

# **APPROVED**

## **PLANNING COMMISSION SUBCOMMITTEE MINUTES**

**May 09, 2012**

### **I. ROLL CALL**

Present: Ciardella and Sandhu  
Staff: Brown and Casagrande

#### **1. MINOR SITE DEVELOPMENT PERMIT NO. MS12-0010**

Tiffany Brown, Assistant Planner, presented Site Development Permit No. MS12-0010 to demolish and reconstruct and existing storage enclosure behind the gas station at 12 N Park Victoria Ave. Staff explained that the existing storage enclosure was decaying and the applicant purposes replacing it with a smaller enclosure and it will be painted to match the existing building.

**Motion** to approve Minor Site Development Permit No. MS12-0010 subject to conditions of approval.

M/S: Ciardella, Sandhu

AYES: 2

NOES: 0

### **II. ADJOURNMENT**

This meeting was adjourned at 6:38 p.m.

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**PLANNING COMMISSION MINUTES**

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- I. PLEDGE OF ALLEGIANCE** Vice Chair Ciardella called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. ROLL CALL/SEATING OF ALTERNATE** Present: Garry Barbadillo, Larry Ciardella, Rajeev Madnawat, Gurdev Sandhu, John Luk and Steve Tao  
Absent: Sudhir Mandal and Zeya Mohsin  
Staff: Ah Sing, Casagrande, Hom, Otake, and Brown  
Alternate Commissioner Garry Barbadillo was seated as a member of the voting body.
- III. PUBLIC FORUM** Vice-Chair Ciardella 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.
- IV. APPROVAL OF MINUTES**  
May 9, 2012  
Vice Chair Ciardella called for approval of the minutes of the Planning Commission meeting of May 9, 2012.  
There were no changes to the minutes.  
**Motion** to approve the minutes of May 9, 2012 as submitted.  
M/S: Sandhu, Tao  
AYES: 6  
NOES: 0  
ABSENT: 2 (Sudhir Mandal, Zeya Mohsin)  
ABSTAIN: None
- V. ANNOUNCEMENTS** Sheldon Ah Sing announced to the Commission that there are no agenda items for the next meeting of May 23, 2012 and only one item for the June 13, 2012 meeting He recommended canceling the May 23 meeting and add an informational presentation to the June 13 meeting.  
**Motion** to approve staff recommendation  
M/S Tao, Madnawat
- 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.

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**VII. APPROVAL OF AGENDA**

Vice Chair Ciardella 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 , Luk

AYES: 6

NOES: 0

ABSENT: 2 (Sudhir Mandal, Zeya Mohsin)

ABSTAIN: 0

**VIII. CONSENT CALENDAR**

There were no items on the Consent Calendar.

**IX. PUBLIC HEARING**

**1. SITE DEVELOPMENT PERMIT NO. SD11-0013**

Cindy Hom, Assistant Planner, presented a request for demolition and remodel of an existing Shell Gas Station located a 990 Jacklin Rd. that includes a new 2,283 square foot convenience store, ancillary fuel pumps, and a 1,121 square foot carwash, rehabilitation of landscaping and replacement of existing signage.

The applicant requested an exception to the gas station development policy. This exemption reflects the current trend to replace auto repair with a retail component to service auto customers as well as pedestrians and local residents by providing convenience items. This will not affect the primary purpose of the policy and there will be no alcohol sales.

Staff received a comment letter expressing concerns about the location of the fuel pumps and vehicle queuing. Staff believed that site lay out leaves adequate circulation of vehicle traffic.

Commissioner Tao asked: If the carwash has defined operating hours? Ms. Hom stated that she will refer that to the applicant.

Commissioner Tao asked: If the intent of the service station policy seems to focus on the “single serving” food items, in the proposal it seems there may be other items served. Ms.Hom stated that the floor plan does show serving of possibly nachos or hot dogs.

Commissioner Tao stated: The policy specifically mentions single serving pre-packaged/sealed foods, this may be contrary to the previous Council’s intentions.

Bryan Otake, Assistant City Attorney stated: hot foods mentioned would not violate the policy it refers to bulk delivery of foods.

Commissioner Tao asked: Drawing SD-1 around the perimeter where the carwash stacking line is, there is an L-shaped cross hatched areas, is this a landscape area? Ms. Hom stated yes.

Commissioner Tao asked: On the site plan by the North arrow it appears there is a controller situated there sitting amidst the landscape area, is this serving a purpose? Ms.Hom stated that it is necessary to key in the type of carwash service. Commissioner Tao asked: So it’s facing the driver of the vehicle but being serviced from the landscape area? Ms. Hom stated yes.

