

## City of Santa Clara



### **PLANNING COMMISSION MEETING MINUTES** Wednesday, November 12, 2014 – 7:00 P.M.

**CITY COUNCIL CHAMBERS**  
1500 Warburton Avenue  
Santa Clara, CA 95050

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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:

- **Item 8.B.** File No: PLN2014-10477 Housing Element Update; Location: City Wide.

#### **1. PLEDGE OF ALLEGIANCE and STATEMENT OF VALUES**

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

#### **2. ROLL CALL**

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

Staff present were Director of Planning and Inspection Kevin Riley, City Planner Steve Lynch, Development Review Officer Gloria Sciara, Assistant Planner II Shaun Lacey, Assistant City Attorney Julia Hill, and Office Specialist IV Megan Valenzuela.

#### **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 Stattenfield reviewed the Planning Commission procedures for those present.

#### **5. REQUESTS FOR EXCEPTIONS, WITHDRAWALS AND CONTINUANCES**

- A. Withdrawals - None
- B. Continuances without a hearing - None
- 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 October 22, 2014**

**Motion/Action:** The Commission motioned to approve the Minutes from the August 20, 2014, Planning Commission meeting (5-0-1-1, Costa absent, Ikezi abstained).

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

<b>8.A. File No.(s):</b>	<b>PLN2014-10344</b>
Address/APN:	3395 Stevens Creek Boulevard, an approximately 0.43 acre site located at the northeast corner Stevens Creek Boulevard and Tyler Drive, APN: 303-19-072
Applicant:	Shang Chun Hsia, Jack-in-the-Box Restaurant
Owner:	PFLP, LLC
Request:	Use Permit Amendment to allow an existing drive-thru restaurant to extend operating hours to 4:00 a.m. on Sundays through Thursdays, and 24 hours on Fridays and Saturdays
CEQA Determination:	Not a project under CEQA
Project Planner:	Steve Le, Planning Assistant
<b>Staff Recommendation:</b>	<b>Denial</b>

**Notice:** The notice of public hearing for Item 8.A. was posted and mailed to property owners within 300 feet of the project site.

**Discussion:** Gloria Sciara gave a brief presentation on the project. Steve Lynch corrected an omission in the Staff Report, noting that there were five calls for service in the last six-months directly related to Jack in the Box restaurant.

The Commission discussed the timing of the calls for services, noting that most calls were received between Friday and Sunday. The Commission expressed concern that the requested expansion of hours coincides with the timing of the calls for service and closure of drinking establishments.

The applicant, Philip Shaw, stated that he has been monitoring the site and surrounding neighborhood and also hired a vendor to pick up trash within 300 feet of the restaurant twice a week. The applicant stated he is open to hiring a security guard and requested approval of the Use Permit Amendment.

The Commission confirmed that a receipt submitted by a neighbor was time-stamped outside of approved operating hours. The Commission inquired if any of the options discussed at the

Public Hearing in August 2014 were implemented. The applicant stated that new measures were not implemented. The Commission inquired if delivery times were flexible to reduce early morning noise to which the applicant indicated the time could be changed.

The Public Hearing was opened.

Leleh Chittgar, neighboring resident, stated that the nearby McDonalds and Taco Bell restaurants are in Commercial Shopping Centers whereas the Jack in the Box parking lot exits into a residential neighborhood. Ms. Chittgar added that the trash in the neighborhood sits for days at a time and that the restaurant is the only establishment open after 2:00 when the bars close.

Michelle Proviance, neighboring resident, requested that the Commission deny the request because approval of the extended hours may set precedence for other restaurants in similar locations that abut residential neighborhoods.

Tracey Johnson, neighboring resident, expressed concern about the calls for service from the Santa Clara Police Department. Ms. Johnson added that having a restaurant open 24-hours per day in a location that is walking distance from a bar is a bad combination for the neighborhood and asked that the Commission deny the request.

Jane Malage, neighboring resident, stated that trash from the restaurant is constantly found in the neighborhood and that there has not been an improvement since the last hearing.

