

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, CA 95014

CITY OF CUPERTINO PLANNING COMMISSION
DRAFT MINUTES

6:45 P.M.

March 27, 2012

TUESDAY

CUPERTINO COMMUNITY HALL

The regular Planning Commission meeting of March 27, 2012 was called to order at 6:45 p.m. in the Cupertino Community Hall, 10350 Torre Avenue, Cupertino, CA., by Chair Marty Miller.

SALUTE TO THE FLAG

ROLL CALL

Commissioners present:	Chairperson:	Marty Miller
	Vice Chairperson:	Don Sun
	Commissioner:	Paul Brophy
	Commissioner:	Clinton Brownley
	Commissioner:	Winnie Lee

Staff present:	Community Development Director:	Aarti Shrivastava
	City Planner:	Gary Chao
	Senior Planner:	Colin Jung
	Senior Planner:	Aki Honda Snelling
	City Attorney's office:	Gary Baum

APPROVAL OF MINUTES:

1. Minutes of March 13, 2012 Planning Commission meeting:

MOTION: Motion by Vice Chair Sun, second by Com. Brownley, and unanimously carried 5-0-0 to approve the March 13, 2012 Planning Commission minutes as presented.

WRITTEN COMMUNICATIONS: Gary Chao, City Planner, noted items received relative to Item 2 and the final recommendation from the ERC.

ORAL COMMUNICATIONS:

Keith Murphy, Cupertino resident:

- Referred to Ordinance 11-2085, passed in November 2011, wherein a friendly amendment was approved by City Council for a new website link to a Director of Community Development's page showing all applications that the CDD would be reviewing.
- He asked for an update on the progress of the website and said that there were community members willing to volunteer their services.

Chair Miller:

- Asked staff to follow up with Keith Murphy on his request.

POSTPONEMENTS/REMOVAL FROM CALENDAR: None

CONSENT CALENDAR: None

PUBLIC HEARING

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| <p>2. TM-2012-01, V-2012-01
(EA-2012-01)
McClellan Development
(Lands of Jauch)
western terminus of Bollinger Rd.</p> | <p>Tentative map to subdivide an approx. 1.14 acre parcel into five parcels ranging from 7,040 to 11,096 square feet; Variance to allow reduced lot widths for four of the five new lots surrounding the proposed proposed cul-de-sac that do not meet the minimum lot width requirements Environmental Review: Negative Declaration recommended Tentative City Council date: 05-01-2012</p> |
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Chair Miller recused himself from discussion of the application as he said he had prior dealings with the applicant. Vice Chair Sun chaired the meeting.

Colin Jung, Senior Planner, presented the staff report:

- Reviewed the application for Tentative Map to subdivide an approximately 1.14 acre lot into 5 parcels, and variance request for reduced lot widths for four of the five new lots surrounding the proposed cul-de-sac that do not meet the minimum lot width requirements, as outlined in the staff report. Staff recommends that the Planning Commission recommend to the City Council adoption of the Negative Declaration, approval of the tentative map in accordance with the draft resolution, and approval of the variance in accordance with the draft resolution.
- He noted that the residential development of the properties was not the subject of the discussion; the houses being proposed will likely be two story homes. If they meet all the other R1 zoning regulations there will be a two story residential permit required which involves review of the house design with staff and also noticing of adjacent neighbors for each of the lots, giving neighbors an opportunity to comment on design, including issues of privacy; but those are handled with the provisions of the R1 ordinance regarding privacy landscaping.

Marta McClellan, McClellan Development, Applicant:

- Agreed with the conditions set forth and said he looked forward to the buildout of the project in conformance with the agreements.

Vice Chair Sun opened the public hearing.

Vincent Hsieh, Bollinger Road:

- Opposed to the application; resides 3 houses away from proposed construction.
- Expressed concern about traffic relative to the schools; the present conditions are challenging because one has to detour toward McClellan or the adjacent street to reach either Lincoln or Monta Vista. The future entrance for the construction is on Bollinger Road side; it will increase the present traffic which has worsened for the school children and is also inconvenient for those families to send children to school having to detour.

Stan Tsing, Vernie Court:

- Said he had the same concern as the previous speaker, and was opposed to the opening of a Bollinger Road entrance because of the traffic and the new home that will be adjacent to his home; the builder plans to build the garage facing a fence which he felt would adversely affect their living standards. He said he hoped they would consider having an entrance to the five properties from another location.

Umesh Toprani, Online Court:

- Said he was not opposed to the builder building there, as long as the neighbors' concerns and needs regarding privacy have been met, but he was reluctant to start compromising on the exceptions discussed with respect to the sidewalk, etc. He said whenever he did anything for his house, he had to get a permit, meet the code, etc., rules need to be followed and there is a minimum standard for each house which gives everyone a chance to have more space.

Arthur Dong, resident:

- Opposed to the project, because the proposed new homes will increase the traffic and during construction, the workers will park in the neighborhood crowding the streets even more. Opening up Bollinger Road will destroy the quiet neighborhood which was an attraction when he purchased the home 7 years ago.

Munir Voola, Online Court:

- Expressed concern with the possibility of removal of 45% of the 65 trees which are 60 to 70 feet tall and take about 30 to 40 years to grow. He questioned whether the developer would replace the trees with trees of the same height and that would meet code.
- Said he felt the request for variance could be adjusted to accommodate four lots and not break any of the code and compliance. He said Cupertino was becoming a concrete jungle and the project would set a precedent. He said the excess traffic, and amount of people would be at the neighbors' cost. He requested reconsideration of the application and the possibility of revisiting or redesign to four lots.
- He said he was not opposed to dividing the lot, which the owner has the right to do, but it should be done within the boundaries of laws and codes.

Judy O'Brien, Online Court:

- Said she has lived in her home 25 years, at which time the builder was considering putting in a street going through from Stelling, Jollyman through Bollinger and it was denied. The builder had to build two houses on the opposite sides because they thought it would create too much traffic to open up another corridor to get to DeAnza College which was a huge problem. She asked that they not open it now to have that occur.
- Said that when her one story home was built it was imperative that the houses built around the existing homes on Kerwin be one story also; and she hoped that the thought process would be maintained to keep the houses built behind them as one story to protect their privacy.
- She expressed concern that the excavation of the property behind her home could possibly kill the trees planted along her property line. She noted that there were two trees on the Jauch property that are dying and the arborist report calls for maintaining them. However, one fell over and landed on her home two years ago in a bad storm.

Vice Chair Sun closed the public hearing.

Com. Brophy:

- Said one of the issues raised was the question of choosing to exit by Bollinger as opposed to what would be the alternative street to the south.

Jim Yee, Architect:

- Said the question is relative to access to the site; currently there is only one access because of how the parcel was subdivided, there is no potential access to the other parcel.

Gary Chao, City Planner:

- Said the question is, if it is possible, why is it off Bollinger as opposed to Jollyman. Referring to the aerial drawings which indicates both possible access points, one of the objectives that

the original property owner and developer had in mind is to preserve the existing house on the site on the southwest corner of the lot. It renders the access point off Jollyman infeasible from that perspective in order to keep the house where it is.

- Also in reviewing the circulation and also the driveway widths and access points for subdivisions, the fire department would comment and evaluate safety measures for turnarounds and access point for fire engines and you can't accomplish that in having access off Jollyman to be able to have fire service to service the new lots being created.

Aarti Shrivastava, Community Development Director:

- Added that the project is a dead end with no connection to other streets and staff felt it was the best way to accomplish the lot pattern, which is what they have to do when reviewing a project.

Com. Brownley:

- Asked if there was a plan for replanting some trees once the lots are subdivided.

Colin Jung:

- Trees on the property are not subject to the tree protection ordinance; tree replacement is defined in the sense of privacy tree planting for all second story views into adjacent properties, that the applicant will be subject to and also street tree planting for each of the lots. There will be tree planting with respect to the residential development applications for this property.

Gary Chao:

- Noted that although it appeared to be many trees, in reality most of the trees are non-specimen trees in terms of the protected species that are listed in the ordinance; most are fruit trees and small firs and spruces. To that extent, under normal circumstances if the property owner without a project wanted to take care of some of the trees now, some of them don't require tree removal permits for that replacement.

Com. Brownley:

- Asked if there was any discussion about subdividing into five lots rather than four and what impact that would have on the variance required.

Aarti Shrivastava:

- The lots are bigger than most of the lots in the neighborhood and lot widths complied with almost every cul-de-sac in town. Cul-de-sac lots tend to be bigger, and because of their configuration, they tend to have narrower front widths. By the time it passes the driveway, it is close to compliance with the lot widths. Staff felt it met the typical pattern in the city and that is why staff could support it.

