

From: [Peggy Griffin](#)
To: [City of Cupertino Planning Commission](#); [Gian Martire](#); [City Attorney's Office](#)
Cc: [City Clerk](#); [City Council](#)
Subject: 2020-05-12 PC Meeting - Agenda Item 2: Oaks/Westport - Requires another density bonus waiver!
Date: Tuesday, May 12, 2020 6:33:40 AM
Attachments: [image007.png](#)

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Please add this letter to written communications for the Planning Commission meeting scheduled for Tuesday, May 12, 2020. The letter addresses Agenda Item 2, "Development proposal to demolish a 71,250 square foot retail center (The Oaks)...".

Dear Planning Commissioners, Gian and City Attorney,

According to the Staff Report and all the documents, the applicant is requesting 3 waivers:

1. Height waiver
2. Slope setback waiver
3. Affordable units dispersed throughout the project waiver (Section 19.56.050.G.1)

I have 2 issues regarding the Density Bonus Waivers as described below.

ISSUE #1: BMR units should be distributed throughout the project site

Waiver #3 above for Section 19.56.050.G.1 should be denied because BMR units CAN be dispersed throughout the project. The senior BMR units can remain within Buildings 1 and 2. This provides a variety of affordable housing opportunities for those in need and still keeps all the senior housing units together.

All the applicant letters that lobby in favor of Waiver #3 describe this project as if it is a senior housing BMR project. This project IS NOT entirely a senior housing project because it also has the townhouses and rowhouses which are regular non-age restricted market rate units. If this project were entirely a senior citizen housing development then under Section 19.56.B it would only be allowed a max density of 20%. Also, under Section 19.56.040.A.1, no incentives or concessions would be available for a senior housing project unless it was affordable.

So, there is no reason why the BMR units should be restricted to Buildings 1 and 2! This request should be denied.

ISSUE #2: BMR units should be identical in design as market rate units

There is an additional requirement in our Municipal Code that these affordable units "shall be identical with the design of any market rate rental units" (Section 19.56.050.G.2).

Looking at the size of the units in this project (see chart below), it is obvious that this project DOES NOT MEET General Requirement 19.56.050.G.2. Not addressing this requirement sets a precedent for ALL

FUTURE PROJECTS to essentially nullify the requirement. It is part of our Municipal Code which requires that projects follow it!

In addition, it appears Buildings 1 and 2 will be built by different developers. The BMR studio and 1-bedroom units in Building 2 will not be “identical with the design” of market rate studio and 1-bedroom units in Building 1. Also, in Building 1, it’s unclear which exact units are BMR and which are market rate. There should be a similar proportion of the various sized units that are BMR and market rate. The distribution of BMR units in Building 1 should not all be studio units dispersed throughout the building! It should be a variety of unit sizes dispersed throughout the project!

REQUEST: The applicant needs to provide proof that this requirement has been met or submit a request for a 4th waiver!

Sincerely,
Peggy Griffin

SUPPORTING INFORMATION...

MUNICIPAL CODE - DENSITY BONUS LAW

-

Section 19.56.050 General Requirements

G. Affordable units shall be provided as follows:

1. Affordable units shall be dispersed throughout the project;
2. Affordable units shall be identical with the design of any market rate rental units in the project with the exception that a reduction of interior amenities for affordable units will be permitted upon prior approval by the City Council as necessary to retain project affordability.

FROM PC AGENDA ITEM #2, ATTACHMENT 8 – Project Description

ATTACHMENT A
Westport Cupertino
Enhanced Senior and Family Living Project

Table 1: Residential Product Mix/Size

	# of Units	# of Bedrooms	# of Bathrooms	Gross Square Feet (GSF)	SF Garage	Total GSF (GSF+SF Garage)
Townhouse	26	3	2.5	2468	530	2998
	44	3	3	1760	597	2357
Rowhouse	6	3	2.5	2028	660	2688
	12	3	3	1698	529	2227
Building 1 - Senior Housing	27	Memory Care Units (LG)	1	282-306		
	25	Studio	1	340-590		
	82	1	1	518-1000		
	33	2	2	1000-1200		
Building 2 - Senior Housing	18	Studio	1	500-595		
	21	1	1	624-948		

FROM ATTACHMENT 9 – Below Market Rate Project Description, Page 1 of 7

Building 1 is a 167-unit, senior living facility. Nine of the affordable units will be offered as a part of the project and be distributed throughout the building. The size of the project allows for larger, top tier, senior living management firms to be interested in operating the project.

Building 2 is a 39-unit senior living facility. It would be constructed and managed by BRIDGE Housing or an affordable housing developer with comparable senior living experience and the expertise necessary to obtain the requisite tax credit allocation and secure construction and permanent financing.

FROM STAFF REPORT, Page 19

Figure 5 Project Comparison

Project Comparison		
	Originally Proposed Project	Senior Enhanced Alternative Proposed Project
Total Unit Count	242	294
Town Houses/ Row Houses	88	88 (No Change)
Units in Building 1	115 Market Rate Condominiums	167 Senior Apartments, including 27 memory care units and 9 Below Market Rate Units
Units in Building 2	39 Below Market Rate Units	39 Below Market Rate Units (No Change)
Total Below Market Rate Units - Project Wide	39	48 (9 dispersed throughout Building 1)
Waivers Requested	Height waivers for Buildings 1 & 2	No Change
	Slope Setback waivers for Buildings 1 & 2	
	Affordable Unit Dispersion	

From: [Joseph Hauser](#)
To: [City of Cupertino Planning Commission](#); [Cupertino City Manager's Office](#); [City Attorney's Office](#); [City Clerk](#); [Gian Martire](#); [City Council](#)
Subject: 2020-05-12 Planning Commission Meeting- Agenda Item 2 The Oaks/Westport
Date: Monday, May 11, 2020 2:57:31 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please add this letter to written communications for the Planning Commission meeting scheduled for Tuesday May 12, 2020. The letter addresses Agenda Item 2. "Development proposal to demolish a 71,250 square foot retail center (The Oaks)".

1. The project, being on Stevens Creek between Mary Ave and the entrance to 85/280 will negatively impact access to the main corridor toward the city center, and access to and from Highway 85/280.
2. The area surrounding the proposed project is already a highly-impacted area for the following activities.
 - a The main entrance to De Anza College
 - b Cupertino Senior Citizens Center
 - c The main entrance to Memorial Park where there are numerous city events each year
 - d Entrance to two major highways (85 and 280)
 - e Access to the city yard facility
 - f Access to the city dog park
 - g Access to over 300 residential homes
 - h Access to a condo complex
 - i Access to the Glenbrook Apartments
 - j Bicycle path to the Mary Avenue Bridge
3. This project requires several General Plan amendments. (Setbacks, Height restrictions etc.) Why have a general plan, if every developer asks for amendments?
4. There is only one other exit area from the area being impacted. Those exits are on to Stelling Ave., and only has one traffic light on Greenleaf and Stelling. Greenleaf has a dangerously sharp S-curve right by Garden Gate Elementary School. The other exits onto

Stelling require drivers to try to get onto Stelling when there is a break in the traffic. This is virtually impossible during rush hour. With the additional traffic to be generated by this project, many drivers will find an alternative route through the neighborhood and past Garden Gate School. During rush hour, many parents use Greenleaf to let their children disembark from their cars, or cross streets to the school. This is already dangerous and will only get worse.

5. The proposed height limitation of this project is not in keeping with height limitations along other nearby highway 85 freeway entrances.

6. At times the number of cars in the turn lane from Stevens Creek on to Mary Ave. already exceeds the amount of space allocated, thereby causing backups onto regular traffic lanes. This will only get worse.

7. There are no buildings in this area with heights larger than 2 stories.

I hope the city will take these points into consideration. As a longtime resident of Cupertino, I have witnessed the area becoming a traffic nightmare, and with city promises to better resident's life being largely ignored so that developers can get their way. I am not against reasonable growth, but this project is massive, and does not fit into the area being allocated. It will not only impact the immediate area, but will impact the entire city. Recent events have indicated that residents are mostly fed up with the type of projects the city has approved. I hope this project will be an example of a new attitude by the city.

