

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
APPROVING A USE PERMIT TO ALLOW THE OPERATION OF A NEW CAFETERIA USE IN A
MIXED USE ZONING DISTRICT LOCATED AT 20625 ALVES DRIVE

SECTION I: PROJECT DESCRIPTION

Application No.: U-2012-04
Applicant: John Noori
Property Owner: Apple, Inc.
Location: 20625 Alves Dr (APN: 326-34-069)

SECTION II: FINDINGS FOR USE PERMIT:

WHEREAS, the Planning Commission of the City of Cupertino received an application for a Use Permit as described in Section I. of this Resolution; and

WHEREAS, the necessary public notices have been given as required by the Procedural Ordinance of the City of Cupertino, and the Planning Commission has held at least one public hearing in regard to the application; and

WHEREAS, the applicant has met the burden of proof required to support said application; and

WHEREAS, the Planning Commission finds as follows with regard to this application:

- a) The proposed use, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;
- b) The proposed use will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan and the purpose of the City's zoning ordinances.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on page 2 thereof, the application for a Use Permit, Application no. U-2012-04 is hereby approved, and

That the subconclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Hearing record concerning Application no. U-2012-04 as set forth in the Minutes of Planning Commission Meeting of April 24, 2012, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.**1. APPROVED EXHIBITS**

Approval is based on the plan set dated March 9, 2012, consisting of 34 sheets labeled 0.0, 0.1, 0.2, 1.0, 2.0, 2.1, 2.2, 2.3, 3.0, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 4.0, 4.1, 4.2, 4.3, 4.4, 6.0, 6.1, 6.2, 6.3, 6.4, 6.5, 7.0, 7.1, 7.2, 7.3, 7.4, 7.5, 8.0, and 8.1, entitled, "Alves Restaurant, Apple, Planned Development Permit," prepared by Backen, Gillam, Kroeger Architects; Kier & Wright Civil Engineers & Surveyors, Inc.; Carducci & Associates; and DES Architects & Engineers, except as may be amended by conditions in this resolution.

2. ACCURACY OF PROJECT PLANS

The applicant/property owner is responsible to verify all pertinent property data including but not limited to property boundary locations, building setbacks, property size, building square footage, any relevant easements and/or construction records. Any misrepresentation of any property data may invalidate this approval and may require additional review.

3. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. DP-2012-01, ASA-2012-01, and TR-2012-04 shall be applicable to this approval.

4. ODOR ABATEMENT SYSTEMS

Odor abatement systems shall be installed for all new eating establishments, including the new cafeteria. The design of the odor abatement system will be finalized at the building permit stage. Equipment associated with the odor abatement systems shall be appropriately screened if visible from the public right-of-way.

5. CIRCULATION IMPROVEMENTS

The following revisions to the plan set will be incorporated to improve circulation, as outlined in the report prepared by Fehr & Peers Transportation Consultants date April 11, 2012:

a) Underground circulation improvements, including:

- Widening the circulation aisle by pushing the northern row of parking against the garage wall
- Add a stop bar and pavement legend to the intersection where circulating vehicles meet entering vehicles at the base of the ramp
- Add a stop sign, stop bar, left-turn and "only" pavement legend at the base of the entrance ramp
- Extend the curb to the northern angled parking space and create a raised island adjacent to the exit ramp to protect it from exiting vehicles

b) Street level circulation improvements, including:

- Post a sign at the service lane exit alert drivers of traffic exiting the garage
- Install a mirror adjacent to the service vehicle exit to improve visibility for drivers exiting the garage
- Install a stop sign, STOP legend, and limit line where the service vehicle exit intersects the exit ramp.
- Add a bike path along the eastern landscaped border to connect Alves Drive with the bike parking in the rear.
- Install a sign at the garage exit that guides vehicles to the garage entrance on Bandlely Drive.
- Add a roof and additional security for the bicycle parking in the rear of the building.

- Consider adding short-term (Class II) bicycle parking near the building entrances on Bandlely Dr and Alves Dr.

