



CITY OF SUNNYVALE REPORT PLANNING COMMISSION HEARING

January 28, 2013

File Number: 2012-7564

Permit Type: Appeal of a Miscellaneous Plan Permit

Location: 1243 W. El Camino Real (near S. Knickerbocker Dr.) (161-22-007)

Applicant/Owner: Nelson Architecture Inc. / Martin Family Properties

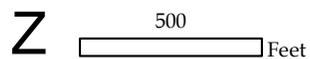
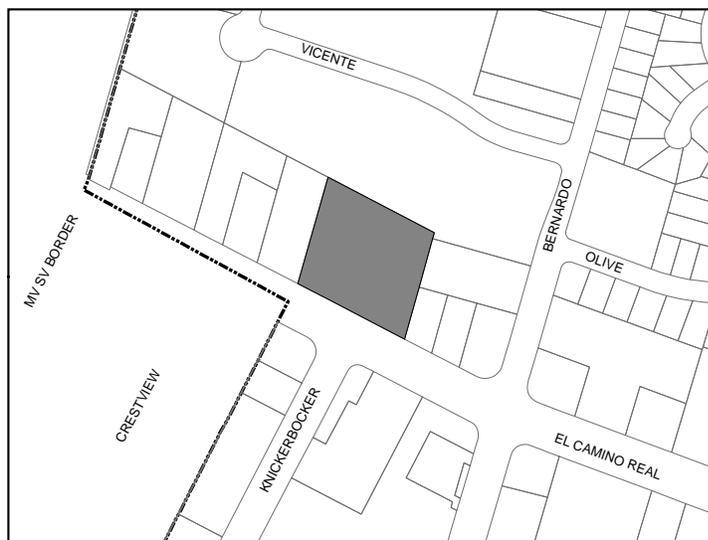
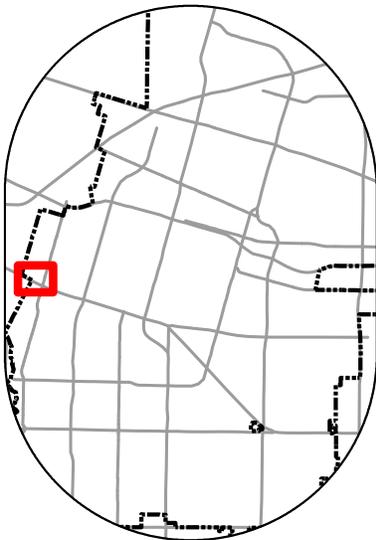
Staff Contact: Ryan M. Kuchenig, Associate Planner, (408) 730-7431

Project Description: Appeal of a decision by the Director of Community Development to deny a Miscellaneous Plan Permit for a free-standing Automatic Teller Machine (ATM) kiosk within the parking lot of a shopping center (Los Cedros Center).

Reason for Permit: A Miscellaneous Plan Permit is required for walk-up ATM uses

Issues: Compatibility of Use, Streetscape Visual Character, Precedent

Recommendation: Deny the Appeal.



PROJECT DESCRIPTION

Existing Conditions:	Multi-Tenant Shopping Center
Zoning District:	C-2/ECR
Parking Spaces:	150 proposed (151 existing)
Front Setback of ATM:	Approx. 45'

Previous Planning Projects related to Subject Application:	Yes
Neighborhood Preservation Complaints: There are no active Neighborhood Preservation Complaints for the property	No
Deviations from Standard Zoning Requirements	No

Site Layout: The site consists of a shopping center with two buildings. A building with restaurant and office tenants is located along the west side of the site and a retail use (BevMo) is located in the larger L-shaped building positioned at the opposite side of the site. A parking lot lies in between the two buildings. The proposed free-standing Bank of America ATM kiosk would be positioned towards the front of the site within a landscaped area adjacent to the parking area. Associated lighting and security cameras would be situated within and around the ATM kiosk.

Parking: A total of 151 spaces are currently located within the shopping center. As a result of the new ATM kiosk, one parking space would be removed for a total of 150. The site meets parking standards for shopping centers greater than 20,000 square feet. An accessible parking space would be created to serve the area near the proposed kiosk.

