

**Planning Commission Minutes  
Community Chambers  
Wednesday, March 25, 2009, 7:00 p.m.**

Commissioners Present: Mark Braly, Ananya Choudhuri, Greg Clumpner, Lucas Frerichs, Rob Hofmann, Terry Whittier

Commissioners Absent: Kris Kordana, Mike Levy

Staff Present: Mike Webb, Principal Planner; Xzandrea Fowler, Planner; Cathy Camacho, Planner; Lynanne Mehlhaff, Planning Technician

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**1. Call to Order**

Chairperson Clumpner called the meeting to order at 7:04 p.m.

**2. Approval of Agenda**

Mike Webb, Principal Planner, announced that the item #6B, Public Necessity or Convenience was withdrawn by the Mikuni Japanese restaurant so the public hearing was cancelled. The agenda was approved by consensus.

**3. Staff and Commissioner Comments (No action).**

Mike Webb explained that the applicant, Mikuni Japanese restaurant, did not need the PCN after all after they reviewed the requirements by ABC (Alcohol Beverage Control Agency).

**4. Public Communications**

There were no public communications.

**5. Consent Items**

**A. Planning Commission Minutes of February 25, 2009**

**Action:** Commissioner Whittier moved approval of the minutes and Chairperson Clumpner seconded the motion.

**AYES:** Whittier, Braly, Hofmann, Frerichs, Clumpner

**NOES:** None

**Abstained:** Choudhuri

The motion carried 5-0-1.

## **6. Public Hearings**

### **A. PA #21-08, 311 and 315 B Street, Tentative Map #04-08; (Xzandrea Fowler, Planner)**

Public Hearing to consider approval of a Tentative Map to subdivide the properties located at 311 and 315 B Street into seven single-family lots for a townhouse project. The applicant received approval on July 9, 2008 to demolish the existing one story cottages located at 311 and 315 B Street and replace them with seven attached and detached, for-sale, single-family units.

Mike Webb, Principal Planner, presented the staff report.

Chairperson Clumpner opened the public hearing.

Mark Rutheiser, applicant for the owners of 311 and 315 B Street, explained how the rain garden worked, easements and the CC&R's. He said due to the small roofs on three story buildings and shading from the neighboring trees, solar panels would not be feasible.

Chairperson Clumpner closed the public hearing.

**Action:** Commissioner Whittier moved approval of the staff conditions of approval. Commissioner Frerichs seconded the motion.

**AYES:** Choudhuri, Whittier, Braly, Hofmann, Frerichs, Clumpner

The motion passed unanimously 6 to 0.

### **B. PA#40-08, Public Convenience or Necessity #01-08, Mikuni Japanese Restaurant and Sushi Bar, 500 First Street, Suite 11; (Cathy Camacho, Planner and Chunling Wang, Intern)**

Public Hearing to consider approval of an application determining that the public convenience or necessity will be served by authorizing the issuance of an alcohol license for Mikuni Japanese Restaurant and Sushi Bar in the

former restaurant space of Fuzio's at 500 First Street. The applicant has stated that the proposed permit is necessary in order to offer customers spirited drinks with its food, and that the proposed license would not make a significant impact on the neighborhood since it is replacing a similar license to the former restaurant at that location.

This item was withdrawn by the applicant.

**C. PA#11-08, Conditional Use Permit #2-08, Design Review #14-08, Burger King restaurant with drive-through use at 2026 Lyndell Terrace; (Cathy Camacho, Planner)**

Public Hearing to consider a proposal to construct a new 2,540 square foot Burger King restaurant and drive-through with a parking lot on the vacant parcel located at 2026 Lyndell Terrace. Under the site's zoning, PD #2-95 commercial mixed use standards, a restaurant with a drive-through component requires a Conditional Use Permit. The site plan and construction of the new building require Design Review approval and consistency with the Northwest Triangle Design Guidelines.

Cathy Camacho, Planner, presented the staff report.

Chairperson Clumpner opened the public hearing.

Steve Thomas, of the Burger King Corporation, asked for consideration for the red band on the top roof edge because it was an integral part of their brand. He also explained that the speed of service component for the drive-through lane average was 2.5 minutes or less per car to get their food. He stated that stacking of cars would seldom occur.

Julio Tinajero, of Milestone Associates, said the new prototype of Burger King would have the red band go around the whole building but they reduced it here at the front dining area. He said they reduced their signage for the site. He requested the Commission remove condition #65 which stated no red trim on the building. They wanted the red band as their major design element. He also explained that the red band was illuminated by LED, a backlit band that the intensity of the lighting could be controlled.

He explained that they would not like to move the building farther north, it would be problematic with the access. He said Burger King has laid out the building in this format for their operations that historically works the best for them. They didn't want to flip or change the building footprint.

