



**COMMUNITY DEVELOPMENT DEPARTMENT
OFFICE MEMORANDUM**

DATE: **March 5, 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 February 23, 2009. (There was no Administrative Hearing on February 25, 2009.)**

Attached is the "Appeal Report" which is presented in the form of Draft Minutes from the Planning Commission Hearing. The Planning Commission draft minutes 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.

Attachment: A. Planning Commission Action Summary. 00



**DRAFT MINUTES
SUNNYVALE PLANNING COMMISSION
February 23, 2009
456 West Olive Avenue, Sunnyvale, CA 94086**

7:00 PM – Study Session – West Conference Room

Meeting called to order.

1. **Public Comment on Study Session Agenda Items** (*5 minutes*)
2. **Training – Future amendments to Title 19 to Implement the City-wide Green Building Policies** (*45 minutes*)
3. **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; Andrew Miner, Principal Planner; Noren Caliva, 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 February 9, 2009

Vice Chair Chang moved to approve the minutes of February 9, 2009 with modifications. Comm. Travis seconded. Motion carried unanimously, 7-0.

PUBLIC HEARINGS/GENERAL BUSINESS

- 1. 2008-0053 – Herguan University [Applicant] Od Equities LLC [Owner]:**
Application for a Special Development Permit to allow an institution of higher learning (Herguan University) within an existing tenant space in an industrial building. The property is located at **1183 Bordeaux Drive, Suite #22** (near E. Moffett Park Dr.) in an MP-TOD (Moffett Park – Transit Oriented Development) Zoning District. (Negative Declaration) (APN: 110-25-036) MH (***Application withdrawn. No action required.***)
- 2. 2008-1067 – Aixtron Inc. [Applicant] John Sobrato Trustee & Et Al [Owner]:**
Application for a Variance from Sunnyvale Municipal Code section 19.42.030 to allow existing roof mounted equipment to exceed noise standards. The property is located at **1139 Karlstad Drive** (near Toyama Dr.) in an R-4/PD (High Density Residential/Planned Development) Zoning District. (Mitigated Negative Declaration) (APN: 110-14-197) NC

ACTION: Comm. Travis made a motion on 2008-1067 to adopt the Mitigated Negative Declaration and approve the Variance with modified conditions: that the applicant be required to install a chiller sound blanket, scrubber barriers, and scrubber silencers; and that the conditions of approval include that the scrubber barriers and silencers be installed within 90 days of the hearing date and that extensions for those installations be available through the Director of Community Development if needed. Comm. Klein seconded. Motion carried 6-1, with Comm. Sulser dissenting.

APPEAL OPTIONS: This action is final unless appealed to the City Council no later than March 10, 2009.

3. **2007-1293 – Palo Alto Medical Foundation** [Applicant/Owner] – Hearing to take public comments and testimony on the **Draft Environmental Impact Report** (EIR) for a project located at **301 - 401 Old San Francisco Road and 420, 428 and 448 Kenney Court** (APN 109-31-069, 209-32-039, 209-32-027, 028 and 029) The proposed project consists of the following:

- **Rezone** from R-2/O (Low Density Residential/Office) to PF/PD (Public Facilities/Planned Development);
- **Special Development Permit** to allow a 150,000 s.f. medical clinic with underground parking, a four-level, above-ground parking structure and related storage and waste management area.

This hearing is the end of the required 45-day public review period. Comments provided at the hearing will be included in the Final EIR. The final day to submit written comments for this DEIR is February 23, 2009.

The Planning Commission and staff received public comments from 24 speakers regarding the Draft Environmental Impact Report.

4. **2008-0994 - Ben P. Aibuedefe** [Appellant] **B&A Enterprises** [Owner]: Appeal by the applicant of a decision by the Director of Community Development denying a Miscellaneous Plan Permit for construction of a trash enclosure at an existing ConocoPhillips automobile service station. The property is located at **801 N. Fair Oaks Avenue** (at E. Ahwanee Ave. near Hwy. 101) in a C-1/PD (Neighborhood Business/ Planned Development) Zoning District. (APN: 204-09-004) MH

ACTION: Comm. Travis made a motion on 2008-0994 to grant the appeal and approve the Miscellaneous Plan Permit with modified conditions, while confirming that a modified project with masonry walls and a steel door is required by Code; that the applicant be allowed five months from this hearing date to complete the enclosure; and that until the enclosure is built that the applicant be required to keep the trash bins behind the facility. Vice Chair Chang seconded. Motion carried 5-2, with Chair Rowe and Comm. Sulser dissenting.

APPEAL OPTIONS: This action is final.

NON-AGENDA ITEMS AND COMMENTS

- COMMISSIONERS ORAL COMMENTS
- STAFF ORAL COMMENTS

Trudi Ryan, Planning Officer, reminded the Commission that they would have a joint study session with the City Council on March 3, 2009.

Ms. Ryan reported that at the Council meeting of February 10, 2009 the Council considered an appeal of a Planning Commission decision denying an application to sell beer and wine at a gas station that is allowed to sell grocery. She said the Council upheld the decision of the Planning Commission denying the appeal. She said at the same meeting the Council considered the Study Issue regarding Business Identification on Ground Signs with staff recommending the Planning Commission's recommendation. The Council agreed with the Planning Commission and staff and approved the recommendations.

Other Staff Oral Report - None

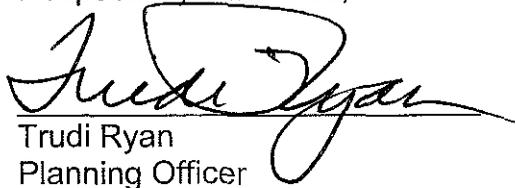
INFORMATION ONLY ITEMS

Comm. Hungerford requested that Ms. Ryan remind the Commission by e-mail regarding the March 3, 2009 joint study session. Ms. Ryan agreed.

ADJOURNMENT

With no further business, the Commission meeting was adjourned at 12:08 a.m.

Respectfully submitted,


Trudi Ryan
Planning Officer