

APPROVED

PLANNING COMMISSION SUBCOMMITTEE MINUTES

August 22, 2012
6:30 pm

I. ROLL CALL Present: Larry Ciardella, Gurdev Sandhu and Rajeev Madnawat
Staff: Sheldon Ah Sing, Tiffany Brown, Cindy Hom and Joann DeHerrera

I. CONSENT ITEMS: **Tiffany Brown, Assistant Planner**, presented MINOR SITE DEVELOPMENT PERMIT NO. MS 12-0031 – a request for special event permit for a three (3) day outdoor event for the St James Church Festival that will be held between the hours of 6:30PM to 10:00PM on September 21, 2012, 11:00AM to 10:00PM on September 22, 2012, and 12:00PM to 8:00PM on September 23, 2012 in the church parking lot located at 195 N. Main Street (APN 22-08-043), zoned Mixed Use with Site and Architectural Overlay (MXD-S). Applicant: Joseph Hanna. *(Recommendation: Approve MS12-0031 subject to conditions)*

1 MINOR SITE DEVELOPMENT PERMIT NO. MS12-0031

Motion to approve the consent item as submitted.

M/S: Sandhu/Ciardella

AYES: 2

NOES: 0

ABSTAIN: 0

2 MINOR SITE DEVELOPMENT PERMIT NO. MS12-0036

Tiffany Brown, Assistant Planner, presented MINOR SITE DEVELOPMENT PERMIT NO. MS 12-0036 – a request to have a three (3) day festival with simulation rides, food booths, live entertainment, and amplified sound located at 279 S Main Street. (APN: 086-08-037) Zoned Mixed Use Development with Site and Architectural Overlay (MXD-S). Applicant: St. John the Baptist Catholic Parish. *(Recommendation: Approve MS12-0036 subject to conditions)*

Motion to approve the consent item as submitted.

M/S: Sandhu/Ciardella

AYES: 2

NOES: 0

ABSTAIN: 0

II. DISCUSSION ITEMS:

1 MINOR SITE DEVELOPMENT PERMIT NO. MS12-0023

Tiffany Brown, Assistant Planner, presented MINOR SITE DEVELOPMENT PERMIT NO. MS 12-0023 – a request to have a one (1) day outdoor event with amplified sound at the football field of the Milpitas Sports Center located at 1331 E Calaveras Blvd to be held on September 9th from 8 – 3 pm. Applicant: Christ Community Church of Milpitas. (*Recommendation: Approve MS12-0023 subject to conditions*)

Motion to approve the project.

M/S: Ciardella / Sandhu

AYES: 2

NOES: 0

ABSTAIN: 0

2 MINOR SITE DEVELOPMENT PERMIT NO. MS12-0038

Cindy Hom, Assistant Planner, presented MINOR SITE DEVELOPMENT PERMIT NO. MS 12-0038 – a request for a special event permit for a five (5) day outdoor Circus event at the Great Mall Parking lot located at 447 Great Mall Drive. Applicant: Mark Landon with Circus Vargas. Days of operation will be from August 30 thru September 3. There will be one big tent with a concession booth and generator trailer. No games, rides or alcohol are part of the event. The proposed location is next to the Marshall’s store. (*Recommendation: Approve MS12-0038 subject to conditions*)

Mark Landon, Circus Vargas representative – Indicated that there will be eight (8) internal unarmed security personnel. This show has performed throughout California over the last 42 years with no police problem calls. There is a first aid station to handle minor injuries, and for any major issues they call 911.

Motion to approve the project.

M/S: Ciardella/Sandhu

AYES: 2

NOES: 0

ABSTAIN: 0

**3 MINOR SITE
DEVELOPMENT
PERMIT NO. MS12-
0025**

Cindy Hom, Assistant Planner, presented MINOR SITE DEVELOPMENT PERMIT NO. MS 12-0025 - a request for various site and landscaping modifications that includes the removal and replacement of on-site trees to allow for enhanced entry court for the SanDisk Headquarter campus located at 500 McCarthy Blvd zoned Industrial Park with Site and Architectural Overlay (MP-S). Applicant: Devcon Construction.

