

PLANNING COMMISSION

May 24, 2017

Action Minutes

WELCOME

SALUTE TO THE FLAG

ROLL CALL

PRESENT: Chair Abelite, Vice Chair Pham (arrived at 6:39 p.m.), Commissioners Allen, Ballard, Bit-Badal (arrived at 6:41 p.m.), Vora and Yesney

ABSENT: None

1. CALL TO ORDER & ORDERS OF THE DAY

Meeting called to order at 6:30 p.m.

2. PUBLIC COMMENT

A Member of the Public (Brian Darby) spoke about the importance of Memorial Day and its relationship to housing and citizens' right to have a home. He also spoke to the issue of redevelopment and loss of vibrancy.

3. DEFERRALS AND REMOVALS FROM CALENDAR

- a. **PDC17-003 & PD17-001.** Planned Development Zoning from A(PD) to A(PD) on an approximately 17.1-gross acre site and a Planned Development Permit to allow a 3,867 square foot fast food restaurant with drive through use on a 2.4-gross acre site in the Lowe's Shopping Center, located at the northeast corner of Cottle Road and Poughkeepsie Road (5550 Cottle Road) (Lowes Hiw Inc, Owner). Council District 2. CEQA: Addendum to the San Jose Lowe's Final Environmental Impact Report and Addenda thereto (Resolution No. 73814).

PROJECT MANAGER, ROBERT RIVERA

1. **DEFERRED TO THE JUNE 14, 2017 PLANNING COMMISSION MEETING PER STAFF REQUEST (5-0-2, BIT-BADAL & PHAM ABSENT)**
2. **ACTION: COMMISSIONER BALLARD MOVED AND COMISSIONER VORA SECONDED THE MOTION (5-0-2, BIT-BADAL & PHAM ABSENT)**

Access the video, agenda, and related reports for this meeting by visiting the City's website at:

<http://sanjoseca.gov/index.aspx?NID=1763>

4. CONSENT CALENDAR

- a. [CP15-023 \(Administrative Hearing\)](#). Conditional Use Permit to allow the demolition of an existing 3,368-square foot gas service station, fueling canopy and drive-through car wash, and the construction of a new 24-hour gas service station, including a 3,000-square foot fueling canopy over four new gas dispensers, 2,215-square foot convenience store with no off-sale of alcohol, 1,013-square foot utility and storage basement, 1,121-square foot drive-through carwash, and the removal of one ordinance-size tree, on a 0.5-gross acre site in the CN Commercial Neighborhood Zoning District located at 1610 Meridian Avenue (A.U. Energy LLC, Owner). Council District: 6. CEQA: Exempt per CEQA Guidelines Section 15303(c) for New Construction or Conversion of Small Structures.

PROJECT MANAGER, RINA SHAH

1. **DETERMINED THE EXEMPTION IS IN ACCORDANCE WITH CEQA (6-0-1, BIT-BADAL ABSENT)**
2. **ACTION: THE COMMISSION APPROVED THE CONDITIONAL USE PERMIT – RESOLUTION NO. 17-012 (6-0-1, BIT-BADAL ABSENT)**

- b. [CP16-010 & ABC17-003](#). Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of beer and wine (120-square feet dedicated to beer and wine; ABC Type 20 License) within the existing and approved full service grocery store on a 2.17-gross acre site located at the northeasterly corner of Rancho Drive and Monterey Road on 3840 Monterey Road (Jason Noghrey, Owner). Council District 7. CEQA: Exempt per CEQA Guidelines Section 15301(a) for Existing Facilities.

PROJECT MANAGER, ROBERT RIVERA

1. **DETERMINED THE EXEMPTION IS IN ACCORDANCE WITH CEQA (6-0-1, BIT-BADAL ABSENT)**
2. **RECOMMENDED TO THE CITY COUNCIL THE APPROVAL OF A CONDITIONAL USE PERMIT AND DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY RESOLUTION AS DESCRIBED ABOVE (6-0-1, BIT-BADAL ABSENT)**
3. **ACTION: COMMISSIONER BALLARD MOVED AND COMMISSIONER VORA SECONDED THE MOTION (6-0-1, BIT-BADAL ABSENT)**

- c. [CP16-045 \(Administrative Hearing\)](#). Conditional Use Permit to allow the development of a new utility facility, including the construction of a 722-square foot building for a hypochlorite injection system, future construction of a 576-square foot building for a fluoridation system, standby generators, a treatment sump and other site improvements on a 4.82-gross acre site, in the R-1-8 Single-Family Residence Zoning District, located at the western terminus of Carnelian Court (1107 Carnelian Court) (San José Water Company, Owners). Council District 7. CEQA: Exempt per CEQA Guidelines Section 15303(c) for New Construction or Conversion of Small Structures.

