



**APPROVED MINUTES  
SUNNYVALE PLANNING COMMISSION  
February 11, 2013  
456 W. Olive Avenue, Sunnyvale, CA 94086**

**7:00 PM - Study Session – West Conference Room**

- 1. File #:** 2012-7895  
**Location:** 696 W. El Camino Real  
**Proposed Project:** Special Development Permit to allow a new approximately 9,836 s.f. multi-tenant retail building.  
**Applicant/Owner:** Steven Askari/Behzad and Louise Askarinam Trustee  
**Environmental Review:** Mitigated Negative Declaration  
**Staff Contact:** Ryan Kuchenig, (408) 730-7431  
[rkuchenig@sunnyvale.ca.gov](mailto:rkuchenig@sunnyvale.ca.gov)  
**Notes:** (20 minutes)
- 2. File #:** 2012-7625  
**Location:** 1165 East Arques Ave. (APN: 205-24-013)  
**Proposed Project:** Use Permit for new fitness center of 45,000 square foot building, including parking and landscaping.  
**Applicant/Owner:** Kenneth Rodrigues & Partners / Twc Storage LLC  
**Environmental Review:** Mitigated Negative Declaration  
**Staff Contact:** Shaunn Mendrin, (408) 730-7429,  
[smendrin@sunnyvale.ca.gov](mailto:smendrin@sunnyvale.ca.gov)  
**Notes:** (25 minutes)
- 3. Public Comment on** (5 minutes)  
Study Session Agenda  
Items
- 4. Comments from the Chair** (5 minutes)
- 5. Adjourn Study Session**

**8:00 PM - Public Hearing – Council Chambers**

**CALL TO ORDER**

**SALUTE TO THE FLAG**

*Any agenda related writings or documents distributed to members of the Planning Commission regarding any open session item on this agenda will be made available for public inspection in the Planning Division office located at 456 W. Olive Ave., Sunnyvale CA 94086 during normal business hours, and in the Council Chambers on the evening of the Planning Commission meeting pursuant to Government Code §54957.5.*

## **ROLL CALL**

Members Present: Chair Gustav Larsson; Vice Chair Maria Dohadwala; Commissioner Glenn Hendricks; Commissioner Arcadi Kolchak; Commissioner Russell W. Melton; and Commissioner Ken Olevson.

Members Absent: Commissioner Bo Chang, excused absence.

Staff Present: Trudi Ryan, Planning Officer; Kathryn Berry, Senior Assistant City Attorney; Andrew Miner, Principal Planner; Diana O'Dell, Senior Planner; and Deborah Gorman, Recording Secretary.

**SCHEDULED PRESENTATION** - none.

## **PUBLIC ANNOUNCEMENTS/PUBLIC COMMENTS**

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 or you may orally make a request to speak. 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.

**Barbara Fukumoto**, a member of the public, announced that the Silicon Valley Transportation Summit 2013 is scheduled for Saturday, February 23, 2013. She said the summit would be held at the Luther Burbank School located at 4 Wabash Avenue, San Jose, CA 95128 from 9 a.m. to 4 p.m. For more information please see the following website: [www.transformca.org](http://www.transformca.org)

## **CONSENT CALENDAR**

1.A. Approval of Minutes: January 28, 2013

**ACTION: Comm. Hendricks moved to approve the Consent Calendar. Comm. Melton seconded. Motion carried, 6-0, with Comm. Chang absent.**

**PUBLIC HEARINGS/GENERAL BUSINESS**

2. **File #:** 2012-8003  
**Location:** Citywide  
**Proposed Project:** Lawrence Station Area Plan Phase 2, Discussion and Possible Action to Select Land Use Alternative and Circulation Framework  
**Staff Contact:** Andrew Miner, (408) 730-7707  
[aminer@sunnyvale.ca.gov](mailto:aminer@sunnyvale.ca.gov)  
**Notes:** *This item is scheduled to be considered by City Council on February 26, 2013.*

**Andrew Miner**, Principal Planner, presented the staff report. He said also present this evening to answer questions is Barbara Maloney with BMS Design Group, the firm preparing the plan for the City.

