

# UNAPPROVED

## PLANNING COMMISSION MINUTES

June 8, 2011

- I. PLEDGE OF ALLEGIANCE** Chair Tiernan called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/SEATING OF ALTERNATE**
- Present: John Luk, Sudhir Mandal, Gurdev Sandhu, Noella Tabladillo, Steve Tao, and Mark Tiernan
- Absent: Larry Ciardella and Zeya Mohsin
- Staff: Ah Sing, Andrade, Brown, Chan, Lindsay, Otake, and Spuller
- Alternate Commissioner John Luk was seated as a member of the voting body.
- III. PUBLIC FORUM** Chair Tiernan 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 agendize the matter for a future meeting.
- There were no speakers from the audience.
- IV. APPROVAL OF MINUTES**  
May 25, 2011
- Chair Tiernan called for approval of the minutes of the Planning Commission meeting of May 25, 2011.
- There were no changes to the minutes.
- Motion** to approve the minutes of May 25, 2011 as submitted.
- M/S: Mandal, Sandhu
- AYES: 6
- NOES: 0
- ABSENT: 2 (Larry Ciardella and Zeya Mohsin)
- ABSTAIN: 0
- V. ANNOUNCEMENTS** James Lindsay, Planning Director, announced the City Council gave authorization with the Climate Action Plan for the City of Milpitas. The public outreach will happen in August of this year.
- 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** Chair Tiernan asked whether staff or the Commission have any changes to the agenda.
- There were no changes to the agenda.
- Motion** to approve the agenda as submitted.
- M/S: Sandhu, Mandal
- AYES: 6
- NOES: 0
- ABSENT: 2 (Larry Ciardella and Zeya Mohsin)

ABSTAIN: 0

**VIII. CONSENT  
CALENDAR**

Chair Tiernan 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.

**Motion** to approve the Consent Calendar as submitted.

M/S: Mandal, Tabladillo

AYES: 6

NOES: 0

ABSENT: 2 (Larry Ciardella and Zeya Mohsin)

ABSTAIN: 0

- 1. SITE DEVELOPMENT PERMIT NO. SD11-0003:** A proposal to replace the existing freeway oriented sign located at 1700 Barber Lane (APN: 086-03-096) with a new sign for off-site advertising. The property is zoned Industrial Park within the Site and Architectural Overlay District (MP-S). Applicant: Milpitas Auto Properties, LLC. Staff Contact: Sheldon S. Ah Sing (408) 586-3278. *(Recommendation: Leave public hearing open and continue item to June 22, 2011.)*

**IX. PUBLIC HEARING**

**1. CONDITIONAL USE  
PERMIT NO. UP11-0006**

Tiffany Brown, Assistant Planner, presented a request to operate a banquet hall with opportunities for amplified sound and/or live entertainment, catered food, and the service of all types of alcoholic beverages within an existing 3,200 square foot tenant space located at 246 Serra Way. Ms. Brown recommended adopting Resolution No. 11-021 approving the project subject to conditions of approval.

Commissioner Tabladillo asked if there was a proposal for a development for that site. Mr. Lindsay stated the owners of Serra Center did bring a proposal for development of that site and is still in the development stage.

Commissioner Tao wanted clarification on live entertainment. Ms. Brown stated it meant having a live band.

Vice-Chair Mandal asked what kind of security the applicant will have. Ms. Brown stated security cameras will be inside and outside. There will also be 1 security guard per 75 people. Vice-Chair Mandal asked the occupancy. Ms. Brown stated the occupancy is 192.

Chair Tiernan asked if any complaints have come in. Ms. Brown stated 2 inquiries. Chair Tiernan asked if the 2<sup>nd</sup> story will be opened. Ms. Brown stated the 2<sup>nd</sup> story will have walls; mechanical room is closed off to the public. Chair Tiernan wanted clarification on the applicant's intention for this site. Ms. Brown stated the banquet hall will be used for birthday parties, weddings, graduations, etc. Chair Tiernan asked about the hours of operation. Ms. Brown stated the applicant wanted to have the option of staying opened late for the patrons.

Commissioner Sandhu asked if the building is soundproof. Mr. Brown stated she did not have that information with her.

Commissioner Tao asked about exterior lighting. Ms. Brown stated the site has adequate illumination as specified in the conditions of approval. Commissioner Tao asked about the trash enclosures. Ms. Brown stated there are adequate trash

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enclosures.

Commissioner Tabladillo asked if other establishments stay open until 2:00 a.m. Ms. Brown stated there are none in Milpitas. Commissioner Tabladillo asked if the hotels that have banquet room stay open late. Mr. Lindsay stated he is not aware. Commissioner Tabladillo asked about restaurants. Ms. Brown stated she does not believe restaurants are open past midnight.

Chair Tiernan asked if this site would impact the surrounding establishments in that area. Ms. Brown stated no.