PROJECT MANAGER, JOHN TU

1. **DETERMINED THE EXEMPTION IS IN ACCORDANCE WITH CEQA (6-0-1, BIT-BADAL ABSENT)**
2. **ACTION: THE COMMISSION APPROVED THE CONDITIONAL USE PERMIT – RESOLUTION NO. 17-013 (6-0-1, BIT-BADAL ABSENT)**
3. **ACTION: COMMISSIONER BALLARD MOVED AND COMMISSIONER VORA SECONDED THE MOTION (6-0-1, BIT-BADAL ABSENT)**

- d. [CP17-004 \(Administrative Hearing\)](#). Conditional Use Permit to allow a 24-hour use at a 40,105-square foot indoor recreation facility (24-Hour Fitness Center), within an existing shopping center, on a 9.1-gross acre site in the CG General Commercial Zoning District located on the northwest corner of McKee Road and North Jackson Avenue (2323 McKee Road) (Lisa Lo/Chi Chiu Lo Trust, Owner). Council District 5. CEQA: Exempt per CEQA Guidelines Section 15301 for Existing Facilities.

PROJECT MANAGER, STEFANIE FARMER

1. **DETERMINED THE EXEMPTION IS IN ACCORDANCE WITH CEQA (6-0-1, BIT-BADAL ABSENT)**
2. **ACTION: THE COMMISSION APPROVED THE CONDITIONAL USE PERMIT – RESOLUTION NO. 17-014 (6-0-1, BIT-BADAL ABSENT)**
3. **ACTION: COMMISSIONER BALLARD MOVED AND COMISSIONER VORA SECONDED THE MOTION (6-0-1, BIT-BADAL ABSENT)**

- e. [PDC16-050 & PD16-035](#). Planned Development (PD) Rezoning from the CIC Combined Industrial/Commercial Zoning District to the CIC(PD) Planned Development Zoning District and a Planned Development Permit to approve an increase in student population at Downtown College Preparatory, a custom parking requirement for the existing school, a redesign of a previously approved parking lot, alteration of the existing driveway locations, outdoor recreation space, and an after school evening academic program until 8:00 p.m. for high school students on a 3.4-gross acre site located on the south east corner of Monterey Highway and East Alma Avenue (1402 Monterey Highway) (San Jose Unified School District, Owner). Council District 7. CEQA: Addendum to the Final Initial Study/Mitigated Negative Declaration for the Downtown College Prep Relocation Project.

PROJECT MANAGER, LEA SIMVOULAKIS

1. **RECOMMENDED TO THE CITY COUNCIL CONSIDERATION OF THE ADDENDUM TO THE FINAL INITIAL STUDY/MITIGATED NEGATIVE DECLARATION FOR THE DOWNTOWN COLLEGE PREP RELOCATION PROJECT IN ACCORDANCE WITH CEQA (6-0-0-1, ALLEN ABSTAINED)**
2. **RECOMMENDED TO THE CITY COUNCIL THE APPROVAL OF THE ADDENDUM, A PLANNED DEVELOPMENT (PD) REZONING AND A PLANNED DEVELOPMENT PERMIT AS DESCRIBED ABOVE (6-0-0-1, ALLEN ABSTAINED)**
3. **ACTION: COMMISSIONER BALLARD MOVED AND COMISSIONER VORA SECONDED THE MOTION (6-0-0-1, ALLEN ABSTAINED)**

- f. [PD16-038 & ABC17-001](#). Planned Development Permit and Determination of Public Convenience or Necessity to allow the off-sale of alcohol (ABC Type 21 License) of a full range of alcoholic beverages at a 42,640-square foot full-service grocery store (H-Mart) on a 7.5-gross acre site in the A(PD) Planned Development Zoning District located on northeast corner of Oakland Road and Murphy Avenue (1710 Oakland Road) (ROIC California LLC, Owner). Council District 4. CEQA: Exempt per CEQA Guidelines Section 15301 for Existing Facilities.