Landscaping: The applicant proposes to re-landscape the area of the site near the proposed ATM. Two 24" box trees would be placed adjacent to the parking area and a variety of shrubs and ground cover is also planned near and around the new freestanding kiosk. A new pedestrian walkway from the public sidewalk to the kiosk is planned.

Compatibility: The free-standing ATM kiosk would introduce a new commercial use to the shopping center. Exterior walk-up ATM uses located within shopping centers are typically associated with a bank on-site or positioned adjacent to a building. Staff is supportive of an ATM use even if not associated with a bank in the center. Architecturally, the free-standing kiosk is well designed with a painted plaster finish and a metal canopy. If approved, staff would recommend painting the façade and canopy of the new structure to match the design of the existing buildings. The provided plans indicate signage; however, a separate sign permit would be required, if approved.

The proposed location is not integrated into the existing layout of the site and would be highly visible from El Camino Real. Prior to the decision to deny the

Miscellaneous Plan Permit, staff had recommended to the applicant to consider a location within or directly adjacent to the existing buildings on site. A location adjacent to or near the BevMo building appears feasible with a limited loss in parking. Staff is primarily concerned of the precedent for an independent free-standing walk-up use in a highly visible location along a major public street, such as El Camino Real.

The Department of Public Safety staff has stated security concerns with the proposal and that increased crime could result from the use. A concern was noted that such a structure would be more susceptible to break-ins than one attached to a bank building. The applicant notes that similar kiosks have been built in neighboring cities and has provided a letter with security information and history (Attachment D) related to Bank of America ATMs and similar walk-up ATM uses. If approved, staff has included Condition of Approval PS-2, requiring approval of crime prevention measures from the Department of Public Safety. These measures would include video surveillance, automatic sensors for lighting, and the use of low-lying shrubs around the enclosure.

Public Contact: Notices were sent to property owners and tenants within 300 feet of the subject site in addition to standard noticing practice. No letters were received.

Environmental Determination: A Categorical Exemption Class 1 (accessory structures) relieves this project from CEQA provisions.

FINDINGS

In order to approve the appeal, the following findings must be made:

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale.

Precise Plan for El Camino Real

4.1.4.c. – Provide pedestrian connections between all buildings on the site. Avoid pad buildings along street frontages without clear pedestrian links to the remainder of a shopping complex.

Land Use and Transportation Element

Action Statement LT-2.1d - Require that commercial activities be conducted primarily within a building.

Action Statement LT-4.1a - Limit the intrusion of incompatible uses and inappropriate development into city neighborhoods.

Policy LT - 4.13 - Promote an attractive and functional commercial environment.

Community Design Element

Goal CC-3 Well Designed Sites and Buildings - Ensure that buildings and related site improvements for private development are well designed and compatible with surrounding properties and districts.

The proposed ATM is considered a compatible use within commercial zoning districts and along El Camino Real; however, the pad structure which is located towards the street frontage appears independent of the existing uses with the center. Although a connection is provided to the public sidewalk, the new pad building does not integrate into the existing development. Alternative locations that are either adjacent or closer to the larger retail building are recommended. **[Finding Not Met]**

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties.

ATMs within shopping centers are fairly common. In a few cases, an ATM is not associated with another bank on-site; however, the proposal as a free-standing kiosk structure would be the first of its kind within Sunnyvale. Although concerns were raised by the Department of Public Safety regarding the use, the decision to deny the proposed use is primarily related to the aesthetic streetscape appearance and compatibility of the location on site. Staff is further concerned that an independent walk-up use, as currently located, could set a precedent for similar proposals in the future along El Camino Real. **[Finding Not Met]**

ALTERNATIVES

1. Deny the Appeal of a Miscellaneous Plan Permit and uphold the decision of the Director of Community Development to deny the requested location of the free-standing ATM kiosk.
2. Grant the Appeal of a Miscellaneous Plan Permit with recommended Conditions of Approval in Attachment A.
3. Grant the Appeal of a Miscellaneous Plan Permit with modified Conditions of Approval in Attachment A.