Com Lee:

- Said some residents are concerned about noise, traffic, and littering due to construction. Asked what steps can be taken if that occurs; and is it outlined in the Construction Management Plan.

Colin Jung:

- Staff expects at the residential permit stage that the applicant will be addressing construction concerns with respect to where they will store materials, locating the contractor vehicles. If the subdivision is approved, by the time the residential construction happens, there will be a full cul-de-sac there; they will be places for construction workers to park, and locations for building materials to be stored. The applicant can address the construction phasing but typically they would not build more than one or two houses at a time. All that can be addressed with the residential development permits issues for each of the lots.

Marta McClellan:

- Said the construction phasing had not yet been determined.

Aarti Shrivastava:

- Said that there is a process for the building of the homes where neighbors will be noticed; at which time the phasing will be squared away and neighbors can weigh in on the phasing. The typical mode of operation is for the applicant to have a construction phasing plan so that neighbors know where they are parking. There are requirements for dust control, hours of construction, and noise, and those will be applicable to this project.

Marta McClellan:

- Said they did neighborhood outreach and visited the surrounding neighbors, sent a letter prior to visit informing them when they would be there. Addressed neighbors' concerns at the meeting. She said the issue of a compromise between 4 or 5 houses was not discussed at the meeting with the neighbors.

Colin Jung:

- Clarified that some residents asked why the subdivision wasn't oriented toward Jollyman instead of Bollinger Road. He referred to the aerial photo which illustrated two parcels, one of them 10760 address developed with a single family house and the vacant property. Both properties are under different but related ownerships. The owner of 10760 does not have any intention of developing her property and the vacant one was intended for development as the inheritance of the remaining children.
- Relative to Ms. O'Brien's concern about the excavation of the trees next to her property, the arborist report went into significant detail about what should be done to protect the trees not on the property; there are root structures that he believes encroach into the adjacent lot and those include at the time of demolition, grading and subdivision, specific setbacks for each of the trees where there should be no grading or development. If the subdivision is approved there are additional conditions that have been recommended by the arborist that include conditions on the type of construction, how the fences are put up to protect all of the trees that are crowded on the common property line. In addition the arborist also recommended that the applicants hire a separate consulting arborist to look at the conditions in the field at the time once the houses are proposed, and to suggest his own plan for protecting the adjacent trees. He said he did not think the applicant wants the liability of damaging any neighbors' trees.

Com. Brophy:

- Said the only access to the property was through Bollinger as referenced in a letter from the owner of the 10760 property. The lot sizes are significantly larger than other lots, and significantly larger than the minimum lot size of 6,000 sq. ft. Relative to the variance on the front, the minimum front footage, the variance is standard on cul-de-sac lots for the reason that the Community Development Director explained that by definition it is a pie shaped lot with a wider than average backside and a shorter than average front side. In this particular case, you end up having to make the lots larger, even if a developer would wish to make them closer to the minimum size.
- Said it is important that in the process of reviewing any proposed residential permits they give special concern as they have done in the past in a city mostly built out, to look at the privacy issues, whether fencing, planting, etc.

Com. Brownley:

- It was stated that the entrance from Bollinger is necessary because entrance from Jollyman is not feasible given the existing home on the property; the fire department review said Jollyman was not as good an access as Bollinger. Similarly, because of the different ownership of the

properties, there isn't access off the other road so they have to go through Bollinger.

- Relative to the trees, there is an arborist plan for those; when the lots are subdivided, there will be privacy tree plantings and street tree plantings, and the current trees are not covered under a protection ordinance. Because of the shape of the property, the variance is more directed at the front of the properties close to the cul-de-sac relative to the back of the property. For those reasons, the items being requested and recommended for approval seem reasonable.

Com. Lee:

- Addressed the six speakers that she hoped their concerns were addressed, and encouraged them to include or give their email addresses to staff so that they would be kept updated on information about the project, including the construction management plan, phasing, etc.

Vice Chair Sun closed the public hearing.

Motion: Motion by Com. Brownley, second by Com. Brophy, and unanimously approved 4-0-0 (Chair Miller absent) to approve Application EA-2012-01, V-2012-01 and TM-2012-01

Chair Miller returned to the meeting.

3. **M-2011-09 (EA-2011-18), M-2011-24, TM-2011-04**
Kevin Dare: Dare, 500 Forbes LLC
No side of Stevens Creek Blvd.
On both sides of Finch Ave. &
West of No. Tantau Ave.
- Modifications to a previously approved Master Use Permit (U-2008-01), Architectural and Site Approval (ASA-2008-06) and Tree Removal Permit (TR-2008-08) to amend the master plan for a mixed use development to allow for a 180 room hotel; 78,700 square feet of retail space; 289,750 sq. ft. of office space; 143 senior age-restricted condominium units; 60,000 sq. ft. of athletic club and/or additional retail space; and an alternate plan for a 105 unit market-rate apartment complex in lieu of the 60,000 sq. ft. of athletic club/retail space; removal of a total of 84 trees and relocation of 13 trees; and modification of the master Architectural and Site Approval; Architectural and Site approval to allow the construction of two office buildings consisting of a total 289,750 sq. ft. ten retail buildings (shops 1-7 and Pads 1-3) totaling 62,200 sq. ft., a parking garage with underground parking and four levels of above ground parking; and a 5 story, 180 room hotel as part of the Main Street Mixed-Use Development Project; Tentative Map Permit to subdivide 3 parcels (approximately 18.7 acres) into 6 fee-simple parcels and 143 senior age-restricted condominium units; Negative Declaration. *Tentative City Council date: 05-01-2012*

Aki Honda Snelling, Senior Planner, presented the staff report:

- Reviewed the application from 500 Forbes, LLC to amend their previously approved 2009 mixed use development for Main Street Cupertino. The applications include a modification to a previously approved Master Use Permit, Architectural and Site Approval and Tree Removal Permit, as well as architectural and site approval, tentative map to subdivide 3 parcels, modification to Condition 5, and extension of permit to expire five years from date of approval of this modification, and addendum to the 2009 Final EIR, as outlined in the staff report.
- She also noted that staff was requesting the Commission's direction on seven key issues, which will be discussed in detail later in the meeting, including:
 1. Parcelization
 2. Mix of retail and residential uses
 3. Office use and allocation – Major companies General Plan requirement
 4. Parking garage for the office development
 5. Retail pads in Town Square
 6. Hotel – type, size and amenities

7. Alternate site plan and park relocation

She discussed the issues and staff's recommendations as outlined on Pages 117 through 121 of the staff report.

- She reviewed the following as detailed in the attached staff report: the 2009 approved Master Use Permit, the alternate development options approved, the Plan 1 Scheme and Plan 2 Scheme in addition to the Schemes 3A and 3B; site, traffic and parking analysis; proposed tree removal; architectural and site review; and student generation analysis which was conducted.
- An environmental review was conducted on the project and an addendum prepared to the 2009 final EIR; the addendum found that the proposed project and all alternate schemes to be reviewed will not create new or additional significant impact than what was reviewed and approved in the 2009 final EIR. On March 23, 2012, the ERC reviewed and recommended the addendum.
- Staff's recommendation to the Planning Commission is to recommend approval of the draft resolutions for the modification application, architectural and site approval and tentative map approval and the addendum to the final EIR with the following requirements:
 1. The 2012 addendum to the final EIR be recommended for approval
 2. The modification to the previously approved Master Use Permit, Master Architectural and Site Approval and Tree Removal Permit allow for a hotel of up to 250 rooms, 138,700 square foot of retail and athletic club; a .8 acre town square, up to 289,000 square feet of office; 143 senior housing units, or 33 market rate apartments, .75 acre park, and removal of 61 trees and relocation of 17 trees
 3. Architectural and Site Approval for the 10 buildings
 4. Tentative map of 6 lots (combining office lots and no condos)
 5. Approve Modification to Condition No. 5 to replace the requirement for a 400 person banquet facility with a 6,500 sq. ft. restaurant and meeting space
 6. Extension of permit expiring 5 years from the date of approval of this modification
 7. Correct Condition No. 4 to reflect the 2009 Council approval which requires the project to be LEED certified or meet the new Green Building Ordinance if applicable.

