

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION NO. \_\_\_\_

OF THE CITY COUNCIL OF THE CITY OF CUPERTINO  
APPROVING AN ARCHITECTURAL AND SITE APPROVAL PERMIT TO ALLOW THE  
CONSTRUCTION OF A 122-ROOM HOTEL, TWO MIXED-USE BUILDINGS WITH 188  
APARTMENT UNITS AND APPROXIMATELY 22,600 SQUARE FEET OF COMMERCIAL  
SPACE AND ASSOCIATED SITE AND OFF-SITE IMPROVEMENTS IN A PLANNED  
DEVELOPMENT ZONE AT 10122 BANDLEY DRIVE AND 10145 NORTH DE ANZA BOULEVARD

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SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2015-22  
Applicant: Amy Chan, De Anza Venture, LLC  
Property Owner: Marina Plaza, LLC (APN 326-34-066), and Cupertino 10145, LLC (APN 326-32-043)  
Location: 10122 Bandley Drive (APN 326-34-066) and 10145 North De Anza Boulevard  
(APN 326-32-043)

SECTION II: FINDINGS FOR ARCHITECTURAL AND SITE APPROVAL:

WHEREAS, 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 City Council has held at least one public hearing in regard to the application; and

WHEREAS, the Environmental Review Committee has reviewed the Mitigated Negative Declaration;

WHEREAS, the Planning Commission held a public hearing on July 26, 2016 and recommended that the City Council approve the application, subject to conditions, and adopt the Mitigated Negative Declaration; and

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

WHEREAS, the City Council 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;

*Given that the project is consistent with the General Plan, Zoning Ordinance, and the Heart of the City Specific Plan; has been designed to be compatible with and respectful of adjoining land uses; and that relevant*

*mitigation measures will be incorporated as part of the CEQA review process to mitigate potential impacts to a less than significant level, the project 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.*

2. The proposal is consistent with the purposes of Chapter 19.168, the General Plan any specific plan, zoning ordinances, applicable planned development permit, conditional use permits, variances, subdivision maps or other entitlements to use which regulate the subject property including, but not limited to, adherence to the following specific criteria:

- a) Abrupt changes in building scale should be avoided. A gradual transition related to height and bulk should be achieved between new and existing buildings.

*The Project avoids abrupt changes and provides a gradual transition by observing the height and setback requirements within the Heart of the City Specific Plan, and maintains a 1:1 slope line drawn from the curb line of De Anza Boulevard as specified in the General Plan. Landscape improvements throughout the Project site will aid in creating a transition between height and bulk between the Project and surrounding buildings.*

- b) In order to preserve design harmony between new and existing building and in order to preserve and enhance property values, the materials, textures and colors of new building should harmonize with adjacent development by being consistent or compatible with design and color schemes with the future character of the neighborhoods and purposes of the zone in which they are situated. The location, height and materials of walls, fencing, hedges and screen planting should harmonize with adjacent development. Unsightly storage areas, utility installations and unsightly elements of parking lots should be concealed. The planting of ground cover or various types of pavements should be used to prevent dust and erosion, and the unnecessary destruction of existing healthy trees should be avoided. Lighting for development should be adequate to meet safety requirements as specified by the engineering and building departments, and provide shielding to prevent spill-over light to adjoining property owners.

*The Project has been designed to integrate with adjacent buildings, and to provide an interconnected commercial and residential space accomplished by:*

- a) a central plaza that forms a hub, meeting space, and event area*
- b) corners accented by significant plazas, urban space at the retail components, and a layered softer landscape at the residential area*
- c) tall floor heights for commercial spaces that incorporate expansive glass to enhance the quality of interior spaces and increase the indoor/outdoor activity*
- d) bold corners composed of interwoven vertical and horizontal elements that create varied massing and texture.*

*The building exteriors feature stucco, smooth cementitious panel/score joints/lap siding, metal/metal frame/vertical metal siding, vinyl/metal windows, aluminum store front, stone veneer, masonry blocks, aluminum and a rich color pallet to harmonize with adjacent developments and the future character of neighborhood.*

*The location, height and materials of walls, fencing hedges and screen plantings have been designed to be consistent with the development standards of the Heart of the City Specific Plan. The majority of the parking areas is located below grade or concealed within a podium structure with some above ground parking centrally located on site. Any above ground utility installation are required to be screened from public view. The project uses various planting materials and various ground cover materials to prevent dust and erosion. The removal of trees throughout the site are necessary to accommodate the project, but will be replaced consistent with City requirements.*

*A preliminary lighting and photometric plan has been provided for the site, and final lighting for the development would be reviewed with the construction documents to meet safety requirements while preventing spill-over light to adjacent properties.*

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 3 thereof:

The application for Architectural and Site approval, Application no. ASA-2015-22 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-2015-22 as set forth in the Minutes of the City Council Meeting of September 6, 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 recommendation is based on the plan set received on June 2, 2016 consisting 134 sheets labeled as "Marina Plaza the urban village" consisting of 134 sheets labeled as T.1 to T.9, C1.0 to C5.2, R-1 to R-2, JT-1 to JT-3, A.0 to A.65, PM-1 to PM-3, SL-1 to SL-3, E-1 to E-2, and L0.02 to L5.02, drawn by Dahlin Group, VER Consultants, RGA, Bruce Jett Associates, Coffman Engineers. Inc, Emerald City Engineer, Inc. Beyond Efficiency Inc, and RGD Acoustic, Inc., 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. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. DP-2015-05, TR-2016-14, U-2015-06, DA-2016-01, EXC-2016-03, and EXC-2016-05 shall applicable to this approval.

4. 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.

5. FINAL ARCHITECTURAL DETAILS AND EXTERIOR BUILDING MATERIALS

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 and through an in-field mock-up of colors prior to application. The final building exterior plan shall closely resemble the details shown on the original approved plans.

6. 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.

7. 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.

8. 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 at a Regular Meeting of the City Council of the City of Cupertino the 6<sup>th</sup> day of September 2016, by the following roll call vote:

Vote:           Members of the City Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

\_\_\_\_\_  
Grace Schmidt  
City Clerk

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Barry Chang  
Mayor, City of Cupertino