**Mike Kim**, Co-chair of the Citizen Advisory Group (CAG) for the Lawrence Station Area Plan (LSAP), said the membership of the CAG represents a broad cross section of the City. He said this work product is the result of many discussions with CAG, staff and consultants over many months. He discussed the three distinct phases of the project. He said the result that percolated up was the flexible mixed use, as the group felt that not much would happen if the uses were not flexible.

**Comm. Hendricks** discussed with staff auto circulation elements and changes. Mr. Miner discussed different uses including office and housing in regards to circulation. Mr. Miner commented that there are grants available for this type of development. Comm. Hendricks asked about office located next to residential with staff noting that this type of mixed use already exists in the downtown. Mr. Miner said the CAG talked about having office and housing together and that it brings 24-hour energy to an area. **Trudi Ryan**, Planning Officer, discussed incompatible uses near each and the importance of keeping the uses in mind during the design stage. Comm. Hendricks referred to Attachment A, page 3 and discussed with staff the redesign of Kifer Road. Comm. Hendricks discussed with staff the reduced parking standards next to the train station. Comm. Hendricks referred to Attachment D, page 2 and discussed the roadway designs with staff. Staff added that the roadway plans have changed and no longer result in rights-of-way bisecting the Costco property which was the concern in Attachment D. Mr. Miner referred to the Technical Advisory Group (TAG) which is made up of representatives from multiple agencies and groups, and said they have also shifted their roadway design plans in the area since the letter from Costco was received.

**Comm. Olevson** said he recognizes this planning has been designed by committee and that there has been a lot of input. Comm. Olevson expressed concern about the area north of Costco being part of the City of Santa Clara and what asked what we can do to make sure the plans do not stop at our border. Staff explained the collaboration efforts with TAG, which includes the City of Santa Clara and many other agencies, and the many efforts that have been made to work on good alignments of roadways and plans. Staff said at least at this level we have concurrence on these plans and the work will continue for collaboration between different groups. Comm. Olevson said the CAG envisions 24-hour use of this area and asked staff what that means. Mr. Miner explained that this means that all the buildings are not empty office buildings.

**Vice Chair Dohadwala** said she would like to see a good definition of flexible mixed use; specifically how the City defines it. Vice Chair Dohadwala discussed with staff flexible mixed use, with Mr. Miner saying rather than defining mixed use, instead we expect to provide strict

guidelines on how uses interact with each other and define how much of each use should be allowed as we go forward. Mr. Miner said there could be a pool of use types, or other options. Vice Chair Dohadwala discussed with staff form based codes and plans. Mr. Miner said the Commission will continue to see these concepts moving forward with the continuing outreach and study sessions and the Commission will be a part of public discussion.

**Comm. Melton** commented that Chair Larsson and he are on the CAG. He thanked Mr. Kim for his opening statements. Comm. Melton said there has been a high level of participation for this plan and asked if anyone reached out to Texas Instruments. Mr. Miner said he would be providing a presentation to Texas Instruments tomorrow (2/12/13) and that it was arranged through the Silicon Valley Leadership Group (SVLG). Comm. Melton discussed with staff the trees on Sonora Court. Comm. Melton asked about soil and groundwater conditions in the area with Mr. Miner saying it is early for this type of review; however Intuitive Surgical is in the area and has completed these reviews. Staff said soil and groundwater will be addressed as the plan moves forward. Comm. Melton asked about the permanency of Caltrain using this station with staff saying the best way to prevent losing the station would be to increase ridership which this plan should aid in that effort.

**Chair Hendricks** asked if staff has any data on home ownership versus rentals in relation to train ridership. Ms. Ryan said staff could research this.

