

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, CA 95014

CITY OF CUPERTINO
PLANNING COMMISSION MEETING
APPROVED/AMENDED MINUTES

6:45 P.M.

DECEMBER 8, 2015

TUESDAY
CITY COUNCIL CHAMBERS

The regular Planning Commission meeting of December 8, 2015, was called to order at 6:45 p.m. in the Cupertino Council Chambers, 10350 Torre Avenue, Cupertino, CA. by Chairperson Winnie Lee.

SALUTE TO THE FLAG

ROLL CALL

Commissioners Present:	Chairperson:	Winnie Lee
	Vice Chairperson:	Alan Takahashi
	Commissioner:	Don Sun
	Commissioner:	Geoff Paulsen
	Commissioner:	Margaret Gong

Staff Present:	Principal Planner:	Piu Ghosh
	Associate Planner:	Kaitie Meador
	Associate Planner:	Tiffany Brown
	Consulting Attorney:	Valerie Armento

1. APPROVAL OF MINUTES:

Minutes of the November 24, 2015 Planning Commission meeting:

Motion: Motion by Com. Gong, second by Vice Chair Takahashi, and unanimously carried 4-0-1 (Com. Sun abstain), to approve the minutes of the November 24, 2015 Planning Commission meeting as presented.

WRITTEN COMMUNICATIONS: None

POSTPONEMENTS/REMOVAL FROM CALENDAR: None

ORAL COMMUNICATIONS: None

CONSENT CALENDAR: None

PUBLIC HEARING:

- | | |
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| 2. U-2015-08, ASA-2015-25,
19379 Stevens Creek Blvd.
(Alexander's Steakhouse) | Use Permit for a separate full service bar and late hours of operation, and Architectural and Site Approval to allow enhancements to the exterior patio dining area for the |
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Owner: Main Street restaurant.
Cupertino Aggregator LLC

Tiffany Brown, Associate Planner, presented the staff report:

- Reviewed the application for a Use Permit for a separate full service bar and hours of operations at a restaurant located within the Main Street Cupertino development, and Architectural and Site Approval to allow enhancements to the exterior patio dining area for the restaurant, as outlined in the staff report.
- She reviewed the project site and surroundings, operational details, architectural and site approval, parking, proximity to residential use and security. The City's Public Works Department, Building Division, Santa Clara County Fire Department, Cupertino Sanitary District, and Cal Water have reviewed the project and have no objections. The Use Permit is categorically exempt from CEQA guidelines because the proposed use occurs within the city limits and is surrounded by existing urban uses. Staff recommends approval of the project since the project and conditions of approval address all concerns related to the proposed development and all of the findings for approval of the proposed project, consistent with Chapter 19.168 of the Cupertino Municipal Code, may be made.
- Staff answered questions about the application.

Marc Diamalanta, Applicant:

- Presented a visual presentation of a walkthrough of the restaurant including the dining area, bar area, patio area, special amenities. He also discussed the addition of the patisserie.

Com. Paulsen:

- Congratulated Mr. Diamalanta on his career with Alexander's and said he felt it would be a wonderful place for people to gather.

Chair Lee opened the public hearing.

Jennifer Griffin, Rancho Rinconada resident:

- Said Alexander's move from Vallco was Vallco's loss and Main Street's gain. She was pleased that Alexander's was moving to Main Street and said she considered it equivalent to a four star restaurant. She asked for comment on where the Target store was going to be located; and that consideration be given to serving lunch on Monday and Sunday since it was a prime retail area. She asked how parking and entrance and exits were being handled. She reiterated that she was happy Alexander's was staying and encouraged the high end establishments in Cupertino.

Chair Lee closed the public hearing.

Com. Gong:

- Said she felt the newer small location was a factor of what is available; the separate bar is consistent with the current location; the extended hours are commensurate with the other businesses in Main Street. Said she supported the project and also supported lunch service for Monday and Sunday.

Com. Sun:

- Supported the project; not too many questions to challenge the application. No negative impacts for residents.

Com. Paulsen:

- Question about hours since issue of Sunday lunch was brought up. If Commission approves tonight, will the hours be set; and will the applicant be able to change hours just by working with the property manager?

Staff:

- The way the use permit is written up, it doesn't preclude them from opening on any of the other days; it is just part of what they told us; it sets the outside limit that they can serve customers to 1:00 a.m. at the outside and employees can stay until 2:00 a.m. It doesn't preclude them from being open at other normal business hours.

Com. Paulsen:

- If these restaurants were open until later to compete with the Donut Wheel is that something they would have to come back to the Commission for, or is that a staff decision?

Staff:

- If any of the outside hours, the 1:00 a.m. is granted daily, but if they change it beyond the 1:00 a.m. then they would have to go to the Planning Commission.

Chair Lee:

- Said she supported the application for the late hours for the patio enhancement as well as the separate bar facility.