Vice-Chair Mandal asked if staff discussed with the applicant about noise. Ms. Brown stated staff has not discussed this with the applicant.

**Paul, 3648 Wooley Dr., San Jose**, stated the building has thick walls that no noise would vibrate. There is enough lighting in the area. They will have security guards inside and outside. One of the partners has nine years experience. They have no intension of having a night club. They will have an advertisement in the Post.

Chair Tiernan asked if there will be any week day events. Paul stated if a company wants to have a day event they will accommodate.

Commissioner Tao asked about the liquor license. Paul stated they will apply for a liquor license in the future. Commissioner Tao asked if they will serve liquor. Paul stated they plan to install a bar in the future.

Commissioner Tabladillo asked what is the need to stay open until 2:00 a.m. Paul stated it is to give the patrons time to enjoy their function. Commissioner Tabladillo asked how the caterers would prepare their food. Paul stated that the caterers have warmers which they will use.

Commissioner Tao asked about the upstairs area. **Jerry Brown, Designer**, stated the 310 Sq Ft is for the front reception area. The upstairs is a total of 1,700 sq ft. The stairway would be locked during the functions.

Chair Tiernan asked about the liquor license. Paul stated he is aware of coming back to the Commission for a liquor license. Chair Tiernan stated the Commission is not interested in licensing a bar.

Chair Tiernan opened the public hearing.

There were no speakers from the audience.

**Motion** to close the public hearing.

M/S: Tabladillo, Mandal

AYES: 6

NOES: 0

ABSENT: 2 (Larry Ciardella and Zeya Mohsin)

ABSTAIN: 0

Commissioner Tabladillo stated it is great to utilize this area; however, she is concerned with the hours. She would like to see the closing time be 12:00 a.m.

Commissioner Tao stated the mezzanine should be included in the floor plan. He is confused with the floor plan.

Vice-Chair Mandal stated he is concerned with noise. Vice-Chair Mandal asked the length of time this site been vacant. Mr. Lindsay stated for a very long time. Vice-

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Chair Mandal supports this project. Commissioner Luk also agrees with Vice-Chair Mandal and he also supports this project.

Chair Tiernan appreciates the applicant for doing business in Milpitas. He supports this project.

**Motion** to adopt Resolution No. 11-021 approving the project subject to conditions of approval with the amended changes.

Amended changes:

1. Daily operating hours shall end by 12:00 midnight.
2. The project shall have 6, 12, and 18 month reviews by the Planning Commission.

M/S: Sandhu, Mandal

AYES: 5

NOES: 1 (Steve Tao)

ABSENT: 2 (Larry Ciardella and Zeya Mohsin)

ABSTAIN: 0

## **2. CONDITIONAL USE PERMIT NO. UP11-0002**

Janice Spuller, Assistant Transportation Planner, presented a request for expansion and exterior modifications of Safari Kids Preschool located at 1402 Dempsey Road. Ms. Spuller recommended adopting Resolution No. 11-022 approving the project subject to conditions of approval.

Commissioner Tao asked about the landscape. Ms. Spuller stated the landscape will be redone. The outdoor play area will have a slope.

Commissioner Tabladillo asked the type of the fence. Ms. Spuller stated it would be a 6 ft wrought iron fence. Commissioner Tabladillo asked if the parking lot near the play area. Ms. Spuller stated yes. Commissioner Tabladillo asked about sun protection for the children. Ms. Spuller stated the conditions of approval can be changed to state "canopy." Commissioner Tabladillo asked if bollards could be installed to protect the fencing.

**Wayne Renshaw, 111 W. Saint John Street, #950, San Jose**, stated currently that site is a learning center and now would expand to a full pre-school. The play area already is landscaped. There would be hedge on each side of wrought iron fence. The sidewalk would be raised. Parents will arrive before the other stores open. The play area will have shading from the surrounding large mature trees.

Vice-Chair Mandal asked how the play area be monitored. Mr. Renshaw stated the adults would be watching the children. It is a state law.

Commissioner Tao asked who the other tenant is adjacent from the pre-school. Mr. Renshaw stated it is Mail Box Etc. Commissioner Tao asked about noise. Mr. Renshaw stated the walls will be fully insulated. Commissioner Tao asked how many students the pre-school will have. Mr. Renshaw stated up to 100 children.

Chair Tiernan thanked the applicant for having the confidence to expand his business in Milpitas. He supports this project.

Commissioner Luk highly supports this project.

Chair Tiernan opened the public hearing.

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There were no speakers from the audience.

**Motion** to close the public hearing.

M/S: Tabladillo, Mandal

AYES: 6

NOES: 0

ABSENT: 2 (Larry Ciardella and Zeya Mohsin)

ABSTAIN: 0

Commissioner Tabladillo requests that the applicant install a canopy in the play area; work with staff on bollards, drainage on the turf, and ample lighting.

