



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

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PLANNING COMMISSION STAFF REPORT

Agenda Date: February 14, 2017

SUBJECT:

Use Permit to consider allowing an existing business (Meet Fresh/Tea Chansii) to operate past 11pm in a mixed use development (Application No.: U-2016-04; Applicant: Ching-yi Fu (Easy Way Group); Owner: Main Street Cupertino Aggregator LLC; Location: 19449 Stevens Creek Blvd; APN: 316-20-112)

RECOMMENDED ACTION:

That the Planning Commission approve the Use Permit (U-2016-04) in accordance with the draft resolution.

DISCUSSION:

Application Summary:

Conditional Use Permit (U-2016-04) to allow an existing business to operate past 11 pm in a mixed use development (Main Street).

Project Data:

General Plan Designation:	Commercial/Office/Residential	
Special Area	South Vallco Gateway within the Heart of the City Special Area	
Zoning Designation:	P(CG, OP, ML, Res)	
Specific Plan:	Heart of the City Specific Plan	
Unit Size:	5,400 square feet	
Hours of Operation	Proposed	Allowed
Sunday - Thursday	11:00 a.m. – 12:00 a.m.	7:00 a.m. – 11:00 p.m.
Friday & Saturday	11:00 a.m. – 1:00 a.m.	7:00 a.m. – 11:00 p.m.
Project Consistency with:		
General Plan:	Yes	
Zoning:	Yes	
Environmental Assessment:	Categorically Exempt, Section 15301 (Existing Facilities)	

Background:

Project Site and Surroundings

The 18.7-acre Main Street project is located at the northwest corner of the Stevens Creek Boulevard and Tantau Avenue intersection. The site is bounded by Stevens Creek Boulevard to the south, Tantau Ave to the east, Vallco Parkway to the north, and the Metropolitan mixed-use development to the west.

The project includes:

- Office buildings (260,000 s.f.);
- Parking garage (1,410 spaces);
- 180-room hotel;
- 120 unit rental Loft Apartments;
- 130,500s.f. of retail development comprising of several retail buildings, including buildings labeled Shops 1-8 and pads 1-3 on Figure 1 above, arranged around a Public Park, Town square and interior plazas, a flex office/mixed-use building and a major retail building (Target Express).

Figure 1: Site Plan of Main Street Cupertino & Business Location



The office and commercial components of the project have been constructed. The loft apartments and hotel are under construction. The two businesses, Meet Fresh and Tea Chansii, have been operating, since spring 2016, in a 5,400 s.f. unit located in the building identified as Shop 8 (blue star in Figure 1 above).

Applicant Requests

The applicant, Ching Yi Fu, representing the Easy Way Group, is requesting a Use Permit to operate with extended hours of operation. The General Commercial (CG) Ordinance requires that the Planning Commission review and approve requests for hours of operation beyond the hours of 7:00 a.m. and 11:00 p.m.

Analysis:

Operational Details

Meet Fresh and Tea Chansii are multinational businesses that both have origins in Taiwan. Meet Fresh's focus is desserts while Tea Chansii specializes in assorted tea beverages. No alcohol is served. Both businesses operate in the same unit, sharing floor space and 190 seats in that space. The applicant is requesting approval to expand hours of operation to serve customers until midnight from Sunday to Thursday and until 1:00 a.m. on Friday and Saturday. Employees will remain on site until 2:00 a.m. to clean up.

Proximity to Residential Use

The businesses are located in the Heart of the City Specific Plan Area which is envisioned to serve as a gathering place that supports the creation of Main Street and downtown environment. Main Street Cupertino encourages commercial and retail use, with supportive residential development. The residential portion of the Main Street Cupertino (Loft Apartments) is located in a separate building adjacent north of the businesses. Other residential developments around the Main Street Cupertino development include: Metropolitan condominiums are located approximately 160 feet to the west of the project, and the Nineteen800 mixed use development is approximately 75 feet to the north.

The operation of the business is subject to the regulations and violations in Cupertino Municipal Code Chapter 10.48: *Community Noise Control*. The following table is a list of the businesses in the South Vallco neighborhood that have expanded hours of operation.

