

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO APPROVING AN  
ARCHITECTURAL AND SITE APPROVAL PERMIT TO ALLOW SITE MODIFICATIONS  
FOR A NEW RESTAURANT AND BAR LOCATED AT 10088 N WOLFE ROAD

SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2015-26  
Applicant: Marc Dimalanta (Steins Beer Garden)  
Location: 10088 N. Wolfe Road

SECTION II: FINDINGS FOR ARCHITECTURAL AND SITE APPROVAL:

WHEREAS, the Planning Commission of the City of Cupertino received an application for an Architectural and Site Approval as described in Section I. of this Resolution; and

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

WHEREAS, the project is determined to be categorically exempt from the California Environmental Quality Act (CEQA); and

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

WHEREAS, the Planning Commission finds as follows with regard to this application:

1. The proposal, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;

*The new restaurant will be located in the South Vallco Park sub-area within the Heart of the City Specific Plan Area which is envisioned to serve as a gathering place. The vision for the area and project site encourages commercial and retail use, with supportive residential development. To further mitigate impacts, the applicant shall incorporate adequate measures into the operations to ensure that there is adequate buffering from residences including installation of an odor abatement system. In addition, the applicant has prepared a security plan to mitigate*

*security concerns. Therefore, the proposed use will not be detrimental to the public health, safety, and welfare.*

2. The proposal is consistent with the purposes of Chapter 19.134, Architectural and Site Review, of the Cupertino Municipal Code, the General Plan, any specific plan, 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) Only minor changes have been proposed to the existing building that does not affect the overall architectural quality of the building. The project is not proposing to significantly alter the exterior of the existing two-story office building.

*Only the necessary site and building modifications/improvements associated with the restaurant operation are proposed.*

- b) Design harmony between new and existing buildings have been preserved and the materials, and with the future character of the neighborhood and purposes of the zone in which it is situated.

*The location, height and materials of the proposed site improvements for the patio area harmonize with adjacent developments and are designed to complement the existing surrounding professional, commercial and residential uses.*

- 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.

*No outdoor signs are proposed or approved at this time.*

- 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 restaurant use is located within an existing commercial space within a mixed-use development. The restaurant will install an odor abatement system to ensure that odors do not impact the residents that live within the development. All noise associated with the restaurant use will be consistent with the Community Noise Ordinance. The parking for the restaurant has separate access from the parking for the residents and will not displace any residential parking. All lights are designed to be directed away from the residential development. Therefore, all aspects of the new restaurant are designed to protect the residents from intrusive effects.*

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the initial study, maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on PAGE 2 thereof,:

The application for an Architectural and Site Approval, Application no. ASA-2015-26 is hereby approved, and that the subconclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Hearing record concerning Application no. ASA-2015-26 as set forth in the Minutes of Planning Commission Meeting of December 8, 2015, 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 received October 29, 2015 consisting of 10 sheets, labeled A0.0, A0.2, A0.3, A2.0, A2.1, A2.2, A3.0, A5.0, A6.0, and A6.1 entitled, "Steins Beer Garden, 10088 N. Wolfe Road, Suite 130, Cupertino, CA 95014," drawn by D-Scheme Studio; except as may be amended by conditions in this resolution.

2. ACCURACY OF PROJECT PLANS

The applicant/property owner is responsible to verify all pertinent property data including but not limited to property boundary locations, building setbacks, property size, building square footage, any relevant easements and/or construction records. Any misrepresentation of any property data may invalidate this approval and may require additional review.

3. ANNOTATION OF THE CONDITIONS OF APPROVAL

The conditions of approval set forth shall be incorporated into and annotated on the first page of the building plans.

4. STOREFRONT WINDOW DETAILS

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

5. PEDESTRIAN CIRCULARION

Prior to building permit issuance the pedestrian circulation shall be reviewed to ensure that accessible paths of travel are being maintained.

6. SIGNAGE

Signage is not approved with this use permit application. The storefront awnings and patio umbrellas are not approved for any signage. Signage shall conform to the City Sign Program.

7. FINAL ARCHITECTURAL DETAILS

The final building design and exterior treatment plans shall be reviewed and approved by the Director of Community Development prior to issuance of building permits. The Director of Community Development may approve additional designs or make minor variants as deemed appropriate.

8. BUILDING TREATMENT

The building exterior treatment (including but not limited to details on exterior color, material, architectural treatments and/or embellishments, lighting, patios walls, retractable bar windows, landscaping) shall be consistent with the Mixed Use Complex. Any exterior changes determined to be minor shall be reviewed and approved by the Director of Community Development.

9. SCREENING

All mechanical and other equipment on the building or on the site shall be screened so they are not visible from public street areas or adjoining developments. Screening materials/colors shall match building features and materials. The height of the screening shall be taller than the height of the mechanical equipment that it is designed to screen. The location of equipment and necessary screening shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

10. 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.

11. PATIO FEATURE MAINTENANCE

The property owner and/or lessee shall maintain and upkeep the outdoor patio features including but not limited to umbrellas, furniture, lighting, etc. and shall replace weathered features within a timely manner as determined by the Director of Community Development.

12. 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.

13. 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.

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PASSED AND ADOPTED this 8th day of December 2015, at the 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:

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Piu Ghosh  
Principal Planner

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Winnie Lee, Chair  
Planning Commission