

Meeting Date: 4-9-13

# AGENDA REPORT

City of Santa Clara, California

Agenda Item # 6D3



**Date:** March 15, 2013  
**To:** City Manager for Council Information  
**From:** Director of Planning and Inspection  
**Subject:** Note and File: Planning Commission Minutes of January 30, 2013

On March 13, 2013, the Planning Commission approved its Minutes of January 30, 2013. These Minutes are now being brought forward to the City Council to be noted and filed. Any items on these Minutes marked for City Council Action were either brought forward already or will be brought forward under separate cover accompanied by a separate Agenda Report.

  
\_\_\_\_\_  
Kevin L. Riley  
Director of Planning and Inspection

APPROVED:

  
\_\_\_\_\_  
Julio J. Fuentes  
City Manager

***Documents Related to this Report:***

- 1) *Planning Commission Minutes of January 30, 2013*



**City of Santa Clara**  
**PLANNING COMMISSION**  
**MEETING MINUTES**  
**Wednesday, January 30, 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.

**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): PLN2012-09472** Address: 930 Bellomy Street (Rezoning)

**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, Steve Kelly, Keith Stattenfield, and Joe Sweeney.

Staff present were Director of Planning and Inspection Kevin Riley, 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 – Item 8.B. was continued date certain to March 13, 2013 at the request of the applicant.

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 January 9, 2013

**Motion/Action:** The Commission motioned to approve the Planning Commission Minutes of January 9, 2013,(4-0-0-1, Costa abstained).

<b>7.B. File No.(s):</b>	<b>PLN2011-08845</b>
Address/APN:	2909 Lakeside Drive, a 1.8 acre parcel on the east side of Lakeside Drive, approximately 435 feet north of Augustine Drive, APNs: 216-30-043 & 044; property is zoned Commercial Park (CP)
Applicant:	Luke Oberson, X/S Partners, LLC
Owner:	Mock Trust
Request:	<b>Six-month review</b> of Use Permit to allow restaurant and nightclub use with live entertainment and full food and alcohol service
CEQA Determination:	Not Applicable
Project Planner:	Debby Fernandez, Associate Planner
<b>Staff Recommendation:</b>	<b>Note and File Report</b>

**Discussion:** The Commission reviewed the incidents reported since the opening of the nightclub and emphasized the importance of maintaining the improved security plan.

**Motion/Action:** The Commission motioned to note and file the six-month review for the project located at 2909 Lakeside Drive unanimously (5-0-0-0).

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

## 8. PUBLIC HEARING ITEMS

<b>8.A. File No.(s):</b>	<b>PLN2012-09472</b>
Address/APN:	930 Bellomy Street, a 13,872 square foot lot on the southwest corner of Lafayette Street and Bellomy Street, APN: 269-43-054; property is zoned Single-Family Residential (R1-6L)
Applicant/Owner:	Stuart Fiedelman, 930 Bellomy Properties, LLC
Request:	<b>Rezone</b> from Single-Family Residential (R1-6L) to Planned Development (PD) to allow a student dormitory use of a residential property and expansion of the existing structure by five bedrooms for a total of 14 bedrooms
CEQA Determination:	Categorical Exemption per Section 15301, Existing Facilities involving negligible or no expansion of use
Project Planner:	Debby Fernandez, Associate Planner
<b>Staff Recommendation:</b>	<b>Recommend City Council Approval</b> , 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.

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<b>Staff Recommendation:</b>	<b>Recommend City Council Approval</b> , 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.

The Commission inquired about the ability to require conditions such as a "house mother" (resident manager) and that the housing be used by a student group. Staff replied that the Planned Development (PD) proposal includes the residential use being described as a dormitory which assumes communal living. The PD proposal also requires the implementation of the Statement of Operations that will outline requirements such as the use of a resident manager and property management company as well as the purchase of off-site parking permits.

The Commission inquired why the project could not specifically state the tenant as being a sorority or fraternity. Staff replied that the Zoning Code defines sororities and fraternities as groups that are formally recognized by a university; however, Santa Clara University no longer affiliates itself with the Greek system and no longer provides any formal recognition to sororities or fraternities. As a result, the proposed use could not qualify as a sorority or fraternity under the Zoning Code.

The Public Hearing was opened.

Myron Von Raesfeld, representative for applicant, stated that the property owner takes pride in maintaining his properties and that he is in tune with needs of the area. Mr. Von Raesfeld further stated that the proposal is a high quality project in an ideal location with close proximity to the University. The home will be a private dormitory with a resident manager to ensure that all rules and expectations are followed, including the restriction of alcohol. Mr. Von Raesfeld explained that he manages around 135 properties, many of which are student housing, and that there are relatively few complaints associated with his properties. Mr. Von Raesfeld also noted that the street parking in the neighborhood has time restrictions that will incentivize students to use the University parking lots that are in close proximity to the site.

