CITY OF MORGAN HILL

**COMMUNITY DEVELOPMENT DEPARTMENT**

**17555 Peak Avenue Morgan Hill CA 95037 (408) 779-7247 Fax (408) 779-7236**
**Website Address: www.morgan-hill.ca.gov**

# PLANNING COMMISSION MEETING MINUTES

**REGULAR MEETING** **JULY 26, 2005**

PRESENT: Acevedo, Benich, Escobar, Koepp-Baker, Lyle, Mueller

ABSENT: None

LATE: None

STAFF: Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, Senior Engineer (SE) Creer, and Minutes Clerk Johnson

Chair Lyle called the meeting to order at 7:02 p.m., as he led the flag salute.

## 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

Chair Lyle presented the opportunity for public comment.

Robert Kushner, 17660 Monterey St., spoke to the Commissioners, saying he owns a building in the City. Mr. Kushner identified the site as 'across the street from a school. He explained the reason for appearing at the meeting was a zoning change which now appears to prohibit service-related businesses, with the property zoned for retail only. Mr. Kushner said that actually the original zoning was for a hospital. Currently, the space in the building is being used for office space. A new (potential) tenant would like to use 1,500 square feet for a beauty salon, but is not able to move the business from about a mile away because of the zoning restriction. Mr. Kushner said that the over 6,000 sf building – due to the zoning change - will stay office space and will not help the downtown in a growth pattern. "By only office space, you are allowing the downtown to fail and this will happen at this site as well," Mr. Kushner said. He identified the building as being next door to the Napa Parts store.

"If a dentist wants to go into the building, it is not zoned for that purpose," Mr. Kushner declared. Commissioner Mueller clarified that as long as a dentist office is the current use, it would be 'OK' for another dentist to move into the space. Mr. Kushner reiterated that the potential tenant wanted to have a beauty salon and he can't do that business in the location. "If it doesn't work out, he will open the salon in Gilroy and that will be a loss to the City," Mr. Kushner asserted. He continued by expressing frustration about the fee structure, saying, "The fees are too high."

Chair Lyle asked which staff person Mr. Kushner has been working with? He said it was Ms. Jones (PM Rowe said it was Ms. Moore)

PM Rowe identified the property location as being on the east side of Monterey Road between Main and Central. PM Rowe went on to explain that in January the City Council, in accordance with the Downtown Plan, had determined that businesses on the ground floor office uses would require Conditional Use Permits, and since this is a single-story building would be considered as all ground floor. The property was rezoned from General Commercial to Central Commercial/Residential. The CC-R district list ground floor office uses as a conditional use. PM Rowe continued, saying the City Council has been talking about a more streamlined, less costly use permit process for ground floor businesses which are not retail in nature. PM Rowe explained that as it now stands, this use has a permit fee of $4,000 Mr. Kushner repeated that 'the fees are too much …so expensive'. PM Rowe advised that the speaker could process one permit for the whole building, rather than each business. Mr. Kushner responded, "Out of the 6,000 sf building, less than 1,000 will be retail.

Commissioner Mueller explained to the speaker why the Commissioners can't deal with a non-agendaized item.

With no others present indicating a wish to address matters not on the agenda, the time for public comment was closed.

**MINUTES:**

**JUNE 28, 2005** **COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE THE JUNE 28, 2005 MINUTES, WITH THE FOLLOWING MODIFICATIONS:**

**Page 3, last paragraph: ….the trees ~~are those that~~ are around the existing house ~~located there~~**
**Page 10, last line: Minimal enforcement *of parking restrictions***
**Page 13, paragraph 3: ~~optimistic~~" *realistic***
**Page 16, paragraph 2: *private versus public***
**Page 24, paragraph 7: ~~don't~~ *does not***

**THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE: ABSTAIN: ESCOBAR; ABSENT: NONE.**

**JULY 12, 2005** **COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE JULY 12, 2005 MINUTES, WITH THE FOLLOWING MODIFICATIONS:**

**Page 6, bullet 3: there is *not* and …will *need to***
**Page 8, bottom, bullet 2: on ~~4th and 5th~~ *between 2nd and 4th* Streets.**
**Page 9, bold paragraph: … WEST OF DEPOT ST., *WITH AN ADDITIONAL AMENDMENT:***
***Section 4 B. to include payment of the in lieu fee for projects larger than 15 units which do not provide the required number of guest parking spaces,***
**Page 12, paragraph 4, line 1: there are *no***