6. TRANSPORTATION DEMAND MANAGEMENT

As part of this project, the report prepared by Fehr & Peers Transportation Consultants dated April 19, 2012 assumes that the following Transportation Demand Management measures, outlined in the document titled "Alves Café Transportation, TDM Overview" prepared by Apple and reproduced here, the following mitigation measures apply:

Addressing Specific Concerns and data from Fehr and Peers memorandum titled: "Focused transportation study for Apple cafeteria in Cupertino, CA" Dated 3/22/2012

a) **Intercampus and Lunch Shuttles**

To accommodate the 275 midday peak hour roundtrips Apple has outlined a lunchtime circulator that runs down Bandlely in 10 minute roundtrip loops. The shuttle accommodates 19 passengers and can carry up to 228 passengers round trip/hour. Upon initial build-out and ongoing monitoring of activity at the new cafe, Apple could double this capacity to a total of 456 shuttle seats/hour. Many employees will also make use of the on-demand intercampus shuttle, which has a much larger capacity than the lunch shuttle.

b) **Cyclists**

With 2,900 employees within a half-mile of the cafeteria, many employees are expected to ride bicycles to reach the cafeteria. Several Apple buildings located along Bandlely Drive include bike rooms where employees can quickly access shared bicycles to ride to the cafeteria. To meet the expected heavy demand for bicycle parking, bicycle parking facilities in excess of the city's requirements will be installed.

- 30 Class I bicycle parking spaces in an interior, enclosed Campus Bike room that will accommodate commuters and shared bikes
- 64 Class II bicycle parking spaces at exterior bicycle racks

c) **Pedestrians**

Improve street scape surrounding cafe:

- Plant street trees to improve the pedestrian experience with increased shade and a sense of enclosure.
- Improve sidewalk on the West side of Bandlely Drive between the Lazaneo intersection and Alves to improve connectivity.
- Install curb ramps and crosswalks on Bandlely Drive to encourage pedestrian traffic.
- Install high visibility crosswalks on the north, south and east sides of the Bandlely/Lazaneo intersection.
- Install standard crosswalks on east and south sides of Bandlely/Valley Green intersection.
- Install standard crosswalk on north side of Bandlely/Mariani intersection.

7. PARKING REQUIREMENTS

The project shall maintain and upkeep the proposed underground parking garage consisting of 70 parking spaces. In addition, the cafeteria use shall not exceed a total amount of 204 seats (exclusive of any informal or ancillary seating arrangements in the lounge/courtyard areas).

8. FUTURE USES

Any future non-apple related uses must adhere to all of the City's Ordinance. Including but not limited to Planning, Building and Fire Codes. The City reserve the right to require additional public process and/or environmental assessment as determined to be appropriate by the Community Development Director.

9. **DEED RESTRICTION**

A covenant shall be recorded on the property requiring compliance with the approved TDM measures and the conditions prescribed in this document relating to parking and future uses. Said covenant shall be reviewed and approved by the City prior to issuance of any building permits.

10. **SIGNAGE**

Signage is not approved with this application. A separate building permit shall be required prior to the installation of any signage. Signage shall conform to the regulations stipulated in the City's Sign Ordinance.

11. **ROOFTOP EQUIPMENT SCREENING**

All mechanical and other equipment on the building or on the site shall be screened so they are not visible from public street areas or adjoining developments. The height of the screening shall be taller than the height of the mechanical equipment that it is designed to screen. The location of equipment and necessary screening shall be reviewed and approved by the Director of Community Development prior to issuance of building permits.

12. **SITE LIGHTING**

All new lighting must conform to the standards in the Parking Regulations Ordinance, and the final lighting plan (including a detailed photometric plan) shall be reviewed and approved by the Director of Community Development prior to building permit issuance. A report from a licensed lighting engineer may be required to confirm all exterior lighting throughout the site complies with the City's Ordinance.

13. **NOISE LEVELS AND ABATEMENT**

Project construction and use shall comply with the City's Community Noise Control Ordinance at all times. Should the project exceed any of the stipulated maximum noise levels outlined in the City's Community Noise Control Ordinance, an acoustical engineer may be required to submit noise attenuation measures to the satisfaction of the Director of Community Development at the applicant's expense.

14. **SCREENING OF UTILITY STRUCTURES**

All new utility structures shall be located underground or screened from public view to the satisfaction of the Director of Community Development and the Public Works Department.

15. **PRE-CONSTRUCTION MEETING AND CONSTRUCTION MANAGEMENT PLAN**

Prior to commencement of construction activities, the applicant shall arrange for a pre-construction meeting with the pertinent departments (Building, Planning, and Public Works) to review the prepared construction management plan, to ensure that construction complies with the conditions of approval, staging of construction equipment is appropriate, tree protection measures are in place, public access routes are identified is defined, and noise and dust control measures are established.

16. **CONSTRUCTION HOURS**

Construction activities shall be limited to Monday through Friday, 7 am to 8 pm and Saturday and Sunday, 9 am to 6 pm. Construction activities are not allowed on holidays. Maximum noise levels are delineated in the City's Community Noise Control Ordinance.

The developer shall be responsible for educating all contractors and subcontractors of said construction restrictions. Rules and regulations pertaining to all construction activities and limitations identified in this permit, along with the name and telephone number of a developer appointed disturbance coordinator, shall be posted in a prominent location at the entrance to the job site.

