

PLANNING COMMISSION

September 12, 2012

Action Report

ROLL CALL

Meeting:

PRESENT: Commissioners Bit-Badal, Abelite, Cahan, Kline, O'Halloran and Yob

ABSENT: Commissioners Kamkar

1. **DEFERRALS**

No items

2. **CONSENT CALENDAR**

- a. **CP11-060.** Conditional Use Permit to allow conversion of an existing 55,000 square foot industrial office building to medical office use in the IP-Industrial Park Zoning District, located on the northeast corner of Lundy Avenue and McKay Drive (1870 Lundy Avenue) (North East Medical Services, Owner). Council District 4. SNI: N/A. CEQA: Exempt. *PROJECT MANAGER, JOHN BATY*

APPROVED – RESOLUTION NO. 12-032 (6-0-1; KAMKAR ABSENT)

- b. **CP12-003.** Conditional Use Permit for the timely renewal of an existing public eating/drinking establishment with late night use until 2:00 a.m. in the DC Downtown Primary Commercial Zoning District, on a .14 gross acre site located on the northwest corner of W. San Salvador Street and S. First Street (389 S. 1st Street)(4 Angel Wings LLC, Owner). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, APARNA ANKOLA*

APPROVED – RESOLUTION NO. 12-033 (6-0-1; KAMKAR ABSENT)

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

<http://www.sanjoseca.gov/planning/hearings/>

- c. **CP12-026.** Conditional Use Permit to allow a post secondary school (Unitek College) in an approximately 12,300 square foot portion of an existing 117,739 square foot industrial office building on a 5.9 acre site in the IP Industrial Park Zoning District, located on the northeast corner of Charcot Avenue and Orchard Parkway (1901 Charcot Av) (Fund IX – 2300 Orchard Parkway LLC, Owner). Council District 4. SNI: None. CEQA: Exempt. *PROJECT MANAGER, JOHN BATY*

APPROVED – RESOLUTION NO. 12-034 (6-0-1; KAMKAR ABSENT)

3. PUBLIC HEARING

- a. **CP12-008.** Conditional Use Permit request to allow after midnight operation of a restaurant with an incidental drinking establishment until 3:00 a.m. in the DC Downtown Primary Commercial Zoning District, on an approximately 0.28 gross-acre site on the north side of East San Fernando Street, approximately 110 feet westerly of South 3rd Street (87 E SAN FERNANDO ST) (Mr. Simon David Aviel, Owner/Chacho’s Restaurant, Operator). Council District 3. SNI: None. CEQA: Exempt. *PROJECT MANAGER, JENNY NUSBAUM*

STAFF RECOMMENDATION APPROVED – RESOLUTION NO. 12-035 (5-1-1; O’ HALLORAN OPPOSED; KAMKAR ABSENT)

- b. **CP12-012.** Conditional Use Permit to allow conversion of an existing vacant 7,637 square foot office building to a private elementary school for up to 120, 1st through 8th grade students on a 1.74 acre portion of a 2.58 acre site in the CG - Commercial General Zoning District, entrance located on the west side of Pearl Avenue 200-feet north of Edenbury Lane (3635 Pearl Av) (Normandin Family Props LLC, Owner). Council District 9. SNI: None. CEQA: Exempt. *PROJECT MANAGER, JOHN BATY*

APPROVED – RESOLUTION NO. 12-036 (6-0-1; KAMKAR ABSENT)

- c. **CP12-015.** Conditional Use Permit request to allow the continued use of an eating and drinking establishment and late night use until 2:00 a.m. on an approximately 0.11 gross-acre site in the DC Downtown Primary Commercial Zoning District, located on the east side of South 3rd Street approximately 190 feet south of East Santa Clara Street (32 S 3RD ST) (Lawrence A R Ross Trustee & Et Al, Owner / Liquid Restaurant and Lounge, Operator). Council District 3. SNI: University. CEQA: Exempt. *PROJECT MANAGER, JENNY NUSBAUM*

APPROVED – RESOLUTION NO. 12-037 (6-0-1; KAMKAR ABSENT)

- d. **SANTA CLARA VALLEY HABITAT PLAN AND ASSOCIATED DOCUMENTS (FILE No PP 12-075)**. Planning Commission study session of the proposed Santa Clara Valley Habitat Plan/Natural Community Conservation Plan (“HCP/NCCP” or “Habitat Plan”) which is intended to satisfy the requirements for a habitat conservation plan under the Federal Endangered Species Act (“FESA”) (16 U.S.C. § 1531 *et seq.*) and a natural community conservation plan under the Natural Community Conservation Planning Act (“NCCPA”) (California Fish and Game Code §§ 2800-2835.). The Habitat Plan is intended to serve as the basis for the issuance of incidental take permits and authorizations pursuant to Sections 10(a) of FESA (16 U.S.C. § 1539) and Section 3835 of the California Fish and Game Code. The Habitat Plan was drafted cooperatively by the County of Santa Clara, the Cities of Gilroy, Morgan Hill and San Jose, the Santa Clara Valley Water District, and the Santa Clara Valley Transportation Authority (collectively the “Local Partners”) and the Wildlife Agencies. Citywide. CEQA: EIR Resolution to be adopted. *PROJECT MANAGER, ANDREW CRABTREE*

The Planning Commission will take public testimony and discuss the following items related to the Santa Clara Valley Habitat Plan:

1. **DRAFT ENVIRONMENTAL IMPACT REPORT/ENVIRONMENTAL IMPACT STATEMENT FOR THE SANTA CLARA VALLEY HABITAT PLAN.** Pursuant to Section 15051 of the CEQA Guidelines, the Local Partners agreed to be co-lead agencies for purposes of complying with the California Environmental Quality Act (“CEQA”) (California Public Resources Code §21000 *et seq.*) for the Project. This EIR/EIS describes Project elements, assesses impacts and proposes mitigation and other standard measures designed to reduce such impacts. Feasible alternatives and the scope of the Final EIR/EIS are based on input from environmental assessments, responsible agencies including the Wildlife Agencies, the public participation process, and resource agencies.
2. **AN ORDINANCE ADOPTING AND INCORPORATING BY REFERENCE THE SANTA CLARA VALLEY HABITAT PLAN.** The Implementation Ordinance adds Chapter 18.40 to Title 18 of the San Jose Municipal Code, entitled “Habitat Conservation Plan” and adopts and incorporates by reference the Santa Clara Valley Habitat Plan, implements Habitat Plan requirements upon applications for land use permits in San Jose within the area covered by the Habitat Plan; and authorizes the collection of Habitat Plan mitigation fees on behalf of the Implementing Entity (the Santa Clara Valley Habitat Agency.

DISCUSSION FOCUSED ON JOINT POWERS AUTHORITY AND OTHER IMPLEMENTATION QUESTIONS.

4. PETITIONS AND COMMUNICATIONS

None

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

None

6. GOOD AND WELFARE

a. Report from City Council

On 9-25-12, the Council will be considering Boards and Commissions recommendations from the City Clerk.

b. Commissioners' Report from Committees:

1. Norman Y. Mineta San José International Airport Noise Advisory Committee (Cahan)

None

c. Review and Approve Synopsis from [8/22/12](#).

Approved (5-0-1-1; Cahan Abstain & Kamkar Absent)

d. Subcommittee Formation, Reports, and Outstanding Business

None

e. Commission Calendar and Study Sessions

Review of the Retreat Agenda: with modifications, the Commission unanimously adopted the Retreat Agenda.

Approved (6-0-1; Kamkar Absent)