City of Santa Clara

PLANNING COMMISSION MEETING MINUTES

Wednesday, January 9, 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.A. File No.(s): PLN2012-09373** Address: 4306 Fillmore Street (Rezoning)
- **Item 8.C. File No.(s): PLN2012-09581** Address: City Wide (Housing Element Amendment)

1. PLEDGE OF ALLEGIANCE and INVOCATION

Vice-Chair Champeny initiated the Pledge of Allegiance, and the Invocation was read.

2. ROLL CALL

The following Commissioners responded to roll call: Vice-Chair Ian Champeny, Steve Kelly, Keith Stattenfield, and Joe Sweeney. Chair Costa was excused.

Staff present were Director of Planning and Inspection Kevin Riley, City Planner Steve Lynch, Development Review Officer Gloria Sciara, Assistant City Attorney Julia Hill, 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

Vice-Chair Champeny 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.

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.

7.A. Planning Commission Minutes of December 12, 2012

7.B.	**File No.(s):**	**PLN2011-08837**
	Address/APN:	2725 El Camino Real, Suite #107, APN: 216-01-040; a 3,962 square foot tenant space within an existing retail commercial shopping center located 550 feet east of the intersection of Bowers Avenue and Kiely Boulevard, zoned Thoroughfare Commercial (CT)
	Applicant:	Kimberly Kim
	Owner:	James L. Samnet
	Request:	**One-year review** of Use Permit Amendment allowing full service alcoholic beverages in conjunction with a previously approved music and karaoke studio and full service restaurant
	CEQA Determination:	Categorical Exemption per Section 15301, Class 1 Existing Facilities
	Project Planner:	Payal Bhagat, Assistant Planner II
	Staff Recommendation:	**Note and File report**
7.C.	**File No.(s):**	**PLN2010-08475**
	Address/APN:	3541 Homestead Road, a 3,333 square foot tenant space within a 5.5 acre parcel, located at the northwest corner of Lawrence Expressway and Homestead Road, APN: 290-23-053, -049
	Applicant/Owner:	Kitami Inc/SBH Homestead Properties
	Request:	**Six-month review** of Use Permit allowing beer and wine at an existing restaurant
	CEQA Determination:	Categorical Exemption per Section 15301, Class 1 Existing Facilities
	Project Planner:	Yen Chen, Associate Planner
	Staff Recommendation:	**Note and File report**

Motion/Action: The Commission motioned to approve the Consent Calendar by the following vote: Item 7.A.: 3-0-1-1, Costa absent, Champeny abstained; Item 7.B.: 4-0-1-0, Costa absent; Item 7.C.: 4-0-1-0, Costa absent.

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

8. PUBLIC HEARING ITEMS

8.A.	**File No.(s):**	**PLN2012-09360**
	Address/APN:	4306 Fillmore Street, a 0.21 acre parcel located on the northwest corner of Agnew Road and Fillmore Street, APN: 104-11-092; property is zoned R1-6L (Single-

	Family)
Applicant/Owner:	James and Ann Redfield
Request:	**Rezone** from R1-6L (Single-Family) to PD (Planned Development)
CEQA Determination:	Categorical Exemption per Section 15303 Class 3 (a); New Construction or Conversion of Small Structures
Project Planner:	Payal Bhagat, Assistant Planner II
Staff Recommendation:	**Recommend City Council Approval**, subject to conditions

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.

Paxton Sheldahn, representative for applicant, overviewed the project highlighting the design features of the proposal. Mr. Sheldahn clarified that the project will minimally be a certified Leed Silver project; however, it could get a gold rating depending on the construction process.

The Public Hearing was opened.

Craig Erb, resident, inquired about the tree in the front yard. The applicant confirmed it will be retained.

The Public Hearing was closed.

The Commission expressed difficulty in making Finding "A". Staff noted that the General Plan land use designation allows the density created by the second unit; however, the zoning would not allow the density because of the development standard for the lot size. The PD rezoning is optimal because it allows for-sale development of a second dwelling unit.

Motion/Action: The Commission motioned to adopt a resolution recommending that the City Council approve the rezoning request from R1-6L (Single-Family) to PD (Planned Development) for the project located at 4306 Fillmore Street (4-0-1-0, Costa absent).

