



City of Milpitas – Planning Commission

2025 Regular Meeting Dates

2nd and 4th Wednesday of the Month
at 7:00 PM

January 8 and 22
February 12 and 26
March 12 and 26
April 9 and 23
May 14 and 28
June 11 and 25
July - <i>No meetings*</i>
August 13 and 27
September 10 and 24
October 8 and 22
November 12 and 26
December 10

**Note: In the Commission Bylaws' addendums passed and adopted by City Council on April 16, 2019, there shall be no meetings in July for any/all Commissions, City Council Subcommittees and other bodies. This is to match the adopted City Council schedule.*



MILPITAS PLANNING COMMISSION STAFF REPORT

January 8, 2025

TITLE: Citywide ABC Licenses

RECOMMENDATION: Staff recommends that the Planning Commission: 1) receive staff's presentation and this report regarding the current status of gas stations within the City and the role of sales of alcoholic beverages for off-site consumption; and 2) discuss potential additional requirements and options for all alcohol permits outlined in this report.

BACKGROUND

On February 28, 2024, the Planning Commission passed a motion requesting that staff at a future meeting (a) provide additional information regarding gas stations that sell alcohol and (b) facilitate a discussion regarding potential updated guidelines and/or regulations for alcohol related entitlements, particularly near sensitive places such as schools and daycares. Staff subsequently compiled internal City databases to update the Planning Commission on the existing number of gas stations within the City and how many of those gas stations currently have Alcoholic Beverage Control (ABC) Licenses to sell alcoholic beverages. Additionally, a summary of the existing conditions and regulatory framework, alternative procedures from nearby jurisdictions, and potential recommendation options are discussed below.

ANALYSIS

Zoning Code Process

Currently, in all zones in the City, alcoholic beverage sales are either entirely prohibited or require a Conditional Use Permit (CUP) issued by the Planning Commission prior to commencement of that use. Similarly, bars or nightclubs are either prohibited or require a CUP issued by the Planning Commission. Thus all primary or standalone alcohol uses that can be approved must come before the Planning Commission for consideration.

Accessory alcohol sales associated with restaurants are regulated differently. Restaurants with accessory alcohol service generally are either prohibited or require a CUP, except in certain Commercial, Mixed Use, and Metro Area Zones. In those limited zones, restaurants can have on-site service of alcohol associated with food sales through a Minor Conditional Use Permit (MCUP) issued by the Zoning Administrator, or, for ground floor restaurants on certain designated "activity" or retail mixed use streets, as a matter of right provided the service is beer and wine only and there is no separate bar area.

The consequence is that all alcoholic beverage uses must be approved by the Planning Commission through a CUP, except for ancillary alcohol sales at restaurants with food service in certain limited and statutorily specified zones.

ABC License Process

In addition to the City's zoning regulations, the City also regulates the planned development of new alcohol uses in conjunction retail license system administered by the California Department of Alcoholic Beverage Control (ABC).

In addition to the comprehensive system of alcohol retail licenses administered by ABC, the primary State legislation that establishes local limits on issuance of alcohol beverage licenses is State Assembly Bill 2897, which was approved in 1994. AB 2897, also known as the Caldera Bill (Bus. & Prof. Code, §§ 23958, 23958.4), prohibits the issuance of alcohol beverage licenses in areas of undue concentration unless, with some exceptions, the local jurisdiction made a determination of public convenience or necessity.

Areas of undue concentration can be found based on either (a) the allowable number of off-sale licenses ABC allows per a census tract, or (b) above-average crime, as reported by the Police Department, which is statutorily defined as a 20 percent or greater number of reported crimes than the average of all reporting districts within the City. For example, if a certain census tract allowed for 5 licenses (based on population), but there were currently 7 active licenses, any additional licenses would have to meet the findings for public convenience or necessity. The City generally has 90 days from the date it receives a completed application or notice from ABC or the applicant to make this determination. Otherwise, ABC is authorized to make this determination.

Some jurisdictions have set local requirements for undue concentration requests under AB 2897, but the City of Milpitas uses the Conditional Use Permit process to determine if the proposed use would serve the public convenience or necessity. This includes meeting the Conditional Use Permit Findings within MMC. Sec. XI-10-57.04(F)(1), which include the following:

- a) The proposed use, at the proposed location will not be detrimental or injurious to property or improvements in the vicinity nor to the public health, safety, and general welfare;
- b) The proposed use is consistent with the Milpitas General Plan; and
- c) The proposed use is consistent with the Milpitas Zoning Ordinance.

