CITY OF MORGAN HILL

COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING **JULY 27, 2004**

PRESENT: Acevedo, Benich, Lyle, Mueller

ABSENT: Weston

LATE: Engles, Escobar

STAFF: Planning Manager (PM) Rowe, Associate Planner (AP) Plambaeck, Associate Planner (AP) Tolentino, and Minutes Clerk Johnson

Vice-Chair Lyle called the meeting to order at 7:01 p.m., inviting all present to join him in the pledge of allegiance to the flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Vice-Chair Lyle opened the public hearing.

With no one present from the audience wishing to address matters not appearing on the agenda, the public hearing was closed.

MINUTES

JUNE 22, 2004 **COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE THE JUNE 22, 2004 MINUTES, WITH THE FOLLOWING MODIFICATIONS:**
Page 1, paragraph 5, lines 2 and 5: DePaul ~~Medical~~ ***Health*** Center;
Page 1, paragraph 5, line 3: …want ~~held there~~ ***to hold in the Conference Center***
Page 3 paragraph 3 lines 13 & 14: …….Conference facility ~~as a health center~~, ~~referred to as~~ ***which should now be referred The De Paul Health Center***.
Page 6, paragraph 7 (delete and clarify): ~~Commissioner Acevedo questioned the use of the word "collector" in reference to Murphy, and if it will be an arterial? The other street, probably St. Louise Dr, will be a collector. Both of these corners will be very busy and was any thought given to the childcare facility being put on the interior of the property?~~

Commissioner Acevedo asked the speaker to clarify the instances he was using 'collector' and 'arterial' in referring to the streets as it appeared the speaker consistently used 'collector' instead of differentiating between the two. SE Creer agreed it was confusing for the audience and needed to be clarified. The speaker acknowledged that there is a difference between the two and clarified his intent to identify the streets about which he was speaking, with the correct descriptions.
Page 7, paragraph 10: SP Linder stated that ~~each kitchen is counted as a dwelling unit and would therefore be exempt from Measure C~~. ***only units which have kitchens require allotments, and the proposed units would therefore not need RDCS allotments.***
Page 7, paragraphs 10 and 11: ~~residence~~ ***residents***
Page 9 paragraph 1, line 3: ~~them~~ ***other projects***

THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES; ACEVEDO, LYLE, MUELLER; NOES: NONE; ABSTAIN: BENICH; ABSENT: ENGLES, ESCOBAR, WESTON.

JUNE 13, 2004

COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE THE JUNE 13, 2004 MINUTES, WITH THE FOLLOWING AMENDMENTS:
Page 2, paragraph 9: *…sits on a* ~~*Board of Directors*~~ **O'Connor Hospital Citizen's Advisory Board** *of DePaul* ~~*Hospital*~~ **Health Center**…
Page 5 paragraph 5: parks ~~in competition to *fire*~~ ***if they impact fire protection and emergency medical response funding.***
Page 5 paragraph 8: ~~maintenance~~ ***staffing*** [twice]

THE MOTION PASSED BY THE FOLLOWING VOTE: AYES ACEVEDO, LYLE, MUELLER; NOES: NONE; ABSTAIN: BENICH; ABSENT: ENGLES, ESCOBAR, WESTON.

Commissioner Mueller was excused at 7:04 p.m. for the next order of business, as he sits on a Citizen's Advisory Board of O'Connor Hospital for the DePaul Hospital Health Center, which is in competition with the applicant for the provision of medical services.

OLD BUSINESS:

1) ZA-04-07: DIGITAL-VENTURE PROFESSIONAL CENTER

A request for approval of a zoning amendment application to rezone approximately 9.4 acres of land within the Morgan Hill Ranch Business Park to allow for medical and general office uses. The subject site is currently zoned Planned Unit Development (PUD), Research & Development/Manufacturing, and is located west of Butterfield Boulevard within the Digital Drive loop. Approximately half of the site is currently developed with light industrial buildings. The remaining portion of the site is proposed for development of a 39,140 sf medical/dental office building and a 21,878-sf office building.

AP Tolentino presented the staff report, noting this item was continued from the July 13, 2004 Planning Commission meeting. The item had been continued due to a request by the applicant who did not feel there was adequate time to review and comment on the traffic study completed for the project. Now, AP Tolentino reported, the traffic study has been revised with additional information requested by the applicant. The applicant and the Public Works staff continue to study and discuss the issues for resolution of the matter. Therefore, a request has been made to continue this item to the August 10, 2004 meeting.

Vice-Chair Lyle opened the public hearing.

