



City of Santa Clara

PLANNING COMMISSION MEETING MINUTES

Wednesday, March 12, 2014 – 7:00 P.M.

CITY COUNCIL CHAMBERS
1500 Warburton Avenue
Santa Clara, CA 95050

Please refer to the Planning Commission Procedural Items coversheet for information on all procedural matters.
An audio recording of this meeting is available in the Planning Office for review or purchase the Friday following the meeting.

ITEMS FOR COUNCIL ACTION

The following items from this Planning Commission agenda will be scheduled for Council review following the conclusion of hearings and recommendations by the Planning Commission. Due to timing of notices for Council hearings and the preparation of Council agenda reports, these items will not necessarily be heard on the date the minutes from this meeting are forwarded to the Council. Please contact the Planning Division office for information on the schedule of hearings for these items:

- **8.C. File No.(s):** City of Santa Clara Park Impact Fee Nexus Study and Ordinance Enactment

1. PLEDGE OF ALLEGIANCE and STATEMENT OF VALUES

Chair Champeny initiated the Pledge of Allegiance, and the Statement of Values was read.

2. ROLL CALL

The following Commissioners responded to roll call: Chair Ian Champeny, Raj Chahal, Yuki Ikezi, Keith Stattenfield, Steve Kelly and Joe Sweeney. Commissioner Costa was excused.

Staff present were City Planner Steve Lynch, Development Review Officer Gloria Sciara, Assistant City Attorney Julia Hill, and Acting Office Specialist IV, Veronica Keller.

3. DISTRIBUTION OF AGENDA AND STAFF REPORTS

Copies of current agendas and staff reports for each of the items on the agenda are available from the Planning Division office on the Friday afternoon preceding the meeting and are available at the Commission meeting at the time of the hearing.

4. DECLARATION OF COMMISSION PROCEDURES

Chair Champeny reviewed the Planning Commission procedures for those present.

5. REQUESTS FOR EXCEPTIONS, WITHDRAWALS AND CONTINUANCES

A. Withdrawals - None

B. Continuances without a hearing –

Item 7.E. PLN2012-09935; Location: 1460 Halford Avenue Request: Six-month Review of approved Use Permit allowing service of beer and wine.

C. Exceptions (requests for agenda items to be taken out of order) - None

6. ORAL PETITIONS/ ANNOUNCEMENTS AND COMMUNICATIONS

Members of the public may briefly address the Commission on any item not on the agenda.

None.

7. CONSENT CALENDAR

Consent Calendar items may be enacted, approved or adopted, based upon the findings prepared and provided in the written staff report, by one motion unless requested to be removed by anyone for discussion or explanation. If any member of the Planning Commission, staff, the applicant or a member of the public wishes to comment on a Consent Calendar item, or would like the item to be heard on the regular agenda, please notify Planning staff, or request this action at the Planning Commission meeting when the Chair calls for these requests during the Consent Calendar review. Items listed on the Consent Calendar with associated file numbers constitute Public Hearing items.

7.A. Planning Commission Minutes of February 12, 2014

Motion/Action: The Commission motioned to approve the Minutes of February 12, 2014, (5-0-1-1, Costa absent, Kelly abstained)

7.B. File No.(s): **PLN2012-09533**
Location: 3275 Stevens Creek Boulevard, a 0.61 acre parcel on the north side of Stevens Creek Boulevard approximately 75 feet east of Henry Avenue, APN: 303-18-022; property is zoned Thoroughfare Commercial (CT)
Applicant/Owner: Abe Novin
Request: **One-year Review** of Use Permit Approval of phase two allowing a total of 24 outdoor vehicle display spaces, and subject to adopted conditions of approval
CEQA Determination: Review is not a project under CEQA
Project Planner: Yen Chen, Associate Planner
Staff Recommendation: **Note and File report**

Motion/Action: The Commission motioned to note and file the review of the Use Permit for the property located at 3275 Stevens Creek Blvd. (6-0-1-0, Costa absent)

