



MINUTES
Wednesday, June 22, 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

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

2. ROLL CALL

The following Commissioners responded to roll call: Raj Chahal, Chair Person Deborah Costa, Suds Jain, Steve Kelly, Mike O'Halloran, and Joe Sweeney. A motion was made by Commissioner Chahal, seconded, and carried to excuse Commissioner Yuki Ikezi (6-0-1-0, Commissioner Ikezi absent).

Staff members present were: Development Review Officer Gloria Sciara, Acting Director of Planning and Inspection Sharon Goei, Deputy City Attorney Diana Fazely, and Office Specialist IV Zoraya Garay.

3. DISTRIBUTION OF AGENDA AND STAFF REPORTS

Chair 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

Chair Costa reviewed the Planning Commission procedures for those present.

5. REQUESTS FOR WITHDRAWALS, CONTINUANCES, AND EXCEPTIONS

- A. Withdrawals – None
- B. Continuances without a hearing - Item 8.C was continued to a date certain of July 27, 2016
- 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.

- None

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

8. PUBLIC HEARING ITEMS

8.A. File: PLN2016-11970
Location: 2762 Augustine Drive, a new 7,375 square foot restaurant to be located at the southwest corner of Augustine Drive and Bowers Avenue, APN: 216-45-027; the property is zoned Planned Development (PD)
Applicant: Terry Womack
Owner: Augustine Bowers II, LLC
Subject: **Use Permit** to allow on-site sale and consumption of alcohol (ABC License Type 47) in a new restaurant (Fleming's Prime Steakhouse & Wine Bar).
CEQA Determination: Categorical Exemption per Section 15301, Class 1 Existing Facilities
Project Planner: Steve Le, Assistant Planner I
Staff Recommendation: **Approve, subject to conditions**

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

The Commission inquired about the patio expansion approval, the restaurant's menu, the number of indoor seats, and the lack of entertainment. Staff noted that the patio was reviewed during the architectural review and the Master Outdoor Seating Plan was built into the Plan Development approval. Staff deferred to the applicant to explain the operations and seating. Staff also explained the choice of having alcohol beverage sales, serving alcohol, and providing amplified music and entertainment is considered a discretionary approval. In the event the applicant wishes to proceed with live entertainment, an amendment to the use permit would be required.

The Commission asked if the condition requiring no live music could be modified. Staff stated the wording on the condition could be changed to state a minor amendment would be required rather than having the applicant open a new full use permit.

The applicants, Terry Womack and Michael Martin, explained the restaurant's operation is fine dining and live entertainment would disturb the patrons. Mr. Martin stated that all employees go through an elaborate alcohol responsibility training, and that the inside seating availability is 225 seats. Mr. Martin also stated the outside area is part of the original building.

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

Motion/Action: a motion was made by Commissioner Jain, seconded, and carried to adopt a resolution to approve the Use Permit for the property located at 2762 Augustine Drive (6-0-1-0, Commissioner Ikezi absent) with the following added conditions:

- 1) The applicant would only be required a minor permit should they desire to present live music in the future.
- 2) Deputy City Attorney Diana Fazely stated a correction be made on the condition P8 from outdoor seating being limited to 40 seats to outdoor seating being limited to 44 seats.

8.B. File: PLN2015-11184

Location: 3438 El Camino Real, Suite 8, a 1,500 square foot commercial tenant space in a 23,900 square foot building; located in the Rancho Retail Shopping Center on the south side of El Camino Real and Lawrence Expressway; APN: 290-01-136; property is zoned Thoroughfare Commercial (CT)

Applicant: Daniel Hwang
Owner: Rancho Retail Associates
Subject: **Use Permit Amendment** to allow on-site sale and consumption of alcohol (ABC License Type 47) for an existing restaurant with proposed 32 indoor seats and 40 outdoor seats. Proposed hours of operations are 11:00 a.m. to 1:00 a.m. on Sundays through Thursdays; and from 11:00 a.m. to 2:00 a.m. on Fridays and Saturdays.

CEQA Determination: Categorical Exemption per Section 15301, Class 1 Existing Facilities
Project Planner: Fahteen Khan, Assistant Planner I
Staff Recommendation: Approve, subject to conditions

Discussion: Gloria Sciara gave a brief presentation on the item. Applicant requested hours of operation to be from 11:00 am to 1:00 am for both indoor and outdoor service hours. Staff recommends hours of operation to be 11:00 am to 1:00 am indoors, and 11:00 am to 11:00 pm outdoors for the 24 seats closest to residential.

The Commission expressed concern about noise and the restaurant's proximity to residences, and the 11:00 p.m. closing hour being too late stating 10:00 p.m., would be better. Staff stated the noise ordinance applies to fix noise such as mechanical equipment only. A limitation of service has been placed in the patio area due to the proximity to residences.

The Commission asked about the parking study and future tenants.

The Commission requested the 24 outdoor seats not available after 10:00 p.m. be noted in the condition of approval and resolution.

