



CITY OF CUPERTINO

AGENDA

CITY COUNCIL

This will be a teleconference meeting without a physical location.

Tuesday, August 18, 2020

6:45 PM

Teleconference Meeting

TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION TO HELP STOP THE SPREAD OF COVID-19

In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location to help stop the spread of COVID-19.

Members of the public wishing to observe the meeting may do so in one of the following ways:

- 1) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.
- 2) The meeting will also be streamed live on and online at www.Cupertino.org/youtube and www.Cupertino.org/webcast

Members of the public wishing comment on an item on the agenda may do so in the following ways:

- 1) E-mail comments by 5:00 p.m. on Tuesday, August 18 to the Council at citycouncil@cupertino.org. These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting.

- 2) E-mail comments during the times for public comment during the meeting to the City Clerk at cityclerk@cupertino.org. The City Clerk will read the emails into the record, and display any attachments on the screen, for up to 3 minutes (subject to the Mayor's discretion to shorten time for public comments). Members of the public that wish to share a document must email cityclerk@cupertino.org prior to speaking.

3) Teleconferencing Instructions

Members of the public may provide oral public comments during the teleconference meeting as follows:

Oral public comments will be accepted during the teleconference meeting. Comments may be made during “oral communications” for matters not on the agenda, and during the public comment period for each agenda item.

To address the City Council, click on the link below to register in advance and access the meeting:

Online

Register in advance for this webinar:

https://cityofcupertino.zoom.us/webinar/register/WN_wDzVZMqyTb-AvpE1inhFjw

Phone

Dial: (888) 788 0099 and enter Webinar ID: 932 6187 9557 (Type *9 to raise hand to speak). Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

162.255.36.11 (US East)

Meeting ID: 932 6187 9557

SIP: 93261879557@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

Please read the following instructions carefully:

1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.
2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the public. If you wish to make an oral public comment but do not wish to provide your name, you may enter “Cupertino Resident” or similar designation.
3. When the Mayor calls for the item on which you wish to speak, click on “raise hand.” Speakers will be notified shortly before they are called to speak.
4. When called, please limit your remarks to the time allotted and the specific agenda topic.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.

PLEDGE OF ALLEGIANCE

ROLL CALL

CEREMONIAL MATTERS AND PRESENTATIONS

1. Subject: Proclamation recognizing the 100th anniversary of the 19th Amendment granting women the right to vote and commending the League of Women Voters efforts to fight for voters' rights.
Recommended Action: Present proclamation recognizing the 100th anniversary of the 19th Amendment granting women the right to vote and commending the League of Women Voters efforts to fight for voters' rights.
[A - Proclamation](#)

POSTPONEMENTS

2. Subject: Municipal Code Amendment to Chapter 10.48 Community Noise Control to consider regulations for Leaf Blowers and to consider proposed amendments for clarification, readability and ease of implementation. Application No(s): MCA-2020-002; Applicant(s): City of Cupertino; Location: Citywide has been continued to September 15.

ORAL COMMUNICATIONS

This portion of the meeting is reserved for persons wishing to address the Council on any matter within the jurisdiction of the Council and not on the agenda. The total time for Oral Communications will ordinarily be limited to one hour. Individual speakers are limited to three (3) minutes. As necessary, the Chair may further limit the time allowed to individual speakers, or reschedule remaining comments to the end of the meeting on a first come first heard basis, with priority given to students. In most cases, State law will prohibit the Council from discussing or making any decisions with respect to a matter not listed on the agenda.

REPORTS BY COUNCIL AND STAFF (10 minutes)

3. Subject: City Manager update on COVID-19 response efforts
Recommended Action: Receive City Manager update on COVID-19 response efforts

4. Subject: Report on Committee assignments
Recommended Action: Report on Committee assignments

CONSENT CALENDAR

Unless there are separate discussions and/or actions requested by council, staff or a member of the public, it is requested that items under the Consent Calendar be acted on simultaneously.