The applicant proposes to remove approximately 9,300 sq. ft. of landscaping and replace it with hardscape in order to upgrade accessibility to the campus and provide ADA compliance to the site. The applicant is also proposing to remove protected trees, replacing them with larger species of trees. Due to site constraints, they were not able to replace the trees at a 2 to 1 replacement ratio. (*Recommendation: Approve MS12-0025 subject to conditions*)

Motion to approve the project.

M/S: Ciardella/Sandhu

AYES: 2

NOES: 0

ABSTAIN: 0

III. ADJOURNMENT

This meeting was adjourned at 6:45 p.m.

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- 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, Larry Ciardella, Rajeev Madnawat, Gurdev Sandhu, Steve Tao and Garry Barbadillo
Absent: John Luk and Zeya Mohsin
Staff: Ah Sing, Otake, Brown, Hom, DeHerrera

Commissioner Barbadillo was seated as regular 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 agendaize the matter for a future meeting.
- IV. APPROVAL OF MINUTES** **Chair Mandal** called for approval of the minutes of the Planning Commission meeting of July 25, 2012.

There were no changes to the minutes.
Motion to approve the minutes of July 25, 2012 as submitted.

M/S: Tao/Ciardella
AYES: 6
NOES: 0
ABSENT: 2 (John Luk, Zeya Mohsin)
ABSTAIN: 0
- V. ANNOUNCEMENTS** **Vice-Chair Ciardella** – Mentioned that he and Chair Mandal had met with developers from Canada who expressed interest to develop the site where Border’s Books was.

Chair Mandal – The results of the survey of the Commissioners for their interest to participate in a tour of current city developments was low. Therefore, there will not be a tour this year.

Chair Mandal – Stated that he and Vice-Chair met with the City’s MCTV 26 management who plan to highlight the different city commissions and how they service the community. The Planning Commission is first to be hosted on the program.

Commissioner Sandhu – Expressed that he would like to adjourn tonight’s meeting in memory of those six victims who were killed in Wisconsin.

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VI. CONFLICT OF INTEREST

No conflict of interest.

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: Madnawat/Tao

AYES: 6

NOES: 0

ABSENT: 2 (John Luk, Zeya Mohsin)

ABSTAIN: 0

VIII. CONSENT CALENDAR

There were no items on the Consent Calendar.

IX. PUBLIC HEARING

1. CONDITIONAL USE PERMIT NO. UP12-0009

Tiffany Brown, Assistant Planner – Presented to the Commission a request to operate a new childcare center with an exterior playground at 1362 S Main Street. The site is zoned multi-family residential, high density with site and architectural review overlay. Applicant: Murari Kumar. The proposed site is on two parcels totaling less than one acre and is located at the intersection of S Main and S Abel. The applicant is proposing to use the existing building with minor tenant interior improvement. They will re-stripe and extend the parking lot, add a playground area on the vacant portion of the property, with landscaping and new fencing. Operation hours will be from 8 am to 6:30 pm. The center will service children ages two through six, with 48 children to start and appropriate staff-to-children ratio.

Shea Properties will be making changes to the street configuration by installing a median that will restrict left turning and provide traffic safety to the facility. The off-site improvement should be completed at the same time as the residential project, which will take approximately two years to complete construction. *(Recommendation: Adopt Resolution No. 12-034 approving the project subject to conditions of approval)*

Commissioner Madnawat – Inquired about the proposed tenant improvements. The building seems to be run down and he is concerned about the children's safety.

Commissioner Tao – Expressed several safety concerns about this site and older building: 1) Hazardous materials may be present in the existing building and the vacant lot. He recommends proper mediation and testing of the site for hazardous materials. 2) Incorporate temporary restriction of the left turn through the double-double lines until the street improvements are completed. 3) Proper side lighting should be added as a condition for the safety of the children and staff.