17. DEMOLITION REQUIREMENTS

All demolished building and site materials shall be recycled to the maximum extent feasible subject to the Building Official. The applicant shall provide evidence that materials were recycled prior to issuance of final demolition permits.

18. DUST CONTROL

The following construction practices shall be implemented during all phases of construction for the proposed project to prevent visible dust emissions from leaving the site:

- a) Water all active construction areas at least twice daily and more often during windy periods to prevent visible dust from leaving the site; active areas adjacent to windy periods; active areas adjacent to existing land uses shall be kept damp at all times, or shall be treated with non-toxic stabilizers or dust palliatives.
- b) Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least 2 feet of freeboard;
- c) Pave, apply water at least three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
- d) Sweep streets daily, or more often if necessary (preferably with water sweepers) if visible soil material is carried onto adjacent public streets.
- e) The applicant shall incorporate the City's construction best management practices into the building permit plan set.

19. CONSULTATION WITH OTHER DEPARTMENTS

The applicant is responsible to consult with other departments and/or agencies with regard to the proposed project for additional conditions and requirements. Any misrepresentation of any submitted data may invalidate an approval by the Community Development Department.

20. NOTICE OF FEES, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

SECTION IV: CONDITIONS ADMINISTERED BY THE PUBLIC WORKS DEPARTMENT

1. PEDESTRIAN CROSSWALKS

The developer shall provide pedestrian crosswalk and signage improvements at Bandle Drive and Alves Drive (four crosswalks), and Bandle Drive and Lazaneo Drive (two crosswalks), that

will include "ladder" style crosswalk striping. Curb ramp improvements will be required at the Bandley Drive and Lazaneo Drive intersection, and will require upgrading and shifting the existing ramp located at the southeast corner, and installation of a new curb ramp on the West side of Bandley Drive. Additional curb ramp improvements will be required at Bandley Drive and Alves Drive, as per the approved planning application plans. The developer will also be responsible for refreshing the crosswalk striping at De Anza Boulevard and Lazaneo Drive. Final crosswalk improvement plans shall be reviewed and approved by the City Engineer.

2. **STREET WIDENING**

Public street widening and dedications shall be provided in accordance with City Standards and specifications and as required by the City Engineer.

3. **CURB AND GUTTER IMPROVEMENTS**

Curbs and gutters, sidewalks and related structures shall be installed in accordance with grades and standards as specified by the City Engineer.

4. **STREET LIGHTING INSTALLATION**

Street lighting shall be installed and shall be as approved by the City Engineer. Lighting fixtures shall be positioned so as to preclude glare and other forms of visual interference to adjoining properties, and shall be no higher than the maximum height permitted by the zone in which the site is located.

5. **GRADING**

Grading shall be as approved and required by the City Engineer in accordance with Chapter 16.08 of the Cupertino Municipal Code. 401 Certifications and 404 permits maybe required. Please contact Army Corp of Engineers and/or Regional Water Quality Control Board as appropriate.

6. **DRAINAGE**

Drainage shall be provided to the satisfaction of the City Engineer. Hydrology and pre- and post-development hydraulic calculations must be provided to indicate whether additional storm water control measures are to be constructed or renovated. The storm drain system may include, but is not limited to, subsurface storage of peak stormwater flows (as needed), low impact development facilities, or other approved means, to reduce the amount of runoff from the site and to improve storm water quality. The storm drain system shall be designed to detain water on-site (e.g., via buried pipes or storage structures) as necessary to avoid an increase of one percent flood water surface elevation of the culvert to the satisfaction of the City Engineer. Any storm water overflows or surface sheeting should be directed away from neighboring private properties and to the public right of way as much as reasonably possible. Hydro-modification measures may be required as directed by the Municipal Regional Permit

7. **BEST MANAGEMENT PRACTICES**

Utilize Best Management Practices (BMPs), as required by the State Water Resources Control Board, for construction activity, which disturbs soil. BMP plans shall be included in grading and street improvement plans.

8. **NPDES CONSTRUCTION GENERAL PERMIT**

When and where it is required by the State Water Resources Control Board (SWRCB), the developer must obtain a Notice of Intent (NOI) from the SWRCB, which encompasses preparation

of a Storm Water Pollution Prevention Plan (SWPPP), use of construction Best Management Practices (BMPs) to control storm water runoff quality, and BMP inspection and maintenance.

9. **C.3 REQUIREMENTS**

C.3 regulated improvements are required as specified in the Municipal Regional Permit. When C.3 regulated improvements are required, the developer shall reserve a minimum of 4% of developable surface area for the placement of low impact development measures, for storm water treatment, unless an alternative storm water treatment plan, that satisfies C.3 requirements, is approved by the City Engineer.

