

CITY OF COTATI  
MINUTES for the Regular Meeting of the Planning Commission

DATE OF MEETING: December 15, 2008  
TIME OF MEETING: 7:00 p.m.  
PLACE OF MEETING: Cotati City Hall, City Council Chambers  
201 West Sierra Avenue, Cotati, CA 94931

I. CALL TO ORDER - 7:00 p.m.

- Planning Commission Reorganization

Assistant to the City Manager Lustig explained the process of the meeting and the reorganization of the Planning Commission. She administered the oath to the Planning Commissioners and offered her congratulations. She then explained the nomination procedures for the Chair and Vice Chair positions.

Motion: Neil Hancock made a motion and Tim Ritter seconded the motion to nominate Linell Hardy as Planning Commission Chair.

Yes: 5                      Noes: 0                      Absent: 0                      Abstain: 0

Motion: Susan Harvey made a motion and Chair Hardy seconded the motion to nominate Jerry Pagnusat for Planning Commission Vice Chair.

Yes: 5                      Noes: 0                      Absent: 0                      Abstain: 0

Assistant to the City Manager Lustig expressed appreciation for Chair Rock's service on the Planning Commission and advised the Commission that Resolution PC 08-23 was being brought forward to express appreciation for his service as the Chair for 2008. John Rock was not in attendance.

Assistant Planner Harris read PC Resolution 08-23.

Motion: Chair Hardy made a motion and Vice Chair Pagnusat seconded the motion to adopt PC Resolution 08-23.

Yes: 5                      Noes: 0                      Absent: 0                      Abstain: 0

*Short Recess*

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Chair Hardy called the meeting to order at 7:17 p.m.

**II. ROLL CALL**

Commissioners Present: Hancock, Harvey, Ritter, Pagnusat, Hardy  
Commissioners Absent: None  
Staff Present: Lustig, Harris, Pajon

**III. APPROVAL OF MINUTES**

A. For the Regular Meeting of November 3, 2008.

Minutes for the 11/3/08 meeting cannot ever be formally approved due to changing Commissioners. The Commissioners who were present 11/3/08 could indicate approval.

Motion : A motion was made by Vice Chair Pagnusat and seconded by Chair Hardy to indicate approval of the minutes of November 3, 2008.

Yes: 2                      Noes: 0                      Abstain: 3                      Absent: 0  
(Harvey, Ritter, Hancock)

**IV. CHANGES TO THE AGENDA**

None

**V. ORAL AND WRITTEN COMMUNICATIONS**

None

**VI. MATTERS AT HAND**

A. Request for a Use Permit approval to allow the property located at 421 Portal Street, Suite H, to be used as a professional flooring contractor's business with wholesale and accessory retail.

PA# 18/08                      Applicant: Professional Floor Covering Assoc.  
APN # 144-010-017

In response to Chair Hardy's question, Assistant Planner Harris stated that the applicant was not in attendance and that the Planning Commission could hear the item now or choose to continue the item to a later meeting.

Chair Hardy chose to hear the item now.

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Assistant Planner Harris gave an overview of the staff report and explained the Conditions of Approval and staff's proposal to include full retail use, not limited to accessory retail. Staff recommended approval of PC Resolution 08-21 with typo corrections.

Assistant Planner Harris explained that there were code enforcement issues throughout the site, which included suite H. She said that the Fire District and the Building Official were responding to the issues, but because there was a Use Permit request for this suite, staff wanted to make sure that the code enforcement issues at Suite H were tied to the Use Permit request. Staff has added a recommended Condition of Approval that requires the applicant to resolve the building and fire code violations within 90 days from the date of approval.

In response to Commissioner Ritter's question, Assistant Planner Harris said the applicant would only be responsible for the violations and repairs to his suite.

In response to Commissioner Harvey's question about special considerations that might be requested at this site due to possible flammable materials, Assistant Planner Harris explained that the Fire District did not have any conditions in their response.

Commissioner Harvey asked about the 60 day time line given by the Fire District to require the applicant to give them a key.

Assistant Planner Harris explained that the condition came from the Fire District and that the Planning Commission had the discretion to modify the time requirement.

Commissioner Harvey stated that she would like them to obtain a key in less than 60 days.

Commissioner Ritter stated that since Rancho Adobe Fire Protection District specified 60 days and because it is their requirement, he feels that their condition should stand.

Vice Chair Pagnusat agreed.

Commissioner Hancock said that he feels that 10 days is adequate to get a key to the Fire District.

Commissioner Harvey said that she was going to say 15 days.

Discussion ensued on how the key placement works and a reasonable time frame.

Commissioner Harvey said that there are two Commissioners that would like to change it to 10 or 15 days and stated that she could go as long as 30 days.