Thank you.

Joseph Hauser



20455 Silverado Avenue
Cupertino, CA 95014
Tel (408) 252-7054
www.cupertino-chamber.org

Anjali Kausar
Chief Executive Officer

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Boston Private

May 11, 2020

Cupertino Planning Commission
Cupertino City Council Members
10300 Torre Avenue
Cupertino, CA 95014

Re: Senior Housing in Cupertino

Dear Commissioners and Council Members,

There are few issues more central to the life of a community than housing.

As recently as 2018, the Cupertino Chamber of Commerce has identified affordable housing as a priority for the community. New senior housing is especially beneficial to the community as it allows members of our community with grown children to move from the larger homes they no longer need while remaining in the community (aging in place).

The Harvard Joint Center for Housing Studies recently published a [report](#) indicating that by 2035, one-in-three U.S. households (versus one-in-five now), will be headed by someone 65 or older. Many of these Baby Boomers, the report notes, intend to “age in place,” or stay in their homes or communities.

Yet, only one percent of housing stock is currently equipped with no-step entrances, single-floor living, wide halls, and doorways to allow a wheelchair, electrical controls reachable from a wheelchair, and lever-style handles on faucets and doors—[“universal design”](#) elements that help occupants age in their homes.

Appropriate senior housing is needed by our community now. And the need will continue to grow.

It is the sincere hope of the Cupertino Chamber of Commerce that the Cupertino Planning Commission and City Council will give the current proposal for senior housing their most serious consideration and support.

Sincerely,

Anjali Kausar
CEO, Cupertino Chamber of Commerce

From: [Lauren Sapudar](#)
To: [Gian Martire](#)
Subject: FW: Oaks redevelopment and bicycle / pedestrian infrastructure
Date: Monday, May 11, 2020 8:06:14 AM
Attachments: [image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)



Lauren Sapudar

Deputy City Clerk
City Manager's Office/City Clerk's Office
LaurenS@cupertino.org
(408) 777-1312



From: Gerhard Eschelbeck <gerhard@eschelbeck.com>
Sent: Sunday, May 10, 2020 2:10 PM
To: City of Cupertino Planning Commission <PlanningCommission@cupertino.org>
Cc: City Council <CityCouncil@cupertino.org>; Deborah L. Feng <DebF@cupertino.org>
Subject: Oaks redevelopment and bicycle / pedestrian infrastructure

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Written Communication/Public Comment Agenda Item 2 Oaks Redevelopment

Dear Members of the Cupertino Planning Commission,

I am a resident of Cupertino and also the chair of the Cupertino Bicycle-Pedestrian Commission. I am writing this comment solely as a resident of Cupertino.

The redevelopment of a large parcel such as the Oaks project is a unique opportunity to consider bicycle and pedestrian facilities. In particular, a safe connection between Mary and Stevens Creek Blvd for bicycle and pedestrians is a critically important need.

An earlier version of the redevelopment plans submitted proposed a dedicated bicycle / pedestrian trail connection between Mary and Stevens Creek Blvd on the far west side of the parcel, which would be a safe and dedicated connection for bicycle and pedestrian traffic. The latest version of plans seem to no longer consider such bicycle and pedestrian facility, but possibly a shared use

facility more to the center of the parcel.

I strongly recommend to reconsider the originally proposed dedicated and safe bicycle and pedestrian path. This is especially important at a time where Cupertino is making significant investment in bicycle and pedestrian infrastructure throughout the city. The lack of a dedicated bicycle / pedestrian connectivity on the property is a big miss that will impact Cupertino for many years to come. I appreciate the work the property owner has done on planning the redevelopment, and encourage the Planning Commission to review the proposed project keeping such dedicated bicycle pedestrian facility in mind .

Thanks,
Gerhard Eschelbeck.

From: [Scott Hughes](#)
To: [Gian Martire](#)
Cc: [Kitty Moore](#); [R Wang](#); [Vikram Saxena](#); [Alan Takahashi](#); [David Fung](#)
Subject: FW: City of Cupertino, CA: Westport Cupertino Planning Commission Hearing
Date: Sunday, May 3, 2020 5:10:59 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello All,

As a 25 year Cupertino home owner who lives within a mile of this site proposal, I have driven, biked and walked the Oaks neighborhood regularly.

As was seen at the previous 2 public meetings, many of us nearby residents have unique and valuable input which you will not find in the project proposal.

I would like to take the opportunity to share a little insight today.

First, after two previous failed attempts, it is very sad that this developer is even considering trying to push a 3rd flawed project proposal through during our unprecedented pandemic.

In my opinion, Cupertino should have a much higher bar of expectation which provides our residents the opportunity to share our passion, concerns and suggestions with you in person.

However, Gian has told me that email is the only option.

I am happy to see that the developer has finally listened to a small amount of the public input provided in the past.

However, this proposal still has significant concerns and I hope that you will recommend against this request for exception.

My overview of concerns:

- Existing site access challenges have been ignored/will get worse and will impact public safety
- Project could be completed with similar functionality with zero/minimal exceptions
- Site Plan does not align with the majority of consistent public feedback

I suspect some of you already have similar concerns, so rather than detail within the body of this email, I will add the detail as an appendix below.

Thank you in advance for your consideration. Good luck with this one and please stay healthy.

Regards,
Scott

Appendix:

- Existing site has ingress/egress challenges. I have witnessed many near misses of

pedestrians and cyclists due to this specific issue and unfortunately have been involved in a few myself. Regardless of the traffic reports, this proposal will make things worse for public safety. However, we have provided input which could result in improved public safety.

Suggestions:

- More balanced, re-distributed site plan will minimize usage of Stevens Creek Blvd access point (see below)
- Access point to Stevens Creek Blvd needs re-design. It should be an entrance only and site exits should only be onto Mary Ave. If this connection must have an exit, then that exit should only connect to the 85 entrance ramp. This because the present situation of exiting traffic having the option to cross the bike lane and proceed west on Stevens Creek is a disaster. If anyone does not know this or understand this, I would be willing to provide more details but per this proposal moving the exit further west is a problem. Further, the developer should work with the City to address the conflict between exiting traffic and the bike lane. If exiting traffic is restricted to 85 only, then a physical barrier between this traffic and the bike lane are preferred. I do not need to solve this problem here but it is a significant public safety risk today which gets worse in all project proposals to date.
- General site access to/from adjacent usage. Many of us have suggested pedestrian underpass and/or overpasses. Especially for seniors accessing to/from the senior center. There are many improvements possible from these options but improved public safety is the primary motivation.
- This project could meet most objectives within a 45' height envelope and within all existing setback/slope requirements. i.e., the developer could have provide a design which does NOT need any height or slope/setback exceptions but has refused to offer any such alternatives for review. I recommend that you request this from this developer.
- The usage of this proposal seems reasonable but the height distribution is backwards from most, previous resident input. If the developer really must exceed 45' to make this project feasible, then only the portion of the site directly adjacent to Highway 85 be given a height exception. This is the most common sense approach because height above 45' is the least intrusive along 85 and nobody cares about the slope/setback relative to a wide highway ramp. The proper re-distribution of height will enable the project to maintain the suburban "look and feel" that is most appropriate for this suburban site and provide an easier implementation of the needed public safety improvements.

From: webmaster@cupertino.org [mailto:webmaster@cupertino.org]

Sent: Tuesday, April 28, 2020 12:38 PM

To: scottahughes@comcast.net

Subject: City of Cupertino, CA: Westport Cupertino Planning Commission Hearing

Cupertino, CA



Westport Cupertino Planning Commission Hearing

Date: 04/28/2020 12:37 pm

Good afternoon,

This is a reminder that the Westport Cupertino project will be heard at the Planning Commission Hearing on May 12, 2020. See the [Westport City-wide Postcard](#) for the development.

The applicant has revised the scope for the application to be a Senior Enhanced alternative. The amended description is below:

Development proposal to demolish a 71,250 square foot retail center (The Oaks), remove and replace 74 protected trees, and construct a mixed-used development consisting of 294 housing units (88 Rowhouse/Townhomes, 206 senior apartments, of which include 48 senior affordable apartments and 27 memory care units) and 20,000 square feet of commercial space. The applicant is requesting a Heart of the City Exception for retail frontage along Stevens Creek Boulevard.

