

PLANNING COMMISSION

March 22, 2017

Action Minutes

WELCOME

SALUTE TO THE FLAG

ROLL CALL

PRESENT: Commissioners Abelite, Pham, Allen, Ballard, Bit-Badal, and Yesney

ABSENT: Commissioner Vora

1. CALL TO ORDER & ORDERS OF THE DAY

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

2. PUBLIC COMMENT

One member of the public requested that Item 4.c. be heard earlier in the hearing agenda. Chair Abelite confirmed that the item would be heard first under the Public Hearing portion of the agenda.

3. DEFERRALS AND REMOVALS FROM CALENDAR

- a. **CP16-029.** Conditional Use Permit to allow the construction of an approximately 91,714 square foot, 94-unit residential care facility located on a 4.9 gross acre site, in the CN Commercial Neighborhood Zoning District at 3550 San Felipe Road (Poston, Shirley A Trustee, Owner). Council District 8. CEQA: Mitigated Negative Declaration for Oakmont of Evergreen Assisted Living Facility.

PROJECT MANAGER, EMILY LIPOMA

1. **DEFERRED TO THE APRIL 26, 2017 PLANNING COMMISSION MEETING PER STAFF REQUEST (6-0-1, VORA 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. **CP16-040 (Administrative Hearing)**. Conditional Use Permit to allow the operation of a 2,330-square foot drinking establishment (bar/tasting/tap room) in conjunction with a distillery and a brewery within an existing 10,619-square foot industrial building, including a 650-square foot public eating establishment (restaurant) and the off-sale of a full-range of alcoholic beverages, on a 7.23-gross acre site in the LI Light Industrial Zoning District located at 695C Quinn Avenue (Gradeway Associates VI, Owner). Council District: 7. CEQA: Exempt under CEQA Guidelines Section 15303 for New Construction or Conversion of Small Structures.
PROJECT MANAGER, RINA SHAH

PULLED FROM CONSENT CALENDAR BY A MEMBER OF THE PUBLIC AND HEARD UNDER PUBLIC HEARING.

1. **DETERMINED THE EXEMPTION IS IN ACCORDANCE WITH CEQA (6-0-1, VORA ABSENT)**
2. **ACTION: COMMISSIONER BALLARD MOVED TO APPROVE THE CONDITIONAL USE PERMIT. COMMISSIONER BIT-BADAL SECONDED THE MOTION. THE COMMISSION APPROVED THE CONDITIONAL USE PERMIT – RESOLUTION NO. 17-006 (6-0-1, VORA ABSENT), INCORPORATING THE FOLLOWING STAFF-RECOMMENDED UPDATE:**
 - i. **ADD CONDITION 15: LIGHTING. ALL NEW ON-SITE EXTERIOR LIGHTING SHALL CONFORM TO THE OUTDOOR LIGHTING POLICY (COUNCIL POLICY 4-3) AND SHALL USE FULLY CUT-OFF AND FULLY SHIELDED, LOW-PRESSURE SODIUM FIXTURES. LIGHTING SHALL BE DESIGNED, CONTROLLED AND MAINTAINED SO THAT NO LIGHT SOURCE IS VISIBLE FROM OUTSIDE OF THE PROPERTY. AN OUTDOOR LIGHTING PLAN SHALL BE SUBMITTED BY THE APPLICANT DURING THE BUILDING PERMIT PROCESS FOR REVIEW BY STAFF ON BEHALF OF THE DIRECTOR OF PLANNING THROUGH A PERMIT ADJUSTMENT PROCESS. THE LIGHTING PLAN SHALL BE PREPARED BY A CERTIFIED LIGHTING PROFESSIONAL AND SHALL INCLUDE A PHOTOMETRIC ANALYSIS TO DEMONSTRATE HOW ALL AREAS OF THE PARKING LOT ARE ADEQUATELY LIT FOR THE SAFETY AND SECURITY OF PATRONS OF THE PROPOSED DISTILLERY AND BREWERY.**

