



MINUTES
Wednesday, February 24, 2016 – 7:00 P.M.

Please refer to the Planning Commission Procedural Items coversheet for information on all procedural matters.

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.

- None

1. PLEDGE OF ALLEGIANCE and STATEMENT OF VALUES

Chairwoman Costa initiated the Pledge of Allegiance. Commissioner Sweeney read the Statement of Values.

2. ROLL CALL

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

Staff present were: Planning Manager Lee Butler, Associate Planner Debby Fernandez, Assistant Planner Steve Le, Assistant City Attorney Julia Hill, and Acting Office Specialist IV Rosa Avalos.

3. DISTRIBUTION OF AGENDA AND STAFF REPORTS

Chairwoman Costa stated that 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

Chairwoman 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.

Resident Mio Taniguchi addressed the Commission to inquire about a potential development at Luther School.

Planning Manager Lee Butler stated that a formal application for the development at the Luther School site has not been submitted. Mr. Butler indicated that the Planning Department can be contacted by any resident

who wishes to be notified if a formal application is submitted and a development moves forward. Mr. Butler added that outreach meetings and public hearings will occur before the potential development is heard by the Planning Commission, since a Rezone of this property would be required. Mr. Butler suggested that residents contact the Cupertino School District if they have any concerns before a formal application is submitted to the City of Santa Clara.

Resident Roger Creedon also addressed the Commission with a concern about a potential development at the Luther School, specifically the number of units being discussed for the site. Chairwoman Costa indicated that Mr. Creedon will also be added to a contact list should a development at the Luther School moves forward.

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 10, 2016.

Motion/Action: The Commission motioned to approve the Planning Commission Minutes of February 10, 2016, with minor edits. (7-0-0-0). The minor edits included a request from Chairwoman Costa that Sharon Goei's, Acting Director of Planning and Inspection, presence be noted on the minutes of the meeting discussed. Commissioner Ikezi also requested an edit to include that the applicant for the Mission Town Center project, Carlene Matchniff, had agreed to appear before the Planning Commission on a yearly basis to review the status on the Transportation Demand Management Measures.

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

8. PUBLIC HEARING ITEMS

8.A. File No.(s):	PLN2015-11628/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 Architectural Committee's approval to allow a 551 square foot basement addition, and a 243 square foot first floor expansion to an existing 3,332 square foot, three bedroom, two bathroom home, resulting in a 4,126 square foot four bedroom, three bathroom residence, and new construction of a 480 square foot replacement garage. <i>(Continued from the Planning Commission meeting of February 10, 2016)</i>
CEQA Determination:	Categorical Exemption per CEQA Section 15331, Historical Resource Rehabilitation
Project Planner:	Debby Fernandez, Associate Planner
Staff Recommendation:	Deny the Appeal and Uphold the Architectural Committee's December 16, 2015 Approval of the Project

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

Discussion: Associate Planner Debby Fernandez gave a brief presentation on the project.

The Commission and Staff clarified the layout of the new proposal, as well as the reduction of bedrooms from 5 bedrooms to 4 bedrooms. The Commission also clarified that there are 5 parking spots.

The appellant, Mr. Washburn, gave a presentation on the project. Mr. Washburn stated that this property will likely become a boarding house, which is currently prohibited by the City of Santa Clara on this location based on zoning restrictions. Mr. Washburn added that the applicant, Salvatore Caruso, is not likely to state that the property will become a boarding house but that a subcontractor previously stated that the property would become a student rental. Mr. Washburn mentioned that an adjacent property, also owned by Mr. Caruso, seems to be currently used as a boarding house.

Mr. Washburn read an email response from Code Enforcement, in regards to investigating boarding houses, which stated that the City will not take away rental opportunities from existing properties and will only investigate if any violations occur. Mr. Washburn mentioned that the City cannot investigate if the applicants do not declare intended use of the property, which he believes Mr. Caruso has avoided doing. Mr. Washburn expressed concern about not having any recourse against boarding houses.

Mr. Washburn stated that this project will lower the value of adjacent properties.

Mr. Washburn requested that the Commission denies the development of the basement because he believes that it should not be habitable. Mr. Washburn also requested that the Commission only allows the development to move forward if they follow Single Family Residential R1-6L restrictions.