5. Subject: Approve the July 7 City Council minutes
Recommended Action: Approve the July 7 City Council minutes
[A - Draft Minutes](#)
6. Subject: Approve the July 8 City Council minutes
Recommended Action: Approve the July 8 City Council minutes
[A - Draft Minutes](#)
7. Subject: Approve the July 21 City Council minutes
Recommended Action: Approve the July 21 City Council minutes
[A - Draft Minutes](#)
8. Subject: Treasurer's Investment Report for period ending June 30, 2020
Recommended Action: Approve Treasurer's Investment Report for period ending June 30, 2020.
[Staff Report](#)
[A - Treasurer's Investment Report 06.30.20](#)
[B - Wells Fargo Mkt Cost Report 06.30.20](#)
[C - Wells Fargo Operating Statement 06.30.20](#)
[D - LAIF Statement 06.30.20](#)
9. Subject: Award and authorize the City Manager to execute a construction contract with Golden Bay Construction, Inc. for the Stevens Creek Boulevard Bike Lane Improvements - Phase I Project (Project No. 2019 - 11)
Recommended Action: Award a construction contract for the Stevens Creek Boulevard Bike Lane Improvements - Phase 1 project; and authorize the City Manager to execute a construction contract with Golden Bay Construction, Inc. in the amount of \$811,156; and further authorize the Director of Public Works to execute any necessary change orders up to a construction contingency budget of \$82,000, approximately 10% of the contract amount, to address unforeseen conditions during construction, for a total of \$893,156.
[Staff Report](#)
[A - Draft Contract](#)

10. Subject: Award of a Design-Build contract for the Cupertino Library Expansion Project (Project No. 2020-03), which involves the design and construction of 5,626 square feet expansion to the existing library building ("Project").

Recommended Action: Award a Design-Build contract for the Cupertino Library Expansion Project and authorize the City Manager to execute the contract in the amount of \$6,476,168 with Rodan Builders, Inc., as the Design Build Entity, and further authorize the Director of Public Works to execute any necessary change orders up to a contingency of \$500,000, for a total appropriation of \$6,976,168. If the City Council wishes to approve the Design-Build contract, staff recommends adopting the following resolution:

1. Adopt Resolution No. 20-103, A Resolution of the Cupertino City Council awarding a Design-Build contract for the Cupertino Library Expansion Project and authorizing the City Manager to execute the contract in the amount of \$6,476,158 with Rodan Builders, Inc., and further authorize the Director of Public Works to execute any necessary change orders up to a contingency of \$500,000, for a total authorized appropriation of \$6,976,168 (Attachment A).

[Staff Report](#)

[A - Draft Resolution](#)

[B - Contract](#)

[C - Summary Comparison of Responsive Proposals](#)

[D-1 - Staff Report for Architectural and Site Approval Permit ASA-2020-004](#)

[D-2- Draft Resolution approving an Architectural and Site Approval Permit ASA-2020-004](#)

[D-3 - Plan Set](#)

[D-4 - Draft Addendum to the Mitigated Negative Declaration for the Civic Center Master Plan](#)

[D-5 - 3A - Attachment 3 Appendix A Cupertino Civic Center Parking Study](#)

[D-6 - 3B - Attachment 3 Appendix B - VMT Analysis](#)

SECOND READING OF ORDINANCES

11. Subject: Prohibition of parking along McClellan Road between Stelling Road and De Anza Boulevard, and along Pacifica Drive between De Anza Boulevard and Torre Avenue for accommodation of Class IV bicycle lanes.

Recommended Action: Conduct the second reading of Ordinance 20-2210; "An Ordinance of the City Council of the City of Cupertino amending Table 11.24.150 Related to Prohibition of Parking Along Certain Streets."

[Staff Report](#)

[A - Redlined Ordinance](#)

[B - Draft Ordinance \(Clean\)](#)

[C - Proposed On-Street Parking Prohibition](#)

[D - June 10 Letter to Property Owners \(1\)](#)

[E - June 29 Letter to Property Owners \(1\)](#)

PUBLIC HEARINGS

12. Subject: Petition for Reconsideration of the City Council decision on April 21, 2020 to deny an appeal and uphold the approval of a Minor Residential Permit to allow a second-story balcony. (Application: RM-2017-39; Applicant: Francis Kun (Tsai residence); Project Location: 21865 San Fernando Avenue; A.P.N.: 357-15-043; Petitioners: Shay-Jan Huang and Eric and Cindy Fang)
Recommended Action: That the City Council adopt the Resolution No. 20-104 (Attachment A) denying the Petition for Reconsideration, which does not meet the requirements of Cupertino Municipal Code (CMC) Section 2.08.096.
[Staff Report](#)
[A - Draft Resolution Denying the Petition for Reconsideration](#)
[B - Residential Design Review \(R-2017-33\) and Minor Residential \(RM-2017-39\) Permit Action Letter 6/25/2019](#)
[C - Appeal of the Planning Commission's Decision 11/26/2019](#)
[D - City Council Staff Report 4/21/2020](#)
[E - City Council Action Letter and Resolution No. 20-036](#)
[F - Petition for Reconsideration 5/4/2020](#)
[G - Public Hearing Procedures](#)
13. Subject: Consider approving a development proposal to demolish a 71,250 square foot retail center (The Oaks), remove and replace 74 protected trees, and construct a mixed-used development consisting of 267 housing units (88 Rowhouse/Townhouses, 179 senior apartments of which 131 are senior licensed assisted living units and 48 are affordable or below market rate ("BMR") senior independent living units), 27 memory care licensed assisted living residences ("memory care residences"), and 20,000 square feet of commercial space. The applicant is requesting a Heart of the City Exception for retail frontage along Stevens Creek Boulevard. The applicant is also requesting a density bonus, including associated density bonus parking reduction and density bonus waivers for height, slope line setback, and dispersion of BMR housing units, as well as an incentive/concession for the consolidation of BMR housing units in a single, senior building. City approvals would be certification of the Final Environmental Impact Report, Development Permit (including findings regarding density bonus, parking reduction, concession, and waivers), Architectural and Site Approval Permit, Tree Removal Permit, Use Permit, Heart of the City Exception, and Vesting Tentative Map; (Application No(s): DP-2018-05, ASA-2018-05, TM-2018-03, TR-2018-22, U-2019-03, EXC-2019-03, EA-2018-04; Applicant(s): KT Urban (Mark Tersini); Location: 21267 Stevens Creek Boulevard; APN #326-27-042, -043. (Continued from June 2).

