

APPROVED

PLANNING COMMISSION MINUTES

September 9, 2009

- I. PLEDGE OF ALLEGIANCE** Vice-Chair Mandal called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/SEATING OF ALTERNATE** Present: Larry Ciardella, Sudhir Mandal, Gurdev Sandhu, Noella Tabladillo, and Mark Tiernan
Absent: Aslam Ali, Alex Galang, and Cliff Williams
Staff: Ah Sing, Andrade, Barnhart, Hom, and Otake
Alternate Commissioner Mark Tiernan was seated as a member of the voting body.
- III. PUBLIC FORUM** Vice-Chair Mandal 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**
August 26, 2009 Vice-Chair Mandal called for approval of the minutes of the Planning Commission meeting of August 26, 2009.
There were no changes to the minutes.
Motion to approve the minutes of August 26, 2009 as submitted.
M/S: Ciardella, Sandhu
AYES: 5
NOES: 0
ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)
ABSTAIN: 0
- V. ANNOUNCEMENTS** There were no announcements from staff or the Commission.
- VI. CONFLICT OF INTEREST** Assistant City Attorney Bryan Otake 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.
- VII. APPROVAL OF AGENDA** Vice-Chair Mandal asked whether staff or the Commission have any changes to the agenda.
Sheldon Ah Sing, Senior Planner, requested that Item No. 8 – Consent Calendar Procedure be continued to the September 23, 2009 PC meeting.
Motion to approve the agenda as submitted with a change to Item No. 8 – Consent Calendar Procedure.
M/S: Ciardella, Tabladillo
AYES: 5
NOES: 0
ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

**VIII. CONSENT
CALENDAR**

ABSTAIN: 0

Vice-Chair Mandal asked whether staff, the Commission, or anyone in the audience wish to remove or add any items to the consent calendar.

There were no changes to the Consent Calendar.

Vice-Chair Mandal opened the public hearing on Item No. 5.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Sandhu, Tabladillo

AYES: 5

NOES: 0

ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

ABSTAIN: 0

Motion to close the public hearing following public testimony and note receipt and file.

M/S: Sandhu, Tabladillo

AYES: 5

NOES: 0

ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

ABSTAIN: 0

***5 PERMIT REVIEW NO. PR09-0002 ICC FARMERS MARKET:** A (3) month review of the India Community Center Farmer's Market located at 525 Los Coches Street (APN: 086-28-052) zoned Industrial Park with Site and Architectural Overlay. Applicant: Pacific Coast Farmer's Market. Staff Contact: Cindy Hom (408) 586-3284. PJ # 2405. *(Recommendation: Close the public hearing following public testimony and note receipt and file.)*

Vice-Chair Mandal opened the public hearing on Item No. 6.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Sandhu, Ciardella

AYES: 5

NOES: 0

ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

ABSTAIN: 0

Motion to Adopt Resolution No. 09-041, approving the project subject to conditions of approval.

M/S: Tabladillo, Ciardella

AYES: 5

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NOES: 0

ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

ABSTAIN: 0

***6 CONDITIONAL USE PERMIT AMENDMENT NO. UA09-0005:** A request to add the sale of beer and wine to an existing restaurant located within the Calaveras Plaza Shopping Center at 217 W. Calaveras Blvd. (APN: 022-25-048) zoned General Commercial with Site and Architectural Overlay (C2-S). Applicant: Norris Mitchell. Staff Contact: Cindy Hom (408) 586-3284. PJ # 2596. *(Recommendation: Adopt Resolution No. 09-041, approving the project subject to conditions of approval.)*

IX. PRESENTATION

1. MILPITAS SVUNWIRED

Diana Barnhart, Economic Development Manager, gave a presentation on the City's wireless program. She stated two years ago EarthLink installed a significant amount of hardware on the City's utility and street light poles to provide wireless internet service for users in the community. They intended to have a free service that would be paid for by advertising and then also a paid for service that would be competitive with other internet providers in the City. Unfortunately, that EarthLink program did not succeed, however, EarthLink did grant the City \$2,000,000 dollars worth of equipment that they had installed. The Information Services Department took the lead and found another owner of the City's wireless equipment and was able to develop an agreement with SVUnwired, which was approved by the City Council. SVUnwired was able to update the older equipment from EarthLink and kicked off the wireless service on June 16, 2009 in the City of Milpitas.