Gary Chao:

- Relative to the replacement of the requirement for a 400 person banquet facility, he said the previous condition from City Council had a requirement that if the hotel was to exceed 160 rooms, that it provide a significant banquet facility able to house up to 400 persons. Part of the request from the applicant is to modify the condition to use the restaurant component on the base level of the hotel as a way to address the condition.

Vice Chair Sun:

- Asked that on such large projects, the Planning Commission be given more time to study the materials before it is presented to them. He asked what consequences the applicant would face if they are not receptive to the recommendations by staff on the 7 suggestions to the applicant.

Aarti Shrivastava:

- Said that staff was presenting the 7 issues which are recommendations that differ slightly from what the applicant is asking for. The Planning Commission has the option of making their own recommendations to the Council, and the Council can make its own decision; staff will fill in where necessary to inform if any of the decisions goes beyond the limits of the EIR study.

Com. Brophy:

- In the original approval it stated that the retail would be a maximum of 10% restaurant; the applicant proposed and the staff recommendation proposed that 6 and 7 be combined as a single office project. Also there is opposition to having a senior housing project that consists of condos; he asked for explanation of concern with condos as opposed to rentals.

Aarti Shrivastava:

- One of the big issues the Council went through when looking at Heart of the City was their experience on parcelizing properties previously, e.g. Vallco and the Oaks. The Heart of the City discourages parcelization because it recognizes that these are prime parcels in the city that need to be retained for future economic development. Going to condos, parcelizing into more than necessary lots creates a host of owners that makes redevelopment very difficult and operation of uses very difficult; these projects have very intricate and complicated sets of conditions, CC&Rs and as these properties are sold and resold, it is very difficult for all the multiple parcels to get together and comply with the requirements. Staff agrees with the premise of the Heart of the City because operationally they realize there is an issue as well.

Com. Brophy:

- Said he understood the concern about too much parcelizing and they have discussed it on some small projects where people were cutting up two unit buildings into condos; however, the project is a 143 unit project and he did not see how it constitutes parcelization. Does it mean there is opposition to any condominium projects built in the city now?

Aarti Shrivastava:

- There are issues with condo projects built on parcels of great economic value to the city. There are many parcels in the residential zones that are intended for nothing but residential development and staff has no issue with those going to condos. It is only on parcels which are either mixed use or mostly retail that staff has some concerns because they are concerned about operation and the ability to redevelop them in the future.
- Parcel 5 is its own parcel; it is the intent that the garage will be used for retail and the hotel, and one of the conditions requires that this parcel be tied to retail and hotel parcels and it can't be sold or developed separately.

Com. Brophy:

- Relative to office use and allocation, it is understood that the language as drafted previously was the idea that it would be for a fiscal benefit to the city; is there a clear cut definition of what that is or to the extent that this is not a free standing office building as might be found on DeAnza Boulevard, to the extent that it is part of a mixed use project, would that be considered a fiscal benefit.

Aarti Shrivastava:

- No, it is specifically office allocation and as written in the General Plan was supposed to be reserved for major companies that either have sales tax offices or corporate headquarters; and that new office development must demonstrate that it positively contributes to the fiscal well being of the city. It specifically refers to any project that requests this particular allocation that the office development contributes; and it is interpreted as sales tax revenue. There is wording that says "retainer pool to be drawn down by companies with sales office and corporate headquarters" and it says new office development must demonstrate that the development positively contributes to the fiscal well being of the city.
- Said the term "market rate apartments" was a misnomer, and did not imply that the city considers senior housing to be subsidized housing; a more appropriate term should have been called "unrestricted apartments" so there is no age restriction as senior units.

Kevin Dare: 500 Forbes, LLC:

- The plan presented does not request any variances and reflects the design guidelines associated in the Heart of the City guidelines. It reflects the original plan objectives which include creating a pedestrian oriented downtown environment; incorporating a mix of uses to energize the project; providing a town square and open plaza areas with active open space; mix varying

architectural styles with rich detail and materials; create an environment where you will go for an experience, not just a place to eat or shop.

- Said since their last presentation to the Planning Commission a few years ago, there has been one of the worst economic downturns in modern history. That period of time was actually a blessing in disguise; giving more time for them to reflect, speak with tenants and to study how to improve Main Street even more. The revised plan not only is responsive to the tenants, but also improves the overall circulation, parking and pedestrian accessibility for the overall project. He said they feel the revised plan is that much better and something they can move forward with. When the original plan was submitted several years ago, they purposely did not submit any traditional type of housing units, because of the sensitivity to schools. Since then they have received requests from numerous community stakeholders to study a project alternative to incorporate studios and one bedroom units.
- He said the logic behind that was it may help the city meet the state's mandated residential requirements and provide housing for Cupertino's growing community while creating a plan that has low impacts to schools.
- Said it was not their intention to frustrate anyone with the introduction of the plan concept; nor were they trying to sneak anything by anybody. In the most recent meetings with some community leaders and community members, there was significant concern and sensitivity to the issue. Based on those meetings, he stated he would like to remove from their application the consideration of the concept of the traditional apartments.
- Said that he was hopeful that over a period of time, they built strong goodwill with the community and they wanted to keep their word and make sure anything they do is embraced and supported by the community.
- Expressed concern about two conditions of approval and one recommendation in the staff report. Condition No. 4 requires that prior to the issuance of the building permit they must demonstrate that the office tenant provides fiscal benefit to the city of Cupertino. That in and of itself is not a component in the General Plan; while the statement is very broad they understand that the requirement is defined and is interpreted that the tenant needs to be able to provide sales tax revenue in order to qualify and be able to take space at Main Street. He said if that is the interpretation of the policy, they will not be able to compete effectively in a market place to attract office tenants, because it would mean that they would have only a small scope of tenants to pursue. He pointed out that tenants don't commit three years in advance; the tenants are very big tenants and are growing so quickly they have to take space that is presently available. Secondly, there are many tenants in Cupertino that would not even qualify and not be able to come here because they do not produce sales tax revenue in the city. There are also companies outside of Cupertino that would be interested in moving here, and other large institutions that may be able to create fiscal benefit; they may not create sales tax revenue and therefore would not be allowed to come to Main Street. He said this particular condition shackles them with requirements that no other city puts on new projects. Cupertino will lose tenants in town and will lose tenants that would come to town to neighboring cities such as Santa Clara and Sunnyvale because these other cities are very development friendly and they don't put those types of requirements on their tenants.
- Another condition causing concern is Condition 29 related to the hotel; regarding the requirement to provide usable balcony spaces rather than faux balconies. A 5 story hotel with balconies becomes a liability issue for them and is something they cannot commit to.
- Another concern is staff's recommendation to limit the office parcels to one parcel, which severely limits them the ability to pursue different tenants in the market place. They cannot build office projects at different times because both buildings would be under the same collateral; they would have to build both 300,000 square feet at once, which means that even if a single tenant wanted to be able to occupy space but take that space over a period of time, it could not be done because of the limitations associated with that condition. There cannot be two different lenders which would eliminate many tenants who would want the ability to purchase their own building.

- He also expressed concern about Condition No. 4, requiring the ability to produce sales tax revenue which limits the scope of tenants they could pursue.
- He summarized that he felt the proposed project is actionable, one that they can move forward with, as they have retail tenants, the hotel and office space.

Ken Rodriguez, Applicant:

- Reviewed the background of the project and a slide presentation which outlined the previous proposal approved in 2009 and the proposed modifications to date.

Gary Layman, Landscape Architect:

- Continued the slide presentation, including a review of the proposed landscape plan

Com. Brophy:

- Asked applicant to explain why they felt they had to be able to parcelize the two office buildings separately.

Ken Rodriguez:

- Said the logic is several fold. Presently as they continue to pursue the plan, they want the flexibility to build both buildings at the same time for one tenant, which is not always the option available; as they may have two 150,000 sq. ft. tenants. He provided an example of one tenant who was not going to take all 300,000 sq. ft. but only half of that. One of the things important to them because of their time and investment, is the ability to have the long term option to be able to own their own facility.
- Under the proposed scenario they would not be able to own their facility which was the one significant inhibitor for them to come if the city could not provide them the ability to purchase further down the road. He said they would not be able to build over time because they have to have the same lender; there cannot be a construction lender and a permanent lender.
- Having two parcels still does not preclude the option of bringing one tenant to take both buildings, but it gives the option of pursuing multiple tenants and be able to bring in multiple tenants at different times as well. Also those tenants have a requirement that in the future the option to be able to purchase and own their own facility because they invested so much money and time into these locations.
- Explained that the parking garage would be a shared ownership between the two office buildings; they were trying to limit the number of parcels and could practically separate that as a third parcel by itself, but opted to include that parking as part of that parcel. The other tenant that didn't have ownership of that parking would have a cross easement to be able to use that parking lot.