The developer must include the use and maintenance of site design, source control and storm water treatment Best Management Practices (BMPs), which must be designed per approved numeric sizing criteria. A Storm Water Management Plan, Storm Water Facilities Easement Agreement, Storm Water Facilities Operation and Maintenance Agreement, and certification of ongoing operation and maintenance of treatment BMPs are each required.

All storm water management plans are required to obtain certification from a City approved third party reviewer.

10. **EROSION CONTROL PLAN**

The developer must provide an approved erosion control plan by a Registered Civil Engineer. This plan should include all erosion control measures used to retain materials on site. Erosion control notes shall be stated on the plans.

11. **WORK SCHEDULE**

Every 6 months, the developer shall submit a work schedule to the City to show the timetable for all grading/erosion control work in conjunction with this project.

12. **UNDERGROUND UTILITIES**

The developer shall comply with the requirements of the Underground Utilities Ordinance No. 331 and other related Ordinances and regulations of the City of Cupertino, and shall coordinate with affected utility providers for installation of underground utility devices. The developer shall submit detailed plans showing utility underground provisions. Said plans shall be subject to prior approval of the affected Utility provider and the City Engineer.

13. **BICYCLE PARKING**

The developer shall provide bicycle parking consistent with the City's requirements to the satisfaction of the City Engineer.

14. **IMPROVEMENT AGREEMENT**

The project developer shall enter into a development agreement with the City of Cupertino providing for payment of fees, including but not limited to checking and inspection fees, storm drain fees, park dedication fees and fees for under grounding of utilities. Said agreement shall be executed prior to issuance of construction permits

Fees:

- | | |
|-------------------------------------|--|
| a. Checking & Inspection Fees: | \$ Per current fee schedule (\$2,468.00 or 5%) |
| b. Grading Permit: | \$ Per current fee schedule (\$2,217.00 or 5%) |
| c. Development Maintenance Deposit: | \$ 1,000.00 |

d. Storm Drainage Fee:	\$ TBD
e. Power Cost:	**
f. Map Checking Fees:	\$ Per current fee schedule (N/A)
g. Park Fees:	\$ Per current fee schedule (N/A)
h. Street Tree	By Developer

** Based on the latest effective PG&E rate schedule approved by the PUC

Bonds:

Faithful Performance Bond: 100% of Off-site and On-site Improvements

Labor & Material Bond: 100% of Off-site and On-site Improvement

On-site Grading Bond: 100% of site improvements.

-The fees described above are imposed based upon the current fee schedule adopted by the City Council. However, the fees imposed herein may be modified at the time of recordation of a final map or issuance of a building permit in the event of said change or changes, the fees changed at that time will reflect the then current fee schedule.

15. TRANSFORMERS

Electrical transformers, telephone vaults and similar above ground equipment enclosures shall be screened with fencing and landscaping or located underground such that said equipment is not visible from public street areas. The transformer shall not be located in the front or side building setback area.

16. OPERATIONS & MAINTENANCE AGREEMENT

The developer shall enter into an Operations & Maintenance Agreement with the City prior to final occupancy. The Agreement shall include the operation and maintenance for non-standard appurtenances in the public road right-of-way that may include, but is not limited to, sidewalk, pavers, and street lights.

17. TRAFFIC CONTROL PLAN

The developer must submit a traffic control plan by a Registered Traffic Engineer to be approved by the City. The plan shall include a temporary traffic control plan for work in the right of way as well as a routing plan for all vehicles used during construction. All traffic control signs must be reviewed and approved by the City prior to commencement of work. The City has adopted Manual on Uniform Traffic Control Devices (MUTCD) standards for all signage and striping work throughout the City.

18. TRAFFIC SIGNS

Traffic control signs shall be placed at locations specified by the City.

19. TRASH ENCLOSURES

The trash enclosure plan must be designed to the satisfaction of the Environmental Programs Manager. Clearance by the Public Works Department is needed prior to obtaining a building permit.

20. REFUSE TRUCK ACCESS

The developer must obtain clearance from the Environmental Programs Manager in regards to refuse truck access for the proposed development.

21. STREET TREES

Street trees shall be planted within the Public Right of Way to the satisfaction of the City Engineer and shall be of a type approved by the City in accordance with Ordinance No. 125.

22. FIRE PROTECTION

Fire sprinklers shall be installed in any new construction to the approval of the City.

23. SANTA CLARA COUNTY FIRE DEPARTMENT

A letter of clearance for the project shall be obtained from the Santa Clara County Fire Department prior to issuance of building permits.

24. FIRE HYDRANT

Fire hydrants shall be located as required by the City and Santa Clara County Fire Department as needed.

