



**COMMUNITY DEVELOPMENT DEPARTMENT
OFFICE MEMORANDUM**

DATE: **September 4, 2008**

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

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

THROUGH: *for* **Amy Chan, City Manager** *Swalla*

RE: **Opportunity for Council to appeal decisions of the Planning Commission of August 25, 2008 and the Administrative Hearing of August 27, 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.

Councilmember Howe requested clarification of a condition of approval that is typically included on public hearing planning permits to advise applicants of the expiration date of the permit. Based on the question, staff has rewritten the condition to better reflect the discretionary nature of a request for an extension of time.

The Special Development Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to the expiration date and is approved by the Director of Community Development.

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



**DRAFT MINUTES
SUNNYVALE PLANNING COMMISSION
AUGUST 25, 2008
456 West Olive Avenue, Sunnyvale, CA 94086**

7:00 PM - Study Session – West Conference Room

Meeting called to order.

1. **2007-1293 – Hawley, Petersen and Snyder [Applicant] Palo Alto Medical Foundation [Owner]** Application for related proposals for a new Camino Medical Office Building located at **301 and 401 Old San Francisco Road** in and R-2/O-PD (Low-Medium Density Residential/Office Planned Development) Zoning District. GC (*45 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 Charles Hungerford; Commissioner Larry Klein; Commissioner Dianne McKenna Commissioner Brandon Sulser; and Commissioner Nick Travis.

Staff Present: Trudi Ryan, Planning Officer; Kathryn Berry, Senior Assistant City Attorney; Gerri Caruso, Principal 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 August 11, 2008

Comm. Sulser moved to approve the minutes of August 11, 2008 with modifications. Vice Chair Chang seconded. Motion carried, 5-0-2, with Comm. Hungerford and Comm. McKenna abstaining.

PUBLIC HEARINGS/GENERAL BUSINESS

Trudi Ryan, Planning Officer, requested the Commission continue agenda items 1 through 4, and then consider agenda item 8 as the first public hearing item as staff believes this will be a brief discussion. Ms. Ryan also suggested that agenda items 6 and 7 be discussed as one public hearing item, as the two items are related, with the Commission taking as two separate motions for the actions on the projects.

The Planning Commission took one motion continuing agenda items 1 through 4 to the September 8, 2008 Planning Commission meeting and to move agenda item 8 to be considered as the first public hearing item this evening.

1. **2008-0376 - City of Sunnyvale [Applicant]:** Make amendments to Sunnyvale Municipal Code Chapter 19.44 (Signs) to clarify the use of bounce houses in commercial zoning districts. These changes implement the policies adopted by the City Council on April 29, 2008. DO ***(Staff requests continuance to September 8, 2008 to balance the agendas)***
2. **2007-0754 - City of Sunnyvale [Applicant]:** Make amendments to Sunnyvale Municipal Code Title 19 to modify parking standards and requirements. These changes implement the policies adopted by the City Council on February 26, 2008. DO ***(Staff requests continuance to September 8, 2008 to balance the agendas)***
3. **2007-0800 - City of Sunnyvale [Applicant]:** Make amendments to Sunnyvale Municipal Code Title 9 (Public Peace, Safety or Welfare) and various sections in Title 19 (Zoning) to implement the new solar energy policies adopted by the City Council on December 11, 2007. DO ***(Staff requests continuance to September 8, 2008 to balance the agendas)***
4. **2006-0492 – Application for related proposals located at 199 N. Sunnyvale Avenue (at E. California Ave.) in an R-2/PD (Low-Medium Density/Planned Development) Zoning District. (Negative Declaration) (APN: 204-49-001) NC; (Applicant requests continuance to September 8, 2008)**
 - **Special Development Permit** to allow three new two-story single family homes with a shared driveway;
 - **Parcel Map** to subdivide one lot into three lots.

ACTION: Comm. McKenna made a motion on 2008-0376, 2007-0754, 2007-0800, and 2006-0492 to continue the items to September 8, 2008, and that agenda item 8 be considered ahead of agenda item 5 this evening. Comm. Klein seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action serves as legal notification of the continuance of the four items to September 8, 2008.

(Agenda Item 5 was taken out of order and heard as the sixth public hearing item.)

5. **2008-0341** – Appeal by the applicant of a decision of the Administrative Hearing Officer denying a Special Development Permit to allow an existing nightclub to expand into a 534 square foot tenant space for a total of 3,534 square feet. **La Ronda Nite Club [Applicant] Maple Leaf Invs li LLC [Owner]** The property is located at **927 E. Duane Avenue** (in Fair Oaks Plaza Shopping Center) in a C-1/PD (Neighborhood Business/Planned Development) Zoning District. (APN: 205-12-001) RZ

ACTION: Comm. McKenna made a motion on 2008-0341 to deny the appeal and uphold the decision of the Administrative Hearing Officer to deny the Special Development Permit. Comm. Klein seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action is final unless appealed to City Council no later than September 9, 2008.