7.C. File: **PLN2013-10183**
Location: 4300 Great America Parkway, 1.59 acre site, located at the northwest corner of Great America Parkway and Mission College Boulevard. The Property is zoned Thoroughfare Commercial (APN: 104-16-092).
Applicant: Iguanas Restaurant
Owner: Landmark Equities LP
Subject: **Use Permit to allow restaurant beer and wine service** (Type 41 ABC License) in an existing restaurant
CEQA Determination: Categorically Exempt per CEQA Guidelines 15301 (Class 1–Existing Facilities)
Project Planner: Jeff Schwilk, AICP, Associate Planner
Staff Recommendation: Approve, subject to conditions

Motion/Action: The Commission motioned to approve the Use Permit to allow beer and wine service at 4300 Great America Parkway (6-0-1-0, Costa absent)

7.D. File: **PLN2013-10191**
Location: 1705 El Camino Real, a 1.31 acre site, located at the north side of El Camino Real , approximately 285 feet west of Lincoln Avenue . The Property is zoned Thoroughfare Commercial (APN: 104-16-092).
Applicant: Samuel Chow, MBH Architects
Owner: Wells Fargo Bank
Subject: **Use Permit** to allow the conversion of a drive-thru bank teller window to a drive-up automated teller machine (ATM)
CEQA Determination: Categorically Exempt per CEQA Guidelines 15301 (Class 1–Existing Facilities)
Project Planner: Debby Fernandez, Associate Planner
Staff Recommendation: Approve, subject to conditions

Motion/Action: The Commission motioned to approve the Use Permit to allow the conversion of a drive-thru bank teller window at 1705 El Camino Real. (6-0-1-0, Costa absent)

7.E. File No.(s): **PLN2012-09935**
Location 1460 Halford Avenue, a 2,667 square foot tenant space in an existing shopping center located on 1.18 acre parcel located at the intersection of Burnley Way and Halford Avenue; the project site is zoned as CC-Community Commercial
Applicant/Owner: Tye-Tazy Lin/Nicholas G Kadjevich Jr.
Request: Six-month Review of approved Use Permit allowing service of beer and wine (ABC License Type 41) in conjunction with a new full service restaurant
CEQA Determination: Review is not a project under CEQA.
Project Planner: Payal Bhagat, Assistant Planner II
Staff Recommendation: Continue to August 15, 2014 (item will be re-noticed)

Motion/Action: The Commission motioned to continue the Use Permit allowing service of beer and wine at 1460 Halford Avenue to August 15, 2014. (5-0-1-1, Costa absent, Stattenfield abstained)

*******END OF CONSENT CALENDAR*******

8. PUBLIC HEARING ITEMS

8.A. File No.(s): **Lawrence Expressway Grade Separation Project**
Location: Lawrence Expressway/Santa Clara
Applicant / Owner: Santa Clara County Roads and Airports
Request: **Review and comment** on proposed Lawrence Expressway Grade Separation project
CEQA Determination: Not Applicable
Project Planner: Dawn Cameron, County Transportation Planner
Staff Recommendation: Review and comment

Discussion: Dawn Cameron, County Transportation Planner of SC County Roads and Airports gave a presentation on the project.

Commissioner Champeny disclosed the fact that while he works for the County of Santa Clara, he does not work for the Roads and Airports Division and this is not in the City's jurisdiction nor are they or City Council voting on the item. For these reasons, he explained he was not required to recuse himself.

Dawn Cameron introduced members of her consultant team; Adam Dankberg of Kimley-Horn and Associates and Eileen Goodwin of Apex Strategies. Project goals, concept development process and overall review of public outreach were covered. The project area of discussion is Arques, Kifer, Reed/Monroe and the encompassing corridors. Heavy traffic flow and difficulties for pedestrians and cyclists using Lawrence Expressway were problematic according to their research. One major benefit of the project is improved vehicle flow and improved bicycle and pedestrian safety. One major challenge is the cost for this project which is estimated at 400-440 million dollars and funding sources are unknown at this time. Construction was also indicated as a challenge by taking Lawrence Expwy down. Dawn explained the past 3 public meetings about this project were well attended (50-70 people in attendance at ea. meeting) and there was overall support from the attendees.

