

**MINUTES OF THE SPECIAL PLANNING COMMISSION MEETING
MAY 21, 2014**

The Planning Commission of the Town of Los Gatos conducted a Special Meeting on Wednesday, May 21, 2014, at 6:00 PM.

MEETING CALLED TO ORDER

Chair Smith called the meeting to order at 6:00 pm.

ROLL CALL

Present: Chair Margaret Smith, Vice Chair Kendra Burch, Commissioner Mary Badame, Commissioner Charles Erikson, Commissioner Tom O'Donnell, Commissioner Marico Sayoc, Commissioner Joanne Talesfore

Absent: None.

PLEDGE OF ALLEGIANCE

Commissioner Erikson led the Pledge of Allegiance. The audience was invited to participate.

APPROVAL OF MINUTES

None.

WRITTEN COMMUNICATIONS

None.

REQUESTED CONTINUANCES

None.

SUBCOMMITTEE REPORTS

None.

VERBAL COMMUNICATIONS (AUDIENCE)

None.

CONSENT CALENDAR

None.

CONTINUED PUBLIC HEARINGS

1. **55 Los Gatos-Saratoga Road**
Conditional Use Application: U-13-018
APN: 529-03-007
Property Owner: 55 Partners, LLC
Applicant: Jon Shank
Project Planner: Suzanne Avila

Requesting approval of a Conditional Use Permit to operate a quality restaurant (Los Gatos Motor Inn) with a separate bar and full alcohol service on property zoned CH:PD.

Chair Smith opened the public hearing.

Commissioner Badame indicated that she would recuse herself because she lives within 500' of the subject property.

Suzanne Avila, Senior Planner, presented a staff report.

Commission members asked questions of staff.

Jon Shank

- Commented that they understand they would have to comply with the Alcohol Policy. Since the April 23, 2014 Planning Commission meeting they have secured a tenant for the proposed restaurant, addressed the issue of the alcohol service area being too dominant, and made their drawings clearer to show that the breakfast room and the private dining room are the same. If the Commission rules that the to-go window must go, they will accept that decision.

Andrew Welch

- Commented on his experience operating The Basin in Saratoga for the past 15 years and his plan to build a new restaurant from the ground up at this new location.

Commission members asked questions of Mr. Shank and Mr. Welch.

Commission members asked questions of staff.

Pat Lynch

- Commented that she is the owner of CWA Realty, which owns the office complex across the street from the property, on Alberto Way. They are against the to-go window, do not think the patio is a good idea, and would like alcohol service to end at 10:00 pm. She doesn't believe the parking proposed would be enough and there is no extra parking on Alberto Way at night.

Commission members asked questions of Ms. Lynch.

Jon Shank

- Commented that online reviews for the hotel have drastically improved since it was upgraded. He hopes the Commission will see how far their concept has come and solidified. Parking studies support their proposal and there is a reduction of rooms from 60 to 48, and ample parking during the day helps with deliveries.

Andrew Welch

- Commented that he is happy to locate at the property and will work with the hotel to see if they can share deliveries and cut down on delivery trucks.

Commission members asked questions of Mr. Welch and Mr. Shank.

Chair Smith closed the public input portion of the hearing and returned to the Commission for deliberation.

Commission members discussed the matter.

MOTION: **Motion by Commissioner Erikson** to recommend approval of Conditional Use Permit U-13-018 subject to the conditions of approval as noted in Exhibit 10 of the staff report dated May 21, 2014. The required findings were made as noted in Exhibit 9 of the staff report dated May 21, 2014, subject to modifications: Item 6 shall be modified to reduce the maximum number of seats from 82 to 70 and the language shall say, "...inclusive of the restaurant, dining bar and private dining room," implying there would be no seating in the patio area; Item 8 shall be modified to say, "Alcoholic beverage service is allowed in the restaurant dining room and the dining bar and private dining room only in conjunction with meal service until 10:00 pm"; Item 11 shall be removed; and there shall be no to-go window.