**Page 13, paragraph 5: …. sentiments ~~for~~ *regarding* …. space *on the first floor*, …..**
**'carrot"** ***and that can be the incentive of first attaining retail on the first floor***
**Page 15, paragraph 11, dash 1: ~~• 15 foot or 5 foot setback on Depot~~**

**THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE: ABSTAIN: NONE; ABSENT: NONE.**

**OLD BUSINESS:**

**1) GPA-O4-07/ ZA-04-14: M.H. DOWNTOWN PLAN-SUNSWEET PROPERTY**

An amendment to the General Plan text to increase the density on a 2.79 acre site known as the "Sunsweet Property" which encompasses APN's 726-13-032, 033, 034, 041, 042, 043 & 044. The proposed text amendment would allow the residential density on the site to increase from 8-18 dwelling units per acre to 25-40 dwelling units per acre. Also proposed is the rezoning of the "Sunsweet Property" as a Planned Unit Development PUD.

CDD Molloy Previsich gave the staff report, noting this item had been continued from the previous meeting, following much discussion and direction to staff for changes.
CDD Molloy Previsich noted that one matter had not yet been addressed: whether to set a standard for minimum retail along Third St. CDD Molloy Previsich called attention to a letter from the owner, Mr. Garcia, in which he indicated he had met with designer/ architects and is indicating a range of from 25 to 40 feet, as the depth of commercial space along Third St. CDD Molloy Previsich indicated Mr. Garcia has asked not to include a minimum commercial square footage standard within the PUD, but to have that evaluated by the Architectural Review Board (ARB.

Chair Lyle asked what is the linear sf frontage? Mr. Garcia (from the audience) asked if the Morgan Hill Times building would be included in the calculations as well, and noted he did not own the building. Chair Lyle explained he was trying to establish how many feet would be commercial.

Commissioner Benich asked for the permitted businesses on Third St., and whether it included grocery stores? CDD Molloy Previsich indicted that according to the wording, it would be so interpreted. Commissioner Benich advocated a neighborhood grocery, saying if people live there (downtown), they will need to buy groceries. Discussion evolved, with Commissioner Acevedo saying it would probably be a convenience market, not a 'full-blown' grocery. Commissioner Koepp-Baker noted that delivery to a grocery is far different from deliveries to a variety store.

Chair Lyle opened the public hearing.

Rocke Garcia, 1000 Old Quarry Rd., San Jose, spoke to the Commissioners and indicated he is the owner of the Sunsweet properties. Mr. Garcia called attention to the letter that was provided to the Commissioners and staff to address the unresolved issues. Mr. Garcia also referenced Exhibit A #1 of the staff report, and said that three of the parcels are not under his control. "I don't know how the City would look at those, and I don't know if I don't own them, whether I could have control over the use."

Mr. Garcia continued by addressing the issue of fees (#2 in his letter) and advised the

Commissioners that his concerns echoed those of the first speaker. CDD Molloy Previsich said the staff is working on a City Council resolution which will address streamlined techniques and reduced fees for downtown conditions use permits.

Referencing item #3 in his letter, Mr. Garcia desired that the 25 – 40 units per acre would be calculated on net residential density only, not on commercial.

Lastly, Mr. Garcia said he hears a message that the City Council wants to bring people to Third St. and the architects he is working with have said to leave the retail depths as flexible as possible.

Commissioner Acevedo asked for clarification as to the linear footage being discussed. PM Rowe said the PUD footage is 400 feet for Mr. Garcia's parcels, and if it is to include the Morgan Hill Times building that would add another 75 feet. There was discussion as to the calculations of that figure, with Mr. Garcia saying the driveway should not be counted, and indicated that a Centennial Plaza was planned for the center of the development. He reminded that the application had received points from Measure C for visually being able to see between 3rd and 4th Streets.

Chair Lyle commented that in actuality there would be 8000 – 12,000 sf for commercial/retail. Commissioner Mueller stated, "It seems as if it is defeating the purpose if we go net on the commercial." Mr. Garcia said 10,000 sf of commercial on 3rd, so that would be taken out of 120,000 sf of total properties we own, including the City's space. Commissioner Mueller commented he thought it would be better to err on the high side rather than the low side.

During the ensuing discussion, Mr. Garcia said that at 25 units per acre, the architects are having difficulty planning. "Generally the low end of a downtown townhouse is 18 - 21/22 per acre. Obviously we want as many units as possible. Chair Lyle indicated that when the net residential occupancy area is decided, there will be commercial occupancy above that number. Mr. Garcia said, "Yes, there will be some commercial net area on the ground floor and that should be deducted in calculating the area for residential density.