**Comm. Olevson** commented about the flow pattern of the pedestrian walkways under or over train tracks. He said San Carlos faced a similar problem in the 1980's, worked with Caltrain and was able to get the track elevated. Comm. Olevson encouraged staff to not cross elevating the track off the list saying that with enough incentive for Caltrain it could happen.

**Chair Larsson** discussed with staff the mixed use plans and that transitioning to the mixed use would be addressed in the implementation phase. Mr. Miner said that Intuitive Surgical sees themselves as being good neighbors and not incompatible with residential. Chair Larsson commented that implementation could raise land values. Chair Larsson said the study area only represents 1% of the land in Sunnyvale; however potential housing could help the City meet housing goals if housing is clustered here. Chair Larsson discussed with Mr. Kim and Mr. Miner that the CAG would like to target sites for employment very close to the train station, hopefully within 1/8<sup>th</sup> of a mile of the train station.

#### **Chair Larsson opened the public hearing.**

**Bena Chang** with the SVLG thanked the CAG for the work on this plan. She said she thinks the plan is moving in the right direction and likes the increases in the uses near the Caltrain station. She encouraged compact development around the Caltrain station, taking into consideration a careful increase in the density near the station. She said the top issue for most businesses in the area is the lack of housing for their employees. She encouraged great pedestrian and bike access for this area.

**Barbara Fukumoto**, a member of the public, said this is a thoughtful plan and the flexible mixed use model makes sense. She discussed the parts of the plan that she likes including adequate housing, that this is an appropriate place for higher density, improved circulation, and the saving of the trees on Sonora Court. She said this area will need an ambitious Traffic Demand Management plan. She said she hopes the bar is set high for green building and environmental sustainability and that this station could be a regional model of sustainability. She suggested that pedestrian cut-throughs be included.

**Mark Sabin**, a member of the public, said 47% of households in Sunnyvale make less than \$75,000 a year. He said the median price of a house is climbing back up to \$900,000. He said housing rents should not be more than 1/3 of income. He strongly urged looking for creative ways to provide housing that is attainable for more households. He said with gas prices up it is important to encourage projects like this with transit. He strongly encouraged the idea of smaller businesses within the 1/8<sup>th</sup> of a mile from transit as larger businesses would only be there from 8 a.m. to 5 p.m.

**Chair Larsson closed the public hearing.**

**Comm. Hendricks** asked staff about Ms. Fukumoto's comments about sustainability. Mr. Miner said sustainability is definitely a factor as the plan moves forward and it would be appropriate for the Commission to recommend that sustainable features be included and encouraged.

**Vice Chair Dohodwala** expressed concern about the housing and quality of life in a Transit Oriented District (TOD), taking into consideration the higher density, and air, noise, and light levels. She said it is a good thing to provide the housing, however these things could impact the quality of life of residents. She suggested stricter regulations to prevent environmental and health impacts, and suggested setting a radius limiting the amount of residences allowed in the Caltrain area.

**Chair Larsson** asked staff to comment about housing as mentioned by Mr. Sabin. Mr. Miner said that part of the effort includes having a housing plan including affordable housing, and senior housing. Chair Larsson asked staff to comment about depressing Lawrence Expressway with Mr. Miner discussing a long term County project in the early planning stages that may include this. Chair Larsson discussed with staff a feasibility study regarding this that is occurring this year, with implementation happening in the future.

**Ms. Ryan** responded to Vice Chair Dohadwala's quality of life concerns commenting that the quality of life in one neighborhood can be different than another, however agreeing that certain core qualities would need to exist.