Com. Brophy:

- Asked if they could work out shared ownership of the garage, why does having it as a single parcel prevent them from selling off one of the buildings, without separate parcelization.
- Asked if they were now proposing to move the park inward and the senior housing onto Stevens Creek or is it the original configuration.

Ken Rodriguez:

- Alternative 4: Through some of the community meetings, some residents suggested moving the park off Stevens Creek. He said he was not in favor of the park being on Stevens Creek because of the safety factor and he felt that retail should be along Stevens Creek to promote its pedestrian friendliness. It was suggested to move the retail with a slight amount of parking, move the senior housing up slightly and place the park in the rear area. Another win/win was the two retail buildings and the connection through to town square.

Chair Miller:

- Said that what was presented at the meeting was different from what was in the agenda packets, and he was pleased that the retail was back in the northwestern quadrant.

Chair Miller opened the public hearing.

Chris Zhang, Cupertino resident:

- Said he was pleased to see the sensitivity to the community.
- Cupertino does not need a second Santana Row; this has been agreed upon by many community members, Cupertino needs to have something unique.
- Small apartments and monster homes alike will send more students to the schools; consider that in future planning meetings. The schools are under constant budgetary strains and good school areas keep a low residential density and it is what makes Cupertino great and special.

Dennis Whitaker, Cupertino resident:

- Said he was not in favor of the market housing element even though the applicant said it was taken out. He wanted to make sure it was stamped in there; except for the senior housing.
- Said with regard to additional considerations for future housing, they need to keep in mind that outside influences be considered on the infrastructure from homes recently built in west San Jose near Hwy. 85 and the homes that will be built in the IHOP area in Santa Clara along Stevens Creek. Traffic is now a problem with major pressure on DeAnza Boulevard; Wolfe Road will be hugely impacted when the new Apple campus is completed. Traffic and schools are a major concern.
- Relative to housing in Cupertino, he said he supported sensible growth, with a strong desire for retail growth in Cupertino, but was not happy spending his tax dollars in Westgate, Valley Fair or El Paseo. A former councilmember said they lost their chance to have a downtown back in 1962; this is potentially their last chance to have a greater impact on retail for Cupertino and he does not want to see the great chance minimized by additional housing.
- Possible additional housing spaces will place more impact on the infrastructure, traffic and schools. There are other upcoming housing projects and their impact will be seen. He said he was aware that school impacts cannot be considered by the Commission or the Council but pressures on adding more students without limits, as happened in the past, force their property owners, schools and city to face more bond issues and potentially greater property taxes.
- He complimented Sand Hill for the exemplary project.

Stuart Chessen, Cupertino resident:

- Said overall he liked the plan but was concerned that they were asking for a five year extension after the lot being empty for such a longer period. He questioned if it would delay plans another five years and noted that Cupertino would likely go through many changes in the next five years. He said he hoped the project wouldn't be delayed further because of the present problems with Vallco because it is so broken up with many owners.
- He voiced concern that the retail pads on the center of town square were too close to the creek; and said he liked the location of the park and retail on Stevens Creek Boulevard, but questioned whether there would be a problem with parking near the park.

Jennifer Griffin, Rancho Rinconada resident:

- Said the community, staff and the city have a lot invested in this project and she felt it was important to protect the integrity of the corner of Stevens Creek and Tantau which is the gateway facing Loree Shopping Center. She said the buildings should be stepped, not too high and ensure that there is green space along Stevens Creek Boulevard.
- She said she did not support having the park disappear back into the project; it then would become a park for the Rose Bowl and the Rose Bowl was approved with no park. The park

would be more appropriate along Stevens Creek Boulevard across from Cupertino High School; because she does not feel there should be a 4 story senior housing unit next to it. .

- She urged the Commission to keep the Ash trees along Vallco Parkway; Apple cut down the Ash trees across the street and replaced them; the Rose Bowl cut down all their trees across Vallco Parkway; there are no trees by Penneys, leaving the end of Vallco Parkway looking like a devastation front.

Steven Scharf, Cupertino resident:

- Opposed to project.
- Thanked the applicant for considering input heard at a recent meeting regarding the housing.
- Said he disagreed with Ms. Griffin about the park; he felt that Stevens Creek was not an appropriate location for a park as parents would not want their children playing next to a six lane divided highway; it should be back behind the senior housing, if there at all. He said he would rather have more retail than a park.
- Expressed concern about the percentage of restaurants, 10% being very low in comparison to Cupertino Village, Marketplace and Santana Row. Although parking is an issue, the parking rules were disregarded for the other centers resulting in people parking in the neighborhoods. The restaurants do make shopping centers successful; he would like to see the percentage higher than 10%.
- Said he also hoped that the Commission would require that bike facilities be added.

Robert McKibbin, (representing Barbara McKibbin, Janice and John Ishii, Cupertino residents:

- Opposed to project.
- Said the first plan ran smoother than the second one because they had extensive meetings with the public and were able to work things out, whereas the second one did not have any. Said it was important in the future that the developers meet with citizens in a community meeting and work out the details.
- Said he also represented Concerned Citizens of Cupertino and CARE which are the two organizations who presented referendums about six years ago opposing housing on this site and another site, because of the potential impact on schools and also the elimination of retail land needed for tax dollars. Said he was pleased that the residential portion and the market rate issues were no longer on the table. He encouraged everyone to read the report which highlighted the impacts on Eisenhower and Sedgwick Schools.
- Said there was a need for senior housing in the community; however, staff recommended that they not be changed to condos which would result in 150 parcels individually owned, not just 6 to 7 parcels. He suggested that the issue be studied further.
- Retail: the 2009 plan was for a maximum of 195,000 sq. ft. of retail, some of the elements in these proposals reduce that down to 70,000 sq. ft. of retail which is totally unacceptable. He emphasized that the 111,000 sq. ft. Marketplace is a successful neighborhood shopping center; and they need a lot of retail in the proposed development and not less.
- He said the concept of having 10% maximum restaurant for the retail is unacceptable; Santana Row almost failed because they didn't have the restaurants there; now their restaurant space takes up 50% to 70% of Santana Row. He said he felt it was important that staff is directed to go back and look at the parking element in relation to 50% restaurant retail space and not 10%. Much of the present and future development in the retail market is going toward restaurants because people are dining out more. The city needs the sales tax, more retail is encouraged.
- The initial proposal for office space was 100,000 sq. ft., now asking for 300,000 sq. ft., with requirements attached to 200,000 sq. ft. The city attorney said the in-lieu fee was illegal under the scenario that we have with the city. It needs to be addressed and discussed further.
- Suggested that they have as much underground parking as possible; and review the retail restaurant portion in relation to the parking.

- City staff proposed Scheme 3A and 3B which is viable; no market rate housing; maximize retail; maintain office space bonus criteria so there is an economic benefit from that specific development. The cons of senior housing becoming condos needs to be reviewed and review of the parking element regards to 50% ratio of restaurants.

Mike Charon, Cupertino resident:

- Said he resides on a street that ends on Finch Avenue and was concerned that their small community would be used as a thoroughfare to get to the proposed development. He asked for more information on what was being planned for traffic in the area, particularly in the area of Highway 280 and Wolfe Road.

Keith Murphy, E. Estates Drive:

- Said he concurred with Mr. McGibbon and Dennis Whitaker, and believed the philosophy if you build quality retail, the customers will follow. The big commercial businesses are expanding and there will be people to fill the seats in the restaurants and shop in the stores. Said he was pleased that the housing issue was being addressed with the community outreach by Sand Hill Properties.
- Said a major concern was what to do about the office. If you have a corporate campus description in the General Plan that states you have to meet certain criteria and yet you can't, it calls for a General Plan amendment to access that extra office. If you do an in-lieu fee, it is a one time payment; but if you have a campus come on board for years, you would set up a development agreement with a specific amount of money over a period of years. It has to be analyzed carefully and justified to the community that if you take an in-lieu fee what are you giving up; especially if Apple moves into this and you have had a chance to get a retail component and it is missed; Apple is there and no other corporation can come in and perhaps be an asset to the community. He emphasized that it needed to be addressed.
- Relative to fiscal impacts, he said he agreed that the city has to be concerned about the fiscal impacts and ensure there is enough retail to support infrastructure improvements over time and not just rely on the big corporations in town. There needs to be a fallback plan; Market Place has been successful and Main Street could be just as successful if it is supported.