The changes are limited to the unit count and type in Building 1. No physical changes are proposed to the square footage of the project, tree removals, and/or building envelope of the development. The waivers requested are consistent with that of the original application. This scope was already analyzed in accordance with the California Environmental Quality Act (CEQA) as a viable alternative in the Draft Environmental Impact Report (DEIR). For further clarification and project submittals, please review the Westport Project webpage: [Westport Cupertino](#).

Please feel free to contact me if you have any questions.

Gian Martire
Senior Planner
Planning Division
GianM@cupertino.org
(408) 777-3319

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From: [Jerry Kozina](#)
To: [Gian Martire](#)
Subject: Westport
Date: Tuesday, April 28, 2020 4:25:58 PM

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Why need the on street parking space? Given increased traffic from more residents the roadway should be wider not reduced to hazardous levels.

I am appalled that this is seen as reasonable.

No to any exemptions.

Sent from my iPhone

From: [Roxanne Beverstein](#)
To: [Gian Martire](#)
Subject: Westport Cupertino
Date: Tuesday, April 28, 2020 4:45:01 PM

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We have lived in Cupertino for 40 years. Volunteered to plant trees, managed a research project for 25 years at the McClellan Ranch Preserve and have been active in political movements in the city. We do not need anymore traffic congestion in Cupertino and do not want this development where the Oaks is located. The best thing is to add another grocery store in the Oaks. Stop over crowding in Cupertino

Sent from my iPhone

From: [City of Cupertino Planning Dept.](#)
To: [Gian Martire](#)
Subject: FW: Bedord Comments for 5/12/2020 planning commission meeting
Date: Tuesday, May 12, 2020 2:20:25 PM
Attachments: [Bedord Senior Housing PPT May 12 2020.pdf](#)
[Bedord Senior Housing Script May 12 2020.pdf](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Desk item for tonight's meeting



Beth Ebben

Deputy Board Clerk
Planning Division
BethE@cupertino.org
(408) 777-3297



From: Jean Bedord <Jean@bedord.com>
Sent: Tuesday, May 12, 2020 2:42 PM
To: Beth Ebben <BethE@cupertino.org>
Cc: City of Cupertino Planning Dept. <planning@cupertino.org>; City Clerk <CityClerk@cupertino.org>; Richard Adler <radler@digiplaces.com>; Minh Le <minh@wjinst.com>; David Stearns <stearnsdave@yahoo.com>; Henry Sang <henry_sang@sbcglobal.net>; City of Cupertino Planning Commission <PlanningCommission@cupertino.org>
Subject: Bedord Comments for 5/12/2020 planning commission meeting

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Beth,

I am requesting to speak for 3 minutes during the Westport agenda item tonight. Attached are 2 PDF's - one a PPT presentation and the second a script which I will speak, but will guide you in changing slides. Please slot me sometime after Richard Adler's comments since my comments relate to the Abe Friendly Cupertino Task Force.

Please let me know if you have any problems with the materials. I can be reached on my cell, voice or text.

Warm regards,

Jean Bedord

Cell: 408-966-6174 / Land line: 408-252-5220

On Tue, May 12, 2020 at 10:01 AM Henry Sang <henry_sang@sbcglobal.net> wrote:

Beth,

Please find attached materials that I would like to be shown during the comment section for the Westport project. I am requesting a 3min comment and would like these shown during my comment. I will be speaking in the context of the Age Friendly Cupertino Task Force.

Ideally, it would be given some time after Richard Adler's comment. He will update the Commission on the Age Friendly Cupertino Task Force and our mission to advocate for the seniors of Cupertino.

Please let me know if you have difficulties with the materials. I provided PDF to make it easier but can supply PPT if needed. You can reach me on my cell by voice or text.

Sincerely,
Henry Woo Sang, Jr.
Resident since 1987
Age Friendly Cupertino Task Force
(cell for texting) +1.408.821.5152
HSang@alum.mit.edu

From: [Beth Ebben](#)
To: [Gian Martire](#)
Subject: FW: Heart of the City Exceptions
Date: Tuesday, May 12, 2020 8:15:55 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

From the general mailbox:



Beth Ebben

Deputy Board Clerk
Planning Division
BethE@cupertino.org
(408) 777-3297



From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Tuesday, May 12, 2020 7:57 AM
To: City Council <CityCouncil@cupertino.org>
Cc: City of Cupertino Planning Commission <PlanningCommission@cupertino.org>; City Clerk <CityClerk@cupertino.org>; grenna5000@yahoo.com
Subject: Heart of the City Exceptions

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Dear City Council:

Why is any developer trying to get a Heart of the City exception along Stevens Creek Blv? Heart of the City is not part of any Housing Bill and is unique to Cupertino. It is a city designated public right of way setback of 35 feet along Stevens Creek Blvd. It runs from the eastern end of Cupertino to the western end of Cupertino along both sides of Stevens Creek Blvd.

To think that it is anything else or varies from the thirty five feet public right of way setback is against the city rule of Heart of the City that dates back to the 1990s.

Heart of the City is as much a part of Cupertino as De Anza College or our City Charter.

There are people or things that want to take our City Charter from us, but Heart of the City is Cupertino's "by right", just as our City Charter is ours "by right".

Sincerely,

Jennifer Griffin

From: [Beth Ebben](#)
To: [Gian Martire](#)
Subject: FW: Heart of the City Setback and Number of Trees Being Removed in West Port
Date: Tuesday, May 12, 2020 1:53:36 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Desk item for tonight's meeting



Beth Ebben

Deputy Board Clerk
Planning Division
BethE@cupertino.org
(408) 777-3297



From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Tuesday, May 12, 2020 1:45 PM
To: City of Cupertino Planning Commission <PlanningCommission@cupertino.org>; City Clerk <CityClerk@cupertino.org>
Cc: City Council <CityCouncil@cupertino.org>; grenna5000@yahoo.com
Subject: Heart of the City Setback and Number of Trees Being Removed in West Port

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning Commission,

Could you please have the proposed setback along Stevens Creek Blvd. of the West Port project be discussed at the Planning Commission meeting. How many feet are they asking for the deviation from the Heart of the City? There should be a full 35 foot setback in the frontage along Stevens Creek Blvd. This is the western entrance and there should be no reduction in the 35 foot setback.

How many trees are being removed? There are mature oaks on this site and it looks like from the plans that all the trees are being removed. This site is named The Oaks and has many oak trees as well as replanted oak trees. Why are we removing the oak trees and are the buildings being placed so close to the existing trees that the trees will not continue to be able to grow with conflicting with the buildings?

The height of the project is very tall. Are there any second story or upper story setbacks building setbacks along Stevens Creek Blvd? That is why we have Heart of the City so that everything along the frontage of Stevens Creek Blvd. does not appear as a giant vertical wall.

Is this project taking away the parking on Mary Avenue adjacent to The Oaks/West Port.

This on-street parking is used by the Senior Center and the people going to Memorial Park. Every project in the past 15 years (and there have been at least ten) on this shopping center site has tried to take the on-street parking away. The on-street parking should not be given away with this project. All the traffic on this site should be parked on the site.

This site has very little retail. Why are we getting rid of retail on this site? If you have more housing, you need more retail. There is only 2,000 square feet of retail proposed. How much retail are we getting rid of? Remember we have shoppers from Los Altos and De Anza College and people who come down 85 and 280 to shop from other cities.

This is one of the reasons that Capitola Shopping Center in Capitola is retaining retail in their mall. The city of Capitola realizes that their mall is one of the only shopping centers for 15 miles north and south. Their mall is a destination area for people who need to shop.

The Oaks/West Port is a shopping area for Western Cupertino, Los Altos, Sunnyvale and parts of Santa Clara and West San Jose. There is also a large population of apartment dwellers as well as homeowners who live adjacent to the shopping center.

It is hoped that these questions can be addressed at the Planning Commission teleconference.

