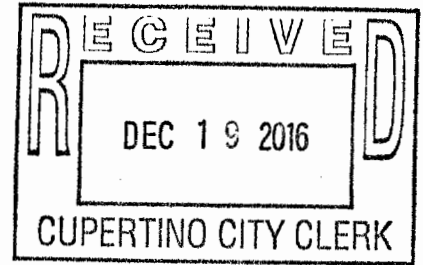




CUPERTINO

City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014
(408) 777-3223



RECONSIDERATION PETITION

NOTICE: *Reconsideration petitions are only accepted for adjudicatory matters that are quasi-judicial decisions by the City Council. The reconsideration petition is subject to the requirements of and must comply with section 2.08.096 of the Cupertino Municipal Code, available in the City Clerk's office or online at http://www.amlegal.com/cupertino_ca/. Please review this form carefully and provide a detailed explanation for each item. Failure to meet the requirements of section 2.08.096 may result in rejection of the reconsideration petition.*

1. Project for which you are requesting reconsideration:

Application No.: N/A
Applicant(s) Name: Kimberly Sandstrom

3. Contact information for party requesting reconsideration:

Name: Kimberly Sandstrom
Address: 10302 Terry Wy #1, Cupertino, CA 95014
Phone: 818-588-7420
Email: Kisaph@gmail.com

4. Date of Council meeting considering the project for which you are requesting reconsideration: 6-Dec-2016

Reconsideration petitions must be filed within ten (10) calendar days of the date of the Clerk's notice.

5. Details of grounds for reconsideration (Cupertino Municipal Code Section 2.08.096). A petition for reconsideration must specify, in detail, each and every ground for reconsideration. Failure to specify the particular ground(s) for reconsideration will preclude any omitted ground(s) from being raised or litigated in a subsequent judicial proceeding.

In addition, the grounds for reconsideration are limited to the criteria listed below. Failure to meet these grounds may result in rejection of the petition for reconsideration. Check all grounds that apply and provide detailed explanations

of the facts supporting each ground for reconsideration (provide supporting documentation and attach additional sheets if necessary):

- ☐ An offer of new relevant evidence which, in the exercise of reasonable diligence, could not have been produced at any earlier city hearing.

Explanation of new evidence and why it could not have been produced earlier:

- ☒ An offer of relevant evidence which was improperly excluded at any prior city hearing.

Explain relevant evidence and how, when it was excluded at a prior hearing:

please see attachment

- ☐ Proof of facts which demonstrate that the City Council proceeded without, or in excess of its, jurisdiction.

Explain facts and how those facts show that the Council operated outside its jurisdiction:

- ☒ Proof of facts which demonstrate that the City Council failed to provide a fair hearing.

Explain facts and how those facts demonstrate failure to provide a fair hearing:

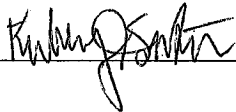
please see attachment

- ☒ Proof of facts which demonstrate that the City Council abused its discretion by:
- ☒ (a) Not preceding in a manner required by law; and/or
 - ☐ (b) Rendering a decision which was not supported by findings of fact; and/or
 - ☒ (c) Rendering a decision in which the findings of fact were not supported by the evidence.

Explain facts and how those facts demonstrate abuse of discretion related to items (a)-(c):

please see attachment

6. Signature(s)



Please complete form, include reconsideration fee of \$288 payable to City of Cupertino and return to the attention of the City Clerk, 10300 Torre Avenue, Cupertino, (408) 777-3223.

Acceptance of a petition by the City Clerk is for timeliness purposes only and does not constitute a determination that the petition meets the requirements for reconsideration under section 2.08.096 of the Municipal Code. The City reserves the right to review petitions after submission and reject those that do not meet the criteria set forth in Cupertino Municipal Code Section 2.08.096.

RECONSIDERATION PETITION attachment

Item 5

X An offer of relevant evidence which was improperly excluded at any prior city hearing.

Explain relevant evidence and how, when it was excluded at a prior hearing:

The evidence revealing

- the existence of a relationship between Ms Nguyen and Ms Ma, that in October, 2015 appeared professionally distant
- the transformation of the relationship in January, 2016, as Ms Ma exhibited a much greater interest in Ms Nguyen's life and family and began to request special consideration and invitations from Ms Nguyen
- the development, in February and March, 2016, of a relationship between the parents of Ms Ma and Ms Nguyen, and vice versa
- the existence of a relationship between Ms Ma's adult sister, who is not Ms Ma's dependent, and Ms Nguyen's supervisor, Ms Venkatraman
- Marissa Ma's status as a high school senior in December 2012

was disallowed for presentation on 11-Aug-2016, by the Housing Commission Chair. Mr Barnett forced me to stop my presentation when I reached this evidence. I had to disconnect my laptop from the projector and advance to my closing slides instead of showing the evidence to the Housing Commission. The evidence has been provided to the City Clerk and is not reattached here. The City Clerk has failed to include the evidence in the relevant documents attached to my Appeal as an Agenda item at City Council meetings.

X Proof of facts which demonstrate that the City Council failed to provide a fair hearing.

Explain facts and how those facts demonstrate failure to provide a fair hearing:

The Mayor limited my time to present to the City Council on 20-Sep-2016, after the matter was postponed on 6-Sep-2016. I indicated that ten minutes was insufficient, and I was provided an additional (approximately) ten minutes. This was still insufficient, as I had removed the evidence cited above into a separate presentation, and I was not provided time to begin that presentation. The Mayor frequently has provided much more time to individuals regarding matters much less pivotal to residents' quality of life in Cupertino. The fair and unbiased operation of the City's Below Market Rate Housing Program is a serious matter. Anyone who appeals a determination made by consultants of the City or City Staff regarding participation in the BMR program should be afforded sufficient time to present all evidence in support of their appeal.

X Proof of facts which demonstrate that the City Council abused its discretion by:

X (a) Not preceding in a manner required by law; and/or

X (c) Rendering a decision in which the findings of fact were not supported by the evidence.

Explain facts and how those facts demonstrate abuse of discretion related to items (a):

It was noted that Michelle Ma and I had essentially equivalent salary of about \$96,000 per year. It was also noted that Ms Ma's household income was about \$2,500 below the limit of \$102,050. Therefore, the household income was about \$99,550, and it was further stated that this determination by Goldfarb & Lipman was greater than the household income determined by WVCS. The City Council is

required by Section 2.6 of Policy and Procedures Manual for Administering Deed Restricted Affordable Housing Units to take action when a purchaser intentionally makes false statements or misrepresents facts in order to appear eligible. Furthermore, Marissa Ma is not Michelle Ma's dependent. Determining their household income should include an examination of Marissa's cost of living and the source for covering these costs. Because the source is not Marissa, nor Michelle, the source is outside the household and must be included in the household income.

Explain facts and how those facts demonstrate abuse of discretion related to items (c):

The City Council affirmed the Housing Commission's recommendation to find my family ineligible to purchase the BMR unit because it upheld the statement by Ms Venkatraman that my income was \$103,648.14, and therefore over the limit. However the facts I presented on 20-Sep-2016 show this is not my income. Nor was it anticipated to be my income, based on the evidence I provided at the time of my application.

Attached is my reconsideration fee of \$288, payable to the City of Cupertino.

Pursuant to paragraph C of section 2.08.096, I request that the City refund all of the fee. The reconsideration is not related to any income producing opportunity. Rather it is related to protecting my rights as an applicant to a City program for safe and affordable housing in Cupertino.