Ruby Elbogen, Cupertino resident:

- Said she had been on every focus group since the project started and she appreciated that the applicant has honored what they said they would do and they have amenable to what the public wanted. He said the residents aren't focused on the office space because Apple has two million square feet coming in; and the people want retail at Main Street.
- He said he was not concerned about the park space and would rather have a bigger island of green in the middle and more stores than a park.
- Said that if the hotel is not going to be four or five stories, there would be many families with children and there would be a safety factor with the proposed balconies.
- Said she did not like the pads on the open space but it was not crucial.
- She does not support a five year extension and preferred them to start building soon.

Ned Britt, Cupertino resident:

- Said he concurred with most of the previous speakers.
- Thanked Sand Hill for meeting with community and taking into account issues regarding the apartments and making changes. The previous dispute over the referendum of getting rid of retail space and turning into residential space was answered clearly by the community 2/3 votes, and that spirit needs to always be considered. Said that he felt the issue of impacts on schools is serious; and they understand why it is.

Doug Frieson, Cupertino resident:

- Opposed to the project.
- Said he had a concern about the apartments and the impact on the schools; and the traffic around Blaney Avenue and Lassen and Portal where he resides, but felt it was resolved. He commented that it took one-half hour to go down Blaney Avenue around 8:30 a.m. when there is heavy traffic to the schools.

Jason Lundgaard, (representing Apple):

- Opposed to the project.
- Expressed Apple's opposition to drawing from the major company office allocation for this project. When the square footage discussed today was added to that specific allocation in July 2009, at the time the Council did it specifically for the goal of facilitating the growth of major companies currently in Cupertino and their future growth proposals and plans.
- The Council at that time specifically discussed an option to take some of the square footage and put it in a different bucket for general office space development; they rejected that proposal, and also rejected amending the definition in the General Plan to remove the word "existing" from the existing major companies' explanation; hence he felt that the proposal is clearly contrary to the intent of that decision made in 2009, the proposal presented would take 190,000 sq. ft. from that allotment and tie it up for a period of 5 years with uncertain results.
- It was heard earlier that the company cannot necessarily commit they will be able to deliver a company that will locate a sales office here. Furthermore, it is doubtful they can commit that they are going to deliver any companies in that time. In the meantime, that allotment from this major company office pool is going to be unavailable for any of the other existing companies in Cupertino to use for their expansions. It is clearly a use that is not consistent with either the language in the General Plan or the intent behind that decision in 2009.

Chair Miller:

- Asked Mr. Lundgaard whether Apple plans to use the entire allocation of that space.

Mr. Lundgaard:

- Said they would draw on the space in their current plan, but he was unclear to what extent, partly because of ongoing negotiations with the city regarding how space is defined. He said they were uncomfortable with the idea that the city would be using the square footage allotment and giving those squares to a project that was not consistent with the intent when it was laid out; and that would potentially jeopardize some of the projects down the line.

Patrick Kwok, Former Mayor and Cupertino resident:

- Was no longer present at meeting; staff conveyed his sentiment that originally he attended to express concerns about the apartment complex and after learning that it is no longer the case, it was no longer a concern.

Lisa Warren, Cupertino resident:

- Said she sent in an email earlier about her concerns.
- Said she did not fully understand the 10% maximum from retail for restaurant; regardless of whether there is an athletic club or grocery or other retail in the back corner, is the athletic club still considered retail; would the whole mix be the same? Said that Sand Hill said that they have many restaurants lined up; if 10% is not going to fulfill what they have tenants for, it seems a shame to limit it to that.
- The auto court and under-office parking is a good idea from staff but it was not addressed by the applicant. She would like information on that and would like to limit the stacked parking. She did not support considering the parking around town square as part of town square; it is parking. Town square has not changed since last time.

- If the park is put behind the senior housing away from Stevens Creek and the retail is split apart similar to the way staff drew their schematic, it opens it up to one bigger space. Removing a dozen parking spots between the two would make a better connection. She said she felt it was a good plan.
- Said she felt that both retail pads were not needed for town square; limit it to one small pad and not two stories tall as it overpowers town square; portable kiosks could also be brought in.
- Said she was concerned about signage and lighting and would like to be involved when they were discussed, since she felt unattractive signs and neon could destroy something otherwise beautiful. She agreed with staff's comment that the garage should look like a building, not a parking garage; and she felt it was doable.

Hella Bluhn Stieber, Cupertino resident:

- Said she felt they were missing an opportunity for a big pedestrian zone around town square; there is a connection to a park that could be, if the park is set back, and she agreed with previous speaker that it would be sad to have the small retail buildings between the park and the town square. It would also provide an opportunity to have a big open space for events. If it is not possible to have a pedestrian zone all around town square, at least have it between the park and town square.
- Said she felt there was a need for community meeting rooms and having retail buildings in the town square or the park would be a suitable alternative. The applicant also mentioned a possible creek trail, yet it was not shown on the schematics.

Chair Miller closed the public hearing.

Chair Miller:

- Said that relative to office allocation, the Apple rep indicated that the space was primarily designated for a different purpose; he asked for staff's interpretation.

Aarti Shrivastava:

- Said that staff's understanding was that when the Council reserved 633,053 sq. ft. in the General Plan their intent was to encourage major companies in Cupertino. There was interest in helping existing companies, Cupertino sales offices and corporate headquarters to expand using that square footage; and the interest was in attracting new companies of the same caliber to Cupertino. She said that was their understanding and interpretation of how the square footage should be used.
- Said the 633,000 sq. ft. would be available to existing companies to be drawn down; the intention was also to encourage new companies to move in. A portion of it could be Apple, a portion of it could be new companies; again of the same type, i.e., major headquarters, sales tax, to bring fiscal revenue into the city.

Gary Baum, Special Counsel:

- Clarified that the Planning Commission does not have the power to exempt the applicant from General Plan conditions; the Commission can recommend a change to the General Plan but does not have the power to say they do not like the particular condition.

Chair Miller:

- Said he understood for the project to be built in a reasonable time frame they need that office space or will lose the entire project. He was seeking a way around the conundrum so that the project can be built, since it seems to have resident and community support and do it in a way that everyone is reasonably comfortable.
- Said that many residents suggested that the park was not nearly as important as additional retail. He asked staff to address if they considered using the park for retail instead of a park.

Aarti Shrivastava:

- Responded no, the project was approved by Council with a .75 acre park and staff did not question it.
- Relative to raising the restaurant limit from 10%, she said that it wasn't staff's specific limitation, but a question of traffic and parking issues based on what the applicant could provide in the project. The 10% is 10% of the 138,000 sq. ft. staff is recommending; if the square footage of retail is a little lower because they put in the grocery store, staff would have to look at what that mix means; and it would be a study of the traffic and parking impacts. Raising the restaurant percentage with increased traffic and parking impacts, the applicant would have to lower something else and they were not willing to lower the office, the units or the hotel. Staff is not opposed to it in any manner; it was the applicant's with based on everything else they felt they needed.

Staff answered additional Commissioners' questions about traffic circulation, parking, building design, lighting, signage, and creek trail.

Chair Miller:

- Asked if the comments from residents that they would like to see more retail than what was originally proposed in the initial plan, implied it would go beyond the boundaries of the EIR.
- He asked if staff felt that maximum amount of retail square footage is more important than creating viable retail space?

Aarti Shrivastava:

- Said it would if the office square footage stayed as is. Staff recommends that the retail go up to 138,700 which would maximize the amount of retail on the back northwest corner allowing for all the retail small buildings as well as retail around the garage. Going beyond that would exceed the boundary of the existing EIR.
- Staff would like it to be viable; they recommend the maximum amount of retail as proposed by the applicant, and not beyond that.

Kevin Dare:

- Explained why they were requesting a five year extension even if they received approval to build the project immediately. Following the original approval, no one expected, nor could anyone predict the financial meltdown that occurred in the next three years. He said they don't have control over many things, and have the tenants they are working with today; and could move forward with building; however they are seeking an extension in the event they need to accommodate unforeseen circumstances.
- Said that if they did not get the amount they requested, the project would not go forward.
- Said he was pleased to hear that Apple may apply for retail space and they would welcome an Apple store in Main Street.
- He questioned how it is defined in the General Plan, that new office development must demonstrate that the development positively contributes to the fiscal well being of the city. He said they were not requesting a General Plan amendment, because of time constraints and they want to be able to capture the market to where it is today.