Commissioner Mueller commented it is to be 100% commercial, how do we get to residential usage?" Mr. Garcia said he could get the residential numbers by 'stacking' units so that the total square footage of the site would be measured less that which is devoted to commercial. CDD Molloy Previsich clarified that in figuring the calculations, staff would not deduct the commercial space in this PUD. "We have been clear that was intended: to have net residential area, but not net of commercial space. She continued by saying the density numbers were selected with mixed-use in mind. CDD Molloy Previsich cautioned that if the Commissioners agree to deduct commercial space, they need to add specific language to the ordinance to direct that calculation.

Mr. Garcia said that another problem/issue was that with more residential units, more parking is needed, so a determining factor is not the size of units, but the amount of parking.

Chair Lyle, addressing Mr. Garcia, asked - with respect to 25 – 45 ft. depth for retail/ office space - if more commercial space was needed, how would affect his plans?

Mr. Garcia responded it would be difficult to tell, and said that the architect has asked for maximum flexibility, so in actuality he wanted to go away from specifying square footage for the commercial portion of the project. Chair Lyle reminded that the applicant has shown some concern in the past, that 10,000 sf for commercial would be difficult to do.

Commissioner Koepp-Baker asked Mr. Garcia about the stacking concept, and further asked what would be the sizes of the residences? Mr. Garcia explained that the units would effectively be 'on top of the commercial space and each would contain 1500 - 1700 sf. Mr. Garcia said the concept could be used in the properties on Depot as well, and all units would have two parking spaces.

Commissioner Acevedo broached the subject of the amount of rent for commercial, asking Mr. Garcia how he figured the price point. Mr. Garcia indicated he couldn't build for less than in the shopping centers.

With no others present to address the matter, the public hearing was closed.

Commissioner Mueller asked if the Morgan Hill Times building is specifically mentioned in the Downtown Plan? PM Rowe noted the plan is for the building to remain and an applicant is planning for retail/food service type use in the remaining part of the building. CDD Molloy Previsich commented that the building has been called a historic resource.

Commissioner Acevedo said if the Commissioners can/want to determine some level of minimum square footage for commercial, he would think it would be important for the architects to see what the City wants. The Commissioners discussed that notion and agreed that the applicant needs flexibility, but some direction. Commissioner Acevedo said, "From everything I've been reading about downtown and the amount of residential (think 200 units by 2010) not all those units are proposed for this site, but spread out. Do we want 25% of those units on this site? CDD Molloy Previsich reminded this is about two acres, so 50 units is appropriate. Commissioner Acevedo stated that retail would occupy roughly 1/3 of an acre, plus the density of residential will vary. He further stated tht density varies throughout the downtown area, so it is not just this project to be considered.

Commissioner Escobar commented that this site serves as anchor for the rest of downtown, so 25% of the residential units will most likely be allocated to it. Commissioner Escobar said that was probably appropriate, as this would be a gateway project and dominate the area.

Chair Lyle referenced Mr. Garcia's letter and the support for the reduced Downtown conditional use permit fee. Commissioner Mueller said that as long as the environmental review is covered, a streamlined process is OK. **BY CONSENSUS, THE COMMISSIONERS INDICATED FAVORING A STREAMLINED PERMITTING PROCESS, INCLUDING A REDUCED FEE STRUCTURE FOR DOWNTOWN CONDITIONAL USE PERMITS**. CDD Molloy Previsich advised that the Community Development Department is planning on doing a fee resolution soon for City Council action.

Returning to the issue of density, Chair Lyle led the discussion with the following points being raised:

- suggestion of minimum 10,000 square feet for commercial development
- 25 - 40 units of residential space per acre
- commercial needs are market driven and difficult to set
- need to carefully plan commercial area for critical mass
- need to specify commercial area in mixed use
- concerns that retail/commercial remain vacant
- setting a square footage minimum would be essential
- small businesses in the downtown are established; there are really not vacancies for retail at present
- fundamentally design a way to go; must be genuine and not hodge-podge so the City must be commitment to a sustained level of commercial/retail downtown
- 10,000 sf should meet that level of commitment

CDD Molloy Previsich commented that if the business space was 25-feet deep and 300 linear feet, that would yield 8 – 12,000 sf for commercial. Discussion ensued as to the amount of square feet would be minimal usable space; Mr. Garcia expressed the thought that it would be minimum 10%. Commissioner Mueller said a minimum of 10,000 sf should be available at this site.

Chair Lyle reopened the public hearing.