Mark Kelsey, appellant, asked the Commission to consider the property as a Historic home in a Single Family zone. Mr. Kelsey urged the Commission to stop the continuing development of multi-family residences in Single Family zones. Mr. Kelsey made a request that the Commission stop this current development as it is and only allow it if they follow the Single Family zone restrictions.

The applicant, Salvatore Caruso, stated that this property is compatible with R1 zoning and it meets the Single Family Home criteria, as stated on the staff report. Mr. Caruso stated that the Architectural Review Committee followed staff recommendation to allow the development as it is currently presented. Mr. Caruso added that the Historical and Landmarks Commission voted in favor of the project. Additionally, Mr. Caruso stated, the City Council voted that the project did not need to be reviewed by the Historical and Landmarks Commission since the alterations to the property are being made to the interior and does not affect the exterior. Mr. Caruso asked that the Commission deny the appeal.

Chuck Reed of Hopkins and Carley, representing the applicant Salvatore Caruso, urged the Commission to deny the appeal because the Constitution of the State of California's Privacy Clause protects owners' privacy right to decide who will live in our property. Mr. Reed stated that the California Supreme Court in Santa Barbara vs. Adamson concluded that Cities cannot discriminate on the basis of family relationships which means that a land decision cannot be made based on who might live on a house and whether or not they are a family. Mr. Reed added that this project is compliant with the City's General Plan, its zoning, and its code. Mr. Reed stated that the Commission cannot apply rules that are not currently in place and that there is a process to challenge such rules. Mr. Reed stated that the project has been modified and the number of bedrooms reduced, as requested by the Commission.

The Public Hearing was opened.

Bob O'Keefe, resident of the area, stated that he is in favor of the appeal since the Commission's requests, which included that the legality of the basement and any possible violations were researched, were not met. Mr. O'Keefe stated that the basement has never been habitable and adding to it should not be allowed.

Mark Colbeck, resident of the area, asked that the Commission follow the same standards for all residents in regards to whether or not a basement is habitable or not.

Claudia Daw, resident of the area, stated that her privacy rights will be violated if the increase of boarding houses are allowed in R1 areas. Ms. Daw added that the basement was never habitable and using it as a bedroom should not be allowed.

In a rebuttal statement, Mr. Washburn stated that a family is not a boarding house. Mr. Washburn added that he strongly believes that this will become a boarding house and that if it is allowed now, it will not be regulated in the future.

In a rebuttal statement, Mr. Caruso stated that the basement description has been accurately presented from the beginning of the application process. Mr. Caruso explained that permits and violations do not exist because the house was built before the City kept such records. Mr. Caruso stated that he agrees that some of the concerns regarding a boarding house ordinance should be addressed but currently rules on this matter do not exist. Mr. Caruso presented a chart which showed that about 80 percent of residents adjacent to the property approve of the project.

The Public Hearing was closed.

The Commission discussed the legality of the basement and whether or not it is in violation. The Commission stated that this property meets the requirements of a Single Family Home and that due to the property's proximity to the University it is likely that students will be interested in renting the residence. The Commission stated that an ordinance or regulation needs to be in place in order to restrict developments as the one currently discussed. The Commission added that having parking on site will be beneficial to all.

The Commission inquired about whether or not a condition can be set stating that the property must keep a Single Family Residential status. Staff explained that the property is in an R1 zone and therefore it is not recommended that a condition be set to satisfy this designation.

Staff clarified that any further modifications to the residence will require building permits.

Motion/Action: The Commission motioned to deny the appeal and uphold the December 16, 2015 Architectural Committee approval to allow a 551 square foot basement addition and 243 square foot first floor expansion to an existing 3,332 square foot three bedroom, two bathroom home resulting in a 4,126 square foot four bedroom, three bathroom residence, and new construction of a 480 square foot replacement detached garage (6-1-0-0, Chahal dissenting).

8.B. File:	PLN2015-11138
Location:	3607 Kifer Road (office) and 3697 Tahoe Way (garage), a 3.1-acre project site on the northwest corner of Kifer Road and Lawrence Expressway; APNs: 205-38-015 (office) and 205-38-022 (garage); Property is zoned Light Industrial (ML). <i>(Continued from the Planning Commission meeting of February 10, 2016)</i>
Applicant:	Clifford Chang
Owner:	RREF II 3689 Kifer LLC
Request:	Conditional Use Permit to allow a new five-level off-site parking garage in conjunction with a new five-story, 177,134 square foot office building; Adoption of a Mitigated Negative Declaration and Mitigation Monitoring or Reporting Program
CEQA Determination:	Mitigated Negative Declaration
Project Planner:	Steve Le, Planning Intern II
Staff Recommendation:	Approve, subject to conditions

Notice: Notice for Item 8.B. was posted and mailed to residents within 500 feet of the project site.

