

**APPROVED**

**PLANNING COMMISSION SUBCOMMITTEE MINUTES**

**May 14, 2008**

**I.  
ROLL CALL**

Present: Gunawan Ali-Santosa and Cliff Williams  
Absent: None  
Staff: Andrade and Lindsay

**1. MINOR SITE  
DEVELOPMENT  
PERMIT NO. MS08-0002**

James Lindsay, Planning and Neighborhood Services Director, presented a request for a one day corporate event to have a walk/run-athon along the Coyote Trail located at 601 McCarthy Blvd. Mr. Lindsay recommended the Commission approve MS08-0002, SanDisk Fun Run/Walk Contest, subject to the conditions of approval.

**Motion** to approve Minor Site Development Permit No. MS08-0002.

M/S: Ali-Santosa, Williams

AYES: 2

NOES: 0

**2. MINOR SITE  
DEVELOPMENT  
PERMIT NO. MS08-0001**

James Lindsay, Planning and Neighborhood Services Director, presented a request for a one day outdoor Skate/Action Sports Demonstration and amateur skateboard contest with live music located in the east parking lot of the Great Mall. Mr. Lindsay recommended the Commission approve MS08-0001, Zumiez Couch Tour, subject to the conditions of approval.

**Motion** to approve Minor Site Development Permit No. MS08-0001.

M/S: Ali-Santosa, Williams

AYES: 2

NOES: 0

**II.  
ADJOURNMENT**

This meeting was adjourned at 6:39 p.m.

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## PLANNING COMMISSION MINUTES

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### I. PLEDGE OF ALLEGIANCE

Chair Williams called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.

### II. ROLL CALL/SEATING OF ALTERNATE

Present: Gunawan Ali-Santosa, Lawrence Ciardella, Alex Galang, Sudhir Mandal, Gurdev Sandhu, Noella Tabladillo and Cliff Williams  
Alternate Present: Aslam Ali  
Staff: Andrade, Lindsay, and Ogaz

### III. PUBLIC FORUM

Chair Williams invited members of the audience to address the Commission on any topic not on the agenda, noting that no response is required from the staff or Commission, but that the Commission may choose to agendaize the matter for a future meeting.

There were no speakers from the audience.

### IV. APPROVAL OF MINUTES April 23, 2008

Chair Williams called for approval of the minutes of the Planning Commission meeting of April 23, 2008.

There were no changes to the minutes.

**Motion** to approve the minutes of April 23, 2008.

M/S: Gurdev, Mandal

AYES: 7

NOES: 0

### V. ANNOUNCEMENTS

James Lindsay, Planning and Neighborhood Services Director, said there were no announcements.

Vice-Chair Mandal stated that he will leave the meeting at 8:00 p.m. for personal business.

### VI. CONFLICT OF INTEREST

City Attorney Mike Ogaz asked if any member of the Commission has any personal or financial conflict of interest related to any of the items on tonight's agenda.

There were no Commissioners who identified a conflict of interest.

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**VII.  
APPROVAL OF  
AGENDA**

Chair Williams called for approval of the agenda.

There were no changes to the agenda.

**Motion** to approve the agenda as submitted.

M/S: Mandal, Ciardella

AYES: 7

NOES: 0

**VIII.  
CONSENT CALENDAR**

Chair Williams asked whether staff, the Commission, or anyone in the audience wished to remove or add any items to the consent calendar.

There were no changes to the consent calendar.

Chair Williams opened the public hearing on Item No. 2.

There were no speakers from the audience.

**Motion** to close the public hearing.

M/S: Mandal, Tabladillo

AYES: 7

NOES: 0

**Motion** to approve the consent calendar.

M/S: Mandal, Ali-Santosa

AYES: 7

NOES: 0

**\*2 ASPEN CONSTRUCTION HOURS THREE MONTH REVIEW:** A three-month review of Special Condition No. 23a, relating to weekend construction noise from the Aspen project located at 1666 South Main Street. (*Recommendation: Note receipt and file.*)

**IX.  
PUBLIC HEARING**

**1. CONDITIONAL USE  
PERMIT NO. UP08-0012**

James Lindsay, Planning and Neighborhood Services Director, presented a request to locate a fixed location massage establishment within a 3,324 square foot suite located at 581 E. Calaveras Blvd. Mr. Lindsay recommended that the Commission adopt Resolution No. 08-015 for approval subject to modifications made by the City Attorney.

City Attorney Ogaz stated that the Conditions of Approval needed to have some language added. The decision before the Commission at this time is for the land use decision. Before a massage operation takes place a permit for a massage establishment needed to be approved by the Police Chief.

Vice-Chair Mandal asked if the business going to be on-site or off-site. Mr. Lindsay stated the application is for a use permit for the establishment of a massage parlor located at the Town Center.

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Commissioner Ali asked if there are any rules and regulations for off-site business. Mr. Lindsay stated that this issue is not being addressed with this use permit tonight.

Commissioner Tabladillo asked if there are any other massage businesses in Milpitas. Mr. Lindsay stated this will be the first full massage establishment in Milpitas.

Commissioner Ciardella asked if an alarm would go off if the doors were left opened. Mr. Lindsay said that question would be referred to the applicant.

Commissioner Galang asked why the facility is being targeted to just women. Mr. Lindsay stated that he would refer that question also to the applicant.

Commissioner Ali-Santosa wanted clarification about the condition approval. Mr. Lindsay stated that Condition 11 is directly out of the massage ordinance. If the Commission feels removal of condition 11 is necessary, he is acceptable to that. City Attorney Ogaz stated that Condition 11 is just additional notice you would have to give to a hotel for setting up in an off-site location, operationally; the Police Department would still need to issue a permit to go to off-site premises.

