

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 FAÇADE AND
SITE MODIFICATIONS FOR A NEW RESTAURANT AND BAR AT 19379 STEVENS
CREEK BOULEVARD

SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2015-25
Applicant: Jonathan Siu, Alexander's Steakhouse
Location: 19379 Stevens Creek Blvd.

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 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 in that;

The new restaurant will be located within the Main Street Cupertino project, which is envisioned to serve as a gathering place that 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 will prepare 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 one story retail building.

There are no changes to the building as a part of this permit. The applicant is proposing new railing for the outdoor patio areas.

- 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 and materials of the proposed site improvements for the patio areas 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.

Main Street Cupertino has an approved sign program that the tenant will comply with. No signage is proposed 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 existing development is designed to buffer the residential portion of the development from noise, traffic, light and visually intrusive effects. The residential portion of the development and existing residences are buffered from the restaurant by other retail buildings with associated landscaping and trees. All lights are designed to be directed away from all neighboring residential development.

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-2015-25, 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-2015-25 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 8, 2015, with revisions received on November 18, 2015 consisting of 7 sheets, A0.0, A2, A0.1, A0.2, A1.1, A2.1, A2.2, A6.0 and A6.1 entitled, "Tenant Improvement Alexander's Steak House" 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. PREVIOUS CONDITIONS OF APPROVAL

All previous conditions of approval from Resolution No. 12-098 and Resolution No. 14-122 shall remain in effect unless superseded by or in conflict with subsequent conditions of approval, including the conditions contained herein in this resolution.

4. COVENANT DISCLOSURE

The property is under a Cupertino planned development zoning and property purchasers should check with the City to determine the specific restrictions under the Planned Development Zone and related permits.

5. STOREFRONT WINDOW DETAILS

Prior to building permits issuance, the applicant shall work with Staff to further

enhance building windows requested to be covered or spandralled due to operational activities such as kitchen, employee breakroom etc., which may include but not be limited to the use of clear glass, artwork, backlit features or similar features as determined to be appropriate by the Community Development Director.

6. PEDESTRIAN CIRCULARION

Prior to building permit issuance the pedestrian circulation from the parking lot and public right of way to the restaurant shall be reviewed to ensure that accessible paths of travel are being maintained.

7. SIGNAGE

Signage is not approved with this permit application. The patio umbrellas are not approved for signage. Signage shall conform to the Main Street Cupertino Sign Program.

8. 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. Specifically, the following items shall be addressed prior to building permit issuance:

- a) Prior to building permits issuance, the applicant shall work with Staff to further enhance building windows along the west elevation requesting to be spandrel or blocked from view, which may include but not be limited to the use of clear glass, artwork, backlit features or similar features as determined to be appropriate by the Community Development Director.
- b) The planning department shall review the final design of the patio area including the patio railing, seating, lighting, shade umbrellas, landscaping, etc. prior to building permit issuance.

9. LANDSCAPE AND IRRIGATION MAINTENANCE

Per the Landscape Ordinance (CMC, Chapter 14.15), a maintenance schedule shall be established and submitted to the Director of Community Development or his/her designee, either with the landscape application package, with the landscape installation report, or any time before the landscape installation report is submitted.

- a) Schedules should take into account water requirements for the plant establishment period and water requirements for established landscapes.
- b) Maintenance shall include, but not be limited to the following: routine inspection; pressure testing, adjustment and repair of the irrigation system; aerating and de-thatching turf areas; replenishing mulch; fertilizing; pruning; replanting of failed plants; weeding; pest control; and removing obstructions to emission devices.

- c) Failed plants shall be replaced with the same or functionally equivalent plants that may be size-adjusted as appropriate for the stage of growth of the overall installation. Failing plants shall either be replaced or be revived through appropriate adjustments in water, nutrients, pest control or other factors as recommended by a landscaping professional.

10. 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.

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. 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.

13. 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.

14. 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.

15. 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 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:

Piu Ghosh
Principal Planner

Winnie Lee, Chair
Planning Commission