RECOMMENDATION

Alternative 1. Deny the Appeal of a Miscellaneous Plan Permit and recommend a new application be submitted with a kiosk location that is better integrated within the shopping center.

Reviewed by:

Trudi Ryan
Planning Officer

Prepared By: Ryan M. Kuchenig, Associate Planner

Attachments:

- A. Conditions of Approval and Standard Requirements
- B. Site and Architectural Plans
- C. Applicant's Appeal Letter
- D. Applicant's Letter Regarding Security Information

**RECOMMENDED
CONDITIONS OF APPROVAL AND
STANDARD DEVELOPMENT REQUIREMENTS
JANUARY 28, 2012**

Planning Application **2012-7564**
1243 W. El Camino Real
Free-standing ATM kiosk

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following Conditions of Approval and Standard Development Requirements of this Permit:

GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE APPROVED PROJECT.

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION
All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. USE EXPIRATION:

The approved Miscellaneous Plan Permit for the use shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)

GC-3. PERMIT EXPIRATION:

The permit shall be null and void one year 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 expiration date and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-4. BUILDING PERMITS:

Obtain any required building permits prior to construction. [SDR] [PLANNING]

GC-5 IRRIGATION AND LANDSCAPING:

Irrigation and landscaping shall be added to the site as indicated in the approved plans. [COA] [PLANNING]

GC-6 LANDSCAPE MAINTENANCE:

All landscaping shall be maintained in accordance with approved landscape plans and in a neat, clean, and healthful condition. Trees shall be allowed to grow to the full genetic height and habit (trees shall not be topped). Trees shall be maintained using standard arboriculture practices. [COA] [PLANNING]

GC-7. SIGNS:

Any proposed signage shall require separate approval by the City prior to installation. [COA] [PLANNING]

PS: THE FOLLOWING CONDITIONS SHALL BE MET PRIOR TO SUBMITTAL OF BUILDING PERMIT.

PS-1. REQUIRED REVISIONS TO PROJECT PLANS:

The plans shall be revised to including the following:

- a) Paint color of the kiosk façade and canopy shall match the existing commercial buildings on the site.

PS-2 DEPARTMENT OF PUBLIC SAFETY REVIEW:

Obtain approval from the Crime Prevention Division of Public Safety Department for crime prevention measures appropriate to the proposed use prior to issuance of a Building Permit. [COA] [PLANNING]

PS-3 EXTERIOR LIGHTING PLAN:

Prior to issuance of a Building Permit submit an exterior lighting plan, including fixture and pole designs, for review and approval by the Director of Community Development. Driveway and parking area lights shall include the following:

- a) Sodium vapor (or illumination with an equivalent energy savings).
- b) Pole heights to be uniform and compatible with the areas, including the adjacent residential areas. Light standards shall not exceed 18 feet on the interior of the project and 8 feet in height on the periphery of the project near residential uses.
- c) Provide photocells for on/off control of all security and area lights.
- d) All exterior lights shall be equipped with vandal resistant covers.
- e) Wall packs shall not extend above the roof of the building.
- f) Lights shall have shields to prevent glare onto adjacent residential properties. [COA] [PLANNING]

Dec 5, 2012

To: City Of Sunnyvale, Planning Department

Subject:

2012-7564 Miscellaneous Plan Permit for a Free Standing ATM Kiosk within a commercial Shopping Center
1243 W El Camino Real, Sunnyvale, CA

To Whom It May Concern,

This letter is issued to formally apply to appeal the planning department staff recommendation of denial for the proposed plan of the Bank of America kiosk located within the existing commercial shopping center at 1243 W El Camino, as per the drawings submitted previously.