- b. **CP16-048 (Administrative Hearing)**. Conditional Use Permit to allow a 126-bed psychiatric hospital (approximately 80,000 square feet) and associated site improvements, including the removal of 25 ordinance-size trees, on a vacant 5.6-gross acre site located in the IP Industrial Park Zoning District located at northwest side of Enzo Drive and Eden Park Place. (Pepper Lane-Ferrari & Raby, Owner). Council District: 2. CEQA: Addendum to the Edenvale Redevelopment Project Final Environmental Impact Report, as supplemented (Resolution Nos. 69699 and 70021), and the Envision San José 2040 General Plan Environmental Impact Report, as supplemented (Resolution Nos. 76041 and 77617).
PROJECT MANAGER, RINA SHAH

1. **DETERMINED THE ADDENDUM TO THE EDENVALE REDEVELOPMENT PROJECT FINAL ENVIRONMENTAL IMPACT REPORT, AS SUPPLEMENTED (RESOLUTION NOS. 69699 AND 70021), AND THE ENVISION SAN JOSÉ 2040 GENERAL PLAN ENVIRONMENTAL IMPACT REPORT, AS SUPPLEMENTED (RESOLUTION NOS. 76041 AND 77617) IS IN ACCORDANCE WITH CEQA (6-0-1, VORA ABSENT)**

2. **ACTION: THE COMMISSION APPROVED THE CONDITIONAL USE PERMIT – RESOLUTION NO. 17-007 (6-0-1, VORA ABSENT), INCORPORATING THE FOLLOWING STAFF-RECOMMENDED UPDATES:**
 - i. **ADD CONDITION 26: OAK TREE REPLACEMENT. OF THE 24-INCH BOX REPLACEMENT TREES NEEDED AS PART OF THE PROJECT TO COMPLY WITH THE CITY’S TREE REPLACEMENT RATIO, 30 OF THE 24-INCH BOX REPLACEMENT TREES SHALL BE OF A SPECIES OF OAK, NATIVE TO THE BAY AREA REGION.**
 - ii. **ADD CONDITION 27: TREE PROTECTION MEASURES. THE PROJECT APPLICANT, IN CONSULTATION WITH A CERTIFIED ARBORIST OR BIOLOGIST, SHALL SUBMIT A TREE PROTECTION PLAN TO THE SUPERVISING PLANNER OF THE DEPARTMENT OF PLANNING, BUILDING, AND CODE ENFORCEMENT FOR TREES TO BE PROTECTED ON SITE PRIOR TO ISSUANCE OF ANY GRADING PERMIT. THE TREE PROTECTION PLAN SHALL INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING:**
 - a) **NUMBER, LOCATION, AND TYPE OF TREE TO BE PROTECTED.**
 - b) **SIZE AND LOCATION FOR TREE PROTECTION ZONES. THE TREE PROTECTION PLAN SHALL INCLUDE ANY SPECIFIC RECOMMENDATION AND SUGGESTIONS FOR EACH PROTECT ZONE IF APPLICABLE.**
 - c) **MAINTENANCE METHODOLOGY FOR TREE PROTECTION ZONES DURING THE ENTIRE DEMOLITION AND CONSTRUCTION PERIODS.**

- c. **[CPA09-040-01 \(Administrative Hearing\)](#). Conditional Use Permit Amendment to legalize the unlawful expansion of an existing parking area, installation of sidewalks, fencing, gates and tot lot without a permit, and also to modify the HVAC system and allow the maximum allowable noise level at residential property lines to be exceeded by up to 20 decibels, at an existing private elementary school on a 10.8-gross acre site in the R-1-8 Single-Family Residence Zoning District located on the southeast corner of the intersection of Camina Escuela and Blackford Avenue (730 Camina Escuela) (Moreland School District, Owner). Council District: 1. CEQA: Exempt per CEQA Guidelines Section 15311 for Accessory Structures.**

PROJECT MANAGER, EDWARD SCHREINER

PULLED FROM CONSENT CALENDAR BY MEMBERS PUBLIC AND HEARD UNDER PUBLIC HEARING.