PROJECT MANAGER, TRACY TAM

1. **DETERMINED THE EXEMPTION IS IN ACCORDANCE WITH CEQA (6-0-1, BIT-BADAL ABSENT)**
2. **RECOMMENDED TO THE CITY COUCIL APPROVAL OF A PLANNED DEVELOPMENT PERMIT AND DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY RESOLUTION AS DESCRIBED ABOVE (6-0-1, BIT-BADAL ABSENT)**

3. **ACTION: COMMISSIONER BALLARD MOVED AND COMISSIONER VORA SECONDED THE MOTION (6-0-1, BIT-BADAL ABSENT)**

5. PUBLIC HEARING

Generally, the Public Hearing items are considered by the Planning Commission in the order in which they appear on the agenda. However, please be advised that the Commission may take items out of order to facilitate the agenda, such as to accommodate significant public testimony, or may defer discussion of items to later agendas for public hearing time management purposes.

- a. **PDC15-065, PD15-059 & PT15-069.** Planned Development Zoning, Planned Development Permit, and Tentative Map to rezone the property from the CG Commercial General Zoning District to the CG(PD) Planned Development Zoning District to allow the demolition of an existing building for the subdivision and construction of an 18-story (maximum 185 feet tall with 15 feet of architectural projections) mixed-use building, with up to 307 residential units, up to 10 commercial condominium units, approximately 52,167-square feet of commercial and office uses, four levels of below grade parking, and the removal of four ordinance-sized trees on a 0.89-gross acre site, located at 350 South Winchester Boulevard (Winchester Plaza on the Row, LLC, Owner). Council District 6. CEQA: 350 S. Winchester Mixed Use Project Environmental Impact Report.

PROJECT MANAGER, LEA SIMVOULAKIS

1. **RECOMMENDED TO THE CITY COUNCIL CONSIDERATION OF THE 350 S. WINCHESTER MIXED USE PROJECT ENVIRONMENTAL IMPACT REPORT AND STATEMENT OF OVERIDING CONSIDERATIONS IN ACCORDANCE WITH CEQA (7-0-0)**
2. **RECOMMENDED TO THE CITY COUNCIL THE CERTIFICATION OF THE ENVIRONMENTAL IMPACT REPORT, APPROVAL OF A PLANNED DEVELOPMENT ZONING, PLANNED DEVELOPMENT PERMIT, AND TENTATIVE MAP RESOLUTIONS AS DESCRIBED ABOVE (7-0-0)**
3. **ACTION: COMMISSIONER BALLARD MOVED AND COMISSIONER VORA SECONDED THE MOTION (7-0-0)**

6. GENERAL PLAN HEARING CONTINUED FROM MAY 10, 2017

- a. **GP17-005.** General Plan Amendment request to change the Land Use Designation from Neighborhood / Community Commercial to Urban Residential on a 0.28-gross acre site, located on the west side of Lincoln Avenue, approximately 82 feet northerly of Lincoln Court (2119 Lincoln Avenue) (Passaro Pasquale and Chaffin Sarah M Trustee, Owner). Council District: 6. CEQA: Exempt, Section 15270 Projects which are disapproved.

PROJECT MANAGER, KIMBERLY VACCA

MOTION 1:

- a. **DETERMINED THE EXEMPTION IS IN ACCORDANCE WITH CEQA, SECTION 15270 PROJECTS WHICH ARE DISAPPROVED (3-4-0, BIT-BADEL, BALLARD, ALLEN, PHAM)**
- b. **RECOMMENDED TO THE CITY COUNCIL TO DENY THE GENERAL PLAN AMENDMENT AS DESCRIBED ABOVE (3-4-0, BIT-BADEL, BALLARD, ALLEN, PHAM)**

- c. **ACTION: COMMISSIONER YESNEY MOVED AND COMMISSIONER ABELITE SECONDED. ACTION VOTE WAS 3-4-0 WITH NO VOTES FROM BIT-BADEL, BALLARD, ALLEN AND PHAM. ACTION FAILED.**

MOTION 2:

- a. **CONTINUE THE PROJECT TO ALLOW THE APPLICANT TIME TO SUBMIT THE NEEDED ZONING AND APPROPRIATE DEVELOPMENT APPLICATION FOR THE ULTIMATE PROJECT.**
- b. **ACTION: COMMISSIONER BALLARD WITHDREW MOTION.**