When reviewing Conditional Use Permits for alcohol sales, staff reviews the type of license being requested such as Type 20 for off-sale of beer and wine, Type 21 for off-sale of beer, wine, and distilled spirits, Type 41 for on-sale of beer and wine, etc. Staff analyzes the ABC license being requested, along with the proposed business (i.e. gas station or restaurant) and uses that information to determine if a finding of public convenience or necessity can be met. Staff also analyzes the alcohol request for conformance with the Milpitas General Plan, including **Policy 2.a-I-3** - "*Encourage economic pursuits which will strengthen and promote development through stability and balance*" and **Policy 2.a-I-7** - "*Provide opportunities to expand employment, participate in partnerships with local businesses to facilitate communication and promote business retention.*"

Existing Gas Stations

There are currently 18 gas stations within the City of Milpitas. Gas stations can be found within a number of zoning districts, including C2 (General Commercial), MXD (Mixed-Use), C1 (Neighborhood Commercial). Of the 18 gas stations, 3 are currently licensed to sell alcoholic beverages through ABC License Type 20 (Beer and Wine). An additional gas station was also recently entitled to sell alcoholic beverages with a Type 20 license from the Planning Commission

through UP23-0014 which would bring the total to 4 licenses. *Table 1* shows all gas stations that are entitled to sell alcoholic beverages.

Table 1: Gas Stations with ABC Licenses

Address	Business Name	Zone	ABC License
1625 N. McCarthy Blvd.	Chevron	General Commercial (C2)	Type 20
27 S. Park Victoria Dr.	76 Gas	Neighborhood Commercial (C1)	Entitled for Type 20
1787 S. Main St.	Rotten Robbie	Mixed-Use (MXD)	Type 20
1575 Landess Ave.	Arco	General Commercial (C2)	Type 20

Police Department Input

The City of Milpitas Police Department (MPD) currently reviews every request for alcohol sales through the Planning entitlement process. MPD works closely with other City departments and applicants in preparing proactive patrol tactics and security measures prior to the issuance of any permits. MPD typically evaluates the following circumstances and includes relevant conditions of approval when reviewing applications for alcohol sales:

- **Secure Storage**
 - Alcohol (beer and wine) must be kept out of patrons' reach to prevent theft.
- **Compliance with Permits and ABC Laws**
 - Applicants must obtain all required City, County, State permits and comply with ABC regulations.
- **Regulated Sales Hours**
 - Alcohol sales are restricted to operating hours.
- **Age Requirements for Servers**
 - All individuals serving alcohol must be 21 years of age or older.
- **Immediate Compliance with Law Enforcement**
 - Licensees must immediately surrender licenses and stop alcohol sales upon peace officer demand when applicable by law.
- **Supervised Sales and Distribution**
 - Control over alcohol distribution and operations must remain with the organization; no unauthorized entities can sell or distribute alcohol.
- **Additional Conditions**
 - Police Department conditions may be imposed alongside ABC requirements. Licensees must adhere to the most restrictive conditions if conflicts arise.

In making this determination, the Police Department does not necessarily consider crime data for the vicinity. In fairness across applications, crime data may be affected by many variables that may be both outside of an applicant's control and unassociated to alcohol sales in the area. For instance, a higher volume of traffic may contribute to a higher volume of vehicle related police stops, including impaired driving (DUIs). The mere presence of alcohol retail establishments nearby

would not necessarily mean any associated alcohol was purchased there or that the driver was frequenting that store. An example of a Police Department memorandum has been included (Attachment A) to provide context for what conditions of approval are typically included for an application.

Procedures for Nearby Jurisdictions

As part of this analysis, staff reviewed the operational and procedural requirements of nearby jurisdictions for alcohol requests from gas stations. Some of those requirements from nearby jurisdictions are summarized below:

