

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
RECOMMENDING DENIAL OF A USE PERMIT MODIFICATION TO
AN EXISTING USE PERMIT (U-2004-01) TO AMEND THE
CONDITIONS OF APPROVAL TO ALLOW 100% NON-RETAIL
COMMERCIAL USES WHERE ONLY 50% IS CURRENTLY ALLOWED
LOCATED AT 20130 STEVENS CREEK BOULEVARD (APN: 369-56-001)

The Planning Commission recommends that the City Council:

1. Find that this action is not subject to environmental review under California Public Resources Code Section 21080(b)(5) and Section 15270 of the California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.) because CEQA does not apply to projects which a public agency rejects or disapproves.
2. Deny the following permits, as set forth in the attached draft resolution: Use Permit Modification (M-2020-002).

PASSED AND ADOPTED at a Regular Meeting of the Planning Commission of the City of Cupertino the 26th day of January 2021, by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

Piu Ghosh
Planning Manager

R Wang
Vice Chair, Planning Commission

RESOLUTION NO. _____

A RESOLUTION OF THE CUPERTINO CITY COUNCIL
DENYING A USE PERMIT MODIFICATION TO AN EXISTING USE
PERMIT (U-2004-01) TO AMEND THE CONDITIONS OF APPROVAL
TO ALLOW 100% NON-RETAIL COMMERCIAL USES WHERE ONLY
50% IS CURRENTLY ALLOWED LOCATED AT 20130 STEVENS CREEK
BOULEVARD (APN: 369-56-001)

SECTION I: PROJECT DESCRIPTION

Application No.: M-2020-002
Applicant: Catherine Chen
Property Owner: Cupertino Adobe, LLC
Location: 20130 Stevens Creek Blvd. (APN #369-56-001)

SECTION II: FINDINGS FOR DENIAL:

WHEREAS, the City of Cupertino received an application for a Use Permit Modification as described in Section I of this resolution; and

WHEREAS, all necessary public notices having been given as required by the Procedural Ordinance of the City of Cupertino and the Government Code; and

WHEREAS, the Planning Commission held at least one public hearing in regard to this application on January 26, 2021; and

WHEREAS, based on substantial evidence in the record, the Planning Commission recommended on a X-X vote that the City Council deny the proposed modification; and

WHEREAS, the City Council held a public hearing to consider the proposed Project on February ____, 2021; and

WHEREAS, the City Council is the decision-making body for this Resolution; and

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter, the City Council of the City of Cupertino:

1. Find that this action is not subject to environmental review under California Public Resources Code Section 21080(b)(5) and Section 15270 of the CEQA Guidelines because CEQA does not apply to projects which a public agency rejects or disapproves.
2. Deny the Use Permit Modification (M-2020-002), because the following findings cannot be made:

- a. The proposed development and/or use will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan, underlying zoning regulations, and the purpose of this title and complies with the California Environmental Quality Act (CEQA).

The proposed development will not be conducted in a manner in accord with the Cupertino General Plan since allowing General Commercial uses throughout the whole 2,400 square feet of the non-residential portion of the mixed-use development is contrary to the following General Plan Policies:

- i. Policy LU-8.2: Land Use: Encourage land uses that generate City revenue. Allowing non-retail commercial uses would not generate the City revenue as desired by the community.*
- ii. Policy LU-17.1 which states specifically that "ground floor of buildings along the street should be activated with pedestrian-oriented, active uses including retail, restaurants, entries, etc." Allowing General Commercial Uses such as financial institutions, real estate agencies, childcare, tutorials and other commercial office uses would not meet this policy of creating an active, pedestrian oriented experience as envisioned in the General Plan.*

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Cupertino this 16th day of February, 2021, by the following vote:

Members of the City Council

AYES:

NOES:

ABSENT:

ABSTAIN:

SIGNED: _____ Darcy Paul, Mayor City of Cupertino	 _____ Date
ATTEST: _____ Kirsten Squarcia, City Clerk	 _____ Date