

APPROVED

PLANNING COMMISSION MINUTES

July 13, 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: Larry Ciardella, Sudhir Mandal, Zeya Mohsin, Gurdev Sandhu, Noella Tabladillo, Steve Tao, and Mark Tiernan
- Absent: John Luk
- Staff: Ah Sing, Andrade, Hom, Lindsay, and Otake
- 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**
June 22, 2011
- Chair Tiernan called for approval of the minutes of the Planning Commission meeting of June 22, 2011.
- There were no changes to the minutes.
- Motion** to approve the minutes of June 22, 2011 as submitted.
- M/S: Mandal, Ciardella
- AYES: 7
- NOES: 0
- ABSENT: 0
- 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** 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: Mandal, Tabladillo
- AYES: 7
- NOES: 0
- ABSENT: 0

ABSTAIN: 0

VIII. ELECTION OF OFFICERS

James Lindsay, Planning Director, called for the nominations of Chair and Vice-Chair to serve one-year terms.

Commissioner Tao nominated Mark Tiernan for Chair. Commissioner Tabladillo nominated Sudhir Mandal for Chair.

Sudhir Mandal was elected as Chair.

Commissioner Mandal nominated Noella Tabladillo for Vice-Chair. There were no other nominations.

Noella Tabladillo was elected as Vice-Chair.

Chair Mandal thanked the Commission for electing him as chair. He also thanked Commissioner Tiernan for his service as chair.

IX. CONSENT CALENDAR

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

Consent Item No. IX-1 and Item No. IX-2 was moved to the Public Hearing.

Motion to approve Item No. IX-3 as submitted.

M/S: Ciardella, Tabladillo

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

- 3. CONDITIONAL USE PERMIT NO. UP11-0017:** A request to re-establish a discontinued plant and facility use (research and development, manufacturing, assembly and associated offices) in accordance with the City's Zoning nonconforming standards, located at 1980 Tarob Court (APN: 086-36-040) zoned R3-S-TOD, Multi-family residential, high density with Site and Architectural and Transit Oriented Development Overlays. Applicant: Cliff Miller. Staff Contact: Sheldon Ah Sing (408) 586-3278. PJ # 2726. (*Recommendation: Adopt Resolution No. 11-025 approving the project subject to conditions of approval.*)

X. PUBLIC HEARING

This item was moved from the Consent Calendar.

IX-1 CONDITIONAL USE PERMIT NO. UP11-0011

Commissioner Tao asked about the auto lot. Ms. Hom stated the auto sales will be conducted within the building. It has an indoor showroom as required by the zoning ordinance for the underlying zoning district. It is internet based and by appointment only. Commissioner Tao asked the hours of operation.

James Cusack, 425 Navaro Way, San Jose, stated the hours of operation are from 11:00 a.m. to 7:00 p.m.

Chair Mandal opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Tabladillo, Ciardella

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AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

Motion to adopt Resolution No. 11-027 approving the project subject to conditions of approval.

M/S: Ciardella, Tabladillo

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

**IX-2 CONDITIONAL USE
PERMIT NO. UP11-
0013**

This item was moved from the Consent Calendar.

Cindy Hom, Assistant Planner, presented a request to operate a 1,792 square foot tutoring center within an existing commercial office building located at 1231 So. Park Victoria Drive. Ms. Hom recommended adopting Resolution No. 11-026 subject to conditions of approval.

Chair Mandal opened the public hearing.

Dr. Michael Cook, stated the current tutoring center at this site is blocking the parking to his business. He is also concerned with signage.

Motion to close the public hearing.

M/S: Ciardella, Tabladillo

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

Commissioner Ciardella asked about the complaint regarding signage. Mr. Lindsay stated staff was not aware of the complaint and maybe it went through Code Enforcement. Commissioner Ciardella asked about the blocking of the parking spaces. Mr. Lindsay stated staff will do a follow up on this concern.

Commissioner Tao asked if the other tutoring center was a conditional use permit. Ms. Hom stated that center was under the old ordinance.

Vice-Chair Tabladillo requested a 6, 12, and 18 month review.

Motion to adopt Resolution No. 11-026 approving the project subject to conditions of approval with a 6, 12, and 18 month review.

