

Planning Commission Date: June 13, 2007

Item No. 

## MILPITAS PLANNING COMMISSION AGENDA REPORT

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Category: Public Hearing

Report prepared by: Tiffany Kunsman

Public Hearing: Yes:  X  No:

Notices Mailed On: 6/1/07

Published On: 5/30/07

Posted On: 6/1/07

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**TITLE:** TIME EXTENSION NO. TE2007-13

**Proposal:** A request for a one-time 18-month time extension for Use Permit No. UA2005-4 and "S" Zone approval Amendment No. SA2005-25, the request to replace an existing 10' 7" tall monument sign with a 7 foot tall monument sign and other site upgrades including repainting the canopy, trash enclosure, fence, bollards, replacing the valences, and other site signage.

**Location:** 1640 N. Milpitas Blvd. (APN 26-06-001)

**RECOMMENDATION:** Approve with conditions.

**Applicant:** RHL Design Group, Attn: Mark Graff, 3001 Douglas Blvd., #210, Roseville, CA 95661

**Property Owners:** ConocoPhillips, Attn: Bill Borgh, 76 Broadway, Sacramento, CA 95818

**Environmental Info:** Exempt pursuant to Class 1, Section 15301 - Existing Facilities

**General Plan Designation:** General Commercial

**Present Zoning:** Neighborhood Commercial "C1"

**Existing Land Use:** Gasoline Service Station

**Agenda Sent To:** Applicant/owner

**Attachments:** Approved Special Conditions for Use Permit No. UA2005-4 and "S" Zone Approval Amendment No. SA2005-25, along with the corresponding Staff Report, plans, and project description.

**PJ No.** 2419

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### BACKGROUND

On September 11, 1963 the Planning Commission first approved of the construction of a gas station. The gas station had subsequent amendments, which included minor remodeling in 1994. On April 24, 1996, an "S" Zone Approval and Use Permit were approved for the demolition of the existing gas station, construction of a new gas station, and operation of the 76 Union Gas

Station. On May 12, 2005 the Planning Commission approved a Use Permit Amendment No. UA2005-4 and "S" Zone Approval Amendment No. SA2005-25 for a request to upgrade an existing 17,654 square foot 76 Union Gas Station.

### **Site Description**

The 76 Union Gas Station is located on the southeast corner of North Milpitas Boulevard and Sunny Hills Court intersection. The Site is directly adjacent to a residential neighborhood and across the street from Crescent Square and City Square shopping centers. The General Plan designates this site as General Commercial and it is zoned "C1" Neighborhood Commercial with an "S" Combining District.

### **Project Description**

The applicant is requesting an 18 month Time Extension for the previously approved "S" Zone Amendment Approval and Use Permit for the replacement of an existing 10'7" tall monument sign with a 7 foot tall monument sign and site upgrades. The site upgrades are as follows: repainting of the canopy, trash enclosure, fence, and bollards, replacement of the valences, and other site signage.

### **TIME EXTENSION REQUEST**

Pursuant to Zoning Ordinance Section 64.04-1 (Time Extension), the applicant is requesting a time extension of the previous Site and Architecture Review and Use Permit approvals. As with any permit approval granted under the terms of the zoning ordinance, a permit expires in eighteen (18) months if not used or exercised.

The term "used" is defined in the Milpitas Zoning Ordinance under Title XI-Chapter 10 Section 64.04-2.

A permit is "used" or "exercised" if:

1. The applicant obtains a building permit and completes a foundation, or
2. Dedicates any land or easement as required from the zoning action, or
3. Complies with legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

To date, the applicant has not "used" or "exercised" their permit approved on May 12, 2005.

### **RECOMMENDATION**

Close the public hearing. Approve Time Extension No. TE2007-13 for UA2005-4 and SA2005-25 based on the previous Findings and Recommended Special Conditions of Approval.

