

MEETING MINUTES

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

Wednesday, November 12, 2014

- 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** **Commissioners**
Present: Chair Sudhir Mandal, Vice Chair Larry Ciardella, Commissioners Gurdev Sandhu, John Luk, Alternate Member Hon Lien
Absent: Garry Barbadillo and Rajeev Madnawat. Commissioner Morris was absent at roll call and arrived at 7:04 PM.
Staff: Steven McHarris, Johnny Phan, Shaunn Mendrin, Mary Lavelle
- III. PUBLIC FORUM** **Chair Mandal** invited members of the audience to address the Commission and there were no speakers.
- IV. APPROVAL OF MEETING MINUTES** **Chair Mandal** called for approval of the October 22, 2014 meeting minutes of the Planning Commission.
Motion to approve Planning Commission meeting minutes as submitted.
Motion/Second: Commissioner Sandhu/Commissioner Luk
AYES: 4
NOES: 0
ABSTAIN: 1 (Ciardella)
- V. ANNOUNCEMENTS** Planning Director Steve McHarris announced that the November 26 regular Commission meeting is rescheduled to Monday, November 24 at 7:00 PM.
Vice Chair Ciardella congratulated those elected into office and thanked those who stepped up and ran for election. Similar sentiment was expressed by Chair Mandal.
- VI. CONFLICT OF INTEREST** **Assistant City Attorney Johnny Phan** asked if any member of the Commission had any personal or financial conflict of interest related to any of the items on the agenda.

There were no reported conflicts.
- VII. APPROVAL OF AGENDA** **Chair Mandal** asked if staff or Commissioners had changes to the agenda and there were none.
Motion to approve the November 12, 2014 agenda as submitted.
Motion/Second: Commissioner Sandhu/Commissioner Luk

AYES: 6

NOES: 0

**VIII. CONSENT
CALENDAR**

NO ITEMS

IX. PUBLIC HEARING

IX-1 75 SOUTH MILPITAS – 75 South Milpitas Blvd – SD14-0014, PD14-0002, MT14-0002 – a request for a recommendation to City Council to approve a vesting Tentative Map, Site Development Permit and Planned Unit Development for 25 residential units including five live-work units and various grading, landscaping and site improvements on a 1.26 acre lot, as exempt from further CEQA review.

Senior Planner Shaunn Mendrin provided a presentation to review the project details, showing maps with the layout of 25 townhomes including five live-work units on S. Milpitas Blvd. and showed the entry driveway. This development would be adjacent to the Cobblestone residential development to the east with its live-work units located on South Milpitas Blvd. Density would be 20 dwelling units per acre, and 68 parking spaces were proposed with 50 in garages plus eight uncovered guest spaces.

Commissioner Morris inquired about parking space detail. She also asked about water usage and re-used (re-claimed) water for landscaping.

Chair Mandal wanted to know if there were any live-work units in Milpitas to compare to. Staff explained that Cobblestone next to this one was the first project where live-work units are currently being constructed. Mr. Mandal asked if there was a separate Home Owners Association from Cobblestone and staff replied yes.

Commissioner Morris asked about the two year expiration of project approval. Mr. Mendrin responded that it was a standard time frame for approved entitlements to expire if building permits were not pursued.

Applicant Mike Sullivan of SCS Development presented highlights of this modern project his firm was excited to bring to Milpitas, highlighting the mixed-use with the live-work component along South Milpitas Blvd. Buildings would incorporate rooftop solar capability. Efficient lighting would be included, in response to Chair Mandal.

Vice Chair Ciardella inquired about electric vehicle charging stations in garages, and Mr. Sullivan said these would be pre-wired for homeowners.

Chair Mandal opened the public hearing.

Speakers:

Dr. Mimi Yung has a dental practice at 75 S. Milpitas Blvd, Milpitas Dental Care, which helped residents including low-income children. Based on a notice from her landlord, she must relocate her business and needed reasonable time to do so.

Don Nguyen, a tenant at 75 S Milpitas Blvd, felt that senior housing and live-work were not compatible. He was shocked to be handed legal papers to vacate his office in a short time. No one received a notice about the development, and nor of this public hearing. He wanted everyone to be served notice, including small businesses not just the developers. He asked for postponement of approval and asked for six months time

by the building owner to be allowed to move out. He sought help to re-locate his business.

Motion to close the public hearing.

Motion/Second: Commissioner Sandhu/Commissioner Luk

AYES: 6

NOES: 0

Chair Mandal asked about the notification done for this project, and how many days in advance and to whom notices were sent. Staff explained that ten days notification was given to property owners and residents within a specified number of feet proximity, and a sign at the site was posted. Assistant City Attorney Johnny Phan responded that ten days before the hearing, residents and property owners were notified, and signs onsite would have notified businesses at that location.

Developer Mike Sullivan was very concerned with what he heard from a business owner at this site. He had been working closely with the current building owner, and the tenants, who were given 60 or 90 days notice to vacate. He realized he needed to work further with the seller of the property.

Commissioner Luk asked some questions about the tenants, the lease details, and proper noticing. He remarked it was an issue between landlord and tenants.

Commissioner Morris wanted more information about the signs posted on site and what community outreach by staff was done. Planning Director McHarris responded further, with the recent history about the building site. He reported that the Planning Commission has the option to continue this item to respond to the noticing concerns of the business owners.

Attorney Phan explained the authority of the Planning Commission and the City Council, on the issues, but not of the lease details between tenants and land owner. It may be necessary to gather more facts to learn the impact to the community, so that Commissioners could make an informed decision. Mr. McHarris believed there was perhaps inaccurate information or miscommunication regarding the vacancy of the existing building.

Vice Chair Ciardella asked staff if the public hearing was closed, could they hear from people (speakers) again. Attorney Phan said the Commission could vote to re-open the public hearing, if desired.

Vice Chair Ciardella moved, Commissioner Morris seconded, to re-open the public hearing to hear from a tenant. The motion failed on a vote of 3 AYES (Ciardella, Morris, Lien) and 3 NOES (Luk, Sandhu, Mandal).

Chair Mandal supported the project overall while he remained concerned about those who have a business in that building, and those dependent upon those businesses, including medical care. All the facts were needed. He understood that the applicant was willing to work with tenants further so he would like to postpone this item for future consideration.

Commissioner Morris agreed with Chair Mandal, especially to get all the tenant facts.

Vice Chair Ciardella inquired if the Commission postponed to a date uncertain, what date then would be reasonable. Mr. McHarris replied it could be several weeks.

Commissioner Luk stated this was a good project, but what was going on legally between the landlord and tenants, he did not really comprehend. It was a legal issue between landlord and tenant, not for the Commission to decide.

Chair Mandal remarked that the property owner had a right to develop his property. He agreed with Mr. Luk that the City was not involved between the landlord and his tenants. It was necessary to do fact finding, to provide more information to the Planning Commission, and have the applicant sort it out and then return to the commission to reconsider.

Motion to table the project proposal for 75 S. Milpitas Blvd. until an indeterminate time until all are facts and information is gathered, and later presented to the Commission.

Motion/Second: Commissioner Morris/Commissioner Sandhu

AYES: 6

NOES: 0

ADJOURNMENT

The meeting was adjourned at 8:03 PM to the next meeting scheduled on Monday, November 24, 2014 (with no regular meeting planned for Wednesday, November 26).

Motion to adjourn to the next meeting on November 24, 2014

Motion/Second: Commissioner Sandhu/Vice Chair Ciardella

AYES: 6

NOES: 0

*Meeting Minutes submitted by
City Clerk Mary Lavelle*