

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO RECOMMENDING  
THAT THE CITY COUNCIL APPROVE A DEVELOPMENT AGREEMENT FOR THE  
DEVELOPMENT A OF 122-ROOM HOTEL, TWO MIXED-USE BUILDINGS WITH 188  
APARTMENTS, AND APPROXIMATELY 26,000 SQUARE FEET OF COMMERCIAL SPACE  
IN A PLANNED GENERAL COMMERCIAL ZONING DISTRICT LOCATED AT 10122  
BANDLEY DRIVE AND 10145 NORTH DE ANZA BOULEVARD

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SECTION I: PROJECT DESCRIPTION

Application No.: DA-2016-01  
Applicant: Amy Chan  
Property Owner: De Anza Venture, LLC  
Location: 10122 Bandley Drive and 10145 North De Anza Boulevard (APN# 326-34-043, 326-32-066)

SECTION II: FINDINGS FOR DEVELOPMENT AGREEMENT

WHEREAS, the Planning Commission of the City of Cupertino received an application for a Development Agreement as described in Section I. of this Resolution; and

WHEREAS, Government Code Sections 65864 through 68569.5 provide the statutory authority for development agreements between municipalities and parties with a fee or equitable interest in real property; and

WHEREAS, Cupertino Municipal Code § 19.144.010 et seq., establishes additional procedures for review and approval of proposed development agreements by the City of Cupertino; 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 Environmental Review Committee reviewed a Mitigated Negative Declaration, which is a concurrent recommended approval under a separate resolution for a development permit; and

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

WHEREAS, concurrent applications and recommended conditions of approval are contained in file no. DP-2015-05, ASA-2015-22, U-2015-06, EXC-2016-03, EXC-2016-05, TR-2016-14, AND EA-2015-05 and shall be applicable to this approval.

WHEREAS, the terms of the Development Agreement include the following community benefits funded by De Anza Venture, LLC:

1. Traffic Signal modifications, \$150,000
2. Pedestrian and Bicycle Improvements, \$35,000
3. Transportation Management Association, \$50,000 one-time payment and \$20,000 annually
4. Bus shelter and benches, \$40,000
5. City use of conference rooms with a minimum square footage of 500 square feet 12 days a year, valued at \$12,000
6. Contribution to Fremont Union High School District and Cupertino Union School District that includes:
  - a. Monetary contribution to FUHSD, \$18,000 annually
  - b. Monetary contribution to CUSD, \$46,000 annually
  - c. 10 days of free hotel rooms annually (5 days for each district), valued at \$3,500
  - d. Free use of Community Room when available

WHEREAS, the Development Agreement will include additional terms regarding affordable housing and the transportation demand management program; and

WHEREAS, approval of the Development Agreement will provide De Anza Venture, LLC with assurances that its development of the Property in connection with the Project can proceed without disruption caused by a change in City planning and development policies and requirements, which assurance will thereby reduce the actual or perceived risk of planning, financing and proceeding with construction and use of the development and promote the achievement of the private and public objectives of the development; and

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

A Development Agreement shall be enacted by ordinance by the City Council upon making the following findings:

- A. Is consistent with the objectives, policies, general land uses and programs specified in the General Plan and any applicable specific plan;
- B. Is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is or will be located;
- C. Is in conformity with and will promote public convenience, general welfare and good land use practice;
- D. Will not be detrimental to the health, safety and general welfare;
- E. Will not adversely affect the orderly development of property or the preservation of property values; and
- F. Will promote and encourage the development of the proposed project by providing a greater degree of requisite certainty.

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 the resolutions of concurrent applications:

The application for a Development Agreement, Application no. DA-2016-01 is hereby recommended for approval, 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. DA-2016-01 as set forth in the Minutes of Planning Commission Meeting of July 26, 2016, and are incorporated by reference as though fully set forth herein.

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PASSED AND APPROVED this 26th day of July 2016, at a meeting of the Planning Commission of the City of Cupertino by the following roll call vote:

AYES:            COMMISSIONERS:  
NOES:           COMMISSIONERS:  
ABSTAIN:       COMMISSIONERS:  
ABSENT:        COMMISSIONERS:

ATTEST:

APPROVED:

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Benjamin Fu  
Assist. Director of Community Development

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Alan Takahashi, Chair  
Planning Commission