Commissioner Madnawat asked: One of the conditions of approval is that prior to

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permit issuance the owner is to provide a revised stylized gate door, where are these doors? Ms. Hom stated the doors are for the trash enclosure which faces the street.

Commissioner Madnawat asked: One of the conditions requires the applicant to gain an agreement with private parties in using the common pathways; will that include the neighbors that wrote this letter? Ms Hom stated for the public improvements they will need encroachment permits, for the on site it falls on the CC&R's. Commissioner Madnawat stated :So basically it will be governed by their own CC&R's. Ms Hom: stated yes.

Commissioner Tao asked: There is a mention in the landscape areas permission needed from CalTrans , has this application been made? Ms Hom stated no it's a condition of this project. Commissioner Tao asked: CalTrans usually moves at a pretty slow pace so the certificate of occupancy (C of O) would be issued after all has been completed, this will be conditioned? Ms. Hom stated that the way the condition is worded is prior to building permit issuance, to clarify are you suggesting revise the condition for issuance of C of O? Commissioner Tao asked: I simply inquiring due to CalTrans timing, how do we tie the condition in that work is completed before operation of the business and issuance of C of O, is this the condition? Sheldon Ah Sing stated: Condition #29 requires the developer to submit those plans to CalTrans, so we will ensure that before the C of O or final that the landscaping will be in place.

Commissioner Barbadillo asked: The common easement, are there one or two? Ms. Hom stated just the west driveway. Barbadillo: the one that is highlighted on the site plan? Ms.Hom stated: yes. Commissioner Barbadillo asked: How about the exit on the farther right, is that a common easement? Ms. Hom stated: That is Shell's property. Commissioner Barbadillo asked: If the development reduces the easement size? Ms.Hom stated no. Commissioner Barbadillo asked: Do they propose additional parking? Ms. Hom stated yes, it is shown along the convenience store. Commissioner Barbadillo asked: The private exit of Shell is used by other tenants? Ms. Hom stated from observing the traffic of that shopping center, yes for example visitors visiting the Fitness Center exit on that driveway.

### **Vice-Chair Ciardella Opened the public hearing**

Applicant Nick Goyal and his Architect Muthana Ibrahim with Architects Inc., 2960 Camino Diablo, suite #100, Walnut Creek, 94597.

By rebuilding the gas station they are going to upgrade the entire site to be ADA. The other benefit is improvements on site and off site; this building is 40 years old and ready to be upgraded, the buildings, paving, landscaping, and new driveways. And the owner gave the City \$5,000 for future maintenance of the pavement of the street. Improvement of the site will improve the value of the property and reflect positively on the neighborhood.

Commissioner Madnawat asked:: In reference to the letter from the neighbors, any comment? Mr. Ibrahim stated: In regards to the access easement, we are open to any suggestion, maybe having striping and erecting signs? We feel the improvements improve circulation.

Commissioner Madnawat asked: Concerning access during construction, what are you planning to encroach on the easement during construction? Mr. Ibrahim stated: We can put a temporary fence up on the easement. Commissioner Madnawat asked: Staff, is this in the plan to put a fence along the perimeter? Ms.Hom stated it would be in their pre-construction plan.

Commissioner Tao asked: Common easement, have you looked at the condition?

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Mr. Ibrahim stated: No. Commissioner Tao asked: I have observed the conditions of the pavement are in bad condition. The construction vehicles may further damage it; we may recommend that it be repaved. Around the purposed carwash stacking area, the purposed plan shows a narrow bottle neck have you considered signage? Mr. Ibrahim stated that they can provide signage Commissioner Tao asked: It would be helpful to have visual guidance to the drivers for line up also have you had any problems or complaints about the 24-hour carwash? Mr. Goyal stated that they have had no complaints or problems. Commissioner Tao asked: Staff, have we received any complaints? Ms. Hom stated: No.

Mr. Nick Goyal stated that gas stations have been affected and changed due to large box stores. He needs to create more profit centers for his gas station; gas has become a loss leader. This project will cost about \$2.8 million so he needs the convenience store and carwash. After redevelopment he will increase the number of employees creating more jobs. If neighbors have any concerns they can call him anytime.

Commissioner Tao asked: The letter from the association states that there have been missed payments. Mr. Goyal stated that he has been around since 2010 and is unaware of any missed payments but am happy to talk to the association.

Commissioner Luk stated This renovation is a necessary improvement; this is a convenient location to I-680. It's good that you want to create more jobs, improvement to the neighborhood. It will help that corner remain vibrant, as there have been vacancies in the office building and the Fitness Center is there.