Seconded by Chair Smith.

Commission members discussed the matter.

Commission members asked questions of staff.

Commission members discussed the matter.

Commission members asked questions of Staff.

Commissioner Erikson withdrew his motion.

MOTION: **Motion** by **Commissioner O'Donnell** to recommend approval of Conditional Use Permit U-13-018 subject to the conditions of approval as noted in Exhibit 10 of the staff report dated May 21, 2014. The required findings were made as noted in Exhibit 9 of the staff report dated May 21, 2014 subject to modifications: There shall be no to-go window; new reservations or new guests shall not be accepted after 10:00 pm with no alcohol being served after 10:00 pm; the bar length shall be limited to 24'; parking shall be revisited approximately one year after the restaurant opens and if parking is overflowing the Applicant shall make a mitigation recommendation or the Commission shall reduce the seating; the second floor stairwell shall meet all applicable codes and regulations to the satisfaction of the Town; outdoor dining shall be limited to no more than 12 guests; the restaurant entryway shall be compliant with the Alcoholic Beverage Control Regulations and erect a barrier so patrons may not enter the patio; the delivery hours shall be coordinated between the existing use and the newly proposed use such that it be in the early morning hours and taking into consideration traffic for the three immediate schools.
Seconded by Vice Chair Burch.

Commissioner Erikson requested the motion be amended to modify Condition 8 to include the private dining room.

The maker of the motion accepted the amendment to the motion.

The seconder of the motion accepted the amendment to the motion.

Commissioner Talesfore requested the motion be amended to add a condition that the Applicant provide a dedicated staff member to residents and owners of the office complex on Alberto Way to contact if issues arise.

The maker of the motion accepted the amendment to the motion.

The seconder of the motion accepted the amendment to the motion.

VOTE: **Motion passed 6-0.**

NEW PUBLIC HEARINGS

2. **37 Peralta Avenue**
Tree Removal Permit: T-14-008
APN: 510-42-064
Property Owner/Appellant: Fellow and Molly Stearns
Project Planner: Marni Moseley

Appeal of a decision by the Community Development Director denying a Tree Removal Permit on property zoned R-1:8.

Chair Smith opened the public hearing.

Marni Moseley, Associate Planner, presented a staff report.

Commission members asked questions of staff.

Andrew Stearns

- Commented that he had a Tree Hazard Evaluation form to present to the Commission. The tree should be removed for purposes of preserving the property and avoiding injury or death if the tree falls on the Stearns' bedroom. There are root anchorage problems with the roots not reaching out properly and possibly going under the foundation. This is a selective enforcement issue; a similar application at 36 Peralta last year controls how this application is being handled now.

Commission members asked questions of Andrew and Fellow Stearns.

Sandy Decker

- Commented that on this tree removal application staff has implemented the policies that were put in place last year requiring an arborist and structural consultant to make decisions on the health of very large, beautiful Heritage oak trees and the damage to any structures. In this case both consultants concluded the subject tree is healthy and not a threat to the structure. She urged the Commission to uphold the decision of the Planning Director to deny the tree removal permit.

Andrew Stearns

- Commented that they are trying to follow the ordinances that are in place. The requirements for removing the subject tree have been met and documentation provided to the Commission. There is no reason for certain trees, neighborhoods and people to be given different treatment. They have two arborists and a structural engineer who claim the tree needs to be removed.

Commission members asked questions of Andrew Stearns and Molly Stearns.

Chair Smith closed the public input portion of the hearing and returned to the Commission for deliberation.

Commission members discussed the matter.

Commission members asked questions of staff.

MOTION: **Motion by Commissioner O'Donnell** to approve Tree Removal Permit T-14-008 subject to the conditions of approval as noted in Exhibit 3 of the staff report dated May 21, 2014. The required findings were made as noted in Exhibit 2 of the staff report dated May 21, 2014.
Seconded by Commissioner Erikson.

