

CITY OF CUPERTINO  
10300 Torre Avenue  
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO APPROVING  
A FENCE EXCEPTION TO ALLOW AN ELECTRONIC VEHICLE GATE TO ALLOW  
THE DEMOLITION OF AN EXISTING PUBLIC STORAGE FACILITY AND THE  
CONSTRUCTION OF A NEW PUBLIC STORAGE FACILITY CONSISTING OF  
TWO (2) FOUR (4)-STORY BUILDINGS WITH BASEMENTS  
AT 20565 VALLEY GREEN DRIVE

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SECTION I: PROJECT DESCRIPTION

Application No.: EXC-2018-01  
Applicant: Andres Friedman  
Property Owner: Storage Equities, Inc.  
Location: 20565 Valley Green Drive (APN: 326-10-044)

SECTION II: FINDINGS FOR FENCE EXCEPTION:

WHEREAS, the Planning Commission of the City of Cupertino received an application for a Development Permit 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 Planning Commission has held at least one public hearing in regard to the application; and

WHEREAS, pursuant to the provisions of the California Environmental Quality Act of 1970 (Public Resources Code section 21000 et seq.) ("CEQA"), together with the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.) (hereinafter, "CEQA Guidelines"), the City staff has independently studied the proposed Project and has determined that the Project is exempt from environmental review pursuant to the categorical exemption in CEQA Guidelines section 15332, and the exemption in CEQA Guidelines section 15183, for the reasons set forth in the staff report dated May 28, 2019 and incorporated herein; 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:

1. The literal enforcement of the provisions of this chapter will result in restriction inconsistent with the spirit and intent of this chapter.  
*Driveways gates are consistent with the intent of the chapter because the proposed driveway gates are in a secluded area and setback more than 180 feet from the property line.*
2. The granting of the exception will not result in a condition which is materially detrimental to the public health, safety or welfare.  
*The proposed driveway gates are located 180 feet away from the property line and adjacent to one (1) of the proposed buildings. A condition of approval has been added from the Santa Clara County Fire Department to ensure access in the event of an emergency.*
3. The exception to be granted is one that will require the least modification of the prescribed regulation and the minimum variance that will accomplish the purpose.  
*The exception is consistent with the fence ordinance, as the driveway gate is located 180 feet from the front property line and more than 500 feet from the nearest public right of way, in a secluded area of the project site. The security gate is not visible from the public right of way.*
4. The proposed exception will not result in a hazardous condition for pedestrian and vehicular traffic.  
*There are no publicly accessible sidewalks to the project site, so there is no hazardous condition for pedestrians. The entry gate is controlled, but has been designed to allow for vehicles to queue in the event of multiple vehicles seeking entrance at the same time. The project does not anticipate much traffic; however, the placement of the entry gate has been designed to allow for vehicles to queue in the event of multiple vehicles seeking entrance to the site at the same time. The proposed vehicular driveway gate has been reviewed by the Department of Public Works and the Fire Department, and has been determined to not result in a hazardous condition.*
5. The proposed development is otherwise consistent with the City's General Plan and with the purpose of this chapter as described in Section 19.48.010  
*The proposed driveway gate is otherwise consistent with the City's General Plan since the fence is not for a residential building and consistent with the requirements of Section 19.48.010.*
6. The proposed development meets the requirements of the Santa Clara Fire Department and Sheriff's Department, and if security gates are proposed, that attempts are made to standardize access.  
*A condition of approval has been added to ensure standardized access.*

7. The fence height for the proposed residential fence is needed to ensure adequate screening and/or privacy.

*The proposed fence is not a residential fence and therefore this finding does not apply.*

WHEREAS, on May 28, 2019, the Planning Commission held a duly noticed public hearing to receive public testimony on the Project, including the categorical exemption in CEQA Guidelines section 15332 and the exemption in CEQA Guidelines section 15183 and reviewed and considered the information contained in the staff report pertaining to the Project, all other pertinent documents, and all written and oral statements received by the Planning Commission at or prior to the public hearing; and

NOW, THEREFORE, BE IT RESOLVED that after careful consideration of the CEQA exemption memorandum, 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,

1. The Planning Commission exercises its independent judgment and determines that the Project is exempt from CEQA pursuant to CEQA Guidelines section 15332 and the exemption in CEQA Guidelines section 15183. The exemption in CEQA Guidelines section 15332 applies to an infill development project which 1) is consistent with the applicable General Plan designation and all applicable General Plan policies, as well as the applicable Zoning designations and regulations; 2) occurs within the City limits on a site of less than 5 acres in size that is substantially surrounded by urban uses; 3) is located on a site that has no value for endangered, rare or threatened species; 4) would not result in any significant effects related to traffic, noise, air quality or water quality; and 5) can be adequately served by all required utilities and public services. The exemption in CEQA Guidelines section 15183 applies to a project that is consistent with General Plan designations and zoning for the site described in the General Plan, the potential impacts of which would be substantially mitigated by the imposition of uniformly applied standard conditions of approval. The General Plan Amendment, Housing Element Update, and Associated Rezoning Final Environmental Impact Report (SCH No. 2014032007), certified by the City Council on December 4, 2014, was prepared consistent with the requirements for applicability of streamlining under CEQA Guidelines Section 15183(d)(2), and there are no environmental effects that are peculiar to the proposed project or project site that were not analyzed in the General Plan EIR;
2. The application for a Fence Exception, Application no. EXC-2018-01 is hereby recommended to be approved; and

The subconclusions upon which the findings and conditions specified in this Resolution are based are contained in the Public Hearing record concerning Application no.(s) EXC-2018-01 as set forth in the Minutes of the Planning Commission Meeting of May 28, 2019, 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 dated February 4, 2019 consisting of 26 sheets labeled as, "A Redevelopment for Public Storage" labeled as Sheet 1-26, prepared by KSP Studio and BKF;; 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-2018-03, ASA-2018-04, and TR-2019-11 are concurrently enacted, and shall be 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. SECURITY GATE LOCATION

The final location of the security gate shall closely resemble the location on the approved plans. The final placement of the gate shall be reviewed and approved by the Director of Community Development prior to issuance of building permits to consistency. Any changes determined to be substantial by the Director of Community Development shall either require a modification to this permit or a new permit based on the extent of the change.

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.

SECTION IV: CONDITIONS ADMINISTERED BY THE SANTA CLARA COUNTY FIRE DEPARTMENT

1. GATE LOCKS

Locks, if provided, shall be Fire Department approved prior to installation. Gates across the emergency access roadways shall be equipped with an approved access device. If the gates are operated electrically, an approved Knox key switch shall be installed; if they are operated manually, then an approved Knox padlock shall be installed. Gates providing access from a road to a driveway or other roadway shall be at least 30 feet from the road being exited. CFC Sec. 503.6 and 506. 30 feet is minimum requirement.

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PASSED AND ADOPTED this 28<sup>th</sup> day of May 2019, at the Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

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Benjamin Fu  
Acting Dir. of Community Development

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R "Ray" Wang  
Chair, Planning Commission