Mr. Garcia informed the Commissioners that he would like to have a lot more square footage, but 'it's just not there; I can deal with a range – it's not a question of wanting to do or not do, but the feasibility of doing at all.

Commissioner Mueller said that under the mixed use designation under the RCDS, scoring may not be available and he didn't want residential scoring dominating, but wanted commercial weight to come into play, as the commercial is essential to downtown.

Chair Lyle offered to poll the Commissioners as to the preference for more commercial or more residential. Commissioner Escobar said in his thinking it is essential to ask what the community wants and there is genuine need to establish a retail base, but also concern if there is too little retail, the community could not be supportive. "So assistance goes both ways," Commissioner Escobar concluded.

Commissioner Benich said that whatever numbers the Commissioners finally determine, if there is to be viable residential downtown, then downtown must be 'service friendly'. "Residents in the downtown neighborhood will want to walk to services, not drive," he said.

Chair Lyle asked if 10,000 square feet for commercial would be acceptable to the Commissioners?

Commissioner Acevedo urged the Commissioners 'not to look at this project by itself'. "We need to consider the opening of the Courthouse next year. That will be a busy facility before court opening and at lunch, those involved with the court need to be

served. We also have the Downtown Association input for Commissioners to consider," Commissioner Acevedo said, with PM Rowe saying he understood the Downtown Association was preparing a stand and would make a statement [appear to favor higher density and supportive of ground floor retail on 3rd Street] to the Council during a hearing on the matter July 27, 2005. Commissioner Acevedo surmised that no new information from the Downtown Association had been received from meetings with staff.

The following data resulted when Chair Lyle urged the Commissioners to indicate preferences for percentage/numbers of commercial and residential as they continued discussion with Mr. Garcia:

- Commissioner Koepp-Baker 10,000 sf commercial and 50 units residential
- Commissioner Acevedo indicated he preferred a range and not a minimum, but if he had to pick, it would be 12,000 sf for commercial
- Mr. Garcia commented that the architects have done numerous scenarios and are asking for free reign for design.
- Commissioner Escobar said he had supposed a range of 8,000 -12,000 sf and had been debating a minimum; the representation of 10% is relatively small, he said.
- Mr. Garcia said if the ratio went down to 8,000 sf, then office space would not be effective [Chair Lyle asked if any commercial would be on the 2nd floor? (No)

Commissioner Koepp-Baker made additional inquiry as to the vacant space downtown at present. "Does anyone know what the square footage of downtown retail shops is?" she asked. Commissioner Acevedo advised that most shops are approximately 500 - 1000 sf and told of various, specific spaces in downtown.

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

Polling the Commissioners, Chair Lyle determined the following preferences:
Minimum square footage for commercial:
Commissioner Escobar would settle for 10,000 sf, but wanted more
Commissioner Acevedo would be happier with 12,000 sf , 'as that number would be more realistic; for use other than offices, I don't see much commercial at 10,000 sf '
Commissioner Mueller 10,000 sf
Chair Lyle and Commissioners Benich/Koepp-Baker: 10,000 sf
**CONSEQUENTLY, A CONDITION WILL BE ADDED REQUIRING 10,000 SQUARE FEET OF SPACE FOR COMMERCIAL DEVELOPMENT AT THE SUNSWEET SITE (DECISION BY CONSENSUS)**

As to a depth requirement, Commissioner Acevedo urged not setting specific requirements.

CDD Molloy Previsich clarified that the Commissioners would prefer to leave the depth space open. Discussion followed of a possible kiosk-type business with no specific recommendation of depth for the businesses.

Commissioner Benich advocated for a condition on retail store provisions, saying he wanted to make sure to include grocery or conveniences for purchasing staples. Commissioner Mueller expressed concern if convenience stores allowed, a 7-11-type

would result, not a true grocery. Commissioner Benich argued for the provision, with CDD Molloy Previsich advising that if staff looked at the Ordinance as currently written, a grocery store would be permitted.

Commissioner Acevedo asked about the driveway on the Third Street side of the property, as he noted that this appeared to be open to interpretation (item d, Exhibit A, page 4: parking). "It doesn't say," Commissioner Acevedo said, "we want to give direction." Commissioner Mueller said item a of the same section covers the issue. PM Rowe agreed. Commissioner Acevedo indicated he felt there was a need to address whether the Commission needed to be specific or have it general/open.

Mr. Garcia returned to the podium to explain the location of the driveway, due to an oak tree on the site.

