

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, CA 95014

CITY OF CUPERTINO
PLANNING COMMISSION MEETING
APPROVED MINUTES, October 27, 2020

At 6:45pm Chair Moore called to order the regular Planning Commission meeting. This was a teleconference meeting with no physical location.

ROLL CALL

Present: Chairperson Moore, Vice Chair R Wang, Commissioners Alan Takahashi, David Fung, Vikram Saxena

Absent: None

APPROVAL OF MINUTES:

1. **Subject:** Amended Draft Minutes of October 13, 2020.

Recommended Action: Approve or modify the Amended Draft Minutes of October 13, 2020

The Commissioners made the following amendment to the Draft Minutes:

There was much discussion about the upcoming RNHA numbers and the need for better PR communication by the City ~~to demonstrate that the City is on track to meet the~~ about our progress to meet the housing goals for the 5th cycle RHNA.

Moved by Com. Takahashi and seconded Chair Moore to: "Approve the minutes as amended". The motion carried 5-0-0.

POSTPONEMENTS: None

ORAL COMMUNICATIONS:

Jennifer Griffin – spoke about how housing bills passed in Oregon should not influence the housing bills in California and vice versa

Lisa Warren – (read email) regarding the Better Friends of Cupertino v City of Cupertino (SB35) 18CV330190, Attorney Fees

WRITTEN COMMUNICATIONS:

Emails were received regarding item #4

PUBLIC HEARING:

2. **Subject:** Modification to Use Permit (U-2011-09) and an Architectural and Site approval to allow for the installation of two (2) hydrogen refueling dispensers and accessory utility structures, site improvements and landscaping to an existing gasoline station (BSP Union).

Application No(s): M-2020-001, ASA-2020-002; Applicant(s): Kristi Kandel (BSP Cupertino Union, LLC); Location: 21530 Stevens Creek Boulevard APN# 357-20-027

Recommended Action: That the Planning Commission conduct the public hearing and adopt the proposed resolutions to: recommend that the City Council: 1) find that the proposed actions are exempt from CEQA; and 2) approve the project per the Draft Resolutions

Planning Commission decision final unless appealed.

Associate Planner, Ellen Yau, reviewed the Staff Report and project scope with Planning Commissioners. She was asked clarifying questions, which she answered. The applicants, Kristi Kandel, Dr. Shane Stephens and Ghassan Sleiman also addressed the Commissioners.

Chair Moore opened the public comment period and the following individual(s) spoke:

Jennifer Griffin

Rose Grymes

Chair Moore closed the public comment period.

The Commissioners discussed the new refueling technology, the location on site where the new equipment was going to be placed, and the need for strict adherence to all the safety regulations. They thanked Staff and the applicant for their presentation and information.

Moved by Vice Chair Wang and seconded by Com. Saxena to: Find the proposed project exempt from CEQA and approve the application per the Draft Resolution. The motion carried 5-0-0.

3. **Subject:** Consider Municipal Code Amendments to update existing Mobile Vending regulations, including but not limited to, regulations in Chapter 5.48, and potential conforming edits to other chapter in the Municipal Code, including in Titles 5, 11, 13 and 19, and adopting new policies and definitions regulating Mobile Vendors. Application No(s): MCA-2020-004; Applicant(s): City of Cupertino; Location: citywide (postponed from the October 13, 2020 meeting)

Recommended Action: Conduct the public hearing and recommend that the City Council: 1) find that the proposed actions are exempt from CEQA; and 2) Adopt an ordinance to make Municipal Code Amendments related to new and amended regulations related to sidewalk and motorized mobile vendors

Economic Development Director, Angela Tsui, and Associate Planners Ellen Yau and Jeffrey Tsumura, reviewed the draft Ordinance and proposed Municipal Code changes with Planning Commissioners. Staff explained that the passage of SB946 requires this update to bring the City's Municipal Code into compliance. They were asked clarifying questions and operational scenarios, which they answered.

Chair Moore opened the public comment period and the following individual(s) spoke:

Lisa Warren

Rose Grymes

Jenifer Griffin

Chair Moore closed the public comment period.