(Agenda items 6 and 7 were taken out of order consider as the seventh and eighth public hearing items and discussed as one public hearing item with the Commission taking two separate motions for the actions on the two projects.)

6. **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 August 11, 2008.)*

ACTION: Comm. Sulser made a motion on 2008-0456 to adopt the Negative Declaration and approve the Special Development Permit with modified conditions: that a condition be added that the project architect shall continue to work with staff on a final design for the portions of the building that face El Camino Real and Sunnyvale/Saratoga Road; that a condition be added that the glazing areas of any windows shall be transparent, unless otherwise approved by the Director of Community Development; and that the brick around the seating area (outdoor plaza) for the two buildings be permeable pavers. Comm. Hungerford seconded the motion. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action is final unless appealed to City Council no later than September 9, 2008.

7. **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 August 11, 2008.*)

ACTION: Comm. Hungerford made a motion on 2008-0457 to adopt the Negative Declaration and approve the Special Development Permit with modified conditions: to add a condition that the pedestrian path coming from Sunnyvale/Saratoga Road be replaced with permeable pavers; to add a condition requiring the 15 foot "Pedestrian Realm" as described in the Precise Plan for El Camino Real be included even if it means the removal of the 26 parking spaces in front of the proposed Safeway on El Camino Real. Comm. Klein seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action is final unless appealed to City Council no later than September 9, 2008.

(Agenda Item 8 was taken out of order and heard as the fifth public hearing item.)

8. **2008-0489 - City of Sunnyvale: Work Plan to Update the Housing and Community Revitalization Sub-element of the General Plan for 2009-2014 LS/SB**

ACTION: Comm. McKenna made a motion on 2008-0489 to recommend to City Council to approve the work plan, as proposed. Vice Chair Chang seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the September 9, 2008 City Council meeting.

NON-AGENDA ITEMS AND COMMENTS

- **COMMISSIONERS' ORAL COMMENTS**

Comm. Sulser asked staff about the Precise Plan for El Camino Real and said there are aspects of the Plan that are still not implemented. He asked if there is anything the Planning Commission can do to expedite the implementation. Ms. Ryan said that the implementation is on the Planning Division's list of things to do.

- STAFF ORAL COMMENTS

City Council Meeting Report

Ms. Ryan said that on August 19, 2008 the City Council considered an appeal of a Use Permit for a Vocational School on Commercial Avenue and upheld the decision of the Planning Commission and she noted that the appellant was not present to provide any additional perspective on the issue. She said that the Council also considered the changes to the Single-Family Development Standards and recommended in accordance with the majority of the items that staff and the Planning Commission recommended with an added change to determining side yard setbacks. She said they also considered a Use Permit for a site located on Santa Trinita concurring with the Planning Commission's recommendations.

Ms. Ryan said tomorrow evening, August 26, 2008, City Council will consider the Study Issue on Sustainability, an appeal of a denial of a front yard landscape element on Nisqually Drive, and an appeal of a Design Review on Daisy Court.

Ms. Ryan said there would be a Study Session after the public hearing on September 9, 2008 to receive an update on the activity downtown.

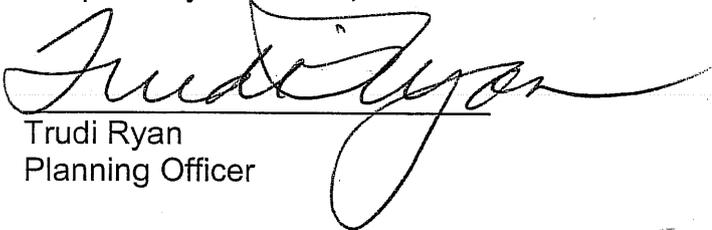
Other Staff Oral Report

INFORMATION ONLY ITEMS

ADJOURNMENT

With no further business, the Commission meeting was adjourned at 11:50 p.m.

Respectfully submitted,



Trudi Ryan
Planning Officer



ADMINISTRATIVE HEARING

ACTION SUMMARY
Wednesday, August 27, 2008

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

1. **2006-1251 – Nexcycle** [Applicant] **Safeway Stores Incorporated** [Owner]: Application for a renewal of a Special Development Permit to allow a recycling facility in an existing shopping center parking lot (Loehmann's Plaza). The property is located at **1601 Hollenbeck Avenue** (near Homestead Rd.) in a C-1/PD (Neighborhood Business/Planned Development) Zoning District. (323-26-014) SB

ACTION: Approved the application with the addition of a condition acknowledging that the applicant met the standards from the prior hearing and a condition to see if an alternative location within the parking lot can be found.