Recommended Action: Staff recommends that the City Council consider the evidence presented and approve the project in accordance with the following draft resolutions (Attachments A-G). If the City Council wishes to approve the project, adopt the following resolutions:

1. Resolution No. 20-105 certifying the Final Environmental Impact Report and adopting the mitigation measures and Mitigation and Monitoring Reporting Program (EA-2018-04);
2. Resolution No. 20-106 approving the Development Permit (DP-2018-05); EA-2018-04, DP-2018-05, Westport Cupertino August 18, 2020
ASA-2018-05, U-2019-03, 21267 Stevens Creek Boulevard TM-2018-03, EXC-2019-03, TR-2018-22
3. Resolution No. 20-107 approving the Architectural and Site Approval Permit (ASA2018-05);
4. Resolution No. 20-108 approving the Use Permit (U-2019-03);
5. Resolution No. 20-109 approving the Vesting Tentative Map (TM-2018-03);
6. Resolution No. 20-110 approving the Heart of the City Exception (EXC-2019-03); and
7. Resolution No. 20-111 approving the Tree Removal Permit (TR-2018-22).

Staff Report

[A - Draft Resolution for EA-2018-04](#)

[B - Draft Resolution for DP-2018-05](#)

[C - Draft Resolution for ASA-2018-05](#)

[D - Draft Resolution for U-2019-03](#)

[E - Draft Resolution for TM-2018-03](#)

[F - Draft Resolution for EXC-2019-03](#)

[G - Draft Resolution for TR-2018-22](#)

[H - Planning Commission Resolution No. 6908](#)

[I - Project Description](#)

[J - Below Market Rate Project Description](#)

[K - Letter from Andy Faber to Eric S. Phillips dated November 30, 2018](#)

[L - Letter from Andy Faber to the Planning Commission dated April 22, 2020](#)

[M - Density Bonus Waiver Request: Enhanced Senior and Family Living Project](#)

[N - Letter from Randy Bekerman, representing Atria Senior Living dated June 24, 2020](#)

[O - Letter from Andrew Faber to Gian Paolo Martire, dated July 31, 2020](#)

[P - Letter from KT Urban, Atria, and Related to Gian Paolo Martire, dated July 31, 2020](#)

[Q - Memo from RRM Design Group, Westport Density Bonus Waiver Review – Enhanced Senior and Family Living Project, dated July 7, 2020.](#)

[R - Memo from Sally Nielsen, Vice President, Hausrath Economics Group, Westport Cupertino: Peer Review of Economic Justifications for a Density Bonus Concession, dated August 11, 2020.](#)

[S - Westport Cupertino Retail Layout Analysis](#)

[T - Alternate Retail Plan](#)

[U - Memo from RRM Design Group, Westport Design Review – Tower Element, dated May 1, 2020.](#)

[V - Final EIR](#)

[W - ERC Recommendation dated April 16 2020](#)

[X - Public Comments](#)

[Y - Project Plans](#)