Ascertaining that no member of the public wished to address the matter and that the item could be continued again, **COMMISSIONER ACEVEDO MOVED TO CONTINUE THE MATTER (ZA-04-07: DIGITAL-VENTURE PROFESSIONAL CENTER) TO THE PLANNING COMMISSION MEETING OF AUGUST 10, 2004. COMMISSIONER BENICH SECONDEDTHE MOTION, WHICH PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; ENGLES, ESCOBAR, MUELLER AND WESTON WERE ABSENT.**

Commissioner Mueller reentered the chambers at 7:09 p.m., accompanied by Commissioner Engles. Both were seated on the dais for resumption of the meeting.

NEW BUSINESS:

2) UPA-87-09: DEWITT-WEST HILLS COMMUNITY CHURCH

A request to amend an existing use permit for a Church on a 10.5-acre site to allow the continuing use of three existing portable buildings totaling 7,574 sq. ft. for use as classroom facilities and bathroom facilities for a five-year period. In addition, the applicant is requesting approval of a new portable classroom building totaling 1,920 sq. ft. for a five-year period. The site is located at 16695 Dewitt Ave, in the Open Space zoning district.

AP Plambaeck delivered the staff report, and in giving the background of the project, noted that there are some buildings located in the City Open Space (OS) zoning district and some in the County. Those buildings which are in the area are served by City services, such as water, AP Plambaeck explained. He also explained that there will not be an increase in traffic because the co-op is replacing the junior high. That group will be utilizing an existing building, and therefore, AP Plambaeck told the Commissioners, that the proposed building "E" is compatible with the other current uses. AP Plambaeck explained that the project has been on-going for a number of years and this request for a Conditional Use Permit (CUP) would grant the extension until 2009. AP Plambaeck pointed out that the site plan and use permit are to be revised within three years and presented to the City at that time.

Commissioner Mueller called attention to the trailers stored in the northwest corner of the parking lot, and inquired as to the status of those? AP Plambaeck indicated the understanding that they would be used for a new adult Sunday School program. Commissioner Mueller continued, asking if the applicant has in place an emergency evacuation plan reviewed by Police and Fire? AP Plambaeck explained this has not been a requirement of the CUP.

AP Plambaeck went on to explain that currently, the entire site, including the property in the City Limits, is outside of the Morgan Hill Urban Service Area (USA) and Urban Growth Boundary (UGB). "If the City annexed the properties, the City would need to amend the USA and UGB," AP Plambaeck told Commissioners. "Furthermore, the property with the parking lot and the property with the administration building would not meet the infill policy for amending the USA. It is highly unlikely the findings could be made to annex the properties outside the City limits." He noted that the parcel in the City limits was annexed to the City in the 1960s.

Vice-Chair Lyle opened the public hearing.

Christopher T. Hauge, 16695 DeWitt Ave., representing the applicant, spoke to the Commissioners. Mr. Hauge addressed the question of an emergency evacuation plan, which was raised by Commissioner Mueller. "We do currently have an evaluation plan, but it is not for the new facilities," Mr. Hauge said, adding "I believe that plan was approved by Fire personnel." He also acknowledged that there was not an evacuation plan in place for home school co-op, which is planned to begin operations on the site.

Commissioner Mueller said it might be worthwhile for the school to seriously consider an emergency evacuation plan as more students become enrolled in the school.

Commissioner Benich shared his concern that, in light of the number of extensions, the project 'seems to go on so long'.

Mr. Hauge agreed this is an issue, but told Commissioners the reason for asking for a five-year extension specifically, is that because of the location, they (the Church) must deal with the City and County staff to achieve the goals. "We're asking for the extension to 2009, but we're hoping and thinking that it will take no more than a couple of years to go through all that. We estimate that we probably couldn't really build anything sooner than that," Mr. Hauge explained. He continued that, "In the past the extension required for the work to be done were not requested realistically. We now realize there were a lot of extensions being asked for, but we really think this five-year extension request is realistic." He further noted that the people who had asked for the previous extensions are not part of our congregation any longer.

Vice-Chair Lyle pointed out that the Planning staff has recommended the site plan be revised within three years and presented to the City at that time. He asked the applicant if he would have any problem with that recommendation? Mr. Hauge responded, "No, that will be in the second phase."

Commissioner Mueller suggested the applicant contact the County Planning Department, adding that the annexation to the City may be the best venue. Commissioner Mueller then led discussion regarding the placement of permanent structures.

Commissioner Acevedo sought clarification on the site plan, asking "What construction is in the County that is not in the City?" When that issue had been determined, Commissioner Acevedo said, "Then we definitely need to talk about annexation."

Vice-Chair Lyle asked Mr. Hauge where they planned to put the permanent building?