Commissioner Mueller called attention to the parking guidelines (Exhibit A, item b), which he said seems to indicate the main parking will have an entrance off Third St.
CDD Molloy Previsich advised that the language had been extracted from the Downtown Plan and can be used as needed. Commissioner Mueller said, "I'm just worried about it because this project sets the standard for all future development. There is a need for coordination."

Chair Lyle retuned to Mr. Garcia's letter where he asked why the other properties were being included? Commissioner Mueller said it was recognized that Mr. Garcia would not develop those properties, but a coordinated plan was needed. CDD Molloy Previsich said the General Plan language had also been revised and is now clear that the interrelation of the parcels must be considered during design.

CDD Molloy Previsich asked how the Commissioners wanted to handle the Morgan Hill Times building? It was noted that the structure is now occupied by offices. The Commissioners, during discussion, agreed that the building would be excluded for office and density calculations, and there would be language that Mr. Garcia's project was exclusive of that parcel. CDD Molloy Previsich again clarified that density is calculated over mixed-use parcels and not excluding commercial space.

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 05-39, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, AND WITH A MODIFICATION TO THE 1ST WHEREAS: JULY ~~12~~ 26 AND FURTHER: RECOMMENDING APPROVAL OF THE GENERAL PLAN TEXT AMENDMENT TO ESTABLISH A 25 – 40 UNITS PER ACRE DENSITY RANGE AND PUD DESIGN PARAMETERS FOR THE SUNSWEET OPPORTUNITY SITE. COMMISSIONER ACEVEDO SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**COMMISSIONER MUELLER OFFERED RESOLUTION NO. 05-40, RECOMMENDING APPROVAL TO AMEND THE ZONING ON SEVEN PARCELS FROM CENTRAL COMMERCIAL RESIDENTIAL CC TO PLANNED UNIT DEVELOPMENT PUD, MINIMUM COMMERCIAL SPACE 10,000 SQUARE FEET, BRINGING THE PARCELS INTO CONFORMANCE**

**WITH THE DOWNTOWN PLAN AND THE GENERAL PLAN, AND INCLUDING THE FOLLOWING AMENDMENTS:**

- **A 25% ALLOWANCE FOR OFFICE SPACE, EXCLUDING THE MORGAN HILL TIMES BUILDING**
- **MINIMUM COMMERCIAL DENSITY OF 10,000 SQUARE FEET**

**NOTING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE: ABSTAIN: NONE; ABSENT: NONE.**

Commissioner Mueller reiterated that the Commissioners gave clear direction to staff to continue work on a streamlined Conditional Use Permit. CDD Molloy Previsich assured that would occur, as there was direction from the Council as well for such a project.

**NEW BUSINESS:**

**2) ZA-04-16/ SD-04-13/ DA-04-05: BARRETT-ODISHOO**

A request to approve a precise development plan for 36 single family attached homes on a 7-acre lot located on the south east corner of the intersection of Barrett Ave. and Butterfield Blvd. in the R-2 3,500, Residential Planned Development zoning district. Also requested is the approval of a 36-lot subdivision and development agreement for the project. A mitigated negative declaration is proposed for the project.

PM Rowe gave the staff report, calling attention to the following modifications:
Page 9, Development Agreement (which will be the subject(s) of discussion at the August 9, 2005 Commission meeting. The further discussion will be regarding setting standards, PM Rowe said, as he told of eligibility requirements language added for consistency.)

- Add: Page 9, (iv) …moderate ***rate*** (non BMR) ***units with a final sales price (at close of escrow) based on HUD income limits for a family of 4.***
- Page 11, add: (vi) $2,200 per unit for circulation efficiency
- Modify (p) (vi): ~~at a cost of $7,000 per unit.~~ ***or commits to install public facilities on/adjacent to project site, or as directed/designated by City at a cost of at least*** ~~**$4,000**~~ ***$4,400 (over and above other commitments) per allocated unit.***
- Delete (p) (vii) [then subsequently renumber all remaining items]
- Add: (p) (ix***) Provides 3000' of walkway adjacent to Butterfield channel at a cost*** ~~**$1,000**~~ ***$1,100 per unit.***

Page 18, Exhibit B, the following date changes were recommended:

**III. FINAL MAP SUBMITTAL**

Map, Improvements Agreement and Bonds: ~~August~~ September 30, 2005

**IV. BUILDING PERMIT SUBMITTAL**

Submit plans to Building Division for plan check ~~August~~ November 30, 2005

**V. BUILDING PERMITS**

Obtain building permits March 31 ~~October 30~~, 200~~5~~ 6

Commissioner Mueller stated that on page 6, Standard Conditions, *item h* should be checked, as well.

