



City of Santa Clara
**PLANNING COMMISSION
MEETING MINUTES**
Wednesday, May 1, 2013 – 7:00 P.M.

CITY COUNCIL CHAMBERS
1500 Warburton Avenue
Santa Clara, CA 95050

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.C., File No.: CEQ2013-00758, Fiscal Year 2013-2014 Capital Improvement Program (CIP) Budget**

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, Ian Champeny, Raj Chahal, Yuki Ikezi, Keith Stattenfield, and Joe Sweeney. Commissioner Steve Kelly was excused.

Staff present were City Planner Steve Lynch, Development Review Officer Gloria Sciara, Assistant City Attorney Alexander Abbe, and Office Specialist IV Megan Zimmershead.

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.

Sudhanshu Jain gave a brief presentation on the importance of the Climate Action Plan.

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 April 10, 2013

The Commission approved the Minutes of April 10, 2013 (5-0-1-1, Kelly absent, Champeny abstained).

7.B. File No.(s):	PLN2012-09039
Address/APN:	3145 El Camino Real, a 2,900 square foot tenant space on a 1.9 acre parcel on the north side of El Camino Real, approximately 150 feet east of Calabazas Boulevard, APN: 220-32-057
Applicant:	Jin Ho Park
Owner:	Herbert and Hazel Bowers Trusts #2
Request:	Six-month review of Use Permit to allow karaoke entertainment in an existing restaurant with on-site alcohol sale and service
CEQA Determination:	Six-month review is not a project under CEQA
Project Planner:	Debby Fernandez, Associate Planner
Staff Recommendation:	Note and File report

The remainder of the Consent Calendar was approved (6-0-1-0, Kelly absent).

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

8. PUBLIC HEARING ITEMS

8.A. File No.(s):	PLN2013-09661
Address/APN:	3465 Homestead Road, an approximately 0.40 acre site located at the northeast corner of Homestead Road and Bingo Drive, APN: 290-23-065
Applicant:	Shang Chun Hsia, Jack-in-the-Box Restaurant
Owner:	George Ogino
Request:	Use Permit Amendment to allow existing drive-thru restaurant to operate from 6:00 a.m. to 3:00 a.m. daily.
CEQA Determination:	Categorical Exemption per section 15301, Existing Facilities
Project Planner:	Yen Chen, Associate Planner
Staff Recommendation:	Denial

Notice: The notice of public hearing for Item 8.A. was posted within 300 feet of the site and

mailed to property owners within 300 feet.

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

The Commission clarified that there have been no recent calls for service and that the application came forward as a result of Code Enforcement action. It was noted that other nearby establishments without drive-thrus have 24-hour operations. Staff noted that late-night hours can be an attractive nuisance and that the General Plan advises against drive-thrus.

The applicant, Shang Chun Hsia, stated that he has been a franchise owner of Jack in the Box for over 20 years and is willing to resolve any issues that the public or Commission may have. Art Bryden, business consultant to the applicant, stated that he had spoken with the Police Department about the expanded hours and received positive feedback as all calls for service had been incident related and not related to the drive thru. Mr. Bryden also stated that he will be proactive by obtaining and reviewing calls for service reports on a monthly basis. Mr. Bryden added that he had reached out to neighbors, hosted a town hall type meeting for neighbors to express concerns, spoke with the neighboring apartment manager as well as neighboring businesses and received positive feedback from the neighboring business about the hours expansion.

The Commission inquired about the revenue earned during the late-night hours of business, to which the applicant estimated revenues to be roughly \$20,000 per month.

The Commission clarified that a restaurant is allowed to operate 24-hours; however, a drive-thru requires a Use Permit.

The Public Hearing was opened.

Bill Elmerson, resident at 844 Bing Drive, stated that he would like the Use Permit to be denied because of potential for increased noise and trash. Mr. Elmerson added that he has called the Police Department for service at the nearby McDonalds and thinks there is no added value to the neighborhood by allowing an increase of operating hours at the Jack in the Box.

The applicant in a rebuttal statement indicated that the nearby McDonalds has a much larger lot adding a much higher potential for people to loiter and cause problems. He added that the Jack in the Box has put up signs on its property reminding customers to be courteous to neighbors and that the configuration of the drive-thru discourages people from lingering.

The Commission confirmed that the Jack in the Box has been operating outside of its permitted hours for at least three years. The Commission inquired if there was anything done to discourage patrons from parking and staying on the property after going thru the drive-thru. The Applicant indicated that there is signage to encourage patrons to exit parking lot after the drive-thru and that they would be willing to consider installing a chain link barrier to close off the parking area.

The Public Hearing was closed.

The Commission discussed the possibility of granting a time restricted or temporary permit. Different options were discussed, including utilizing six and 12 month reviews, the revocation process, and automatic expiration without action by the applicant.

The Commission clarified that a complaint about the late-night hours instigated the Code Enforcement activity. It was noted that for Use Permit revocation, the Commission would have to determine the level of severity of the pattern of behavior or incident.