Jim Randolph, Cornish and Carey, retail specialist:

- Said they were comfortable with the Stevens Creek frontage and its placement. He noted that it has always been difficult how to plan the Vallco Parkway site because of the distance to the parking garage when dealing with shopping carts, strollers, and children. The latest plan showing some surface parking gives the greatest chance of being successful there.

- He said he was happy to learn that the Commission was studying the 10% restaurant issue as it is important to the project. He said that Cupertino would be an attractive place for the type of food services and was hopeful that there would be some flexibility there.

Ken Rodriguez:

- Said they have been working to develop different plans and would rate the locations as an A+ location on Stevens Creek Boulevard; A+ location in the middle of Town Square; and A location around Town Square. They are presenting two plans, and including a third with the athletic club, all viable plans; anything more than 130,000 square feet is going to be difficult.

Kevin Dare:

- The expectation is that they need more restaurant and that has been staff's understanding as well. Part of it is because there are so many moving parts and it is just a baseline condition which they will continue to ensure with staff's help that they maintain the traffic as well as parking; whether that means they get to 15, 20 or 25% more square footage of restaurant, that's the intent.

Aarti Shrivastava:

- Condition No. 7 says that base amount is 10% but staff can look at the restaurant square footage based on the final mix as long as they meet the traffic and parking; which is the same as the condition provided in the last report.
- Said there is nothing to prevent them from approving additional restaurant percentage as long as the overall EIR is not breached, which is not different from the condition in the past. If they increased the parking to justify the higher percentage of restaurant space, it would breach the EIR limits if the traffic was increased.

Ken Rodriguez:

- Said he agreed with the majority of the community members that the project is for a vibrant downtown area, and in any downtown there is additional restaurant space typically more than 10%. He said he would like to see more vs. less.
- Said they had considered an auto court with underground parking, proposing a five level garage and a four level garage, with one level of underground parking. He said that retailers do not like to park in the basement and go shopping; therefore they have to be careful about how much underground to put in and reserve it for office space. An above-ground structure costs about \$20,000 to build, and below ground is \$48,000 per stall, which impacts the viability of the project if they do that. He said they were willing to explore ideas with staff, the Commission and the Council; but would like staff to consider the ramifications; if they add another level it would have to be retail parking.

Com. Lee:

- Asked Kevin Dare if in their market research they considered having more than one anchor tenant; did they consider putting an anchor store in the different locations instead of grocery stores. Santana Row has three anchor tenants, Valley Fair has three anchor tenants. She reiterated the need for some luxury retailers instead of grocery stores.

Ken Rodriguez:

- Said for two years they have been out in the marketplace, and from a planning standpoint, he felt the plan in the area could handle an anchor tenant.

Jim Randolph:

- Said when they started on the project, and how to make the retail work, they considered getting one or two anchor tenants. Said they have to take into consideration the competitive forces

that exist on Stevens Creek Boulevard. Valley Fair is not just Santana Row, it is a combination of Valley Fair and Santana Row and when you start to add number of tenants and square footage, you are at the magnitude that is in the top ten nationally. Said the problem with Vallco is the anchorability because they cannot compete with the other regional centers. Crate and Barrel would be an ideal anchor, but would not go into a location in Cupertino.

Com. Lee:

- Said she understood that, but said there were other luxury upscale retailers that would come here, the sister companies designed for the younger market may locate in Cupertino. Barneys New York has no locations in the Bay Area, and five in Southern California.

Jim Randolph:

- Commented if those Com. Lee mentioned were looking at the market, they would look at Union Square, Valley Fair or Walnut Creek; all the luxury stores have to be together in a critical mass.

Com. Lee:

- Said they need a critical mass and that is why they need some anchor tenants; Santana Row is 26 acres; Main Street is 18 acres; there is enough space but the applicant is putting in so much office. When Santana Row was built up it didn't have that much office, only 55,000 sq. ft. She said the mixture was all wrong, not enough retail, no anchor tenants; if the anchor tenant is all the way in the back, people drive through Stevens Creek and don't see the anchor tenant because it is in a bad location.

Jim Randolph:

- Said that the last project Santana Row completed was to add office to their project; their newest project is adding more office. They see the wisdom in cross shopping and see the wisdom in having bodies there from 9 a.m. to 5 p.m. who go to lunch and shop and that is the reason they are adding those.

Com. Lee:

- Said they have been open for over 10 years. Have 55,000 sq. ft. of retail, and now are only adding 55,000. There is a one to ten ratio; what are our ratios.

Ken Rodriguez:

- Initially in the Master Plan at Santana Row they had office; and are now increasing the office; and decreasing the major tenants because they are not doing well. Jim Randolph is correct, one can look at the numbers Best Buy does, the book store is closed and they have tried to backfill that space for 18 months. He emphasized that 2-1/2 years of work of what he felt is a very good commercial brokerage company shouldn't be discounted.

Scott Sharp:

- Referring to the Santana Row office issue; said he had worked on the project since its inception in 1998; it is basically a Master Plan and is market driven and they had flexibility. They originally had two hotels and got rid of one to add more restaurants, all traffic driven. They are now looking at two more offices of significant size because of where the market is now; they could not have supported the office when originally built.

Com. Lee:

- Because they had all the anchor tenants first; they put all the anchor tenants on the corner of Stevens Creek and Winchester to draw people in. Said they were not trying to replicate Santana Row, but to be a successful center they needed more anchor tenants.

Kevin Dare:

- Early on in the 22 meetings, they looked at the project as something unique and special to Cupertino; and recognized the actual market realities that one of the country's ten largest successful shopping centers existed only 3-1/2 miles away. The successful elements of Santana Row are the walkability, restaurants and small shop space. The center transformed from selling high end designer merchandise to an area where the traditional average consumer would shop. He said their goal was not to replicate Santana Row, but to have something better and different. From a revenue standpoint, the hotel will generate over \$1 million dollars a year in revenue; from a restaurant standpoint, and retail standpoint, it will be better than Santana Row. The mix of uses is going to be the right fit; the community feels it is a right fit.

Com. Brophy:

- Said when working in Chicago 25 years ago, in aftermath of Prop 13 he would be contacted by cities wanting to have regional malls because of the desire for sales tax. What he quickly learned was that the anchor tenants, whether in a standard size regional mall or luxury center only want to go where it is already successful.
- As Jim Randolph stated, if you have a high end luxury brand like Barneys New York, No. 1 would be downtown San Francisco, No. 2 probably in the Valley Fair area, and if considering a third store, in Walnut Creek. There is no way that they would come to Cupertino and in his opinion they have to deal with the world as it is and not as they would like it to be.

Jim Randolph:

- Retailing today is changing drastically because of the internet; everything available in stores can be purchased on the internet; stores are downsizing and getting smaller and smaller. The internet is not going to kill the grocery business any time soon; they might encroach on it but it is still a very important draw and that is why you see so much segmentation in the grocery offerings. The real anchors of today are the food uses, the restaurants; and in any new center there is probably going to be food uses that are attracting people, because there are no real new retailers that are willing to take a chance to go as outside the proven retail market.

Vice Chair Sun:

- Said the new plan could change and it is worth thinking ahead for 10, 20 or 50 years on the success of the center and also what kind of anchor, either restaurant or luxury store should be brought in. He said they may need more time to consider the plan, discuss the parking garages and possible apartment or retail space changes. The City Council will discuss the new plan on May 1st; perhaps there can be more options to consider to build a successful Cupertino Center.

Ken Rodriguez:

- Said that since the January 2009 approval they have been talking to tenants, trying to attract and create a plan to present. In the current proposal, they are building and committing to build more that what was previously approved. Comments from the community indicate their support of the plan except for the apartments, which has been taken off the table. He said he agreed with the suggestion to have one more community outreach meeting between now and the City Council meeting.

Com. Lee:

- The project claims there will be shopping and dining destinations, which is what they wanted, but the project as presented does not have a chance of succeeding as a mixed use, vibrant downtown environment. Said there was not enough square footage for retail; there is no major luxury department store or anchor tenant; the anchor tenant is going to be hidden in the back and it will be a disappointing market. She stressed the importance of having an anchor store for a successful project; other centers have two or three major anchor tenants. No one commented that they needed a market in the project.