MOTION 3:

- a. **MOVE THE PROJECT FORWARD WITH NO RECOMMENDATION FROM THE PLANNING COMMISSION (6-1-0, YESNEY)**
- b. **ACTION: COMMISSIONER BALLARD MOVED AND COMMISSIONER ALLEN SECONDED. ACTION VOTE WAS 6-1-0 WITH A NO VOTE FROM YESNEY. ACTION PASSED.**

- b. [Stevens Creek Urban Village Plan / GP17-009](#). The Stevens Creek Urban Village Plan guides new job and housing growth within the Urban Village boundary, and provides a framework for the characteristics of future development, including urban design, open space, public art/placemaking, streetscape and circulation, and implementation. General Plan Amendments associated with the adoption of the Stevens Creek Urban Village Plan include modifications to the Urban Village boundary, and changes to General Plan land use designations on properties within the boundary of the Urban Village Plan as shown on the proposed Urban Village land use plan. CEQA: Determination of Consistency with the Final Program Environmental Impact Report for the Envision San Jose 2040 General Plan (Resolution No. 76041) and the Envision San Jose 2040 General Plan Supplemental Environmental Impact Report (Resolution No. 77617).

PROJECT MANAGER, LESLEY XAVIER

Staff Recommendation:

1. **CONSIDERED THE DETERMINATION OF CONSISTENCY WITH THE FINAL PROGRAM EIR FOR THE ENVISION SAN JOSE 2040 GENERAL PLAN (RESOLUTION NO. 76041) AND THE ENVISION SAN JOSE 2040 GENERAL PLAN SUPPLEMENTAL EIR (RESOLUTION NO. 77617) IS IN ACCORDANCE WITH CEQA**
2. **RECOMMENDED THAT THE CITY COUNCIL ADOPT A RESOLUTION APPROVING ALL OF THE FOLLOWING ACTIONS:**
 - a. **ADOPTION OF GENERAL PLAN AMENDMENT (GP17-009) INCLUDING MODIFICATIONS TO THE STEVENS CREEK URBAN VILLAGE BOUNDARY AND CHANGES TO GENERAL PLAN LAND USE DESIGNATIONS ON PROPERTIES WITHIN THE BOUNDARY OF THE URBAN VILLAGE PLAN AS SHOWN ON THE PROPOSED LAND USE PLAN; AND**
 - b. **ADOPTION OF THE STEVENS CREEK URBAN VILLAGE PLAN AS THE GUIDING POLICY DOCUMENT FOR NEW DEVELOPMENT AND IDENTIFIED PUBLIC IMPROVEMENTS WITHIN THE URBAN VILLAGE**

MOTIONS:

- a. **MOTION TO CONTINUE THE HEARING TO THE JUNE 14TH, 2017 COMMISSION MEETING WITH A STUDY SESSION TO BE SCHEDULED IMMEDIATELY BEFORE THE CONTINUED HEARING BY COMMISSIONER YESNEY, SECONDED BY COMMISSIONER BIT-BADAL (7-0-0)**
- b. **ACTION TO EXTEND THE MEETING TO 12:15 PM MOTIONED BY COMMISSIONER BIT-BADAL, SECONDED BY COMMISSIONER YESNEY (7-0-0)**
- c. **ACTION TO EXTEND THE MEETING TO 12:30 PM MOTIONED BY COMMISSIONER BIT-BADAL, SECONDED BY COMMISSIONER YESNEY (7-0-0)**
- d. **CHAIR ABELITE CLOSED THE PUBLIC HEARING ON THIS ITEM.**

7. CLOSURE OF THE GENERAL PLAN HEARING

8. REFERRALS FROM CITY COUNCIL, BOARDS, COMMISSIONS, OR OTHER AGENCIES

No Items

9. GOOD AND WELFARE

- a. Report from City Council
No Reports
- b. Review and Approve Action Minutes from [5/10/17](#)
Action Minutes for 5/10/17 not reviewed and are moved to Planning Commission Meeting on June 14th, 2017
- c. Subcommittee Formation, Reports, and Outstanding Business
No Reports
- d. Commission Calendar and Study Sessions
- e. The Public Record
No Items

10. ADJOURNMENT

Meeting adjourned at 12:30 a.m.