14. Subject: Municipal Code Amendments to regulate Short-Term Rental activity in the City. A new Chapter 5.08 (Short Term Rental Activity) is proposed and amendments are proposed to Chapter 3.12 (Transient Occupancy Tax), Chapter 19.08 (Definitions) and Chapter 19.120 (Home Occupations), of the Cupertino Municipal Code. Minor process related clarifications are also proposed in Chapter 19.12. (Application No(s): MCA-2018-02; Applicant(s): City of Cupertino; Location: Citywide)
- Recommended Action: That the City Council:
1. Conduct the first reading of Ordinance No. 20-2200: An Ordinance of the City Council of the City of Cupertino Amending Title 3, Revenue and Finance: Chapter 3.12 (Transient Occupancy Tax), Revenue and Finance, Amending Title 5, Business License and Regulations: Chapter 5.08 (Short-Term Rental Activity), Amending Specified Chapters of Title 19, Zoning, of the Cupertino Municipal Code Chapter 19.08 (Definitions), Chapter 19.12 (Administration), and Chapter 19.120 (Home Occupations), to Regulate Short-Term Rental Uses in Residential Zoning Districts (Attachment A) to:
 - a. Find the proposed actions exempt from CEQA; and,
 - b. Amend the Municipal Code by adding Chapter 5.08 (Short Term Rental Activity) and amending Chapter 3.12 (Transient Occupancy Tax), Chapter 19.08 (Definitions), Chapter 19.12 (Administration) and Chapter 19.120 (Home Occupations).
 2. Approve a budget appropriation (BMN 2021-088) of either \$408,689, \$283,889, or \$159,089 depending on the selected level of enforcement; and
 3. Provide direction on the registration fee in regards to setting the fee for full cost recovery or lower.

[Staff Report](#)

[A - Draft Ordinance No. 20-2200](#)

[B - Redline Document Indicating Changes to Title 3 5 and 19](#)

[C - July 7, 2020 City Council Agenda Item #8](#)

ORDINANCES AND ACTION ITEMS

15. Subject: Approve the Second Amendment to Employment Agreement for City Manager, related budget modifications, and revised Appointed Employees' Compensation Program.
- Recommended Action:
1. Adopt Resolution No. 20-112 approving the Second Amendment to Employment Agreement for City Manager and authorizing the Mayor to execute the Amendment.
 2. Approve Budget Modification No. 2021-090 increasing General Fund appropriations by \$49,695 in Fiscal Year 2020-2021.

[Staff Report](#)

[A - Draft Resolution](#)

[B - Second Amendment to the Employment Agreement](#)

[C - Revised Appointed Employees' Compensation Program \(redline\)](#)

[D - Revised Appointed Employees' Compensation Program \(clean\)](#)

16. **Subject:** Designate a voting delegate and up to two alternates to vote at the Annual Business Meeting (General Assembly) during the League of California Cities Virtual Annual Conference, October 7-9.
Recommended Action: Designate a voting delegate and up to two alternates to vote at the Annual Business Meeting (General Assembly) during the League of California Virtual Annual Conference, October 7-9.
[Staff Report](#)
[A - Conference Information](#)
17. **Subject:** Authorization to Amend the Current Agreement with Lifetime Tennis Inc., DBA Lifetime Activities Inc. to Adjust Compensation Accepted by the City Due to the Impacts of COVID-19 and Sports Center Retrofit.
Recommended Action: Authorize the City Manager to amend the current agreement with Lifetime Tennis Inc., DBA Lifetime Activities Inc. to adjust the compensation accepted by the City from March 13 to May 26 and for Fiscal Year 2020-2021 due to the impacts of COVID-19 and Sports Center retrofit.
[Staff Report](#)
[A - Proposed Second Amendment](#)
[B - Current Agreement](#)

ORAL COMMUNICATIONS - CONTINUED (As necessary)

COUNCIL AND STAFF COMMENTS AND FUTURE AGENDA ITEMS

ADJOURNMENT

The City of Cupertino has adopted the provisions of Code of Civil Procedure §1094.6; litigation challenging a final decision of the City Council must be brought within 90 days after a decision is announced unless a shorter time is required by State or Federal law.

Prior to seeking judicial review of any adjudicatory (quasi-judicial) decision, interested persons must file a petition for reconsideration within ten calendar days of the date the City Clerk mails notice of the City's decision. Reconsideration petitions must comply with the requirements of Cupertino Municipal Code §2.08.096. Contact the City Clerk's office for more information or go to <http://www.cupertino.org/cityclerk> for a reconsideration petition form.

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Any writings or documents provided to a majority of the Cupertino City Council after publication of the packet will be made available for public inspection in the City Clerk's Office located at City Hall, 10300 Torre Avenue, during normal business hours and in Council packet archives linked from the agenda/minutes page on the Cupertino web site.

IMPORTANT NOTICE: Please be advised that pursuant to Cupertino Municipal Code 2.08.100 written communications sent to the Cupertino City Council, Commissioners or City staff concerning a matter on the agenda are included as supplemental material to the agenda item. These written communications are accessible to the public through the City's website and kept in packet archives. You are hereby admonished not to include any personal or private information in written communications to the City that you do not wish to make public; doing so shall constitute a waiver of any privacy rights you may have on the information provided to the City.