M/S: Tabladillo, Ciardella

AYES: 7

NOES: 0

ABSENT: 0

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ABSTAIN: 0

**X-1 CONDITIONAL USE
PERMIT NO. UP11-
0014**

Cindy Hom, Assistant Planner, presented a request to operate a 1,015 square foot alcohol beverage sales outlet of beer and wine for off-site consumption located at 148 W. Calaveras Blvd. Ms. Hom recommended adopting Resolution No. 11-028 approving the project subject to conditions of approval.

Vice-Chair Tabladillo asked if cigarettes would be sold on site. Ms. Hom stated yes.

Commissioner Sandhu asked if this was just a liquor store. Ms. Hom stated the applicant would be selling beer and wines only, but no hard liquor. They will also be selling snack food and cigarettes, much like a convenience store would.

Navine Schindal, 1658 Pine Court, San Jose, stated this site will be a convenience store. There will be no on site consumption. The restroom is shared with three other tenants. The restrooms are for employees only. The emergency exit door leads out to an open space.

Commissioner Tao asked for a definition of grocery. Mr. Schindal stated it is a convenience store with no fresh food such as fruit. They will sell pre-packaged food.

Laxmi Bhardwaj, 1734 Plaza Sol, San Jose, stated the cooler is 7 ft tall 26 ft long.

Vice-Chair Tabladillo asked if any tobacco sales or peripheral be sold. Mr. Bhardwaj stated only regular cigarettes will be sold plus snacks such as ice cream. Vice-Chair Tabladillo asked about signage. Mr. Schindal stated the sign will not broadcast liquor on it, it is a convenience store.

Commissioner Ciardella asked if the emergency exit door necessary. Ms. Hom stated that is an existing door per the plans. Commissioner Ciardella asked if there is an alarm on the existing door. Ms. Hom stated staff will work with the Fire Department to ensure there is an alarm on that door.

Chair Mandal asked if the emergency door will be used for delivery. Mr. Bhardwaj stated the emergency door is not going to be used as an emergency door. The emergency door is actually in the back.

Chair Mandal opened the public hearing.

There were no speakers from the audience.

Motion to close the public hearing.

M/S: Tabladillo, Ciardella

AYES: 7

NOES: 0

ABSENT: 0

ABSTAIN: 0

Motion to adopt Resolution No. 11-028 approving the project subject to conditions of approval with a 6, 12, and 18 month review.

M/S: Ciardella, Tabladillo

AYES: 7

NOES: 0

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ABSENT: 0
ABSTAIN: 0

XI. NEW BUSINESS

1. CONDITIONAL USE PERMIT STREAMLINING SUBCOMMITTEE

James Lindsay, Planning Director, provided the Planning Commission an overview of the conditional use permit process at the May 25, 2011 meeting. Mr. Lindsay stated a suggestion was that a subcommittee of the Planning Commission be established to streamline the CUP process. Mr. Lindsay recommended establishing the CUP Streamlining Subcommittee and appointing the following members: Commissioner Tao, Commissioner Ciardella, and Commissioner Tiernan.

Motion to approve the establishment of a CUP Streamlining Subcommittee and appointment members recommended by the Planning Commission chair and Commissioner Tiernan which are: Commissioner Ciardella, Commissioner Tao, and Commissioner Tiernan.

M/S: Tabladillo, Mohsin

AYES: 7
NOES: 0
ABSENT: 0
ABSTAIN: 0

XII. PRESENTATION

1. MOBILE FOOD VENDORS

Cindy Hom, Assistant Planner, presented a report to the Planning Commission on vendor permits for mobile food trucks.

Vice-Chair Tabladillo would like to in the future establish a clearer process for those vendors.

Commissioner Tao asked how the City of Milpitas recoups some of the taxes. Mr. Lindsay stated the vendors can fill out paperwork with the State to record the location of their sales, but the City does not have the enforcement ability in tracking those sales.

Commissioner Tiernan asked if a permit is required. Mr. Lindsay stated a business license is required. Commissioner Tiernan asked if a health permit is required. Mr. Lindsay stated that is done through the County.

Motion to note, receipt and file.

M/S: Tabladillo, Mohsin

AYES: 7
NOES: 0
ABSENT: 0
ABSTAIN: 0

XIII. ADJOURNMENT

The meeting was adjourned at 8:15 p.m. to the next meeting of July 27, 2011.

Respectfully Submitted,

James Lindsay
Planning & Neighborhood
Services Director

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Yvonne Andrade
Recording Secretary

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