



## **MINUTES**

**Wednesday, September 23, 2015 – 7:00 P.M.**

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. – PLN2014-10552 (Rezone), Location:1086 Madison Street

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

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

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

The following Commissioners responded to roll call: Chair Deborah Costa, Raj Chahal, Yuki Ikezi, Sudhanshu Jain, Steve Kelly, Michael O'Halloran, and Joe Sweeney.

Staff present were Director of Planning and Inspection Kevin Riley, Development Review Officer Gloria Sciara, Assistant City Attorney Alexander Abbe, 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 Costa 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 September 2, 2015**

**Motion/Action:** The Commission motioned to approve the Planning Commission Minutes of September 2, 2015 (6-0-0-1, Ikezi abstaining).

**7.B. Planning Commission 2016 Calendar of Meetings**

**Motion/Action:** The Commission motioned to approve the Planning Commission 2016 Calendar of Meetings (7-0-0-0).

**7.C. File No.(s):** **PLN2015-11190**  
Location: 1090 Kiely Boulevard, a 2,420 square foot tenant space on a 2.21 acre parcel, located on the southwest corner of Benton Street and Kiely Boulevard intersection, APN: 224-15-037; property is zoned CN (Neighborhood Commercial)  
Applicant: Daniel Hwang  
Owner: Chi Pin Wong  
Request: **Use Permit** to allow the on-site sale and consumption of alcohol (ABC License Type 41) in an existing restaurant  
CEQA Determination: Categorical Exemption per section 15301, Class 1 Existing Facilities  
Project Planner: Steve Le, Planning Intern II  
**Staff Recommendation:** **Approve**, subject to conditions

The Commission clarified that the restaurant is new, not existing. It was confirmed that the Public Hearing notice for this item was mailed to property owners within 300 feet of the project site and no comments were received.

The applicant stated that the patio will close at 10:00 and that the indoor sale of alcohol will cease at 12:00.

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

The Commission discussed a possible change to the hours related to the sale of food and alcohol and seated service. It was clarified that the ABC license prohibits the sale of alcohol after 12:00 midnight.

**Motion/Action:** The Commission motioned to adopt a resolution to approve the Use Permit for the property located at 1090 Kiley Boulevard (7-0-0-0) with the following added conditions:

- 1) The outside patio seating area shall close at 10:00pm.

**7.D. File No.(s):** **PLN2015-11224**  
Location: 3660 Thomas Road, a 2,150 square foot retail space and new outdoor patio on a 6.475 acre parcel located on the west side of Thomas Road approximately 160 feet south of Montague Expressway, APN: 104-14-123; property is zoned ML (Light Industrial)  
Applicant: Jimmy Chang on behalf of Paris Baguette  
Owner: Marchese Properties  
Request: **Use Permit** to allow a new 2,150 square foot bakery and café and an outdoor patio area with 40 seats in an industrial zoning district.  
CEQA Determination: Categorical Exemption per section 15301, Class 1 Existing Facilities  
Project Planner: Gregory Qwan, Planning Intern II  
**Staff Recommendation:** **Approve**, subject to conditions

The Commission clarified that the parking spaces provided for the project are open and available to the entire property.

The applicant highlighted the proposal, noting that the bakery already exists and they are seeking to add a retail component.

The Public Hearing was opened.

Ken Kim, neighboring property owner, expressed concern that the area's ingress and egress is already congested and that the intensified use of this property will deter his tenants from renewing or signing new leases, causing significant financial damages.

In a rebuttal statement the applicant stated that the bakery has provided more than the required parking and that because a majority of the complex's use is a storage facility, many of the parking spaces are vacant. The applicant added that the small retail component will not have a significant impact on the traffic in the area.

The Commission discussed the neighboring properties and it was clarified that the neighboring site is zoned Planned Development (PD) and that parking standards were reduced through the zoning. The Commission encouraged the property owners to discuss a mutually beneficial arrangement such as a shared parking agreement.

The Public Hearing was closed.

**Motion/Action:** The Commission motioned to adopt a resolution to approve the Use Permit for the property located at 3660 Thomas Road (7-0-0-0).

<b>7.E. File No.(s):</b>	<b>PLN2015-11273, PLN2015-11335</b>
Location:	2215, 2225, 2235 Lawson Lane, a 8.815 acre site located on the northeast corner of Central Expressway and Lawson Lane, APN: 224-44-021, -022, -023; property is zoned PD (Planned Development)
Applicant:	Terry Long on behalf of ServiceNow
Owner:	Sobrato
Request:	<b>Use Permit</b> to allow three roof signs and one free standing double-faced digital pole sign with changeable copy
CEQA Determination:	Categorical Exemption per section 15311, Class 11, Accessory Structures
Project Planner:	Gregory Qwan, Planning Intern II
<b>Staff Recommendation:</b>	<b>Approve</b> , subject to conditions

The Public Hearing was opened.