VOTE: **Motion failed 3-4.**

MOTION: **Motion by Vice Chair Burch** to deny Tree Removal Permit T-14-008.
Seconded by Commissioner Talesfore.

VOTE: **Motion passed 4-3.**

Planning Manager Joel Paulson cited the appeal rights.

3. **50 University Avenue, Suite 300**
Conditional Use Permit Application: U-14-009
APN: 529-02-044
Property Owner: Street Retail, Inc.; Old Town, LLC
Applicant: Fusion Academy Inc.
Project Planner: Marni Moseley

Requesting approval to modify an existing Conditional Use Permit for a private school, (Fusion), on property zoned C-2:LHP:PD.

Chair Smith opened the public hearing.

Commissioner O'Donnell indicated that he would recuse himself because he lives within 500' of the subject property.

Commissioner Sayoc indicated that she would recuse herself because she lives within 500' of the subject property.

Chair Smith indicated that she would recuse herself because she lives within 500' of the subject property and that Vice Chair Burch would chair the remainder of the meeting.

Marni Moseley, Associate Planner, presented a staff report.

Commission members asked questions of staff.

Dan Colella

- Commented that they are seeking an increase in students, a slight decrease in teachers, and a removal of any restrictions on special events. They have a great deal of support from parents and local business owners.

Commission members asked questions of Mr. Colella and Danielle Ryckman (representatives of Fusion.)

Commission members asked questions of staff.

Vice Chair Burch closed the public input portion of the hearing and returned to the Commission for deliberation.

Vice Chair Burch reopened the public input portion of the hearing.

Commission members asked questions of Ms. Ryckman and Mr. Colella.

Vice Chair Burch closed the public input portion of the hearing and returned to the Commission for deliberation.

Commission members asked questions of staff.

MOTION: **Motion by Vice Chair Burch** to approve Conditional Use Permit U-14-009 subject to the conditions of approval as noted in Exhibit 3 of the staff report dated May 21, 2014. The required findings were made as noted in Exhibit 2 of the staff report dated May 21, 2014 with modifications: Item 6 shall add language that student social events will be included in the non-teaching events, that those events shall be limited to Monday through Thursday nights, and that there are four allowed per month; the staff/teacher training shall be changed to be held on Fridays during standard work hours with no limit on the number allowed.
Seconded by Commissioner Badame.

Commissioner Talesfore requested the motion be amended to include a condition limiting the growth of the student population to 63.

The maker of the motion accepted the amendment to the motion.

The seconder of the motion accepted the amendment to the motion.

Commissioner Talesfore requested the motion be amended to add language to Condition 4 stating no additional increase in student or Staff population would be permitted within the existing tenant space.

The maker of the motion accepted the amendment to the motion.

The seconder of the motion accepted the amendment to the motion.

Commission members discussed the matter.

Commission members asked questions of Staff.

VOTE: Motion passed 3-1 with Commissioner Talesfore dissenting.

Planning Manager Joel Paulson cited the appeal rights.

NEW OTHER BUSINESS

4. Report from Planning Manager
Planning Manager Joel Paulson
 - Development Review Committee met on 5/20/14 and approved a new house at 520 Santa Rosa Drive; approved demolition and reconstruction of new residences at 146 Clover Way, 399 Nicholson Avenue and 16266 Hardwood Road, recommended approval of parking lot modifications for the Walgreens Square Center at Blossom Hill and Hardwood.
- Report from Director of Community Development
Director of Community Development Laurel Prevetti
 - Town Council met on 5/19/14 and approved an increase to the traffic impact fee; considered its budget for FY 2014-15; and approved a full-time Town Compliance Officer and part-time Community Service Officer.
5. Commission Matters
None.

ADJOURNMENT

Meeting adjourned at 9:45 pm.

TOWN OF LOS GATOS PLANNING COMMISSION
Wednesday, May 21, 2014

/S/ Margaret Smith, Chair

APPROVED AS TO FORM AND ATTEST:

/S/ Joel Paulson
Planning Manager