## FINDINGS

1. The proposed project complies with the City's General Plan in terms of Guiding Principle 3.b-G-1 in that the signs serve to direct vehicles in the facility which assist in providing for a safe, convenient and efficient vehicular movement within the Neighborhood Commercial area and Implementing Policy 2.a-I-10 in that the site upgrades beautify the existing development and in turn fosters community pride.
2. The project complies with the Zoning Ordinance in that it is a conditional use in the Neighborhood Commercial "C1" district and serves the adjacent residences and shopping center visitors and businesses. In addition, the project does not conflict with any of the district's development standards.
3. As conditioned, the project complies with the "S" Zone Combining District in that the proposed freestanding sign is attractive and harmonious with the site and replaces a 10' foot sign, which is taller and more massive. The site upgrades, replacing outdated pumps and valences and with the repainting of site features, updates the overall site and improves it in appearance.
4. The proposed project is consistent with the City's Sign Ordinance in term of number of freestanding signs, sign height, and sign area allowed.
5. As conditioned, the project will not create any adverse community impacts and will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety and general welfare.
6. The proposed project is categorically exempt from further environmental review pursuant to Class 11, Section 15311 (Accessory Structures - On-premise signs) of the State CEQA Guidelines.

## SPECIAL CONDITIONS

1. Time Extension Approval for Use Permit Amendment No. UA2005-4 is for a new 7foot tall monument sign, as shown on the approved plans dated June 13, 2007 and as modified by the conditions of approval of an amendment to this Use Permit and public hearing. (P)
2. Time Extension Approval for "S" Zone Approval Amendment No. SA2005-25 is for the prepainting of all site features including the main building , perimeter fences, trash enclosures, bollards, light standards, etc., replacement of pump dispensers and new canopy signage, as shown on the approved plans dated June 13, 2007 and as modified by the conditions below. (P)
3. Prior to building permit issuance, the fascia installed on the existing canopy without the benefit of permits shall be removed. (P)
4. Prior to building permit issuance, the plans shall indicate the main building be repainted to match canopy colors. (P)

5. All required landscaping shall be replaced and continuously maintained as necessary to provide a permanent, attractive and effective appearance. (P)
6. If at the time of application for building permit there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
7. This us shall be conducted in compliance with all appropriate local, state and federal laws and regulations and in conformance with the approved plans. (P)
8. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping and signs as determined by sight distasnce shall not exceed 2 feet when measured from street elevation. *The edge of the proposed sign shall be located minimum of 15' back form the face of the curb, as shown on the submitted plan sheet A-1.* (E)

Planning Division = (P)

Engineering Division = (E)

7.

Planning Commission Date: May 11, 2005

Item No.

**MILPITAS PLANNING COMMISSION AGENDA REPORT**

Category: Public Hearing

Report prepared by: Staci Pereira

Public Hearing: Yes: X No: \_\_\_\_\_

Notices Mailed On: 4-29-05

Published On: 4-28-05

Posted On: 4-29-05

**TITLE: USE PERMIT AMENDMENT NO. UA2005-4 AND "S" ZONE APPROVAL AMENDMENT NO. SA2005-25**

**Proposal:** A request to replace an existing 10'-7" tall monument sign with 7-foot tall monument sign and other site upgrades including repainting the canopy, trash enclosure, fence, bollards, etc. replacing the valences and other site signage at a Union 76 gas station, zoned "C2" General Commercial.

**Location:** 1640 N. Milpitas Blvd. (APN 26-06-001)

**RECOMMENDATION:** Approval with conditions.

**Applicant:** RHL Design Group, Attn: Mark Graff, 3001 Douglas Blvd., #210, Roseville, CA 95661

**Property Owner:** ConocoPhillips, Attn: Bill Borgh, 76 Broadway, Sacramento, CA 95818

**Assessee:** Real Estate Beneficiary LLC et al, Tosco Corporation - Circle K Company, Property Tax DC-17, PO Box 52085, Phoenix, AZ 85072-2085

**Previous Action(s):** "S" Zone approval and amendments, use permit

**Environmental Info:** Exempt pursuant to Class1, Section 15301 ("Existing Facilities)

**General Plan Designation:** General Commercial

**Present Zoning:** General Commercial (C2)

**Existing Land Use:** Gasoline Service Station

**Agenda Sent To:** Applicant, owner and assessee (all noted above)

**Attachments:** Plans

**PJ No.** 2419

## **BACKGROUND**

On September 11, 1963, the Planning Commission approved construction of a gas station. Subsequent amendments include minor remodeling of the site in 1994. On April 24, 1996, a "S" Zone Approval and Use Permit No. 1345 were approved by the Planning Commission for the demolition of the existing gas station and construction and operation of new station on the same site.