- *City of San Jose*: Unlike the City of Milpitas, San Jose’s Zoning Code expressly requires the submission of a CUP application. San Jose also has separation requirements for offsite alcohol sales, but allows for exceptions as long as findings are made such as public convenience and necessity, safety, and general welfare.
 - If the proposed use is closer than 500 feet from any similar use (off-sale of alcoholic beverages), then the proposed location should not result in a total of more than 4 similar establishments within a 1,000-foot radius of the proposed location.
 - If the proposed use results in more than 4 similar establishments within a 1,000-foot radius, then additional findings are required.
 - If the proposed use is closer than 500 feet from any child care center, public park, social service agency, residential care or service facility, school, or 150 feet from any residentially zoned property, then the building in which the proposed use is to be located is situated and oriented as to not adversely affect those uses.
 - Undue Concentration Requirements: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT6BULIRE_CH6.84DEPUCONELBEC_OLI_6.84.030FI
 - Separation Requirements: https://library.municode.com/ca/san_jose/codes/code_of_ordinances?nodeId=TIT20ZO_CH20.80SPUSRE_PT1IOLEALBE_20.80.900OLEALBE
- *City of Campbell*: Unlike the City of Milpitas, Campbell has separation requirements for off-site alcohol sales, but not on-site or ancillary alcohol sales, unless the subject property is located within an overlay/combining zoning district subject to their “master use permit.” Campbell specifies different required findings for onsite, offside, and onsite ancillary alcohol sales.
 - Proposed offsite alcohol sales, except grocery stores, have a minimum 300-foot separation requirement from “sensitive receptors”.
 - Campbell’s “sensitive receptors” refer to parks, playgrounds, and schools.
 - Proposed offsite alcohol sales, except grocery stores, shall have a minimum 500-foot separation requirement from similar offsite alcohol retailers.
 - Proposed offsite alcohol sales, except grocery stores, shall have a minimum 500-foot separation requirement from payday lender uses.
 - Offsite Alcohol Sales: https://library.municode.com/ca/campbell/codes/code_of_ordinances?nodeId=TIT21ZO_CH21.36PRAPSPUS_21.36.142OFALSA
 - Onsite Alcohol Sales: https://library.municode.com/ca/campbell/codes/code_of_ordinances?nodeId=TIT21ZO_CH21.36PRAPSPUS_21.36.144ONALSA
 - Ancillary Alcohol Sales: https://library.municode.com/ca/campbell/codes/code_of_ordinances?nodeId=TIT21ZO_CH21.36PRAPSPUS_21.36.145ONALSAAN

- *City of Cupertino*: Although there are no separation requirements, Cupertino is the one nearby jurisdiction that has special operational conditions required for any new ABC Licenses for new or proposed gas stations.

<https://codehub.gridics.com/us/ca/cupertino#/d3ef8742-594e-4e92-bb0d-0fbb09d855bd/562a34c6-8300-49d1-81e2-e5ba2553ef6d>

- *No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler.*
- *No advertisement of alcoholic beverages shall be displayed at motor fuel islands.*
- *No sale of alcoholic beverages shall be made from a drive-in window.*
- *No display or sale of beer or wine shall be made from an ice tub.*
- *No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on buildings or windows.*
- *Employees on duty between the hours of ten p.m. and two a.m. who sell beer or wine shall be at least twenty-one years of age.*

Alcohol-Related CUP Review Updates

Procedural and Policy Updates

Based on a review of alcohol-related requirements from nearby jurisdictions, staff will implement the following procedural and policy measures to strengthen the City's regulation of alcohol sales.

1. *Route to potential sensitive uses.* Staff will route alcohol requests to potentially sensitive uses such as schools, places of assembly, daycares, and any other sensitive use the Planning Director determines at their discretion should be mailed notice for a particular project within 1,000 feet of the project site. Staff will then coordinate with any concerned stakeholders to address any concerns or comments, including potentially by implementing project changes or project-specific conditions of approval.
2. *Update Conditions of Approval.* Planning staff will add new standard conditions of approval to all alcohol permit requests. These added conditions of approval may include limits on sales of alcoholic beverages, limits on advertisements of alcoholic beverages, and required ID readers.

Zoning Ordinance Updates

If the Planning Commission desires further regulation of alcohol sales beyond the procedural and policy updates discussed above, the Commission may consider the following measures, which may first require Council prioritization of an amendment to the Zoning Ordinance before staff can initiate any work.

1. *Enhance findings for public convenience and necessity.* The City's Municipal Code currently provides one set of required findings for all Conditional Use Permits and Minor Conditional Use Permits ([MMC Sec. XI-10-57.04-F](#)), which generally center around the proposed land use's consistency with City ordinances. The City could consider alcohol-specific findings, which may include one or more of the following:
 - a. Alcoholic beverage sales would not represent a majority of the proposed use.
 - b. The proposed use would not lead to five or more off-premises sales of alcohol within the same property.
 - c. The proposed use would enhance or facilitate the vitality of an existing commercial area without presenting a significant adverse impact on public health or safety.

The Planning Commission may also make a determination that even if all of the findings are not made, a significant and overriding public benefit will be provided by the proposed use.

2. *Enact separation requirements.* In lieu of routing alcohol sales requests to nearby sensitive land uses, the City could consider separation requirements from sensitive land uses, which would outright prohibit alcohol sales within a specific distance from these uses. Staff does not recommend implementing separation requirements as they would likely have a negative impact on the City's Economic Development Policies, including General Plan Policies ED 1-2, ED 2-1, and ED 2-2. Separation requirements would also have the possibility of creating non-conforming circumstances throughout the City for many existing off-sale alcohol retailers, which would effectively prevent expansion of those existing uses.