25. CALIFORNIA WATER SERVICE COMPANY CLEARANCE

The developer shall reach an agreement with California Water Services Company for water service to the subject development. Provide California Water Service Company approval before issuance of a building permit.

26. SANITARY DISTRICT

A letter of clearance for the project shall be obtained from the Cupertino Sanitary District prior to issuance of building permits.

27. UTILITY EASEMENTS

Clearance approvals from the agencies with easements on the property (including PG&E, PacBell, and California Water Company, and/or equivalent agencies) will be required prior to issuance of building permits.

SECTION V: CONDITIONS ADMINISTERED BY THE SANTA CLARA COUNTY FIRE DEPARTMENT**1. FIRE SPRINKLERS REQUIRED**

Fire sprinklers shall be provided for Group A-2 occupancies where one of the following conditions exists: 1. The fire area exceeds 5,000 square feet (464m²). 2. The fire area has an occupant load of 100 or more. 3. The fire area is located on a floor other than a level of exit discharge serving such occupancies. 4. The structure exceeds 5,000 square feet (465 m²), contains more than one fire area containing a Group A-2 occupancy, and is separated into two or more buildings by fire walls of less than four hour fire resistance rating without openings. 903.2.10 Group S-2 enclosed parking garages. An automatic sprinkler system shall be provided throughout buildings classified as enclosed parking garages in accordance with Section 406.4 of the California Building Code as follows: 1. Where the fire area of the enclosed parking garage exceeds 12,000 square feet (1115 m²); or 2. Where the enclosed parking garage is located beneath other groups. A State of California licensed (C-16) Fire Protection Contractor shall submit plans, calculations, a completed permit application and appropriate fees to this department for review and approval prior to beginning their work. CFC Sec. 903.2.1.2 as adopted and amended by CUPMC

2. **HOSE VALVES/STANDPIPES REQUIRED**

Hose valves/standpipes shall be installed as per the 2010 CFC Sec. 905, or where emergency access has been deemed minimal, shall be equipped with standpipes designed per NFPA Std. #14, and be equipped with 2-1/2" inch hose valves, located within the stair enclosure(s). Note specifically, within parking structure(s) @ stairwells and on podium within courtyard area. CFC Sec. 905 as adopted and amended by CUPMC

3. **COMMERCIAL COOKING SYSTEMS**

Commercial cooking equipment that produce grease laden vapors shall be provided with a Type I Hood, in accordance with the California Mechanical Code, and an automatic fire extinguishing system that is listed and labeled for its intended use. CFC 2010 Sec. 904.11

4. **CONSTRUCTION SITE FIRE SAFETY**

All construction sites must comply with applicable provisions of the CFC Chapter 14 and our Standard Detail and Specification SI-7.

5. **PREMISES IDENTIFICATION**

Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background. CFC Sec. 505

SECTION VI: CONDITIONS ADMINISTERED BY THE CUPERTINO SANITARY DISTRICT

1. **SANITARY SEWER AVAILABILITY**

Sanitary sewer is currently available for the subject parcel.

2. **IMPROVEMENT PLANS**

Improvement plans shall be submitted to the District for review and comments.

3. **FEES AND PERMITS**

Cupertino Sanitary District fees and permits will be required.

4. **NOTICE OF FEES, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS**

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

PASSED AND ADOPTED this 24th day of April, 2012, Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

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

ATTEST:

APPROVED:

Gary Chao
City Planner

Marty Miller, Chair
Planning Commission

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CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO RECOMMENDING APPROVAL OF A DEVELOPMENT PERMIT TO ALLOW THE CONSTRUCTION OF A 21,468 SQUARE FOOT CAFETERIA AND 27,099 SQUARE FOOT UNDERGROUND GARAGE; AND DEMOLITION OF AN EXISTING 4,010 SQUARE FOOT RESTAURANT BUILDING FOR A NET SQUARE FOOTAGE INCREASE OF 17,458 SQUARE FEET LOCATED AT 20625 ALVES DRIVE

SECTION I: PROJECT DESCRIPTION

Application No.: DP-2012-01
Applicant: John Noori
Property Owner: Apple, Inc.
Location: 20625 Alves Dr (APN: 326-34-069)

SECTION II: FINDINGS FOR DEVELOPMENT PERMIT:

WHEREAS, the Planning Commission of the City of Cupertino received an application for a Development Permit as described in Section I. of this Resolution; and

WHEREAS, the necessary public notices have been given as required by the Procedural Ordinance of the City of Cupertino, and the Planning Commission has held at least one public hearing in regard to the application; and

WHEREAS, the applicant has met the burden of proof required to support said application; and

