

MEETING MINUTES

MILPITAS PLANNING COMMISSION Milpitas City Hall, Council Chambers 455 E. Calaveras Blvd., Milpitas, CA

Wednesday, December 14, 2016

- I. PLEDGE OF ALLEGIANCE** **Chair Mandal** called the meeting to order at 7:00 P.M. and led the Pledge of Allegiance.
- II. OATH OF OFFICE TO NEWLY APPOINTED MEMBER** City Clerk Mary Lavelle swore in new member Evelyn Chua.
- III. ROLL CALL/ SEATING OF ALTERNATE**
- Present:** Chair Mandal, Vice Chair Madnawat, Commissioners Sandhu, Ciardella, Morris, Maglalang, Mohsin, Chua
- Absent:** All commissioners were present
- Staff:** Bradley Misner, Katy Wisinski, Michael Fossati
- IV. PUBLIC FORUM** **Chair Mandal** invited members of the audience to address the Commission and there were no speakers.
- V. APPROVAL OF MEETING MINUTES** **Chair Mandal** called for approval of the November 9, 2016 meeting minutes of the Planning Commission.
- Motion** to approve Planning Commission meeting minutes.
- Motion/Second: Commissioner Sandhu/Commissioner Maglalang
- AYES: 6
- NOES: 0
- ABSTAIN: 1 Mandal
- VI. ANNOUNCEMENTS** Planning Director Brad Misner welcomed Evelyn Chua to the commission and announced that the Planning Commission meeting scheduled for December 28 will be canceled.
- Chair Mandal welcomed Commissioner Mohsin as a voting member and also welcomed Evelyn Chua to the commission.
- VII. CONFLICT OF INTEREST** **Deputy City Attorney Katy Wisinski** asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.
- Commissioner Mohsin had a conflict of interest with Item IX-1 and recused herself.

VIII. APPROVAL OF AGENDA

Chair Mandal asked if staff or Commissioners had changes to the agenda and there were none.

Motion to approve the December 14, 2016 agenda as submitted.

Motion/Second: Commissioner Sandhu/Commissioner Maglalang

AYES: 7

NOES: 0

IX. PUBLIC HEARING

IX-1

AL HILAAL MOSQUE & COMMUNITY CENTER – 372-374 Turquoise Street - P-EA16-0001; P-GP16-0002; P-ZA15-0003; P-UP15-0008: A request for recommendation to the City Council for approval of a religious facility within a portion of an existing 14,000-square-foot building. The General Plan and the Zoning Code would be amended to allow places of assembly within industrial zones as a conditional use, and a conditional use permit would be issued.

Commissioner Mohsin left the Council Chambers at 7:07 PM.

Ms. Wisinski noted that Alternate Member Chua was seated for voting for this item.

Mr. Misner showed a presentation and described the request.

Commissioner Morris asked for clarification of the request and staff's concern with the industrial location and places of assembly. Mr. Misner explained that the property location where the mosque wishes to locate is in the M2 zoning district, and places of assembly are not permissible in that zone the way the zoning ordinance is written, and the General Plan for industrial lands also does not allow for social organizations. For that reason, predicated on the past decisions of the City in 2009 and 2013 when the zoning ordinance was changed, staff is recommending denial.

Vice Chair Madnawat asked if staff is satisfied with the number of parking spaces and the shared parking arrangements. Mr. Misner said there was some thought they might be able to restripe for an additional space or two, they have agreements with their existing, onsite tenants for sharing of the parking resources and, additionally, they have sought to secure off-site parking spaces nearby for another 20 parking spaces. With those agreements in place, and a Condition of Approval ensuring those parking agreements are secured, staff will ultimately be satisfied.

Commissioner Maglalang asked how many acres will be affected by these zoning amendments and Mr. Misner said it will be approximately 1,450 acres citywide, or approximately 20% of the City's entire land area.

Commissioner Maglalang asked what the financial impact will be, based on the acres above, due to the zoning change. Mr. Misner said there was no fiscal analysis done as part of this application and it would be difficult to quantify the fiscal impact.