Chair Mandal – Inquired if soil testing had already been completed when the site was

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approved?

Sheldon Ah Sing, Senior Planner – The level of soil testing needed depends on the project and what is proposed. Staff has reviewed the states environmental site to determine any toxic contaminants, which there is none in the vicinity of this site.

Vice-Chair Ciardella – There are concerns over some of the fence lines: 1) The existing cyclone fence by the railroad behind the property is not tall enough. Recommendation for the applicant to install a wooden fence taller than 6’ in front of the cyclone fence. 2) Question as to what material will be in the section between the proposed wooden fence and the cyclone fence on the north side. 3) Requested clarification as to what had been the use of the existing building.

Commissioner Tao – Inquired of staff if the Police Department had any concern for security purposes regarding the fence along the front of the school since it does not allow a view through to the school. Staff indicated Police did not state any comments. Commissioner Tao would like to ensure that there will be adequate parking spaces when the school expands and also to ensure that the construction material of the proposed pre-manufactured play house meets state / jurisdiction safety requirements.

Tiffany Brown, Planner – Referred to the landscape plans of Attachment B that show there will be 20 gal trees planted 10’ apart along the north side. Additionally, there will be new 6’ tall fencing on the north side and along the front that separates the parking lot from the preschool. Staff clarified the following: 1) The existing building before was used as a bar and not a shop or garage. 2) The applicant needs an encroachment permit in order to start work within the City property for the improvements to the entrance/exit and sidewalk. 3) The site is not in the flood zone and condition of approval #9 was eliminated. 4) Staff will ensure that all tenant improvements to the site and exterior play house meet all state regulated building codes.

Commissioner Madnawat – Would like to propose placing some kind of buffer between the school building wall and the playground to promote a safe environment.

Commissioner Tao – Asked the applicant about the proposed number of maximum students, the side lighting and if there is a plan for the way child drop off will work? He would like to see the school direct the parents in a handbook to ensure safe supervision of their children in the parking lot.

Vice-Chair Ciardella – Would like to make the following part of the conditions of approval: 1) Applicant to install a solid fence in front of the existing cyclone fence by the railroad tracks at the back. 2) Install bark under the proposed trees along the fences.

Commissioner Madnawat – Suggested that the fence by the railroad tracks should be installed at the same time the other fences are installed instead of waiting one year as the applicant proposed.

Murari Kumar, Applicant for Stepping Stone World – The applicant indicated that the current proposed number of students will be 48. While the children are outside playing, their teacher will accompany them. The teachers will have the appropriate

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credentials to teach in this type of preschool. The applicant will ensure that the playhouse and play structure meet state regulations and codes, and he is willing to agree to all the conditions as requested by the Commissioners.

Motion to close the public hearing.

M/S: Ciardella / Sandhu

AYES: 6

NOES: 0

ABSENT: 2 (John Luk, Zeya Mohsin)

ABSTAIN: 0

Motion to adopt Resolution No. 12- 034 approving the project subject to conditions of approval below.

Conditions of Approval: Staff will work with the applicant or designee to incorporate the following as part of the conditions of approval:

- 1) Install wooden fence on the eastern property line of at least 8' tall.
- 2) Remove any hazardous materials from the interior /exterior of the building / project site defined under Circla.
- 3) Provide a temporary traffic devices within the median deter turning movements into the site and removed upon installation of the permanent traffic median.
- 4) Install proper side lighting for the parking lot, building and surrounding areas.