Thank you.

Sincerely,

Jennifer Griffin

From: [Beth Ebben](#)
To: [Gian Martire](#)
Subject: FW: Oak Trees at The Oaks/West Port
Date: Wednesday, May 13, 2020 8:57:25 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
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[image022.png](#)
[image023.png](#)
[image024.png](#)

From the general mailbox:



Beth Ebben

Deputy Board Clerk
Planning Division
BethE@cupertino.org
(408) 777-3297



From: Lauren Sapudar <LaurenS@cupertino.org>
Sent: Wednesday, May 13, 2020 8:17 AM
To: Beth Ebben <BethE@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>
Subject: FW: Oak Trees at The Oaks/West Port



Lauren Sapudar

Deputy City Clerk
City Manager's Office/City Clerk's Office
LaurenS@cupertino.org
(408) 777-1312



From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Wednesday, May 13, 2020 7:16 AM
To: City Clerk <CityClerk@cupertino.org>

Subject: Fw: Oak Trees at The Oaks/West Port

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

FYI. Please include with Public Record. Thank you. Also, for the June 2, 2020 City Council meeting.

----- Forwarded Message -----

From: Jennifer Griffin <grenna5000@yahoo.com>
To: CityCouncil@Cupertino.org <citycouncil@cupertino.org>
Cc: grenna5000@yahoo.com <grenna5000@yahoo.com>
Sent: Wednesday, May 13, 2020, 07:10:49 AM PDT
Subject: Oak Trees at The Oaks/West Port

Dear City Council:

Why are we cutting down all the oak trees at The Oaks Shopping Center? There were many oak trees on the property. There were also many young oaks that were replanted at the shopping center in 2007. This was done at City Council directive because we had many in depth City Council meetings and Planning Commission meetings about it as well as ERC meetings. I mean we went tree by tree by tree.

The two oaks at the Stevens Creek Blvd. Oaks Shopping Center entrance were replanted as a result of this. I remember we had the maps of the shopping center and the City Council went tree by tree by tree. This is why Cupertino looks the way that it does. We care about our city. We care about the trees in our city.

I am proud that my city took the time to replant oaks at a shopping center in my city.

Sacramento may not care about oak trees, but Cupertino does.

Everything that is bad about the Big Housing bills comes out when Sacramento tries to mow down young oak trees in a parking lot. What does this say to the people of the state?

We hate your trees? The symbol of California?

Please do everything you can to protect our oak trees.

Thank you.

Sincerely,

Jennifer Griffin

From: [Deborah L. Feng](#)
To: [Gian Martire](#)
Cc: [Albert Salvador, P.E.](#); [Benjamin Fu](#)
Subject: FW: Oaks Shopping Center
Date: Monday, May 11, 2020 9:18:25 AM
Attachments: [image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)

Just a head's up.



Deborah L. Feng

City Manager
City Manager's Office
DebF@cupertino.org
(408) 777-3250



From: Jon Robert Willey <JWilley@cupertino.org>
Sent: Monday, May 11, 2020 2:23 AM
To: Deborah L. Feng <DebF@cupertino.org>
Subject: Fw: Oaks Shopping Center

FYI

From: Stan Barkey <stanbarkey1@gmail.com>
Sent: Monday, May 4, 2020 5:23 PM
To: City Council <CityCouncil@cupertino.org>
Subject: Oaks Shopping Center

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Looking at the most recent Environmental Impact Report, the study based traffic calculations on an assumption of recent occupancy at 85%. This seems to be far from the actual occupancy. More accurate occupancy rate is less than 60%.

This error makes all calculations of potential traffic impact completely worthless. The proposed number of residents and workers when added to the traffic from DeAnza students and staff will create absolute gridlock from Bubba to Stelling virtually all day.

Please raise this issue with the developer and do not approve this project.

Stan Barkey

40 year Momta Vista resident

From: [Lauren Sapudar](#)
To: [Benjamin Fu](#); [Gian Martire](#)
Cc: [Deborah L. Feng](#)
Subject: FW: Questions about the Westport Development, 21267 Stevens Creek Boulevard
Date: Monday, May 18, 2020 7:44:06 AM
Attachments: [image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)



Lauren Sapudar

Deputy City Clerk
City Manager's Office/City Clerk's Office
LaurenS@cupertino.org
(408) 777-1312



From: yuwen su <yuwen_su@yahoo.com>
Sent: Sunday, May 17, 2020 11:07 PM
To: City Council <CityCouncil@cupertino.org>
Subject: Questions about the Westport Development, 21267 Stevens Creek Boulevard

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor and Councilmembers:

I have some questions regarding the Westport Development, 21267 Stevens Creek Boulevard and need your help to clarify:

1. The site is separated into two parcels. If the project is approved, before starting the construction work, can the developer sell out one of the parcel?
2. Can City issue the use permit on the other buildings if the construction schedule for one the building is delayed?
3. After the entire project finished, if the developer cannot find the organizations to operate the memory care units, can city approve to convert those units to regular housing?

Thanks

Yuwen Su
7720 Orogrande Place

Please keep my E-mail in the public records.

From: [City of Cupertino Planning Dept.](#)
To: [Gian Martire](#)
Subject: FW: Westport Bike Pedestrian Right of Way
Date: Tuesday, May 12, 2020 1:27:21 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Desk Item for tonight's meeting



Beth Ebben

Deputy Board Clerk
Planning Division
BethE@cupertino.org
(408) 777-3297



From: Byron <brovegno@sbcglobal.net>
Sent: Tuesday, May 12, 2020 11:59 AM
To: City of Cupertino Planning Commission <PlanningCommission@cupertino.org>
Subject: Westport Bike Pedestrian Right of Way

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioners:

The redevelopment plan for The Oaks submitted by KT Urban in 2017 included a ten foot easement [or donation to the city] along the sound wall for bike pedestrian access and the current plan does not. This is unfortunate because that easement would have provided for:

1. Continuation of the Junipero Sierra Trail to Stevens Creek Blvd
2. A possible landing for a bike pedestrian bridge across Rt 85
3. A possible extension across Stevens Creek Blvd to DeAnza College
4. Protection from vehicular traffic.

I would like to suggest consideration by the Commission of the following:

1. Insist on KT Urban deeding the ten feet along the sound wall to the city
2. In exchange, KT Urban could receive an equivalent offsetting increase to their parcel by doing away with some of the head in parking on Mary Avenue.

Possible benefits:

1. Biking or walking along the sound wall is safe from traffic.
2. The current situation on Mary Avenue with the bike lane behind cars that are parked head in is dangerous for cyclists.
3. Having to cycle through Westport means dealing with commercial, townhouse and apartment

traffic which is likely to be substantial.

This is your time to make a decision with a lasting effect on biking and walking in Cupertino. Thank you for your consideration.

Byron Rovegno

Walk-Bike Cupertino Advisory Board Member

Sent from [Mail](#) for Windows 10

From: [Beth Ebben](#)
To: [Gian Martire](#)
Subject: FW: Westport Cupertino
Date: Wednesday, June 3, 2020 3:34:54 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

From the general mailbox:



Beth Ebben

Deputy Board Clerk
Planning Division
BethE@cupertino.org
(408) 777-3297



From: Peter Hirsch <pmhirsch@gmail.com>
Sent: Wednesday, June 3, 2020 3:17 PM
To: City of Cupertino Planning Commission <PlanningCommission@cupertino.org>
Subject: Westport Cupertino

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I am concerned about the fact there are no plans to accommodate pedestrian traffic from/to Westport to/from DeAnza College. There needs to be a bridge or underground walkway over or under Stevens Creek Blvd to accommodate the pedestrian traffic. Pedestrians need to cross both Mary Avenue and Stevens Creek Blvd and this causes multiple delays of traffic when DeAnza is in session.

Students park on Mary Avenue and some may park at Westport. In addition students may want to access shops at Westport and residents at Westport may want to attend school or events at DeAnza.