Discussion: Steve Le gave a brief presentation on the project.

The Commission inquired about why the project has a Mitigated Negative Declaration even though it is a big project with over 1000 potential employees that will add traffic with only a reduction in traffic of 5 percent. Staff responded that the project meets the TDM requirements and it is reducing trips by 11 percent.

The Commission inquired about a grade separation fee added to this project. Staff stated that the City is currently requiring projects in this area to pay a fair share towards the grade separation in the Lawrence Expressway area, which will ultimately be a County project.

Staff stated that currently there are 10,000 housing units in consideration and jobs/housing balance is being considered and, additionally, there are three to four thousand housing units planned in the Lawrence Station Area Plan, in proximity to this project.

The applicant Clifford Chang gave a presentation. Mr. Chang stated that the multi high density housing is close to the office which promotes walking. Mr. Chang highlighted some of the features including: the roof deck overhang on the corner of the building, the sustainable, shaded parking garage which has an HVAC system, and is committed to the LEED Silver Certification. In addition, Mr. Chang stated that the building was pulled back 30 feet to allow a widening along Lawrence Expressway.

Pat Dealy, Landscape Architect Consultant, highlighted the shaded sidewalks, assortment of drought-tolerant plant species, and the overall harmonious landscape.

Mike Parker, Regional President, explained that a full traffic study was conducted, full impacts were looked at, and collaboration with VTA took place to maximize potential of people using bicycles and public transportation. Mr. Parker stated that traffic issues were heavily discussed and that an obligation to reduce traffic was priority.

The Commission stated that they would like to see a more robust TDM, with monitoring by a third party. The Commission also inquired about the number of electric vehicle (EV) spaces. Mark Parker responded that the project currently meets the requirement by having 20 EV spaces. Mark Parker also agreed to having a TDM reviewed by a third party.

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

The Commission stated that they would like to see a reduction of traffic of more than 5 percent. The Commission asked the applicant whether they would be providing employees with free passes for public transportation. Mark Parker responded that they will work with the employer to encourage subsidies of public transit and that they will also suggest that as emphasis of the TDM.

Motion/Action: The Commission motioned to adopt the Mitigated Negative Declaration and Mitigated Monitoring and Reporting Program with the following additional conditions (6-1-0-0, Ikezi dissenting):

- a 16 percent TDM commitment and monitoring and annual review by a third party
- provide infrastructure for 50 EV spots and provide 20 EV spots initially

Motion/Action: The Commission motioned to approve a Conditional Use Permit to allow a new five-level off-site parking garage in conjunction with a new five-story, 177,134 square foot office building (6-1-0-0, Ikezi dissenting).

8.C. File No.(s):

PLN2015-11048

Location:

2911 Pruneridge Avenue, a 0.58 acre parcel located on the north side of Pruneridge Avenue approximately 70 feet west of Cedar Way, APN: 293-21-022; project site is zoned B (Public – Quasi Public)

Applicant/Owner:

Forest Park Cabana Club

Request:

Use Permit to allow replacement of an existing 785 square foot neighborhood swim facility building with a new 1,543 square foot building, to replace the existing six-lane swimming pool with a new six-lane pool in

the same location and associated site landscaping in a Public-Quasi Public (B) zone district; and **Minor Modification** to allow a reduced front yard building setback from 15-feet to 13-feet (*Continued from the Planning Commission Meeting of June 10, 2015*)

CEQA Determination: Categorically Exempt per CEQA Section 15302 – Replacement or Reconstruction

Project Planner: Jeff Schwilk, AICP, Associate Planner

Staff Recommendation: Approve, subject to conditions

Notice: Notice for Item 8.C. was posted and mailed to residents within 300 feet of the project site. Commissioner Yuki Ikezi recused herself stating that she lives in close proximity to the project.

Discussion: Lee Butler gave a brief presentation on the project.

Staff clarified that there is a cap of 250 family memberships and that the number of swim meets will not increase, therefore traffic and parking issues will not be further impacted.