SE Creer spoke to the Commissioners clarifying the criteria for the changes on pages 9 and 11 of the Development Agreement. Chair Lyle explained the difference in amounts for fees which the recalculation had resulted to be $9,900 per unit instead of $13,400, a large saving to the applicant.

SE Creer also addressed the issue of detention ponds, advising he has not seen the revised tentative map, but from talking to staff, it appears a pond was not on the map. SE Creer clarified that there must be have some type of detention and advised it was possible to have that ponding in the phasing of the project. SE Creer further advised that the project must be returned with a phasing plan so the detention pond plan can be included in the phasing plan (page 12 of the Standard Agreement: XV #C).

Commissioner Benich asked for clarification on page 21 of the Standard Agreement /Other, with PM Rowe responding with an explanation of how the project competed under the two RDCS competitions.

Chair Lyle opened the public hearing.

Alexander Henson, 27880 Dorris Dr., #20, Carmel, was present to represent applicant. Mr. Henson said the applicant is willing to accept the changes as explained.

With no others present to address the matter, the public hearing was closed.

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED ACCEPTANCE OF THE MITIGATED NEGATIVE DECLARATION AS PRESENTED. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE: ABSTAIN: NONE; ABSENT: NONE.**

**COMMISSIONER MUELLER OFFERED RESOLUTION NO 05-42, RECOMMENDING APPROVAL OF A ZONING AMENDMENT TO ESTABLISH AN R-2 3,500/RESISDENTIAL PLANNED DEVELOPMENT ON A 7.06 ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF BARRETT AVE. AND SAN RAMON DR., INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN. COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**COMMISSIONER MUELLER OFFERED RESOLUTION NO 05-43, APPROVING A TENTATIVE MAP OF A 36-LOT SUBDIVISION ON A 7.06 ACRE SITE LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF BARRETT AVE. AND SAN RAMON DR., TOGETHER WITH THE FINDINGS AND CONDITIONS CONTAINED THEREIN AND A MODIFICATION TO INCLUDE PAGE 6, STANDARD CONDITIONS, *ITEM H.* COMMISSIONER ESCOBAR SECONDED THE MOTION WHICH CARRIED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**COMMISSIONER MUELLER OFFERED RESOLUTION NO 05-44, RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT APPLICATION, DA-04-05 FOR APPLICATIONS MP-02-22 AND MC-04-13: BARRETT-ODISHOO, INCLUDING THE FINDINGS AND CONDITIONS CONTAINED WITHIN, AND WITH THE FOLLOWING MODIFICATIONS:**
Add: Page 9, (iv) …moderate ***rate*** (non BMR) ***units with a final sales price (at close of escrow) based on HUD income limits for a family of 4.***
Page 11, add: (vi) $2,200 per unit for circulation efficiency
Page 11: Modify (p) (vi): ~~at a cost of $7,000 per unit.~~ ***or commits to install public facilities on/adjacent to project site, or as directed/designated by City at a cost of at least ~~$4,000~~ $4,400 (over and above other commitments) per allocated unit.***
Page 11: Delete (p) (vii) [then subsequently renumber all remaining items]
**Page 11: Add: (p) (ix*)*** *Provides 3000' of walkway adjacent to Butterfield channel at a cost of ~~$1,000~~ **$1,100** per unit.*
Page 18, Exhibit B,:
**III. FINAL MAP SUBMITTAL**
Map, Improvements Agreement and Bonds: ~~August~~ September 30, 2005
**IV. BUILDING PERMIT SUBMITTAL**
Submit plans to Building Division for plan check ~~August~~ November 30, 2005
**V. BUILDING PERMITS**
Obtain building permits March 31 ~~October 30~~, 200~~5~~ 6

**COMMISSIONER ESCOBAR SECONDED THE MOTION, WHICH PASSED BY THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

**3) 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.

PM Rowe presented the staff report, advising the Commissioners of the requirement for the review in Section 18.78.150 of the Municipal Code. PM Rowe informed there can be recession of allocations, as he pointed out those which are behind in performance. He called attention to the Vierra project which is in litigation and noting the City is waiting for a written report from the Court, whereupon the allotments will be reallocated.

PM Rowe told of the difficulties of developers with final map approvals due to insurance issues, and telling Commissioners that some of the projects were behind because of that, as he assured staff is working with the developers for helping with a favorable resolution. The Grewal project had been given five extensions and is now listed as expired, as the applicant is no longer pursuing the project, PM Rowe said. PM Rowe then highlighted the projects which have been completed or partially completed during the previous quarter.