- Some people said that they don't like it that their sales tax dollars are going to neighboring cities; there is a loss of sales tax revenue and it is affecting Cupertino. There are potential department stores that would do well; Santana Row has 70 stores, and 26 acres, and the proposed project is 18 acres.
- Said the agrarian themed architecture leaves much to be desired and is very uninspiring. She said they could pay homage to Cupertino's past without everything look barn-like. She referred to some centers with European architecture and use of imports from European countries used for building décor, facades, etc. She said the Residence Inn Hotel was not the hotel they were looking for; the architecture is uninspiring even if colors were changed. She pointed out that Santana Row has a trendy boutique atmosphere and is named after the street that runs through the project.
- Referring to the site plan, she said that it was a disadvantage that shoppers would have to cross the street back and forth many times to shop in different stores. It could be more continuous with a better retail presence along one side similar to Santana Row. Relative to the proposed development; instead of the second office building she illustrated where an anchor store could be placed, with one in the middle, at the southwestern part of it and another anchor in the back which is the least desirable because it is away from Stevens Creek.
- She did not support the idea of having an athletic club because the Bay Club already existed and will open shortly. Other comments were that the apartments were a done deal; and the senior housing should not have an age restriction on the apartments. She suggested that if the apartments were limited to 800 square feet it may discourage families with children from moving in, resulting in contributing to the overcrowding school problem. Younger people could take advantage of living in the mixed use development.

Com. Brownley:

- Referring to the Phase 2 site plan, said he preferred the park location more north, not along Stevens Creek. Said he liked the amenities for the growing community; it is a good mix of retail, senior housing, office and park space. The financial benefits for the city provide good opportunities for both the city and the school system. While there is a lot of parking and areas for cars to move through there was a lot of emphasis on the facades of all the areas encouraging walkability and pedestrian activity. He said he did not support strips of grass in the town square, but small pads would make it a walkable area.

Com. Brophy:

- Said the site is not Santana Row, Valley Fair or Vallco, but just a faux small town downtown; no more, no less. He said he felt there was no point in discussing trying for something grander as it would not get off the ground. There may be sales tax leakage out of Cupertino but there is no way of stopping that. The key point of tonight's discussion was that there is a strong desire for retail and this is the only chance for a downtown, since the chance was lost 50 years ago. If there is going to be a downtown, it is going to be in the proposed location or nowhere else.
- He said he felt they have to come up with uses that create a quality downtown experience in a small town way, but it is not going to happen unless they get a development that makes financial sense for the developer, who will not build out of philanthropic desire.
- Said he had hoped at the beginning of the discussion that they could accept two office buildings under the special cap on the grounds that unlike a typical office building on DeAnza Boulevard, what they are providing to the community is not only financial benefits in terms of sales tax revenues from the connected uses such as the hotels, retail space, but creation of a downtown that in many ways is worth more than many corporate headquarters are.
- Said that relative to Apple's opposition, they should be sensitive to Apple's needs, and he would like to see that problem resolved.

- Because of the late hour, he said the focus should be on whether or not they want the project, and if they do, come up with concepts that make economic sense rather than just have wishful dreams that are not going to go anywhere.

Vice Chair Sun:

- Said his general comment is the same as mentioned earlier in the meeting; for this critical part of the development, perhaps consider a different alternative to make it a better concept which is the definition of success of the Cupertino center. If they put two office buildings there, he said he did not agree with Com. Lee that they need the anchor luxury store but perhaps some other store such as an Apple store. There may be more space to redo the layout and make it a more walkable area.

Chair Miller:

- Said the objective in the South Vallco Master Plan was to have a downtown area where residents could congregate and socialize as well as have a place where they could do some additional retail shopping. This project achieves that objective. The second objective was to have some significant amount of retail that would serve the residents as well as the city from a financial standpoint and sales tax. The third key objective was connectivity to the other projects, the Menlo Equities project, Rose Bowl and if possible to some extent to Vallco. He felt the project is making a good attempt at doing that and the plan shown tonight is improved and moves it a lot further along.
- Said he was pleased with the presentation and agreed that given the size of the center and what surrounds it, that it made sense to have a very strong restaurant component there which would drive the center and make it more successful. The applicant indicated that the city could receive about \$1.7 million per year in tax revenues from the project which would be an immense benefit to the city in the struggling economy. He said he would like to see a way where the restaurant component is improved from what it is. He said he was not certain of the need for the anchor tenants in the proposed project; he felt the anchor tenants belong in the regional center at Vallco.
- Said he was pleased with the project and would like to see it move forward and not stalled again, as they have been trying to build the site out for at least ten years. It is time to move the project forward and do the best job they can.

The Commission addressed the following questions:

1. Parcelization
2. Mix of retail and residential uses
3. Office use and allocation – Major companies General Plan requirement
4. Parking garage for the office development
5. Retail pads in Town Square
6. Hotel – type, size and amenities
7. Alternate site plan and park relocation

1. Parcelization:**Com. Brownley:**

- Appreciated applicant's comments about the managerial difficulties of taking care of it if they become combined, but also felt that staff's recommendation for operational simplicity going into the future and for redevelopment made sense. Said he supported avoiding parcelization for both plots and supported staff recommendation on senior housing condominimizing.

Com. Lee:

- Said it was important to keep the six parcels; she supports staff recommendation on the senior housing condominimizing.

Com. Brophy:

- Two separate issues: Said he saw no reason they should not allow the development of the senior residence as condos as opposed to rental units. It is a standard form of housing and stating it is splitting up the parcel does not make sense. There are many senior condos that will be around for 50 years or more. Said that if they have to live by the terms of major company, it sets a much higher bar for them to develop and under those circumstances, he would be willing to change his mind and split the office into two parcels.

Vice Chair Sun:

- Said it doesn't make sense to force them into one parcel; two parcels is still appropriate and helps them run business easier. Relative to the condos, you cannot force the business owner or land user to put them into rental units or home ownership; let them decide whether they should be condos or rental units.

Chair Miller:

- Said he concurred with Coms. Brophy and Sun; the desire is to give the applicant the best chance of making this project successful and it makes sense that the two separate office buildings are two separate parcels. Staff wants to be able to redevelop it, but it won't happen for 50 or 60 years. Menlo Equities and the Rose Bowl have done condos next door and he would support condominiumization of both items.

2. Mix of Retail and Residential Uses:**Aarti Shrivastava**

- Staff's recommendation was to allow a maximum of what the applicant proposed, which is 138,000 sq. ft. and to approve one residential project; it is a moot point.

3. Office Use and Allocation Major Companies General Plan Requirement**Aarti Shrivastava:**

- It is a Council policy; staff recommended approval of the office square footage; does the Planning Commission agree.

Com. Brophy

- Given the opposition from Apple, he said he felt they should take the position that they are going to have to deal with it, with staff's interpretation of the term.

Vice Chair Sun:

- Said he agreed with Com. Brophy.

Com. Lee:

- Said she did not support further office space increase in square footage.

Com. Brownley:

- Said he agreed with the allocation of office space square footage for the project.

Chair Miller:

- Said he would like to see the increased allocation of office space; it needs to be supported if the project is going to be built. He said he would leave it up to City Council to decide where the office space comes from, whether from the major companies; General Plan office space or some other place, as the Council put the original restrictions on it. From his standpoint, he

recommended that the Council find a way to increase the allocation, without telling them how to do it.

4. Parking Garage for the Office Development

Aarti Shrivastava:

- The concept was to find a way to reduce the amount of garage partly because it has an impact on Vallco; the other part being the front of the two office buildings from the garage; staff felt that if a major corporation was going to come in, they wanted to provide them with something that would feel more like a campus, but yet in a downtown and not have a garage facing them. The applicant is open to exploring some options to add a level of garage on the other garage, a fifth level originally approved as a five level garage; and staff would prefer to see that and a three level office garage in the front of the two office buildings.

Chair Miller:

- Asked if it would leave them one level short.

Aarti Shrivastava:

- Said it was her understanding they could make it work and the surface could be used as surface parking partly; it doesn't always have to be an auto court. They are doing an underground level on both; if you take two of the levels, staff feels that the auto court level can make it work. Referred to the site plan and illustrated the current underground garage levels, and outlined the proposal for the underground and above ground level parking garage.

Com. Brownley:

- Said he supported the idea of putting more parking beneath ground level. To the extent that each garage could be designed, the outside could be designed to be appealing or look like a building which would be a step in the direction of what is being proposed to make the two office buildings an appealing façade for anyone coming into work in those buildings.

Ken Rodriguez:

- Said from a planning standpoint, if they added one level above and one level below they could continue to park a project as shown. The front of the project is on Stevens Creek Boulevard; he said he might consider moving the office building back to try to get more retail out on Stevens Creek which would help the plan. He would like to work with staff and explore that option. He commented that if two levels are below grade, the retailers will not park down there; they have to be cautious not to do too much underground parking. The office building will park below grade since they come in once and leave later in the day. Two levels below grade would work for the offices; the result would be a five level garage above grade.