The applicant Greg Niven gave a presentation. Mr. Niven stated the last Use Permit application was denied and conditions requested were: to not increase the size of the pool, to not make the pool deeper, to not add the meeting room. Mr. Niven stated that the conditions were now met with the exception of the second request since the Santa Clara County Health Department required the cabana club to make the pool deeper. Mr. Niven stated that the goal of the project was to repair and replace without changing anything with only a small facility expansion of 200 square feet to meet ADA requirements. Mr. Niven clarified that the expansion will be made to the bathrooms to meet ADA requirements, roughly about 100 square feet, and a permanent cover will be added to the pool, which adds the remaining 100 square feet. Mr. Niven asked that the permit granted for the setback be granted again since it was approved in 2006 but was not completed due to financial cost. Mr. Niven explained that the Santa Clara County Health Department is not allowing the building to be moved closer to the pool and it would be too costly to do so anyway. Mr. Niven stated that new demands being requested include: limiting swim team to children of members or 120 swimmers, limiting memberships to 250, use or rental of facilities to members only, membership of the club's competitive youth swim team be limited to club members only. Mr. Niven stated that the cabana club board accepted the demands but they ask for a modification on the last request, item P13 of the Conditions of Approval. Mr. Niven stated that the swimming pool currently serves primarily residents but some non-members as well, similar to how other cabana clubs operate. Mr. Niven explained that in order to function properly at times when the membership levels are low, they must allow non-members as well.

The Public Hearing was opened.

Daniel Smith expressed support of the project with staff recommendations stating that issues have been addressed and that the limits set by staff are reasonable.

Jennie Brewer expressed support of the project with staff recommendations. Ms. Brewer stated that this should be a neighborhood pool and allowing non-members to use the pool increases traffic since most come from other neighborhoods.

Jo Ann Frink expressed support of the project with staff recommendations. Ms. Frink expressed concern over traffic being caused by non-members driving from other neighborhoods. Ms. Frink suggested that swim lessons be limited to members only.

Alan Dillon expressed concern about the traffic being caused by the increase of swim meets as well as increase number of non-members using the facilities.

Deborah Smith expressed concern over the increase of traffic and parking issues. Ms. Smith approves of the project with staff recommendations and the limit of memberships set by staff.

Paul James expressed support of the project with staff recommendations.

Heidi Richey does not approve of limiting the use of the pool to members only. Ms. Richey stated that limiting the number of members of the swim team to 120 will be detrimental.

Helen Cox stated that allowing only members on the swim team will hurt the community. Ms. Cox stated that not everyone can afford to pay the membership fees in order to be allowed on the swim team. Ms. Cox stated that the traffic concerns can be addressed by monitoring the parking with the help of members and neighbors.

Danny Cox stated that due to the commercial area nearby, large vehicles take up parking spots which is affecting the neighborhood. Mr. Cox added that the cabana club is offering opportunities to swimmers who do not have access to other pools.

Steve Richey stated that limiting memberships will harm children and will deny them the opportunity to be a part of the community. Mr. Richey also stated that although memberships are being limited, they are still open to anyone, even if they are not Santa Clara residents.

Sean Lewis expressed concern over parking issues, noise during parties, and trash being thrown over his yard. Mr. Lewis expressed approval of the limit of memberships and believes that the pool should be a neighborhood pool. Mr. Lewis stated that the parking issues occur during the time of the year when more swim meets take place.

Lucia Baldwin expressed approval of the project and the conditions with the exception of limiting the swim team to only members. Ms. Baldwin stated that not everyone can afford the pricey membership.

Linda Vigeant-Overby stated that originally this pool was intended to be a neighborhood pool to members only and she believes that it should go back to being members only again.

Bret Radport stated support for the project and disagrees that the pool should be for members only. Mr. Radport suggested that signs and better communication can help alleviate the traffic and parking issues.

June stated the suggestions to alleviate traffic and parking had not been addressed or mentioned before tonight. Ms. June also expressed approval of limiting the swim team to members only.

Keisho Rushida stated that he believes that every club should have member and non-member options. Mr. Rushida expressed concern over the opportunity to exercise taken away from children.

Teresa Hun stated that even though she lives near the pool, she drives to the pool in order to transport heavy equipment on hot days. Ms. Hun stated that memberships are expensive and the opportunity to stay healthy will be taken away from children who cannot afford to become members.