Vice Chair Pagnusat stated to Chair Hardy that decisions like this should be made after they have gone through the entire process, possibly during the discussion to allow public comment.

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Commissioner Hancock asked if Condition 2, a timeline for obtaining permits, is typical for this type of application.

Assistant Planner Harris explained that it was not typical but is being recommended because the applicant is in the building and has completed the work without permits.

OPEN PUBLIC HEARING 7:30 p.m.

No Comment

CLOSED PUBLIC HEARING 7:30 p.m.

Commissioner Hancock stated that he would be glad to change the condition to recommend that the Fire District could decrease the 60 days at its discretion.

Assistant to the City Manager Lustig explained the importance of keeping conditions as requirements because they are law. She stated that recommendations can be made in the body of the minutes and made available to the applicant.

Chair Hardy asked staff for guidance on changing a condition.

Discussion ensued on the process to change a condition and the wording necessary.

Vice Chair Pagnusat said that he doesn't generally like to change the Fire District's conditions, but said he wouldn't mind changing to 15 days if the rest of the Planning Commission wanted to change it.

Chair Hardy asked if there was a recommendation to change Condition 4.

Commissioner Harvey recommended changing Condition 4 from 60 days to 15 days.

Commissioner Ritter stated that he didn't think it was a huge issue one way or the other.

Chair Hardy asked if there was a motion on this item.

Motion: Vice Chair Pagnusat made a motion and Commissioner Ritter seconded the motion to approve PC Resolution 08-21 with the recommended change to item 4 on the Conditions of the Approval.

Yes: 5                      Noes: 0                      Absent: 0                      Abstain: 0

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

**Professional Floor Coverings Use Permit  
421 Portal Street, Suite H**

1. This use permit is for a professional floor covering business, specializing in installation, wholesale, and retail sales. The business will be located at 421 Portal Street, Suite H.
2. This Use Permit is subject to compliance Building Code requirements within the following timelines:
  - a Within **30 days** of this approval, the applicant shall file for Building Permit review for any work done without permits.
  - b Within **60 days** of this approval the applicant shall pull permits required for any work done without permits
  - c Within **90 days** of this approval the applicant shall call for and receive a final inspection for all work done without permits.
3. No outdoor storage shall be permitted. Within **30 days** of this approval, the applicant shall remove all outdoor storage of equipment and/or material.

**RANCHO ADOBE FIRE PROTECTION DISTRICT (RAFPD)**

4. **AMENDED.** The applicant shall supply a key to the RAFPD and place a key in the existing Knox box within ~~60~~ 15 days of this approval.
5. The applicant shall comply with all City, State, and Fire District codes and ordinances.
6. The applicant shall obtain all follow-up on-site inspection to ensure compliance with Fire and Building Code within 90 days of this approval.

**BUILDING DEPARTMENT**

7. Any interior alteration work that involves structural, electrical, mechanical or plumbing work will require a building permit.

**FINANCE DEPARTMENT**

8. All tenants shall obtain a City of Cotati Business License prior to occupying tenant space within this building.
  - B. Request for a Use Permit approval to allow the building located at 525 E. Cotati Avenue to be occupied by a mix of office uses. The mix of offices includes professional office, medical services, and business services.

PA# 24/08  
APN # 144-720-040

Applicant: McCalligan/Bergmann

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Assistant Planner Harris advised the Planning Commission that the applicant notified staff that she would not be able to attend the meeting and explained that they could proceed with the item or continue it.

Chair Hardy decided to hear the item.

Assistant Planner Harris gave an overview of the staff report. She provided a history of the site and explained that the request for the Use Permit was made to avoid each tenant needing to apply for a Use Permit. Staff recommends PC Resolution 08-22 with recommended Conditions of Approval.

Vice Chair Pagnusat asked for clarification regarding the use of the word “master” and asked where in the ordinance the term was located.

Assistant Planner Harris responded to Vice Chair Pagnusat stating that the word “master” is not located in Land Use Code and that it is a term to clarify the Use Permit is for the entire building.

In response to Vice Chair Pagnusat, Assistant Planner Harris explained that the business hours listed were typical business hours and that staff’s recommendation doesn't limit them to typical office hours. The Land Use Code states that typical business hours are 6:00 a.m. to 11:00 p.m.

Assistant to the City Manager Lustig explained the reasoning for this condition is that if a tenant wanted to keep working a few hours past the typical office hours, then the applicant would have to go back to the Planning Commission for a Use Permit modification.

Vice Chair Pagnusat asked about the homes behind that location and the impact it might have on the overflow parking if they were to extend their business hours.