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, September 11, 2008.

2. **2008-0623** - Application for a Use Permit to allow a concrete sound wall with a height of up to 11' from grade and up to approximately 15' 7" from the top of curb along the rear property lines of two existing residences. The properties are located at **1258 and 1259 Albion Lane** (at W. Fremont Ave. and US Hwy 85) in an R-0 (Low Density Residential) Zoning District. (APNs: 320-28-038 and 320-28-039) MH

ACTION: Approved the application with the color of the fence to be similar to their neighbor's fence. If the applicant, prior to construction, chooses to modify the fence to a split face, it can be done without additional review and any other changes would have to be discussed with staff.

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, September 11, 2008.

3. **2008-0757**: Application for a Use Permit to allow an approximately 9' tall fence in the reducible front yard. The property is located at **1627 Edmonton Avenue** (near Helena Dr.) in an R-1/S (Low Density Residential/Single Story) Zoning District. (APN: 320-15-007) RZ

ACTION: Approved the third proposal submitted by the applicant subject to the findings and conditions of approval located in the staff report.

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, September 11, 2008.

4. **2008-0772 - Co-Al Hospitality DBA Wingstop** [Applicant] **Pacific Retail Trust** [Owner]: Application for a Special Development Permit to allow beer and wine service at a new restaurant within an existing shopping center (Loehmann's Plaza). The property is located at **1661 Hollenbeck Avenue** (near W. Homestead Ave.) in a C-1/PD (Neighborhood Business/Planned Development) Zoning District. (APN: 323-26-033) RZ

ACTION: Approved the application subject to the findings and conditions of approval located in the staff report.

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, September 11, 2008.

5. **2008-0782 - Ed Bozorghadad** [Applicant] **1st Interstate Bk Ca, Ttee** [Owner]: Application for a Use Permit to allow the sale of beer and wine at an existing gas station and convenience store. The property is located at **1198 West El Camino Real** in a C-2/ECR (Highway Business/El Camino Real Precise Plan) Zoning District. (APN:198-17-016) MH

ACTION: Approved subject to the Findings and Conditions of Approval located in the staff report with the following additional Conditions of Approval: 1) prohibit sale of single servings of beer and wine; 2) if future floor plan changes occur, the applicant shall be required to submit a Miscellaneous Plan Permit for staff to review the layout specifically related to the sale of alcohol; 3) the applicant shall be in compliance with all conditions of approval of the previous permit #2008-0019 that are related to security measures, including lighting and a panic alarm, prior to the Department of Community Development approving any licensing by the California Alcoholic Beverage Control (ABC).

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, September 11, 2008.

6. **2008-0783 - Ed Bozorghadad** [Applicant] **Ali and Parisa Bozorghadad Trustee** [Owner] Application for a Use Permit to allow the sale of beer and wine at an existing gas station and convenience store. The property is located at **1005 West El Camino Real** (at S. Mary Ave.) in a C-2/ECR (Highway

Business/ Precise Plan for El Camino Real) Zoning District. (APN: 161-41-010)
MH

ACTION: Approved subject to the Findings and Conditions of Approval located in the staff report with the following additional Conditions of Approval: 1) prohibit sale of single servings of beer and wine; 2) the applicant shall be in compliance with all conditions of approval of the previous permit #2007-1320 that are related to security measures, including lighting and a panic alarm, prior to the Department of Community Development approving any licensing by the California Alcoholic Beverage Control (ABC); 3) on site parking shall be maintained to have no fewer spaces available for parking than was approved through the previous Special Development Permit # 2003-0849; 4) maintain the site in a clean manner, free of debris and noise, to avoid impacts on adjacent residential uses.

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, September 11, 2008.

7. **2008-0802** – Application for a Variance from Sunnyvale Municipal Code section 19.46.060 to allow interior modifications to the floor plan of an existing home which would result in less than the required 2 covered parking spaces. The property is located at **1291 Brookings Lane** (near Belleville Wy.) in an R-1 (Low Density Residential) Zoning District. (APN: 320-29-050) RK

ACTION: The Administrative Hearing Officer took the application under advisement until Thursday, August 28, 2008. On that day the Administrative Hearing Officer denied the application due to the inability to make the findings.

APPEAL OPTIONS: May be appealed to the Planning Commission by Friday, September 12, 2008.