	Adam Petersen
	Assistant Planner:	Ellen Yau
	Consulting Attorney:	Valerie Armento

APPROVAL OF MINUTES:

Minutes of the September 22, 2015 Planning Commission meeting:

Page 8: (Chair Lee) 2nd bullet; reads ***“said she respected his opinion but it is not up to the Planning Commission; it is discretionary”***. Chair Lee requested it be changed to read ***“said she respected his opinion but said it was up to the Planning Commission.”***

Bottom of page 10: last motion, third last line, delete ***“and audience”*** and replace with ***“in ordinance”***

Motion: Motion by Com. Gong, second by Vice Chair Takahashi, and unanimously carried 4-0-0 (Com. Sun absent), to approve the minutes of the September 22, 2015 Planning Commission meeting as amended.

WRITTEN COMMUNICATIONS: None

POSTPONEMENTS/REMOVAL FROM CALENDAR: None

ORAL COMMUNICATIONS: None

CONSENT CALENDAR:

2. Consider cancellation of the December 22, 2015 Planning Commission meeting.

MOTION: Motion by Com. Gong, second by Com. Paulsen, and unanimously carried 4-0-1 to cancel the December 22, 2015 Planning Commission meeting. (Com. Sun absent)

PUBLIC HEARING:

3. **M-2015-01, ASA-2015-20, 22643 Woodridge Ct. Shen-I Chiou** Modification to a previously approved Use Permit (U-1981-02) to amend a condition of approval, which required two lots (lots 4 and 11) to be restricted to single story structures within a planned Development, to allow a second story addition on lot 11; and Architectural and Site Approval to allow the construction of a 530 sq. ft. second-story addition to an existing single story, single family residence in a Planned Development Zone.

Ellen Yau, Assistant Planner, presented the staff report:

- Reviewed the application for a modification to a previously approved Use Permit to amend a condition of approval, and Architectural and Site Approval as outlined in the staff report. The property is exempt from CEQA; the required noticing has been completed per Municipal Code legal ads, mail notices and site signage and no comments have been received.
- Staff recommends that the Planning Commission approve the modification to amend the condition that restricted single story structures on the two lots to allow Lot No. 11 to construct a second story addition and the Architectural and Site Approval to allow the 530 sq. ft. second story addition in accordance with the draft resolutions.

Shen-I Chiou, Applicant:

- Said they have talked to the two adjacent neighbors about the addition and they do not oppose the proposed design. He said the proposed addition was small scale and the FAR was in the mid-range compared to other lots.

Chair Lee opened the public hearing; there was no one who wished to speak. The public hearing was closed.

Com. Paulsen:

- Said he visited the site and he felt it was an attractive design and compatible with the other homes. Said it is a far cry from the slab sided big box that some people were concerned about many years ago.

Vice Chair Takahashi:

- Said he agreed; from the standpoint of its general impact and volume, it is minimal, especially to the front elevation which is critical.

Com. Gong:

- Said she agreed that the look and feel fit in with the other homes; with the only impact being with the side neighbor.

Com. Paulsen:

- Commended staff on a clear and complete report.
- There was consensus on the FAR and the height.

MOTION: **Motion by Com. Cong, second by Vice Chair Takahashi, and unanimously carried 4-0-1, (Com. Sun absent) to approve Application M-2015-01 and Resolution ASA-2015-20**

- 4. MCA-2015-01** Adoption of amendments to the Cupertino Municipal Code prohibiting
City of Cupertino marijuana cultivation, dispensaries, and deliveries and commercial
Citywide Location cannabis activities within the City of Cupertino.

Adam Petersen, Senior Planner, presented the staff report:

- Reviewed the background of the item. In October 2015 Governor Brown signed three new laws relating to medical marijuana, AB 243 and 266 and SB 643; the bills create a broad state regulatory and licensing system governing the cultivation, testing, and distributing of medical marijuana, the manufacturing of marijuana products, and physician recommendations for medical marijuana. Under the new legislation, state licenses and local permits will be required for all facets of the medical marijuana industry. Details of AB 243, 266 and SB 643 are outlined in the attached staff report. With the laws in place, why is the Municipal Code being updated? Currently medical marijuana is prohibited. However, if Cupertino does not have land use regulations prohibiting the cultivation of marijuana by March 2016, the State becomes the sole licensing authority for medical marijuana. The key point is updating the Municipal Code preserves local control over marijuana issues for the City of Cupertino. The proposed ordinance or the proposed amendments to the Municipal Code being considered would prohibit medical marijuana dispensaries and deliveries, cultivation and commercial cannabis activities. Under the code there are certain exclusions, including a qualified patient, marijuana cultivation facilities, commercial cannabis activities (detailed in the attached staff report). The benefits of the amendments and the prohibitions and exclusions is that they address all potential marijuana businesses that could possibly occur or be permitted under State law; and the public would benefit by the clear guidelines regarding the scope of the prohibited conduct in the city.
- He reviewed the proposed ordinance, legal issues, negative secondary effects, environmental assessment.
- Staff recommends that the Planning Commission adopt the Resolution recommending that the City Council enact an Ordinance amending Section 19.08.030 and add Chapter 19.98 of the Cupertino Municipal Code regarding medical marijuana dispensaries, cultivation facilities, commercial cannabis activities and medical marijuana deliveries.
- Staff answered questions regarding the proposed amendments, issues relative to private citizens cultivating marijuana on their property.
- Questions and issues were addressed, including legal ramifications of disclosure; home becoming a target; how to determine if caregiver is providing to only 5 clients; landlord not permitting cultivation on his rental property; is he discriminating?? Persons getting into difficult situations by revealing use of marijuana for medicinal use; staff indicated interest shown in licensing but not to extent of other cities; problems encountered in one's home when cultivating marijuana; public nuisance laws still apply, city has control over other provisions of the law; issues involved in licensing; relative to cities considering ordinances, Cupertino is on the stricter side, severely limits marijuana; it prohibits medicinal and recreational marijuana; if California legalizes marijuana, Cupertino is in good shape; discussed some cities' laws; there are numerous codes to address issues of growth on personal property; Com. Paulsen concurred with staff on taking a conservative approach, have the other states gather data.

Chair Lee opened the public hearing.

Razini Kolli, resident:

- Spoke about water usage; asked if the City could require necessity of disclosure relative to the cultivation/sale of marijuana on one's property.

Staff commented that property owner's disclosure of cultivation of marijuana might result in the property becoming a target for thievery or violence. There was consensus that the main concerns were property damage and safety.

Chair Lee closed the public hearing.

MOTION: Motion by Vice Chair Takahashi, second by Com. Paulsen, and unanimously carried 4-0-1 (Com. Sun absent) that the Planning Commission recommend that the City Council adopt an Ordinance of the City Council of Cupertino amending Section 19.08.030 and adding Chapter 19.98 of Title 19 to the Cupertino Municipal Code Regarding Medical Marijuana Dispensaries, Marijuana Cultivation Facilities, Commercial Cannabis Activities, and Medical Marijuana Deliveries

OLD BUSINESS: None

NEW BUSINESS: None

REPORT OF THE PLANNING COMMISSION

Environmental Review Committee: No meeting.

Housing Commission: No report.

Economic Development Committee Meeting:

- Committee working on Draft Report on Economic Development.
- Project Matrix including Apple; Parkside Trail was withdrawn; Marina Plaza, General Plan Amendment approved by City Council; Hills of Vallco; Main Street – some building permits approved;
- Verizon/AT&T Wireless appealed to City Council.

Mayor's Monthly Meeting With Commissioners:

Major Transportation:

- Working with VTA to find solutions to highway gridlock

TIC Comm.:

- Funds for Disaster Prep \$150 Billion Fed Funds;
- Self-Driving Cars: Improve or Slow Down Traffic??
- Chief Tech position open in the city.
- Community Choice Energy; Mayor working with other cities buying electricity from other than PG&E.

Public Safety:

- Bike/Walk to school/work; school report – gather data on how kids get to school, some discrepancies

Parks and Rec.:

- Opened McClellan Ranch Environmental Education Center;
- Working on Citywide Parks Master Plan;
- 4 Cities Joint Feasibility Study for Stevens Creek Trail;
- Dec. 15 Joint meeting with Bike Ped Comm.

Library Commission:

Elimination of library card fees for out-of-area persons

- Usage went up 130%

REPORT OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

- Several new restaurants opened;
- Reported on upcoming businesses/hotels – building permits
- Apple moving into offices
- Wireless/Verizon testing; AT&T expressed interest in participating
- 3 new staff members
- Com. Paulsen commended Ms. Shrivastava on progress on new projects/growth

ADJOURNMENT:

- The meeting was adjourned to the December 8, 2015 Planning Commission meeting at 6:45 p.m.

Respectfully Submitted: /s/Elizabeth Ellis
Elizabeth Ellis, Recording Secretary