Peter Hirsch
10575 Meteor Pl, Cupertino, CA 95014
4088025325

--

Peter M. Hirsch

Cell: 408-802-5325

e-mail: pmhirsch@gmail.com

From: [Beth Ebben](#)
To: [Gian Martire](#)
Subject: FW: Westport Shopping Center bypass path
Date: Tuesday, May 12, 2020 1:55:33 PM

Desk item for tonight's meeting

--

Beth Ebben
Deputy Board Clerk
Planning Division
BethE@cupertino.org
(408) 777-3297

-----Original Message-----

From: Matt Widmann <mattwdmn@gmail.com>
Sent: Tuesday, May 12, 2020 1:54 PM
To: City of Cupertino Planning Commission <PlanningCommission@cupertino.org>
Subject: Westport Shopping Center bypass path

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi,

I'm a Cupertino resident and often used the Don Burnett Bicycle-Pedestrian Bridge during my commute. What keeps me from using it more often is its lack of a connection to other safe bicycle infrastructure. It's usually safer during commute hours, with the current infrastructure for me to find an alternate route that avoids Mary Ave. and Homestead Road.

I noticed that the new plans submitted for the Westport Shopping Center don't include a bike path on the western side of the complex. It's really important to consider how residents who are walking and biking will be affected by the new development. Consider a map of the development area with Mary Ave. wrapping around the north and east and Steven's Creek on the south. Mary Ave. southbound bicyclists have to cross every single entrance to the complex to go westbound on Steven's Creek Blvd. without this path -- they have to wrap around to the east and come back around to the west, only to deal with an extremely tricky 85 on-ramp lane switch.

Please urge the developer to add a path to the west of the complex that bypasses the tricky intersections and parking required for the complex.

— Matt

From: [Munisekar](#)
To: [City Council](#); [Cupertino City Manager's Office](#); [City Clerk](#); [City Attorney's Office](#); [City of Cupertino Planning Dept.](#); [Gian Martire](#)
Subject: OAKS development proposal.
Date: Sunday, May 24, 2020 12:42:07 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor, City Council & Manager,

As you may know, I went on the record saying that I like the latest OAKs development proposal for the mix it is offering but did not like the 91 feet height aspect of it. In fact, many residents spoke about it during the planning commission meeting and the commission deliberated about the same. I would like you to work with the developer to bring it down to 60 feet height maximum.

Sitting through the planning commission meeting, I was appalled to watch the failure and incompetence of city staff & legal staff to answer questions of the planning commission. It felt like we might as well throw the General Plan in dust bin and relieve the entire city staff & legal staff involved in this process and it would not have made any difference to the outcome. If we are going to roll over and play dead in front of developers, please take necessary steps to save tax payer money by reducing staff involved in this matter.

I learned that the developer kept changing the plans to be reviewed by the planning commission up until 2 or 3 days before the scheduled meeting. Don't we have requirements for the developer to freeze the plan X-number of days ahead of review so that the public and commission have time to review?

I also heard through grapevine that the developer is still working on modifying the plan before getting it to the council. Doesn't that mean they need to take it back to planning commission again with the changed plan? Doesn't the change invalidate the previous approval by the commission?

As far as I know, none of the state laws suggest to stomp over the general plans; they give the developers a speedy approval process while still staying within the general plan and municipal guidelines.

As a council elected to represent residents interest against developers maximizing profits at the cost of residents quality of life, if you think our legal staff is not competent enough to provide the necessary legal advice, what not get some external legal advice? This is pretty common in private enterprises where consultants are brought in to fill the gaps.

Please don't lose the confidence of residents by rolling over and playing dead. I understand you are under pressure from corrupt politicians from Sacramento. We would appreciate you standing up against these corrupt forces.

Thanks

Muni Madhhipatla
Cupertino Resident.

From: [Munisekar](#)
To: [City of Cupertino Planning Dept.](#); [Gian Martire](#); [City Attorney's Office](#); [City Clerk](#); [City Council](#); [Cupertino City Manager's Office](#)
Subject: OAKS/Westport Development.
Date: Tuesday, May 12, 2020 3:59:49 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Planning Commission,

As a resident vested in this community, I am really concerned about how this development is trying to circumvent the general plan. If every developer is going to find ways to circumvent the general plan, why have one?

Please reign-in this development to stay within the envelope of our general plan. As it is, we have traffic nightmare and over crowded schools. We don't need to aggravate this further.

I am supportive of a residential development that stays within the general plan envelope; any deviations will face severe objections from residents like me.

Please record this as part of Oral Communications; I will try to join the meeting.

Regards
Muni Madhhipatla
Cupertino Resident.

From: [Cupertino ForAll](#)
To: [City of Cupertino Planning Commission](#); [City Attorney's Office](#); [City Clerk](#); [Cupertino City Manager's Office](#); [Benjamin Fu](#); [Gian Martire](#)
Subject: Public Comment Item 2 Letter—Westport Project
Date: Tuesday, May 12, 2020 5:05:30 PM
Attachments: [Westport Project HAA Compliance Letter.pdf](#)
[40 Main Street Offices LLC v City of Los Altos, 19CV349845.pdf](#)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino Planning Commission,

Please accept a letter from the executive leadership of Cupertino for All, which outlines why the city and its Planning Commission must be cautious when approaching the Westport Project Application, such that it does not violate the **Housing Accountability Act and State Density Bonus Law**. Especially during this time of financial crisis, we cannot risk any potential litigation. Though we acknowledge that the project could make better and grander use of its allotted land, we also recognize that this would require a GPA that the developer is hesitant to approach—understandable given certain tendencies to limit density from city leadership.

On behalf of numerous residents and the future of this city's reputation and financial solvency, we ask that you read our letter in detail and highly consider the implications of any decisions made tonight.

Sincerely,
Cupertino for All

From: [Kirsten Squarcia](#)
To: [Peggy Griffin](#); [Gian Martire](#)
Cc: [City Clerk](#); [City Attorney's Office](#)
Subject: RE: Oaks/Westport parcel changes? IMPORTANT questions (to me)
Date: Tuesday, May 12, 2020 4:07:46 PM
Attachments: [image003.png](#)
[image005.png](#)
[image007.png](#)
[image009.png](#)
[image011.png](#)
[image013.png](#)
[image014.png](#)

Hello Peggy,

I've moved the Council and Planning Commission to blind copy. Confirming that your email has been received by the Planning Commission Deputy Board Clerk and will be included in the public record for tonight's meeting.

Regards, Kirsten

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, May 12, 2020 3:25 PM
To: Gian Martire <GianM@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>; City of Cupertino Planning Commission <PlanningCommission@cupertino.org>; City Council <CityCouncil@cupertino.org>; City Attorney's Office <CityAttorney@cupertino.org>
Subject: RE: Oaks/Westport parcel changes? IMPORTANT questions (to me)

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

CITY CLERK: Please include this email in the written communications for tonight's May 12, 2020 Planning Commission meeting, Agenda Item #2, The Oaks/Westport project.

Gian,

I've added others on this email because I'm afraid you may not have time to answer these questions and I want them to think about this.

I'm hoping you have time to answer these questions because this is my fear...regarding this project.

Q1: Is there anything in our municipal code or somewhere else to prevent them from doing the following:

- Get the bonus density across both parcels
- Build the parcel with the senior housing and all the bonus density and BMR.
- Sell the second parcel undeveloped
- Second developer comes in, decides they want to build something else.
- Second developer requests a bonus density on just the second parcel

Q2: (IMPORTANT) Because they only want to restrict the BMR to the one parcel, can the City require them to only get a bonus density on that one parcel?

Q3: Can the City prevent them from double dipping on the bonus density via selling the second parcel?

Q4: If the height and setback waivers are granted for the project, does it apply to BOTH parcels? Can the second parcel be sold and the new owner claim these waivers to request a different parcel?

Thank you for your time and effort on this project.

Peggy

From: Gian Martire <GianM@cupertino.org>

Sent: Tuesday, May 12, 2020 8:33 AM

To: Peggy Griffin <griffin@compuserve.com>

Subject: RE: Oaks/Westport parcel changes?

Hi Peggy,

Sheet VTM-1 shows the new property lines. This separates the project between the senior housing component and the Rowhouse/Townhome component. Further, the VTM shows the required dedications to the City, street improvement locations, as well as Bike/Ped easements through the site.