If any proposal would require more than four (4) hours of staff work, the Planning Commission may recommend a proposed Zoning Ordinance amendment to the City Council for prioritization through a majority vote. If the City Council prioritized the item, staff would then undertake effort to develop an ordinance before bringing it to the Planning Commission and then the City Council for approval.

Staff Proposal

Staff recommends that the Planning Commission consider procedural and policy updates for future application requests for the sale of alcoholic beverages for off-site consumption.

RECOMMENDATION

Staff recommends that the Planning Commission: 1) receive staff's presentation and this report regarding the development review process and the Planning Commission's role; and 2) discuss the reporting options outlined in this report.

ATTACHMENTS:

- A. Example of Police Department Memorandum (SD22-0013)
- B. DUI Arrests Near Gas Stations 2024

MEMORANDUM

Milpitas Police Department



Jared Hernandez
Chief of Police

DATE: November 30, 2023

TO: Captain Matthew Miller #262

FROM: Lieutenant Tyler Jamison #286

SUBJECT: **76 Gas Station, 27 S. Park Victoria Drive, Milpitas, CA, 95035,
Project #SD22-0013**

The City of Milpitas received a project application (P-SD22-0013) for a conditional use permit at an already existing 76 Gas Station at 27 S. Park Victoria Drive in Milpitas. The owner is requesting an Alcohol Beverage Control (ABC) license to sell beer and wine.

On September 27, 2023, I received an email from Associate Planner, Randy Baez, to review the conditional use permit for this addition. A diagram was provided during the application process and showed the pre-existing floor plans; no exterior additions were noted.

Our police department must work closely with city planners and developers in preparing proactive patrol tactics and security measures for this request. The police department should continue having input with all safety and security measures prior to the issuance of any permit(s).

Based upon my review of the limited application and surveying the area of 27 S. Park Victoria Drive, and to enhance crime prevention measures, and service delivery, the following conditions shall be met:

Alcohol:

- The beer and wine sold at the listed address shall be placed in a conspicuous location, but no closer than five feet from the cash register per California law and kept in a location that is visible to store employees.
- A high-definition security camera system shall supplement the area where the beer and wine are sold to prevent any potential thefts from occurring.
- Since alcohol will be sold at this premise, the applicant shall ensure all applicable City, County, and State permits are obtained and ABC laws enforced.
- Sales of alcoholic beverages shall only occur between the hours of 6:00 AM and 2:00 AM the following morning. Between the hours of 2:00 AM to 6:00 AM, the store shall secure all alcohol products behind their liquor cabinet or door to reduce the likelihood of any late-night thefts (aka: grab and runs) from occurring.
- Upon demand from a peace officer, the licensee or responsible person shall immediately surrender the license and cease all sales of alcoholic beverages, if

applicable under the law.

- Supervision of distribution, sales, and operation of alcoholic beverage areas shall at all times remain under the control of your organization. No other person or entity shall have authority to sell or distribute alcohol.
- Conditions may be imposed by the Milpitas Police Department in addition to the Department of Alcoholic Beverage Control conditions. In the event that a local law enforcement agency imposes conditions, the licensee must abide by the most restrictive conditions if there is a conflict in resolution.

Security:

- A high-definition security camera system shall be required for the gas station with coverage at all access points into the business. Additionally, the security camera system shall cover the parking lot area to have the clarity necessary to identify an individual, vehicle, etc., and have a field of view to maximize the coverage area.
- The security camera system shall be recorded, and the recording shall be maintained for a minimum of thirty (30) days and be made available to the Police Department upon request. A copy shall be made available to the police department upon request to assist in investigations. It is recommended that the employees be properly trained on how to use the security surveillance camera system so that footage can be reviewed and collected in a timely fashion by the police department if needed.

The implementation of these requirements will increase the effectiveness of police personnel, crime prevention efforts and reduce the likelihood perpetrators are attracted to this area. The police department shall continue to have input with all safety measures prior to the issuance of permits.