In a rebuttal statement, Mr. Niven stated the following statements: that only about half of the members do not live in the neighborhood; that swim lessons have decreased over the years, not increased; that parties are not an issue; that although in the past the cabana club was limited to neighbors only, it is more inclusive now which benefits the community; that the swim team is not competitive; that the facility is not struggling financially; and that the swim meets only take up about 3 hours out of the day and allow other members to use the pool, as well.

The Commission inquired about adding new members if the limit of 250 has been reached. Mr. Niven explained that there is a waiting list and preference is given to neighborhood residents but he explained that members can sell their membership to anyone they wish.

The Commission inquired about whether the cabana club is considered a business and requires a

business license. The Commission expressed concern about dictating the cabana club how to run their business. Assistant City Attorney Julia Hill explained that the cabana club may be exempt from a business license agreement if they are a non-profit agency and that the issues addressed were brought forward because it affects the neighborhood. Staff further explained that limitations can be set when issuing a Use Permit.

The Commission inquired about the traffic issues and when is parking affecting the neighborhood. The applicant stated that big swim meets occur only about three or four times per year and other times, like when it is hot or during holidays, traffic and parking really becomes impacted. The applicant stated that they are willing to work with staff and neighbors to redirect and monitor traffic.

The Public Hearing was closed.

The Commission inquired about whether or not the Planning Commission has permission to set limits and restrictions on the cabana club. City Attorney Julia Hill explained that the Planning Commission has the right to set limits on Use Permits.

During the discussion, the Commission addressed and debated the issues about parking and traffic, limiting the memberships, making the cabana club a neighborhood pool (as originally intended), the impact on the community, and the impact that limiting the memberships would have on the club financially. The Commission suggested that a parking plan be required, which would address the parking and traffic issues by monitoring traffic and using schools nearby.

Motion/Action: The Commission motioned to adopt a Resolution Approving a Use Permit to allow replacement of a neighborhood swimming facility building, swimming pool and site work in a Public-Quasi Public (B) zone district, subject to conditions of approval and the following modified conditions (5-1-0-1, Costa dissenting, Ikezi abstaining):

- that P13 of the Conditions of Approval be changed to: limit of 120 members of the competitive swim team if there is a mix of members and non-members; no cap if only members are allowed to join
- that P15 be added to the Conditions of Approval to add a parking and traffic plan for club which should be implemented by the staff and members as a means to reduce impacts to the surrounding area

9. OTHER BUSINESS

9.A. Commission Procedures and Staff Communications

i. Announcements/Other Items

○ The Commission stated that they would like some guidelines from City Council to follow regarding Architectural Review related issues.

ii. Report of the Director of Planning and Inspection

- City Council Actions:
 - Lee Butler reported that the City Council meeting of February 23, 2016 had a very large turnout to speak on the Mission Town Center project. Mr. Butler noted that the number of units for the Mission Town Center project was dropped to 318, that the density was not changed to very high density, that the square feet of commercial buildings was decreased, and that the massing and bulking of the garage was dropped. Mr. Butler also reported that an agreement was reached with CORE for the BAREC project, an affordable housing development. Mr. Butler reported that the Council directed staff to compile a report about adding Planning Commission packets to the web and televising Planning Commission meetings. Lastly, Mr. Butler informed the Commission about the cancellation of the Planning Commission meeting of March 9, 2016 and the upcoming Joint City Council/Planning Commission meetings for the City Place Related Project, with a target date to have the Planning Commission hear the City Place Related Project on March 23, 2016. Mr. Butler explained that staff time fees are covered in the standard cost for the EIR and other similar assignments.

iii. Commission/Board Liaison and Committee Reports

- Appointment of Board or Committee assignments
- Architectural Committee

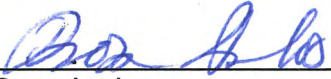
iv. Commission Activities

- Commissioner Travel and Training Reports; Requests to Attend Training
 - The Commission approved the attendance of up to three Commissioners to the National APA Conference on April 2-5 in Phoenix, Arizona; attendees to be determined.

v. Upcoming agenda items

10. ADJOURNMENT

Adjourn. The next meeting of the Planning Commission meeting will be held on Wednesday, March 23, 2016 at 7:00 p.m.

Prepared by: 
Rosa Avalos
Acting Office Specialist IV

Approved by: 
for Sharon Goei
Acting Director of Planning & Inspection

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