

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

RESOLUTION NO. 6856

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
RECOMMENDING DENIAL OF A TENTATIVE MAP APPLICATION TO
ALLOW THE SUBDIVISION OF THREE PARCELS INTO FIVE PARCELS – FOUR
RESIDENTIAL AND ONE COMMON (PRIVATE ROAD) LOCATED AT 10234
SCENIC BOULEVARD, APN#357-08-014 AND 357-08-047; AND RECOMMENDING
DENIAL OF A TREE REMOVAL PERMIT TO ALLOW THE REMOVAL AND
REPLACEMENT OF SEVEN (7) PROTECTED TREES LOCATED AT 10234 SCENIC
BOULEVARD, APN#357-08-014 AND 357-08-047

SECTION I: PROJECT DESCRIPTION

Application No.: TM-2015-01, TR-2016-28
Applicant: Welkin International (Cai Xing Xie)
Location: 10234 Scenic Boulevard (APN 357-08-014, 357-08-047)

SECTION II: FINDINGS FOR DEVELOPMENT PERMIT:

WHEREAS, the City of Cupertino received an application for a Tentative Map to allow the subdivision of three parcels into five parcels – four residential and one common (private road) located at 10234 Scenic Boulevard, APN#357-08-014 and 357-08-047, as identified in Section I of this Resolution, and for a Tree Permit to allow removal and replacement of seven (7) protected trees (the “Project”); and

WHEREAS, the Environmental Review Committee heard the item on October 19, 2017 during which it reviewed the Draft Mitigated Negative Declaration, received public comments, and recommended adoption of a Mitigated Negative Declaration on a 4-0 vote, with minor modifications; and

WHEREAS, a duly-noticed public hearing was held by the Planning Commission on the Project on April 10, 2018, during which the Planning Commission considered staff’s recommendations and the evidence submitted on the record, and heard testimony from the Applicant and the general public; and,

WHEREAS, the Planning Commission determined that the proposed subdivision was generally consistent with the City's general plan requirements and zoning designation for the Project site; and

WHEREAS, based on the record the Planning Commission nevertheless determined that the Project was not physically suitable for the proposed density of development at the site; and

WHEREAS, section 18.16.060 of the City's municipal code and the Subdivision Map Act (Gov. Code §§ 66410 et seq.) require denial of a tentative map application upon a finding that the site is not physically suitable for the proposed density of development; and

WHEREAS, the Planning Commission finds as follows with regard to the tentative map portion of this Application, and recommends that the City Council deny the Project based on the following findings:

1. That the design and improvements of the proposed subdivision are consistent with the General Plan.

The proposed map is consistent with the General Plan since the project is intended to have single-family homes consistent with the Low Residential (1-5 DU/ac) land use designation, and the four (4) residential lots proposed with the project is consistent with the density permitted per the General Plan. Additionally, the proposed lots are sized to be consistent with applicable zoning regulations and are comparable to adjacent residential development, and compatible with existing neighborhood orientation including homes face public streets and flag lots.

2. That the site is physically suitable for the type development contemplated under the approved subdivision.

The project will be required to make all the necessary improvements to the site to ensure that the site is suitable for development. This will include new retaining walls, slope stabilization and improvements to the right-of way.

3. That the site is physically unsuitable for the intensity of development contemplated under the approved subdivision.

The site is physically unsuitable for the intensity of development contemplated under the approved subdivision. The Project proposes construction of four houses in the subdivision which will have to be served by a single road. The Project also proposes an additional driveway leading to the single road, which will create additional traffic. These conditions will contribute to unsafe driving and road conditions on Scenic Boulevard. Further, the size,

location, and slope of the proposed parcels do not support the proposed density. While the zoning designation allows up to four (4) of dwelling units with four (4) accessory dwelling units on this site, the grading, drainage, and other infrastructure improvements required for the proposed density cannot be supported given the slope of the site and building constraints. Finally, the proposed project cannot ensure the preservation of a mature specimen trees, including Tree #39, due to the number of parcels and buildable area for homes thereon.

4. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidable injure fish and wildlife or their habitat.

As identified in the Initial Study, the subdivisions and proposed improvements will likely not cause substantial environmental damage nor substantially and avoidable injure fish or wildlife or their habitat through the incorporation of the mitigation measures identified in the Initial Study.

5. That the design of the subdivision or the type of improvements associated therewith are not likely to cause serious public health problems.

The design of the subdivision and improvements are not likely to cause serious public health problems through the incorporation of the mitigation measured identified in the Initial Study.

6. That the design of the subdivision and its associated improvements will not conflict with easements acquired by the public at large for access through or use of property within the proposed subdivision.

The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

WHEREAS, the Planning Commission further finds as follows with regard to the tree permit portion of this application:

The applicant has not demonstrated to the satisfaction of the Planning Commission that there are no reasonable alternatives to preserve the trees, as the Planning Commission has determined that the site is not physically suitable for the proposed density of development. The Planning Commission therefore finds that there may be other reasonable alternatives to preserve the trees proposed for removal, and that the Planning Commission cannot make any of the findings required by section 14.18.180 of the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the staff's report and presentation, the Initial Study/Draft MND, maps, facts, exhibits, public comments and testimony presented at the public hearing, and other evidence submitted in this matter, the Planning Commission recommends that the City Council deny Application no. TM-2015-01 for the Tentative Map Application and deny the application for the Tree Removal Permit TR-2016-28.

The conclusions and subconclusions upon which the findings specified in this resolution are contained in the Public Hearing record of these matters as set forth in the Minutes of Planning Commission Meeting of April 10, 2018, which are hereby incorporated by reference as though fully set forth herein.

PASSED AND ADOPTED this 10th day of April, 2018, Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS: Chair Paulsen, Vice Chair Takahashi, Liu
NOES: COMMISSIONERS: Fung, Sun
ABSTAIN: COMMISSIONERS: none
ABSENT: COMMISSIONERS: none

ATTEST:

/s/Benjamin Fu
Benjamin Fu
Assist. Director of Community Development

APPROVED:

/s/Geoff Paulsen
Geoff Paulsen
Chair, Planning Commission