Commissioner Champeny had questions regarding funding and asked if County Roads or other cities already had some money set aside for this project. Dawn Cameron explained funding has not been identified. Commissioner Champeny also had questions about the other parcels and questioned whether they were other local municipality parcels or if there was a possibility of any question of eminent domain. The applicant explained it was too early to answer how the right of way would be acquired. Commissioner Stattenfield asked about construction within a 2-5 year timeframe and its effects on the projects along Lawrence Expressway. The applicant explained there are not any construction staging techniques at this point in time and recognized it will be a challenge to construct and manage traffic flow through the area. Commissioner Chahal had a question regarding the proposed concept and asked if the applicant's study was compared with another existing scenario close by. The applicant explained that they have not done a comparative study and there was nothing nearby they could compare it to. They explained they have done traffic modeling and a simulation video using projected traffic volumes in 2040 which would be posted to their website. Commissioner Sweeney asked the applicant if they considered an express lane bridge over all the intersections. The applicant replied yes, that concept would be most similar to 'Alternative 2' of the presentation which showed Lawrence being elevated but there were some disadvantages to that option.

The Public Hearing was opened.

Sarah Ismail, member of the public, stated she was happy that there was an organization that was looking to increase the health of the community. She explained there were no safe places to bike or walk and that it is hard to exercise in Santa Clara and she was happy this option is being considered.

The Public Hearing was closed.

City Planner, Steve Lynch, indicated this item was going to be heard at Council but there is no set date as of yet. Commissioner Stattenfield mentioned he lives near Lawrence and it is a problem which is worsening. He is substantially supportive of the project. Commissioner Chahal asked what the cost was for the study and the final report. Dawn Cameron replied the cost for the study and report was \$375k. Steve Lynch mentioned once they receive the preferred alternative, the project will move into the EIR phase.

Motion/Action: The Commission clarified this was a presentation and no action was required as this item was for review and comment only.

8.B. File No.(s): **PLN2013-09691**
Location: 1593 Lexington Street, a 11,325 square foot parcel located at the northeast corner of Lexington Street and Lincoln Street; APN: 269-26-012; property is zoned Medium-Density, Multiple-Family Residential (R3-36D)
Applicant / Owner: Fawzy Ismail
Request: Appeal of Zoning Administrator decision denying a Design Review application for a full basement conversion
CEQA Determination: Categorically Exempt per CEQA Guidelines 15301 (Class1–Existing Facilities)
Project Planner: Shaun Lacey, AICP, Assistant Planner II
Staff Recommendation: **Deny Appeal and Uphold Zoning Administrator action**

Discussion: Gloria Sciara gave a brief presentation of the project.

Gloria Sciara, Development Review Officer, gave some background information on this project. The applicant, Fawzi Ismael, proposed to convert the basement of his 1,655 sq. foot residence to habitable space. A notice of violation was issued because work was being done without building permits. The applicant requested to pursue the project and continue. Ms. Sciara indicated the project is at a standstill because a number of changes would need to be made in order to make the basement space habitable such as openings and egress windows. The project was then referred to the Historical Landmarks Commission and presented at the February 6, 2014 meeting. An additional review last year required that the applicant obtain a historic resource evaluation and the structure was found to be a qualified historic resource. When that is the finding, the project must follow the guidelines of the Secretary of the Interior Standards which is a standard policy also included in our General Plan. At the HLC meeting on February 6, 2014, the Commission found that the project was inconsistent with the Secretary of the Interior Standards and that it was an intensification which affected the neighborhood. Following this, the Zoning Administrator denied the applicant's request. In summary, the project consists of converting the basement which would require also raising the building 16 inches to accommodate the head height clearance needed for habitable space. In addition, the applicant is also proposing an additional living unit and a 2 car garage. Per Ms. Sciara, based on the current plans for the additional unit, it does conform to Planning's requirements and said Planning has no ability to deny that although this was included in the HLC's commentary and evaluation. Ms. Sciara further added this was a ministerial action. After presenting slides of the site plan, Ms. Sciara stated the reason this project was denied was because the proposal does not comply with the General Plan policy for historical preservation which is to minimize impact and to use Secretary of the Interior Standards. The exterior changes in addition to replacing existing material or adding new material, the number of openings, vertical elevation, window replacements and other work that was done without permits now served to remove some of the historical fabric elements that are important to conveying the historical importance and value of the structure. All these factors contribute to the potential to making it ineligible as a historic structure and that is also the reason for the denial.