Royanna Gasley, neighboring resident, stated that the exit from the Jack in the Box restaurant leads into the neighborhood where patrons often times park to hangout and eat.

In a rebuttal statement the applicant stated that the restaurant was originally sold and marketed as a 24-hour restaurant and they are still working with the corporate entity to address that. Mr. Shaw added that the problems in the neighborhood are caused by many people, not just Jack in the Box patrons.

The Commission inquired if the applicant would be interested in operating 24-hours during the week rather than the weekends and it was noted that the profitability primarily exists during the weekend.

The Public Hearing was closed.

The Commission discussed the location of the restaurant and how it impacts the ability to extend the hours without disturbing the neighborhood. The Commission expressed concern that the applicant did not make more of an effort since the last public hearing to improve the situation. The Commission discussed options including approving a six-month trial period, continuing the application to allow the applicant more time to implement improvement measures, and denying the application. The Commission confirmed that the August 6, 2014, Public Hearing was continued, date certain, to November 12, 2014.

A motion to continue the application for six-months was called to a vote and failed.

A motion to deny the Use Permit Amendment was discussed. The Commission expressed concern that the applicant was unaware of the five calls for service and urged the applicant to consider reconfiguration of the parking lot to help prevent traffic from entering the residential neighborhood.

**Motion/Action:** The Commission motioned to adopt a resolution to deny the Use Permit Amendment to extend the operating hours of the existing drive-thru restaurant (5-1-1-0, Sweeney dissenting, Costa absent).

<b>8.B. File No.(s):</b>	<b>PLN2014-10447</b>
Address/APN:	City-wide
Applicant:	City of Santa Clara
Request:	Zoning Code Amendments to the 2015 City of Santa Clara Housing Element Update
CEQA Determination:	EIR Addendum
Project Planner:	Shaun Lacey, AICP, Assistant Planner II
<b>Staff Recommendation:</b>	<b>Recommend Adoption to City Council</b>

**Notice:** The notice of public hearing for Item 8.B. was published in the Santa Clara Weekly and posted to the project webpage.

**Discussion:** Shaun Lacey gave a brief presentation on the project and introduced the City's consultant.

The Commission inquired if the City had entered into any partnerships with nonprofit agencies in the absence of the Redevelopment Agency. Staff indicated that no such partnership exists at this time.

The Commission discussed the ability of the City to reach the goal for the affordable housing allocation. Staff explained that the Regional Housing Need Allocation (RHNA) numbers do not commit the City to a requirement; rather, it is an allocation of growth for planning purposes. It was further explained that because affordable housing requires subsidies, it is often times difficult to achieve the goals.

The Commission inquired about below market rate (BMR) rental units. Staff explained that the State has lowered the threshold for qualifying for density bonuses and that the Housing Element has reflected this change. It was noted that there are several ways to achieve density bonuses and that developers will gravitate towards the most cost effective one, which often may not be affordable housing.

The Commission discussed the ability of cities to waive development standards to achieve housing goals. Staff noted that State law allows concessions to zoning codes and that cities can adopt ordinances to more clearly define what those concessions are.

The Commission discussed more State requirements, including emergency shelters and ordinance language requirements. The Commission expressed concern that while density may make affordable housing projects more feasible, it may not be the best option for a housing project. The Commission also noted that what is deemed to be affordable in this region may not in fact be affordable with the cost of living far exceeding average wages.

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

Steve Lynch noted that staff is recommending a change to the Land Use policies that would allow higher residential densities through the specific plan process.

**Motion/Action:** The Commission motioned to adopt a resolution recommending that the City Council approve the 2015-2023 Housing Element Update unanimously (6-0-1-0, Costa absent) with the following recommendation:

- Revise policies to allow higher residential densities through the specific plan process.

**Motion/Action:** The Commission motioned to adopt a resolution recommending that the City Council approve the Addendum to the 2010-2035 General Plan Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP) unanimously (6-0-1-0, Costa

absent).

**Motion/Action:** The Commission motioned to recommend that the City Council adopt amendments to the Zoning Ordinance Pertaining to density bonuses, emergency shelters, transitional and supportive housing, and reasonable accommodation unanimously (6-0-1-0, Costa absent).