Commissioner Mueller announced that Habitat for Humanity is 'on the way to starting the oldest six allocations on the chart as the City Council had approved funding for the organization to complete Villanova #1.

Commissioner Mueller inquired as to the status of the Housing Element? CDD Molloy Previsich advised the status is unchanged and the Housing Element still needs work, and

she is planning to work on it soon, hopefully in August. Discussion ensued as to the requirements/expectations of the State Department of Housing and Community Development for the Housing Element, with the following issues being raised:

- modification of measure C was completed, why are there more complications now?
- some changes and numbers need to be further modified
- downtown should not be an issue any longer regarding building allotments
- it may have become too complicated; the City only had to show Measure C was not a barrier
- modification of population in a year could facilitate allocation if not built, but only enabled

Commissioner Benich asked about the projection of 40,000 population (page 3) wondering 'what year'? PM Rowe responded it would be through FY 2009. Commissioner Mueller said that if every allocation on record gets built, the population can reach 40,000.

Commissioner Benich clarified that the allocations play a big part in the projections.

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO ACCEPT THE REPORT AS PRESENTED AND FORWARD THE DOCUMENT TO THE CITY COUNCIL. THE MOTION CARRIED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, BENICH, ESCOBAR, KOEPP-BAKER, LYLE, MUELLER; NOES: NONE: ABSTAIN: NONE; ABSENT: NONE.**

**4) FLEXIBILITY FOR DOWNTOWN RESIDENTIAL ALLOCATIONS**

Discussion regarding possible methods to adjust the timing of the City's Residential Development Control System Building Allocations to encourage new development in the City's Downtown Area.

PM Rowe presented the staff report, noting the City Council will discuss the matter at the scheduled meeting tomorrow (July 27, 2005), and they are interested in having comments from the Commissioners tonight. In giving the staff report, PM Rowe identified issues of:

- timing of allocations
- exchange of allocations
- amending Measure C

The competition this fall will be for downtown mixed use and multi-unit buildings, PM Rowe said. In some instances, in order to have a completion it may be necessary to give all allocations upfront (as in the instance of an apartment building).

PM Rowe explained the set-aside allocations for the downtown area and noticed tht revitalization of the downtown area under Measure C has provision for the City Council to further divide allocations based on several factors. PM Rowe said there was a question of whether the City can advance allocations from 2 – 3 to year 1, as advancing timing has the advantage of having downtown to begin projects sooner, which would also affect/promote critical mass increase. The RDCS formula is self-correcting and 'draws down' allocations so the City would not reach the population cap before 2020, PM Rowe said. He added that Staff doesn't think the impact would be overly great if the allocations were limited to 200 units downtown, especially as some landowners want smaller housing units.

Chair Lyle spoke on possible exchanging of allocations between projects if a project fell behind schedule (whatever reason) and the developer wanted more time, they could exchange earlier year allocations for downtown units. "It doesn't affect overall growth, so it would not be detrimental and may be more consistent with Measure C in that respect," PM Rowe said. PM Rowe acknowledged the process could be difficult to administer, as there is some question of consistency if a project fails to fulfill their commitment.

With the two approaches under discussion, PM Rowe indicated staff's recommendation that the City Attorney first review and advise before a decision is made, also there is a suggestion that some guidelines be developed.

As to amending Measure C, that would be discussed by the City Council. The committee made a suggestion to exempt a quantified number from downtown, and when that would be subtracted from the population cap of 48,000 at 2020, there would be fewer allocations during subsequent years from out of downtown.

A timing issue to amend Measure C brings up issues of rollover of allocations, PM Rowe said. For total exemption, some other standard/plan would need to be adopted, such as a 'smart growth overlay'. PM Rowe advised that the discussion at City Council will also include possible ballot action for November, 2005 or June, 2006 as he told the benefits of each time frame.