Chair Williams asked staff to have the applicant provide some kind of dialogue that would be a part of the record as to how management would show diligence of their employees to make sure that no illicit activity is taken place in this establishment. Secondly, he would like staff to look at language that would show a conditional use of a 2 year unannounced Police visitation. Mr. Lindsay stated that there is a section in the massage ordinance that states that the investigating enforcing official of the City of Milpitas or designee shall have the right to enter the premises of any massage establishment during regular business hours for the purpose of making reasonable inspection to observe and enforce compliance with the building.

Chair Williams introduced the applicant.

**Jeff Guest, 4521 Lilac Ridge Road, San Ramon, CA and Charles Goodwin, 2519 Carmelita Avenue, Belmont, CA** said they were available to answer any questions.

Mr. Guest said this is a national franchise. There are 500 franchises that are open. The franchise works on a membership basis. They want an area that is family oriented. He said Milpitas has no day spa. Massage Envy will have 20 therapists. All therapists must be licensed and licensed through Milpitas. Mr. Goodwin said that each therapist must carry liability insurance and there is a background check on all their employees.

Mr. Goodwin said their clientele is 2/3 women and 1/3 men. Women are more willing to invest in their health and well being more so than men. Commissioner Sandhu asked if the therapists are male or female. Mr. Guest stated that it will be both male and female. Commissioner Sandhu also asked will the therapists be paid by the establishment or are they contractors. Mr. Guest said the employees will be paid by the establishment.

Commissioner Ciardella asked if the doors going to remain locked. Mr. Guest said that certain doors will be open during business. Commissioner Ciardella was concerned about the break room door and utility room door being open and someone entering the establishment that wasn't supposed to be there. Mr. Guest said if they needed to have the doors locked they would accommodate. Chair Williams stated that part of the deliberation they may consider a glass or window type door. Mr. Goodwin said that the break room door will have access going out but not in.

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Commissioner Galang asked if there is a requirement for doctors on the site for prenatal service. Mr. Goodwin stated there is no requirement for a doctor on site. Commissioner Galang also asked if the therapist be certified in CPR. Mr. Goodwin said most of the therapists are certified in CPR. Mr. Goodwin also said that all clinics have first aid kits.

Chair Williams asked the applicant how they would perform diligence as far as over seeing their operation with their employees. Mr. Goodwin said they have a zero tolerance policy. They train their therapists on the fact that they do not tolerate inappropriate behavior or touch. They regularly enforce that policy. The zero tolerance policy is for both the employee and client.

Mr. Ogaz asked if the massage will take place with the doors open, is there visible access from the exterior hallway into the massage rooms through a window in the door or through a window in the hall. Mr. Guest said there is no visible access inside the rooms while the massage is going on, it might make the client uncomfortable with someone looking into the room. The company is very strict with their policies.

Commissioner Sandhu asked if the customer or therapist become unruly will there be security on duty. Mr. Goodwin said there is no on-site security, but they do have alarm systems in the clinics.

Commissioner Ali asked if any of the locations received citations. Mr. Goodwin said none of been issued.

Mr. Lindsay said in regards to the requirements of CPR, one of the requirements of the massage practitioner permit is that a current certification in CPR and first aid is a requirement in obtaining a permit from the Police Department.

Chair Williams requested that one of the conditions is to have a secure break room or have some visibility. Mr. Guest said if a window is needed they will accommodate.

Chair Williams opened the public hearing.

There were no speakers from the audience.

**Motion** to close the public hearing.

M/S: Mandal, Tabladillo

AYES: 7

NOES: 0

Chair Williams asked staff to work with the applicant as part of the condition that the applicant provides either a locking mechanism or window type door that would prohibit the public from entering the employee area.

Commissioner Galang asked what type of services they give to men. Mr. Goodwin said they perform the same services as they do women such as Swedish Massage, Deep Tissue, Sports Massage, Reflexology, to name a few.

Mr. Ogaz asked if Commissioner Ciardella had questions on the interior doors or were there issues on the exterior premises door, not to allow access from the building and the interior access to the break room. Commissioner Ciardella said he was talking about the interior door. Mr. Ogaz read changes to the Conditions of approval.

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Commissioner Tabladillo said that there is a need to have a quality day spa in Milpitas as long as the establishment meant City, County, and State requirements.

Commissioner Sandhu feels they are bringing a good business to Milpitas but he does not feel it should be located at the Town Center.

**Motion** to approve Conditional Use Permit Amendment No. UP08-0012 and Adopt Resolution No. 08-015 for approval with modifications to the Conditions of Approval.

M/S: Mandal, Ciardella

AYES: 6

NOES: 1

**XI.  
PRESENTATION**

**3. REVIEW OF THE  
CALIFORNIA  
ENVIRONMENTAL  
QUALITY ACT (CEQA)**

James Lindsay, Planning and Neighborhood Services Director, provided an overview of CEQA and the role of the Planning Commission. Mr. Lindsay said that the City of Milpitas and the Planning Commission is representing the lead agency.

Commissioner Tabladillo asked if a property is transitioning from commercial to residential would that be an entitlement. Mr. Lindsay stated no it requires a legislative act, general plan amendment, and zoning change.

Chair Williams thanked Mr. Lindsay for a very helpful review of CEQA.

**XII.  
ADJOURNMENT**

The meeting was adjourned at 8:33 p.m. to the next regular meeting of May 28, 2008.

Respectfully Submitted,

James Lindsay  
Planning & Neighborhood  
Services Director

Yvonne Andrade  
Recording Secretary

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