Kevin Moore, Santa Clara resident, requested that the applicant remove the sign from the previous location if the business is no longer operating in that location.

The applicant confirmed that ServiceNow is expanding and will be operating in both locations. Mr. Moore withdrew his request in light of this information.

The Public Hearing was closed.

The Commission clarified that the digital sign would be used for on-site advertising, not general advertisements.

**Motion/Action:** The Commission motioned to adopt a resolution to approve the Use Permit for 2215, 2225, 2235 Lawson Lane (7-0-0-0).

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

**8.A. File No.(s):** **PLN2015-11290/PLN2015-11170**  
Location: 410 Lafayette Way, a 10,268 square foot parcel located on the west side of Lafayette Way approximately 60 feet north of Poplar Street, APN: 269-43-045; property is zoned R1-6L-Single-Family  
Applicant: Salvatore Caruso  
Owner: Autumn, LLC  
Request: **Appeal of an Architectural Review Approval** to allow a 551 square foot basement addition, and a 243 square foot first floor expansion to an existing 3,332 square foot home, resulting in a 4,126 square foot residence new with five potential bedrooms and new construction of a 480 square foot detached replacement garage. *(Continued from September 2, 2015 PC meeting)*  
CEQA Determination: Categorical Exemption per CEQA Section 15331, Historical Resource Rehabilitation  
Project Planner: Debby Fernandez, Associate Planner  
**Staff Recommendation: None**

**Notice:** Notice for Item 8.A. was posted and mailed to residents within 300 feet of the project site.

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

The appellant, Patricia Mahan, stated that the property is a historic single family residence and that the City is in the process of drafting a Neighborhood Protection Ordinance and a Historic Preservation Ordinance that will serve as guidance for applications such as this once they are adopted. Ms. Mahan noted that a similar proposal on Park Avenue went through a thorough public review process and was redesigned to remain a single family home. Ms. Mahan added that the Historical and Landmarks Commission (HLC) only looked at the historical elements of the proposal and the Architectural Committee (AC) approved the project based on the merits of adding a fifth room. Ms. Mahan requested that the project be referred back to AC, or up to the City Council, so that the applicant can work with the neighbors in a public forum on an agreeable solution.

The applicant, Salvatore Caruso, highlighted the proposal and noted that the Neighborhood Protection and Historic Preservation Ordinances have not yet been finalized or adopted and should have no bearing on the project. Mr. Caruso added that the proposal includes a common living area and that the historical integrity is protected and was reviewed with full support by the HLC. Mr. Caruso noted that both the HLC and AC meetings were publicly noticed meetings where the public had opportunity to speak and that the project was approved at both meetings based on current policies.

The Public Hearing was opened.

Kevin Moore, Santa Clara resident, stated that the proposal had support from both the HLC and AC and that the remodel plan is reasonable with an 800 square foot addition. Mr. Moore added that anyone can be a good or bad neighbor and that it shouldn't be assumed that the future tenants of this project will be bad neighbors.

Claudia Daw, neighboring resident, stated that the City has a continuous housing problem with students. Ms. Daw added that the property owner also owns the Delta Gamma house and it is reasonable to assume this proposal will not be single-family occupied. Ms. Daw expressed concern for the lack of parking, noise, and general "good neighbor" issues associated with the proposal.

Mark Kelsey, Santa Clara resident, stated that he supports the appeal and asked the Commission to deny the project based on it not being true to the spirit of the law or neighborhood. Mr. Kelsey requested that additional neighborhood collaboration be added to the review process to help retain single family neighborhoods.

Jeannie Mahan, Santa Clara resident and HLC Commissioner, stated that she was not at the HLC meeting when this item was heard but had significant concerns that the proposal conflicts with the historical integrity of the home. Ms. Mahan noted that there were many opposing speakers at both the HLC and AC meetings.

Mark Colbeck, Santa Clara resident, stated that he supports the appeal and recalls a project at 780 Hilmar where occupancy of the basement was prohibited.

Kathleen Walker, Santa Clara resident, stated that she supports the appeal as she has complied with the rules and policies of historic property preservation as a property owner and feels this property is being treated differently.

Lou Faria, Santa Clara resident, stated that he supports the appeal as the “dorm effect” is different than helping a student and the proposal will change neighborhood for the worse. Mr. Faria added that raising the house six-inches is not appropriate for the home and that the basement has potential to be even more bedrooms.

In a rebuttal statement, appellant Patricia Mahan stated that the appeal is not about students or the University; it’s about properties being exploited by landlords and developers. Ms. Mahan noted that while the addition is small, the effect on the common living area is that it could easily be used as two or three more bedrooms or a huge party room. Ms. Mahan added that just because the draft ordinances have not yet been adopted their intent should not be ignored.