Mr. Hauge told of the potential plans, but said, "Really it's 'wherever we can put it'." He then reiterated past approvals given for various buildings.

Commissioner Mueller urged Mr. Hauge to work with the City and County Planning Staffs simultaneously, then went on to explain the process to the applicant.

Commissioner Acevedo asked questions regarding the perimeter of the property line on site plan. He spoke about the flat portion above the steep portion on the parking area.
Mr. Hauge clarified that the entire property is generally steep.

With no others present indicating a wish to speak to the matter, the public hearing was closed.

AP Plambeack talked about the Urban Service Line and the Urban Growth Boundary, then explained the open space area which is eligible for residential infill. Commissioner Mueller joined the discussion, telling the Commissioners that the applicant may be dealing with different infills. He said that if the applicant were to go to the County, intensity of use may be an issue.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-70, APPROVING THE ADDITION OF A 1,920 SQ. FT. TEMPORARY BUILDING FOR A PERIOD OF FIVE YEARS, AN EXTENSION OF TIME TO ALLOW THREE EXISTING TEMPORARY BUILDINGS TO REMAIN ON-SITE FOR A PERIOD OF FIVE YEARS, AND AN AMENDMENT TO THE USE PERMIT TO ALLOW A HOME SCHOOL CO-OP, WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND WITH THE FOLLOWING MODIFICATION:

> **Section 5: The approved project shall be conditioned to include an emergency evacuation plan being in place, along with a training program specifically for the home schooling leaders to understand how to handle emergencies and correctly react to same.**

COMMISSIONER ENGLES SECONDED THE MOTION.

Commissioner Benich led discussion regarding Standard Conditions, page 15 item C. AP Plambaeck indicated that the existing buildings had been grandfathered in, and additional action in this matter was not required.

Commissioner Acevedo asked if City water provided adequate pressure to the site? Discussion ensued regarding the location of City water tanks for the site.

Commissioner Acevedo said he thought it would be important to have a philosophical discussion: If the institution owns the entire 10 acres, should the parcel be under the control of the City? This would alleviate issues with another entity perhaps opposing what the applicant and the City want to do. “When we have an operation within the City limits,” he said, “it should be entirely within City limits.” Commissioner Acevedo said he favored recommending the City endorse the applicant going to LAFCO and getting into the City. “It just seems logical,” Commissioner Acevedo said.

Vice Chair Lyle said he had the same thought on the matter.

PM Rowe said to have this property (only) annexed may be difficult to achieve, as he spoke of the possibility of an island being created.

Commissioner Acevedo insisted that he feels very strongly about it the annexation of the entire property.

Commissioner Mueller suggested that the matter could be explored through the current Urban Limit Line Committee, noting that body has the ability to change the urban limit

line.

PM Rowe said, "The urban growth boundary study is in process and added that the City is also continuing with the urban service line being scrutinized as well. He noted that he agrees with the Commissioners as to the difficulty of this situation saying, "This is a very unusual circumstance."

Commissioner Acevedo insisted the entire institution should be in the City limits and should be studied so as to avoid conflict in the future.

Vice-Chair Lyle agreed, saying, "There is a strong need to get the matter settled, particularly the Urban Growth Boundary."

Commissioner Acevedo indicated that if the City has a plan – or could develop one - to address the matter, it should be done.

PM Rowe said he will talk to the Urban Limit Line Study staff in the near future.

THE MOTION CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; ESCOBAR AND WESTON WERE ABSENT.

3) SD-04-10/ DAA-03-12: PEET-LUPINE

A request to subdivide an 8.252-acre portion of a 61-acre site to allow for the construction of 15 units (Phase 3) of an overall 90-unit single-family development. The project site is located at the northeast corner of Cochrane Rd. and Peet Rd in an R-1(12,000) Zoning District.

AP Tolentino reported changes to the proposed Resolution No. 04-72, as identified in a revised Resolution distributed to each Commissioner prior to the start of the meeting.

AP Tolentino reminded the Commissioners that this subdivision is referred to as Alicante Estates, with a total of 90 proposed dwellings. Of the 90 total units, 53 Measure P allotments have been awarded (38 original allotments, 15 supplemental). The project also includes three (3) replacement units.

Vice-Chair Lyle opened the public hearing.

Dick Oliver, 275 Saratoga Ave., #105, Santa Clara, was present to speak to the Commissioners. Mr. Oliver proposed a couple of suggestions beginning with Resolutin No. 04-71, Building Division item E of the Standard Conditions checklist on page 9. Mr. Oliver noted this can be cross-referenced to page 21, Section XXIII, item 7, which he indicated was a restatement of City policy. The Commissioners agreed and directed staff to ensure page 9, item E reflects City policy language.