Andrew Gold and Karl Garcia, SVUnwired, Mr. Gold stated their company is a non-profit company. Their company has their wireless service in Mountain View. Their service would save the community millions of dollars a year with this free wireless service. Mr. Gold stated their goal is to provide free, basic internet service for all using a metro-wide umbrella of WiFi which utilizes a sustainable business model fully integrated with City Services.

Commissioner Tabladillo asked if the SSID broadcast already. Mr. Gold stated they are live. Commissioner Tabladillo asked if there are step by step instructions. Mr. Gold stated they had meetings to educate the public and would like to have multi-lingual instructions. Instructions are on their website (www.svunwired.org).

Commissioner Sandhu asked about how people are using this service in Milpitas. Mr. Gold stated there are about 800 users in Milpitas. Commissioner Sandhu asked if the service is free for now and later a fee. Mr. Gold said their goal is to make it a free network. Mr. Garcia said this service is for email, job seeking, or basic internet; it allows you to connect with Smart Phone; it covers the whole City.

Commissioner Tiernan asked what happened to the material from EarthLink. Mr. Gold stated the equipment not needed was replaced with newer Cisco equipment. The old equipment is in storage and kept by the City. Commissioner Tiernan also asked how revenue will be generated. Mr. Gold stated they will show significant savings by the applications used. Mr. Garcia also stated that private businesses would donate to the non-profit and help sustain the network.

Commissioner Ciardella asked if they are speaking to other cities. Mr. Garcia stated they are speaking to other cities in the area. Commissioner Ciardella asked if more cities get on board would this over tax them. Mr. Gold stated they plan to grow with it.

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X. PUBLIC HEARING

**2. CONDITIONAL USE
PERMIT NO. UP09-0002**

Cindy Hom, Assistant Planner, presented a request to establish an auto wash service within the Great Mall’s parking structure located at 1100 S. Main Street. Ms. Hom recommended adopting Resolution No. 09-040, approving the project subject to conditions of approval.

Commissioner Ciardella asked if someone goes shopping what happens to their vehicle. Ms. Hom stated the vehicle is stored in an over flow parking area until it is retrieved.

Commissioner Tabladillo asked if the applicant had liability insurance. Ms. Hom referred this question to the applicant.

Commissioner Tiernan asked if the applicant is paying rent or leasing from the Great Mall. Ms. Hom referred this question to the applicant.

Long Nguyen, 2105 Scott Blvd, Santa Clara, CA, stated the Great Mall has given them 15 more spots. Once the maximum capacity is reached then they stop operating.

Commissioner Ciardella asked if there was a time limit. Mr. Nguyen said there is no time limit. They have not had any problems with time. They do have the phone number of the customers to call them if it is too long.

Mr. Nguyen stated they pay monthly rent to the Great Mall. Commissioner Tiernan also asked the cost of their service. Mr. Nguyen said the prices range depending on the service the customer receives.

Commissioner Tabladillo asked how many employees they have. Mr. Nguyen stated they have six full time employees and 14 part-time. Mr. Nguyen also stated they have liability insurance. Mr. Nguyen said his business would be opened Friday, Saturday, and Sunday.

Vice-Chair Mandal opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Tabladillo, Sandhu

AYES: 5

NOES: 0

ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

ABSTAIN: 0

Commissioner Ciardella asked staff if there were enough parking spaces. Ms. Hom stated yes there are enough parking spaces.

Motion to adopt Resolution No. 09-040, approving the project subject to conditions of approval.