<b>8.C. File No.(s):</b>	<b>PLN2013-10178 &amp; PLN2013-10177</b>
Address/APN:	5488 Marvell Lane, two parcels comprising a 31 acres industrial office and research campus, located on the north side of Old Mountain View Alviso Road, in an ML (Light Industrial) zoning district, south of 237 highway and west of the San Tomas Aquino Creek Trail. (APN: 104-52-023 and 104-52-024)
Applicant:	Richard Luchini, Arrow Sign Company
Owner:	Marvell
Request:	Use Permit to allow a new pole sign with changeable LED display in conjunction with a Variance to allow for increased sign area to the site and height of the new pole sign
CEQA Determination:	Categorical Exemption per Section 15301, Class 1 Existing Facilities
Project Planner:	Steve Le, Planning Intern
<b>Staff Recommendation:</b>	<b>Approve, subject to conditions</b>

**Notice:** The notice of public hearing for Item 8.C. was posted and mailed to property owners within 300 feet of the project site.

**Discussion:** Steve Lynch gave a brief presentation on the project.

The Commission clarified with the applicant that the sign will be programmed to be slightly brighter than ambient lighting, noting it is lighter in the day and darker at night.

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

The Commission confirmed that the sign will not change screens more frequently than every 10 seconds and will only advertise what is on-site and non-profit public information. It was noted that CalTrans also regulates this type of sign and requires it not be used for off-site advertising.

The Commission inquired if the City has adopted standard for this type of sign. Staff confirmed that such standards have not been adopted.

The Commission discussed the timing and frequency of the civic announcements and inquired about the percentage of air time that is used for that purpose. Staff noted that a condition of approval addresses this question and was mistakenly omitted from the staff report. The applicant has agreed to provide up to 20 percent of air time for public information advertising.

**Motion/Action:** The Commission motioned to adopt a resolution to approve the Use Permit for the property located at 5488 Marvell Lane with the added condition of approval to address the use of up to 20 percent of the sign's advertising time for non-profit public information (6-0-1-0, Costa absent).

<b>8.D. File No.(s):</b>	<b>PLN2014-10463</b>
Address/APN:	1464 Franklin Street, a 10,840 square foot lot located on the south side of Franklin Street in an R1-6L (Single

Family) Zoning District, approximately 74 feet east of Main Street (APN 269-20-053)

Applicant/Owner: Juvenal Silveira  
Request: Variances to allow increased building height, reduced rear yard setback, and increased accessory building area for a proposed detached accessory dwelling unit and three-car garage

CEQA Determination: Categorically Exempt per Section 15303, New Construction of Small Structures

Project Planner: Jeff Schwilk, AICP, Associate Planner

**Staff Recommendation: Approve, subject to conditions**

**Notice:** The notice of public hearing for Item 8.D. was posted and mailed to property owners within 300 feet of the project site.

**Discussion:** Gloria Sciara gave a brief presentation on the project.

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

The Commission inquired why the application does not maintain the standard setbacks and staff noted that the proposal allows more room for the driveway.

**Motion/Action:** The Commission motioned to adopt a resolution to approve the Variance for the property located at 1464 Franklin Street (6-0-1-0, Costa absent).

## 9. OTHER BUSINESS

### 9.A. Commission Procedures and Staff Communications

#### i. Announcements/Other Items

#### 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
- Neighborhood Protection Ordinance Committee: Costa and Stattenfield

#### iv. Commission Activities


- Commissioner Travel and Training Reports; Requests to Attend Training

#### v. Upcoming agenda items

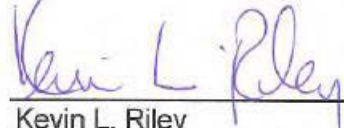
## 10. ADJOURNMENT

The meeting adjourned at 10:33 p.m. The next regular Planning Commission meeting will be held on Wednesday, December 10, 2014, at 7:00 p.m.

Prepared by:

  
Megan Valenzuela  
Office Specialist IV

Approved:

  
Kevin L. Riley  
Director of Planning & Inspection