

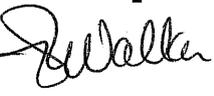


**COMMUNITY DEVELOPMENT DEPARTMENT
OFFICE MEMORANDUM**

DATE: **August 21, 2008**

TO: **Mayor and Members of the City Council**

FROM: **Hanson Hom, Community Development Director** 

THROUGH: **Amy Chan, City Manager**  

RE: **Opportunity for Council to appeal decisions of the Planning Commission of August 11, 2008 and the Administrative Hearing of August 13, 2008.**

Attached is the "Appeal Report" which is presented in the form of Draft Minutes from the Planning Commission Hearing and an Action Summary from the Administrative Hearing. The Planning Commission draft minutes and Action Summary from the Administrative Hearing note items that may be appealed and the final appeal date. **Staff reports and detailed minutes are available on the City's web site and one set of reports and minutes will be placed in a binder in the Council Office.**

Council should specify the reason for an appeal and indicate any appealed items on which it wishes to have expanded notification.

Attachments: A. Planning Commission Action Summary
B. Administrative Hearing Action Summary



**DRAFT MINUTES
SUNNYVALE PLANNING COMMISSION
AUGUST 11, 2008
456 West Olive Avenue, Sunnyvale, CA 94086**

**7:30 PM - SPECIAL START TIME
Study Session – West Conference Room**

Meeting called to order.

1. Ex Parte Communication KB (*20 minutes*)
2. **Public Comment on Study Session Agenda Items** (*5 minutes*)
3. Comments from the Chair (*5 minutes*)

8:00 PM - Public Hearing – Council Chambers

The Planning Commission met in regular session with Chair Rowe presiding.

ROLL CALL

Members Present: Chair Harriet Rowe; Vice Chair Bo Chang; Commissioner Larry Klein; Commissioner Brandon Sulser; and Commissioner Nick Travis.

Members Absent: Commissioner Charles Hungerford (excused absence); Commissioner Dianne McKenna (excused absence)

Staff Present: Trudi Ryan, Planning Officer; Andy Miner, Principal Planner; Kathryn Berry, Senior Assistant City Attorney; Ryan Kuchenig, Associate Planner; Noren Caliva, Assistant Planner; and Debbie Gorman; Recording Secretary.

SCHEDULED PRESENTATION - None

PUBLIC ANNOUNCEMENTS - None

CITIZENS TO BE HEARD - None

APPROVAL OF MINUTES of July 28, 2008

Chair Rowe said that she provided modifications to staff regarding the Onizuka Land Reuse detailed minutes and read the modifications she provided.

Comm. Klein moved to approve the minutes of July 28, 2008 with modifications. Comm. Sulser seconded. Motion carried, 5-0-2, with Comm. Hungerford and Comm. McKenna absent.

PUBLIC HEARINGS/GENERAL BUSINESS

Chair Rowe said that staff is requesting that agenda items 3 and 4 be continued to the next meeting due to an error in the notification process.

Gerri Caruso, Principal Planner, confirmed that staff is requesting agenda items 3 and 4, projects 2008-0456 and 2008-0457, be continued to August 25, 2008. She said there was an error made by staff in the administrative process of providing public notice for these items and the proper noticing has to be done before the public hearing can occur. Ms. Caruso said the applicant would like it to be known that they were prepared this evening and are eager to move forward with these projects.

Chair Rowe opened the public hearing.

Arthur Schwartz, a resident of Sunnyvale, said that he is not sure he will be at the next meeting and would like to make a couple of comments regarding the agenda items 3 and 4. He said he is very concerned about the dangerous situation with traffic entering and exiting through the Sunnyvale-Saratoga Road driveway entrance behind Toys R Us on this site. He discussed several examples of traffic incidences that he has observed at this location. He also said he is a member of Cool Cities and from a sustainability standpoint, that it bothers him that the proposal is to tear the building down rather than the building being retained and modified. He said he thinks it would be an advantage to the developer and shoppers if the structures were retained as the facilities would be available sooner than if the buildings were torn down and rebuilt.

Chair Rowe closed the public hearing.

Separate motions were taken for each agenda item 3 and 4, projects 2008-0456 and 2008-0457. (See items below.)

(Agenda Item 1 was taken out of order and heard as the third public hearing item.)

1. **2008-0105** - Appeal of a decision by the Director of Community Development denying a Tree Removal Permit for an approximately 80-foot tall Redwood tree in the front yard. The property is located at **1633 Edmonton Avenue**. (APN: 320-15-008) MH

ACTION: Comm. Klein made a motion on 2008-0105 to deny the appeal and uphold the denial of the Tree Removal Permit. Vice Chair Chang seconded. Motion carried, 4-1-2, Chair Rowe dissenting, and Comm. Hungerford and Comm. McKenna absent.

APPEAL OPTIONS: This action is final.

(Agenda item 2 was taken out of order and heard as the fourth public hearing item.)

2. **2008-0459 - TMG-Moffett, LLC**. [Applicant/Owner]: Application for a Major Moffett Park Design Review to allow a new 7-story office building resulting in 209,500 square feet and 70% Floor Area Ratio and a 4-level parking structure. The property is located at **399 W Java Drive** (at Bordeaux Dr.) in an MP-TOD (Moffett Park Transit Oriented District) Zoning District. (Mitigated Negative Declaration) (APN: 110-26-047) NC (***Continued from July 28, 2008***)

ACTION: Vice Chair Chang made a motion on 2008-0459 to adopt the Mitigated Negative Declaration and approve the Major Moffett Park Design Review with modified conditions: to include in the conditions that the applicant work with staff to maintain as many existing "protected trees" along Bordeaux as possible, and route the new sidewalk accordingly. Comm. Klein seconded. Motion carried, 5-0-2, with Comm. Hungerford and Comm. McKenna absent.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than August 26, 2008.

