



**COMMUNITY DEVELOPMENT DEPARTMENT
OFFICE MEMORANDUM**

DATE: **January 22, 2009**

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

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

THROUGH: **Gary Luebbers, City Manager** 

RE: **Opportunity for Council to appeal decisions of the Planning Commission of January 12, 2009 and the Administrative Hearing of January 14, 2009.**

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

09/10/09 10:00 AM



**DRAFT MINUTES
SUNNYVALE PLANNING COMMISSION
January 12, 2009
456 West Olive Avenue, Sunnyvale, CA 94086**

7:00 PM – Study Session – West Conference Room

Meeting called to order.

1. **2008-1245 - Alok Lathi at Mid Pen** [Applicant] **Santa Clara County** [Owner]: Application for related proposals located at **660 S. Fair Oaks Avenue** (at Garland Ave) in an R-4 (High-Density Residential) Zoning District. (Negative Declaration) (APN: 211-02-022) GC; (30 minutes)
 - **Rezone** from R-4 (High Density Residential) Zoning District R-4/PD (High Density Residential/Planned Development)
 - **Special Development Permit** to allow 124 senior housing units and a parking structure.
2. Status Report on Study Issue: **Lawrence Station Transit Village SB** (15 minutes)
3. **Public Comment on Study Session Agenda Items** (5 minutes)
4. Comments from the Chair (5 minutes)

8:00 PM – Public Hearing – Council Chambers

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

CALL TO ORDER/SALUTE TO THE FLAG

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; Ryan Kuchenig, Associate Planner; Rosemarie Zulueta, Assistant Planner; and Debbie Gorman, Recording Secretary.

SCHEDULED PRESENTATION - None

PUBLIC ANNOUNCEMENTS/CITIZENS TO BE HEARD

Speakers are limited to three (3) minutes. If you wish to address the Planning Commission, please complete a speaker's card and give it to the Recording Secretary. If your subject is not on the agenda, you will be recognized at this time; but the Brown Act (Open Meeting Law) does not allow action by Planning Commission Members. If you wish to speak to a subject listed on the agenda, you will be recognized at the time the item is being considered by the Planning Commission.

APPROVAL OF MINUTES of December 8, 2008

Comm. McKenna moved to approve the minutes of December 8, 2008. Comm. Hungerford seconded. Motion carried, 6-0-1, with Chair Rowe abstaining.

PUBLIC HEARINGS/GENERAL BUSINESS

1. **2008-0839** – Appeal by a neighbor of a decision of the Director of Community Development approving a Miscellaneous Plan Permit to remove an architectural feature (lattices) in an approved residential development. The property is located at **1034 Polk Avenue (APN: 161-39-065) RZ**

ACTION: Comm. McKenna made a motion on 2008-0839 to deny the appeal and uphold the decision of the Director of Community Development to approve the Miscellaneous Plan Permit with the attached recommended Conditions of Approval. Comm. Travis seconded. Motion carried, 4-3, with Chair Rowe, Comm. Klein and Comm. Sulser dissenting.

APPEAL OPTIONS: This action is final.

2. **2008-1119** – **Resurrection Parish Church [Applicant] Roman Catholic Welfare Corp of San Jose [Owner]**: Application for a Use Permit for a new tree pole with six panel antennas, two future microwave dish antennas and ancillary ground equipment. The property is located at **1399 Hollenbeck Avenue** (near Cascade Dr.) in a P-F (Public Facility) Zoning District. (Negative Declaration)(APN: 323-06-005) RK

ACTION: Comm. Sulser made a motion on 2008-1119 to adopt the Negative Declaration and approve the use permit with modified conditions: to modify condition 3.B to include that if the microwave dish antennas are proposed to be installed at a later date from the monopole structure, additional design review for such antennas at that time is required for approval by the Director of Community Development prior to installation. Comm. Klein seconded. Motion carried, 5-2, with Comm. McKenna and Comm. Travis dissenting.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than January 27, 2009.