The Commission inquired about the effect a potential sale of the property would have on the ability to enforce the conditions and the Statement of Operations. Staff confirmed that all conditions associated with the PD proposal will run with the land and transfer to the new owner. The Commission inquired how the City would be able to enforce the terms of the lease agreement. Staff confirmed that the lease could be enforceable by the City through existing enforcement policies and procedures if the project was required have the lease name the City as a third-party beneficiary to the lease with ability to enforce any and all terms. Staff noted that a condition could be added to the project approval that an annual review take place and be brought before the Commission.

The Commission inquired about Staff's recommendation to reduce the massing of the building. The applicant stated that a reduction of the building size would not work with the operations plan as proposed. The applicant stated that he is willing to adjust the roof line and plant additional trees to help ease concerns about the visual impact of the massing.

The Commission inquired about the maximum number of tenants and how the selection of residents would occur, including the ability to evict tenants. The applicant stated that their property management company will have a "master lease" with the resident manager and that the resident manager will execute individual leases with the students. The applicant confirmed that the resident manager will enforce the terms of the lease and will evict tenants when necessary.

Rodney Clark, resident at 884 Bellomy, stated that the proposal is an experiment with permanent consequences and questioned the enforceability of the conditions. Mr. Clark also stated that this project will set a precedent for the neighborhood and that the on-site parking is deficient which will result in students parking anywhere they can to be close to the residence.

The Commission confirmed that the rezoning is not a revocable process but that the PD proposal allows for implementation of conditions that will give the City the ability to require correction of problems that arise.

Responding to concerns about parking, the applicant stated that the purchase of off-site parking permits can be required as part of the lease agreement and that all aspects of the lease would be fully enforceable by the property management company as well as the City. The Commission confirmed that it would like the City to be a third-party beneficiary to the lease with ability to enforce any and all terms.

The Public Hearing was closed.

The Commission inquired if all the findings must be made in order to approve the rezoning. Staff clarified that the rezoning request is a legislative action and therefore the findings are not required. The Commission expressed difficulty in making finding "A".

The Commission discussed a motion that included adding the City as a third-party beneficiary to the lease agreement, having the leases and property management agreement subject to City approval, requiring that all vehicles belonging to residents of the property must have off-site parking permits after the initial five vehicles that are able to be parked on-site, mandating that all parking spaces and garage spaces be available for parking and remain unobstructed at all times, prohibiting alcohol on-site, having a maximum of 26 residents including the house manager, presenting annual reports to the Commission drafted by City staff, striking the words "when leased to students" from the language in Condition P3, and directing legal staff to research and recommend whether each of these conditions would be placed appropriately either in the Conditions of Approval for this project or in the lease agreement that will be subject to City approval.

The condition to prohibit alcohol on site was removed by the maker of the motion.

**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 930 Bellomy Street unanimously (5-0-0-0) with the following requirements being added to the Conditions of Approval or lease agreement subject to the City Attorney's recommendation:

- 1) All leases and subleases of the Project Site, or any portion thereof, shall be in writing and shall be in a form approved by the City Attorney. Once the form is approved, the form shall not be modified without the prior consent of the City Attorney. All such leases and subleases shall name the City as a third-party beneficiary and shall empower the City to enforce the terms of the agreements.
- 2) The Property Management Agreement shall be in writing and shall be in a form approved by the City Attorney. Once the form is approved, the form shall not be modified without the prior consent of the City Attorney. Any change in the property manager shall be subject to City approval. The Property Management Agreement shall name the City as a third-party beneficiary and shall empower the City to enforce the terms of the agreement.
- 3) All vehicles operated by residents of the property must have valid, current off-site parking permits after the initial five vehicles that are able to be parked on-site.
- 4) All parking spaces and garage spaces must be available for parking and remain unobstructed at all times.
- 5) This residence shall have a maximum of 26 residents including the house manager.
- 6) Annual reports shall be drafted by City staff and presented to the Commission.
- 7) Condition P3 shall read as follows: The dormitory shall have a resident manager on-site and a professional property management company for tenant oversight and property maintenance.

<b>8.B. File No.(s):</b>	<b>PLN2012-09203/CEQ2012-01148</b>
Address/APN:	2805 and 2807 Mission College Boulevard
Applicant:	Matt Tyndall
Owner:	Office of the Chancellor, Mission College
Request:	<b>Amendment</b> to PD Zoning District to allow a free standing data center and office space
CEQA Determination:	Mitigated Negative Declaration
Project Planner:	Payal Bhagat, Assistant Planner II
<b>Staff Recommendation:</b>	<b>Recommend City Council Approval,</b> 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:** The public hearing was opened.

Jolie Houston, representative for the applicant, requested that the project be continued to the next available date to allow time for additional discussions between the applicant, owner, and City staff.

**Motion/Action:** The Commission motioned to continue the project date-certain to the Planning Commission meeting of March 13, 2013 (5-0-0-0).