Commissioner Madnawat asked: Since this is a 24-hour carwash and there have been no reports of problems will you have security cameras? Mr. Goyal: Yes, in several locations on the property, about 20 cameras. Commissioner Madnawat asked: Including in the carwash? Mr. Goyal: Yes.

Commissioner Tao asked: Clarification on carwash does the driver stay in the car? Mr. Goyal: Yes Commissioner Tao asked: No other employees in the carwash? Mr. Goyal : No its completely self service. Commissioner Tao asked: No employees drying? Mr. Goyal: No.

Joe Gigantino 1000 Jacklin Rd, Milpitas

Mr. Gigantino stated: He supports the project however has a concern about the easement that does get jammed up early morning and evening, don't want a bottle neck. He just found out about this project through the notice. He felt the fitness customers will use the facilities at the gas station and suggested trash cans along the carwash area. Concerned it part of the project is encroaching on his property. Ms. Hom stated: that staff will work with the applicant on these two items during building application stage.

Commissioner Tao asked: On the driveway easements what are your peak hours. Mr. Gigantino stated. 7 to 9 AM and 4:30 to 6:30PM. Commissioner Tao asked: to help manage the traffic, could we have better markings or signs, any recommendation? Mr. Gigantino stated. a fence during construction and arrows directing traffic would help, maybe divider lines, flashing signs. Commissioner Tao asked can staff work with the applicant during design process. Ms. Hom stated: definitely. Commissioner Tao asked: will there be a fence, is this a fire pathway? Ms. Hom stated: We will work with the applicant and the fire dept. Mr. Gigantino stated. Maybe some signage at the pumps/canopy area will prevent back ups.

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Mary Stewart of 99 Almaden Blvd Owners of Jacklin Commons

Ms. Stewart stated that if you look at the common easement area's you will have more travel due to the mini mart and dropping off daycare. She wanted to correct Commissioner Luk's comment that the center is vacant, they have two vacancies out of nine, and it is not a vacant office building, which is the impression he left. Ms. Stewart has a concern of the childcare drop off and pick up and the fitness center having similar peak hours, there are occasional back ups The plans appear to show the pumps closer to the street than before. She thinks this improves the property but wants to express concerns, supports a fence during construction. Concerns that the Church may be affected. Since 2010 the association has received payments. She expressed a lack of communication with the owner.

Commissioner Tao asked: Is Dinapoli Company acting as the association? Ms Stewart: stated that the agreement was recorded in 1988, with a maintenance obligation on common easements. It does not provide terms for blockage during construction. Commissioner Tao asked: Dinapoli is not an association management? Ms.Stewart: stated: No. Commissioner Tao asked: The easement does not account for shut down or construction repair. Ms.Stewart stated: when they do maintain the easement they schedule during the least impacted times.

Commissioner Luk stated: Sorry about refereeing to your building as being empty, I was referring to the large for lease sign. Ms. Stewart stated: a single space was vacant.

Commissioner Madnawat stated: It appears the common pathway is the big concern. What is the agreement with the tenants regarding the maintenance, was there a contract to share the cost? Ms.Stewart stated: Yes there is a cost sharing mention in the easement language. Commissioner Madnawat stated: Looks to me you could have gone to court. Ms.Stewart stated: They could have but the legal cost would have consumed the amount they were trying to recover. Commissioner Madnawat stated: True, we as a Commission can not enforce the payment due. Mr. Goyle seems sincere; I always like neighbors to work harmonious together. development benefits everyone, and the demolition process will take care of avoiding disturbance of the other tenants. This project will benefit the neighborhood, and tenants should sit down and discuss any issues.

**Motion** to close the public hearing.

M/S: Sandhu, Tao

AYES: 6

NOES: 0

ABSENT: 2 (Sudir Mandal and Zeya Mohsin)

ABSTAIN: 0

**Motion** to adopt Resolution No. 12-024 approving the project subject to conditions of approval with the following conditions: repaving of common area easements post construction.

M/S: Sandhu, Madnawat

AYES: 6

NOES: 0

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ABSENT: 2 (Sudir Mandal and Zeya Mohsin)

ABSTAIN: 0

**X.  
ADJOURNMENT**

The meeting was adjourned at 7:59 p.m. to the next meeting of June 13, 2012.

Respectfully Submitted,

M/S:Tao, Sandhu

Sheldon S. Ah Sing  
Senior Planner

Lori Casagrande  
Recording Secretary

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