Ms. Sciara presented some alternatives which were suggested such as maintain the existing height, limit the exterior openings which would limit the amount of habitable space in the basement. This would alleviate having to use replacement materials and it would minimize the damage to the integrity of the structure and still allow the basement to be partially converted.

Commissioner Champeny confirmed that while this is not a historical structure, it is eligible to be deemed as a historical structure. He asked staff if there was an obligation for the applicant to apply for the DPR form before they can perform any rehabilitation on the structure. Ms. Sciara replied that if there is a discretionary project, in order to exercise that discretion, compliance with the Secretary of Interior Standard's must be ensured which is the only way to exempt the

structure from CEQA. In this case, there was a Zoning Administrator action which is a discretionary action. She explained that a DPR form was requested to make sure the architectural review was consistent with the past practices and that an adverse impact was not being created to a historic resource.

Commissioner Chahal asked for background on violations for 1593 Lexington. Ms. Sciara explained that the interior was being gutted and some of the windows were being removed. The basement was dug down to a habitable height and partitions were evident as well as some openings which do not appear to be original. A stop work order was issued for safety reasons and also so the project could be reviewed against the Secretary of Interior Design's standards. It was also noted that the basement was partial or a 'crawl space' and it was not approved according to older records. But as of today, it is completely 'dug out'. Commissioner asked if the accessory unit and the basement are considered as one project or are they to be treated separately. Staff replied that the accessory unit should be treated independently and can be approved at staff level as it meets the lot size requirements. Ms. Sciara also stated that the accessory unit could be supported but the basement portion of the project would be subject to limitations.

Commissioner Kelly asked about the factors which make this house historically significant. Staff replied that it is the architecture, number of original features, location and that it was a home to Austin Warburton. Ms. Sciara further explained that the habitable space is what is driving the exterior changes.

Fawzi Ismael, property owner and resident at 1593 Lexington, stated that the house is exempt from CEQA and he made numerous improvements to the structure with permits. He explained that a full basement existed, was used by the previous owner and was one of the many reasons he purchased the property. He explained that Staff supported his project at three prior meetings but that at the February 6, 2014, it was not supported. Mr. Ismael also explained that he has a large family and that is the reason for creating living space in the basement. He noted that all the construction is original and that he never added any openings.

The Commission asked questions about digging deeper, removing a door, and asked to see the DPR form which was not available at the meeting. Commissioner Stattenfield clarified that the granny unit was not a counter item for the meeting and that they could not approve or deny that portion of the project. It was also clarified this house is not listed as Historic.

Commissioner Ikezi asked about the previous owner and wanted to know if the basement was a habitable space. Mr. Ismael's daughter, also present with him at the podium, replied to this question. She explained they knew the previous owner, Naomi Watts, and she had been in the house previous times. She gave a brief description of the house and mentioned the basement existed, as well as doors and windows, during the previous ownership.

The Public Hearing was opened.

Various members of the public spoke and stated their concerns and recommendations for denial of the project. Many believe the house to be historically significant and claimed that the owner performed illegal work and did not obtain permits when it was required. Public speakers expressed their support for the HLC's decision to vote against the project and asked the Planning Commissioners to do the same. Concerns about this house being 'overbuilt' and building too many bedrooms in the basement were expressed. Many expressed going through Planning's approval process to make changes to their homes and stated it was unfair that Mr. Ismael's project be approved when he performed illegal work and received violations. Other members of the public questioned the floor plans and drawings which they felt were unclear and expressed their desire to have uniformity in the Old Quad Association and wish to maintain the integrity of the area. Members of the public also had concerns that the basement would be used as a rental unit due to the multiple bedrooms and number of entries. Mr. Ismael's

daughter spoke during the public hearing portion. She explained the need for community amongst the neighbors and felt her family was not being included in the neighborhood. Mr. Ismael's other daughter also spoke during this time. She stated that her family is large and hopes that they are not being discriminated against due to the size of family members. She explained they are living in cramped quarters and also addressed that there are 5 adult children in the house who all have cars. She questioned the validity of some of the claims from other speakers such as an inner stairwell and concrete being poured which she states are not 'facts'.