### **Site Description**

The 17,654 square foot site is located on the southeast corner of North Milpitas Boulevard and Sunny Hills Court intersection, directly adjacent to a residential neighborhood and across the street from Crescent Square and City Square shopping centers.

## **THE APPLICATION**

The Use Permit Amendment application is submitted pursuant to Chapter 30, Section 3.03 (c) (Freestanding signs over six feet in height) and Chapter 10, Section 57.00 (Conditional Use Permits) and the "S" Zone Approval Amendment is pursuant to Chapter 10, Section 42.10 of the Milpitas Zoning Ordinance.

### **Project Description**

The applicant requests to replace an existing 10'-7" tall monument sign in the northwest landscape planter with a 7-foot tall monument in same location. The new monument sign would be two-sided (8-inches thick) and consist of an internally illuminated cabinet sign atop a stucco base. The sign area would be 10'-3" x 6'-1" and contain a price sign and logos in the new corporate color scheme of red, gray, white and blue.

Other site modifications proposed include replacing canopy signage, repainting site features including canopy, trash enclosure, fence, bollards, etc. with the new corporate color scheme of red, white and gray, and replacing the pump dispensers valences with new valences.

### **Conformance with the General Plan**

The proposed project complies with the City's General Plan in terms of Guiding Principle 3.b-G-1 in that the signs serve to direct vehicles in the facility which assists in providing for a safe, convenient and efficient vehicular movement within the Neighborhood Commercial area and Implementing Policy 2.a-I-10 in that the site upgrades beautify the existing development and in turn foster community pride.

### **Conformance with the Zoning Ordinance**

The project complies with the Zoning Ordinance in that it is a conditional use in the Neighborhood Commercial "C1" district and serves the adjacent residences and shopping center visitors and businesses. In addition, the project does not conflict with any of the district's development standards.

The project complies with the "S" Zone Combining District in that the proposed freestanding signs are attractive and harmonious with the site and replaces a 10-foot sign, which is taller and more massive. In addition, the materials used are durable and result in a high quality finish. The site upgrades replace outdated pump valences and the repainting of the some of site's features (canopy, trash enclosure, fence, bollards, etc) updates the site and improves it appearance. However, staff is concerned that the main building is not being addressed. To make the improvements consistent throughout the site, *staff recommends* a condition of approval to require the building to be repainted as well. With these conditions, staff concludes that no adverse visual impacts would result from the proposed project in terms of height, location, color or materials.

On a recent site visit staff observed a new 3-foot tall fascia that had been installed on the existing canopy, which has a peaked roof with ceramic tiles that match the building, without the benefit of permits. Staff concludes the style of the existing canopy, with a peaked roof, does not complement the fascia and therefore *staff recommends* the fascia be removed prior to building permit issuance.

**Conformance with the Sign Ordinance**

The site has approximately 257 lineal feet of street frontage along North Milpitas Boulevard and Sunnyhills Court. Per the Sign Ordinance, Section 3.03 (Freestanding Signs), which allows 1 freestanding sign for each individual parcel's public street frontage, the parcel is permitted 1 freestanding sign. Additionally, to determine maximum height for freestanding signs 1 foot of height, to a maximum of 25 feet, for each 8 feet of public street frontage is allowed. Thus, the 7-foot height of the proposed freestanding sign is in conformance with the sign ordinance, which would allow 1 freestanding sign up to 25-foot tall, if deemed appropriate through a use permit process.

Based on 257 lineal feet of street frontage, the total signage permitted for the site is 514 square feet (2 square feet of sign are per lineal foot of street frontage). The signage calculations for the proposed signage are as follows:

SIGN TYPE	SIGN DIMENSIONS	AREA (SF)
Monument sign	(1) 10'-3" x 6'-1"	63
Building signs (no change)	(1) 1' x 2' (1) 2' diameter = 2 sq. ft.	4
Canopy signs	(2) 1' diameter = 2 sq. ft.	2
<b>TOTAL</b>		<b>69</b>

Staff observed numerous temporary signs on the site (in landscape areas and affixed to light standards), and thus *staff recommends* a condition of approval that they be removed. Overall, the total signage proposed for the site would be approximately 69 square feet and well within the sign area allotted for the site.