Mr. Oliver then directed attention to the Standard Conditions, page 21, items 9 and 11. "When the revised plans were submitted, we had one CFS left over and we have tried to resolve the issue many times. This one CFS needs to be channeled to the Madrone Channel. In this phase of the construction, we are right at the point where one side of the road goes to Coyote Creek and the other to the Madrone Channel," Mr. Oliver clarified. He then went on to explain that what is happening hydraulically calls for channeling of the one CFS to the Madrone Channel.

Discussion developed, with Commissioner Mueller suggesting inclusion of a phrase subject to the approval of Water District on both items 9 and 11. Mr. Oliver thought the addition might need to be more restrictive and suggested additions be made as follows: Item 9: 'Therefore unless otherwise approved by the Water District' and item 11: 'A provision be arranged that may be satisfied by some diversion of the water to the Madrone Channel of one CFS, as approved by the Santa Clara Valley Water District and the City of Morgan Hill'. Further discussion culminated in agreement that the following language be added to both items 9 and 11: ***…unless otherwise approved by the Santa Clara Valley Water District for alternatives or variations.***

Mr. Oliver then explained the need for variations needed for dates listed in the Development Agreement, Exhibit A of Resolution No. 04-72:

V. BUILDING PERMITS
Obtain Building Permits
FY 2004 - 05 (~~22~~ ***12*** units) ***November*** ~~**September**~~ 30, 2004
(***10 units***) ***January 30, 2005***

Mr. Oliver explained that the reason for this request is that issues with the banks for loans sometimes causes delays in getting written documents. Furthermore, he continued, there is the issue of the school pathway obligation. Mr. Oliver continued that the pathway is in the design phase, but he's being told that this pathway is in the right-of-way. Furthermore, he said that he's been told that the right-of-way has not been accepted by the City. "We're working on it," Mr. Oliver concluded.

Commissioner Escobar arrived at 7:49 p.m. and took his seat at the dias.

Vice-Chair Lyle asked if the permits were pulled November 30, could the project really be finished? Mr. Oliver responded, "No" then went on to explain that some time may be needed for the second group in that phase. "However," he said, "we believe we can start because Peet Road is paved so we can begin construction off this street as we are ready to go." Other Commissioners asked specific questions regarding the requests made by Mr. Oliver and the date changes he had indicated. Commissioner Mueller asked about the 10-acre park issue, which Mr. Oliver and staff indicated has been resolved.

Mr. Oliver also requested that paragraph 14 (1) (i) of the development agreement be modified to require framing of the BMRs to pass inspection prior to framing inspection of the 10th, 20th and 24th unit in Phase 1, the 33rd unit in Phase 2, and the 50th and 55th units in Phase 3.

With no other persons indicating a wish to speak to the matter, Vice-Chair Lyle closed the public hearing.

Commissioner Acevedo referenced the issues Mr. Oliver had raised in relation to the conditions of application with the Water District. Commissioner Mueller reminded that a simple statement had been added to items 9 and 11, which satisfied the applicant and clarified the matter. AP Tolentino told Commissioners they don't have to be specific in adding language relating to the working of the Water District, agreeing the language added appears to be adequate.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-71, APPROVING A 15-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION OF AN OVERALL 90-UNIT PROJECT LOCATED AT THE NORTHEAST CORNER OF COCHRANE ROAD AND PEET ROAD IN A R-1 (12,000) RPD ZONING DISTRICT, WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN AND WITH THE FOLLOWING MODIFICATIONS:

<u>Standard Conditions</u>:
Page 9, item E: (add) ……for structures whose total size exceeds 4500 sf.
Page 21 items 9 and 11: (add) ……unless otherwise approved by the Santa Clara Valley Water District..

COMMISSIONER BENICH SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, LYLE, MUELLER; NOES: NONE; ABSTAIN: ESCOBAR, who was not present for whole discussion; ABSENT: WESTON.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-72, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-03-12: PEET - LUPINE, WITH THE FINDINGS AND CONDITIONS INDICATED ON THE REVISED RESOLUTION DISTRIBUTED TO THE PLANNING COMMISSIION THE NIGHT OF THE MEETING AND INCLUDING THE CHANGES REQUESTED BY THE APPLICANT REGARDING DEADLINES TO OBTAIN BUILDING PERMITS FOR THE FY 2004-05 UNITS AND TIMNING FOR THE CONSTRUCTION OF BMRS.

COMMISSIONER BENICH SECONDED THE MOTION, WHICH CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ENGLES, LYLE, MUELLER; NOES: NONE; ABSTAIN: ESCOBAR, who was not present for whole discussion; ABSENT: WESTON.