**Comm. Melton moved for Alternative 1, to recommend to City Council to accept the Flexible Mixed Use alternative and circulation and open space framework for LSAP as outlined in Attachment A as the recommended alternative to include in future plan preparation and environmental review preparation. Comm. Hendricks seconded the motion and offered a Friendly Amendment to add language** striving toward including ecological considerations and affordable housing and if staff could come up with the language to encompass these two ideas. Ms. Ryan said the language could be to **include sustainable features and affordable housing in future plan preparations. The Friendly Amendment was acceptable to the maker of the motion.**

**Comm. Melton** said it has been a pleasure to serve on the CAG. He said he views all of this as a check-in process that will still require a tremendous amount of incremental effort from a wide variety of sources. He said he is looking forward to seeing the affordable housing and sustainability components. He discussed other parts of the plan including a suggestion by Councilmember Whittum at the Joint Study Session for possibly reserving land for a potential High School site. He encouraged his fellow commissioners to support the motion.

**Comm. Hendricks** thanked the CAG members and members of the public for providing input this evening. He said he likes the direction of flexible mixed use. He said you have to start somewhere. He said he would like to see more sustainability features and affordable housing. He thanked everyone for the work and said he hopes the City Council moves forward with this.

**Comm. Kolchak** said he would be supporting the motion. He said this is visionary and said he appreciates the public comments. He said he would like this area to be LEED (Leadership in Energy and Environmental Design) Platinum if possible and would like to see if there is a way to shorten the blocks to make them more walkable. He said this plan is going in a good direction and he looks forward to seeing the results of the planning come to fruition.

**Comm. Olevson** said he would be supporting the motion as he believes the long term planning keeps Sunnyvale vibrant. He said there is still a great deal to be accomplished and the details will be the majority of the work. He commended those who have worked on the plan thus far.

**Vice Chair Dohadwala** said she would be supporting the motion. She said she believes the Lawrence Station area has a lot of potential. She said the planning is important for this to be successful as we take one step at a time to achieve our goal. She said she looks forward to more definitions and especially the definition of flexible mixed use.

**Comm. Hendricks** added that former Comm. Sulser was the Commissioner who initiated this Study Issue and thanked him for the work he did to get this study started.

**Comm. Larsson** thanked the members of the public who came to speak. He said there are a lot of pieces to bring this plan together and a lot of harder work ahead. He said he thinks this is a wonderful vision for this part of the City as it is currently not as cohesive as it could be. He said this is a chance to bring the area together and create a "lifestyle zone." He said the demographics of Sunnyvale are changing and this plan will provide new options for the future.

**ACTION: Comm. Melton made a motion on 2012-8003 to recommend to City Council to accept the Flexible Mixed Use alternative and the circulation and open space framework for the LSAP as outlined in Attachment A as the alternative to include in future plan preparation and environmental review preparation with a modification to include sustainable features and affordable housing. Comm. Hendricks seconded. Motion carried 6-0, with Comm. Chang absent.**

**APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the February 26, 2013 City Council meeting.**

- 3. File #:** 2010-7148  
**Location:** Citywide  
**Proposed Project:** Discussion and Possible Action on Retooling the Zoning Code (Title 19 of the Sunnyvale Municipal Code) with Focus on Organizational Structure and Article 1 (Purpose, Applicability, Administration and Nonconforming Uses, Structures and Lots).  
**Staff Contact:** Diana O'Dell, (408) 730-7257  
[dodell@sunnyvale.ca.us](mailto:dodell@sunnyvale.ca.us)  
Rosemarie Zulueta. (408) 730-7437  
[rzulueta@sunnyvale.ca.gov](mailto:rzulueta@sunnyvale.ca.gov)  
**Notes:** *This item is scheduled to be considered by City Council on February 26, 2013.*

**Diana O'Dell**, Senior Planner, presented the staff report. She said staff would like the Planning Commission to provide input regarding nonconforming uses, structures and lots and policy regarding transitioning these to a conforming status.

**Comm. Hendricks** discussed with staff whether the retooling of Title 19 should include reserving space for the Lawrence Station Area Plan (LSAP) with staff saying at least two chapters have been reserved for Specific Plans. Comm. Hendricks discussed with staff the current policy on nonconforming uses, structures and lots with staff. Comm. Hendricks discussed with staff: whether the policy is aiming to eliminate nonconforming structures; the balance of allowing some repair to a nonconforming structure so a structure does not become dilapidated; and possibly changing the use would be one of the keys towards requiring conformation. Comm. Hendricks commented that his feedback is that if the use is staying the same that the property owner could be allowed to rehabilitate the structure; however if the use is changing then the use, structure or lot would need to be brought into conformance with the code.