Commissioners brought forth the following issues regarding the matter:

- 'stop-and-go theory': not build all allocations at once (Coyote creek was provided as an example), but in increments where building efforts start all at once or as many as market would dedicate
- why have ballot measure
- flexibility if exchange program
- current language regarding pulling allocations
- opposition to advancing allocations (could be done for affordable units (high density) by delaying 1 year and advancing 3rd year to 2nd year, so could have allocations within 3 years
- no wish to have additional allocations given for 2007-08 for downtown; that could be problematic if competition spanned multiple years, but allocations given all at once
- no wish to have allocations given for up to 2017-18 for downtown; concern the allocations might not be used
- allocation(s) carryover difficult to do
- movement forward (advanced years) - initiative not allow
- suggest to City Council to explore the concepts presented further, with direction to staff and the City Attorney to ascertain ways of accomplishment
- exchange of allocations can be done at present (Commissioner Acevedo does not like)
- competition is for time certain; if trade/exchange, then not competing fairly anymore;
- should be working within year of interest
- most projects under 50 units in the last competition were new applications and all got the requested allocations (no wish to change)
- possibility of inclusion of a 'sunset' clause

Commissioners agreed there would be some strategies to be worked out and said it would be a good suggestion to the City Council to establish policies for dealing with the issues. There was an overall statement to continue pursing the matter of exchange.

Considerable discussion was had as to amending Measure C, with PM Rowe advising that applicants have spoken of the uncertainty to get allocations as long as all data comes in with the application. "Uncertainty is an inhibitor to some," he advised the Commissioners.

Commissioners discussed the potential of a ballot measure. Chair Lyle cited the three suggestions provided in the staff report, saying that Commissioners might agree on one of the alternatives or suggest another. He also suggested that the City Attorney could interpret the current Measure C for sufficiency for what is now occurring.

Commissioner Escobar commented it would be desirable to use current language to obtain goals. "I tend not to like legislation by initiative, but would agree with alternative 3 if that was recommended by the City Attorney."

PM Rowe spoke to alternative 3 (ballot) explaining that staff was trying to be consistent.

Chair Lyle elicited a straw poll with Commissioner Acevedo being the first to respond, by saying, "It depends on the interpretation." He added he did not like the exchange proposal. "I don't like it partly because of the fact that when a project exchanges out of the years allocations were awarded, that project is no longer receiving awards based on scoring comparisons with other project in that year. However," Commissioner Acevedo continued, "if the City Attorney interprets the Measure C code more favorably towards exchanging projects rather than exempting them entirely, then I would favor the path of least resistance. If Measure C is to be changed, I would rather fully exempt downtown projects. I would also want to not exempt them from the cap, but readjust the cap later." (referencing page 4) He further indicated his belief that projects should not have to compete in the downtown if that is what City Council wants and can legally do it. Therefore, Measure C should not have to apply to them. However, a minimum design standard must be developed for these noncompeting projects. He went on to explain: It would be like a "Design Handbook" for the downtown high density and vertical mixed use projects. All these projects would have to do is meet a check list of these design standards. This downtown exemption would be short lived (sunsetted).

Commissioner Koepp-Baker indicated favoring an exchange of development rights <u>before</u> changing the laws the voters have spoken for. "I would go for number 3, as 1 and 2 could challenge our infrastructure for several years," she said.

Commissioner Mueller said he doubted a ballot would be possible under the Current Ordinance, but an exchange was within possibility now.

The other Commissioners agreed with Commissioner Escobar's suggestion, saying it was warranted: the Council can direct the City Attorney to find the answer the policy makers want, to have the City Attorney find a way to do something like the exchange under current law, and if it is ascertained a change is needed, the City Attorney should advise a different direction.

Chair Lyle said he doesn't believe 'allocations up front' will come into play as developers don't want to build in one year. Commissioner Mueller agreed, saying that would occur only if there were to be an apartment complex where all units would have to be rented at once.

In discussing the ballot issue, PM Rowe noted a timing issue, stating that November this year would not be a good idea. The Commissioners agreed and launched a discussion of 'off-cycle election years'.

Commissioner Mueller commented that many townspeople think the City allows too much affordable housing now. Other Commissioners agreed.

Staff is anticipated to provide the crux of the discussion to the Council to aid in their consideration of the matter of flexibility for downtown residential allocations.

**ANNOUNCEMENTS:** PM Rowe reported that the City Council, at the July 20, 2005 meeting, had completed the second reading (indicating adoption) of RDCS amendments as recommended by the Commissioners. PM Rowe also indicated interviews for Commission appointments had been completed and an announcement by the Mayor is expected at the Council meeting of July 27, 2005.

Commissioner Benich announced he will not be present for the next meeting, but will submit comments on the Cochrane-DiNapoli/Browman EIR (comments due from interested parties no later than August 29, 2005).

Commissioner Mueller commented disappointment in the Downtown Association, as the membership has been ignoring the Commission and going straight to the City Council. He termed such action 'very unfortunate' for both groups.

**ADJOURNMENT:** There being no further business to come before the Commissioners at this meeting, Chair Lyle adjourned the meeting at 9:34 p.m.

**MINUTES PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**