### **Community Impact**

Staff concludes that the project, as conditioned, will meet the requirements as set forth within the City of Milpitas regulations and will not create a negative community impact. The freestanding sign is compatible with other service station signs in the Neighborhood Commercial District and is consistent with colors used elsewhere on the site. In addition, the interior illumination of the sign is not anticipated to create any glare. There are no noise, odor, traffic or parking impacts associated with the project. Therefore, as conditioned, the project will not create any adverse community impacts and will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety and general welfare.

### **Conformance with CEQA**

The proposed project is categorically exempt from further environmental review pursuant to Class 11, Section 15311 ("Accessory Structures – On-premises Signs") of the California Environmental Quality Act (CEQA) Guidelines.

### **RECOMMENDATION**

Close the Public Hearing. Approve Use Permit Amendment No. UA2005-4 and "S" Zone Approval Amendment No. SA2005-25 based on the Findings and Special Conditions of Approval listed below.

### **FINDINGS**

1. The proposed project complies with the City's General Plan in terms of Guiding Principle 3.b-G-1 in that the signs serve to direct vehicles in the facility which assists in providing for a safe, convenient and efficient vehicular movement within the Neighborhood Commercial area and Implementing Policy 2.a-I-10 in that the site upgrades beautify the existing development and in turn fosters community pride.
2. The project complies with the Zoning Ordinance in that it is a conditional use in the Neighborhood Commercial "C1" district and serves the adjacent residences and shopping center visitors and businesses. In addition, the project does not conflict with any of the district's development standards.
3. As conditioned, the project complies with the "S" Zone Combining District in that the proposed freestanding sign is attractive and harmonious with the site and replaces a 10-foot sign, which is taller and more massive. The site upgrades replace outdated pump valences and the repainting of the some of site's features updates the site and improves it appearance.
4. The proposed project is consistent with the City's Sign Ordinance in terms of number of freestanding signs, sign height, and sign area.
5. As conditioned, the project will not create any adverse community impacts and will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety and general welfare.

6. The proposed project is categorically exempt from further environmental review pursuant to Class 11, Section 15311 (Accessory Structures – On-premise signs) of the State CEQA Guidelines.

### SPECIAL CONDITIONS

1. Approval of Use Permit Amendment No. UA2005-4 is for a new 7-foot tall monument sign, as shown on the approved plans dated May 11, 2005 and as modified by the conditions below. Any modifications to the conditions of approval require Planning Commission approval of an amendment to this Use Permit and a public hearing. (P)
2. Approval of "S" Zone Approval Amendment No. SA2005-25 is for the repainting of all site features including the main building, perimeter fences, trash enclosures, bollards, light standards, etc., replacement of pump dispensers and new canopy signage, as shown on the approved plans dated May 11, 2005 and as modified by the conditions below. (P)
3. Prior to building permit issuance, the fascia installed on the existing canopy without the benefit of permits shall be removed. (P)
4. Prior to building permit issuance, the plans shall indicate the main building be repainted to match canopy colors. (P)
5. Prior to permit final, all non-permitted and temporary signs on the site (in landscape areas and affixed to light standards) shall be removed. (P)
6. All required landscaping shall be replaced and continuously maintained as necessary to provide a permanent, attractive and effective appearance. (P)
7. If at the time of application for building permit there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
8. This use shall be conducted in compliance with all appropriate local, state, and federal laws and regulations and in conformance with the approved plans. (P)
9. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. *The edge of the proposed sign shall be located minimum of 15' back from the face of the curb, as shown on the submitted plan sheet A-1.* (E)

Planning Division = (P)

Engineering Division = (E)

7.

### APPROVED SPECIAL CONDITIONS

**USE PERMIT AMENDMENT NO. UA2005-4 & "S" ZONE APPROVAL AMENDMENT NO. SA2005-25:**  
A request to replace an existing 10'-7" tall monument sign with 7-foot tall monument sign and other site upgrades including repainting the canopy, trash enclosure, fence, bollards, etc. replacing the valences and other site signage at a Union 76 gas station at 1640 N. Milpitas Blvd. (APN 26-06-001)

