

UNAPPROVED

PLANNING COMMISSION MINUTES

June 27, 2012

- I. PLEDGE OF ALLEGIANCE** 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: Sudhir Mandal, Garry Barbadillo, Larry Ciardella, Rajeev Madnawat, Gurdev Sandhu and Steve Tao
Absent: John Luk 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** 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 agendize the matter for a future meeting.
- IV. APPROVAL OF MINUTES** Chair Mandal called for approval of the minutes of the Planning Commission meeting of June 13, 2012.
There were no changes to the minutes.
Motion to approve the minutes of June 13, 2012 as submitted.
M/S: Tao/Sandhu
AYES: 6
NOES: 0
ABSENT: 2 (John Luk and Zeya Mohsin)
ABSTAIN: 0
- V. ANNOUNCEMENTS** Notice was given that the 7/11/12 and 7/25/12 Planning Commission Meetings will be held in the Committee Meeting Room due to renovations of the Council Chambers.
- VI. CONFLICT OF INTEREST** None
- VII. APPROVAL OF AGENDA** Chair Mandal 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: Ciardella/Sandhu
AYES: 6
NOES: 0
ABSENT: 2 (John Luk and Zeya Mohsin)
ABSTAIN: 0
- VIII. CONSENT**

CALENDAR

1. CONDITIONAL USE PERMIT NO. UP12-0008

Request to operate a foot massage spa within an existing tenant space at 1555 Landess Ave.

Motion to adopt Resolution No.12-028 approving the project subject to conditions of approval.

M/S: Tao/Madnawat

At the conclusion of Public Hearing agenda items, Chair Mandal inquired of the public who arrived late what was their item of concern.

Jasmine Marie Solar, representing Day Spa at the Season's Center – Acknowledged the group's late arrival, and indicated that they were there to oppose the foot massage spa tenancy.

Assistant City Attorney – Informed Ms. Solar that the item was already approved by the Planning Commission. There is a provision in the Milpitas Municipal Code that any objections can be appealed to the City Council. The Planning Director will be available to provide information to her as needed.

IX. PUBLIC HEARING

1. VARIANCE No. VA12-0001

Assistant Planner Tiffany Brown presented a sign variance request from APEX. Applicant: Bill McKibbin. APEX is requesting a sign variance for a 60 sq ft sign at their 5-story high-density residential building located at the corner of Great Mall Parkway and S. Abel Streets. The zoning sign ordinance allows up to 32 sq ft of sign area with the approval of a conditional use permit. The sign variance is requested due to PG&E easements and poor sign visibility if installed at the designated sign location. Staff is in support of the sign variance. The sign matches the character of the new apartment and is consistent with the General Plan, Zoning ordinance and Mid Town Specific Plan. Staff received one public comment opposing the project.

Commissioner Tao – Asked if the applicant provided the entire sign package or if this is a singular variance item.

Planner Tiffany Brown – Indicated this is the only sign requiring discretionary review.

Commissioner Madnawat – Inquired about any adverse public comment.

Planner Tiffany Brown – Stated that the person who was opposed lives S/W of the project site and felt that the variance should not be granted if there was no hardship.

Chair Mandal – Was concerned how the sign is architecturally erected, how it will look and the amount of sign lighting.

Planner Tiffany Brown – The sign fits the building and will be in character with the surrounding area and mixed uses. Also the sign does not have bright lighting - it is halo soft lighting and blends well with the building.

Bill McKibbin representing APEX, 4901 Birch Street. Provided more detail on the sign mounting and confirmed the lighting is low-level LED lighting with no glare.

Commissioner Tao – Questioned the background illumination depicted on Sheet A-1 light spillage and ease of light replacement. Also, since the sign is somewhat monumental and located close to entry into the City of Milpitas, he would like APEX to be expeditious when light maintenance needs arise.

Mr. McKibbin – The light spillage on the sheet detail is a little more than what it will actually be. The LED lights are efficient and long lasting. Accessibility to the sign is not a problem and maintenance will be done directly by APEX. During the development of the sign program APEX felt this one sign would be applicable in this one location instead of spreading signage throughout.

Commissioner Barbadillo – Questioned if the structure where the sign will be erected is already existing. Also, back in 2011 when an application for modification of exterior fixtures was requested, why was this sign variance not proposed then?

Mr. McKibbin – The project is currently under construction; however, this particular wing of the building is not yet constructed. It is typical that the sign development package follows the initial entitlement approvals for the design of the building. This allows for the marketability of the project.

Commissioner Barbadillo – Inquired of staff if marketing reasons is considered a special circumstance to be able to deviate from the standard signage measures and would not want this variance to encourage this type of variance on future projects.

Assistant City Attorney Bryan Otake – Clarified that marketing needs in general are not a basis for a sign variance, but this request is more to promote a more positive development for reasons set forth in the proposed Resolution. Additionally, the location of the property has limited street frontage for the signage that would be of proper scale to the building.

Commissioner Tao – Mentioned that this project has changed ownership resulting in a deviation from the original design and concept. Therefore, the variance request seems reasonable for how the project now exists.

Motion to close the public hearing.

M/S: Sandhu/Tao

AYES: 6

NOES: 0

ABSENT: 2 (John Luk and Zeya Mohsin)

ABSTAIN: 0

Motion to adopt Resolution No. 12-027 approving the project subject to conditions of approval.

M/S: Tao/Madnawat

AYES: 6

NOES: 0

ABSENT: 2 (John Luk and Zeya Mohsin)

ABSTAIN: 0

**2. GENERAL PLAN
AMENDMENT NO.
GP12-0001, Zoning
Amendment ZA12-0002,**

Assistant Planner, Cindy Hom made a presentation for a General Plan Amendment, Zoning Amendment, Specific Plan Amendment, and Conditional Use Permit. This request is to change the land use designation from industrial park to general commercial located at 1603-1787 S Main St. The project is to rezone South Bay Tech

Specific Plan Amendment ST12-0001, Conditional Use Permit No. UP12-0013 and Environmental Assessment No. EA12-0002

Center which is on an 11 acre parcel and includes 6 industrial buildings (161,000 sq ft) with 612 parking spaces.