**Comm. Olevson** discussed the legal nonconforming issue and repair versus replacement. He said that a legal nonconforming structure could be destroyed, e.g. a natural disaster, at no fault of the owner and that with the use, staying the same, the structure could be rebuilt. He said that a change in use might be the demarcation for determining when a nonconforming structure would be required to conform.

**Comm. Melton** commented on the discussion about nonconforming uses at a recent Study Session. He said if he were providing feedback to City Council on this subject it would be that nonconforming uses, structures and lots be brought into conformance as soon as possible and that the policy be set up to achieve this. He said he likes Comm. Hendricks' suggestion about change of use, and intensification of use. Comm. Melton said Comm. Chang had brought up the subject of "useful life" which was also an option to consider.

**Vice Chair Dohadwala** confirmed with staff that there is an assumption that if a site has a particular use that the use could continue as that use. **Trudi Ryan**, Planning Officer, added that if a legal nonconforming use is not active for a period of time, then that use may not be allowed to continue. Ms. O'Dell commented that there are three separate sections in the code for nonconforming use, structures, and lots. Vice Chair Dohadwala commented that she thinks it would be fair that nonconforming uses, structures or lots should be allowed to be repaired, however not altered, enlarged or replaced. Vice Chair Dohadwala said there should be a clear definition of "repairing" in the code.

**Chair Larsson** discussed with staff replacement of nonconforming structures in residential settings and that new homes should conform to all requirements. He discussed primary buildings, and secondary structures, e.g. required garages versus non-required garden sheds. He said he liked Comm. Hendricks comments about the change of use. Ms. Ryan asked if detached garages should be considered as a separate category.

**Comm. Olevson** said he thinks having a carve-out for required garages, would be a good idea.

**Comm. Hendricks** discussed with staff Comm. Olevson's discussion of structures being damaged in a natural disaster confirming with staff that there would be a separate set of policies. Comm. Hendricks confirmed with staff that the input from the Commission regarding nonconforming uses, structures and lots is information-collecting and not a recommendation for City Council at this time. Ms. Ryan noted that if the Commission reaches a consensus that the consensus could be taken forward to Council.

**Vice Chair Dohadwala** commented about the Organizational Structure of Article 1 suggesting clarification to some of the titling. She said, as an exercise, she tried locating varied information. She asked about locating basic information, e.g. lot area and widths, that she could not find. Ms. O'Dell explained that with the new structure the idea is that all the basic information for a particular zoning would be in one place rather than different chapters. Vice Chair Dohadwala said if she does not comment on something in the new organization that means she likes the change. Vice Chair Dohadwala made specific suggestions regarding titles such as operating standards, accessory structures and impact fees. Ms. O'Dell clarified how definitions are located in the new structure.

**Comm. Hendricks** discussed with staff the direction of document types, which still include paper versions. Ms. O'Dell said staff would work with the Municipal Code vendor to electronically link the code with hyperlinks including to other design and related development documents.

**Chair Larsson** asked further about nonconforming structures destroyed by natural disaster confirming with staff that possibly an urgency ordinance would be created, however this situation does not have to be addressed here.