(Agenda items 3 and 4 were taken out of order and heard as the first and second public hearing items.)

3. **2008-0456 – Johnson Lyman Architects [Applicant] Pacific Dsla No 2 [Owner]:** Application for a Special Development Permit to allow demolition of an existing building (Firestone Tires) and construction of two new retail buildings, for a total of 18,339 square feet. The property is located at **112 East El Camino Real** (at Sunnyvale-Saratoga Rd.) in a C-2/ECR (Highway Business/Planned Development) Zoning District. (Negative Declaration) (APN: 211-17-001) NC ***(Continued from July 28, 2008.)***

ACTION: Comm. Klein made a motion on 2008-0456 to continue this item to August 25, 2008. Comm. Travis seconded. Motion carried, 5-0-2, with Comm. Hungerford and Comm. McKenna absent.

APPEAL OPTIONS: This action serves as legal notification of the continuance of this item.

4. **2008-0457 - Johnson Lyman Architects [Applicant] Pacific Dsla No 2 [Owner]:** Application for a Special Development Permit to allow demolition of an existing 113,120 square foot retail space (Pak 'N' Save, Shoe Pavilion, and Drug Barn) and the construction of a new grocery store (Safeway) and retail buildings for a total of 110,025 square feet. The property is located at **150 E. El Camino Real** (at Cezanne Dr.) in a C-2/ECR (Highway Business/Planned Development) Zoning District. (Negative Declaration) (APN: 211-17-003) NC ***(Continued from July 28, 2008.)***

ACTION: Comm. Travis made a motion on 2008-0457 to continue this item to August 25, 2008. Vice Chair Chang seconded. Motion carried, 5-0-2, with Comm. Hungerford and Comm. McKenna absent.

APPEAL OPTIONS: This action serves as legal notification of the continuance of this item.

5. **2007-0346 – Study Issue to Consider City-Wide Sustainable Building Incentives and Requirements RK *(Continued from July 28, 2008.)***

ACTION: Comm. Sulser made a motion on 2007-0346 to recommend to City Council to adopt the staff recommendation to develop a framework for sustainability and the phased requirements in attachment G with a modification: to modify recommendation 1.A.ii by removing the language “reduced setbacks”. Vice Chair Chang seconded. Motion carried, 5-0-2, with Comm. Hungerford and Comm. McKenna absent.

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the August 26, 2008 City Council meeting.

NON-AGENDA ITEMS AND COMMENTS

- COMMISSIONERS' ORAL COMMENTS

Vice Chair Chang commented about the **Sunnyvale Historical Museum Grand Opening on September 27, 2008 from 12 - 4 p.m.**, at the Heritage Park, 550 E. Remington Drive. Ms. Caruso said that the Planning Commissioners and the public are invited to attend.

- STAFF ORAL COMMENTS

City Council Meeting Report

Ms. Caruso said were no regular Council Meetings since the previous Planning Commission meeting. She advised that Council met in closed session on August 4, 2008 and August 5, 2008 regarding selection of a new City Manager.

Other Staff Oral Report

INFORMATION ONLY ITEMS

ADJOURNMENT

With no further business, the Commission meeting was adjourned at 9:47 p.m.

Respectfully submitted,



Gerri Caruso
Principal Planner



ADMINISTRATIVE HEARING

ACTION SUMMARY
Wednesday, August 13, 2008

A public hearing was held by the Administrative Hearing Officer at 2:00 p.m. in the West Conference Room, City Hall, 456 W. Olive Avenue, Sunnyvale, CA for the purpose of considering the following applications:

2008-0571: Application for related proposals located at **1563 Benton Street** (at Kensington Ave.) in an R-0 (Low Density Residential) Zoning District. (APN: 313-33-009) MH;

- **Use Permit** to allow an approximately 11' tall fence along the reducible front yard.
- **Variance** from Sunnyvale Municipal Code section 19.34.040 to allow a deck taller than 18" with zero setback in the reducible front yard where a 9' setback is required.

ACTION: The Administrative Hearing Officer took the item under advisement so that a site visit may be conducted. On Monday, August 18, 2008 the Hearing Officer denied the Variance and approved the Use Permit.

APPEAL OPTIONS: May be appealed to the Planning Commission by Tuesday, September 2, 2008.

2008-0053 - Herguan University [Applicant] **Od Equities LLC**. [Owner]: Application for a Special Development Permit to allow educational use within a 5,075 square foot tenant space. The property is located at **1183 Bordeaux Drive** (near 5th Ave.) in the MP-TOD (Moffett Park - Transit Oriented District) Zoning District. (APN: 110-25-036) MH

ACTION: The Administrative Hearing Officer concluded that an environmental review is required and therefore the project is being continued to the Planning Commission indefinitely.

APPEAL OPTIONS: None

2008-0431 - Bay Area Cultural Center [Applicant] **Tasman V LLC** [Owner]: Use Permit to allow a place of assembly use in a 5,500 square foot tenant space. The property is located at **1257 Tasman Drive** (at Reamwood Avenue) in an M-S/POA (Industrial & Service/Place of Assembly) Zoning District (APN: 104-58-007).SB

ACTION: Approved subject to the Findings and Conditions of Approval.

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, August 28, 2008.