Vice Chair Takahashi:

- Said everyone is in agreement and excited about the project; a lot of care was taken in the architecture and layout; it is a great addition and/or we are not losing something we already have as well, said he felt it was a significant positive.

MOTION: Motion by Com. Cong, second by Com. Paulsen, and unanimously carried 5-0-0, to adopt resolutions with amendments Use Permit U-U-2015-08 for a separate full service bar and late hours of operation ancillary to the restaurant as well as Architectural and site approval ASA-2015-25 to allow enhancements to the exterior patio for the existing building Shop 4 within Cupertino Project,

3. **U-2015-09, ASA-2015-26, Marc Diamalanta (Steins Beer Garden) Owner: Property Developer I, LLC 10088 No. Wolfe Rd, #130**
- Use Permit for separate bar, extended hours of operation and live entertainment at a proposed restaurant located in the Nineteen800 (formerly Rosebowl) Mixed Use Development and Architectural and site Approval to allow exterior patio modifications in conjunction with the approved restaurant

Kaitie Meador, Assistant Planner, presented the staff report:

- Reviewed the application for a Use Permit for a separate bar, extended hours of operations and live entertainment at a proposed restaurant located in the former Rosebowl, Mixed Use Development and Architectural and Site Approval to allow exterior patio modifications in conjunction with the proposed restaurant, as outlined in the attached staff report.
- She reviewed the project site, surrounded primarily by commercial and office uses including Vallco Mall and the Main Street project. There is a residential mixed use complex directly to the south and the nearest single family residential home is 830 feet away. The restaurant is a sit-down restaurant offering lunch and dinner, including ancillary live entertainment and music. The existing parking has a surplus of 203 spaces. The County Sheriff's Department has reviewed the plans and does not foresee any negative impacts. The project is Categorically Exempt from CEQA as it is an existing facility with minor changes.
- Staff recommends that the Planning Commission approve the draft resolutions for the Use Permit and Architectural and Site Approval.

Com. Paulsen:

- Referred to parklets, where cars used to park. If the restaurant wanted to expand the outdoor eating area into the part of Wolfe Road that is occupied by auto traffic now, could they do so or would that be something they would work with Public Works on?

Kaitie Meador:

- Said she was not aware of any onstreet parking on Wolfe Rd., perhaps on Vallco Parkway. If it did occur, it would have to go through both Parks and Recreation and Public Works; it would be improvement within the public right of way.

City Attorney:

- Said that City Council may also consider a park-like ordinance.

Kaitie Meador:

- Said no comments have been received from residents; there is one other restaurant with separate bar facilities approved. The applicant is limiting the hours for outdoor entertainment to 9 p.m. Dining outside only, no bar outside. Change in hours of operation would require re-noticing.

Marc Diamalanta, Architect:

- Acknowledged that he was also the architect on the Beer Garden project as well as Alexander's. He described the layout of the restaurant which included 30 beer taps and an excellent menu. He noted that the proposed restaurant was similar to the Mountain View one, but a little more industrial and rustic. He provided a background of the operation and said he was excited to capture the energy of the community for the Cupertino location.

Ted Kim, Co-owner of Stein's Beer Garden:

- Described the layout of the facility, said the restaurant was active in the community, and they were eager to promote special events. He said they were mindful of residents who may live upstairs of the establishment. In Mtn. View the residents were opposed to the restaurant before it was built, but they have not had any complaints in the three years they have been operating. The neighbors even have held special events at the restaurant.

Chair Lee:

- Explained that if the owners wanted to consider asking to extend the operating hours to be more in line with neighboring businesses, the item could be continued so that public notice could be given of the proposed change in hours, so that they could return with such a request. The owner stated he would be interested, but would submit a new application for change in operating hours.

Mr. Kim:

- Said they would be interested in holding special events in Cupertino especially an Oktoberfest; very interested in being part of the community.

Com. Paulsen:

- Said he would be willing to work with the restaurant people and Public Works on a proposal to take over some of the asphalt in the street and devote to more outdoor dining.

Chair Lee opened the public hearing.

Jennifer Griffin, Rancho Rinconada resident:

- Said she was opposed to the ash trees on the corner being removed and not in favor of any reductions of lanes on Wolfe Road. Wolfe Road is being negatively affected with the many changes going on; Vallco is dismantling itself and going into implosion mode; a new restaurant with outdoor dining will be an asset but she did not want to see any infringement into the double row of ash trees as it is public right of way. Businesses on Wolfe Road should not be open until 1:00 a.m.
- Said they needed to be cognizant of the traffic, people should not be wandering out in the road. It is a good location for the restaurant, but she felt it was not wise to be open past midnight, as there are tenants above the business paying high rents. Said she welcomed Stein's, but didn't want the ash trees removed or Wolfe Road reduced further as it was already difficult for residents on the east side to get anywhere.

Chair Lee closed the public hearing.

Com. Paulsen:

- Said he felt the 20% outdoor seating requirement in the seating ordinance was unreasonable for California, and asked the reason behind the ordinance and what would be involved in eliminating it. It wouldn't have to be necessarily a loud outdoor area but just a larger outdoor area that would be permitted.