8.B.	**File No.(s)**:	**PLN2012-09176/CEQ2012-01144**
	Address/APN:	3499 The Alameda, a 0.40 acre parcel located at the southwest intersection of The Alameda and Harrison Street, APN: 269-16-069, property is zoned Light Industrial (ML)
	Applicant:	Gabriel Cervantez, Barry Swenson Builder
	Owner:	LHL Partners, LLC
	Request:	**Appeal** of the Architectural Review Committee action modifying design features of an approved project to construct six single family homes
	CEQA Determination:	Previously Adopted MND
	Project Planner:	Payal Bhagat, Assistant Planner II
	Staff Recommendation:	**Deny Appeal (Affirming the Architectural Review Committee's action with 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: Steve Lynch gave a brief presentation on the project. Mr. Lynch clarified that it supports removal of conditions 5 and 7, but recommends affirmation of all other Conditions.

Dan Sell, representative of applicant, went through the list of actions and conditions added by the Architectural Committee and provided feedback for each item:

1. *P36 Install a solid fence of masonry six feet high at the perimeter between the project and neighboring properties.* Applicant would like a wooden fence instead of a masonry wall.
2. *P37 Install female Chinese Pistache trees and work with the City Arborist on adding color to the plant palate along Harrison Street.* Applicant had no objection to this condition.
3. *P38 Investigate the possibility of relocating and undergrounding the transformer pad with Silicon Valley Power.* Applicant is working with SVP.
4. *P39 Provide see-though gates in the side yards, such as wrought iron.* Applicant would like to keep side fences and not have a reduction of privacy from see-through gates.
5. *Remove the proposed patio doors on Units 2, 3, 4, 5, and 6.* Applicant would like sliding patio doors to allow access to the backyard area.
6. *P40 Allow patio door to be installed facing west on Unit 5.* Applicant does not want a patio door to open into a parking space.
7. *Allow windows in place of proposed patio doors.* Applicant would like sliding patio doors to allow access to the backyard area.
8. *P41 Reduce the full size south facing windows in Bedroom 4 in Units 3 and 4.* Applicant would like windows that are non-egress to have the window sashes fixed with the lower sash being obscured glass and upper sash being regular glass to enhance privacy but maintain window size.
9. *P42 Reduce the two full size windows to one window for egress in Bedroom 2 in Units 3 and 4.* Applicant would like windows that are non-egress to have the window sashes fixed with the lower sash being obscured glass and upper sash being regular glass to enhance privacy but maintain window size.
10. *P43 Reduce the full size windows facing south and east with the corner window facing east to be the egress window in Bedroom 2 in Unit 5.* Applicant would like windows that are non-egress to have the window sashes fixed with the lower sash being obscured glass and upper sash being regular glass to enhance privacy but maintain window size.
11. *P44 Reduce the full size window facing east in Bedroom 2 and 4 in Unit 6.* Applicant would like windows that are non-egress to have the window sashes fixed with the lower sash being obscured glass and upper sash being regular glass to enhance privacy but maintain window size.
12. *P45 Allow full size egress windows facing south in Bedroom 2 and 4 in Unit 6.* Applicant would like this condition to be met by compliance with state Building Codes.
13. *P49 Allow all windows to be operable and not fixed.* Applicant had no objection to this condition.

The Commission clarified that conditions 5 and 7 both relate to the removal of patio doors, and that condition 6 would be eliminated if the patio doors were reinstated.

Commissioner Stattenfield, as a representative of the Architectural Committee, made the following comments about the conditions discussed by the applicant:

1. *P36 Install a solid fence of masonry six feet high at the perimeter between the project and neighboring properties.* This condition was added to provide continuity with existing masonry fences in the surrounding area. Because there are also wooden fences in the area, removal of this condition would be agreeable.
4. *P39 Provide see-though gates in the side yards, such as wrought iron.* The material of the fence could be easily reverted back to wood to match the back fencing. Fences should not open into neighboring yards, but rather only to common space.
5. *Remove the proposed patio doors on Units 2, 3, 4, 5, and 6.* This condition was added due to the small size of the back yard area and close proximity to existing neighboring properties.

6-7 (Directly related to number 5)

8. *P41 Reduce the full size south facing windows in Bedroom 4 in Units 3 and 4.* This condition was added to increase privacy for neighbors. The applicant's suggestion could be an agreeable alternative to this condition, however, glass can easily be changed out in the future making this a difficult condition to enforce.

9-12 (Same as 8)

13. *P49 Allow all windows to be operable and not fixed.* This condition gives the applicant flexibility to install windows according to ventilation and egress requirements as required by code.

The Commission summarized that numbers 1, 4, and 8-12 are likely easily amendable, numbers 2, 3, and 13 require no action, and numbers 5-7 need to be discussed further given the summary of actions provided by Commissioner Stattenfield.

The Public Hearing was opened.

Craig Erb, resident, commented that the MND prepared for this project included a wooden fence where the Architectural Committee required a masonry wall.

