

August 29, 2013, Zoning Administrator Agenda Comments

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Suggested corrections to passages in *italics* are shown in ~~strikeout~~ underline format.

Item B: Minutes of Month August 15, 2013

1. Page 3, Item No. 5:

- a. Paragraph 1, line 3: “He ~~furthered~~ further stated that the Commercial Subarea of the North Ford Planned Community Text requires...”
- b. Paragraph 2, line 1: “Applicant Saeed Kamkar on behalf of ~~the~~ Safa Movassaghi with Beau Visage, Inc. stated...”
- c. Paragraph 4: “... Minor Use Permit No. ~~UP2013-011~~ UP2013-011.” [extraneous “)”]

Item 1. The Koll Company Lot Line Adjustment (PA2013-141)

I find the request and staff report explaining it completely inscrutable. The City’s GIS mapping application suggests the portion of the Koll Center highlighted on handwritten page 15 (“Vicinity Map”) consists of several separate, but contiguous, “open space” parcels (developed with parking lots), and office development on separate island parcels inside them.

The “open space” parcels appear to consist of:

1. APN 445 131 04 : the round-nosed parking lot parcel at the corner of Jamboree and MacArthur. [= “Current Parcel 1”]
2. APN 445 131 28 (“4400 Von Karman Ave”) : a parcel consisting of the parking lots north of that, fronting MacArthur and Von Karman, and the larger area of parking lots and landscaping fronting Von Karman and Birch. These areas appear to be essentially separated by the office building at 4300 Von Karman (APN 445 131 05 ?), and associated parking lot (the area with the blue “2.1” printed over it on the “Vicinity Map”), but are connected together by a little 1-foot wide (240-foot long as illustrated on Sheet 5, handwritten page 28) thread of property at the rear of the TowerJazz Semiconductor plant. [= “Current Parcel 2”]

The City staff report’s Vicinity Map suggests that APN 445 131 04 is not part of the present discussion, but the applicant’s exhibit on handwritten page 24 suggests, to the contrary, that it is precisely the property line separating APN 445 131 04 (the area with the double-circled Sheet “3” notation) from APN 445 131 28 that is being requested to be removed. Furthermore, the request appears to be to merge Current Parcel 1 into Current Parcel 2 along that line, and then

carve an entirely new Parcel 1, of similar size, of the area of Current Parcel 2 near the corner of Von Karman and Birch as shown by the heavy lines with the double-circled Sheet "2" notation in the exhibit on handwritten page 24. This would create a new, separate round-nosed parcel at the corner of Von Karman and Birch, except as indicated in the upper left corner of Sheet 2 (the exhibit on handwritten page 25) it is proposed to keep the new round-nosed orphan in Parcel 2 by connecting it to the remainder of the new/old Parcel 2 with yet another 1-foot wide (129-foot long) strip, this time fronting Von Karman Avenue.

The staff report (page 1, under "Project Summary") says the request is being made to make the mapping "*consistent with management responsibilities.*" Without further explanation, I have no idea what the applicant's objective is, but this does not seem to me like a valid "lot line adjustment." As defined in Subsection 19.76.010 and Chapter 20.70 of the NBMC, in a lot line adjustment "*land taken from one lot is added to an adjacent lot.*" Moving a line in such a way as to take land from one parcel and add it to another does not seem capable, to me, of producing a new parcel, no portion of which is contiguous with the old. Yet in this case, an existing lot ("Current Parcel 1") is completely eliminated, and, and despite the effort to obfuscate the issue with 1-foot connecting strips, a completely new lot (the new Parcel 1) is created at a completely different, non-adjacent location. That sounds like a merger and a new subdivision to me.

Regarding the remainder of the agenda packet:

1. In the Draft Resolution, Fact C-2 on handwritten page 9 was probably meant to read something like: "*The existing development on the parcels complies with the Zoning Code **development standards** and **the** Koll Center Planned Community District (PC15) **development standards.***"
2. Does Condition of Approval 1 (handwritten page 11) imply that the approval is waiving or modifying specific normal regulations (as opposed to simply restating them)? If so, which ones?
3. Handwritten page 19 has not been signed and notarized to assure the Zoning Administrator that the ownership and application are correct.
4. On that page, in the second line of the Affidavit (third word from the end), "**an**" should read "**and.**"
5. On handwritten page 21, the surveyor has failed to attest to the number of pages prepared by him, and "**WS**" should read "**WAS.**"
6. One hopes the more technical parts were more carefully proofed.