The Public Hearing was closed.

The Commission explained there were several missing pieces of information, like the DPR and HLC meeting minutes, which made it too difficult to base a decision on. Commissioner Champeny questioned whether or not to continue the item. Commissioner Kelly recommended that the applicant work with Staff to come up with a solution that would satisfy both the neighbors and Commissioners. Commissioner Chahal stated that there was too much conflicting information and not enough information to make a decision. City Planner, Steve Lynch, expressed the project should go back to HLC for further review.

Motion/Action: Commissioner Stattenfield made a motion to uphold staff decision and therefore deny the appeal of the design review application. (6-0-1-0, Costa absent).

8.C. File No.(s):	City of Santa Clara Park Impact Fee Nexus Study and Ordinance Enactment
Address/APN:	City-wide
Applicant/Owner:	City of Santa Clara/ Parks and Recreation Department
Request:	Presentation of Impact Fee Nexus Study and concept to adopt impact fees city-wide.
Project Planner:	James Teixeira, Director of Parks and Recreation
CEQA Determination:	Not applicable
Staff Recommendation:	Review and Comment

Discussion: James Teixeira, Director of City of Santa Clara's Parks and Recreation, gave a presentation of the project.

Mr. Teixeira's presentation provided an overview of Council's goals to develop a Housing Development Impact Fee and ordinance. He reviewed the Nexus study and what it allows the City to do as well as benchmark information from other cities and occupant density information.

He stated that there are new higher density residences which will impact local existing parks. He spoke about fees that are based on density factors and provided data and examples to illustrate the percentages and fee calculations. He addressed when and where fees would be collected and stated that once an application is deemed complete, that is when the calculation of the amount of units and the fee amount to be charged will be determined. He noted that entitlement dates and dates for when building permits are issued are also important.

The Commissioners had questions regarding the cemeteries and acreage. James Teixeira explained that cemeteries were included in the list because of its utility as a recreational use. He also covered the 'usefulness' of park like amenities and defined the differences between cemeteries, community parks and neighborhood parks.

Commissioner Champeny emphasized his discouragement of exemptions for developments such as Below Market Rate units because he did not see a nexus between recreation and Below Market Rate units. He stated that Below Market Rate need recreational areas, as well. For example, LEED certification was not an appropriate exemption.

More questions from the Commission involved availability of open space, credits for park land, and how pricing and reimbursements are calculated and obtained.

The Public Hearing was opened and closed with no public comments received.

Motion/Action: The Commission clarified this was a presentation and no action was required as this item was for review and comment only.

9. OTHER BUSINESS

9.A. Commission Procedures and Staff Communications

i. Announcements/Other Items

- Cancellation of March 26, 2014 Regular Planning Commission meeting (no item scheduled)
- Approval of request to hold Special Planning Commission meeting on April 16, 2014

ii. Report of the Director of Planning and Inspection

- City Council Actions

iii. Commission/Board Liaison and Committee Reports

- Architectural Committee: Commissioners Stattenfield and Chahal
- Station Area Plan: Commissioner Champeny
- General Plan sub-Committee: Commissioners Champeny and Ikezi
- Historic Preservation Ordinance Committee: Commissioner Chahal, Ikezi

iv. Commission Activities

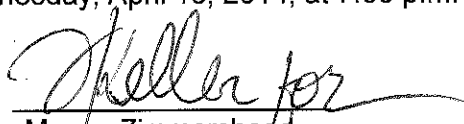
- Commissioner Travel and Training Reports; Requests to Attend Training

v. Upcoming agenda items

10. ADJOURNMENT

The meeting adjourned at 11:26 p.m. The next regular Planning Commission meeting will be held on Wednesday, April 16, 2014, at 7:00 p.m.

Prepared by:


Megan Zimmershead
Office Specialist IV

Approved:


Kevin L. Riley
Director of Planning & Inspection

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