Cupertino Logo



Gian Martire

Senior Planner
Planning Division

GianM@cupertino.org

(408) 777-3319



From: Peggy Griffin <griffin@compuserve.com>

Sent: Tuesday, May 12, 2020 6:55 AM

To: Gian Martire <GianM@cupertino.org>

Cc: City Clerk <CityClerk@cupertino.org>; City of Cupertino Planning Commission
<PlanningCommission@cupertino.org>

Subject: Oaks/Westport parcel changes?

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you

recognize the sender and know the content is safe.

Hi Gian,

I'm trying to figure out if the Oaks project parcels will be changed and if so, how. I don't see any discussion regarding any change except it was mentioned, I think, in one of the documents.

Currently, on the SCC Tax Assessor's Map of the Oaks consists of 2 parcels (see attached PDF):

Parcel 1 = APN 326-27-42 which is 1.214 net acres

Parcel 2 = APN 327-27-43 which is 6.683 net acres

One of the documents mentioned the lot would be 2 parcels as follows:

1 parcel = 4.7 acres

1 parcel = 3.1 acres

Q: Can you point me to a place that shows these new parcels and the discussion as to why this is being done?

Thanks,

Peggy

From: [Peggy Griffin](#)
To: [City Council](#); [Deborah L. Feng](#); [City Attorney's Office](#); [Heather Minner](#)
Cc: [City Clerk](#); [City of Cupertino Planning Commission](#); [Gian Martire](#)
Subject: Support Oaks/Westport Project IF DEED RESTRICTIONS and PENALTIES are in place
Date: Monday, May 18, 2020 12:00:09 AM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council, City Manager and City Attorney,

Many of us are not happy with the height, setback and BMR distribution waivers for the Westport Project. Other than making Building #2 completely BMR senior housing, I do not see any reason why BMR housing cannot be dispersed throughout Building #1 and the non-age restricted Townhouses and Rowhouses.

That said, I think overall this project is good for Cupertino **BUT deed restrictions need to be placed on the individual parcels** to protect the City's, the BMR residents and the public's rights in exchange for giving up so much height, setback and BMR distribution. No one knows what the future holds or what circumstances may change which might cause a change in ownership or management of the individual buildings or parcels. So, it behooves the City to ensure that it receives and continues to receive the benefits it agreed to in exchange for these serious waivers.

The City is about to approve the Westport/Oaks Project with ground floor retail and with 3 density bonus waivers for

1. Height (max 45 ft)
 - a. Building #1 is over double the maximum height at 91.75 ft!
 - b. Building #2 is 28 ft over at 73'9"
2. Setbacks requirement of 1:1
 - a. Building #1 is 1:2.08 (less than half of the required setback!)
 - b. Building #2 is 1:1.47 (about 2/3rds of the required setback)
3. Lack of BMR distribution throughout the project area

Past approvals for another project, Main Street, were based on a certain square footage of ground floor retail in 2 office buildings available to the public and senior housing. Both of these have been failures. Height, setbacks, etc. were given without receiving the expected benefits and no provisions for enforcement!

This project can be different! The City can start by putting in place mechanisms to ensure the key elements continue to be followed regardless of who owns the parcel, who rents or manages the individual buildings. If one or more parcels are sold or management of Buildings 1 and 2 are different, these benefits remain constant!

REQUEST1: Put deed restrictions on the 2 individual parcels as described below.

PARCEL #1 - DEED RESTRICTION for senior housing parcel includes

1. Ground floor retail
 - a. ALL ground floor retail in Buildings #1 and #2 are open to the public and are not used as residential amenities!
Building #1 has 17,600 sf of retail
Building #2 has 2,400 sf of retail
2. Both Buildings #1 and #2 are senior housing only
3. All amenities in Building #1 will always be available to residents of Building 2 on the same days/hours
 - a. Building #1 amenities:
primary

eatre
unge
ercise Room
hicle drop off/pickup
tail space (17,600 sf)
ces

y other amenities provided

4. All amenities in Building #2 will always be available to residents of Building 1 on the same days/hours

a. Building #2 amenities:

mmunity Room

of deck (1,200 sf)

tail space (2,400 sf)

y other amenities provided

PARCEL #2 - DEED RESTRICTION FOR parcel containing Townhouses and Rowhouses:

1. Prevent double dipping using the Density Bonus Law-Since the density bonus has already been applied to BOTH parcels but all BMR will be built on the first parcel (senior housing), the Bonus Density Law should not be allowed to be used again later on the second parcel (townhouses/rowhouses) should the ownership or economic situations change. A max density based on the approval of 70 Townhomes and 18 Rowhouses should be specified. This is particularly important before anything is built on the parcel. It can be done in a deed restriction!
- a. The City of Milpitas has a provision for this case

JK: http://www.ci.milpitas.ca.gov/_pdfs/plan_plan_tasp_chapter3.pdf

ge 10 of 42, page 3-10

On all sites throughout the Transit Area, densities can be averaged over an individual project which vers multiple parcels. Densities may also be averaged over separate projects, if so requested by velopers and approved by the Planning Department, provided that legal instruments are recorded for ividual parcels to ensure that the minimum and maximum densities established by the Plan are t...”

- b. Maybe specify the max density as approved.

If the developer is sincere about providing the agreed upon benefits, then he should not be hesitant about agreeing to these deed restrictions!

REQUEST2: Require that the deed restrictions be approved by the City Manager, the City Attorney and RECORDED with the County of Santa Clara PRIOR TO ISSUING ANY construction document. It’s too late if you wait until the Occupancy Permit. The City has no leverage to ensure any of it is followed. With Main Street, leases were signed excluding all retail for up to 25 years! It took 6 months to correct meanwhile the developer was receiving rent, employees were in the building and there was no strong incentive to correct the error. It’s still not what was intended as ground floor retail!

REQUEST3: Put in place a legal instrument (municipal code, etc.) with daily penalties if deed restrictions are not followed!

From the past, we know that City Council Resolutions are not law and are not enforceable.

Put in place something that IS enforceable! Please protect the City, the BMR residents and the public.

Sincerely,

Peggy Griffin

From: [Larry Dean](#)
To: [Chad Mosley](#)
Cc: [Deborah L. Feng](#); [Roger Lee](#); [David Stillman](#); [Gian Martire](#); [Steven Scharf](#)
Subject: Thank you for your work on the Westport Project
Date: Thursday, May 14, 2020 1:20:21 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Chat (& team) - Thank you for finding a solution to the Westport access route problem. I was pleased to see it in the slide deck and trust that it will still be there when it gets passed by council.

While this wasn't the community's first priority, the Class III lane designation is a good solution. In the years to come the Mary Ave route and linkages to parts South and West will become very busy, so preserving this lane was very important.

Looking forward to continuing our quest to make it safer and easier to walk and bike in our city.

Larry Dean

May 12, 2020

Cupertino Planning Commission
10300 Torre Ave, Cupertino
Cupertino, CA 95014



For public comment: Item 2, Westport/The Oaks

To the Cupertino Planning Commission and city staff:

The Westport proposal before you today represents an important opportunity for Cupertino to provide much-needed housing for our community—especially below market rate and senior housing. While we remain disappointed that a project at this site could better serve the community given its prominent location at the western gateway to the Heart of the City, and proximity to De Anza College, Memorial Park, and the Senior Center, we understand the project applicant’s desire to avoid a General Plan amendment that would otherwise facilitate an even better use of this space.

As you review the project today, we encourage you to be mindful of current developments in the direction of the law with respect to the Housing Accountability Act (“HAA”) and the Density Bonus Law (“DBL”). To that end, we draw your attention to the recent Santa Clara County Superior Court ruling in *40 Main Street Offices LLC v. City of Los Altos, et al.*, Case No. 19CB349845, which we have attached herewith for your reference. We note that this case—as a trial-level decision—does not constitute binding authority. However, it is exhaustive in its review of both the facts and the law and represents the most thorough local judicial treatment of these to laws to date. As such, we expect it to be highly persuasive with the bench of the Superior Court in Santa Clara County and very likely to inform the reasoning of its judges.