Milpitas Police Department

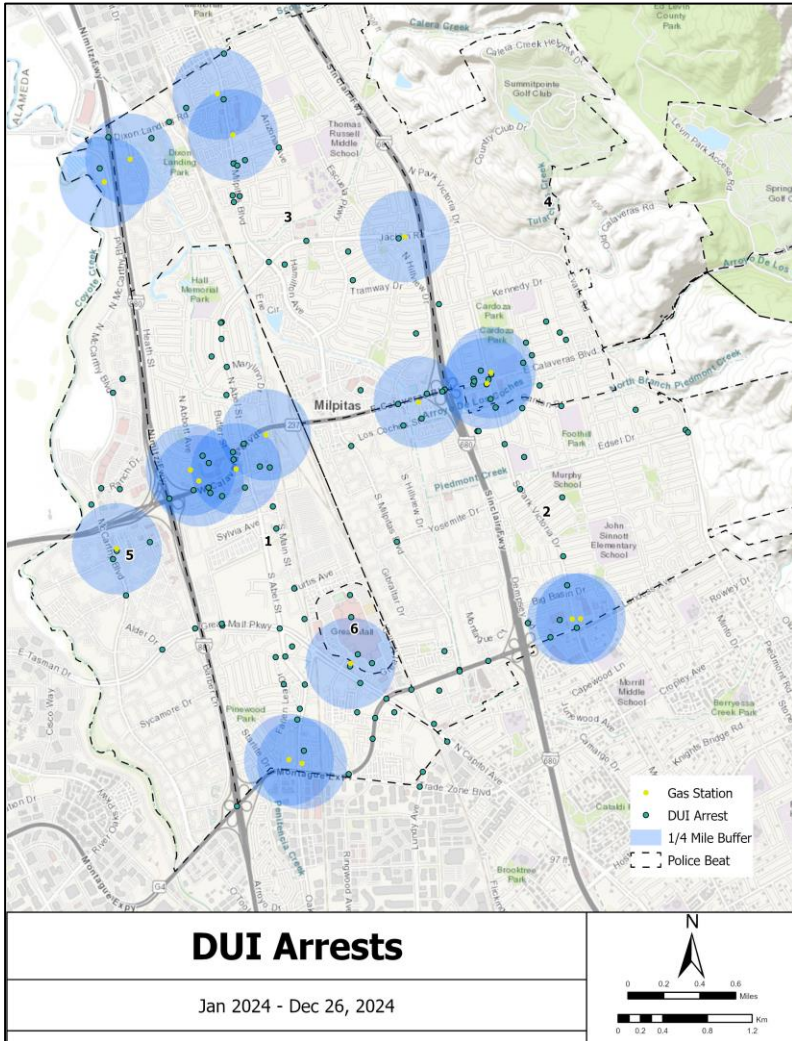
DUI Arrests Near Gas Stations

December 2024





DUI Arrests (Jan 2024 – Dec 26, 2024)



Item No.	Gas Station	Location	DUI Arrest Rank	Total DUI Arrests	City DUI Arrest Percent
1	City Gas Station	10 N Main St	Yellow	6	3.9%
2	Shell	12 N Park Victoria Dr	Red	12	7.7%
3	Chevron #207673	1249 Great Mall Dr	Green	5	3.2%
4	Chevron #92534	1490 S Park Victoria Dr	Green	4	2.6%
5	Chevron	1551 California Cr	Green	3	1.9%
6	Arco	1575 Landess Ave	Green	5	3.2%
7	Chevron #382392	1625 N McCarthy Blvd	Green	2	1.3%
8	Rocket	1640 N Milpitas Blvd	Green	4	2.6%
9	Shell	1780 S Main St	Green	2	1.3%
10	Rotten Robbie #66	1787 S Main St	Green	2	1.3%
11	Speedway #4407	1885 N Milpitas Blvd	Green	3	1.9%
12	76	190 W Calaveras Blvd	Red	12	7.7%
13	76	27 S Park Victoria Dr	Red	14	9.0%
14	Chevron	367 Cypress Dr	Green	3	1.9%
15	Arco #2121	43 S Abbott Ave	Yellow	9	5.8%
16	Shell	950 E Calaveras Blvd	Yellow	9	5.8%
17	76	97 S Abbott Ave	Yellow	10	6.5%
18	Shell	990 Jacklin Rd	Green	1	0.6%
TOTAL DUI ARRESTS (CITY OF MILPITAS)				155	

***Total DUI arrests are calculated for ¼ mile surrounding each gas station location

Red = Top 3, Yellow = Above Average, Green = Below Average



CITY OF MILPITAS

Planning Commission

MEETING MINUTES

7:00pm

Wednesday, October 9, 2024
CITY COUNCIL CHAMBERS
455 E CALAVERAS BLVD, MILPITAS, CA
and
via TELECONFERENCE (Zoom Webinar)

CALL TO ORDER

Chair Albana called the meeting to order at 7:01pm.

PLEDGE OF ALLEGIANCE

Chair Albana led the pledge of allegiance.

ROLL CALL

Recording Secretary Medina called the roll.

PRESENT: Chair Albana, Galang, Awasthi, Gupta, Caulkins, and Kong.