A motion was made to approve the Use Permit amendment with six and 12 month reviews

along with automatic expiration unless action to continue the Use Permit is made by the applicant.

The Commission discussed the location of the restaurant being on the edge of a residential neighborhood and that a temporary Use Permit would be advantageous for neighboring residents who may encounter problems with the later hours of operation. The Commission noted that the applicant has been proactive in attempting to prevent problems and that other drive-thru locations with similar hours also abut residential neighborhoods.

The Commission discussed changing the motion to add 18 and 24 month review periods to ensure that no detrimental effects come from the extension of hours. It was clarified that if affirmative action is not taken on each of those four incremental review dates, the Use Permit will expire.

The motion was amended to reflect the addition of 18 and 24 month review periods. Staff clarified that a new resolution would be brought before the Commission on May 29, 2013 to take final action on this Use Permit.

Motion/Action: The Commission motioned to direct Staff to draft a resolution for the property located at 3465 Homestead Road to reflect approval of the Use Permit amendment with 6, 12, 18, and 24 month reviews along with automatic expiration unless action to continue the Use Permit amendment is made by the Applicant (6-0-1-0, Kelly absent).

8.B. File No.(s):	PLN2013-09723
Address/APN:	633 Robin Drive, APN: 294-07-062
Applicant/Owner:	Steve Vallejos / Jared and Jen Nunn
Request:	Variance to Section 18.12.030(d) to allow a reduction in the required two covered parking space to one in conjunction with the development of a 640 square feet detached accessory dwelling unit
CEQA Determination:	Categorically Exempt per section 15303, Class 3 New Construction or Conversion of Small Structures
Project Planner:	Payal Bhagat, Assistant Planner II
Staff Recommendation:	Approval , subject to conditions

Notice: The notice of public hearing for Item 8.B. was posted within 300 feet of the site and mailed to property owners within 300 feet.

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

The Commission clarified that the current Zoning Code requires two covered parking spaces while the previous Zoning Code only required one.

The Applicant, Steve Vallejos, stated that the property is in compliance with zoning requirements for the second unit; however, the existing main home is not compliant as it only has one covered parking space.

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

Motion/Action: The Commission motioned to adopt a resolution approving the Variance for the project located at 633 Robin Drive (6-0-1-0, Kelly absent).

8.C. File No.(s): CEQ2013-00758
Address/APN: City-wide
Applicant/Owner: City of Santa Clara
Request: **Fiscal Year 2013-2014 Capital Improvement Program (CIP) Budget** Environmental Determinations and General Plan Conformity Findings
CEQA Determination: Varies by CIP Project
Project Planner: Yen Chen, Associate Planner
Staff Recommendation: **Approve** Environmental Determinations and **make findings** for General Plan Conformance

Notice: Noticing for this item is not required under CEQA.

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

It was noted that Commissioner Chahal would abstain from CIP line items 67, 171, and 235 and that Commissioner Costa would abstain from CIP line item 235.

The Commission inquired about the aggregate total of the CIP budget. Staff indicated that the figure is not available at this time but that it would be included in the final CIP Budget brought forward for Council action.

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

Motion/Action: The Commission motioned to adopt a resolution approving the environmental determinations and making findings of General Plan conformance for the FY2013-14 Capital Improvements Program (CIP) Budget, with a request that the Council have the aggregate total of the CIP budget, by the following votes:

- 1) CIP Item 67: 5-0-1-1, Kelly absent, Chahal abstaining
- 2) CIP Item 171: 5-0-1-1, Kelly absent, Chahal abstaining
- 3) CIP Item 235: 4-0-1-2, Kelly absent, Chahal and Costa abstaining
- 4) Remainder of CIP Budget: 6-0-1-0, Kelly absent

9. OTHER BUSINESS

9.A. Commission Procedures and Staff Communications

i. Announcements/Other Items

- Steve Lynch announced that after the Commission had approved it's budget for FY2013-14, including elimination of the 10 percent budget reduction, the City Manager issued a memo requesting that all Boards and Commissions keep a status quo budget for FY2013-14. The Commission unanimously approved reinstatement of the 10 percent reduction of it's FY2013-14 budget, resulting in a total allocation of \$9,621.00

ii. Report of the Director of Planning and Inspection

- City Council Action

iii. Commission/Board Liaison and Committee Reports

- Architectural Committee: Commissioners Stattenfield and Costa
- Station Area Plan: Commissioner Champeny
- General Plan sub-Committee: Commissioners Champeny and Ikezi

iv. Commission Activities

- Commissioner Travel and Training Reports

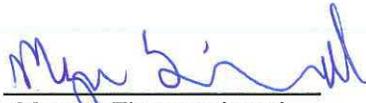
v. Upcoming agenda items

- Commissioner Costa noted that she will be absent from the next Planning Commission meeting and requested to be excused.

10. ADJOURNMENT

The meeting adjourned at 8:41 p.m. The next regular Planning Commission meeting will be held on Wednesday, May 29, 2013, at 7:00 p.m.

Prepared by:



Megan Zimmershead
Office Specialist IV

Approved:



Kevin L. Riley
Director of Planning & Inspection

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