We also ask that you, with the assistance of the city attorney’s office, be mindful of how subdivision (f)(4) of the HAA (codified at section 65589.5 of the Government Code) applies to the project applications before you. That subdivision reads:

For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity. Cal. Gov’t Code § 65589.5(f)(4).

The above subdivision thus fulfills a sorting function to ensure that if substantial evidence—and not some other higher evidentiary standard or discretionary preference—exists in support of a project’s conformity with relevant planning standards and policies, that the HAA would mandate a finding of consistency with such standards and policies.

Given the city's current financial strain amid the coronavirus pandemic, we strongly urge you to avoid recommending any findings of fact or interpretive conclusions that would tend to increase the city's legal exposure under either the HAA or the DBL. Should the city's ultimate decision on this set of applications result in litigation, it would not only needlessly damage the city's treasury in a time of crisis, but cement the city's already unfortunate image as opposing housing production.

On behalf of Cupertino for All and its membership,



Neil Park-McClintick
Chair, CFA



J.R. Fruen
Chair, CFA Housing Policy Committee

Attachment: Copy of Superior Court of the State of California, County of Santa Clara Order dated April 24, 2020 disposing of *40 Main Street Offices LLC v. City of Los Altos, et al.*, Case No. 19CB349845.

May 12, 2020

Cupertino Planning Commission
10300 Torre Ave, Cupertino
Cupertino, CA 95014



For public comment: Item 2, Westport/The Oaks

To the Cupertino Planning Commission and city staff:

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We also ask that you, with the assistance of the city attorney’s office, be mindful of how subdivision (f)(4) of the HAA (codified at section 65589.5 of the Government Code) applies to the project applications before you. That subdivision reads:

For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity. Cal. Gov’t Code § 65589.5(f)(4).

The above subdivision thus fulfills a sorting function to ensure that if substantial evidence—and not some other higher evidentiary standard or discretionary preference—exists in support of a project’s conformity with relevant planning standards and policies, that the HAA would mandate a finding of consistency with such standards and policies.

Given the city's current financial strain amid the coronavirus pandemic, we strongly urge you to avoid recommending any findings of fact or interpretive conclusions that would tend to increase the city's legal exposure under either the HAA or the DBL. Should the city's ultimate decision on this set of applications result in litigation, it would not only needlessly damage the city's treasury in a time of crisis, but cement the city's already unfortunate image as opposing housing production.

On behalf of Cupertino for All and its membership,



Neil Park-McClintick
Chair, CFA



J.R. Fruen
Chair, CFA Housing Policy Committee

Attachment: Copy of Superior Court of the State of California, County of Santa Clara Order dated April 24, 2020 disposing of *40 Main Street Offices LLC v. City of Los Altos, et al.*, Case No. 19CB349845.

Dear City Council,

I am writing to you to voice my concerns about the Westport project proposal.

My first concern is that after two failed attempts this developer is trying to push the proposal through during this unprecedented time; likely because he knows there will be less opposition during Shelter in Place. I do realize there is an option to speak via video but knowing our community I believe this will result in less resident speakers and more 'out of town' speakers; which falsely 'stacks the deck' in the developer's favor. I hope that you will take this into account when considering the proposal.

My next concern is the developer's attitude and approach since acquiring this property. Unfortunately, the May 12 Planning Commission meeting minutes are not available yet, but my interpretation of the developer's presentation is that "the City cannot reject the present proposal". I understand the need for housing, but does this really mean that all existing zoning must be ignored? I hope that one of you will ask this developer "you have owned this property for a few years, why have you never presented one proposal which meets all of the existing zoning requirements for this site"? Regardless of what you think about this present proposal, I believe it is important for all of us to understand each developer's character and approach. Honest answers to reasonable questions will inform us all if this is the type of developer we want to continue to welcome for additional development in the future.

For this present proposal, the mix of housing and retail seem reasonable. However, I cannot understand this developer's desire to ignore the site plan input received at both of the previous public meetings. In my opinion, all of the needs satisfied in this present proposal could have been met by an alternate site plan which stayed within the 45' height limit and met existing setback rules. If there is some unexplained need to exceed 45', that should be done at the western end/next to the freeway ramp where it would be less intrusive. Part of the concept of good design is "to fit within your surroundings". Although DeAnza college has some buildings at or above 45', they are setback by > 100' and surrounded by mature evergreens. If one looks in all directions from Westport, there are only 1 and 2 story buildings in all directions and no plans to go any higher within a mile of this Westport site. To be very honest, 80+ feet overlooking our one-story Senior Center "just looks stupid". It is my hope that you will consider steering this proposal toward a more appropriate, 'evenly distributed height' type of site plan.

Finally, if you decide to proceed with the present proposal in any form, my biggest concern is the exit onto Stevens Creek Blvd. In my opinion, this should be entrance only and exiting traffic should flow only onto Mary Ave. I believe this maximizes public safety. I realize the trip data and traffic studies indicate the exit onto Steven Creek 'meets criteria'. However, these analyses are not done by residents who understand the unique safety challenges in this area. The present Oaks exit onto SCB has caused many 'near misses' for cars/bicyclists and I have first-hand experience of this danger. This existing conflict of exiting traffic with others trying to merge onto NB 85 results in a hazardous 'criss-cross' right on top of a bike lane. The project proposal of a denser site moving the exit west will be more dangerous. Potential, future bike lane improvements may or may not help but we cannot reduce public safety in the interim. My recommendation would be that this connection to SCB be an entrance only. If you cannot reach a consensus on this suggestion, then I believe the next safest alternative for traffic exiting to SCB would be to physically restrict this traffic to only be capable of connecting to the NB 85 freeway entrance ramp. (i.e., exiting traffic will not be able to cross the bike lane to drive west on SCB).

Thank you for your consideration.

Regards,

Scott Hughes (25-year Cupertino Resident)

From: [Jill Esquivel](#)
To: [Gian Martire](#)
Subject: Cupertino Westport development plans
Date: Saturday, June 27, 2020 1:28:51 PM

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Dear Mr. Martire,

I am a long time 39 yr. resident of Cupertino and home owner near the Oaks property. I read the detailed plans awhile back and had two impressions: the design looks very beautiful but way too congested. Two of the buildings are 5 stories tall and are very close to Stevens Creek Blvd. The rowhomes/ townhouses are cleverly designed but house only 88 families. Perhaps we could have less apts and more rowhouses. Out of the 206 apts there are only 48 affordable. What are the 27 memory units? If they are to house Alzheimer type patients they would need 24 hr supervision, where do the care givers live? Would this area be supervised like a nursing home?

My main points are it is way too dense, unattractive from the street and way too many cars are going to exit onto Stevens Creek blvd as each housing unit has at least two cars in this area. The freeways, 85 and 280 will be impacted, not to mention the schools.

In conclusion it would be much better for the city to reduce the number of units incorporate more green space and make the impact of this development less stressful to the eye.

Thank you for taking the time to read this. Are you a Cupertino city employee or one for Westport developer?

Regards,
Jill Esquivel

From: [Lauren Sapudar](#)
To: [Benjamin Fu](#); [Gian Martire](#)
Cc: [Deborah L. Feng](#)
Subject: FW: Westport/Oaks: Some Thoughts on Density, Defaults, Concessions And Contingencies
Date: Monday, June 15, 2020 7:52:41 AM
Attachments: [image009.png](#)
[image010.png](#)
[image011.png](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)

FYI



Lauren Sapudar

Deputy City Clerk
City Manager's Office/City Clerk's Office
LaurenS@cupertino.org
(408) 777-1312



From: Danessa Techmanski <danessa@pacbell.net>
Sent: Saturday, June 13, 2020 10:50 PM
To: Deborah L. Feng <DebF@cupertino.org>; Steven Scharf <sscharf@cupertino.org>; Liang Chao <LiangChao@cupertino.org>; Darcy Paul <DPaul@cupertino.org>; Jon Robert Willey <JWilley@cupertino.org>; Rod Sinks <RSinks@cupertino.org>
Cc: Heather Minner <HeatherM@cupertino.org>
Subject: Westport/Oaks: Some Thoughts on Density, Defaults, Concessions And Contingencies

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor, City Council & City Manager,

I hope that this email finds you all well.