ABSENT: Vice Chair Medina-Ashby

STAFF: Jay Lee, Christopher Creech, Randy Baez, and Elizabeth Medina

CONFLICT OF INTEREST/CAMPAIGN CONTRIBUTION DECLARATION

Assistant City Attorney Christopher Creech asked if any member of the commission had any personal or financial conflict of interest related to any of the items on the agenda, and there were none.

APPROVAL OF THE MEETING AGENDA

By motion, approve the meeting agenda for October 9, 2024.

Motion/Second Awasthi/Galang

Motion carried by a vote of AYES: 6 NOES: 0

APPROVAL OF THE MEETING MINUTES

By motion, approve the meeting agenda for August 28, 2024. **Take up discussion in New Business section of meeting to possibly agendaize requirements of meeting minutes or meet with City staff directly regarding action minutes specifications.*

Motion/Second Caulkins/Galang

Motion carried by a vote of AYES: 6 NOES: 0

ANNOUNCEMENTS

Planning Director Lee stated that the October 23rd meeting is cancelled, next regular meeting tentatively scheduled on November 13th.

Assistant City Manager Matt Cano shared educational and informational updates related to Measure J, a City of Milpitas Public Services reauthorization measure that has been placed on the November 5th ballot unanimously by the Milpitas City Council.

PUBLIC FORUM

Chair Albana invited members of the public to address the commission, and there were none.

By motion, close public forum.

Motion/Second Caulkins/Kong

Motion carried by a vote of AYES: 6 NOES: 0

PUBLIC HEARING

IX-1 ALTITUDE TRAMPOLINE PARK – 147 GREAT MALL DR - P-UP24-0004: A Conditional Use Permit to operate a 28,500 square-foot indoor recreational facility within an existing commercial space in the Metro Very High-Density Mixed Use (MXD3-Metro) zone, located at 147 Great Mall Drive. The Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15301 (Existing Facilities), and as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

(37:36) Project Planner Randy Baez, along with applicant team members Guru Murari (applicant) and Robson Souza (Simon Property Group), addressed commissioners' clarifying questions regarding the following topics:

- **Existing Locations:** Details of other Altitude Trampoline Park locations in the State of Georgia and the City of San Jose.
- **Occupancy:** Maximum occupancy during peak hours and days.
- **Collaboration with Neighbors:** Initiated collaboration with the neighboring tenant, Dave & Buster's.
- **Safety and Hygiene:** Measures related to attractions for younger and older children, including adult supervision for smaller children.
- **Kitchen Operations:** Cafeteria-style setup with no stove cooking; outside food prohibited except for cakes at parties.
- **Membership Costs:** Potential concessions for local low-income students.
- **Participant Management:** Number of participants per attraction, managed by code managers.
- **Parental Presence Requirement:** Parents must accompany their children in the park.
- **Activity Description:** Details about stair-related activities.
- **Employee Training:** Mandatory safety/CPR certification and corporate training before opening.
- **Excluded Activities:** Zipline and wall climbing will not be offered.
- **Spectator Policy:** Spectators must accompany a paying child to gain entrance.
- **Similar Business Status:** Closure and status of Bounce-A-Rama, a similar business.
- **Grand Opening Timeline:** Dependent on building permit issuance, with a target date of Christmas 2024.
- **Business Strategy:** Ensuring both Bay Area locations thrive without competing with each other.
- **Applicant's Experience:** Confirmation on whether this is the applicant's first venture in a business like Altitude Trampoline Park.
- **Membership Comparison:** Comparison of membership costs, including concessions for low-income students.
- **Operating Hours:** Consistency with other specialty uses in the mall.

Chair Albana invited members of the public to address the commission and there was one community member, Mohana Deshmukh, in opposition of the project due to traffic/noise concerns and applicant's plans of outdoor activities.

Motion to close the Public Forum.

Motion/Second Kong/Awasthi

Motion carried by a vote of AYES: 6 NOES: 0

Recommendation: Staff recommends that the Planning Commission open and close the public hearing, consider the exemptions in accordance with CEQA, and adopt Resolution No. 24-031, approving Conditional Use Permit No. UP24-0004, subject to the findings and attached Conditions of Approval.

Motion/Second Gupta/Caulkins

Motion carried by a vote of AYES: 6 NOES: 0

NEW BUSINESS

X-1 Appoint Three Members to Serve as the Planning Commisison Subcommittee.

Chair Albana nominated Comissioner Caulkins; Commissioner Caulkins accepted nomination.

Commissioner Caulkins nominated Commissioner Kong, Commissioenr Kong accepted nomination.

Commissioner Awasthi nominted Commissioner Gupta; Commissioner Gupta accepted nomination. Commissioner Galang closes nomination.

