

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
APPROVING A SIGN EXCEPTION TO ALLOW A FREEWAY ORIENTED
WALL SIGN LOCATED AT 10889 NORTH DE ANZA BLVD.

SECTION I: PROJECT DESCRIPTION

Application No.: EXC-2016-04
Applicant: Ritu Gupta (San Jose Signs)
Location: 10889 North De Anza Boulevard (APN# 326-10-058)

SECTION II: RECITALS:

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

WHEREAS, the project has been determined to be categorically exempt from the California Environmental Quality Act;

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:

SECTION III: FINDINGS

1. That the literal enforcement of the provisions of the Sign Ordinance will result in restrictions inconsistent with the spirit and intent of the ordinance.

The proposed sign is consistent with the intent of the Sign Ordinance including regulations regarding size, orientation, and illumination.

2. That the granting of an exception will not result in a condition which is materially detrimental to the public health, safety, or welfare.

The proposed sign will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, or welfare.

3. That the exception to be granted is one that will require the least modification of the prescribed design regulations and the minimum variance that will accomplish the purpose.

The proposed sign has met the requirements defined in the City's Sign Ordinance, and does not require modification to the design regulations of the ordinance.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on PAGE 3 thereof:

The application for a Fence Exception Permit, Application no. EXC-2016-04 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. EXC-2016-04 as set forth in the Minutes of Planning Commission Meeting of August 9, 2016, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval is based on the plan set received on June 16, 2016 entitled, "Cupertino Hotel", drawn by M. Albair, consisting of eight (8) sheets; 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. EXCEPTION APPROVAL

A Sign Exception is hereby granted to allow a new freeway oriented wall sign.

4. ILLUMINATION INTENSITY AND HOURS OF ILLUMINATION

The intensity of all signs shall not exceed 250 foot-lamberts. All illuminated signs shall be turned off by 11:00 p.m. A letter from the business operator shall be provided prior to final building permit approval acknowledging this condition of approval and incorporated in the building permit plans.

5. LIGHTING INTENSITY ADJUSTMENT

The City reserves the right to require the applicant to utilize dimming technology to adjust the lighting intensity of the sign when deemed necessary.

6. SIGN PERMITS REQUIRED

The applicant shall consult with the City's Building Division to obtain the necessary sign permits for this project.

7. 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.

8. INDEMNIFICATION

To the extent permitted by law, the applicant shall indemnify and hold harmless the City, its City Council, its officers, employees and agents (the "indemnified parties") from and against any claim, action, or proceeding brought by a third party against 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 and City shall use best efforts to select mutually agreeable legal counsel to defend such action, and the applicant shall pay all compensation for such legal counsel, following the applicant's receipt of invoices from City, together with reasonable supporting documentation. Such compensation shall include reasonable compensation 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. If the applicant and the City cannot in good faith agree on joint counsel, the City shall have the right to retain counsel of its own choosing, separate from the applicant's litigation counsel.

9. 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 9th day of August, 2016, at a regular Meeting of the Planning Commission Committee of the City of Cupertino, State of California, by the following roll call vote:

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

ATTEST:

APPROVED:

Benjamin Fu
Assist. Director of Community Development

Alan Takahashi, Chair
Planning Commission