I am writing to express some of my concerns regarding the Westport Oaks project and my disappointment with the hands-tied attitudes of our City Staff and Legal. I understand that there's a lot going on with the confusion over the housing bills, density bonuses, and the implications of an extended pandemic, but this is no time to waver. We will probably have a huge reduction in available government funds for organizations that build BMR housing as well as for developer subsidies. Much of that money is being shifted to cover emergency pandemic rental assistance and landlord tax credits for uncollected rents (another discussion completely).

As more people become housing insecure I want to make sure that there is zero wiggle-room for developers to shirk their BMR obligations. The latest Westport/Oaks plans have left me scratching my head and wondering if the next revision won't be even more undesirable as KT Urban continues to push the limits as long as they think they can. I don't understand how the developer is being allowed to declare a subdivision of the property, double (or even triple) the bonuses, and then shove the bulk of the density and the BMR onto one portion of the property.

Confusion over the law is no excuse for complacency. When I watched the City Planning Commission meeting for the Westport/Oaks I was quite disappointed at some of the answers, or lack of them, to residents' questions. Once that laxity opens the flood gates for one developer it opens them for all. Staff and Legal need push back a lot harder if we want to have a "planned" City. We need to do a better job at setting boundaries, guarding easements, enforcing setbacks and understanding density bonuses to ensure Cupertino's quality of life, sustainability and safety lest it become a free-for-all for developers.

I will say that I am happy to have some badly needed senior housing at the Westport/ Oaks (or some other location), but I'd love to see a more thoughtful model of senior housing that could be replicated throughout the city with shared resources like gyms, memory care, PT, dining, activity centers, and buses. That of course is a discussion for another day. I'm not happy however about the developer cramming so much density into one parcel as it seems like a safety risk for slower-moving elderly people in the event of an earthquake, fire, or an increased risk for viral exposure.

I am wondering what is to stop the developer from building the most profitable portion of the project and then potentially selling off the remainder of the parcel to someone else? What if SHP were to build the office and luxury units and then claim that there's a problem with the funding for the BMR or that their investors pulled the plug? Secured or not, stuff happens. **I ask that our Council please put a proposal on the agenda to discuss and impose contingencies that would enable the City to enforce developer proposed promises and lock them in for a minimum of 50 years.** There's so much ping-pong going on with the housing bills in Sacramento that even the most egregious concessions to usurp local control wouldn't surprise me anymore. We cannot leave our City wide open.

Finally, I am having difficulty following KT Urban's continuous changes that seem to pop up just days before scheduled public meetings and I think that they should get kicked back to the Planning Commission every time so that there is always ample time for public digestion. Developers need to be held to the same precise standards, rules, reviews and deadlines as our residents without excuse.

Thanks for reading and for your consideration.

Sincerely,
Danessa Techmanski
30-year Cupertino Resident

From: [JOHN KOLSKI](#)
Date: Friday, June 26, 2020 3:45:26 PM

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**WELL THIS DOES IT. I GOT A NOTICE IN THE MAIL TODAY
OF THE WESTPORT CUPERTINO DEV. PROPOSAL
A OVERWHELMING DEVELOPMENT
NOT APPROPRIATE FOR CUPERTINO ESPECIALLY AT THAT
LOCATION
THIS IS TERRIBLE FOR CUPERTINO
AND WILL COST THE CITY MILLIONS IN LAWSUITS
WHO IN THE CITY PRE APPROVED THESE PLANS WITH NO
PUBLIC INPUT
AND WHY ARE WE GIVING THEM 4 WAIVERS TO BUILD THIS
MONSTROSITY
THIS ASL ADDS EXTREME AMOUNTS OF TRAFFIC TO A AREA
WHERE HWY 85 AT STEVENS CREEK BLVD AND
DEANZA COLLEGE ALREADY OVER TASK THE STREET**

JOHN KOLSKI

--

HONEY AND JOHN

THIS IS A CASUAL COMMUNICATION AND ALL STATEMENTS ARE MY OPINION

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From: [Ron Meulman](#)
To: [Gian Martire](#)
Subject: Westport Cupertino Development Proposal
Date: Thursday, July 2, 2020 5:08:02 PM

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Mr. Martire,

In regard to the subject Proposal, I can not imagine a more devastating idea to improve the quality of life in Cupertino.

During this Corona Virus shutdown of our City, we cannot be lulled into the illusion that the traffic and congestion that we have now is very manageable. Don't be deceived, the masses will return as things open back up, especially De Anza College...directly across the street from this ridiculous Proposal. The rich get richer, with no regard for quality of life for those of us who have lived in Cupertino for years. They're requesting "Exceptions" for retail frontage, density bonus waivers, including height, building plane and below market rate housing.

Are you kidding me? The Developers care NOTHING about the Cupertino lifestyle. It's only about \$\$\$\$\$.

Please stand up for those of us who still have family values and want quality of life for our children and grandchildren.

Thank you,

Ron Meulman
10170 Danube Dr.
Cupertino, CA 95014

Sent from my iPhone

From: [Leslie Larson](#)
To: [Gian Martire](#)
Subject: Westport Development Proposal
Date: Friday, June 26, 2020 4:16:54 PM

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I support high density housing on mass transit corridors. Two requests:

1. A safety-focused plan for traffic management at intersections around the development taking into account heavy bicycle and pedestrian traffic in the area (DeAnza students, etc.)
2. A plan to handle the commuter parking and corporate buses that have congregated behind The Oaks. Suggest that the developer create a parking & bus circulation plan based on projected growth over the next 20 years.

thank you,
Leslie Larson
7865 Belknap Drive
Cupertino 95014

From: [Don O'Brien](#)
To: [Gian Martire](#)
Subject: Westport proposal
Date: Saturday, June 27, 2020 12:21:46 AM

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Needing only 4th grade math, I see 131 "unaffordable" senior housing offered in return for killing 74 protected trees, and a hell of a lot of exceptions to existing laws.

There is no possible way that this proposal is in my best interest.

If you don't get a clue real fast to work against this, I will do everything possible in my power as a Cupertino resident to make sure you lose your job.

Don O'Brien, Cupertino resident since 1982.

From: [Paula Bettencourt](#)
To: [Gian Martire](#)
Subject: Westport
Date: Sunday, June 28, 2020 6:57:57 PM

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I am very, very concerned about the traffic impact with this proposal as relates to the Highway 85/Stevens Creek on/off ramps. Already in the morning it is impacted and often gridlock with people trying to access Highway 85 from Stevens Creek Boulevard. I would prefer lower density overall. I fear for what will happen traffic wise if the project is built out as proposed.

Thank you.

Paula Bettencourt
11553 Upland Ct, Cupertino, CA 95014
408-621-4871

From: [AG](#)
To: [Gian Martire](#)
Subject: Westport/Oaks Project
Date: Friday, June 26, 2020 9:09:35 PM

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Hi Gian,

A quick comment to say I support this project. I am hoping their proposal will offer much needed employment opportunities for local workers.

Perhaps a condition to start immediately should be imposed.

Stay safe and healthy.

Warm regards,
Amar Gupta
22975 Balboa Road
M: +1.408.718.1949

From: [Peggy Griffin](#)
To: [City Council](#); [Deborah L. Feng](#)
Cc: [City of Cupertino Planning Commission](#); [City Clerk](#)
Subject: Westport Project - Needs 3rd party analysis of need for BMR Distribution Waiver NOW!
Date: Tuesday, July 7, 2020 7:19:12 PM

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Scharf and City Manager Feng,

I spoke regarding this during Oral Communications tonight but I am putting my request in writing. Please add this to the Written Communications.

REQUEST: Please insist on a 3rd party analysis of whether the BMR Distribution requirement waiver is actually necessary.

IMPORTANT: It needs to be done before it's presented to the Planning Commission and City Council.

BMR units do not need to all be senior housing!

Thank you,
Peggy Griffin