M/S: Tao/Sandhu

AYES: 6

NOES: 0

ABSENT: 2 (John Luk, Zeya Mohsin)

ABSTAIN: 0

**2. SITE DEVELOPMENT
PERMIT
AMENDMENT NO.
SA12-0002**

Cindy Hom, Assistant Planner – Presented to the Commission a request for landscape modifications that includes installation of a new 346 square foot gazebo, retaining wall, three new trellises, and 196 square foot storage shed at 867 Calaveras Ridge. The site is zoned single family residential with Hillside Combining District and Site and Architectural Overlay (R1-H-S). Currently a number of structures have been installed without permits. This application will permit those structures and bring the site into conformance. Applicant: Pek Chu.

The site plan request is for approval of a site development permit amendment to allow a 13 ½ ft tall gazebo, three 8' tall arbors, a 196 sq ft storage shed, two retaining walls and a pathway. The foundation for the gazebo has been poured and the tallest point of the retaining wall is 48" tall. The site complies with the development standards for the hillside. The combined total of all accessory structures is 1,001 sq.ft. The hillside limits impervious coverage of 8,000 sq ft. Proposal here comes out to 6514 sq.ft.

Staff has conditioned that roofing and color of the shed and gazebo are harmonious

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with the main building. The gazebo and trellis would not intrude into the crest zone of protection. The gazebo and shed will be built on site, and details for both structures will be provided upon obtaining building permits. The retaining wall will also require permits, with excavation as need to determine if it meets the required codes. The applicant is aware he is required to meet all building code requirements.

Mr. Bettencourt, who is the neighbor of the applicant, has been out of the country and sent staff an email today requesting additional time to review the plans. Staff responded to Mr. Bettencourt that he could access the plans via the internet. The project plans have gone through the appropriate notification process and complies with the development standards. *(Recommendation: Adopt Resolution No.12-035 Recommending approval to the City Council of the project subject to conditions of approval)*

Pek Chu, Applicant @ 867 Calaveras Ridge Dr – The applicant confirmed that the retaining wall has a footing and was constructed according to the manufacturer’s recommendation for this type of product with adequate drainage through the wall’s weep holes. The gazebo will be stained natural and the shed will compliment the color of the house or the shed and may have electrical. He understands that if the shed has electrical that he needs to meeting building codes.

Commissioner Tao – Would like to defer this item in order to allow the neighbor, Mr. Bettencourt, adequate time to review the plans and express his concerns.

Commissioner Madnawat – Feels that the notice requirement for this case has been satisfied and that all cases to be handled uniformly. By permitting this item to be deferred, it could open this type of request for future cases. Commissioner Madnawat declined the request from Mr. Bettencourt to postpone this item.

Cindy Hom, Planner – Clarified that the plans were sufficiently notified 10 days prior to the meeting. Also, the Calaveras Country Club HOA had the plans available and approval was granted.

Motion to close the public hearing.

M/S: Ciardella / Tao
AYES: 6
NOES: 0
ABSENT: 2 (John Luk, Zeya Mohsin)
ABSTAIN: 0

Motion to adopt Resolution No. 12- 035 approving the project subject to conditions of approval mentioned above.

M/S: Madnawat/Sandhu
AYES: 4
NOES: 2 (Ciardella, Tao)
ABSENT: 2 (John Luk, Zeya Mohsin)

ABSTAIN: 0

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X. NEW BUSINESS
SIGN ORDINANCE
REVIEW

Sheldon S. Ah Sing, Senior Planner – At the August 7, 2012 City Council Meeting the City Council directed the Planning Commission to review the current sign ordinance. Staff proposed the following options to create a sign ordinance review body:

- 1) The sign review process can be part of the regular Planning Commission agenda under new items or unfinished business.
- 2) Create a separate sign ordinance review subcommittee to meet on the same night as the regular Planning Commission Subcommittee meeting, to meet at the same time or a little earlier than the regular Planning Commission Subcommittee.

Commissioner Tao – Will this be an update to the sign ordinance or a rewrite of the entire sign ordinance and what would be the scope of work?

Sheldon Ah Sing, Senior Planner – Staff will come up with a work plan and initial topics; and as we work through the issues, new topics may arise. However, once we open up the sign ordinance, then it will allow all aspects of the ordinance to be reviewed. The goal would be to provide an opportunity for the junior planners to get more exposure and at the same time not impact services to the public.