WHEREAS, the Planning Commission finds as follows with regard to this application:

- a) The proposed development, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;
- b) The proposed development will be located and conducted in a manner in accord with the Cupertino Comprehensive General Plan and the purpose of the City's zoning ordinances.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on PAGE 2 thereof;

The application for a Development Permit, Application no. DP-2012-01 is hereby recommended for approval and that the subconclusions upon which the findings and conditions specified in this resolution are based and contained in the Public Hearing record concerning Application no. DP-2012-01 as set forth in the Minutes of Planning Commission Meeting of April 24, 2012, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval is based on the plan set dated March 9, 2012, consisting of 34 sheets labeled 0.0, 0.1, 0.2, 1.0, 2.0, 2.1, 2.2, 2.3, 3.0, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 4.0, 4.1, 4.2, 4.3, 4.4, 6.0, 6.1, 6.2, 6.3, 6.4, 6.5, 7.0, 7.1, 7.2, 7.3, 7.4, 7.5, 8.0, and 8.1, entitled, "Alves Restaurant, Apple, Planned Development Permit," prepared by Backen, Gillam, Kroeger Architects; Kier & Wright Civil Engineers & Surveyors, Inc.; Carducci & Associates; and DES Architects & Engineers, except as may be amended by conditions in this resolution.

2. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. ASA-2012-01, U-2012-04, and TR-2012-04 shall be applicable to this approval.

3. DEVELOPMENT APPROVAL AND PROJECT AMENDMENTS

Development Permit approval is granted to a new 21,468 square foot cafeteria building; and demolition of an existing 4,010 square foot restaurant building for a net square footage addition of 17,458 square feet.

The Planning Commission shall review amendments to the project considered major by the Director of Community Development.

4. DEVELOPMENT ALLOCATION

The City shall deduct 14,715 square feet of commercial General Plan allocation from the North De Anza Blvd Area. In addition, the City shall deduct 2,743 square feet of commercial General Plan allocation from the City Center Area to the North De Anza Blvd Area.

PASSED AND ADOPTED this 24th day of April, 2012, Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

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

ATTEST:

APPROVED:

 Gary Chao
 City Planner

 Marty Miller, Chair
 Planning Commission

CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO RECOMMENDING APPROVAL OF AN ARCHITECTURAL AND SITE APPROVAL PERMIT F TO ALLOW THE CONSTRUCTION OF A 21,468 SQUARE FOOT CAFETERIA AND ASSOCIATED SITE IMPROVEMENTS, INCLUDING, BUT NOT LIMITED TO PAVING, OUTDOOR AREAS, LANDSCAPING, AND STREET FRONTAGE IMPROVEMENTS LOCATED AT 20625 ALVES DRIVE

SECTION I: PROJECT DESCRIPTION

Application No.: ASA-2012-01
Applicant: John Noori
Property Owner: Apple, Inc.
Location: 20625 Alves Dr (APN: 326-34-069)

SECTION II: FINDINGS FOR ARCHITECTURAL AND SITE APPROVAL:

WHEREAS, the Planning Commission of the City of Cupertino received an application for an Architectural and Site Approval as described in Section I. of this Resolution; and

WHEREAS, the necessary public notices have been given as required by the Procedural Ordinance of the City of Cupertino, and the Planning Commission has held at least one public hearing in regard to the application; and

WHEREAS, the applicant has met the burden of proof required to support said application; and

WHEREAS, the Planning Commission finds as follows with regard to this application:

1. The proposal, at the proposed location, will not be detrimental or injurious to property or improvements in the vicinity, and will not be detrimental to the public health, safety, general welfare, or convenience;
2. The proposal is consistent with the purposes of Chapter 19.168, Architectural and Site Review, of the Cupertino Municipal Code, the General Plan, any specific plan, zoning ordinances, applicable planned development permit, conditional use permits, variances, subdivision maps or other entitlements to use which regulate the subject property including, but not limited to, adherence to the following specific criteria:
 - a) Abrupt changes in building scale have been avoided. A gradual transition related to height and bulk has been achieved between new and existing buildings.
 - b) Design harmony between new and existing buildings have been preserved and the materials, textures and colors of new buildings harmonize with adjacent development with design and color schemes, and with the future character of the neighborhood and purposes of the zone in which it is situated. The location, height and materials of walls, fencing, hedges and screen planting harmonize with adjacent development. Unsightly storage areas, utility installations and unsightly elements of parking lots have been concealed. Ground cover or various types of pavements have been used to prevent dust and erosion, and the unnecessary destruction of existing healthy trees have been avoided. Lighting for development is adequate to meet safety

requirements as specified by the engineering and building departments, and shielding to adjoining property owners.