3. **2007-0306 – Rite Aid [Applicant] Tikvica Family Trust [Owner]:** Application for a Special Development Permit to allow an approximately 14,673 square foot pharmacy with a drive-thru. The property is located at **1010 Sunnyvale-Saratoga Road** (at E. Remington Dr.) in a C-1/PD (Neighborhood Business/Planned Development) Zoning District. (Mitigated Negative Declaration)(APN: 211-21-018) RK

This item was heard as the fourth item on the agenda.

ACTION: Comm. Klein made a motion on 2007-0306 to adopt the Mitigated Negative Declaration and approve the Special Development Permit with modified conditions: to add a condition 9.Q that the two decorative sidewalks from Remington be made of permeable pavers to address the impervious surface issue; to modify condition 12.D to include that the applicant work with staff and the Director of Community Development on the placement of the bicycle lockers, locating them closer to the building if possible; and to modify condition 13.C to include language that the solid waste and recycling enclosure be covered, with either an enclosed or suspended cover. Vice Chair Chang seconded. Motion carried, 6-1, with Comm. McKenna dissenting.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than January 27, 2009.

4. **2008-1056 -** Application for related proposals located at **615 Dunholme Way** (near Floyd Ave.) in an R-0 (Low Density Residential) Zoning District. (APN: 309-16-007) NC; (*Continued from December 8, 2008*)

- **Parcel Map** to subdivide one lot into two lots;
- **Rezone** from R-0 (Low Density Residential) to R-0/PD (Low Density Residential/Planned Development) Zoning District;
- **Special Development Permit** to construct an additional single family home.

This item was heard as the fifth item on the agenda.

ACTION: Comm. Sulser made a motion on 2008-1056 to recommend to City Council to introduce an ordinance to Rezone 615 Dunholme Way from R-0 to R-0/PD, and approve the Special Development Permit and Parcel Map with attached conditions. Comm. Travis seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the January 27, 2009 meeting.

5. **2008-0936 – Bergman Companies [Applicant] De Anza Square [Owner]:**
Application for a Use Permit to allow a grocery store (Fresh & Easy) in a 7.2-acre shopping center, within in an existing retail space greater than 10,000 square feet. The property is located at **1356 S. Mary Avenue** (near W Fremont Ave at De Anza Square Shopping Center) in a C-1 (Neighborhood Business) Zoning District. (Mitigated Negative Declaration) (APN: 323-01-019) NC

This item was heard as the sixth item on the agenda.

ACTION: Comm. Travis made a motion on 2008-0936 to adopt the Mitigated Negative Declaration and approve the Use Permit with modified conditions: to remove condition 10.A.a regarding employee parking and place into affect 10.C requiring that a Parking Management Plan be required now rather than in the future; to remove condition 1.G requiring the submission of a merchandise plan as there are no outdoor sales planned and that a merchandise plan be submitted if, in the future, the applicant would like to have outdoor sales; to amend condition 7.B replacing the language “decorative pervious pavers” with “a decorative walkway”; and to add a condition 7.G that 12 of the required parking spaces be of permeable pavers and that the applicant work with staff to determine the location of the 12 spaces. Comm. Klein seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than January 27, 2009.

6. **2008-0485 Business Identification on Ground Signs and Size of Street Address Numbers (Study Issue) –MH**

This item was heard as the third item on the agenda.

ACTION: Comm. Klein made a motion on 2008-0485 to continue this item to the January 26, 2009 meeting. Comm. Travis seconded. Motion carried unanimously, 7-0.

APPEAL OPTIONS: This action serves as legal notification of the continuation of this item to the January 26, 2009 Planning Commission meeting. This item was advertised and scheduled to be considered by the City Council at their January 27, 2009 meeting and staff will recommend at that meeting that the item be continued to a later date so Council can benefit from the recommendation and input of the Planning Commission.

NON-AGENDA ITEMS AND COMMENTS

- COMMISSIONERS ORAL COMMENTS
- STAFF ORAL COMMENTS

City Council Meeting Report

Ms. Ryan said the City Council considered a Study Issue on Parking for Medical Office Buildings on December 9, 2008 and introduced the ordinance that reflected the Planning Commission's recommendation. She said an appeal has been filed regarding a decision of the Planning Commission which granted an appeal by neighbors denying a Use Permit for beer and wine at a service station on Fair Oaks. She said the applicant appealed the Planning Commission decision.