He said there are planters to the north of the pick-up window so adding vines would be acceptable. They didn't want to have to add any additional articulation to the building. They had no problem with adding outdoor seating if the City requests that.

Sunny Ghai, operator of this Burger King, explained how they had to reverse the plan in order to place the drive-through in the back of the building. The store is projected to be average volume and he felt they had done enough to the building. He said they could raise the columns back up at the corners and put cornices on them. He can add planters/vines outside and add outdoor seating as well. He explained how the red band was a two inch thick acrylic band with LED backlighting in it and was a very important design feature to them.

Anthony Virk, property owner of the Burger King property, said the 76 gas station had a red painted stripe all around the building that was built in 1998. He didn't feel the red stripe was very noticeable. He did feel that outdoor seating was a must. He had a lot of requests for a restaurant that was opened late at night for the hospital workers.

Ron Loutzenhiser, an owner of Davisville Express Lube, supported the project and stated that the owners association supported it also. He said his building had red metal awnings and they wear well. He supported the red metal awnings on the project.

Chairperson Clumpner closed the public hearing.

Commissioner comments (not consensus):

- Agreed with staff regarding the red color trim on the top of the building as well as the lack of articulation of the walls.
- Suggested flipping the building so there would be more room to stack cars.
- Suggested outdoor seating on the south side area and suggested conditioning it.
- Suggested adding columns to the east and west side plain walls to break it up.
- The plans only show six bike racks when seven are required; this should be changed.
- A Commissioner stated that once the trees grow up, the red trim on the building won't be so noticeable.
- Several Commissioners supported staff recommendation to have the red band eliminated entirely from the top of the building.
- Burger King has enough of a brand image that a red band should not make any difference whether it is there.
- Would like to see plants/vines on both the east and west side of the building to break up the blank wall.
- Recommended that staff work out the articulation of the building with the applicant such as trellis's, plants and vines.

Commissioners asked staff about the red trim being illuminated. Staff expressed concern about the lighted red band on the building. Staff said one option would be to go to a different tone of red like a darker shade of red which might be more acceptable. Staff noted that the signs were reduced to meet the sign criteria for the zoning district.

**Action:** Commissioner Frerichs moved staff recommendation with removal of the red trim on the building and with an additional condition to require some outdoor seating be provided by working with staff on the amount and area. Commissioner Hofmann seconded the motion with the flexibility to the screening (vines) of the walls and allow staff to work with the applicant on feasibility of adding articulation on the east side. The outdoor seating would be up to staff to figure out the correct amount in order to balance the open space calculation and landscaping requirements. Commissioner Frerichs agreed.

Chairperson Clumpner offered a substitute motion as the same motion but include the red trim around the building as proposed with the LED illumination. Commissioner Whittier seconded the motion.

AYES: Whittier, Clumpner  
NOES: Choudhuri, Braly, Frerichs, Hofmann  
The motion failed 2 to 4.

The original motion was voted on as follows:

AYES: Choudhuri, Whittier, Braly, Frerichs, Hofmann, Clumpner  
The motion passed unanimously 6 to 0.

## **7. Business Items**

### **A. Selection of liaison to the Finance and Budget Commission**

Commissioner Frerichs volunteered to be the liaison to the Finance and Budget Commission. Commissioners agreed unanimously for Commissioner Frerichs to be the liaison.

## **8. Informational Items**

### **A. Planning Commission Schedule**

Mike Webb explained how the inter-Commission liaison from the Planning Commission to the Business and Economic Development Commission was inadvertently omitted from the charter of that commission a few months ago. A sub-committee of City Council members is reviewing the charter and deciding on whether a liaison will be re-instated or not.

Webb discussed postponing the April 15<sup>th</sup> meeting.

Vice-Chairperson Braly brought up how he would like a workshop in the future; he had a person in mind. He wanted to know if a workshop or discussion could occur on April 15<sup>th</sup> regarding the Green Building Ordinance. Staff explained they wouldn't have all the information ready for a workshop or meeting on April 15<sup>th</sup>. Vice-Chairperson Braly said he would like to have a speaker from Berkeley, Mike Gable, who has been contracted by PG&E to work with cities on

“Reach Ordinances” that go beyond Title 24. He pointed out that this would be an opportunity to gain information and work with someone without the City incurring any of the expense.

Staff will confer with the Director and then be in touch by email on the meeting schedule.

Commissioners agreed that this was an important topic for all Commissioners to hear.

**9. Staff and Commissioner Comments (continued).**

Commissioner Frerichs asked staff about the Council Subcommittee that is looking at the roles and responsibilities of the Commissions and who was on the Committee. Staff responded.

**10. Public Communications (continued).**

There were no public communications.

**11. Adjournment to the next regular Planning Commission meeting to be held on Wednesday, April 15, 2009 in the Community Chambers (23 Russell Boulevard).**

The meeting was adjourned at approximately 9:44 p.m.