M/S: Tabladillo, Ciardella

AYES: 5

NOES: 0

ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

ABSTAIN: 0

3. CONDITIONAL USE

Cindy Hom, Assistant Planner, presented a request to locate a 3,200 square foot child

**PERMIT NO. UP09-0006
AND SITE
DEVELOPMENT
PERMIT AMENDMENT
NO. SA09-0015**

care facility that will accommodate sixty children and installation of minor site modifications to allow for approximately 3,000 square feet of outdoor play area located at 301 S. Abbott Avenue. The proposed child care center will operate from 6:30 am to 7:00 pm Monday through Friday. Ms. Hom recommended adopting Resolution No. 09-042, approving the project subject to conditions of approval.

Commissioner Tabladillo asked about the fence height. Ms. Hom stated that the fence is six ft. high. There is a vacant lot behind the six ft fence.

Vice-Chair Mandal asked about the shade structure. Ms. Hom stated the shade structure is in the play area to provide shade for the children. Vice-Chair Mandal also inquired about the detail procedures from the operator. Ms. Hom stated staff would like more detail description in terms of how the gates are going to be operated rather they are going to be mechanically or manually operated. Staff is looking for additional traffic caution signs to be posted.

Commissioner Ciardella is concerned about the six ft fence. He would rather see an eight ft fence instead of the six ft fence placed in the child care center.

Commissioner Tabladillo asked about the floor plan. Ms. Hom referred this question to the applicant and architect.

Michelle Ohye, Mountain View, CA; Leilani Camera, Fremont, CA; Isabel Sousa, Fremont, CA, stated they are the owners and teachers of Achieving Star Academy. They all have their multiply subject teaching credentials.

James Lemoine, San Francisco, CA, Architect, stated he would answer any questions the Commission might have.

Commissioner Ciardella had a question about the building layout. He asked if the storage area going to be blocking the door in the hall way. Mr. Lemoine stated no. Commissioner Ciardella asked about the kitchenette. Mr. Lemoine stated there is only a sink and refrigerator.

Commissioner Tabladillo asked why no windows in the back area. Mr. Lemoine stated there are no windows currently installed and no windows proposed. He also stated there is natural light coming in from the windows on the west. Commissioner Tabladillo asked if there are sky lights to provide additional light. Mr. Lemoine said there are no sky lights. He said they have west light and south light. They are the sunniest spots and that this natural light will be sufficient. Commissioner Tabladillo wants the architect to work with staff to ensure there is adequate light throughout the facility.

Commissioner Ciardella agrees that there are not enough windows in the facility.

Commissioner Ciardella also asked if the artificial turf going to be washed off every day. Ms. Hom stated there is a special condition of approval that does require the applicant to submit a detailed maintenance schedule for the artificial turf and sand box.

Vice-Chair Mandal asked if there is training for personnel in case of emergency. Ms. Hom stated the applicant is to provide the training information to staff.

Vice-Chair Mandal Opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Sandhu, Ciardella

AYES: 5

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NOES: 0

ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

ABSTAIN: 0

Vice-Chair Mandal supports having an eight ft fence instead of the six ft fence and to also check the database for the protection of the children.

Bryan Otake, Assistant City Attorney, read additional Conditions of Approval to the Commission which are 1) applicant shall submit details and elevation of an eight ft wood fence material that shall include a decorative element rather than six ft; 2) applicant to work with staff to ensure that the vestibule area currently marked on A3 as a storage room area is oriented and designed in a manner that it does not block access to restrooms; 3) applicant to work with staff to ensure that the artificial grass or turf area is safely attached to ground surfaces and provide adequate details to City staff to that affect; 4) applicant shall periodically monitor sexual predator websites or databases; 5) applicant shall work with staff to explore the possible use of internal cameras known as CC TV if feasible; and 6) applicant to work with staff to add additional natural light of some kind.

Motion to adopt Resolution No. 09-042, approving the project subject to conditions of approval with the modifications noted above.