Item 2. 3403 Seashore Drive Parcel Map (PA2013-146)

Regarding the draft Resolution:

1. Since the City has no certified Local Coastal Program (LCP), I believe the Zoning Administrator lacks the authority to make Finding K (of consistency with the LCP and the Coastal Act). My understanding is that the latter can, at this time, be accomplished only through an application for a Coastal Development Permit.
2. Fact L.1 (top of handwritten page 11) says "*The conditions of approval include requirements for public improvements including reconstruction of the existing broken and/or otherwise damaged concrete alley adjacent to the property.*" I am unable to find any such condition of approval, nor anything else claiming the existing alley needs reconstruction.
3. In Exhibit "A" (Conditions of Approval):
 - a. Should these include the typical boilerplate statement (as in Items 1, 5 and 6) that "*The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval*"? Without that, Fact D-1 (conformity to all ordinances) is difficult to substantiate.
 - b. The boilerplate in Condition 12 contains what, at least to me, is a minor typo: "... *approved street numbers or addresses shall be placed on all new and existing buildings in **such** a location that is plainly visible and legible from the street or road fronting the subject property.*"

Item 5. Koll Center Ground Signs Modification Permit (PA2013-047)

We have, yet again, in Items 5 and 6, a developer wanting modifications to the restrictions they themselves voluntarily placed on their "planned" community. It would seem to me that if their vision of what their development should look like has changed, the Planned Community text should be revised accordingly. Approving a patchwork of "modifications" to the previously agreed to standards means, to me, the "community" is no longer planned and cohesive, nor is it conforming to the agreed upon vision. Amending the PC text so that developments of the proposed types are consistent throughout the Center would seem neither burdensome nor unusual: the cover page to PC15 (Koll Center) says it has already been amended 33 times, most recently by Ordinance No. 2013-5 on March 12, 2013.

Regarding the revised draft Resolution of Approval:

1. The title implies the approval would be for the sole purpose of allowing increased ground sign heights, but the text says new signs are being requested. Is the addition of the new signs consistent with the PC text? Or is an increase in number part of the requested modification?

2. Fact 1.2 says this approval will “*amend*” existing Modification Permit No. MD2006-026. The word “*replace*” or “*supersede*” seems more appropriate since Section 4.3 says the current approval will make the previous permit null and void. And although I assume that is the intention, without studying the previous permit in detail it is difficult to verify that *all* modifications allowed by it continue to be legal under the new permit.
3. For the reasons stated above, I do not think the “unique circumstances” and “hardship” findings (B and C) necessary for a modification can be made. None of the facts stated describe situations that have changed since the PC text was approved, nor ones that could not have been easily anticipated when those standards were written.
4. With regard to Finding D, an obvious alternative that does not seem to have been considered would be amending the PC text so that the present request could be accommodated without a modification permit, and a uniform standard would be ensured throughout the center.
5. Is it understood that Condition of Approval 19 includes authority to regulate *new* as well as *existing* lighting?

Item 6. 4675 MacArthur Court Sign Modification Permit (PA2013-150)

1. The same comments apply to this item as previously made with regard to Item 5: in my view it would be better to modify the Koll Center Planned Community text so that uniform standards are applied throughout the complex, rather than issuing modifications for individual buildings. I cannot see any “unique circumstances” or special “hardships” that have arisen since the existing text was last publicly approved that would justify the need for a modification.
2. In addition, unless the building is occupied almost entirely by a single tenant (something that is not clear from the staff report), the requested signs might be seen as serving more of an advertising function for a selected tenant, than a building identification purpose.
3. The first bullet point on page 2 of the staff report (handwritten page 3) says the signs will allow drivers coming from the direction of the 405 Freeway to identify the tenant. One of the signs appears to be on the side least visible from the freeway.
4. Regarding the Draft Resolution of Approval:
 - a. The legal description provided in Section 1.1 appears garbled. I’m not sure what it is intended to say starting with the words “*All –Excluding,*” but the expression “*Northerly 4 Fl*” appears twice.
 - b. Section 4.1 refers to an existing Modification Permit No. MD3637 which will be superseded by the approval, but what that former modification permit allowed does not seem to be explained anywhere in the resolution or staff report.
 - c. In Condition of Approval 2, the reference to NBMC Section 20.91.050 is incorrect (there is currently no such chapter or subsection).