4) SD-04-09/ DAA-03-13: MISSION VIEW-MISSION RANCH

A request to subdivide a 2.6-acre portion of 98 acre site to allow for the construction of 12 units which will represent phase 9 of the Mission Ranch project located on the south east corner of the intersection of Cochrane Rd. and Mission View Dr. Also being requested is an amendment to the approved development agreement for phases 7, 8, & 9 of the Mission Ranch project, to incorporate the additional development allotments award through the Residential Development Control System.

PM Rowe presented the staff report and informed that it has been determined that the open space easement can count as contiguous. He noted that at some future date the adjoining area may develop as residential and suggested that an alternative would be to create a 10-acre public park. He noted that recent concerns raised by the Commissioners regarding the need for additional park land which would benefit from this dedication. PM Rowe also noted that staff will have further discussion with the applicant regarding the matter.

Vice-Chair Lyle clarified that Phase 9 has 12 lots, not 10, as indicated in the staff report. The project has 37 not 38 lots. PM Rowe said those errors had been corrected for the official records. Vice-Chair Lyle also called attention to Standard Conditions, page 5, item H, which caused discussion regarding the matter with it subsequently being decided

to omit item H, page 5 of the Standard Conditions.

Consideration turned to the Development Agreement, with a notation made that Pages 8 and 9 both have an item listed as ***(m)***. Staff will ensure that the sequence is corrected.

Vice-Chair Lyle opened the public hearing.

Dick Oliver, 275 Saratoga Ave., #105, Santa Clara, was present to discuss the following items with the Commissioners:

Page 8 of the Development Agreement, item (i) (sequencing of BMRs was revised as follows:
….***2 of the BMRs shall be under construction and the framing inspection passed prior to the issuance of the 22nd building permit with 2 more BMRs under construction and the framing inspection passed prior to the issuance of the 44th building permit and the balance of the BMRs under construction and the framing inspection passed prior to the issuance of the 59th building permit***
Page 9 (first bullet) ….secure all ***accessible*** openings.
Page 10 (renamed) item P ….$2,000 per unit, ….. ***This will be in addition to the language in item O (ii) regarding the $2,000 expenditures.*** Mr. Oliver said he has just finished the improvements on Peet Road and feels there may be an overrun in this area. He said there needs to be an accounting, and there may not be any carryover. PM Rowe said it is still necessary to include the language in the Development Agreement.
Page 17 Exhibit "B"

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Obtain Building Permits
FY 2004 - 05 (~~11~~ *22 11* units) ~~**September 30, 2004**~~ ***November 30, 2004***
FY 2005 – 06 (~~15~~ *19 10* units) ~~**September 30, 2004**~~ ***January 30, 2005***

Mr. Oliver said he is agreeable with the suggestion of the park land, noting he understands the City is behind on park land acquisition and this would help. "We had always planned to have this area a walk-through and we believe this should be a low-maintenance area," Mr. Oliver said. Commissioner Mueller commended proposal, saying, "Then all you need to do is have a single 10-acre parcel designated for the park land."

Vice-Chair Lyle cautioned that the park land was not part of this application.

Commissioner Mueller stated the applicant needs to agree that the parcel of 10 acres will be dedicated as part of Phase 7 of the project. Commissioner Mueller also said it is important to get the 10-acre parcel established by formal action of the City.

Commissioner Benich ascertained that this would definitely be part of the count for City parks.

PM Rowe explained how to deal with setting up park land. "Provision can still be made via the complete parcel map with administrative approval by taking the remainder parcels and putting them into the park area," he stated.

With no other persons in attendance to address the matter, the public hearing was closed.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-73, APPROVING A 22-LOT SINGLE-FAMILY RESIDENTIAL SUBDIVISION ON A 2.6-ACRE PORTION OF TWO PARCELS LOCATED BETWEEN MISSION VIEW DR. AND PEET ROAD, AND APPROVING ONE 10 ACRE LOT FOR A PARK TO BE LOCATED ALONG THE SOUTHERLY BOUNDARY OF THE PROJECT, INCLUDING THE FINDINGS AND CONDITIONS SPECIFIED, and with the following modification: Standard Conditions, page 5, item H is to be omitted.

