



DEPARTMENT OF COMMUNITY DEVELOPMENT  
PLANNING DIVISION

CITY HALL  
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## PLANNING COMMISSION STAFF REPORT

Agenda Item No. \_\_\_\_

Agenda Date: December 8, 2015

### SUBJECT

Use Permit for a separate bar, extended hours of operation and live entertainment at a proposed restaurant located in the Ninteen800 (formerly Rosebowl) Mixed Use Development and Architectural and Site Approval to allow exterior patio modifications in conjunction with the proposed restaurant. (Application No.(s): U-2015-09 & ASA-2015-26; Location: 10088 N. Wolfe Road, #130; APN: 316-20-037 & 316-20-038; Applicant: Marc Diamalanta (Steins Beer Garden); Owner: Cupertino Property Developer I, LLC)

### RECOMMENDATION:

Staff recommends that the Planning Commission approve the following in accordance with the draft resolutions:

1. Use Permit (U-2015-09) approving a use permit to allow a separate bar, extended hours, and live entertainment at a proposed restaurant (Attachment 1); and
2. Architectural and Site Approval (ASA-2015-26) approving an architectural and site approval permit to allow site modifications for a new restaurant and bar (Attachment 2).

### PROJECT DATA:

<b>General Plan Designation:</b>	Commercial/Residential
<b>Zoning Designation:</b>	P(CG, OP, Res)
<b>Special Area:</b>	South Vallco Park sub-area within the Heart of the City Special Area
<b>Commercial Building Area:</b>	44,126 square feet
<b>Restaurant Area:</b>	6,876 square feet
<b>Max. Number of Employees:</b>	25

<b>Parking Spaces</b>	
Required:	73 (see 'Parking' section below for more details)
Available:	73
<b>Hours of Operation:</b>	
Sunday – Thursday	10am – 11pm
Friday – Saturday	10am – 12am
<b>Project Consistency with:</b>	
General Plan:	Yes
Zoning:	Yes
Environmental Assessment:	Categorically Exempt

## **BACKGROUND:**

### *Previous City Approvals*

The City Council approved the Nineteen800 Mixed Use Development in October 2004 (Permit No.(s): U-2004-10, ASA-2005-03, and TM-2006-08). Construction on the development was completed in October 2015 and several tenants are currently in operation.

### *Existing Center and Surroundings*

The project site is located within the South Vallco Park sub-area within the Heart of the City Special Area, on the south-east corner of N. Wolfe Road and Vallco Parkway. To the west of the site is Vallco Mall, former Sears and Bay Club; future Main Street project to the east; Vallco Mall/JC Penney and office buildings to the north; and a residential mixed use development (Metropolitan) and an office complex to the south.

## **DISCUSSION:**

### *Application Request*

The applicant, Marc Diamalanta, representing Steins Beer Garden, is requesting a Use Permit to incorporate a separate bar within the restaurant, extended hours of operation, and live entertainment. The General Commercial (CG) Ordinance requires that the Planning Commission review and approve requests for extended hours of operation (beyond the hours of 7:00am and 11:00pm), live entertainment, and separate bar facilities. In conjunction with the use permit requests, the applicant is requesting an Architectural and Site Approval to allow enhancements to the patio area for outdoor dining (See Attachment 3).

Typically, Architectural and Site Approvals may be approved by the Director of Community Development, however, since the permit is being sought concurrently, the Municipal Code requires that the higher approval body review both requests.

### *Operational Details*

Steins is a sit-down restaurant that offers lunch and dinner options to customers. The proposed floor plan includes a private dining area and a separate bar area integrated within the restaurant. Steins is activating the restaurant frontage along Wolfe Road by incorporating a patio area along Wolfe Road. The proposed hours of operation are 10:00am to 11:00pm, Sunday through Thursday, and 10:00am to 12:00am, Friday through Saturday. The applicant proposes to have 166 table seats, 17 bar seats and a maximum of 25 employees per shift. (See attachment 4: Business Plan)

The proposed operations include live entertainment and music which will be ancillary to the restaurant use and designed specifically for special events. The music may be amplified and located indoors or outdoors. The allowed hours for live music shall be consistent with the Community Noise Ordinance. Music genres will include styles that promote easy listening such as classic rock, acoustic folk and jazz. A condition of approval has been added which requires all noise levels to be in compliance with the City's Community Noise Ordinance.

### *Proximity to Residential Use*

The new restaurant will be located in the South Vallco Park sub-area within the Heart of the City Special Area which is envisioned to serve as a gathering place that supports the creation of a Main Street style environment with a downtown feel. The vision for the area and project site encourages regional commercial offices and an entertainment center with daytime and nighttime entertainment activities, with supportive residential development.