- c) The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures have been designed to minimize traffic hazard, positively affect the general appearance of the neighborhood and harmonize with adjacent development.
- d) This new development, abutting an existing residential development, has been designed to protect residents from noise, traffic, light and visually intrusive effects by use of buffering, setbacks, landscaping, walls and other appropriate design measures.

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the initial study, maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on Page 2 thereof,:

The application for an Architectural and Site Approval, Application no. ASA-2012-01 is hereby recommended for approval, and that the subconclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Hearing record concerning Application no. ASA-2012-01 as set forth in the Minutes of Planning Commission Meeting of April 24, 2012, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval is based on the plan set dated March 9, 2012, consisting of 34 sheets labeled 0.0, 0.1, 0.2, 1.0, 2.0, 2.1, 2.2, 2.3, 3.0, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 4.0, 4.1, 4.2, 4.3, 4.4, 6.0, 6.1, 6.2, 6.3, 6.4, 6.5, 7.0, 7.1, 7.2, 7.3, 7.4, 7.5, 8.0, and 8.1, entitled, "Alves Restaurant, Apple, Planned Development Permit," prepared by Backen, Gillam, Kroeger Architects; Kier & Wright Civil Engineers & Surveyors, Inc.; Carducci & Associates; and DES Architects & Engineers, except as may be amended by conditions in this resolution.

2. SITE DETAILS, STREETScape, FRONTAGE, AND LANDSCAPING

The applicant shall work with City staff to finalize site details, including but not limited to: sidewalk and walkway paving material, streetscape and sidewalk design, building frontage, and landscaping prior to issuance of building permits. It shall closely resemble the attached conceptual plan and prepared to the satisfaction of the Director of Community Development and Public Works Department.

3. LANDSCAPE PROJECT SUBMITTAL

Prior to issuance of building permits, the applicant shall submit a full landscape project submittal per section 14.15.040 of the Landscaping Ordinance. The Water-Efficient Design Checklist (Appendix A of Chapter 14.15), Landscape and Irrigation Design Plans, and Water Budget Calculations shall be reviewed and approved to the satisfaction of the Director of Community Development prior to issuance of building permits.

4. LANDSCAPE INSTALLATION REPORT

A landscape installation audit shall be conducted by a certified landscape professional after the landscaping and irrigation system have been installed. The findings of the assessment shall be consolidated into a landscape installation report.

The landscape installation report shall include, but is not limited to: inspection to confirm that the landscaping and irrigation system are installed as specified in the landscape and irrigation design

plan, system tune-up, system test with distribution uniformity, reporting overspray or run-off that causes overland flow, and preparation of an irrigation schedule.

The landscape installation report shall include the following statement: "The landscape and irrigation system have been installed as specified in the landscape and irrigation design plan and complies with the criteria of the ordinance and the permit."

5. **LANDSCAPE AND IRRIGATION MAINTENANCE**

A maintenance schedule shall be established and submitted to the Director of Community Development or his/her designee, either with the landscape application package, with the landscape installation report, or any time before the landscape installation report is submitted.

- a) Schedules should take into account water requirements for the plant establishment period and water requirements for established landscapes.
- b) Maintenance shall include, but not be limited to the following: routine inspection; pressure testing, adjustment and repair of the irrigation system; aerating and de-thatching turf areas; replenishing mulch; fertilizing; pruning; replanting of failed plants; weeding; pest control; and removing obstructions to emission devices.
- c) Failed plants shall be replaced with the same or functionally equivalent plants that may be size-adjusted as appropriate for the stage of growth of the overall installation. Failing plants shall either be replaced or be revived through appropriate adjustments in water, nutrients, pest control or other factors as recommended by a landscaping professional.

6. **EXTERIOR BUILDING MATERIALS/TREATMENTS**

Final building exterior treatment plan (including but not limited to details on exterior color, material, architectural treatments and/or embellishments) shall be reviewed and approved by the Director of Community Development prior to issuance of building permits. The final building exterior plan shall closely resemble the details shown on the original approved plans. Any exterior changes determined to be substantial by the Director of Community Development shall require a modification approval.

7. **CONCURRENT APPROVAL CONDITIONS**

The conditions of approval contained in file nos. DP-2012-01, U-2012-04, and TR-2012-04 shall be applicable to this approval.

8. **NOTICE OF FEES, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS**

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

PASSED AND ADOPTED this 24th day of April, 2012, at a regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

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

ATTEST:

APPROVED:

Gary Chao
City Planner .