COMMISSIONER BENICH SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; WESTON WAS ABSENT.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-74, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATION, DAA-03-13, FOR APPLICATION MP 02-15: MISSION VIEW–MISSION RANCH, WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND INCLUSIVE OF THE FOLLOWING MODIFICATIONS:

Page 8 of the Development Agreement, item (i) (sequencing of BMRs was revised as follows:
….***2 of the BMRs shall be under construction and the framing inspection passed prior to the issuance of the 22nd building permit with 2 more BMRs under construction and the framing inspection passed prior to the issuance of the 44th building permit and the balance of the BMRs under construction and the framing inspection passed prior to the issuance of the 59th building permit***
Page 9 (first bullet) ….secure all ***accessible*** openings.
Page 10 (renamed) item P ….$2,000 per unit, ….. ***This will be in addition to the language in item O (ii) regarding the $2,000 expenditures.***
Page 17 Exhibit "B"
V. BUILDING PERMITS
Obtain Building Permits
FY 2004 - 05 (~~11~~ *22 11* units) ~~**September 30, 2004**~~ ***November 30, 2004***
FY 2005 – 06 (~~15~~ *19 10* units) ~~**September 30, 2004**~~ ***January 30, 2005***

COMMISSIONER BENICH SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: THE MOTION PASSED BY THE FOLLOWING VOTE: AYES ACEVEDO, BENICH, ENGLES, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: WESTON.

5) UP-04-08: E. DUNNE-CINGULAR WIRELESS

A request for a use permit to allow the installation of a forty (40') ft. tall, twelve (12") inch diameter telecommunications facility, disguised as a flag pole, and an accessory equipment structure at the Santa Clara County Fire District station at 2100 E. Dunne Avenue. The site is approximately 0.29 acres in size and is located in the Public Facilities (PF) zoning district.

PM Rowe gave the staff report, informing that due to the incorrect notice of the public hearing, applicant and staff were recommending continuation of the item.

Vice-Chair Lyle opened the public hearing.

As no persons present indicated an interest in speaking to the matter, **COMMISSIONERS MUELLER/ ACEVEDO MOTIONED TO CONTINUE THE MATTER TO THE NEXT REGULARLY SCHEDULED PLANNING COMMISSION MEETING ON AUGUST 10, 2004. THE MOTION CARRIED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT; WESTON WAS ABSENT.**

6) UPA-95-05: VINEYARD-METRO PCS/ NEXTEL

A request to amend a use permit to allow for the installation of three wireless telecommunications antennas on an existing Spectrasite monopole located at 16170 Vineyard Blvd. in the Light Industrial zoning district.

PM Rowe gave the staff report, saying this is a request to amend a use permit and indicating the location as being 'north of the new City Police Station'. He also informed that this will be placement of a system which will co-locate on an exiting mono pole.

Vice-Chair Lyle opened the public hearing.

Suzanne Smith, 3645 Gatewood Ct., Santa Cruz, was present to represent the applicant, MetroPCS. Ms. Smith explained that MetroPCS is a relatively new wireless carrier in the area. "A lot of interest has been shown in this location, with customers asking for coverage. We have current customers in this area who pay the low cost of about $40 per month for both local and long distance service. They feel this is very affordable, and want the service in the Morgan Hill area. We feel the sites that provide availability for co-location are desirable and furthermore, we feel this is a perfect spot for co-location," Ms. Smith revealed. She continued by giving the details of the site and installation procedures, adding it will be 'pretty minimal installation'. Ms. Smith indicated she was aware that another speaker had concerns and said she had spoken with him. "There is complete information in the staff report which he hasn't seen, but I think we can alleviate his apprehension," Ms. Smith said.

Commissioner Mueller asked if the background information MetroPCS has provided addresses the location of Police equipment within 150-feet of the existing site (Nextel installation where the co-location will be)? Ms. Smith responded that the issue was not addressed so far as she could determine.

Commissioner Acevedo said that installation (Police equipment) has only been installed for about one month. Ms. Smith said that the Police equipment would not interfere with the service provided at the co-location.

Commissioner Mueller recalled for the Commissioners that another Standard Condition usually required was that such equipment provide the capability of sharing City police and Fire emergency service as part of the agreement. "This is a request we have consistently made," Commissioner Mueller said. Ms Smith indicated a willingness for the provision.

Amir Safakish, 16170 Vineyard Blvd., #180, told Commissioners he is part owner of an adjoining property, as well as being the occupant of the building located at that site. Mr. Safakish indicated that his concern is the amount of radiation generated from such

installations and the effect it has on occupants of nearby buildings. He continued by speaking of issues with overall safety of electrical devices overheating and having water thrown on the inside of electrical cabinets at the site by workers and radio magnetic particles.

PM Rowe explained the speaker was probably referring to the equipment of Nextel overheating and the need for air conditioning.

Ms. Smith said the air conditioning is a very small unit, and offered to meet with Nextel representatives regarding the issues Mr. Safakish has raised about it.

Commissioners discussed several issues with the applicant:

- size of the installation (200 amps only)
- transmission service being pointed toward horizons and not to a building (Ms. Smith said this is identified in the Engineer's report)
- possibility of field testing project's electromagnetic field at the site
- potential for having paint color of the installation evaluated

With no further comments being offered on the subject, Vice-Chair Lyle closed the public hearing.