**Motion** to adopt Resolution No. 11-022 approving the project subject to conditions of approval with the amended changes.

Amended changes:

1. Install a shade canopy to protect the children in the play area.
2. Work with staff on placement of bollards.
3. Include ample exterior lighting.

M/S: Mandal, Tao

AYES: 6

NOES: 0

ABSENT: 2 (Larry Ciardella and Zeya Mohsin)

ABSTAIN: 0

## **X. OLD BUSINESS**

### **1. CONDITIONAL USE PERMIT AMENDMENT NO. UA11-0003 AND SITE DEVELOPMENT PERMIT AMENDMENT NO. SA11-0001**

Tiffany Brown, Assistant Planner, presented a request to amend a conditional use permit to allow for the operation of an 8,250 square foot elementary school and exterior playground within an existing church facility located at 130 Piedmont Road. Ms. Brown recommended adopting Resolution No. 11-020 approving the project subject to conditions of approval.

Chair Tiernan asked the cost of the modifications and if the applicant will pay for signs. Ms. Brown stated the cost of the signs is \$2,500 for signs only without the radar speed feedback sign.

Vice-Chair Mandal asked what is the least cost for a school zone sign. Ms. Brown stated the cost would be \$2,500.

Commissioner Tabladillo stated she wants the speed limit with the flashing sign. Cost should not be an issue. It should be a school zone sign with the radar speed feedback sign.

Commissioner Luk stated the school should not be an issue. He feels the area is a pretty quiet area.

Commissioner Tao stated the visibility is clear. There are not too many pedestrians on Piedmont Road. He supports this project.

Commissioner Sandhu stated people do speed on Piedmont Road. He feels this area does need some kind of speed control. Vice-Chair Mandal also agrees that people do speed in this area. He stated there is a need for a calming device.

**Asunta Reinman, 80 Descanso Drive, San Jose**, stated parents must drop off and pick

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up their children from school since it is a private school.

Chair Tiernan stated the Commission understands that the children need to be dropped off and picked up from school. Chair Tiernan stated there is a potential increase of accidents. Staff believes no traffic calming devices are needed. Ms. Reinman stated it would be very difficult to install radar speed feedback signs. Chair Tiernan asked if the school would be in a position to afford \$2,500 for the school zone signs that read 25 MPH. Ms. Reinman stated yes.

Commissioner Tabladillo asked if the job of the Commission is to ensure the health and welfare is based on the land use decisions are made and not by the cost. Mr. Lindsay stated there are 3 issues the Commission related to the concerns of the school located on 130 Piedmont Road which are on site circulation, traffic safety, and pedestrian safety. Chair Tiernan asked staff if they would support the \$2,500 option. Mr. Lindsay stated staff recommendation was on school zone speed limit signs, rather or not they had radar feedback signs or not did not relate to staff recommendation.

Chair Tiernan asked the applicant if the school would have a sign in front of the church that is obvious from the street. Ms. Reinman stated yes. Chair Tiernan asked the size of the sign. Ms. Brown stated because of the location it is allowed only one sign per property. The applicant would have to work with the Church if they wanted to add to the existing sign.

Bryan Otake, Assistant City Attorney, stated the cost amounts listed in the staff report is solely for the purpose of land use, if the Commission would find any impacts caused by the project, the dollar figures are provided to help to determine rather or not those mitigations are actually feasible as well, feasible both from a physical or design standpoint as well as a cost standpoint.

Commissioner Tao asked if the size of the sign would be changed. Ms. Brown stated the sign would remain the same size the wording would change.

Chair Tiernan stated this is a tough concern. He supports the project. He appreciates that the school wants to expand. He stated there is a safety issue. Chair Tiernan feels if there was a \$2,500 option of traffic signs. He is requesting a 6, 12, and 18 reviews by the Planning Commission.

Commissioner Tabladillo stated that Piedmont Road is heavily used because of the feedback she has received from the residents in that area.

Vice-Chair Mandal asked if the City would be liable if there were an accident. Mr. Otake stated the City would not be liable.

Commissioner Tao asked how many accidents have occurred on Piedmont Road. Mr. Lindsay stated no record of accidents in the past 10 years.

**Motion** to adopt Resolution No. 11-020 approving the project subject to conditions of approval with the amended changes.

Amended changes:

1. Owner or designee shall install school zone radar speed feedback signs.

M/S: Mandal, Tabladillo

AYES: 5

NOES: 1 (Steve Tao)

ABSENT: 2 (Larry Ciardella and Zeya Mohsin)

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ABSTAIN: 0

**XI.  
ADJOURNMENT**

The meeting was adjourned at 9:36 p.m. to the next meeting of June 22, 2011.

Respectfully Submitted,

James Lindsay  
Planning & Neighborhood  
Services Director

Yvonne Andrade  
Recording Secretary