**Planning Commission Approval:** May 12, 2005

### SPECIAL CONDITIONS

1. Approval of Use Permit Amendment No. UA2005-4 is for a new 7-foot tall monument sign, as shown on the approved plans dated May 11, 2005 and as modified by the conditions below. Any modifications to the conditions of approval require Planning Commission approval of an amendment to this Use Permit and a public hearing. (P)
2. Approval of "S" Zone Approval Amendment No. SA2005-25 is for the repainting of all site features including the main building, perimeter fences, trash enclosures, bollards, light standards, etc., replacement of pump dispensers and new canopy signage, as shown on the approved plans dated May 11, 2005 and as modified by the conditions below.
3. Prior to building permit issuance, the fascia installed on the existing canopy without the benefit of permits shall be removed. (P)
4. Prior to building permit issuance, the plans shall indicate the main building be repainted to match canopy colors. (P)
5. Prior to permit final, all non-permitted and temporary signs on the site (in landscape areas and affixed to light standards) shall be removed.
6. All required landscaping shall be replaced and continuously maintained as necessary to provide a permanent, attractive and effective appearance. (P)
7. If at the time of application for building permit there is a project job account balance due to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
8. This use shall be conducted in compliance with all appropriate local, state, and federal laws and regulations and in conformance with the approved plans. (P)
9. The developer shall not obstruct the noted sight distance areas as indicated on the City standard drawing #405. Overall cumulative height of the grading, landscaping & signs as determined by sight distance shall not exceed 2 feet when measured from street elevation. *The edge of the proposed sign shall be located minimum of 15' back from the face of the curb, as shown on the submitted plan sheet A-1.* (E)

Planning Division = (P), Engineering Division = (E)

Distribution:

Applicant & Owner

Albert Zamora, Fire Dept.

Keyvan Irannejad, Building Div.

Mehdi Khaila, Principal Civil Engineer

Joe Oliva, Trans., Planning Div.

Greg Armendariz, City Eng., Eng. Div.

Ken Brown, Building Inspection

Carol Randisi, Public Works Div.

Jane Corpus, Finance

File

May 12, 2005

RHL Design Group  
Attention: Wendy Wilson  
3001 Douglas Blvd., #210  
Roseville, CA 95661

**USE PERMIT AMENDMENT NO. UA2005-4 AND "S"  
ZONE APPROVAL AMENDMENT NO. SA2005-25  
PJ #2419**

A request to replace an existing 10'-7" tall monument sign with 7-foot tall monument sign and other site upgrades including repainting the canopy, trash enclosure, fence, bollards, etc. replacing the valences and other site signage at 1640 N. Milpitas Blvd. (APN 26-06-001)

Dear Ms. Wilson:

The above referenced project was reviewed and approved by the Milpitas Planning Commission at its meeting of May 12, 2005. Enclosed for your information is a copy of the approved "Special Conditions/Notes to Applicant" for the project. Please read the conditions and notes carefully. **Unless otherwise specified, these items must be resolved prior to building permit issuance for your project.**

The next step in the process is to submit working drawings or construction plans to the Building Division for plan checking. Please contact that Division (586-3240) for further information. Listed below are the names and phone numbers of others involved in the building permit process. It is to your advantage to contact those persons in order to see what material(s), if any, they will need regarding your application. This could expedite the permit processing.

Building Division: Leon Sheyman - 586-3245; Engineering Division: Robert Wang - 586-3327;  
Fire Department: Albert Zamora - 586-3371

**Expiration of permit or approvals:**

Unless the approval is used or exercised, it will expire, without notice to you, eighteen (18) months after the date of approval, or by November 12, 2006. For the purpose of approval, an approval is "used" or "exercised" if the applicant obtains a building permit and completes a foundation, or dedicates any land or easement as required from the zoning action, or complies with all legal requirements necessary to commence the use, or obtains an occupancy permit, whichever is sooner.

A one-time 18-month time extension may be granted by the Planning Commission. It is valid only if approved before the pending expiration date. New conditions may be imposed on your permit through the review process for your extension of time for any permit. To obtain a time-extension, you must submit a request with appropriate fees to the Planning Division no later than September 15, 2006 to be scheduled for the Planning Commission meeting of November 22, 2006.

If you have any questions pertaining to this matter, please give me a call at (408) 586-3278. Thank you for participating in the City's planning review process.

Sincerely,

Staci Pereira  
Assistant Planner

cc: ConocoPhillips, Attn: Bill Borgh, 76 Broadway, Sacramento, CA 95818

Real Estate Beneficiary LLC et al, Tosco Corporation - Circle K Company, Property Tax DC-17, PO Box 52085, Phoenix, AZ 85072-2085

enc: Approved Special Conditions/Notes to Applicant