No public comments received.

Recommendation: Staff recommends that the Planning Commission nominate and appoint three of its members to serve until April 30, 2025 as the Planning Commission Subcommittee and meet on an ad hoc and as needed basis to perform such functions, duties, and responsibilities as delegated to that subcommittee pursuant to the Milpitas Municipal Code and as may be delegated by the City Council to this body and/or its members individually, as a whole, or as a body.

Call for Vote:

Motion/Second Awasthi/Galang

Motion carried by a vote of AYES: 6 NOES: 0

Call for Nominations for Caulkins:

Motion carried by a vote of AYES: 6 NOES: 0

Call for Nominations for Kong:

Motion carried by a vote of AYES: 6 NOES: 0

Call for Nominations for Gupta:

Motion carried by a vote of AYES: 6 NOES: 0

Unagendized Discussion Item #1: Potential proposal for a vote by the commission to have Staff bring back the item for discussion of changing the

way in which the the minutes are done for Planning Commission (summary minutes procedure = action, resolution, and votes by the Commission, due to presence of recording on multiple platforms). Alternatively, concerned commissioners can meet with City staff directly regarding action minutes specifications. Planning Commission opted to make appointment with City Staff to discuss meeting minutes in more detail and possibly recommend enlisting AI tools for transcription.

Unagendized Discussion Item #2: Agendize a discussion with ideas and proposals for Main Street. Planning Director Lee shared that Gateway/Main Street Specific Plan should have a public draft available to review in a couple of months and brought to the Planning Commission. Planning Commission opted to wait for the meeting when the public draft will be reviewed.

ADJOURNMENT

Chair Albana adjourned the meeting at 8:57 pm

Motion/Second Caulkins/Gupta

Motion carried by a vote of AYES: 6 NOES: 0

Meeting Minutes submitted by
Planning Commission Secretary Elizabeth Medina



CITY OF MILPITAS

Planning Commission

MEETING MINUTES

7:00pm

Wednesday, November 13, 2024
CITY COUNCIL CHAMBERS,
455 E CALAVERAS BLVD, MILPITAS, CA
and
via TELECONFERENCE (Zoom Webinar)

CALL TO ORDER

Chair Albana called the meeting to order at 7:00pm.

PLEDGE OF ALLEGIANCE

Vice Chair Medina-Ashby led the pledge of allegiance.

ROLL CALL

Recording Secretary Medina called the roll.

PRESENT: Chair Albana, Vice Chair Medina-Ashby, Galang, Awasthi, Gupta, Caulkins, and Kong.

ABSENT: none

STAFF: Jay Lee, Christopher Creech, Randy Baez, Alex Andrade, and Elizabeth Medina

CONFLICT OF INTEREST/CAMPAIGN CONTRIBUTION DECLARATION

Assistant City Attorney Christopher Creech asked if any member of the commission had any personal or financial conflict of interest related to any of the items on the agenda, and there were none.

APPROVAL OF THE MEETING AGENDA

By motion, approve the meeting agenda for November 13, 2024.

Motion/Second Awasthi/Caulkins

Motion carried by a vote of AYES: 7 NOES: 0

APPROVAL OF THE MEETING MINUTES

By motion, approve the meeting minutes for October 9, 2024.

**Deferred to next regular meeting.*

ANNOUNCEMENTS

Assistant City Attorney Creech reminded the commissioners whose terms will expire at the end of December, that should they still be interested in serving, the application is available online and can be submitted to the City Clerk. He also mentioned that Form 700 reporting will now be filed electronically and information about the new system will be sent out shortly. Lastly, Assistant City Attorney Creech reminded commissioners that certificates for AB1234 should be submitted to his office as soon as possible.

Planning Director Lee shared that the regular schedule meeting on November 27th is cancelled due to the holiday, next regular meeting is scheduled for December 11th. Also, the meeting on December 25th will be cancelled.

PUBLIC FORUM

Chair Albana invited members of the public to address the commission, and there were none.