Marty Miller, Chair
Planning Commission

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CITY OF CUPERTINO
10300 Torre Avenue
Cupertino, California 95014

DRAFT RESOLUTION

OF THE PLANNING COMMISSION OF THE CITY OF CUPERTINO
APPROVING THE REMOVAL AND REPLACEMENT OF 27 TREES IN CONJUNCTION WITH A NEW
CAFETERIA USE AND UNDERGROUND PARKING GARAGE LOCATED AT 20625 ALVES DR

SECTION I: PROJECT DESCRIPTION

Application No.: TR-2012-04
Applicant: John Noori
Property Owner: Apple, Inc.
Location: 20625 Alves Dr (APN: 326-34-069)

SECTION II: FINDINGS FOR TREE REMOVAL

WHEREAS, the Planning Commission of the City of Cupertino received an application for tree removal, as described in Section I of this Resolution; and

WHEREAS, the necessary public notices have been given in accordance with the Procedural Ordinance of the City of Cupertino, and the Planning Commission has held at least one public hearing on this matter; and

WHEREAS, the Planning Commission finds the following with regard to this application:

1. That the location of the trees restricts the economic enjoyment of the property by severely limiting the use of property in a manner not typically experienced by owners of similarly zoned and situated property, and the applicant has demonstrated to the satisfaction of the approval authority that there are no reasonable alternatives to preserve the tree(s).

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of the maps, facts, exhibits, testimony and other evidence submitted in this matter, subject to the conditions which are enumerated in this Resolution beginning on page 2 thereof,;

The application for a Tree Removal Permit, Application no. TR-2012-04, is hereby approved, and that the subconclusions upon which the findings and conditions specified in this Resolution are based and contained in the Public Hearing record concerning Application no. TR-2012-04 as set forth in the Minutes of Planning Commission Meeting of April 24, 2012, and are incorporated by reference as though fully set forth herein.

SECTION III: CONDITIONS ADMINISTERED BY THE COMMUNITY DEVELOPMENT DEPT.

1. APPROVED EXHIBITS

Approval is based on the plan set dated March 9, 2012, consisting of 34 sheets labeled 0.0, 0.1, 0.2, 1.0, 2.0, 2.1, 2.2, 2.3, 3.0, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 4.0, 4.1, 4.2, 4.3, 4.4, 6.0, 6.1, 6.2, 6.3, 6.4, 6.5, 7.0, 7.1, 7.2, 7.3, 7.4, 7.5, 8.0, and 8.1, entitled, "Alves Restaurant, Apple, Planned Development Permit," prepared by Backen, Gillam, Kroeger Architects; Kier & Wright Civil Engineers & Surveyors, Inc.; Carducci & Associates; and DES Architects & Engineers, except as may be amended by conditions in this resolution.

2. CONCURRENT APPROVAL CONDITIONS

The conditions of approval contained in file nos. DP-2012-01, ASA-2012-01, and TR-2012-04 shall be applicable to this approval.

3. REQUIRED TREE REPLACEMENTS

The applicant shall be required to plant tree replacements in and around the property in accordance with the City's Protected Trees Ordinance. The required replacement trees shall be planted prior to final occupancy of the project associated with file no. DP-2012-01, ASA-2012-01, and U-2012-04.

4. TREE PROTECTION

Prior to building permit issuance, the tree protection measures contained in the arborist report, Tree Assessment and Protection Recommendations by Walter Levison, dated December 19, 2011, and in the City's Consulting Arborist's Report, An Arborist Review of the Proposed Alves Restaurant (Apple Cafeteria), 20625 Alves Drive, Cupertino, CA 95014, dated March 9, 2012, shall be implemented as deemed appropriate by the Director of Community Development for the trees to be retained. The City's consulting arborist shall verify that the tree protection measures are in place prior to construction/demolition. The tree protection measures shall be placed in the construction plan set and posted on tree protection fences. A report ascertaining the good health of the trees mentioned above shall be provided prior to issuance of final occupancy.

5. ADDITIONAL TREE REMOVALS AND REPLACEMENTS

In the event additional tree removals are required in conjunction with this specific project, whether off-site or on-site, no further tree replacements will be required as the proposed amount of tree replacements exceeds the City's minimum requirements stipulated in the Protected Tree Ordinance. However, the Director of Community Development shall have the discretion to require additional tree replacements as deemed necessary. The final tree replacement plan shall be reviewed and approved prior to final building approval.

6. NOTICE OF FEES, DEDICATIONS, RESERVATIONS OR OTHER EXACTIONS

The Conditions of Project Approval set forth herein may include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

PASSED AND ADOPTED this 24th day of April 2012, at a Regular Meeting of the Planning Commission of the City of Cupertino, State of California, by the following roll call vote:

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

ATTEST:

APPROVED:

Gary Chao
City Planner

Marty Miller, Chair
Planning Commission

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