The applicant Daniel Hwang addressed the Commission with a few points: the correction notice for the patio; a fire at the shopping center; the patio side of the restaurant facing residences closing at 10:00 p.m. to reduce noise, with only the outdoor patio side along El Camino Real remaining open after 10:00 p.m.; an 8 foot fence that shields residences from noise; and that within the past five to six months, there have been no problems. Mr. Hwang also stated they have an on-site security guard that stays during business operations.

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

Motion/Action: a motion was made by Commissioner Jain, seconded, and carried to adopt a resolution to approve the Use Permit Amendment for the property located at 3438 El Camino Real, Suite 8 (6-0-1-0, Commissioner Ikezi absent) with the following modified conditions:

- 1, Changing P10 to a 10:00 p.m. closing time.
2. Eliminating P14.
3. Changing the verbiage on 3b.1 to specify the 24 seats not available after 10:00 p.m.

8.C. File No.(s): **PLN2015-10923**
 Location: 3240 El Camino Real, an approximately 13,300 square foot lot, located on the south side of El Camino Real, approximately 150 feet east of Pomeroy Avenue, APN: 290-03-084
 Applicant/Owner: Tong Soon Gardens
 Request: **Twelve-month Review** of an approved Use Permit allowing the sale of beer, wine and distilled spirits (ABC License Type 47) in conjunction with full food service at Tong Soon Gardens Restaurant
 CEQA Determination: Review is not a project under CEQA
 Project Planner: Steve Le, Assistant Planner I
Staff Recommendation: Continue to July 27, 2016

Under item 5.B, this item was continued to the July 27, 2016 Planning Commission Meeting.

8.D. File No.(s): **PLN2016-12000**
 Location: 3777 Stevens Creek Boulevard, Suite 300, a 1,191 square foot tenant space within an existing 38,266 square foot commercial building, APN: 303-23-035
 Applicant: Alexei Smirnov, Central Properties
 Owner: Sherry Yeung
 Request: **Use Permit Amendment** to allow change in hours of operation.
 CEQA Determination: Categorical Exemption per Section 15301, Class 1 Existing Facilities
 Project Planner: Fahteen Khan, Assistant Planner I
Staff Recommendation: Approve, subject to conditions

Discussion: Gloria Sciara gave a brief presentation of the project, noting that the proposal is to change the hours of operation of an existing business that provides art classes and that serves beer and wine.

Public Hearing was opened.

The applicant Alexei Smirnov stated the daily hours are requested to open earlier from 11:00 a.m., to 10:00 p.m. Their patrons include people from Google, Apple, EBay, US Bank, and City of Santa Clara.

The Commission requested the applicant address the parking. Mr. Smirnov stated that there is a large parking lot available at the Central Computers building, where they are located, and it does not include parking for the coffee shop.

Public Hearing was closed.

Motion/Action: a motion was made by Commissioner Chahal, seconded, and carried to adopt a resolution to approve the Use Permit Amendment to the daily hours from 11:00 a.m. to 10:00 p.m., for the property located at 3777 Stevens Creek Boulevard, Suite 300 (6-0-1-0, Commissioner Ikezi absent).

9. OTHER BUSINESS

9.A. Commission Procedures and Staff Communications

i. Announcements/Other Items

- Recognition of outgoing Planning Commissioners Deborah Costa and Joe Sweeney.

ii. Report of the Director of Planning and Inspection

- City Council Actions
- At the June 21, 2016 meeting, two new Planning Commissioners were appointed:
 - Brandon Reinhardt for a one year, partial term from July 1, 2016 ending on June 30,

- Jan-Yu Weng for the full four-year term from July 1, 2016 to June 30, 2020.
- Sharon Goei demonstrated the online agenda and livestreaming for the Planning Commission meeting as a test run was in process. She explained the iPad rollout would be done during the next two weeks. The Commissioners were requested to contact Zoraya Garay for the iPad distribution.

iii. Commission/Board Liaison and Committee Reports

- Appointment of Board or Committee assignments
- Architectural Committee

iv. Commission Activities

- Reports on Commissioner Travel and Training
 - Commissioner Jain presented an item from a transportation study.


v. Upcoming agenda items

- Commissioner Requests to Attend Training
 - High Speed Rail Meeting on July 26, 2016 at a cost of \$40.50.
The Commission motioned to approve attendance for up to four (4) Commissioners.
 - State Planning Convention
The Commission motioned to approve attendance for up to four (4) Commissioners.
 - Recommendations were made for the next slate of officers to be Steve Kelly for Chair, Yuki Ikezi for Vice Chair, and Mike O'Halloran for Secretary.

10. ADJOURNMENT

Adjourn. The next Planning Commission meeting will be held on Wednesday, July 13, 2016 at 7:00 p.m.

Prepared by: 
Zoraya Garay
Office Specialist IV

Approved by: 
for Andrew Crabtree
Director of Community Development