Chair Mandal asked if staff was aware of any nearby, potentially hazardous materials and Mr. Misner said there has been some analysis of nearby uses however to his knowledge there are no hazardous materials.

Mr. Misner introduced Theresa Wallace of LSA Associates. Ms. Wallace said a specific analysis was done and there are potential, volatile organic compounds in the groundwater beneath the site. There is a mitigation measure for this which states that further sampling must be done and vapor barriers may need to be installed at the site.

Vice Chair Madnawat said if there are harmful pollutants in the area then mitigation should be required for all of the businesses in the area and questioned why only this project is required to mitigate.

Ms. Wallace said the thought is that the site users are sensitive users that spend a lot of time at the site and because these uses would not normally be allowed in an industrial area the extra measures would need to be implemented to ensure their safety.

Vice Chair Madnawat believes business employees would spend more time on the premises and asked if other permit applicants will have the same requirement. Mr. Misner said any future tenant that moves into the area is subject to a discretionary application, such as a CUP, and that would be part of the analysis.

Commissioner Ciardella disclosed that he spoke with the project consultant.

Chair Mandal asked how many places of assembly are located in the industrial zone at this time and Mr. Misner said he believes there are 10-12 facilities.

Mark Tiernan, the consultant for the project, said the building is approximately 31,000 square feet and the proposed use for the mosque and community center will be 13,000-14,000 square feet, less than half of the building. He recognized that an initial environmental review was required under CEQA, it has been completed, and LSA Associates determined that the project will not have a significant adverse effect on the environment, meaning there are no hazards that cannot be mitigated, and they are in agreement with the seven mitigation measures that were recommended.

In regards to hazardous materials at the site, Mr. Tiernan said that subcontractor Baseline, as part of the LSA analysis, did a review with the Fire Department and there have been no incidents at the site.

Mr. Tiernan said half of the building will remain commercial to protect the City in terms of revenue and employment generation, and noted that amongst the neighbors are Edgies Billiards, the Red Rover Pet Resort, and a Christian Assembly Church.

Mr. Tiernan said the Planning Department has had a tremendous amount of turnover and that has been frustrating for all, but the quality of staff work has been top notch and he thanked Mr. Misner.

Al Hilaal has been a member of the community since 1991 and Mr. Tiernan believes they have crafted a compromise that supports the land use and at the same time supports a very valuable community member, and he asked for the support of the commission.

Mr. Tiernan believes the parking spaces that Al Hilaal controls, along with the shared parking agreements that they have negotiated with the tenants, will more than meet the amount required, and additionally they have secured offsite parking across the street for the rare occasion it may be necessary.

Project Architect Amin Qazi spoke about parking and believes the site will be self sufficient once the shared agreements are in place. He said the Mosque and Community Center has a specific peak use which does not coincide with the tenant use on the property, with the exception of Fridays for 1-1.5 hours. Mr. Qazi disagrees with the requirement for a CUP for shared parking and referenced Zoning Ordinance section 1053.09.

Two members spoke on behalf of the mosque, noting that the location is surrounded by other places of assembly and asking that the commission grant the required permits. They expressed concerns for safety at their current location, and their need for space to celebrate their culture.

Chair Mandal opened the public hearing.

Milpitas resident Pete McHugh spoke in support of the mosque and community center and asked for the commission's approval of the request.

Eight residents and mosque members spoke in support of the project.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Maglalang

AYES: 7

NOES: 0

Chair Mandal suggested reviewing the General Plan and alternatives to zoning amendments in a creative way in order to accommodate the community.

Commissioner Sandhu noted that the General Plan is being updated and asked if that can help with this situation. Mr. Misner said the City is in the process of updating the General Plan and re-envisioning how and where land uses will be, and through that process can review if there are areas throughout the city that can be open to certain types of land uses, so he believes it can be helpful.

Vice Chair Madnawat understands the City's interest in preserving its character and does not want the whole industrial area converted into churches or housing. He would like to set conditions, such that a religious place of assembly can only be in an existing facility with no structural changes so that the exterior of the building looks the same, which would preserve the character.