Bryan Otake, Assistant City Attorney – The direction from the City Council to the Planning Commission was to conduct the review and update the existing sign ordinance. There was no date certain to bring it back to the Council.

Vice-Chair Ciardella – Throughout the city there are illegal signs or signs that do not come down in a timely manner. Questioned if the city still provides the service of removing old garage sale signs and recommended outreach that can be provided to homeowners and businesses so that they are aware of sign regulations.

Commissioner Madnawat – Thought the City Council asked this Commission to review the sign ordinance in light of the current lawsuit that was filed to avoid any other lawsuit of a similar kind and to modify the sign ordinance if needed to comply with the first amendment of the constitution. Recommended to establish a separate subcommittee to start at 6pm the same night as the regular Planning Commission Subcommittee. He would like to be part of this sign ordinance subcommittee.

Felix Reliford, Acting Planning Director – Confirmed that the City Council did not specify any particular item of the sign ordinance to be studied, but to review the entire sign ordinance. The new planning director will most likely be here by mid October, and it may be recommended to have the new planning director to a comprehensive review of the sign ordinance. Illegal signs may get overlooked due to lack of awareness on our part or lack of available enforcement resources. Staff will follow up with community outreach and will address the question if there is employee coverage to remove old signs. At some point in the future, the Code Enforcement staff could participate in some of the sign ordinance meetings.

Commissioner Barbadillo – Recommended deferring working on updating the sign ordinance pending the outcome of a current lawsuit. By waiting it can avoid doubling the efforts of this Commission if later this Commission's recommendations end up conflicting with the first amendment of the constitution and the pending lawsuit.

Bryan Otake, Assistant City Attorney – The Council's direction for this Commission as a body or as a subcommittee is to do a general review of the sign ordinance as to form in terms of approach. Any recommendations this Commission makes to City

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Council will be looked at as to compliance to the constitution.

Commissioner Tao – Concerned about what is the objective of what they are trying to accomplish as a group.

Chair Mandal – With the help of staff the scope of work on the sign ordinance will be defined. Requested staff to provide the framework to form the subcommittee. The Commissioners will discuss what would be the best day and time to work on the sign ordinance to utilize staff's time effectively and not impact public service.

Felix Reliford, Acting Planning Director – Responded that staff will come up with a work program looking at the areas of the sign ordinance areas staff sees are deficient or can be strengthened. This will be brought to the Planning Commission for review and comments. Staff recommended that when the sign review subcommittee members are assigned, to maintain the same members throughout the review process instead of rotating members into the sign review subcommittee every three months. This will provide consistency and continuity of the project.

Mr. Warren Wettenstein – Milpitas resident, Economic Development Commissioner and on the Board of Directors of the Chamber of Commerce. As part of the scope of work he would like to ask the Commission to take a look at complex signs. New complexes are leaning toward three-dimensional signs. However, many existing complexes have two-dimensional signs. New businesses moving into existing complexes are penalized and cannot have two-dimensional signs and businesses on second floors are precluded from doing any signs. Requested the Commission to look at making it simple and easy for businesses so that all are in compliance.

Chair Mandal – Thanked Mr. Wettenstein for his input and that this Commission will pursue outreach to the public on this matter.

Sheldon Ah Sing, Senior Planner – Staff will come back at the next meeting with the suggested form for the sign ordinance subcommittee.

XI. ADJOURNMENT

Commissioner Sandhu – Moved to adjourn the meeting in memory of the six people killed in Wisconsin on August 12, 2012.

Following a moment of silence, the meeting was adjourned at 9:05 p.m. to the next meeting of September 12, 2012.

Respectfully Submitted,

Motion to adjourn
M/S: Tao/Ciardella

Sheldon S. Ah Sing
Senior Planner

Joann DeHerrera
Recording Secretary

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