M/S: Tabladillo, Sandhu

AYES: 5

NOES: 0

ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

ABSTAIN: 0

**4. PERMIT REVIEW NO.
PR09-0003 ICC
REVIEW**

Cindy Hom, Assistant Planner, presented a permit month review of the India Community Center operations located at 525 Los Coches Street. Ms. Hom stated ICC has taken additional measures to educate and inform visitors on designated parking areas as well as employ a parking valet service for larger events. ICC has increased trash servicing and installed a new trash compactor to alleviate trash accumulation. Ms. Hom recommended closing the public hearing following public testimony; note receipt and file.

Seshan Ramon, Redwood City, CA, stated he is the new Executive Director of ICC. They have occupied the facility for about 2 years now. They have identified all the issues and addressed several of them and others are in the process. They have storage needs to be addressed.

Vice-Chair Mandal stated they expect nothing but the best of ICC.

Commissioner Ciardella asked about their storage plan. Mr. Ramon stated one of the neighboring businesses said they could use their storage area. If not, ICC would come back to the Commission to request a storage area or use a remote facility.

Vice-Chair Mandal opened the public hearing.

Barry Fanold, 555 Los Coches, Milpitas, CA, stated he had some issues and complaints about the ICC but those issues have been resolved. He believes they have worked hard to comply with the issues.

Motion to close the public hearing.

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M/S: Sandhu, Tabladillo

AYES: 5

NOES: 0

ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

ABSTAIN: 0

XI. NEW BUSINESS

7. REDEVELOPMENT PRELIMINARY PLAN FOR ADDED AREAS TO PROJECT AREA NO. 1

Diana Barnhart, Economic Development Manager, presented a Preliminary Plan required to be approved by the Planning Commission in order to further evaluation of potential redevelopment project areas. The attached Preliminary Plan includes the proposed boundaries of the new areas proposed to be added to Redevelopment Project Area No. 1. Ms. Barnhart recommended that the Planning Commission approve Resolution No. 09-043 approving the Preliminary Plan for the proposed Added Area to Milpitas Redevelopment Project Area No. 1; that the Planning Commission finds the Preliminary Plan is consistent with the City's General Plan; and that the Planning Commission recommends to the City Council approval of the Preliminary Plan.

Commissioner Ciardella asked how the Redevelopment Agency works and how it gets funded. Ms. Barnhart stated a City creates a redevelopment agency in this case it's the City Council who is the board of directors of the redevelopment agency. It is a legal entity separate from the City, it has different powers and authorities and responsibilities. It allows the public to act as a public developer to help stimulate development where the private market has not been willing or unable to do it on their own. The funding mechanism is property tax increment. The property assess evaluation are frozen at that time and any increase in property evaluation that results in more property taxes coming from those properties that increase is what stays locally and funds the redevelopment agency.

Commissioner Tabladillo asked how the State budget affects the RDA. Ms. Barnhart stated the City's hit from the State level was \$11.8 million. Commissioner Tabladillo asked how long it will take to process this new development. Ms. Barnhart said it will take about a year to complete.

Commissioner Tiernan asked what impact it will cause to businesses in the area. Ms. Barnhart stated there will be no new taxes. It allows economic benefits that currently aren't available to those properties.

Motion to adopt a resolution selecting boundaries of the area proposed to be added to the Redevelopment Project Area No. 1 and approve the Preliminary Plan for the proposed added area.

M/S: Ciardella, Tiernan

AYES: 5

NOES: 0

ABSENT: 3 (Aslam Ali, Alex Galang, and Cliff Williams)

ABSTAIN: 0

8. CONSENT CALENDAR PROCEDURE

A discussion on procedures relating to the Consent Calendar and the preferred format. This item was continued to the September 23, 2009 PC meeting.

XII. ADJOURNMENT

The meeting was adjourned at 9:25 p.m. to the next meeting of September 23, 2009.

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Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

Yvonne Andrade
Recording Secretary

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