Vice Chair Madnawat does not believe in having a blanket prohibition on places of assembly in any zone. The City allows places of assembly in all other zones but it is difficult to find a space large enough in a commercial space and it would be difficult to build a religious facility in a residential area.

Vice Chair Madnawat will support the project with recommended guidelines on the CUP such as: any proposed use should be in an existing building, the character of the building shall be maintained, substantial use of the existing building shall remain industrial, no exterior modifications or structural changes, no distinct signs identifying the building as a place of assembly in an industrial area.

Ms. Wisinski said if the commission wishes to move forward with an approval for

the CEQA, the commission will need to walk through the findings, put that aside, then walk through findings necessary for the other approvals.

Motion to recommend the City Council approve the Initial Study/MND.

Motion/Second: Vice Chair Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

Ms. Wisinski reviewed findings individually and asked that all commissioners indicate approval. All commissioners present indicated they agreed with the following findings by raising their hands:

The Planning Commission has reviewed the MND, Initial Study, and all other relevant information contained in the record regarding the Project, and all Commissioners present indicated they had by raising their hands.

The Planning Commission found that the MND and Initial Study have been completed in compliance with CEQA and the State CEQA Guidelines.

The Planning Commission found that the MND and Initial Study contain a complete and accurate reporting of the environmental impacts associated with the Project.

The Planning Commission found that the documents have been completed in compliance with CEQA and the State CEQA Guidelines.

The Planning Commission found that all environmental impacts of the Project are either less than significant or can be mitigated to a less than significant levels pursuant to the mitigation measures outlined in the MND, Initial Study, and the Mitigation Monitoring Program.

The Planning Commission found that there is no evidence in the record supporting a fair argument that the Project may result in significant environmental impacts.

The Planning Commission found that any comments received regarding the Project had been examined and determined to not modify the conclusions of the MND.

The Planning Commission found that the MND contains a complete, objective, and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment of the Planning Commission.

The Planning Commission recommended that the City Council approve and adopt the MND prepared for the Project.

The Planning Commission recommended the City Council approve and adopt the Mitigation Monitoring Program prepared for the Project.

The Planning Commission recommended the City Council direct staff to file a Notice of Determination with the County of Santa Clara and the State Clearinghouse within five working days of approval of the Project, if it should approve the Project.

All commissioners present indicated approval of the findings for General Plan Amendment No. GA16-0002.

All commissioners present indicated approval of the findings for Zoning Text Amendment No. ZA15-0003.

All commissioners present indicated approval of the findings for Conditional Use Permit No. UP15-0008.

Motion to recommend the City Council approve General Plan Amendment No. GA16-0002, Zoning Text Amendment No. ZA15-0003, Conditional Use Permit No. UP15-0008 with conditions related to shared parking agreements and hours of operation.

Motion/Second: Vice Chair Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

IX-2 MXD GENERAL PLAN AND ZONING TEXT AMENDMENT – 455 E. Calaveras Blvd – P-ZA16-0001: The City is requesting a General Plan Amendment and Zoning Text Amendment to 1) allow a reduction of the number of multi-family residential units for parcels less than twenty-thousand (20,000) square feet within MXD properties.

Commissioner Mohsin returned to the Council Chambers at 9:35 PM.

Senior Planner Michael Fossati showed a presentation describing the amendments.

There was a brief discussion regarding how staff selected the parcel size of less than 20,000 square feet.

Chair Mandal opened the public hearing and there were no speakers.

Motion to close the public hearing.

Motion/Second: Commissioner Maglalang/Commissioner Morris

AYES: 7

NOES: 0

Motion to Adopt Resolution No. 16-039 recommending that the City Council adopt the General Plan Amendment and Zoning Code Text Amendments.

Motion/Second: Commissioner Morris/Vice Chair Madnawat

AYES: 7

NOES: 0

X. NEW BUSINESS

NO ITEMS

XI. ADJOURNMENT The meeting was adjourned at 9:50 PM.

Motion to adjourn to the next meeting.

Motion/Second: Vice Chair Madnawat/Commissioner Sandhu

AYES: 7

NOES: 0

*Meeting Minutes submitted by
Planning Secretary Elia Escobar*