1. **DETERMINED THE EXEMPTION IS IN ACCORDANCE WITH CEQA (6-0-1, VORA ABSENT)**
2. **ACTION: COMMISSIONER BIT-BADAL MOVED TO APPROVE THE CONDITIONAL USE PERMIT AMENDMENT. COMISSIONER BALLARD SECONDED THE MOTION. THE COMMISSION APPROVED THE CONDITIONAL USE PERMIT AMENDMENT – RESOLUTION NO. 17-010 (6-0-1, VORA ABSENT), INCORPORATING THE FOLLOWING UPDATES:**
 - i. **REVISED STAFF-RECOMMENDED PROJECT DESCRIPTION TO EXCLUDE “THE MAXIMUM ALLOWABLE NOISE LEVEL AT RESIDENTIAL PROPERTY LINES TO BE EXCEEDED BY UP TO 20 DECIBELS,” AS THE AREA IS AN EXISTING PLAYFIELD AND, THEREFORE, THE PROPOSED TOT LOT IS NOT A CHANGE IN USE AND WILL NOT INCREASE IN THE EXISTING AMBIENT NOISE LEVEL.**

- ii. **ADD A COMMISSION-RECOMMENDED CONDITION: “NEIGHBORHOOD LIAISON REQUIRED. THE HEADMASTER OF CHALLENGER SCHOOL SHALL BE THE NEIGHBORHOOD LIAISON FOR THIS SITE. THE NEIGHBORHOOD LIAISON SHALL BE RESPONSIBLE FOR ENSURING COMPLIANCE WITH THE HOURS OF OPERATION, DROP-OFF PROCEDURES, AND OTHER NUISANCE CONDITIONS IN THIS PERMIT. THE NEIGHBORHOOD LIAISON SHALL MAINTAIN A SCHEDULE OF DAILY ACTIVITIES ON THE SITE, INCLUDING BUT NOT LIMITED TO, HOURS OF OPERATIONS, NUMBER OF ATTENDANTS, AND COMPLAINTS ON SITE ACTIVITIES. THE NAME AND PHONE NUMBER OF THE NEIGHBORHOOD LIAISON AND CITY FILE NUMBER CP09-040, SHALL BE DISPLAYED ON A WEATHER PROOF SIGN ON THE PROJECT SITE AND BE LEGIBLE FROM THE PUBLIC RIGHT-OF-WAY.”**

- d. **CPA15-044-01 (Administrative Hearing)**. Conditional Use Permit Amendment to allow an increase in the number of students, staff, and leasable square footage used by a post-secondary school (Northeastern University) in an existing 89,247 square foot industrial office building on a 3.9 gross acre site in the IP Industrial Park Zoning District, located at 2064 Silver Creek Valley Road. (Owners: IDT, Inc.). Council District: 2. CEQA: Exempt per CEQA Guidelines Section 15301(a) for Existing Facilities.

PROJECT MANAGER, LEA SIMVOULAKIS

1. **DETERMINED THE EXEMPTION IS IN ACCORDANCE WITH CEQA (6-0-1, VORA ABSENT)**
2. **ACTION: THE COMMISSION APPROVED THE CONDITIONAL USE PERMIT AMENDMENT – RESOLUTION NO. 17-008 (6-0-1, VORA 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. The projects being considered are located on a 0.13-gross acre site in the R-M Multiple Residence Zoning District located on the west side of North 13th Street, approximately 200 feet north of Washington Street (421 North 13th Street) (John and Betty Licking, Owners). Council District 3. CEQA: Exempt per CEQA Guidelines Section 15301(a) for Existing Facilities. *Deferred from 9/28/16; Dropped and re-noticed from 10/12/16, Continued from 12/14/16, Dropped and re-noticed from 1/25/17.*

PROJECT MANAGER, PATRICK KELLY

CP15-073 (Administrative Hearing). Conditional Use Permit to allow a 25-bed Residential Care Facility (23 client beds and two resident manager beds) within an existing 3,089-square foot single-family residence.