The Public Hearing was closed.

The Commission inquired if Staff's recommendation to reinstate the patio doors relied upon said doors being sliding doors or if a swinging door could suffice. Staff confirmed that it would support either option but recommends the sliding door to give optimal access to the outdoor living space provided in the proposal.

A motion to deny the appeal of the Architectural Committee's actions with modification to the added conditions of approval was made and discussed. The Commission deliberated on the reinstatement of the patio doors.

Motion/Action: The Commission motioned to adopt a resolution affirming the decision of the Architectural Committee for the project located at 3499 The Alameda (4-0-1-0, Costa absent) with the following conditions being edited or removed as noted below:

1. *P36 Install a solid fence of <u>wood</u> six feet high at the perimeter between the project and neighboring properties.*
2. *P37 Install female Chinese Pistache trees and work with the City Arborist on adding color to the plant palate along Harrison Street.* (<u>No changes to this condition</u>.)
3. *P38 Investigate the possibility of relocating and undergrounding the transformer pad with Silicon Valley Power.* Applicant is working with SVP. (<u>No changes to this condition</u>.)
4. *P39 Provide <u>wooden side gates</u> in the side yards.*
5. *<u>Condition removed</u>.*
6. *<u>Condition removed</u>.*
7. *<u>Condition removed</u>.*
8. *P41 <u>The full size south facing windows in Bedroom 4 in Units 3 and 4 shall have the window sashes fixed with the lower sash being obscured glass and upper sash being regular glass with functionality for egress and ventilation as required by code</u>.*
9. *P42 <u>The two full size windows in Bedroom 2 in Units 3 and 4 shall have the window sashes fixed with the lower sash being obscured glass and upper sash being regular glass with functionality for egress and ventilation as required by code</u>.*
10. *P43 <u>The full size windows facing south and east, with the corner window facing east as the egress window, in Bedroom 2 in Unit 5 shall have the window sashes fixed with the lower sash being obscured glass and upper sash being regular glass with functionality for egress and ventilation as required by code</u>.*
11. *P44 <u>The full size window facing east in Bedroom 2 and 4 in Unit 6 shall have the window sashes fixed with the lower sash being obscured glass and upper sash being regular glass with functionality for egress and ventilation as required by code</u>.*

12. *P45 Allow full size egress windows facing south in Bedroom 2 and 4 in Unit 6 as required by code.*
13. *Condition removed.*

8.C.	**File No.(s):**	**PLN2012-09581**
	Address/APN:	City-wide
	Applicant/Owner:	City of Santa Clara
	Request:	**Public hearing to consider Amendment** to City of Santa Clara Housing Element and Determination for General Plan Conformance (GPA-77)
	CEQA Determination:	Previously Certifed FEIR for 2010-2035 General Plan Update; CEQ2008-01070/SCH#2008092005
	Project Planner:	Steve Lynch, AICP, City Planner
	Staff Recommendation:	**Recommend City Council Approval;** and make findings of General Plan Conformance

Notice: The notice of public hearing for Item 8.C. was published in the December 26, 2012 Santa Clara Weekly.

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

The Commission voiced concern that this matter was not brought before the Commission prior to the absolute deadline provided by the State Department of Housing and Community Development (HCD). Staff stated that the amendment process moved very quickly while working directly with the State and that this was the soonest the proposal could reach the Commission prior to the HCD imposed deadline.

The Commission expressed concern that the amendment implies that the City must promote certainty of developments and maximize densities even in situations when the development may not be in the best interest of the City for the sole purpose of grant eligibility. Staff stated that the City still has control to approve or deny any project and that the Housing Element is a guideline to help provide a sufficient housing to jobs ratio within the City.

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

The Commission again voiced strong concern that this item was not brought before them in a timely manner resulting in an inability to make any recommendations for improvements to the amendment. The Commission also stated that the recommendation to Council for approval of the item was mandatory in order to meet the HCD deadline, thereby eliminating the Commission's opportunity to continue the item for further review and comment.

Motion/Action: The Commission motioned to adopt a resolution recommending that the City Council approve the General Plan Amendment (GPA-77) for the 2009-2014 Housing Element (4-0-1-0, Costa absent).

9. OTHER BUSINESS

9.A. Commission Procedures and Staff Communications

i. Announcements/Other Items

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 (one vacancy)

iv. **Commission Activities**
   - Commissioner Travel and Training Reports

v. **Upcoming agenda items**
   - Planning Commission Procedures

10. ADJOURNMENT

The meeting adjourned at 8:50. The next meeting of the Planning Commission will be held on January 30, 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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