<b>8.C. File No.(s):</b>	<b>PLN2012-09533</b>
Address/APN:	3275 Stevens Creek Boulevard a 0.61 acre parcel on the north side of Stevens Creek Boulevard approximately 75 feet east of Henry Avenue, APN: 303-18-022; property is zoned Thoroughfare Commercial (CT)
Applicant/Owner:	Abe Novin

Request: **Use Permit** to allow outdoor auto display as part of a retail car sale operation  
CEQA Determination: Categorical Exemption per Section 15301, Existing Facilities involving negligible or no expansion of use  
Project Planner: Marge Sung, Associate Planner  
**Staff Recommendation:** **Approve**, subject to conditions

**Notice:** The notice of public hearing for Item 8.C. 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.

The Commission clarified the definition of vehicle display and noted that it is a requirement of the Department of Motor Vehicles (DMV) and is separate from parking requirements of the City Code.

Abe Novin, applicant, stated that he understood the concerns from the neighbors and noted that he is installing a fence on the property to help improve the parking situation.

The Commission confirmed with the applicant that there is a parking permit system in place and that the applicant is responsible for enforcing said system. It was also clarified that the applicant is the owner of the property and is seeking this Use Permit to save his tenants the time and expense associated with the individual DMV licensing process.

The Public Hearing was opened.

Tracey Johnson, SOFNA resident, stated that she could not find the DMV requirement for one vehicle display space, only that vehicle display must be signed-off by the City. Ms. Johnson also expressed concern for the ability of the City to regulate and monitor the conditions and stated that the parking lot and surrounding neighborhood streets are full as early as 5:00am.

Jane Malache, SOFNA resident, inquired about the City Code section that regulates parking. Ms. Malache stated that the actual number of parking spaces is less than what is represented on the plans and that the striping in the parking lot is difficult to see.

Dave Steeley, SOFNA resident, stated that because there are 38 units in the building, there will be a parking deficiency which will force employees and customers to park on the public streets and encroach on the neighborhood.

Barbara Steeley, resident of Dorcich Street, stated that approval of the Use Permit would be detrimental to the neighborhood's peace, comfort and welfare which is in violation of City Code.

Cindy Baldanzi, resident of Harold Avenue, stated that there are similar businesses on Harold Avenue and that transport vehicles drop off vehicles all hours of the night. Ms. Baldanzi stated that the Use Permit approval will set a precedent that will cause many more problems.

Keith Baldwin, SOFNA resident, stated that he was concerned that this Use Permit will open the door to problems and felt the business as described sounds unrealistic.

The applicant, in a rebuttal statement, said that the plans are accurate in that the parking lot has 59 spaces. He added that the test drives in the neighborhood could be from any dealership in the area and should not be assumed to all come from this business. Mr. Novin stated that the preschool down the street does not comply with parking which impacts his property and that he has invested significant money to improve the building and will be resurfacing the parking lot.

The Public Hearing was closed.

The Commission confirmed that there are no auto repairs taking place on the project site. The Commission then expressed concern that the DMV parking requirement and City Code parking requirement are being layered together and questioned if this would create a parking deficiency. It was noted that the fence being installed on the property will help prevent people from parking at the project site and walking to nearby businesses.

The Commission discussed motions that would decrease the total number of allowable vehicle display spaces. Staff recommended that the Commission approve a lower number of display spaces at this hearing and review the application again in six months time to determine if increasing the number of display spaces is necessary and appropriate.

**Motion/Action:** The Commission motioned to adopt a resolution to approve the Use Permit to allow outdoor auto display as part of a retail car sale operation for the project located at 3275 Stevens Creek Boulevard (3-2-0-0, Stattenfield and Sweeney dissenting) with the following added conditions:

- 1) The total number of approved vehicle display spaces under this Use Permit shall be 15. In six months time, the application shall return to the Planning Commission for review, at which time the Commission may increase the total number of approved vehicle display spaces to 24 as originally requested by the applicant.
- 2) The project shall be subject to a six (6) month and one (1) year review by the Planning Commission.
- 3) The parking lot shall be restriped and have landscaping installed.

## 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 – Sweeney, Costa, Kelly and 2 new guys

#### v. Upcoming agenda items

- March 13, 2013 Planning Commission Study Session at 5:30 p.m. to be presented by TDM Specialists, Inc. Topic: Successful Transportation Demand Management
- Planning Commission Procedures

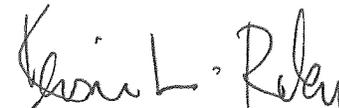
## 10. ADJOURNMENT

The meeting adjourned at 10:30. The next meeting of the Planning Commission will be held on February 13, 2013 at 7:00 p.m.

Prepared by:

  
Megan Zimmershead  
Office Specialist IV

Approved:

  
Kevin L. Riley  
Director of Planning & Inspection