We have worked with the planning department thru the initial schematic and design development phases, and thoroughly addressed specific concerns to date. The following items in the denial letter were referenced:

- 1) *Did not attain the objectives and purposes of the general plan of the City of Sunnyvale.*
Response: We have had no specific information on what objectives are not being achieved. There is no specific limitation on the construction of the kiosk from a building or site perspective; there is adequate parking and path of travel provided. There are adequate setbacks from adjacent structures for fire access. There will be adequate lighting and low approved landscaping groundcover provided for security purposes.
- 2) *Ensure that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair the orderly development of, or the existing uses being made of, adjacent properties.*
Response: By providing the kiosk in its proposed location, we are not adversely affecting the adjacent business by blocking line of sight to their storefronts or impacting parking adjacent to their tenant areas. By locating the kiosk in its proposed location there is no impact to the overall access to adjacent pad tenants, which means an additional business can be added to the site without negative impact.

Finally, there is a reference to the Design Guidelines of the Precise Plan for El Camino Real section 4.1.4.c "Provide pedestrian connections between all buildings on the site. Avoid pad buildings along street frontages without clear pedestrian links to the remainder of the shopping complex."

Response: Attached please find our schematic plan which addresses this concern by providing clear pedestrian links to the adjacent pads on the site, and also then provides an accessible path of travel from the public way at El Camino Real to all three of the building pads, currently not in place. This serves to satisfy ADA and California recommendations for accessibility improvements.

It is our opinion that this kiosk location is the appropriate location on the site for visibility for existing tenants, ease of use, provision of level accessible parking, and providing disabled access to the other pad buildings from the public way is in keeping with the goals of the ADA and local jurisdictional codes.

Included also is the appeal fee of \$150.50.

Sincerely,



Steven Hall, Architect

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ARCHITECTURAL AND ENGINEERING SERVICES OFFERED BY LICENSED AFFILIATES

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October 31, 2012

To: The City of Sunnyvale Planning Department

**Re: Request for Security Information / Bank of America Walkup Kiosk ATM
1247 W. Camino Real, Sunnyvale, CA
Bev Mo Shopping Center**

To Whom It May Concern:

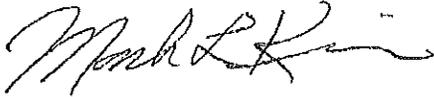
I'd like to relay the following information on security in support of the Bank's proposal to locate a walkup ATM kiosk at the Bev Mo Shopping Center, 1247 W. Camino Real, Sunnyvale, CA, from Shawn Barreiro, Vice President-Protective Services Manager:

- Corporate Security Protective Services Manager covers all BofA properties in San Mateo County, Santa Clara County, Santa Cruz County, San Benito County, Monterey County, Fremont, Newark, and some San Francisco ATMs
 - Includes 91 Banking Centers with multiple ATMs and approximately 100 remote ATMs
 - Most common issues are vandalism, fraud, and panhandler/homeless issues
- Bank of America operates 3 banking centers in Sunnyvale and one remote ATM located at 484 N Mathilda
 - Only recorded Sunnyvale ATM robbery in the Bank's Corporate Security case management system was 4/13/09 at Sunnyvale Main, 444 S Mathilda Ave.
 - Male victim was carjacked/kidnapped, driven to BofA and forced to provide ATM card and PIN
 - Exterior ATM cameras caught images of the suspects
 - No other ATM robberies occurred in Sunnyvale since the local Corporate Security Manager took over in late 2007
- Nearest comparable walkup ATM is located in the parking lot of a retail strip mall, at 5297 Stevens Creek Blvd. (Lawrence Expressway) in Santa Clara
 - No security related incidents in over 5 years
 - Only incident was 8-9 years ago when a fraud suspect placed a skimming device on the machine
- Plan to install 3 cameras at the Bev Mo location:
 - Standard ATM transaction camera, mounted inside the ATM, captures images of customers engaged in their transaction
 - 2 Bosch exterior day/night dome cameras with 2/5-12 mm lenses:
 - First dome camera to provide an overall shot directly in front of the ATM. This way should a robbery suspect approach our customer while he/she is withdrawing money from the ATM, the incident will be caught on video.
 - Second dome camera should cover the parking lot directly in front of the ATM. That camera should capture video if our customer were accosted at

their vehicle. It also can capture images of a fraud/robbery suspect's vehicle.

- Preference for location of the kiosk would be in the most visible location--out in the open away from any buildings. This would be similar to walkup ATM mentioned above.

Thank you,



Mark Kriege
Project Manager
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