City Attorney:

- Said it would require a municipal code amendment; there are also issues with proximity to residential in a mixed use environment especially in connection with an entertainment use; there are many factors that would need to be considered in an ordinance amendment.
- The requirement is limited to 20% without a conditional use permit; however with a conditional use permit you could go 100% outdoor seating; the conditional use permit allows the city to place conditions on the operations which include security concerns, noise concerns, any other concerns that the city might see and that's the reason why they have the process. Anyone is welcome to apply; they just have to go through the process and making sure they comply with all the conditions that are imposed; it is just the way of the city managing expectations from the public as well in terms of how the operations will be conducted.

Com Paulsen:

- Asked what the additional burden was to the restaurant owner in terms of fees and time delays for the conditional use permit.

Kaitie Meador:

- It is the processing time for any permit; it does require routing to different agencies, in this case the Sheriff's Dept. all the other departments that review the building and there are fees associated with it; cost recovery of the staff time that is expended and actual review of the project; it's not just the Planning Dept., it's all the other departments which include Building, Public Works, and Fire, etc.

City Attorney:

- Said that it would be appropriate to have further discussion on the issue of changing the ordinance to allow for more flexibility at another meeting.

Com. Sun:

- Said he felt the operating hours for Main Street could be extended to 1:00 a.m. but did not want to convey the wrong impression that the other one would be the same to the 1:00 a.m. closing.

- Said he was personally concerned about the second and third floor residents and the noise control issue; He said they try to reach a balance and want the business to prosper, but also want to address the concerns of the nearby residents. Said he supported both applications.

Com. Gong:

- Said she felt it was wise to maintain the midnight closing time to demonstrate their intention to be a good neighbor. Said that she felt the space is well suited for the business and welcomed it to Cupertino.

Com. Paulsen:

- Said he shared the previous comments and felt the project would be a great addition to Cupertino. Said he was ambivalent about the hours; whatever works for business and certainly no business is going to want to purposely continue to be a bad neighbor; it is up to the applicant whether he wants to come back with a request for later hours or more spaces. He said he would work offline to encourage more outdoor dining because of the beautiful climate.

Vice Chair Takahashi:

- Said everyone sees the benefits of the project and the success already in place in Mountain View and bringing it to Cupertino is definitely a win for the city. Relative to the hours he said he was not as concerned with a 1:00 a.m. closing.
- Relative to potential concerns about noise and residents, as a resident there, given it is a new development and generally a mixed use place such as this will have a lot of activity and a resident should expect that. Given the rent you would make that choice and therefore he didn't believe there would be a future conflict.
- The area of the city is turning into an active night life area; for now there may be a situation that when you close at 12:00 everyone will go to where it closes at 1:00 a.m.
- The outdoors are enjoyable; when there is an option to be outside on a nice night, it is difficult to beat. Said he supported the project.

Chair Lee:

- Said she shared her colleagues' concerns and was hopeful that patrons of the restaurant would be respectful of the residents. Said she supported the application relative to the hours of operation, live entertainment, and outdoor patio.

Motion: Motion by Com. Gong, second by Vice Chair Takahashi, and unanimously carried 5-0-0 to approve U-2015-09 and ASA-2015-26.

OLD BUSINESS: None

NEW BUSINESS: None

REPORT OF THE PLANNING COMMISSION

Environmental Review Committee: No meeting.

Housing Commission: No meeting.

Economic Development Committee Meeting: No meeting.

Mayor's Monthly Meeting With Commissioners: No meeting.

REPORT OF THE DIRECTOR OF COMMUNITY DEVELOPMENT:

Piu Ghosh:

- Reported on the Water Efficiency Landscape Ordinance: The state recently updated its model efficiency ordinance; Cupertino has to look at what amendments they may have to make to the local ordinance adopted that they believe is just as efficient as the state's model ordinance, and are in the process of identifying what changes they may need to make or coming up with a recommendation they should default to the state's model efficiency ordinance. They had to adopt an ordinance by December 1st; because of the tight timelines given by the state they were not able to do that; they have to default to the state's ordinance at this time. They are looking to bring back the ordinance for City Council consideration by the end of Feb. early March.
- City Council adopted General Plan Amendment authorization procedures and the Council will be looking at projects twice a year for projects that propose General Plan amendments; at this point deadline for applications was November 16th; the City reviewed 2 applications; one from the Oaks and one from Goodyear Tire Site for a hotel. The application materials are online at www.cupertino.org/GPAauthorization. It is anticipated that the two applications will be submitted to City Council on February 2nd.

ADJOURNMENT:

- The meeting was adjourned to the January 12, 2016 Planning Commission meeting beginning at 6:45 p.m.

Respectfully Submitted:

/s/Elizabeth Ellis

Elizabeth Ellis, Recording Secretary

Approved as Amended: February 9, 2016