The proposal will introduce commercial uses. The zoning map depicts the adjacent zoning districts. Over time the development along S Main St has transitioned from industrial to high-density residential, with 15 industrial uses remaining. The proposed zoning would allow flexibility to attract uses to complement existing tenants and the adjacent neighborhoods. The application includes a blanket conditional use permit to allow existing industrial uses to remain.

Staff findings are that the proposal is consistent with General Plan and Midtown Specific Plan, the project is surrounded by residential, the added retail and commercial will be neighborhood serving, will retain employment centers close to residential, promotes a mixed use community and conforms to the general commercial zoning. Staff recommends adopting Resolution No. 12-029 recommending approval to the City Council.

Commissioner Madnawat – Asked if there were any concerns brought up at the public outreach meeting held at Zanker school? Also is there a way to place a condition that fast food restaurants will not be allowed with this approval.

Planner Cindy Hom attended the community meeting and mentioned some of the public concerns were: what type of commercial would be anticipated, another fast food, convenience store, or liquor store adjacent to the Starlite Pines neighborhood. The public wanted to encourage interest in having a Trader Joe's or grocery store in the center. The property owners want to maintain the business center as it is today and have flexibility to allow for certain uses. Under the current industrial zoning some uses are not permitted nor may this center be fitted for certain uses. There are no proposed physical changes to this site.

Senior Planner Sheldon Ah Sing – Clarified that under zoning ordinance C-2 Fast food is a permitted use under restaurants. However, a drive in or drive through is conditionally permitted, and therefore would be at the discretion of the Commission.

Commissioner Tao – Asked staff for clarification of the following: If any other tenant outside the list of current industrial users could come in and apply the same uses in another suite? If one of the current industrial users elected to expand or relocate within the park are they grandfathered in and granted the relocation? Expressed concern over current tenants' method of running business that would create issues for the general public, and would want to avoid use conflicts or create unintended consequences.

Planner Cindy Hom – Indicated that if there was another industrial unit that wanted to locate in a tenant not identified on the list, they would need to apply for a conditional use permit. If an existing tenant wanted to move in another tenant within the same center, they would need to reapply. The existing land use is industrial and businesses are able to operate as R&D or light manufacturing. Any of the current listed tenants that may use hazardous materials have already gone through the Fire Department for their hazardous use permit along with all the necessary City permit processes.

Commissioner Tao – Was further concerned that the site could run into parking issues and that the parking ratio needs to allow for unoccupied square footage to achieve 2 ½ - 3 spaces per thousand. A request was made if staff could track the parking allocation with a running tally for the remaining parking spaces for new general commercial uses.

Avoid ending up with a portion of unoccupied space due to unavailable parking.

Planner Cindy Hom – Indicated that staff verifies parking compliance with development standards at the time of permitting or business tenant improvement. This center has been developed at this parking ratio and this tenant has been allocated a certain number of spaces. If use exceeds allotment, rezoning does provide provisions for a shared parking arrangement. However, in this situation there is no additional property to use.

Senior Planner Sheldon Ah Sing – Emphasized this is an existing site that is built out as industrial and probably will not have the typical retail use, especially the buildings in the back. It may be necessary for the land owner to take down a building in order to provide more parking. Staff is anticipating group instruction and through a CUP, parking will be established on-site through offsetting parking uses for different time of day uses.

Acting Planning Director, Felix Reliford – Indicated that any use needs to meet City parking requirements. Also, there is a vacant lot on the corner, and the developer may have the option to purchase the lot to increase parking capacity.

Commissioner Tao – Asked the owner to address the parking and make sure the integration of uses and parking capacity. Also, is the ownership going to do any changes to the exterior? Is the project site lighting going to be looked at since the lighting seems to be dim, and there is concern for the proper illumination based on the new proposed uses?

Susan Causey, Property Manager and Lance Kluger, Property Owner of 1615 S Main St. Susan Causey indicated the property is not set up for fast food type business use right now. Currently there is plenty of parking for use requests such as recreational or congregational since the business offices are closed on weekends or evenings which will make parking. There is no plan to change the structure at this time. Property owner, Lance Kluger, said he will look at the proper lighting to fit the use. Susan Causer mentioned that currently there are two tenants that use chemicals; however, that the center is not looking for that type of new tenant.

Commissioner Madnawat – Would like the owner to assess the safety aspect of the buildings and large trucking due to the change in use and the public that will be present.

Chair Mandal – Asked if any liquor store has requested tenancy? There is concern for the residential homes in the area.

Property Manager, Susan Causey – Indicated there is an internet-based wine distributor, and they do not plan on going retail.

Motion to close the public hearing.

M/S: Ciardella/Sandhu

AYES: 6

NOES: 0

ABSENT: 2 (John Luk and Zeya Mohsin)

ABSTAIN: 0

Motion to adopt Resolution No. 12-029 approving the project subject to conditions of

approval.

M/S: Tao/Madnawat

AYES: 6

NOES: 0

ABSENT: 2 (John Luk and Zeya Mohsin)

ABSTAIN: 0

X. ADJOURNMENT

The meeting was adjourned at 8:04 p.m. to the next meeting of July 11, 2012, which will be held in the Committee Conference Room instead of the Council Chambers.

Respectfully Submitted,

M/S: Madnawat/Sandhu

Sheldon S. Ah Sing
Senior Planner

Joann DeHerrera
Recording Secretary