The closest single-family residential property is located approximately 830 feet to the west and a residential mixed use development is located directly to the south. The residential portion of the project has separate pedestrian entrances from the retail portion of the project and the applicant has adequate measures incorporated into the operations to ensure that there is adequate buffering from the residences above, including installation of an odor abatement system. Additionally, the parking for the residential portion of the project is separated from the retail portion of the project keeping the patrons separate from the residents. Therefore, the project is not anticipated to impact the residential units within the project nor the nearby residential neighborhoods.

### *Security*

The Santa Clara County Sheriff's office has reviewed the project and the restaurant's proposed security plan and does not foresee any security concerns or negative impacts to the surrounding neighborhood. A condition of approval has been added to require the property owner to address security concerns in the event that they arise and pay for additional Sheriff's enforcement time if required.

### *Architectural & Site Approval*

To accommodate the new patio seating, the site modifications include planter boxes enclosing the patio area with dinning furniture and heating lamps. The enclosed patio area is required by the State Department of Alcohol and Beverage Control (ABC) for serving alcohol outdoors. The proposed planters are made of wood with a dark gray finish and copper band. In addition to these amenities, the patio area includes a new trellis structure. The outdoor dining furniture includes custom redwood benches and tables with a clear finish.

The City's Architectural Consultant has reviewed the site and architectural details and supports the design. Staff supports the proposed façade modifications since they are consistent with the architectural theme of the remainder of the building.

### *Parking*

The project wide parking supply was reviewed and approved by the City Council in October 2004. The following table summarizes the parking provided for the Nineteen800 development, including the proposed restaurant:

	<b>Required Parking Ratio</b>	<b>Parking Required</b>
<b>Existing Food Uses within development</b>	1 space/4 seats + 1 space/employee + 1 space/3 seats (bar)	48.25
<b>Vacant Commercial Areas (36,689 sq. ft.)</b>	1 space/250 sq. ft.	151.03
<b>Steins Beer Garden:</b>		
136 indoor seats	1 space/4 seats	34
30 outdoor seats	1 space/4 seats	7.5
17 bar seats	1 space/3 seats	5.7
25 employees/shift	1 space/employee	25
<b>Total Required for Steins:</b>		<b>72.2</b>
<b>Total Project wide Parking Required:</b>		<b>271.48 (271)</b>
<b>Total Project wide Parking Provided:</b>		<b>475</b>

<b>Total Project wide Parking Surplus:</b>	<b>203.52 (204)</b>
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### *Other Department/Agency Review*

The City's Public Works Department, Building Division, and the Santa Clara County Fire Department have reviewed the project and have no objections to the proposed plans.

### **ENVIRONMENTAL ASSESSMENT**

The use permit is categorically exempt from the California Environmental Quality Act (CEQA) per section 15301 (Existing Facilities) of the CEQA Guidelines because the proposed use occurs within an existing facility and minor alterations will be made within an urban, developed environment.

### **PUBLIC NOTICING & OUTREACH**

The following table is a brief summary of the noticing done for this project:

<b>Notice of Public Hearing, Site Notice &amp; Legal Ad</b>	<b>Agenda</b>
<ul style="list-style-type: none"> <li>▪ Site Signage (<i>14 days prior to the hearing</i>)</li> <li>▪ Legal ad placed in newspaper (<i>at least 10 days prior to the hearing</i>)</li> <li>▪ Notices mailed to property owners adjacent to the project site (<i>10 days prior to the hearing</i>)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Posted on the City's official notice bulletin board (<i>five days prior to the hearing</i>)</li> <li>▪ Posted on the City of Cupertino's Web site (<i>five days prior to the hearing</i>)</li> </ul>

### **PERMIT STREAMLINING ACT**

This project is subject to the Permit Streamlining Act (Government Code Section 65920 – 65964). The City has complied with the deadlines found in the Permit Streamlining Act.

***Project Received:*** October 29, 2015

***Deemed Complete:*** November 23, 2015

Since this project is Categorical Exempt, the City has 60 days (until February 8, 2016) to make a decision on the project. The Planning Commission's decision on this project is final unless appealed within 14 calendar days of the decision.

### **CONCLUSION**

Staff recommends approval of the project since the project and conditions of approval address all concerns related to the proposed development and all of the findings for

approval of the proposed project, consistent with Chapter 19.168 of the Cupertino Municipal Code, may be made.

Prepared by: Kaitie Meador, Assistant Planner

Reviewed and Approved by:

/s/Piu Ghosh  
Piu Ghosh  
Principal Planner

**ATTACHMENTS:**

- 1 – Draft Resolution U-2015-09
- 2 – Draft Resolution ASA-2015-26
- 3 – Plan Set
- 4 – Business Description