PUBLIC HEARING

IX-1 NEW BANQUET FACILITY AND FOOD TRUCK PARK – 200 SERRA WAY – UP23-0006, MC23-0007, and Minor Site Development Permit No. MS23-0143:

A Conditional Use Permit to allow a banquet facility within an existing 2,670 square-foot tenant space of a 9,570 square-foot multi-tenant commercial building, located at 200 Serra Way on a 0.5-acre lot within the C2 General Commercial zoning district. The Project also includes a Minor Conditional Use Permit to allow for a food truck park within the parking lot to the south of the Project site and a Minor Site Development Permit to allow for a change in exterior paint colors. The Project is categorically exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to the CEQA Guidelines Section 15301 (Existing Facilities), and as a separate and independent basis, Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

(23:33) Project Planner Randy Baez and applicant team members, Mohana Suggula [*applicant*] and Bob Livengood [*representative*] addressed the following clarifying questions from commissioners:

- **Hygiene Facilities:** Managed by a third-party vendor for port-a-potties and handwashing stations.
- **Current Operations:** Status of food truck business operations outside the theater.
- **Motivation for Food Trucks:** Reason for establishing a food truck business outside the theater.
- **Prior Food Truck Operations:** Status of previous operations in front of Big Lots.
- **Noise and Insulation:** Concerns about potential noise impacting nearby residential areas.
- **Restroom Access:** Use of port-a-potties vs. banquet hall restrooms (difficulty tracking food truck customers).
- **Ownership Structure:** Banquet hall and food truck park owned by the same entity but operate as separate businesses.
- **Food Truck Offerings:** Types of cuisines offered by the six food trucks.
- **Operational Logistics:** Food truck operating hours and whether they stay onsite or are move to the commissary.
- **Garbage Management:** Plans for waste disposal and cleanliness.
- **Banquet Capacity:** Maximum occupancy of the banquet facility.
- **Competition Concerns:** Addressing objections from neighboring restaurants and vendors (possible inclusion in food truck park).
- **Nightclub Inclusion:** Confirmation that the project does not include a nightclub.
- **Banquet Hall Catering:** Whether food will be catered or sourced from food trucks.
- **Structural Upgrades:** Limitations due to lessee status.
- **Exterior Paint:** Plans for building aesthetics.
- **Hours of Operation:** Comparing food truck park and banquet hall schedules.
- **Hall Layout:** Configurations for different uses.
- **Alcohol Licensing:** For banquet events.

- **Parking Requirements:** Allocation for theater, banquet facility, and food truck park.
- **Noise Mitigation Measures:** Installation of soundproofing doors to reduce noise impact on surrounding areas and implementation of a closed-door policy during events to further minimize noise disturbances after 10pm. Food truck park portion of the project will need to adhere to the noise ordinance and mobile food vending ordinance.
- **Music at food park:** Should comply with local noise ordinances and emphasized the importance of being considerate of nearby residential homes.

Chair Albana invited members of the public to address the commission and there were (8) community members who spoke:

- Vienna Dumlao (Local Resident): Supports the project but raised concerns about noise, dumping, and homelessness.
- Kiran Bondali (Hub61 Restaurant): Opposed due to competition and noise concerns.
- Stanley Horyza (Local Resident): Concerned with operating hours, noise, and food truck parking lot access.
- Santosh Giri (Kathmandu Cuisine): Opposed due to competition, potential job loss, and lack of alignment with restaurant guidelines.
- Hong Vo (Landowner): Supports the project and offered their lot as an alternative location further from residential areas.
- Vinod Guduri (Restaurant Owner): Opposed due to hygiene concerns, competition, and lack of beautification.
- Bap Das (Business Owner): Raised concerns about competition and increased traffic.
- Ramesh (Resident and Business Owner): Opposed due to competition and current struggles to maintain profitability.

Applicant's son, Akshay Suggula, and Bob Livengood provided a presentation on the project and surrounding area. Akshay shared his family's journey to becoming business owners, outlined the project's vision, and addressed community concerns.

Motion to close the Public Forum.

Motion/Second Caulkins/Gupta

Motion carried by a vote of AYES: 7 NOES: 0

Recommendation: Staff recommends that the Planning Commission open and close the public hearing, consider the exemption in accordance with CEQA, and adopt Resolution No. 24-033, approving Conditional Use Permit No. UP23-0006 and Minor Conditional Use Permit No. MC23-0007, subject to the findings and attached Conditions of Approval. **Additional Conditions of Approval to include 1) All rear exterior doors to the property must be soundproofed to the fullest extent allowed by the Building Code through general commercially available means; 2) In addition to the video/security cameras required for the site, coverage shall be extended to the exterior, covering the operations of the food truck park; and, 3) Exterior amenities of the food truck park, including the portable restrooms and outdoor seating, shall be locked overnight and stored securely after operations.*

Motion/Second Gupta/Albana

Motion carried by a vote of AYES: 6 NOES: 1 (Caulkins)

NEW BUSINESS

NO ITEMS

ADJOURNMENT

Chair Albana adjourned the meeting at 10:00 pm

Motion/Second Galang/Kong

Motion carried by a vote of AYES: 7 NOES: 0

Meeting Minutes submitted by
Planning Commission Secretary Elizabeth Medina

DRAFT