Commissioner Acevedo commented that with regards to aesthetics, he was moved to speak philosophically: "This is the sixth or seventh one of these requests we've had within the last one and a half years, and we're seeing them everywhere. I think that with all antennas, whether for co-location or new installations, should be required to have some type of disguise. Some kind of more esthetically pleasing installation. I would like for the City to develop policy to that effect."

Commissioner Benich agreed, "I think that should be the case for new installations, but can't see it for installations of this type (already existing).

Commissioner Escobar said he basically thought the suggestion to be a good one, particularly for those antennas not on buildings.

Commissioner Mueller suggested agendaizing the matter for discussion.

PM Rowe said it was the intent of the Planning Division to adhere to this policy: if the antennas are visible from major street corridors, they shall be made as invisible as possible. He cited a flag pole installation as an example. PM Rowe said that the grey color currently required was chosen as it appears to draw less attention.

Commissioner Mueller said the Commissioners just need to address the matter, asking that staff bring it back for deliberation.

COMMISSIONER MUELLER OFFERED RESOLUTION NO. 04-75 APPROVING AN AMENDMENT TO A CONDITIONAL USE PERMIT TO INSTALL THREE (3) ANTENNAS AND THREE (3) EQUIPMENT CABINETS ON AN EXISTING MONOPOLE LOCATED ON 16160 VINEYARD BLVD. IN THE LIGHT INDUSTRIAL ZONING DISTRICT, INCLUDING THE FINDINGS AND CONDITIONS LISTED, WITH THE FOLLOWING MODIFICATIONS:

Section 4: F 4: If possible apply the technology used in support of city emergency services
Section 4: F 5 Review of potential paint color to make the installation more aesthetically pleasing
Section 4: F 6: Following the commencement of operations, field tests will be conducted to ensure safety requirements are being met.

It was noted that while not part of the motion, a requirement is placed: applicant has agreed to meet with Nextel personnel regarding safety issues.

7) ZA-04-04: CITY OF MORGAN HILL-CCR TEXT AMENDMENT

Amendment to Title 18, Chapter 18.24 of the Morgan Hill Municipal Code establishing development standards for location of ground floor non-retail uses and limiting such uses to second story and above in buildings located on Monterey Rd. in the Downtown District.

PM Rowe presented the staff report, advising the Commissioners that the City Council endorsed the updated Downtown Plan for the City. Now an Environmental Impact analysis needs to be completed to assess potential impacts associated with the implementation of the plan. PM Rowe clarified that this item has been broken into sections for ease in considering it at this meeting.

Vice-Chair Lyle asked if a map is available for identifying the CC and R areas? PM Rowe explained the area which is encompassed by the Downtown Plan. "Generally," he said, "it runs from the railroad tracks on the east down to Dunne, to south on East Main, to East Dunne to Del Monte; on the West, from First St. and close to Monterey Road, then toward Del Monte encompassing all the area between Del Monte and Depot." He explained the area and noted the west boundary undulates.

Commissioners asked questions regarding locations of specific properties, with PM Rowe responding.

PM Rowe explained that several comments had been received regarding the inclusion of medical offices and schools into the area. He said that no changes to the initial plan are being proposed at this time. PM Rowe acknowledged the concern may have validity: medical offices and schools might not be appropriate in this area, as it could potentially increased foot traffic. PM Rowe continued by saying that the school designations could be changed to have specific types of training, but not public schools.

Commissioners discussed the concerns about having schools in the Downtown area:
(1) the heightened number of bars and nightclubs (2) 2nd story businesses above family day care (PM Rowe said that residential day care is permitted under such use now and also must be licensed by the State)

Additional concerns were discussed by the Commissioners:

- potential increase in [current] 35-foot height limit
- inclusion of roof element above the 35-foot height limit
- discourage flat roofs

Vice-Chair Lyle opened the public hearing.

With no one in attendance indicating a wish to speak to the matter, the public hearing was closed.