**Chair Larsson opened and closed the public hearing as no one requested to speak.**

**Comm. Hendricks moved for Alternative 2, to approve the organizational structure and draft language of Article 1 with modifications and direct staff to proceed with the next phases of Retooling the Zoning Code with the modifications being the clarifications on chapter titles as suggested by Vice Chair Dohadwala. Comm. Melton seconded the motion and asked for a Friendly Amendment that this motion be a recommendation to Council. Comm. Hendricks accepted the Friendly Amendment and confirmed that this motion does not include anything about nonconforming uses, structures and lots.**

**Comm. Hendricks** commented that staff has been discussing the retooling in Study Sessions for a while adding that he is pleased with the retooling, acknowledging that this is a difficult task. He said staff has clearly articulated the problems and has been responsive to the Commission's feedback. He said Sunnyvale wants to be a leader and this is an opportunity to take a leadership position. He said he highly recommends to City Council to move forward with these efforts.

**Comm. Melton** said it takes courage and check-in points to bring long-range projects to fruition. He said Sunnyvale is maintaining the competitiveness of the City with these efforts and encouraged his fellow Commissioners to vote yes.

**Comm. Olevson** said it was time to retool these documents. He said he likes the proposal for the organization as it puts similar things in the same spot. He encouraged staff to keep the peddle-to-the-metal to bring these changes to fruition.

**Chair Larsson** said he would be supporting the motion and that the changes will make the zoning code more accessible. He said he is pleased there are more diagrams and that this is more user-friendly.

**Vice Chair Dohadwala** said she would be supporting the motion. She said she thinks this is a positive organizational step and she likes the electronic links.

**Comm. Kolchak** thanked Vice Chair Dohadwala for her clarification suggestions and said he would be supporting the motion. He said he thinks these changes are helpful and move in a good direction.

**Chair Larsson** asked if there is a second motion on the table.

**Comm. Hendricks** said he is not sure that the Commission is ready to make a motion regarding the nonconformance piece.

**Comm. Melton** said he would make a motion for Alternative 3, to recommend that City Council provide direction to the Planning Commission and staff on the preferred approach to addressing the policy questions on nonconforming uses, structures and lots with the augmentation that it include a policy statement that the City desires to get rid of nonconforming uses as quickly as possible and to direct staff to implement the policies. The motion died for lack of a second.

**Comm. Larsson** asked if there were any comments about carve-outs for garages.

**Comm. Hendricks** said he is not sure we need a motion about carve-outs for garages even though he likes the idea. Ms. Ryan said that the Commissioner comments, including the comments about potential carve-outs and accidental damage, will be provided to the Council as an attachment to the report. Comm. Hendricks said he is comfortable with staff's ability to bring back language on the nonconforming issue.

**Vice Chair Dohadwala** said she thinks that nonconforming structures should be allowed to be repaired and she would like to see good definitions of repair and replacements. She said she thinks a good definition of repair would include "for maintenance of structural and life safety."

**Comm. Hendricks** said he would let staff bring together the multiple comments regarding nonconformance and let staff find a happy medium of the many comments. Ms. O'Dell said staff would return to the Commission with something more concrete.

**ACTION: Comm. Hendricks made a motion on 2010-7148 for Alternative 2 to recommend to City Council: to approve the organizational structure (Attachment A) and draft language of Article 1 (Attachment B) with modifications, and direct staff to proceed with the next phases of Retooling the Zoning Code with clarifications on chapter titles as suggested by Vice Chair Dohadwala. Comm. Melton seconded. Motion carried 6-0, with Comm. Chang absent.**

**APPEAL OPTIONS: This recommendation will be forwarded to City Council for consideration at the February 26, 2013 City Council meeting.**

**4. Standing Item Potential Study Issues**

None.

**NON-AGENDA ITEMS AND COMMENTS**

- COMMISSIONERS ORAL COMMENTS
- STAFF ORAL COMMENTS

**City Council Meeting Report**

**Ms. Ryan** discussed Planning-related items considered at recent City Council meetings and provided the City Council rankings of Community Development Study Issues for 2013 that were determined at the February 1, 2013 Study Issue Workshop.

**INFORMATION ONLY ITEMS**

None.

**ADJOURNMENT**

With no further business, the Commission meeting adjourned 10:11 p.m.

Respectfully submitted,

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Trudi Ryan  
Planning Officer