RA16-002 (Administrative Hearing). Request for Reasonable Accommodation to allow reduced parking for a 25-bed Residential Care Facility (23 client beds and two resident manager beds) located within an existing 3,089-square foot single-family residence.

1. **DETERMINED THE EXEMPTION IS IN ACCORDANCE WITH CEQA (6-0-1, VORA ABSENT)**

2. **ACTION: CHAIR ABELITE MOVED TO APPROVE THE CONDITIONAL USE PERMIT. COMMISSIONER ALLEN SECONDED THE MOTION. THE COMMISSION APPROVED THE CONDITIONAL USE PERMIT AND REQUEST FOR REASONABLE ACCOMMODATION – RESOLUTION NO. 17-009 (4-2-1, PHAM & YESNEY OPPOSED; VORA ABSENT), UPDATING CONDITION 5 TO CORRECT THAT THREE PARKING SPACES ARE PROVIDED ON-SITE, NOT TWO PARKING SPACES.**

b. The following projects are proposed for the 1.25 acre site located at the northwest corner of North Seventh Street and Empire Street (535 North Seventh Street) (Cohen, Richard M, Trustee, Owner). Council District 3. CEQA: Mitigated Negative Declaration for 7th & Empire Residential Project. *PROJECT MANAGER, EMILY LIPOMA*

PDC16-028. Planned Development Rezoning from the HI Heavy Industrial Zoning District to the R-M(PD) Planned Development Zoning District to allow up to 97 multi-family residences and up to 1,000 square feet of commercial space.

PD16-026. Planned Development Permit to demolish six commercial/industrial buildings, remove 20 ordinance-sized trees, and construct 97 residential units and up to 1,000 square feet of commercial space.

PT16-034. Vesting Tentative Map to combine six lots into one lot totaling approximately 1.25 gross acres, and the creation of 97 residential condominiums one commercial condominium.

1. **RECOMMEND TO THE CITY COUNCIL CONSIDERATION OF THE MITIGATED NEGATIVE DECLARATION FOR 7TH & EMPIRE RESIDENTIAL PROJECT IS IN ACCORDANCE WITH CEQA (6-0-1, VORA ABSENT)**

2. **RECOMMEND ADOPTION OF A RESOLUTION TO APPROVE THE MITIGATED DECLARATION AND TO APPROVE A PLANNED DEVELOPMENT REZONING ORDINANCE, PLANNED DEVELOPMENT PERMIT RESOLUTION AND A VESTING TENTATIVE MAP RESOLUTION AS DESCRIBED ABOVE (6-0-1, VORA ABSENT), INCORPORATING THE FOLLOWING STAFF-RECOMMENDED UPDATES TO THE PLANNED DEVELOPMENT REZONING’S DEVELOPMENT STANDARDS:**

i. **ALLOWED BUILDING HEIGHT: 50 FEET, ALLOWING UP TO 60 FEET MAXIMUM FOR ARCHITECTURAL ELEMENTS, TO MORE CLOSELY ALIGN WITH THE JACKSON-TAYLOR RESIDENTIAL STRATEGY (INSTEAD OF 60 FEET MAXIMUM FOR BUILDING HEIGHT).**

ii. **MINIMUM VEHICLE PARKING: 1.35 PARKING SPACES (INSTEAD OF 1.4 PARKING SPACES) TO ALIGN WITH THE NUMBER OF PARKING SPACES PROPOSED IN THE PLANNED DEVELOPMENT PERMIT.**

c. **PP17-023.** Consider recommending to the City Council the adoption of ordinances adding and amending various provisions in the San José Municipal Code Title 20 (the Zoning Code) and the adoption of a Resolution amending Council Policy 6-33 entitled “Conversion of Mobilehome Parks to Other Uses,” in order to provide for a more comprehensive review of zoning and land use permit applications for the conversion of use of sites with existing mobilehome parks or multi-family housing.