The following issues relating to the Central Commercial Residential Zoning District:

- placing taller buildings adjacent to the Railroad tracks rather than on Monterey could reduce noise levels
- allow residential space above bars and nightclubs (several Commissioners described this as providing good mixed use)
- schools and day care should be conditional use
- placement of 'Granny units'
- City requirements for density
- lot sizes for residential properties
- multiple units on lot; need to be treated as duets, etc (18.24.23 d)
- mixed use (residential and commercial)
- density should be encouraged
- allow existing detached dwellings as a permitted use
- existing historical homes (generally older small dwellings); not have those be legal non-conforming
- encourage high density, with caution 'not go overboard'
- need for clarifying 'drive ins'
- agreement for a 35 foot height limit "exclusive of roof element"
- lack of accessible and useable parking downtown (PM Rowe said discussion could be coupled with efforts that are underway in the parking management and parking resource plan, both of which will be coming to the Commission later this fall.)
- desire to have retail on ground level as much as possible
- schools, and particularly the location of day care centers
- need to have Conditional Use Permits (CUPs) for medical offices and schools

Commissioner Mueller expressed concern that the Commissioners haven't looked at the Downtown Plan in over a year. "We need to look at it as a whole, instead of piece-mealing," he said.

Discussion ensued regarding what types of businesses which might constitute the need for restriction, e.g., liquor stores. PM Rowe talked about the City's influence on granting liquor licenses.

Commissioner Escobar said some businesses are more susceptible to local rather than transient market (hotels) says some business (fast food) draw to other downtown businesses look to retail trades, entertainment. Commissioner Mueller agreed, speaking on the critical mass and reminding that factor can swing the other way. Commissioner Escobar continued, citing different retail environments and demand of markets.

PM Rowe indicated the City can put some restrictions in place, but a fine line must be walked to prevent over-concentration. "If there are too many restrictions, a bigger problem may be created," he said.

Responding to a question from Vice-Chair Lyle, PM Rowe said that, based on other language in City Ordinances, some provisions of the Zoning Text Amendment will need

to be reconsidered.

Commissioner Escobar stated it is important to tell the world *up front* where to look for sites for specific uses.

Vice-Chair Lyle noted there appears to be consensus on the number of issues within the report: medical offices and schools, height issue, etc.

COMMISSIONERS MUELLER/ENGLES MOTIONED TO CONTINUE THE MATTER OF ZA-04-04: CITY OF MORGAN HILL-CCR TEXT AMENDMENT, TO PERMIT PLANNING STAFF TO PREPARE REVISION TO THE REPORT FOR FURTHER CONSIDERATION OF THE CENTRAL COMMERCIAL RESIDENTIAL ZONING DISTRICT TEXT AMENDMENT FOR PRESENTATION AT THE AUGUST 10, 2004 COMMISSION MEETING. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT, AND WESTON WAS ABSENT.

8) RDCS) QUARTERLY REPORT

Quarterly review of the progress of residential projects that have been awarded building allocations under the City's Residential Development Control System, pursuant to Chapter 18.78 of the Morgan Hill Municipal Code.

PM Rowe distributed the report, reminding Commissioners the purposes of the RDCS Quarterly Report are to monitor the progress of projects approved under Measures 'P" and 'C'.

PM Rowe called attention to the projects that are behind schedule, saying that for the most part, action is anticipated to occur rapidly. PM Rowe informed that one of the projects has fallen into arrears, and faced with the prospect of losing the allocations, the developer has filed for a protest hearing to be heard at the City Council meeting on August 18, 2004.

PM Rowe also noted there are several projects close to being back on track. Commissioners asked about specific projects, with PM Rowe informing of the status.

Discussion followed as to official population numbers.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO HAVE THE RDCS SECOND QUARTER REPORT FORWARDED TO THE CITY COUNCIL FOR APPROVAL. THE MOTION PASSED WITH THE UNANIMOUS VOTE OF ALL COMMISSIONERS PRESENT, WITH WESTON ABSENT.

ANNOUNCEMENTS:

Upcoming agenda item: Workshop at 6:00 p.m. for the City Manager to present the work plan to get input on structure of Boards, Commissions, and Subcommittees

Special meeting August 31. This will be a presentation of (1) Traffic Study and (2) Street Standards.

Commissioner Mueller indicated a need to have a study session regarding industrial land

and how build-out will occur. Commissioner Mueller thinks there is a need to further evaluate industrial land saying the Coyote Creek development plan is beginning to evaluate business parks versus residential and that may greatly impact the City's industrial land. "We need a plan to be used. We may want to bring in an expert in business parks." Commissioner Engles said, "Municipalities are no longer seeing the need for large business campuses. No longer are we finding concrete tilt ups, as we now have huge inventory, and we are seeing needs very different from the Valley of ten years ago."

Commissioner Acevedo said that early on the Greenbelt Study Group was given the task to study these issues, and they are still working on it.

Commissioner Mueller agreed, saying one large business park isn't the thing to do. "Trends change and are differing. We need to study the industrial areas now," he said.

ADJOURNMENT: There being no further business, Vice-Chair Lyle adjourned the meeting at 9:59 p.m.

MINUTES RECORDED AND PREPARED BY:

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JUDI H. JOHNSON, Minutes Clerk

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