Aarti Shrivastava:

- Said that Kevin Dare brought up a good point about moving the building back; staff would like to study that if the Planning Commission is interested; it would be a four story building hiding a five story garage. She said they like the concept of the buildings hiding the view of the garage as you enter. She said staff had concerns about moving the building back.

Com. Brownley:

- Said he supported the idea that the garage has been changed to conform to the area and made smaller; and was open to exploring different parking garage options if that is being proposed. He said if it is still going to be some form of one or two level parking garage, they needed to ensure that the outside is designed well.

Aarti Shrivastava:

- Said the applicant was considering eliminating the garage entirely and building one extra level above and one extra level below, so it would become a 7 story, two below and five above.

Ken Rodriguez:

- Santana Row is an example of 7 level parking with no basement parking. He said they must be cautious about not putting too much underground parking there. It is significantly more expensive to put it in the basement than above, the numbers double. He said they need to explore with staff and make sure it can work for both the tenants.
- The market called for that; which is why they presented a proposal for a four level garage and a five level garage and no basement parking. Said after discussions with staff, it became apparent that they would like to have more underground parking. He stated for the record that he felt the original proposal was the best one which had two garages above grade.

Com. Brownley:

- Said he would leave it as is, since it was already modified to conform to the area. He said he was not so concerned about underground parking in terms of voting tonight, but with a strong recommendation that they meet with staff and discuss any alternatives for adding additional levels beneath ground; and also for any area that is above ground, looking at what the exterior of the structure looks like.

Com. Lee:

- Pointed out that the regional shops on Stevens Creek are just one story and the garage is four or five stories; there is not such a difference adding a story or two; the retail shops aren't going to hide anything, unless you put senior housing over the retail shops, resulting in a couple of stories in front and a couple of extra stories for the parking garage. She said she would like more retail along Stevens Creek and would support five or six stories of parking to get the applicant some options to explore.

Vice Chair Sun:

- Relative to the parking issues, said he supported staff's proposal, but also liked applicant's proposal for an office building off Stevens Creek Boulevard to leave some space for retail. He said he did not support the two levels underground two levels, which would cost the people too much money; the other option being one floor on the top of four that becomes five, and one floor a parking lot. He asked it was possible to put one in the other office building underneath or in the hotel underground.

Ken Rodriguez:

- Said they studied it extensively and did not propose it because it takes so much longer to build the building; adding about 9 to 12 months to the project and significant costs. They thought it better to concentrate the parking into one area. Staff said to make it look really nice and many of the commissioners concurred.

Com. Brophy:

- Said he supported the parking proposal currently planned.

Chair Miller:

- Said he supported the current parking arrangement that the applicant submitted tonight and would be willing to give them the flexibility to explore other options, including moving the building back and putting more retail on the street. Said he would support a five story parking garage.

5. Retail Pads on Town Square**Com. Brophy:**

- Said he would like to see a design in the town square as it is a central feature. Staff should work with the applicant to come up with a concept that makes the town square the key of the project. He noted that Union Square in San Francisco was a good example of putting buildings into a square that was previously a dead zone; it now has a café with seating areas on the east side and a theater ticket booth on the west side, which has made it a lively area.

Vice Chair Sun:

- Said he did not agree with the applicant on comparison with Santana Row. During the year the city may not have more than 20 big events in the town center square; if comparing benefit and cost, he said he would support staff's recommendation to remove the retail pad.

Aarti Shrivastava:

- Said staff's recommendation was not to remove them entirely but to reduce the size and/or possibly take out the one in front; not certain what retail would go in 1500 square feet space.

Kevin Dare:

- Said a Starbucks or coffee shop would go in a 1500 to 1800 square foot space.

Com. Lee:

- Recommended reducing the pad size one to 1500 square feet and eliminate pad 2 which is the southern pad building.

Com. Brownley:

- Supports keeping the retail pads as they are.

Chair Miller:

- Said he supported keeping them there as well, and also agreed with Coms. Brownley and Brophy that the goal was to build the best design possible and work with staff on that.

6. Hotel type size and amenities:**Com. Lee:**

- Would prefer a boutique trendy hotel instead of Residence Inn; 200 rooms is appropriate; the community and City Council want a banquet hall with 400 person capacity.

Com. Brownley:

- Agreed with Com. Lee about the quality of the hotel, should be representative of Cupertino, 5 star high quality/high class. As presented today, the banquet hall was also banquet hall/restaurant/flexible use and flexibility was an enhancement. Would support a flexible use space within the hotel.

Vice Chair Sun:

- Said he agreed that the hotel should be 5 star high class; no objection to proposed site for hotel; would support a 300 person capacity banquet room requirement.

Aarti Shrivastava:

- Said the Commission could recommend that; staff is recommending what the applicant is proposing; instead of the 400 person banquet hall that he be allowed to provide a 6500 square foot restaurant/meeting facility. Staff feels the proposal is appropriate.

Kevin Dare:

- Said that there is currently not a full service extended stay hotel in Cupertino; their Los Altos Residence Inn was 88% full last year vs. 60% to 70% occupancy of other traditional hotels; the room rates for their hotels are higher than what other full service hotels are in other areas which will benefit Cupertino. The hotel will be a high end, trendy, high quality five star hotel; and it will have all the restaurants and amenities on hand.

Com. Brophy:

- Said he supported whatever hotel the applicant can get to sign up for the project.

Vice Chair Sun:

- Concurred with Coms. Lee and Brownley to upgrade the hotel.

Chair Miller:

- Said he supported the applicant as it is a marketing decision and one for the experts; the applicant stated that the hotel will bring in \$1.2 million in sales tax revenues. The hotel will provide services primarily for the companies in town for business during the week, not primarily for people visiting on weekends for guest stays.

Kevin Dare:

- Commented that the point about the \$1.2 million per year T.O.T. is dependent on this particular hotel. He said there are 2,000 hotels in America in foreclosure; they cannot build a full service trendy type concept.

7. Alternative Site Plan and Park Relocation**Com. Brophy:**

- Said it should be moved back; it is a block away from a high school with 1600 students. Suggest that it be moved back into the corner where it serves more of the project and the adjoining residential projects, and frees up land that is better used for retail.

Coms. Lee, Sun, Brownley:

- Support moving it back off Stevens Creek

Aarti Shrivastava:

- Said the applicant recently showed a site plan that staff had not seen, but looks similar to the site plan they were recommending with some amendments; and staff was not opposed to it.

Misc Issues:***Issue of Ashes vs. Pear on the back.***

Com. Brophy: Supports Ash trees on the back.

Vice Chair Sun: Supports Applicant's choice.

Com. Lee: Make it continuous; get rid of Ash trees.

Com. Brownley: Make it continuous; leave it to City Council to make a final decision.

Chair Miller: Keep the Ash trees.

Real Balconies vs. Faux (Juliet) Balconies

Faux Balconies: Com. Brophy, Sun, Brownley, Miller

Real Balconies: Com. Lee

VTA passes for seniors

Eliminate Condition: Chair Miller; Coms. Brophy, Sun, Brownley

Supports VTA passes per Council direction: Com. Lee

Chair Miller: Said that the applicant dropped the market rate; suggested removing it.

Com. Brophy: No. 4; said they decided to split the office lots and allow the apartments to be sold

Motion: Motion by Com. Brownley, second by Com. Brophy, and carried 4-1-0, Com. Lee voted No; to approve M-2011-09, ASA-2011-24, TM-2011-04 and the Addendum to the Final EIR, with the modifications regarding market rate apartments and Item 4 combining office lots and condos, have been modified and also other items addressed, including Items 1 through 7 with the modifications

OLD BUSINESS: None

NEW BUSINESS: None

REPORT OF THE PLANNING COMMISSION

ENVIRONMENTAL REVIEW COMMITTEE: No report; tonight’s item covered at meeting.

HOUSING COMMISSION: No Meeting.

MAYOR’S MONTHLY MEETING: No meeting.

ECONOMIC DEVELOPMENT COMMITTEE: No meeting.

REPORT OF DIRECTOR OF COMMUNITY DEVELOPMENT:

- Written report submitted.

Adjournment: The meeting was adjourned to the next regular Planning Commission meeting scheduled for April 10, 2012 at 6:45 p.m.

Respectfully Submitted: _____
Elizabeth Ellis, Recording Secretary