PROJECT MANAGER, JENNY NUSBAUM

1. **MOTION FAILED TO RECOMMEND TO THE CITY COUNCIL THE EXEMPTION IS IN ACCORDANCE WITH CEQA (2-4-1, ABELITE, ALLEN, BALLARD & BIT-BADAL OPPOSED; VORA ABSENT)**

2. **MOTION FAILED TO RECOMMEND ADOPTION OF AN ORDINANCE ADDING A NEW PART 5 TO CHAPTER 20.180 REGARDING MOBILEHOME PARK CLOSURE PROJECTS TO TITLE 20 OF THE SAN JOSÉ MUNICIPAL CODE (THE ZONING CODE) (2-4-1, ABELITE, ALLEN, BALLARD & BIT-BADAL OPPOSED; VORA ABSENT)**
3. **MOTION FAILED TO RECOMMEND ADOPTION OF AN ORDINANCE AMENDING CHAPTER 20.120 ENTITLED “ZONING CHANGES AND AMENDMENTS;” AND AMENDING SECTION 20.80.460 RELATING TO THE EVALUATION OF PERMIT APPLICATIONS FOR THE DEMOLITION, REMOVAL, OR RELOCATION OF A BUILDING WITHIN THOSE SECTIONS OF THE ZONING CODE IN ORDER TO PROVIDE A MORE COMPREHENSIVE REVIEW OF ZONING AND LAND USE PERMIT APPLICATIONS FOR THE CONVERSION OF USE OF SITES WITH MOBILEHOME PARKS AND EXISTING MULTI-FAMILY HOUSING AND TO MAKE TECHNICAL, FORMATTING AND OTHER NON-SUBSTANTIVE CHANGES TO THOSE SECTIONS OF THE ZONING CODE (2-4-1, ABELITE, ALLEN, BALLARD & BIT-BADAL OPPOSED; VORA ABSENT)**
4. **MOTION FAILED TO RECOMMEND ADOPTION OF A RESOLUTION AMENDING COUNCIL RESOLUTION NO. 77673 FOR REVISIONS TO CITY COUNCIL POLICY 6-33 “CONVERSION OF MOBILEHOME PARKS TO OTHER USES” (“THE POLICY”), TO CHANGE AND ADD PROVISIONS FOR CONSIDERATION OF MOBILEHOME PARK CONVERSIONS TO OTHER USES TO FACILITATE IMPLEMENTATION OF THE REQUIREMENTS IN THE ZONING ORDINANCE REGARDING MOBILEHOME PARK CONVERSIONS TO ANOTHER USE INCLUDING:**
 - a. **DEFINING THE TERM “SUFFICIENT INFORMATION” IN SECTION 1.D. OF THE POLICY TO ENSURE THAT DESIGNATED RESIDENT ORGANIZATIONS (DRO) CAN MAKE A WELL-INFORMED ASSESSMENT OF THE MOBILEHOME PARK’S VALUE AND/OR WHAT PROCEDURES CAN BE ESTABLISHED FOR A DRO TO GET ACCESS TO THAT INFORMATION;**
 - b. **PROVIDING CLARIFYING LANGUAGE IN SECTION 1.E. OF THE POLICY; AND**
 - c. **PROVIDE ADDITIONAL SCENARIOS FOR SELECTING APPRAISERS AND CONSULTANTS UNDER SECTIONS 2.A. AND 2.C. OF THE POLICY. (2-4-1, ABELITE, ALLEN, BALLARD & BIT-BADAL OPPOSED; VORA ABSENT)**

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

No Items

7. GOOD AND WELFARE

- a. Report from City Council

No Reports

- b. Review and Approve Action Minutes from [3/8/17](#)

Action Minutes approved (5-0-1-1, Pham Abstained, Vora Absent)

c. Subcommittee Formation, Reports, and Outstanding Business

No Reports

d. Commission Calendar and Study Sessions

e. The Public Record

No Items

8. ADJOURNMENT

Meeting adjourned at 10:35 p.m.