Assistant to the City Manager Lustig explained that in order to impact the parking that is available for the homes, the back row of the parking lot would have to be full, which does not usually occur. She explained that language could be added to include any parking issues would default to the homeowners.

Commissioner Ritter stated that he had driven by that location after hours and said that there were no vehicles in the parking lot.

In response to Commissioner Harvey’s question regarding whether staff had ever issued a “Master” Use Permit, Assistant Planner Harris stated that there had been one issued at 170 E. Cotati Avenue.

Assistant to the City Manager Lustig explained that a “Master” Use Permit was issued at the location of 170 E. Cotati Avenue to allow the owner to obtain a permit for the entire building instead of each tenant having to apply for a Use Permit for their particular suite.

Commissioner Harvey asked who would ensure compliance that the businesses approved for that location are the ones that are actually in that location.

Assistant Planner Harris explained how compliance is monitored and said that to some degree it is up to the applicant to make sure it is done.

Commissioner Harvey asked why there were no Conditions of Approval from the Fire District.

Assistant Planner Harris reviewed the file and explained that there were no comments or concerns for this project from the Fire District.

Commissioner Harvey inquired about massage therapy issues.

Assistant to the City Manager Lustig stated that City staff is interested in developing a massage ordinance in order to protect the people who are providing ethical massage.

In response to Vice Chair Pagnusat's question, Assistant to the City Manager Lustig explained the process of a business establishing in Cotati and the process for making a “like” determination.

Assistant Planner Harris explained that if staff is unsure of the business or is not receiving clear information then they might do a site visit.

OPEN PUBLIC HEARING at 7:52 p.m.

Linda Ritter, citizen, thanked Commissioner Harvey for her comments about the massage issue and expressed concern about issues with illegal use and making sure that these illegitimate massage businesses don't exist. She stated that some building owners will actually get paid for the whole building just so there were no other businesses in the building to cause issues. She said that the extended hours should not impact the parking if it is one client and one employer, but if it is something other than that, it might impact the parking.

CLOSED PUBLIC HEARING at 7:55 p.m.

Motion : Commissioner Harvey made a motion and Commissioner Ritter seconded the motion to approve PC Resolution 08-22 with the Conditions of Approval.

Yes: 5                      Noes: 0                      Absent: 0                      Abstain: 0

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

**McCalligan/Bergmann Use Permit  
525 E. Cotati Avenue**

1. This Use Permit is to allow the following mix of office uses within the office Building located at 525 E. Cotati Avenue:
  - a. professional office as defined by the City of Cotati Land Use Code;
  - b. medical services-doctor office as defined by the City of Cotati Land Use Code;
  - c. business services as defined by the City of Cotati Land Use Code.
2. The applicant shall hold regular business hours as defined in the Land Use Code (6 am to 11 pm daily).
3. There shall be no exterior changes or modifications made to the existing building in association with the proposed mix of office uses. Prior Planning and Building Permit approval is required for any exterior alterations.
4. No outdoor storage, display, or sales are permitted.
5. This Use Permit is subject to compliance with the City of Cotati Land Use Code including Section 17.30.050-Noise Standards. Any violations can result in the revocation of this permit.

**FINANCE DEPARTMENT**

6. All tenants shall obtain a City of Cotati Business License prior to occupying tenant space within this building.
  - C. CEQA Overview by Staff

Assistant to the City Manager Lustig and Assistant Planner Harris gave a power point presentation on CEQA.

In response to Commissioner Hancock's question about AB32, Assistant to the City Manager Lustig explained that the greenhouse gases are shaping CEQA.

Commissioner Hancock asked who defines the scope of EIRs.

Assistant to the City Manager Lustig said that it is handled in a public hearing, which is a chance for everyone to raise all their initial questions so that the consultants can do their research.

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Vice Chair Pagnusat asked what the threshold was for the Initial Study and who would make the decision.

OPEN PUBLIC HEARING at 8:18 p.m.

No Public Comment

CLOSED PUBLIC HEARING at 8:18 p.m.

**REPORTS BY STAFF**

Assistant to the City Manager Lustig explained the current status with Powerfit and said that they would be back for a Use Permit in January or February.

**REPORTS BY THE COMMISSION**

Vice Chair Pagnusat talked about the federal infrastructure funds that might become available. He asked if staff had any shovel ready projects in case funds became available.

Assistant to the City Manager Lustig said that City staff is looking into it.

Vice Chair Pagnusat asked if staff was aware of the process that would take place if the funds become available.

Assistant to the City Manager Lustig stated that Mayor Gilardi attended a meeting with Lynn Woolsey and other mayors about this item.

Chair Hardy adjourned the meeting at 8:22 p.m.

*Submitted By: Keri L. Pajon  
Secretary*