The Commissioners discussed the sidewalk safety, the potential places in the City where sidewalk vendors could operate, and the time constraints to conduct transactions. The Commissioners talked about the differences between mobile vendors operating in commercial zones and residential areas. They felt that the sidewalk push-cart vendor and the street mobile vendor engagements with the residents were too dissimilar to be regulated in one Ordinance.

A five (5) minute break was called at 10:15pm.

The commissioners resumed discussions toward recommending that the Ordinance move forward to City Council only adopting the policies to be compliant with State law.

Moved by Chair Moore and seconded by Vice Chair Wang and Com. Saxena (amendment) to: Find that the proposed actions are exempt from CEQA and recommend that the City Council adopt an ordinance to make Municipal Code Amendments relating to Mobile Vendors with the following amendment to the Resolution: “The Planning Commission recommends that the City Council adopt an Ordinance to amend Chapter 5.04; Business Licenses, generally Chapter 5.20; Solicitors; Chapter 5.48; Mobile Vendors; Chapter 11.28: Miscellaneous Parking Regulations, On Street parking, Chapter 13.04; Parks, and Chapter 19.100; Accessory Uses and Building Structures for Mobile Vendor regulations *in accordance with SB946 and excepting portions which are not directly applicable to SB946.*” and “Adopt the proposed amendments to the Municipal Code with the findings reflected in the proposed Ordinance which the Planning Commission makes as though set forth in their entirety in the Resolution *only as applicable to SB946* in substantially the form as shown in said Exhibit”

The motion carried 3-2-0 (Takahashi and Fung voting no).

4. **Subject:** Municipal Code Amendments to adopt glazing and lighting regulations to implement the Fiscal Year 2019/20 City Council Work Program items relating to Dark Sky and Bird Safe Design. Application No(s): MCA-2019-003, MCA-2019-004; Applicant(s): City of Cupertino; Location: citywide (continued from the August 11, 2020 meeting)

Recommended Action: Conduct the public hearing and recommend that the City Council: 1) find that the proposed actions are exempt from CEQA; and 2) Amend the Municipal Code by adding a new Chapter 19.102 and amending Chapters 19.08, 19.12, 19.40, 19.60 and 19.72 to adopt glazing and lighting regulations to implement Bird-Safe and Dark Sky goals

Senior Planner Erick Serrano and Associate Planner, Ellen Yau, reviewed the updates that have been made to draft Ordinance and proposed Municipal Code changes per the feedback from the Commissioners at the August 11th meeting with the Planning Commissioners. They were asked clarifying questions and operational scenarios, which they answered.

Chair Moore opened the public comment period and the following individual(s) spoke:

Connie Cunningham

Dashiell Leeds

Rose Grymes

Shani Kleinhaus

Chair Moore closed the public comment period.

The Commissioners thanked Staff for the additional research and clarifications and the fiscal impacts for construction. The Ordinance would be applicable to new residential construction, major remodel or landscaping changes where windows and lighting fixtures are being replaced. It would also apply to windows in commercial construction. All outdoor illumination is required to be shut off at 11pm or when people are no longer present. The Commissioners would like Staff to suggest to Council a possible exemption for string lights hung around trees year-round or in residential patios.

Moved by Chair Moore and seconded by Com. Takahashi to: Find that the proposed actions are exempt from CEQA and recommend that the City Council adopt an ordinance to make Municipal Code Amendments relating to Dark Sky and Bird Safe Design with the following friendly amendment to the Resolution: *"To have the City Council review the portions which would affect string lighting and potentially come up with some regulation around that which provides more flexibility so to allow year round low luminosity string lighting"*

The motion carried 4-1-0 (Wang voting no).

OLD BUSINESS: None

NEW BUSINESS: None

REPORT OF THE DIRECTOR OF COMMUNITY DEVELOPMENT: None

REPORT OF THE PLANNING COMMISSION:

Chair Moore and Com. Saxena attend the CUSD Board meeting.

ADJOURNMENT:

The meeting was adjourned at 12:00am. to the next regular Planning Commission meeting on November 10, 2020 at 6:45 p.m.

Respectfully Submitted:

/s/Beth Ebben

Beth Ebben, Deputy Board Clerk