In a rebuttal statement, applicant Salvatore Caruso stated that the basement is occupied space today and is not being added or changed. Mr. Caruso added that all the rules and regulations were followed in the creation of the proposal and all the way through the review process and clarified that the square footage was not doubled, the FAR is allowed, and the proposal complies with secretary of interior standards

The Public Hearing was closed.

Commissioners Ikezi and O’Halloran disclosed meeting with the appellant.

The Commission clarified that the City currently prohibits Boarding Houses as defined in the City Code. It was also clarified that the basement could not legally be used as bedrooms unless County records revealed habitable space per the Building Codes for minimum egress requirements applicable at the time of recordation.

Staff confirmed that the Commission has discretion over the project design, parking, and development plans. It was noted that the Neighborhood Protection Ordinance is currently being reviewed by the Neighborhood-University Relations Committee (NURC) and not scheduled for public hearings to consider adoption at this time.

It was clarified that the proposal will result in an approximate 2,000 square foot basement space, and that the proposal also includes the addition of two bathrooms, one on each floor. It was noted that the records were not readily clear about whether the basement qualifies as habitable living space and that County records would need to be reviewed to make that final determination.

The Commission discussed the possibility of reducing the bedroom count by one, reducing the bathroom count by one, and requiring additional on-site parking. The Commission expressed concern for the safety of students and wanted to be sure the proposal included sufficient room heights and safety features to keep future tenants safe. It was noted that additional research needs to be done on the property and that further inspections need to be made to verify the legal status of the property and possible violations.

A motion was discussed to sustain the appeal and refer the proposal to the Architectural Committee. It was suggested that the motion also include direction that staff research and determine legal status of basement and have report on all current code violations for the AC meeting, and that the proposal be redesigned to decrease the plans by one bedroom and one bathroom and increase the on-site parking. The motion was amended to include this additional language.

**Motion/Action:** The Commission motioned to sustain the appeal of an Architectural Review Approval for the property located at 410 Lafayette Way and refer the proposal to the Architectural Committee with the following direction (7-0-0-0):

- 1) Staff research and determine the legal status of basement;
- 2) Staff prepare a report on all current code violations;
- 3) Redesign the proposal to decrease the plans by one bedroom and one bathroom and increase the on-site parking.

**8.B. File No.(s):** **PLN2014-10552**  
**Location:** 1086 Madison Street, a 5,542 square foot parcel located at the southwest intersection of Madison Street and Benton Street, APN: 269-20-103  
**Applicant:** Robert Fitch  
**Owner:** Don Soukup  
**Subject:** **Rezoning** from Historic Combining-Planned Development (HT-PD) to Historic Combining-Planned Development (HT-PD) to allow the conversion of the existing historic structure from one office and one residence into three dwelling units.  
**CEQA Determination:** Categorical Exemption per section 15301, Existing Facilities and 15331, Historical Resource Restoration/Rehabilitation  
**Project Planner:** Payal Bhagat, Associate Planner  
**Staff Recommendation:** **Recommend approval, subject to conditions**

**Notice:** Notice for Item 8.B. was posted and mailed to residents within 300 feet of the project site.

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

The Commission confirmed that the project will be subject to inspections to confirm compliance with approvals.

The applicant, Robert Fitch, highlighted the project, including maintenance over the years and general history of the property. Mr. Fitch noted that he contests the need for a sprinkler system and the applicability of the park ordinance.

The Public Hearing was opened.

Don Soukup, owner of subject property, stated that the project has been active for over 20 months that it had been redesigned to address concerns that it would become a "party house".

Judy Tucker, Santa Clara resident, stated that the owner is considerate of neighbors and supported the project.

Lou Faria, Santa Clara resident, stated that the owner has been a great neighbor. Mr. Faria added that having three units is better than one extra-large home and that it would be unfair to impose the park fee.

The Public Hearing was closed.

The Commission confirmed that both the sprinkler system and park fee issues have no leeway as they are requirements under the Fire Code and City Ordinance respectively. It was noted that there may be flexibility under the historic building code to find an alternative approach to the fire sprinkler system.

**Motion/Action:** The Commission motioned to adopt a resolution to recommend that the City Council approve the rezoning of the property located at 1086 Madison from Historic Combining-Planned Development (HT-PD) to Historic Combining-Planned Development (HT-PD) unanimously (7-0-0-0) with direction to staff to investigate to possibility of using the Historic Building Code to guide the fire sprinkler system requirement.

**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**
  - Appointment of Board or Committee assignments
  - Architectural Committee
- iv. Commission Activities**
  - Commissioner Travel and Training Reports; Requests to Attend Training
- v. Upcoming agenda items**

**10. ADJOURNMENT**

The meeting adjourned at 9:57 p.m. The next regular Planning Commission meeting will be held on Wednesday, October 14, 2015, at 7:00 p.m.

Prepared by:   
Megan Valenzuela  
Office Specialist IV

Approved:   
Kevin L. Riley  
Director of Planning & Inspection

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