Name	Approved Customer Service Hours	Year Expanded Operations approved	Closest Proximity to Residential Use
Alexander's Steakhouse	Daily 7:00 a.m. to 1:00 a.m.	December 2015	510 feet (Metropolitan)
Rootstock Wine Bar	Daily 8:00a.m. – 1:00 a.m.	July 2015	490 feet (Loft Apartments)
Eureka!	Sunday – Thursday 7:00 a.m. to midnight Friday – Saturday 7:00 a.m. to 1:00 a.m.	May 2015	630 feet (Loft Apartments)
Steins Beer Garden	Sunday - Thursday 10:00 a.m. to 11:00 p.m. Friday - Saturday 10:00 a.m. to midnight	December 2015	0 feet (Rosebowl)
Lazy Dog	Monday - Saturday 11:00 a.m. – 1:00 a.m. Sunday 10:00 a.m. - midnight	July 2014	325 feet (Stevens Creek Village)

The City has not received any complaints due to the expanded hours of operation for any of the businesses above. Allowing this use to expand hours of operation is also not anticipated to impact any of the residential uses in the project vicinity.

A condition of approval has been added to allow the staff to review the operations of the business, and if warranted rescind the expanded hours of operation, in the event that there are ongoing issues with the use.

Security

The Cupertino Sheriff's sub-station, located within the development, enforces safety and security throughout the project. A condition of approval has been added to require the

property owner to address security concerns, in the event that they arise, and reimburse the City, in the event of additional Sheriff's enforcement time.

ENVIRONMENTAL ASSESSMENT

The use permit is categorically exempt from the California Environmental Quality Act (CEQA) per section 15301 (Existing Facilities) of the CEQA Guidelines because the proposed use occurs within the city limits and is surrounded by existing urban uses.

PUBLIC NOTICING & OUTREACH

The following table is a brief summary of the noticing done for this project:

Notice of Public Hearing, Site Notice & Legal Ad	Agenda
<ul style="list-style-type: none"> ▪ Site Signage (<i>at least 10 days prior to hearing</i>) ▪ Legal ad placed in newspaper (<i>at least 10 days prior to hearing</i>) ▪ 195 Notices mailed to property owners adjacent to the project site (300 foot) (<i>at least 10 days prior to the hearing</i>) 	<ul style="list-style-type: none"> ▪ Posted on the City's official notice bulletin board (<i>5 days prior to hearing</i>) ▪ Posted on the City of Cupertino's Web site (<i>5 days prior to hearing</i>)

PUBLIC COMMENTS

Three public comments from adjacent residents with concerns about the potential of noise impacts from the current proposal have been received as of the date of production of this staff report (see Attachment 4). It should be noted that the operator is required to adhere to the requirements of the City's Community Noise Control Ordinance for all activities, including nighttime activities. Any violations of these requirements would be investigated by the City and mitigated by the operator.

PERMIT STREAMLINING ACT

This project is subject to the Permit Streamlining Act (Government Code Section 65920 – 65964). The City has complied with the deadlines found in the Permit Streamlining Act.

Project Received: November 30, 2016

Deemed Complete: December 21, 2016

Since this project is Categorical Exempt, the City has 60 days (until February 21, 2017) to make a decision on the project. The Planning Commission's decision on this project is final unless appealed within 14 calendar days of the decision.

CONCLUSION

Staff recommends approval of the project since the project and conditions of approval address all concerns related to the proposed development and all of the findings for approval of the proposed project, consistent with Chapter 19.156 of the Cupertino Municipal Code, may be made.

NEXT STEPS

All approvals granted by the Planning Commission shall go into effect after 14 days. Should the project be approved, the Planning Commission's decision on this project is final unless an appeal is filed within 14 calendar days of the date of the mailing of the decision.

This approval expires on February 14, 2019, at which time the applicant may apply for a one-year extension.

Prepared by: Gian Paolo Martire, Associate Planner

Reviewed by: Piu Ghosh, Principal Planner

Approved by: Benjamin Fu, Assistant Director of Community Development

ATTACHMENTS:

1 – Draft Resolution for U-2016-04

2 – Floor Plan

3 – Business Description

4 - Public Comment