Other Staff Oral Report

Ms. Ryan announced that a new Senior Planner, Shaunn Mendrin, joined the Planning Staff the beginning of this month.

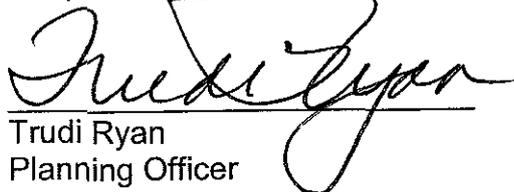
Ms. Ryan wished the Planning Commission a Happy New Year.

INFORMATION ONLY ITEMS

ADJOURNMENT

With no further business, the Commission meeting was adjourned at 1:11 a.m.

Respectfully submitted,


Trudi Ryan
Planning Officer



ADMINISTRATIVE HEARING

ACTION SUMMARY

Wednesday, January 14, 2009

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:

1. **2008-1285:** Application for a Use Permit to allow a 7'6" tall concrete fence along the reducible front yard of a single family home. The property is located at **1694 Wright Avenue** (at W. Homestead Rd.) in an R-1 (Low Density Residential) Zoning District. (APN: 320-16-005) RZ

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

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, January 29, 2009.

2. **2008-1292:** Application for a Use Permit to allow full liquor service and live entertainment at an existing restaurant (Dish Dash). The project is located at **192 S. Murphy Avenue** (near Washington Ave.) in a DSP-2 (Downtown Specific Plan/Block 2) Zoning District. (APN: 209-06-026) EH

ACTION: Approved with conditions.

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, February 5, 2009.

3. **2008-1126 – Sue Kim** [Applicant] **Jamshid and Marta Noghrey** [Owner]: Application for a Special Development Permit to allow an art gallery, restaurant use (café), and retail art supply sales. The property is located at **251 W. El Camino Real** (near S. Taaffe St.) in a C-2/ECR (Highway Business/Precise Plan for El Camino) Zoning District. (APN: 209-29-017) EH

ACTION: Approved with a modified parking rate and conditions of approval.

APPEAL OPTIONS: May be appealed to the Planning Commission by Wednesday, February 4, 2009.

4. **2008-1229 – Culture Links, Inc.** [Applicant] **Steven Hopkins Trustee & Et Al** [Owner]: Application for a Use Permit to allow an after school day care use located in an existing office building. The property is located at **1055 Sunnyvale-Saratoga Road** (near W Remington Dr) in an R-2 (Low-Medium Density Residential) Zoning District. (APN: 202-04-011) SL

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

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, January 29, 2009.

5. **2008-1212:** Application for a Variance from Sunnyvale Municipal Code section 19.34.030 to allow a 280 square foot detached garage in the rear of the property with a side setback of 3' where 4' is required and a rear setback of 5' where 10' is required. The property is located at **421 E. Washington Avenue** (near S. Bayview Ave) in an R-2/PD (Low Medium Density Residential/Planned Development) Zoning District. (APN: 209-04-034) NC

ACTION: Approved subject to the findings and conditions located in the staff report with a modified condition to 2.B. that The applicant shall modify the driveway to meet City's code requirements for stabilized permanent surface and front yard paving, subject to review and approval by the Director of Community Development.

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, January 29, 2009.

6. **2008-1239 –** Application for related proposals located at **1330 Los Arboles Avenue** (near W Fremont Ave) in an R-1 (Low Density Residential) Zoning District. (APN: 323-09-057) RK;
- **Use Permit** to allow the construction of an approximately 480 square foot detached garage in the rear yard;
 - **Variance** from Sunnyvale Municipal Code (S.M.C.) section 19.34.030 to allow a 5' rear yard setback where 10' is required and from S.M.C. section 19.46.130 to allow a 9'9" wide one-way driveway where 10' is required.

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

APPEAL OPTIONS: May be appealed to the Planning Commission by Thursday, January 29, 2009.